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International Agreements Committee

20th Report of Session 2022–23

Scrutiny of international agreements: UK-Ukraine Digital Trade Agreement

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International Agreements Committee

The International Agreements Committee is appointed by the House of Lords in each session to consider matters relating to the negotiation, conclusion and implementation of international agreements, and to report on treaties laid before Parliament in accordance with Part 2 of the Constitutional Reform and Governance Act 2010.

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Declaration of interests

See Appendix 1.

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SUMMARY

This report addresses the following Agreement, laid before Parliament in accordance with section 20 of the Constitutional Reform and Governance Act 2010:

Digital Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine (CP 837)

The Agreement amends the 2020 Political, Free Trade and Strategic Partnership Agreement with Ukraine, to facilitate open trade and cooperation between the UK and Ukraine on digital markets and standards. It has two objectives: firstly to help the UK's economy and secondly to support Ukraine. It includes provisions on digital trading systems, data flows, cybersecurity cooperation, and consumer and personal data protection.

We welcome the Agreement for its provisions to support the UK economy and the Ukrainian people, and note its importance given the difficulty of physical trade with Ukraine following Russia's invasion. We further welcome measures for consumer protection provided in the Agreement as an improvement on previous comparable Agreements.

We report this Agreement to the House for information.

Scrutiny of international agreements: UK-Ukraine Digital Trade Agreement

AGREEMENT REPORTED FOR INFORMATION

Digital Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine (CP 837)

1. The UK-Ukraine Digital Trade Agreement (the DTA) was laid on 16 May 2023.¹ The scrutiny period will end on 28 June 2023. The Agreement was considered by the Committee at its meeting on 22 June 2023.
2. The DTA amends the 2020 Political, Free Trade and Strategic Partnership Agreement between the United Kingdom and Ukraine (the Partnership Agreement), replacing the electronic commerce section of the services chapter. The Partnership Agreement was a rollover of the trade provisions within the EU-Ukraine Association Agreement.²
3. The purpose of the DTA is to facilitate open trade and cooperation between the UK and Ukraine on digital markets and standards, in the context of the Russian invasion of Ukraine. It fulfils two objectives: the first is helping the UK's economy and the second is supporting Ukraine. The Explanatory Memorandum states the aim of the DTA is both to “cement [the UK's] position as a global leader in digital trade” and “deepen our partnership with Ukraine to support its economic recovery following the 2022 Russian Invasion”.³
4. The DTA aims to ensure that UK and Ukraine businesses have open access to one another's digital economy, so that they can invest and operate freely and in fair competition. In 2020, digitally delivered services made up 73.3% of UK-Ukraine services trade. The DTA “is not just about trade in digital services” but is intended to facilitate trade in goods by enabling e-transactions and paperless trading. Total UK goods exports to Ukraine were £670 million in 2021.⁴
5. On the second objective, supporting Ukraine, “Trading digitally is particularly important in the current conflict, where damage to Ukrainian infrastructure makes it harder to trade physically. Digital tools and technologies can ensure that Ukraine can continue to access vital goods and services.”⁵

1 Foreign, Commonwealth & Development Office, *UK/Ukraine: Digital Trade Agreement*, CP 837 (16 May 2023), para 1: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]

2 Department for Business and Trade, Department for International Trade and Foreign, Commonwealth & Development Office, ‘UK-Ukraine political, free trade and strategic partnership agreement’, (9 November 2020): <https://www.gov.uk/government/collections/uk-ukraine-political-free-trade-and-strategic-partnership-agreement> [accessed 14 June 2023]

3 Foreign, Commonwealth & Development Office, ‘Explanatory Memorandum on UK/Ukraine: Digital Trade Agreement’: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]

4 *Ibid.*, para 3.3

5 *Ibid.*, para 2.2

6. The Agreement follows a prior tariff liberalisation Agreement following Russia's invasion of Ukraine in 2022.⁶ In May 2022, the UK removed tariffs retained since the 2020 treaty. In March 2023, the Government extended the tariff-free period to 2024.⁷⁸ We reported on the tariff liberalisation Agreement on 27 March 2023.⁹
7. Total trade in goods and services between the UK and Ukraine totalled £1.7 billion in 2022, making Ukraine the UK's 75th largest trading partner and accounting for 0.1% of total UK trade.¹⁰

The Agreement

8. The Agreement contains provisions on digital trading systems and duty-free electronic transmissions to decrease the cost of trade; provisions allowing the free flow of data; cybersecurity cooperation; enhanced commitments for financial services; and safeguards for consumer and personal data protection.
9. The Treaty is similar to the June 2022 Digital Economy Agreement (DEA) with Singapore,¹¹ which was described as 'best in class' by stakeholders at the time.¹² However, that Agreement dealt with a considerably larger volume of trade, of £16 billion in 2020,¹³ while UK-Ukraine trade starts from a modest base.

Digital trading systems and open digital markets

10. The Agreement contains provisions on digital trading systems to cut red tape and make trade faster, cheaper and more secure.¹⁴ This includes digitalising trade administration documents, ensuring the legal validity of electronic contracts and signatures, and allowing paperless trading and duty-free electronic transmissions. This should especially benefit micro and small, medium sized enterprises (SMEs).¹⁵

6 Department for International Trade, 'UK announces new trade measures to support Ukraine', 25 April 2022: <https://www.gov.uk/government/news/uk-announces-new-trade-measures-to-support-ukraine> [accessed 15 June 2023]

7 *The Customs Tariff (Preferential Trade Arrangements and Tariff Quotas) (Ukraine) (Amendment) Regulations 2022*

8 Department for International Trade, 'UK signs historic trade deal with Ukraine as part of enhanced support', 20 March 2023: <https://www.gov.uk/government/news/uk-signs-historic-trade-deal-with-ukraine-as-part-of-enhanced-support> [accessed 15 June 2023]

9 International Agreements Committee, *Scrutiny of International Agreements: UK-Ukraine Tariff Liberalisation Agreement* (15th Report, Session 2022–23, HL Paper 176)

10 Department for Business and Trade, *Trade and Investment Factsheets*, 18 May 2023: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1156546/ukraine-trade-and-investment-factsheet-2023-05-18.pdf [accessed 15 June 2023]

11 Department for International Trade, 'Singapore Digital Economy Agreement Update', UIN HCWS100 (14 June 2022): <https://questions-statements.parliament.uk/written-statements/detail/2022-06-14/HCWS100> [accessed 20 June 2023]

12 International Agreements Committee, *Scrutiny of international agreements: Digital Economy Agreement with Singapore, and Sixth Protocol to the Convention on a Very High Neutron Flux Reactor* (19th Report, Session 2021–22, HL Paper 196) see paras 3–5. The two agreements have minor differences in relation to provisions on open internet access, emerging tech and AI, and lawtech.

13 Department for International Trade, 'UK and Singapore sign new innovative digital trade deal', 25 February 2022: <https://www.gov.uk/government/news/uk-and-singapore-sign-new-innovative-digital-trade-deal> [accessed 15 June 2023]

14 Foreign, Commonwealth & Development Office, 'Explanatory Memorandum on UK/Ukraine: Digital Trade Agreement', para 4.11–4.14: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]

15 *Ibid.*

11. **We welcome the Agreement’s provisions facilitating the digitalisation of trade between the UK and Ukraine.**

Cross-border data flows and data protection

12. The Agreement should facilitate the free flow of data, preventing the parties from prohibiting or restricting the cross-border transfer of data, including financial services data.¹⁶ It bars each side from “using or locating” computing facilities in that Party’s territory as a condition for conducting business there.¹⁷
13. The DTA commits the parties to maintaining high standards of personal data protection,¹⁸ and states that the agreement’s obligations “do not alter or undermine the UK’s domestic legislation on personal data protection” and that “onward transfers to third-parties are still governed by the UK’s Data Protection Act 2018.” The DTA “affirms the importance of [...] maintaining robust regimes for personal data protection” and is not prescriptive on approach.¹⁹

Cyber security

14. The Agreement will promote cooperation on cybersecurity to help counter emerging cyber threats,²⁰ including those associated with Russia.²¹ Ukraine’s digital assets continue to be targets for Russia, as demonstrated by their February 2022 cyber-attack on the Ukrainian banking sector.²² In November 2022, the Government announced the UK Ukraine Cyber Programme, dedicating £6.35 million to protect Ukraine’s critical national infrastructure from cyber attack.²³
15. **We welcome the Agreement’s provisions on cyber security given the ongoing threat of Russian cyber attacks.**

Measures to benefit consumers and businesses

16. The Agreement covers consumer and business safeguards in digital trade, including obligations to protect the rights of consumers online by banning

16 Foreign, Commonwealth & Development Office, *UK/Ukraine: Digital Trade Agreement [CS Ukraine No.2/2023]*, Article 132-K, p 18

17 *Ibid.*, Article 132-L, p 18

18 Foreign, Commonwealth & Development Office, ‘Explanatory Memorandum on UK/Ukraine: Digital Trade Agreement’, para 4.4: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]

19 *Ibid.*, para 4.7 “and recognises that the Parties have their own domestic approaches to achieving this outcome.” <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023>,

20 Foreign, Commonwealth & Development Office, *UK/Ukraine: Digital Trade Agreement [CS Ukraine No.2/2023]*, Article 132-Q

21 Foreign, Commonwealth & Development Office, ‘Explanatory Memorandum on UK/Ukraine: Digital Trade Agreement’, EM 3: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]6

22 Foreign, Commonwealth & Development Office and National Cyber Security Centre, ‘UK assesses Russian involvement in cyber attacks on Ukraine’, 18 February 2022: <https://www.gov.uk/government/news/uk-assess-russian-involvement-in-cyber-attacks-on-ukraine> [accessed 15 June 2023]. The UK’s National Cyber Security Centre have assessed from technical information that the Russian Main intelligence Directorate (GRU) was almost certainly involved in the Disruptive Denial of Service (DDoS) attacks on 15 and 16 of February in Ukraine.

23 Foreign, Commonwealth & Development Office, ‘UK boosts Ukraine’s cyber defences with £6 million support package’, 1 November 2022: <https://www.gov.uk/government/news/uk-boosts-ukraines-cyber-defences-with-6-million-support-package> [accessed 15 June 2022]

misleading, deceptive and fraudulent practices.²⁴ It also seeks to prevent unsolicited commercial electronic messages.²⁵ To protect businesses, the Agreement guards against the forced transfer of or access to source code of software, prohibiting the forced transfer of or access to proprietary information related to cryptography and algorithms.²⁶

17. We welcome the Agreement’s measures for consumer protection.

Final provisions

18. The DTA will enter into force on the first day of the second month after both Parties have confirmed in writing that they have completed their respective legal procedures.”²⁷
19. Once it is in force, the DTA will become an integral part of the UK-Ukraine Partnership Agreement and therefore the provisions of the Partnership Agreement as regards amendment, dispute resolution and termination will apply. The DTA also has the same territorial scope as the Partnership Agreement. It could however be extended to Jersey, Guernsey, the Isle of Man, and Gibraltar²⁸, all of which have been consulted.²⁹
- 20. We report the DTA to the House for information. We welcome its measures to support the UK economy and the Ukrainian people, and note its particular importance given the difficulties associated with goods trade with Ukraine following Russia’s invasion. In particular, we highlight our comments at paragraphs 11, 15 and 17.**

24 Foreign, Commonwealth & Development Office, *UK/Ukraine: Digital Trade Agreement [CS Ukraine No.2/2023]*, Article 132-R

25 *Ibid.*, Article 132-S

26 *Ibid.*, Article 132-P

27 *Ibid.*, Article 4

28 *Ibid.*, Article 4.2 and 4.3.

29 Foreign, Commonwealth & Development Office, ‘Explanatory Memorandum on UK/Ukraine: Digital Trade Agreement’, paras 6.1 and 6.2: <https://www.gov.uk/government/publications/ukukraine-digital-trade-agreement-cs-ukraine-no22023> [accessed 19 May 2023]

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Fox
 Lord Geidt
 Lord Grimstone of Boscobel
 Baroness Hayter of Kentish Town (Chair)
 Lord Howell of Guildford
 Lord Kerr of Kinlochard
 Baroness Kingsmill
 Lord Marland
 Lord Razzall
 Lord Udny-Lister
 Lord Watts

Declarations of Interest

Lord Fox
No relevant interests
 Lord Geidt
Chairman of Council, King's College London
President, Royal Overseas League
 Lord Grimstone of Boscobel
No relevant interests
 Baroness Hayter of Kentish Town
Senior Non-Executive Director, Association of British Insurers
 Lord Howell of Guildford
No relevant interests
 Lord Kerr of Kinlochard
Chairman, Centre for European Reform
 Baroness Kingsmill
No relevant interests
 Lord Marland
Director, Janspeed Technologies Ltd (manufacturer of motor parts)
 Lord Razzall
Director, North Atlantic Mining Associates Limited
Director, ZeU Technologies Inc
Shareholdings, ZeU Technologies Inc
Shareholdings, St-Georges Eco-Mining Corporation
Shareholdings, Tintra plc
 Lord Udny-Lister
No relevant interests
 Lord Watts
No relevant interests