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Data and digital trade

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International Agreements Committee

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Committee staff

The Committee staff are Rhiannon Williams (Clerk), Cathy Adams (Counsel for International Law), Sophie Andrews-McCarroll (Policy Analyst) and Karen Sumner (Committee Operations Officer).

Contact details

All correspondence should be addressed to the International Agreements Committee, Committee Office, House of Lords, London SW1A 0PW. Telephone 0207 219 4840. Email [International Agreements Committee](#)

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CONTENTS

	<i>Page</i>
Summary	2
Chapter 1: Introduction	5
Scope of this inquiry	5
Structure of this report	5
Digital trade: challenges and prospects	6
Digital trade in the broader trading architecture	6
Chapter 2: Digital trade strategy	8
Government approach to digital trade to date	8
Chapter 3: Regulation and governance of data flows	10
International direction of travel	11
EU data adequacy	11
Maintaining EU data adequacy in the context of existing trade commitments	13
International data protection	15
E-Commerce at the WTO: developing a rulebook for digital trade	15
The stabilised text on the Joint Statement Initiative on E-Commerce	16
Next steps in adopting commonly agreed rules on digital trade	18
Chapter 4: Public policy space in agreements	19
The use of source code provisions in trade agreements	19
Chapter 5: Supporting digital trade	21
Regulatory Cooperation	21
Digitisation of trade documents	21
Other trade digitisation	23
Coherence between Government Departments	23
Stakeholder engagement	25
Benefits of wider stakeholder engagement	25
Summary of conclusions and recommendations	27
Appendix 1: List of Members and declarations of interests	31
Appendix 2: List of witnesses	32

SUMMARY

The global economy has experienced a rapid growth in digitally facilitated and delivered trade in goods and services. The Government has adopted a “consciously broad” definition of digital trade to reflect this trend. While we understand that trade is increasingly digital, such breadth may be an obstacle to identifying areas for improvement. We suggest that the Government’s forthcoming trade strategy is an opportunity further to develop a targeted approach to the subject.

We recognise that many of the policy areas relating to digital trade are new and rapidly developing at both a domestic and international level. We therefore welcome government efforts to establish international cooperation and agreements that may be multilateral, plurilateral, and bilateral in nature, provided these demonstrate a consistency of approach. We particularly welcome efforts on the Joint Statement Initiative on E-Commerce at the WTO, and encourage the Government to pursue further such plurilateral initiatives to develop common rules and approaches to digital trade, while noting the challenges facing the implementation of this agreement.

Central to the digital economy are data flows. We note, however, the lack of international consensus on how best to approach the regulation of personal data, without unduly restricting data flows. We suggest that the UK works to support digital trade to the greatest extent possible. Currently, we see this as best achieved via alignment with our largest partner on data regulation, the European Union, provided this does not unduly restrict data flows elsewhere. We draw attention to the pending European Commission decision in respect of the UK’s data adequacy, due in June 2025, and strongly recommend the Government work closely with the Commission to secure a positive outcome. Furthermore, as recently advocated by the European Affairs Committee in this House, the Government should ensure that the UK’s approach to data regulation remains consistent with CJEU case law, in order to minimise the risks of challenge to such an adequacy decision.

Relying on a wide network of unilateral, bilateral and plurilateral arrangements governing data flows and other forms of digital trade is clearly a risk to the goal of achieving a stable and certain business environment. We consider it important that the UK continue to work with international partners on data and digital trade to avoid regulatory fragmentation on a range of issues from digitising trade documents, to regulating personal data or new emerging technologies.

There is a domestic challenge in balancing the UK’s public policy space with commitments in existing trade agreements. One issue that has been raised in particular is the ban on government mandated source code disclosure, which we believe needs to be discussed with stakeholders to ensure the right balance is struck. We received reports of inadequate Government consultation with non-industry stakeholders on digital trade matters. We stress, particularly in view of the public interest in emerging technologies and data privacy, that there is a clear case for ensuring broad stakeholder engagement to support a social consensus around the Government’s approach to digital trade in all its forms, particularly if this is to be bound by treaty.

Our report also considers the merits of harnessing digital tools to support trade facilitation and notes recent advancements in this area, for example via

trade corridors and the Electronic Trade Documents Act. We encourage the Government to continue to support efforts to ease trade processes, though note the associated costs—as evidenced in the recent pause of the Single Trade Window scheme.

The UK broadly has a good story to tell with regard to digital trade and we believe that, through addressing the challenges outlined in our report, this can be a basis for further growth. We look forward to further progress.

Data and digital trade

CHAPTER 1: INTRODUCTION

Scope of this inquiry

1. The growth of the digital economy challenges our understanding of how international trade operates, and raises questions about how to adapt existing trade rules to a digital era. Our short inquiry was launched in May 2024, with the aim of understanding how developments in digital trade and the digitisation of trade should be reflected in agreements the UK negotiates and signs. This inquiry was conducted in parallel with an inquiry undertaken by the European Affairs Committee into UK-EU data adequacy. While our report examines broader issues related to data and digital trade through the lens of international agreements, we highlight the centrality of UK-EU data exchanges to the UK's trade and draw attention to the conclusions and recommendations contained in the European Affairs Committee letter to the Government, dated 22 October 2024. We attended a session dealing with the international aspects of data adequacy held as part of the European Affairs Committee inquiry, and refer to this evidence in our report.
2. We held one oral evidence session, in which we heard from witnesses from industry and academia, before our inquiry was paused as a result of the General Election called in May 2024. When Parliament was recalled, we held a session with new Government Ministers, and received further written evidence from academia and industry. Our short inquiry thus spans two Governments. We would like to thank all witnesses to our inquiry for sharing their expertise and experience with us.

Structure of this report

3. This report is structured as follows:
 - Chapter 1: The remainder of this chapter introduces definitions, and outlines some associated challenges. It also discusses the existing frameworks governing digital trade.
 - Chapter 2: Digital trade strategy. This section reflects upon the Government's approach to digital trade to date, and explores some prospects and opportunities for developing a strategic approach to digital trade within the forthcoming trade strategy.
 - Chapter 3: The governance and regulation of data flows. This chapter looks at existing practice and trends, and highlights the centrality of UK-EU data flows for UK trade. It also looks at the prospects for a broader plurilateral agreement on a rulebook for digital trade.
 - Chapter 4: Public policy space in agreements. This section examines in particular the use of provisions governing the disclosure of source code in digital trade chapters and agreements.
 - Chapter 5: Other measures to support digital trade. This chapter deals mostly with measures to improve and support digital trade facilitation.

Digital trade: challenges and prospects

4. The global economy in general and the UK in particular are experiencing a phenomenally large and rapid growth in digitally enabled and delivered trade in goods and services. The Office of National Statistics has estimated that three quarters of the UK's services exports are digitally dependent.¹ Dr Emily Jones, Associate Professor of Public Policy at the Blavatnik School of Government, University of Oxford, set out that the UK is at “a critical juncture where we are seeing a fundamental rewiring of the global economy, with an exchange of data flowing very rapidly across our borders and the use of digital technologies right across the globe”.²
5. The Government told us that it uses the “consciously broad” OECD definition of digital trade: “trade in goods and services that are digitally ordered or delivered, or digitally facilitated by a data flow”.³ Internationally, the OECD estimates that a quarter of all trade falls under this definition. It also estimates that, according to this definition, over 50% of UK trade is digital (placing the UK second in the world in terms of volume of trade understood to be digital). However, the use of a consciously broad term means that large volumes of trade, and a diverse array of sectors and activity, fall within it. This is partly because the way trade is conducted is increasingly digital.
6. We note that some types of transactions which fall under the OECD definition are difficult to quantify. We heard in evidence that it is “surprisingly hard” to quantify digital trade⁴ and from the Government that it is “notoriously difficult to measure”. It can be difficult, for example, to monitor the flow across borders of products ordered and delivered online, like streaming services.⁵ If we cannot measure or categorise digital trade, it becomes harder to know how best to support it, identify relevant barriers to it, and regulate it. What is clear is that digital trade is central to the operations of UK businesses, not only in areas like professional services but in sectors such as manufacturing and agriculture. For example, Séamus Nevin, Chief Economist of manufacturing group MakeUK, told us that while manufacturing currently comprises about 9% of GDP, this figure increases to about 20% once ancillary services (increasingly digitally based) are included.⁶
7. **This presents a challenge to the Government. In order to regulate and support digital trade and the digital economy effectively, the Government must be able adequately to categorise or classify, define, quantify and measure it. In light of a rapid global transformation in how trade is delivered and ordered, the Government should support and contribute to global efforts to develop commonly agreed typologies and categories for digital trade.**

Digital trade in the broader trading architecture

8. Many of the UK's Free Trade Agreements contain digital trade chapters, and we have also reported on standalone Digital Trade Agreements with

1 [Q 1](#) (Dr Emily Jones)
 2 [Q 1](#) (Dr Emily Jones)
 3 [Q 6](#) (Douglas Alexander MP)
 4 [Q 1](#) (Dr Emily Jones)
 5 See: [Q 13](#) (Graham Floater)
 6 [Q 1](#) (Séamus Nevin)

Ukraine and Singapore.⁷ Although there is as yet no dedicated e-commerce agreement at the WTO (see below), some of the general commitments within the General Agreement on Trade in Services (GATS) apply. One of our purposes in carrying out this short study is to support the Committee's more usual work of scrutinising such treaties, including their digital provisions.

9. As for all trade, the frameworks governing digital trade are far more expansive than those contained in treaties.⁸ Domestic regulatory and legal regimes of the UK and other countries play a role, as do softer regulatory cooperation mechanisms at multilateral and bilateral levels.⁹ For example, legislation recognising digital trade documents supports exporting businesses, while the decisions of other governments or jurisdictions on data flows and data privacy are crucial in ensuring the UK can continue to trade freely across borders: e.g. maintaining data adequacy with the EU.¹⁰ **Although digital trade is a rapidly growing and developing area of clear importance to UK trade, the frameworks for digital trade governance are still evolving domestically and globally. This has led to a somewhat fragmented overall picture in policy and regulatory terms. Seeking to use regulatory cooperation and to make progress towards commonly agreed definitions and standards with like-minded partners would help to ameliorate this situation.**

10. *In light of this shifting picture, we recommend the Government conduct an analysis of the existing landscape of digital trade provisions in the UK's international agreements. An analysis of the benefits and risks associated with the use of these provisions thus far could form a useful evidence-base for developing a coherent approach to digital trade cooperation and governance within the UK's trade strategy. We would welcome regular briefings and written updates by the Government on the evolution and implementation of the strategy.*

7 International Agreements Committee, *Scrutiny of International Agreements: UK-Ukraine Digital Trade Agreement* (20th Report, Session 2022–2023, HL Paper 220); 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 2021–2022, HL Paper 196)

8 [Q 1](#) (Chris Southworth)

9 [Q 1](#) (Chris Southworth)

10 [Q 1](#) (Chris Southworth)

CHAPTER 2: DIGITAL TRADE STRATEGY

Government approach to digital trade to date

11. Witnesses described to us a shift in the approach taken by the Government as regards digital policy following the UK's departure from the EU. For example, the UK Trade Policy Observatory and Centre for Inclusive Trade Policy told us: "After leaving the EU, the UK Government shifted its digital trade policy from the EU's human-rights centric approach towards the Asia-Pacific (or US) market-led approach in its digital trade agreements."¹¹ The UK's subsequent digital trade agreements, for example with Japan, Australia, New Zealand and Singapore, "basically used the CPTPP [Comprehensive and Progressive Agreement on Transpacific Partnership]¹² as a template."¹³
12. As noted above, a change of Government took place during the course of our inquiry. Speaking on behalf of the new Government, Minister for Trade and Economic Security Douglas Alexander MP told the Committee that work on the previous Government's digital trade agenda would continue: "on the issues of digital trade [...] there is a broad degree of bipartisan consensus as to what we are aiming to do"¹⁴ In particular, he praised the UK-Singapore Digital Trade Agreement as "cutting edge" and cited an OECD report from September 2024 which found that the UK's strong performance in digital trade exports was in part driven by the UK's ambitious digital economy agreements.¹⁵
13. Several witnesses called for a "consistent trade strategy" outlining clear objectives for the UK, including the role of digital trade.¹⁶ The Government confirmed to the Committee in oral evidence that digital trade would form "a very significant part of a forward-looking trade strategy" (being overseen by the Minister) that is due to be delivered in Spring 2025.¹⁷
14. The Minister further told the Committee that "our role within the multilateral system" would form "a big part" of the new Government's approach "to digital trade and trade more broadly".¹⁸ He confirmed that "digital has been a focus of our multilateral trade policy [...] and in that sense we have an important amount of work to continue to take forward internationally."¹⁹
15. **We welcome the announcement of the forthcoming trade strategy, including the promised focus on multilateral cooperation in digital trade. We recommend that the Government should clearly identify and set out the barriers and opportunities in digital trade and provide details in the trade strategy on which trade policy tools are best placed to address them. These might include domestic regulation,**

11 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

12 International Agreements Committee, *Scrutiny of International Agreements: UK Accession to the Comprehensive and Progressive Agreement for Transpacific Partnership* (6th Report, Session 2022–2023, HL Paper 70)

13 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

14 [Q 8](#) (Douglas Alexander MP)

15 [Q 10](#) (Douglas Alexander MP)

16 [Q 2](#) (Sabina Ciofu; Séamus Nevin; Chris Southworth)

17 [Q 7](#) (Douglas Alexander MP)

18 [Q 10](#) (Douglas Alexander MP)

19 [Q 8](#) (Douglas Alexander MP)

regulatory cooperation, Free Trade Agreements, multilateral agreements, or other types of agreements.

16. *We encourage the Government to work closely with a broad range of stakeholders, both business and non-business, to cooperate on the development of the trade strategy. This should help develop and clarify a settled consensus-based approach to some of the key issues we raise further below in this report, including on data governance and the public policy space in international trade agreements.*

CHAPTER 3: REGULATION AND GOVERNANCE OF DATA FLOWS

17. Data flows are a key enabler of digital trade. They are both a digital asset to be traded, and a critical facilitator of international trade. Data flows increase the efficiency of moving goods across borders, facilitate vital processes like electronic payments, and underpin new types of services models, like cloud computing.
18. However, there is a clear tension between ensuring that data can flow freely and openly across borders on the one hand, and ensuring privacy and protection of personal data on the other. In broad terms, we heard that the UK has taken two different approaches to this issue in its trading arrangements.
- (a) Personal data protection and data privacy are fundamental rights within the EU legal order. Data protection related to cross-border data flows is dealt with outside the scope of trade negotiations via adequacy decisions, i.e. decisions by the European Commission that a third country provides “essentially equivalent” level of protection for personal data.
 - (b) By contrast, the approach taken in other agreements, such as the CPTPP, UK-Australia FTA, UK-New Zealand FTA, UK-Japan and UK Singapore Digital Economy Agreements, is more flexible. These agreements allow, for example, for sector-specific privacy rules, or rules allowing voluntary undertakings by firms. They rely on mutual recognition of data privacy frameworks, or international standards, rather than the unilateral approach adopted by the EU.²⁰
19. Sabina Ciofu, Associate Director, techUK was sanguine about the UK’s success in managing to strike this balance thus far, and outlined the progress the UK had made:
- “I would say so far so good. We have adequacy with the EU, and we have the UK-US data bridge. We have jumped on board on the EU-US Data Privacy Framework. We have joined the Global Cross-Border Privacy Rules Forum as well, which is a US, but more global, initiative looking at how we match these different systems and frameworks for data flows. We have also done a lot of work within the G7 under the Japanese initiative of Data Free Flow with Trust. So, the UK is well positioned to be a convener of dialogue on how to get this balance right.”²¹
20. Others, however, expressed concern about the fragmentation in the UK’s approach to managing data. Witnesses observed a shift in the UK’s approach away from an EU style of data protection to a new approach, variously termed by witnesses as “modelled on the US approach”,²² or “a market-driven Asia-Pacific style”.²³ Witnesses stressed that each approach has its “good

20 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

21 [Q 4](#) (Sabina Ciofu)

22 [Q 2](#) (Dr Emily Jones)

23 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

and bad things” and that “there are reasons that both exist”.²⁴ However, one in particular stressed that the Government should consider the broader strategic questions about which approach to data regulation best suits the needs of UK businesses and consumers, observing: “the concern I have is whether we have had that proper discussion and really thought through how we want data to be regulated here and to make sure we have had a wider conversation.”²⁵

21. **While the UK’s approach to date appears not to have caused problems, we emphasise that this has been largely dependent on a favourable external environment, rather than on account of Government policy. In particular, adequacy decisions taken by the EU in respect of the UK and other jurisdictions are unilateral, and thus largely outside the control of the UK. Similarly, the relationship between the EU and US on these matters is crucial in offering stability for the UK in its data policy. *In an unclear global environment, the UK’s approach to data regulation should be kept under close review, taking account of the policy and regulatory landscape of the UK’s largest trading partners.***

International direction of travel

22. It is not entirely clear that shifting away from the EU style of governing data flows is the prevailing direction of travel internationally.²⁶ For example, witnesses highlighted the approach taken by Japan in recent times, describing it as “moving in the opposite direction” as evidenced by the EU-Japan Protocol on free data flows and personal protection.²⁷ In particular, witnesses observed that the Protocol contains “detailed provisions to clarify the position of the two signatories regarding free data flows and personal data protection.”²⁸
23. *In the absence of international consensus on this issue, we recommend that the Government continues to take a pragmatic, outcomes-focused approach to data regulation with a view to supporting the UK’s trade to the greatest extent possible. Currently, we see this as best achieved via endeavouring to maintain data adequacy with the European Union, the UK’s largest trading partner. It should also, as far as possible, include maintaining arrangements like the data bridge with the US and other large partners. We recommend that the Government set out a coherent approach to data privacy and data governance in the forthcoming trade strategy.*

EU data adequacy

24. The UK and EU currently allow personal data to flow freely across their respective borders on the basis of ‘adequacy decisions’ granted on a unilateral basis. Adequacy is the mechanism used by the EU to recognise the data protection regime of a particular jurisdiction as providing an “essentially

24 [Q 2](#) (Dr Emily Jones)

25 [Q 2](#) (Dr Emily Jones)

26 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

27 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

28 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

equivalent” level of protection of personal data as is achieved by the EU’s own General Data Protection Regulation (“GDPR”). The effect of such a decision, once in place, is to allow data to flow freely between the EU and the jurisdiction in question. The UK operates the same policy in respect of the EU (and indeed, several other countries).

25. In order to make such a decision, the European Commission undertakes a detailed assessment of the data protection regime of a particular country in order to establish the level of protection of personal data that it provides.
26. On 28 June 2021, the EU Commission published two adequacy decisions in respect of the UK:
 - (a) one for transfers under the EU GDPR; and
 - (b) the other for transfers under the Law Enforcement Directive (LED).
27. These decisions are due to expire on 27 June 2025. The European Commission is therefore due to undertake an assessment of the UK’s laws and systems for protecting personal data to decide whether to extend its existing adequacy decision for another four years.
28. The European Affairs Committee has written to the Government on the basis of evidence it received over the course of an inquiry into the topic to stress that: “Securing adequacy renewal decisions from the European Commission in the first half of 2025 should be the Government’s immediate data protection policy priority.”²⁹ The letter also recommended that the Government should engage early with the European Commission and other EU stakeholders with a view to ensuring that the adequacy renewal process is on a positive track.³⁰
29. In evidence to IAC, the Government confirmed that retaining EU adequacy is “very important to us”³¹ and that it is in discussions with the European Commission to ensure that the provisions of its forthcoming Bill—now called the Data (Use and Access) Bill—are consistent with the necessary environment for an adequacy decision to be granted.³² The importance of this consideration has been underlined by the fact that it has been raised in the proceedings of the Bill in the House.³³
30. The Government’s response to the European Affairs Committee letter on 20 November confirmed this. It stressed that “engaging closely with the European Commission to secure the successful renewal of the EU’s data adequacy decisions of the UK is a priority for this Government.”³⁴
31. The letter specifies that the Government “stands ready” to continue to engage on legislation that would be within the scope of the EU’s review, including the Data (Use and Access) Bill. In particular, it noted:

29 Letter to the Rt. Hon. Peter Kyle MP, Secretary of State for Science, Innovation and Technology from Lord Peter Ricketts, Chair of the European Affairs Committee re: UK-EU Data Adequacy, dated 22 October 2024: <https://committees.parliament.uk/publications/45388/documents/225096/default/>

30 Letter to the Rt. Hon. Peter Kyle MP, Secretary of State for Science, Innovation and Technology from Lord Peter Ricketts, Chair of the European Affairs Committee re: UK-EU Data Adequacy, dated 22 October 2024: <https://committees.parliament.uk/publications/45388/documents/225096/default/>

31 [Q 11](#) (Baroness Jones)

32 [Q 11](#) (Baroness Jones)

33 HL Deb, 19 November 2024, [cols 158, 182, 188](#) [Lords Chamber]

34 HL Deb, 19 November 2024, [cols 158, 182, 188](#) [Lords Chamber]

“In the development of the DUA Bill, the Government has considered the importance of retaining our EU adequacy decisions from the EU. The Bill will maintain the UK’s high standards of data protection and we are confident the legislation will allow the UK to preserve its adequacy status. DSIT and Home Office officials will keep the European Commission updated as the Bill progresses through parliament. In addition to the DUA Bill, both DSIT and the Home Office will continue to engage closely with the European Commission on other relevant legislation, including the Investigatory Powers (Amendment) Act 2024, on which Home Office officials have updated the European Commission throughout the Act’s passage.”³⁵

32. **We welcome the Government’s confirmation that it is working with the European Commission to ensure that its Data (Use and Access) Bill is compatible with a positive EU adequacy decision in June 2025.**

Maintaining EU data adequacy in the context of existing trade commitments

33. We heard of some potential risks to securing and maintaining a positive EU adequacy decision arising out of the UK’s commitments in its international agreements. Two main issues were presented in evidence.
34. Firstly, that there is a possible tension between the UK maintaining domestic privacy laws that will support adequacy with the EU, while also managing the more flexible approach to cross-border data flows taken in its other agreements. Trade agreements with New Zealand, Australia, Singapore, and the CPTPP require that there must not be undue restrictions on free data flows. To our knowledge, there have been no complaints raised by other parties to these agreements to test whether the UK’s commitments to personal data protection contained in UKGDPR and any subsequent legislation may constitute an undue restriction on free cross-border data flows under these trade agreements.
35. Secondly, we considered the question of onward transfers of EU data to third countries via the UK’s trade agreements. In particular, this relates to the handling of EU data under the UK’s agreements with third countries for which the EU has not granted adequacy, for example Australia. In evidence to the European Affairs Committee, Professor Peter Swire, Professor of Law and expert in privacy and cyber security stressed that:

“if the bilateral agreements led to onward transfers without appropriate protections, the court [Court of Justice of the European Union] might find that the rights of Europeans are not being respected when the data gets to the UK. That would be a concern, right, because EU data comes to the UK and now it goes out the door to who knows where. Those bilateral agreements could involve a lot of EU citizen data. That is a concern. The risk is that the court would think that the protections are not good enough.”³⁶

35 Letter from the Rt Hon Peter Kyle MP, Secretary of State for Science, Innovation and Technology re: UK-EU data adequacy, dated 20 November 2024: <https://committees.parliament.uk/publications/45746/documents/226396/default/>

36 Oral evidence taken before the European Affairs Committee, inquiry on data adequacy and its implications for UK-EU relations, 21 May 2024 (session 2023–24), [Q 79](#) (Professor Peter Swire)

36. On this latter point, the European Affairs Committee stressed in its letter to the Government the risk of a CJEU challenge to the Commission’s adequacy decisions in respect of the UK. It highlighted the importance of ensuring that the UK-EU data flows continue to operate so far as possible in a way that is compatible with the CJEU case law.³⁷
37. Douglas Alexander noted in this regard that “we [the Government] don’t believe that our trade commitments have impacted on the EU data adequacy decision for the UK and we don’t see at this stage any reason why that would be the case.”³⁸ He added that the EU has found countries with similar trade arrangements as the UK such as New Zealand, Japan and Canada, to be adequate or partially adequate.³⁹ He also argued that the UK has negotiated data provisions in FTAs that have not affected the EU’s decision on data adequacy to date.⁴⁰
38. The Government, in its response to the European Affairs Committee, acknowledged “that the review is the European Commission’s unilateral assessment process” and highlighted that the UK has no decision-making power in it. However, it stressed that it is engaging with “all EU stakeholders” to explain the UK’s domestic framework.
39. **The EU is the UK’s largest trading partner. Given that digital trade is of particular importance to the UK and considering that free flows of data underpin digital trade, it is imperative that the Government secures a positive adequacy decision in June 2025, and accordingly that it works closely with the European Commission to that end. Furthermore, it is important that the Government ensures that it minimises the risks of a challenge to a future UK adequacy decision before the Court of Justice of the EU.**
40. **We note the risk of relying on a wide network of arrangements governing data flows for a stable and certain business environment. If one or more of these arrangements break down, UK businesses may find themselves in an uncertain trading environment. This is a risk that the Government should be assessing, and which strengthens the case for wider plurilateral agreements on data regulation.**
41. **We welcome the Government’s confirmation to the European Affairs Committee that it stands ready to engage with the European Commission, European Parliament and other relevant stakeholders to support a successful renewal of the EU’s data adequacy decisions as a matter of priority. We recommend that the Government maintain close dialogue with the European Union to ensure the UK maintains data adequacy with the EU. The Government should ensure that its approach to personal data remains consistent with the case law of the CJEU.**

37 Letter to the Rt. Hon. Peter Kyle MP, Secretary of State for Science, Innovation and Technology from Lord Peter Ricketts, Chair of the European Affairs Committee re: UK-EU Data Adequacy, dated 22 October 2024: <https://committees.parliament.uk/publications/45388/documents/225096/default/>

38 [Q 12](#) (Douglas Alexander MP)

39 Canada, for example, has an adequacy decision for commercial data only.

40 [Q 12](#) (Douglas Alexander MP)

International data protection

42. Evidence from the UK Trade Policy Observatory (UKTPO), a partnership between the University of Sussex and Chatham House, and the Centre for Inclusive Trade Policy (CITP), an academic centre led by the University of Sussex, pointed to recent (pre-election) policy changes in the US on questions such as data privacy and regulation of new technologies as a possible moment for the UK to “lead discussions on challenges surrounding cross-border data flows and the role of government outside the WTO and trade negotiation forums.”⁴¹
43. This idea was also proposed by the EAC in its letter to the Government. It noted that the UK is in a unique position internationally in relation to wider international data protection policy: it is an associate member of the Global Cross-Border Privacy Rules system (an Asia-Pacific based initiative, aiming to establish a framework that supports the effective protection and flow of data internationally⁴²) and is the member with the most experience of a data protection regime aligned with that of the EU. The European Affairs Committee therefore concluded that: “There is an opportunity for the UK to act as a trusted and responsible data bridge.”⁴³ It suggested that the Government should “fully engage” with international debates as to the future of data protection “with the aim of ensuring that the outcome serves UK interests, in enabling digital innovation, and rights and protections the public expect to be in place.”⁴⁴ We recognise the potential value in these proposals, and also highlight the unique position held by the UK in this respect. However, data protection is a complex and developing area of policy and practice internationally. To develop and maintain a position that straddles and engages with multiple jurisdictions will involve careful consideration, skills, and expertise and resourcing.
44. **We recognise the value in the view that the UK could act as an effective interlocutor between the EU and other parts of the world on data governance and privacy issues. However, we would like to stress the considerable resourcing challenges that would be involved in adequately maintaining this ‘bridge’ position. Such an approach would require considerable investment, resources and skills. We recommend carefully assessing the risks and costs to the UK in attempting to position itself as a ‘bridge’ in this sensitive regulatory landscape.**

E-Commerce at the WTO: developing a rulebook for digital trade

45. We welcome the Government’s clear commitment, in evidence to this Committee, to work at a multilateral level on digital trade.”⁴⁵ Sabina Ciofu, Associate Director (International), techUK, also told us that the UK had “been recognised by other partners in countries around the world as well

41 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

42 US Department of Commerce, ‘Global Cross-Border Privacy Rules Declaration’: <https://www.commerce.gov/global-cross-border-privacy-rules-declaration> [accessed 22 November 2024]

43 Letter to the Rt. Hon. Peter Kyle MP, Secretary of State for Science, Innovation and Technology from Lord Peter Ricketts, Chair of the European Affairs Committee re: UK-EU Data Adequacy, dated 22 October 2024: <https://committees.parliament.uk/publications/45388/documents/225096/default/>

44 Letter to the Rt. Hon. Peter Kyle MP, Secretary of State for Science, Innovation and Technology from Lord Peter Ricketts, Chair of the European Affairs Committee re: UK-EU Data Adequacy, dated 22 October 2024: <https://committees.parliament.uk/publications/45388/documents/225096/default/>

45 [Q 8](#) (Douglas Alexander MP)

as industry” for its leadership during the negotiations on a new plurilateral rulebook for digital trade at the WTO, the Joint Statement Initiative (JSI) on E-Commerce.⁴⁶ The JSI has been under negotiation by a group of 91 WTO member states since 2017 and a draft treaty was agreed in July 2024. Ms Ciofu told us that the UK had particularly been “leading on the data provisions in the JSI ... and the difficult negotiations in trying to get a common language on that.”⁴⁷

46. Although the effort to include data governance within the text was ultimately unsuccessful, and we note the comments of Ambassador Simon Manley, UK Permanent Representative to the WTO, that the UK would like the current text to “go further”,⁴⁸ the conclusion of the “stabilised text” (see below) is nonetheless to be welcomed.

The stabilised text on the Joint Statement Initiative on E-Commerce

47. On 26 July 2024 JSI negotiators reached agreement on a “stabilised text” of a draft Agreement on Electronic Commerce. The JSI text is the product of five years of negotiations among 91 of the now 166 WTO members.⁴⁹ At the time of writing 82 of them have signalled their support for the stabilised text. The Government promotional guidance on the JSI refers to it as “the first global digital trade agreement”, designed “to boost global trade in goods, services and information and help to make trade faster, cheaper, fairer and more secure.”⁵⁰
48. The initiative aims to set multilateral rules on digital trade, across six main themes:
- (a) enabling electronic commerce
 - (b) openness and electronic commerce
 - (c) trust and electronic commerce
 - (d) transparency, cooperation and development
 - (e) telecommunications
 - (f) exceptions (including for security, prudential reasons, data protection and preferences for indigenous peoples).⁵¹
49. The Committee received oral evidence from industry and academia in May 2024, prior to the negotiators reaching a stabilised text.
50. At that stage, witnesses to our inquiry noted the potential value that a set of rules at the WTO level could offer. In particular, it could go some way

46 Q 1 (Sabina Ciofu)

47 Q 1 (Sabina Ciofu)

48 Simon Manley evidence

49 World Trade Organisation, *Joint Statement Initiative on Electronic Commerce* (26 July 2024): <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/ECOM/87.pdf&Open=True> [accessed 10 December 2024]

50 Department for Business and Trade, ‘WTO Joint Initiative on E-Commerce guidance’ (26 July 2024): <https://www.gov.uk/government/publications/world-trade-organization-joint-initiative-on-e-commerce-guidance/wto-joint-initiative-on-e-commerce-guidance> [accessed 19 November 2024]

51 World Trade Organisation, *Joint Statement Initiative on Electronic Commerce* (26 July 2024): <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/ECOM/87.pdf&Open=True> [accessed 10 December 2024]

to solving the problem of a complex network of different rules created by a multitude of bilateral and multilateral agreements, for example the various prohibitions and requirements regarding data flows.⁵²

51. However, although the value of the deal was highlighted, we heard of some drawbacks associated with it, in particular the US reticence about the deal. “Obviously, the final deal is not going to include provisions on data”, one witness told us, “mainly because of the US walking back on its support for these provisions”.⁵³
52. Another witness expressed some scepticism about the prospect of a workable deal at the multilateral or plurilateral level, and proposed instead that the UK work with like-minded countries towards some progress on these issues. For example, Chris Southworth, Secretary General of the International Chamber of Commerce, told the Committee: “Can we do huge deals, and is it realistic to expect them? Probably not, in the current political environment, but we have to go for the deals we can get, whether those are plurilateral or trilateral. If we can get multilateral deals, then obviously that is much, much better.”⁵⁴
53. Written evidence received by the Committee from the UKTPO and CITP following adoption of the stabilised text highlighted two key drawbacks: the non-participation of the US; and the lack of provisions on cross-border data flows, data localisation and source code. Provisions on cross-border data flows, and data localisation and source code were always likely to be contentious, due to the differing perspectives of the diverse array of countries participating. Their inclusion became particularly challenging, however, when the US withdrew support for these issues in October 2023 and they were not included in the published text.
54. The US does not have federal level legislation on data privacy and technology regulation. As noted by the UKTPO and CITP, in April 2024 the US Congress introduced a draft federal privacy law, the American Privacy Rights Act.⁵⁵ At the time of writing, Congress is in the process of considering the Bill, but that will likely take some time, and the Bill in its current form has faced opposition from Republican leadership in the Senate.⁵⁶ The US is unlikely to be able to engage in these issues at a multilateral level until these issues have been resolved domestically.⁵⁷
55. **We note that the future of US engagement on any of these issues at a multilateral level is uncertain due to an imminent change of administration.**

52 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

53 [Q 1](#) (Sabina Ciofu)

54 [Q 1](#) (Chris Southworth)

55 [Draft American Privacy Rights Act of 2024](#) (118th Congress, 2nd Session)

56 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#)); SquirePattonBoggs, *US Elections 2024: Outcomes and Outlook* (7 November 2024): <https://www.squirepattonboggs.com/-/media/files/insights/publications/2024/11/us-elections-2024-outcomes-and-outlook/us-elections-2024-outcomes-and-outlook.pdf> [accessed 10 December 2024]

57 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

Next steps in adopting commonly agreed rules on digital trade

56. The next stage of the process in adopting binding rules is for WTO member states to decide whether the JSI text is added to Annex 4 of the Marrakesh Agreement establishing the WTO. That would formally incorporate the text as a plurilateral agreement within the WTO framework. It would then be subject to ratification by participating states. In oral evidence to the Committee, Douglas Alexander expressed confidence that the JSI E-Commerce is likely to be integrated into the WTO.
57. **We welcome the optimism expressed by the Minister about implementation of the JSI, but we note that some WTO members have a history of objecting to the principle of the inclusion of plurilateral agreements into the WTO framework.**
58. In their evidence to the Committee, UKTPO and CITP proposed that the UK could continue to lead discussions on challenges surrounding cross-border data flows and the role of government outside the WTO and trade negotiation forums, drawing on discussions with a wide range of stakeholders, engaging with like-minded jurisdictions such as the EU and Japan.⁵⁸
59. **We welcome the UK's working to achieve a plurilateral agreement within the WTO framework to improve the rulebook on digital trade. We encourage the Government to continue working with like-minded partners towards establishing a consensus on issues such as cross-border data flows and other digital trade governance issues. We note that it may need to continue to do so in the absence of US engagement.**

58 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory (DDT0002)

CHAPTER 4: PUBLIC POLICY SPACE IN AGREEMENTS

60. We heard some concerns in our evidence about how some aspects of digital trade were dealt with in the context of free trade agreements. In particular, it was suggested that the Government needed to retain sufficient flexibility to regulate emerging technologies such as AI products and, specifically, to access the source code of algorithms integrated into products entering the country under the terms of Free Trade Agreements.
61. Commitments contained in Free Trade Agreements often constrain a government’s ability to introduce regulation or public policies in pursuit of a domestic goal. To balance this, trade agreements often include provisions that recognise and secure a government’s right to regulate and implement policies in certain circumstances where it is in the interest of public welfare, even where it might otherwise be in breach of its trade commitments. Such safeguards can take the form of general ‘public policy’ exceptions. These are specific provisions that allow governments to act in the public interest while still adhering to the terms of the trade agreement. This means that a trade agreement might include a list of areas of public policy in which a Government might legitimately choose to introduce regulation. Such measures aim to improve predictability under the trade agreement.⁵⁹

The use of source code provisions in trade agreements

62. Agreements including digital chapters increasingly contain provisions prohibiting governments from requiring companies to disclose the source code of algorithms or other digital products, except under limited circumstances. We heard that this can be an area of controversy for some stakeholders, particularly around the need for transparency and explainability in large new AI systems capable of performing a range of tasks. As explained by Dr Emily Jones et al:

“We do not have a full understanding of the capabilities and behaviours of large-scale AI systems, the transformer architecture that often underpins these systems, the massive data pools and the provenance of the data that the systems were trained on, the reasons why they produce certain outputs, or the range of uses and associated benefits and harms. Without a better understanding of these factors—and others—it is not yet possible to determine what effective auditing and evaluation methods for foundation models and generative AI may look like or the level of disclosure that will be required.”⁶⁰

63. Industry witnesses stressed that provisions restricting government mandated disclosure of source code form important intellectual property protections necessary to support innovation. One witness warned of the danger of “asking for intellectual property in exchange for market access”.⁶¹
64. However, non-industry witnesses raised concerns that a general prohibition on requiring disclosure of source code, without sufficient exceptions, could impose significant limitations on governments’ power to examine source

59 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

60 Written Evidence from Dr Emily Jones, Dr Philippa Collins, Prof Henning Grosse Ruse-Khan, Prof Albert Sanchez-Graells, Dr Kristina Irion, Dr Cosmina Dorobantu, Burcu Kilic and Daria Onitiu ([DDT0001](#))

61 [Q 2](#) (Sabina Ciofu)

code where it may be needed to ensure adequate levels of transparency and accountability. In particular, it may be necessary to examine source code in order to meet regulatory, judicial, and procurement needs.⁶² Academic witnesses told the Committee that they do not believe that the current provisions take sufficient account of the Government's potential need to introduce a range of measures to regulate algorithmic and AI systems, to mitigate risks associated with AI systems, and to ensure that developers and providers can be held accountable for any harms that may arise.⁶³

65. Douglas Alexander told us that the current approach does allow the UK adequate flexibility to “retain the policy space in our FTAs to make the right judgements in terms of our domestic regulation, not least in as fast developing an area as the issues in relation to source code and broader conversations in relation to AI.”⁶⁴ He said that: “source code articles ... include targeted exceptions to protect the UK’s regulatory system, including IP enforcement, competition and providing space for the development of future regulation ... we seek to future-proof these agreements, to accommodate changes such as any future AI regulation that is much under discussion at the moment.”⁶⁵
66. **The governance of artificial intelligence and its impact on our society and economy is still in its infancy. Regulation of artificial intelligence cannot be undertaken in isolation, and should be considered in cooperation with our global partners. *In the light of the mixed evidence that we received, we recommend that the Government undertake a comprehensive review of the use of source code provisions in trade agreements, particularly focusing on the exceptions to the ban on disclosures.***

62 Written Evidence from Dr Emily Jones, Dr Philippa Collins, Prof Henning Grosse Ruse-Khan, Prof Albert Sanchez-Graells, Dr Kristina Irion, Dr Cosmina Dorobantu, Burcu Kilic and Daria Onitiu ([DDT0001](#))

63 Written Evidence from Dr Emily Jones, Dr Philippa Collins, Prof Henning Grosse Ruse-Khan, Prof Albert Sanchez-Graells, Dr Kristina Irion, Dr Cosmina Dorobantu, Burcu Kilic and Daria Onitiu ([DDT0001](#))

64 [Q 14](#) (Douglas Alexander MP)

65 [Q 14](#) (Douglas Alexander MP)

CHAPTER 5: SUPPORTING DIGITAL TRADE

67. A multi-pronged approach is required to remove barriers to digital trade. This includes addressing the risk of regulatory fragmentation with international partners, harnessing digital tools to support trade facilitation, and ensuring a coherent and inclusive approach to policy making domestically. This chapter examines the benefits of regulatory cooperation, developments in trade facilitation, and the importance of comprehensive and inclusive stakeholder engagement.

Regulatory Cooperation

68. Stakeholders reported the value of regulatory cooperation in their evidence to the Committee. Two witnesses in oral evidence saw regulatory cooperation as their number one priority recommendation to the Government. This should be at all levels—government, regulator and parliamentary—with a view to removing immediate barriers, and laying the groundwork for developing international consensus around rapidly evolving issues. Sabina Ciofu said that dialogue should focus on mitigating “unintended consequences” of different jurisdictions developing regulation in a rapidly changing digital landscape, and minimising barriers to trade.⁶⁶
69. Similarly, Dr Emily Jones noted that jurisdictions such as the EU are making rapid advancements in regulating data and digital markets, and that efforts should be made to ensure regulatory coherence and compatibility between different “modes” of regulation.⁶⁷ She stressed the challenges of trying to include rules on AI in trade agreements in the absence of domestic regulatory coherence between the trading partners.⁶⁸
70. ***The Government should make every effort to maintain a regular dialogue with counterparts on regulation and legislation on a variety of issues affecting digital trade. These might include regulation of emerging technologies, approaches to data, or digitisation of trade documents. Such cooperation should help ameliorate barriers to trade by working towards providing interoperable regulatory regimes with our closest trading partners.***

Digitisation of trade documents

71. Digital innovations to support trade facilitation are playing an important role in the digital transformation, for example by securing ‘just-in-time’ supply chains and supporting the growth of online shopping. We heard digital trade facilitation described as “the next great opportunity for the journey of international trade modernisation.”⁶⁹ This seems particularly pertinent in the light of the administrative and bureaucratic challenges faced by exporting businesses. Chris Southworth stated: “the average exporter, at least 30% to 35% of companies consistently complain about bureaucracy, transactional paperwork and friction. The big companies also complain to us about it all the time because it is a huge pain point and has been for a long time. It does not need to be such a pain point if we just put a focus on it.”⁷⁰

66 Q 5 (Sabina Ciofu)

67 Q 2 (Dr Emily Jones)

68 Q 2 (Dr Emily Jones)

69 Written Evidence from the Chartered Institute of Export and International Trade (DDT0003)

70 Q 2 (Chris Southworth)

72. In this respect, Chris Southworth praised the UK's Electronic Trade Documents Act 2023 (ETDA): "we are now seeing companies able to transact in an hour what would normally take two to three months in a typical trade transaction ..."⁷¹ The Chartered Institute of Export and International Trade (CIOE&IT) further commented on the tangible benefits of the ETDA to exporting businesses, saying that the ETDA will "ultimately lead to an overall improvement in the efficiency of trade and lower administration costs."⁷²
73. Chris Southworth suggested that these processes could be further eased if other countries followed the UK's lead in granting digital trade documents the same legal status as physical trade documents (as the ETDA does). France, for example, is making progress towards doing so, as are Singapore, Bahrain and the UAE.⁷³
74. The issue has also been discussed at the G7, as highlighted by Chris Southworth: "The Electronic Trade Documents Act has really changed that, [...], with the UK leading the world through G7 and G20."⁷⁴ A G7 Ministerial Declaration in 2022 endorsed the "principles for domestic legal frameworks to promote the use of electronic transferable records", supporting the "adoption of domestic legal frameworks that are consistent with the UNCITRAL Model Law on Electronic Transferable Records (MLETR) and with these principles."⁷⁵
75. The CIOE&IT endorsed this approach, praising the UK Government for being a "key leader in digital trade and trade facilitation by spearheading this legislation", while emphasising the importance of "the international trade community working with government to re-emphasise the benefits of this legislation—particularly in relation to security and long-term efficiency."⁷⁶ However, it also emphasised that "it is of no use for the UK to accelerate the trade digitisation agenda in isolation"⁷⁷ and therefore recommended that "strong collaboration should be maintained with global partners to ensure interoperability of digital trade systems."⁷⁸
76. **We welcome the positive impact the Electronic Trade Documents Act has had for trading businesses, and encourage the Government to cooperate with partners, including through the G7 and G20, to support wider implementation of similar legal frameworks. We encourage the Government to build upon the progress made in the Electronic Trade Documents Act, and to explore other avenues, consulting with relevant stakeholders and international leaders in this area such as Singapore, to support the digitisation of trading processes.**

71 [Q 2](#) (Chris Southworth)

72 Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

73 UN Commission on International Trade Law, 'Status: UNCITRAL Model Law on Electronic Transferable Records (2017): https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records/status [accessed 10 December 2024]

74 [Q 1](#) (Chris Southworth)

75 German Federal Ministry for Digital and Transport, *G7 Digital Ministers' Track—Annex 2 Principles for domestic legal frameworks to promote the use of electronic transferable records* (11 May 2024): <https://bmdv.bund.de/SharedDocs/DE/Anlage/K/g7-praesidentschaft-final-declaration-annex-2.pdf> [accessed 10 December 2024]

76 Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

77 Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

78 Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

Other trade digitisation

77. We heard positive feedback from industry about Government trials and pilots originally set out in the 2025 UK Border Strategy. In particular, the Chartered Institute of Export and International Trade reported on its experience leading pilot schemes known as ‘Ecosystem of Trust’. It concluded that the technology involved in such schemes “allowed greater visibility of supply chain information, increased efficiency, greater traceability and supported Environmental, Social and Governance performance metrics.”⁷⁹
78. The ‘Ecosystem of trust’ schemes were introduced as a key part of the previous Government’s 2025 Border Strategy. These schemes are designed to ease border checks by using data sharing and technology to develop transparent relationships with stakeholders.⁸⁰ This process could then be used to expedite and automate customs and border processes, and thus reduce import and export frictions. Ultimately, the strategy envisaged that these systems would be integrated into a ‘Single Trade Window’, an online system that would allow exporting and importing businesses to submit the relevant data through a single portal, rather than through multiple Government departments.⁸¹ However, as of November 2024, the Government has paused the implementation of the Single Trade Window, citing financial challenges.⁸²
79. **The delay to the Government’s Single Trade Window, originally planned to be rolled out towards the end of 2024, highlights the budgetary and resource implications of trade digitisation schemes. Exploring technological solutions to facilitate and ease border processes is highly desirable, but complicated, resource intensive and expensive. However, we also note that other countries have been successful in implementing single trade windows, so this is an area in which the UK could learn from the experience of other countries.**
80. *The Government should continue to work closely with businesses to develop and roll out schemes that better support and facilitate customs processes and ease administrative barriers to trade. We call on the Government to provide detailed and timely guidance to businesses on the timing of the Single Trade Window, in order to support and minimise costs for businesses.*

Coherence between Government Departments

81. This inquiry spanned two Governments, and we received some evidence from academia and industry in May 2024, prior to the dissolution of Parliament. At that point, witnesses told us that a lack of coherence between domestic regulation and trade policy development was compromising the delivery of a simple and coherent policy environment for businesses.⁸³ For example, one witness told us that financial compliance checks were undermining progress being made in the electronic trade documents space.⁸⁴ To address these

79 Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

80 Universal Customs Clearance, Chris Sennett ‘The Ecosystem of Trust’ (26 July 2022): <https://universalcustomsclearance.co.uk/blog/ecosystem-of-trust/> [accessed 25 November 2024]; Written Evidence from the Chartered Institute of Export and International Trade ([DDT0003](#))

81 Cabinet Office, ‘Single Trade Window’ (11 February 2022): <https://www.gov.uk/government/publications/uk-single-trade-window-discussion-paper/uk-single-trade-window-policy-discussion-paper> [accessed 25 November 2024]

82 Written Statement [UIN HCWS188](#), Session 2024–2025

83 E.g. [Q 4](#) (Dr Emily Jones)

84 [Q 4](#) (Chris Southworth)

problems, in the words of Chris Southworth, it will be important to ensure that “all voices need to be at the table when you are designing policy overall.”⁸⁵

82. We are conscious of the challenge of fostering cooperation between government departments, a problem not unique to the UK. We note that research has explored strategies and options to reward cooperation between government agencies and departments. In particular, the OECD has produced a report exploring a number of avenues to incentivise cross-government working, including allocating funding for projects in such a way as to encourage collaboration between departments.⁸⁶ We suggest that some of these options should be carefully considered by the Government, particularly in the context of forthcoming spending reviews.
83. Another, complementary recommended solution was suggested to us in written evidence. Dr Emily Jones proposed the creation of a multi-stakeholder consultation group that should meet regularly to feed to provide input on digital trade matters to the Department of Business and Trade.⁸⁷ This forum should include regulators such as those participating in the Digital Regulation Cooperation Forum⁸⁸ (e.g. the Financial Conduct Authority, Competition and Markets Authority, and the Information Commissioner’s Office), as well as standards bodies such as the British Standards Institute, and bodies like the AI Safety Institute. Regular consultation across affected stakeholders alongside regulators could help contribute to coherent policy-making in the digital trade space.
84. We note that there is now a Parliamentary Under-Secretary of State for the Future Digital Economy and Online Safety, who sits between both the Department for Business and Trade and the Department for Science, Innovation and Technology. The Minister for Trade Policy, Douglas Alexander, confirmed to the Committee the importance of trade policy and domestic regulation working hand-in-hand: “We are working very closely with our colleagues in DSIT in terms of the domestic aspects, both in terms of the trade policy and more broadly in terms of the mechanisms of coherence that we are putting in place across Whitehall.”⁸⁹
85. **We welcome the Government’s commitments to ensuring coherence between departments, and call on the Government to set out the steps that it is taking to encourage cooperation between DSIT and DBT to ensure that domestic digital policy and commitments in Free Trade Agreements are coherent and complementary.**

85 [Q 4](#) (Chris Southworth)

86 See more: Organisation for Economic Cooperation and Development, *A Framework for Working Effectively Across Government Agencies* (24 October 2023): https://www.oecd-ilibrary.org/governance/a-framework-for-working-effectively-across-public-agencies_c6b0d3a7-en;jsessionid=dTxjffBrTCw5tpQiyETSoejpxu2sTijAocOeGhha.ip-10-240-5-180 [accessed 10 December 2024]

87 Written Evidence from Dr Emily Jones, Dr Philippa Collins, Prof Henning Grosse Ruse-Khan, Prof Albert Sanchez-Graells, Dr Kristina Irion, Dr Cosmina Dorobantu, Burcu Kilic and Daria Onitui ([DDT0001](#))

88 A forum that brings together UK regulators tasked with regulating digital services. See more: Information Commissioner’s Office, Ofcom, Competition and Markets Authority and Financial Conduct Authority, ‘Digital Regulation Cooperation Forum: Plan of work for 2022 to 2023’ (28 April 2022): <https://www.gov.uk/government/publications/digital-regulation-cooperation-forum-workplan-2022-to-2023/digital-regulation-cooperation-forum-plan-of-work-for-2022-to-2023> [accessed 10 December 2024]

89 [Q 15](#) (Douglas Alexander MP); [Q 6](#) (Douglas Alexander MP)

86. We would also like to draw attention to a departmental segregation of trade by geographic region. EU trade currently sits in the Cabinet Office, while responsibility for trade with the rest of the world currently lies with the Department for Business and Trade. There are risks associated with separating out closely interrelated relationships in this way. **We call on the Government clearly to set out in its response to this report the reasoning for this division, and to outline how it ensures coherence between policies supporting EU trade in the Cabinet Office, with policies supporting other trade in the Department for Business and Trade.**
87. *To improve coherence between regulators and departments, we recommend that government departments such as the Department for Science, Innovation and Technology, regulators such as those participating in the Digital Regulation Cooperation Forum, and bodies such as the British Standards Institute and the AI Safety Institute should be included in the multi-stakeholder consultative forum.*
88. *To encourage cross-Government working, we further recommend the Government explore options for structuring departmental spending in future spending reviews so as to encourage cooperation between departments and coherent policy-making outcomes.*

Stakeholder engagement

89. Inadequate stakeholder engagement has been a recurring theme in evidence we have received over the lifetime of this Committee. For this inquiry, we received mixed evidence of the Government's stakeholder engagement in relation to digital trade. On the one hand, industry witnesses to the Committee reported some positive experiences.⁹⁰ However, non-business stakeholders reported that their interests and views had not been sought or reflected in the development or implementation of these agreements. Academic experts told the Committee in written evidence that there has been to date "minimal consultation on digital trade provisions beyond representatives from industry" and that while the Trade Advisory Group on Telecoms and Technology offered representatives from industry an opportunity to provide input, "other societal actors have had no similar mechanism to provide input and engage meaningfully."⁹¹
90. In evidence to the Committee, Douglas Alexander confirmed that "how to do this [stakeholder engagement] well" would form "part of our thinking in relation to the trade strategy, and indeed how we consult and figure out how to take that forward."⁹² **We welcome this indication from the Government that stakeholder engagement will form a central role in the forthcoming trade strategy.**

Benefits of wider stakeholder engagement

91. Academic witnesses to our inquiry highlighted the benefits of including non-business stakeholders such as consumer groups, civil society organisations,

90 [Q 3](#) (Sabina Ciofu)

91 Written Evidence from Dr Emily Jones, Dr Philippa Collins, Prof Henning Grosse Ruse-Khan, Prof Albert Sanchez-Graells, Dr Kristina Irion, Dr Cosmina Dorobantu, Burcu Kilic and Daria Onitiu ([DDT0001](#))

92 [Q 15](#) (Douglas Alexander MP)

academia and individuals in consultation exercises. Such broad consultation processes would strengthen the Government's ability to "identify current vulnerabilities and strengthen risk management."⁹³

92. There is an argument to be made that broader engagement processes both improve the quality of new policy and improve public trust in trade. Bearing in mind the rapidly evolving landscape in digital trade, and the UK's position at the forefront of developing and regulating digital products, developing engagement processes that aim to establish a broad social consensus around these complex issues would seem a sensible and responsible measure. The UKTPO and CITP in their evidence stressed that the Government "has the opportunity to lead in the development of the next generation of data and digital trade policies that incorporate a broader perspective and are supported by a wider social consensus."⁹⁴
93. ***To improve consultation processes, in particular among academics, NGOs, and consumer groups, we recommend that the Government establish a multi-stakeholder consultative group on digital trade which meets regularly to provide input to the Department for Business and Trade.***

93 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

94 Written Evidence from Centre for Inclusive Trade Policy and the UK Trade Policy Observatory ([DDT0002](#))

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

1. In order to regulate and support digital trade and the digital economy effectively, the Government must be able adequately to categorise or classify, define, quantify and measure it. (Paragraph 7)
2. *In light of a rapid global transformation in how trade is delivered and ordered, the Government should support and contribute to global efforts to develop commonly agreed typologies and categories for digital trade.* (Paragraph 7)
3. Although digital trade is a rapidly growing and developing area of clear importance to UK trade, the frameworks for digital trade governance are still evolving domestically and globally. This has led to a somewhat fragmented overall picture in policy and regulatory terms. Seeking to use regulatory cooperation and to make progress towards commonly agreed definitions and standards with like-minded partners would help to ameliorate this situation. (Paragraph 9)
4. *In light of this shifting picture, we recommend the Government conduct an analysis of the existing landscape of digital trade provisions in the UK's international agreements. An analysis of the benefits and risks associated with the use of these provisions thus far could form a useful evidence-base for developing a coherent approach to digital trade cooperation and governance within the UK's trade strategy. We would welcome regular briefings and written updates by the Government on the evolution and implementation of the strategy.* (Paragraph 10)
5. We welcome the announcement of the forthcoming trade strategy, including the promised focus on multilateral cooperation in digital trade. (Paragraph 15)
6. *We recommend that the Government should clearly identify and set out the barriers and opportunities in digital trade and provide details in the trade strategy on which trade policy tools are best placed to address them. These might include domestic regulation, regulatory cooperation, Free Trade Agreements, multilateral agreements, or other types of agreements.* (Paragraph 15)
7. *We encourage the Government to work closely with a broad range of stakeholders, both business and non-business, to cooperate on the development of the trade strategy. This should help develop and clarify a settled consensus-based approach to some of the key issues we raise further below in this report, including on data governance and the public policy space in international trade agreements.* (Paragraph 16)
8. While the UK's approach to date appears not to have caused problems, we emphasise that this has been largely dependent on a favourable external environment, rather than on account of Government policy. In particular, adequacy decisions taken by the EU in respect of the UK and other jurisdictions are unilateral, and thus largely outside the control of the UK. Similarly, the relationship between the EU and US on these matters is crucial in offering stability for the UK in its data policy. (Paragraph 21)
9. *In an unclear global environment, the UK's approach to data regulation should be kept under close review, taking account of the policy and regulatory landscape of the UK's largest trading partners.* (Paragraph 21)
10. *In the absence of international consensus on this issue, we recommend that the Government continues to take a pragmatic, outcomes-focused approach to data*

regulation with a view to supporting the UK's trade to the greatest extent possible. Currently, we see this as best achieved via endeavouring to maintain data adequacy with the European Union, the UK's largest trading partner. It should also, as far as possible, include maintaining arrangements like the data bridge with the US and other large partners. We recommend that the Government set out a coherent approach to data privacy and data governance in the forthcoming trade strategy. (Paragraph 23)

11. We welcome the Government's confirmation that it is working with the European Commission to ensure that its Data (Use and Access) Bill is compatible with a positive EU adequacy decision in June 2025. (Paragraph 32)
12. The EU is the UK's largest trading partner. Given that digital trade is of particular importance to the UK and considering that free flows of data underpin digital trade, it is imperative that the Government secures a positive adequacy decision in June 2025, and accordingly that it works closely with the European Commission to that end. Furthermore, it is important that the Government ensures that it minimises the risks of a challenge to a future UK adequacy decision before the Court of Justice of the EU. (Paragraph 39)
13. We note the risk of relying on a wide network of arrangements governing data flows for a stable and certain business environment. If one or more of these arrangements break down, UK businesses may find themselves in an uncertain trading environment. This is a risk that the Government should be assessing, and which strengthens the case for wider plurilateral agreements on data regulation. (Paragraph 40)
14. We welcome the Government's confirmation to the European Affairs Committee that it stands ready to engage with the European Commission, European Parliament and other relevant stakeholders to support a successful renewal of the EU's data adequacy decisions as a matter of priority. (Paragraph 41)
15. *We recommend that the Government maintain close dialogue with the European Union to ensure the UK maintains data adequacy with the EU. The Government should ensure that its approach to personal data remains consistent with the case law of the CJEU.* (Paragraph 41)
16. We recognise the value in the view that the UK could act as an effective interlocutor between the EU and other parts of the world on data governance and privacy issues. However, we would like to stress the considerable resourcing challenges that would be involved in adequately maintaining this 'bridge' position. Such an approach would require considerable investment, resources and skills. (Paragraph 44)
17. *We recommend carefully assessing the risks and costs to the UK in attempting to position itself as a 'bridge' in this sensitive regulatory landscape.* (Paragraph 44)
18. We note that the future of US engagement on any of these issues at a multilateral level is uncertain due to an imminent change of administration. (Paragraph 55)
19. We welcome the optimism expressed by the Minister about implementation of the JSI, but we note that some WTO members have a history of objecting to the principle of the inclusion of plurilateral agreements into the WTO framework. (Paragraph 57)

20. We welcome the UK's working to achieve a plurilateral agreement within the WTO framework to improve the rulebook on digital trade. (Paragraph 59)
21. *We encourage the Government to continue working with like-minded partners towards establishing a consensus on issues such as cross-border data flows and other digital trade governance issues. We note that it may need to continue to do so in the absence of US engagement.* (Paragraph 59)
22. The governance of artificial intelligence and its impact on our society and economy is still in its infancy. Regulation of artificial intelligence cannot be undertaken in isolation, and should be considered in cooperation with our global partners. (Paragraph 66)
23. *In the light of the mixed evidence that we received, we recommend that the Government undertake a comprehensive review of the use of source code provisions in trade agreements, particularly focusing on the exceptions to the ban on disclosures.* (Paragraph 66)
24. *The Government should make every effort to maintain a regular dialogue with counterparts on regulation and legislation on a variety of issues affecting digital trade. These might include regulation of emerging technologies, approaches to data, or digitisation of trade documents. Such cooperation should help ameliorate barriers to trade by working towards providing interoperable regulatory regimes with our closest trading partners.* (Paragraph 70)
25. We welcome the positive impact the Electronic Trade Documents Act has had for trading businesses, and encourage the Government to cooperate with partners, including through the G7 and G20, to support wider implementation of similar legal frameworks. (Paragraph 76)
26. *We encourage the Government to build upon the progress made in the Electronic Trade Documents Act, and to explore other avenues, consulting with relevant stakeholders and international leaders in this area such as Singapore, to support the digitisation of trading processes.* (Paragraph 76)
27. The delay to the Government's Single Trade Window, originally planned to be rolled out towards the end of 2024, highlights the budgetary and resource implications of trade digitisation schemes. Exploring technological solutions to facilitate and ease border processes is highly desirable, but complicated, resource intensive and expensive. However, we also note that other countries have been successful in implementing single trade windows, so this is an area in which the UK could learn from the experience of other countries. (Paragraph 79)
28. *The Government should continue to work closely with businesses to develop and roll out schemes that better support and facilitate customs processes and ease administrative barriers to trade. We call on the Government to provide detailed and timely guidance to businesses on the timing of the Single Trade Window, in order to support and minimise costs for businesses.* (Paragraph 80)
29. We are conscious of the challenge of fostering cooperation between government departments, a problem not unique to the UK. We note that research has explored strategies and options to reward cooperation between government agencies and departments. In particular, the OECD has produced a report exploring a number of avenues to incentivise cross-government working, including allocating funding for projects in such a way as to encourage collaboration between departments. We suggest that

some of these options should be carefully considered by the Government, particularly in the context of forthcoming spending reviews. (Paragraph 82)

30. We welcome the Government's commitments to ensuring coherence between departments, and call on the Government to set out the steps that it is taking to encourage cooperation between DSIT and DBT to ensure that domestic digital policy and commitments in Free Trade Agreements are coherent and complementary. (Paragraph 85)
31. We call on the Government clearly to set out in its response to this report the reasoning for this division, and to outline how it ensures coherence between policies supporting EU trade in the Cabinet Office, with policies supporting other trade in the Department for Business and Trade. (Paragraph 86)
32. *To improve coherence between regulators and departments, we recommend that government departments such as the Department for Science, Innovation and Technology, regulators such as those participating in the Digital Regulation Cooperation Forum, and bodies such as the British Standards Institute and the AI Safety Institute should be included in the multi-stakeholder consultative forum.* (Paragraph 87)
33. *To encourage cross-Government working, we further recommend the Government explore options for structuring departmental spending in future spending reviews so as to encourage cooperation between departments and coherent policy-making outcomes.* (Paragraph 88)
34. We welcome this indication from the Government that stakeholder engagement will form a central role in the forthcoming trade strategy. (Paragraph 90)
35. *To improve consultation processes, in particular among academics, NGOs, and consumer groups, we recommend that the Government establish a multi-stakeholder consultative group on digital trade which meets regularly to provide input to the Department for Business and Trade.* (Paragraph 93)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTERESTS

Members

Lord Anderson of Swansea
 Lord Boateng
 Lord Etherton
 Lord Fox
 Lord German
 Lord Goldsmith (Chair)
 Lord Grimstone of Boscobel
 Lord Hannay of Chiswick
 Lord Howell of Guildford
 Baroness Kingsmill
 Lord Marland
 Lord Udny-Lister

Declarations of Interest

Lord Anderson of Swansea
No relevant interests

Lord Boateng
Independent non-executive director, at the Ghana International Bank

Lord Etherton
No relevant interests

Lord Fox
No relevant interests

Lord German
No relevant interests

Lord Goldsmith
Partner, Debevoise & Plimpton LLP (International law firm)

Lord Grimstone of Boscobel
No relevant interests

Lord Hannay of Chiswick
Member, advisory board of the Centre for European Reform
Member, European Leadership Network
Chair, European & International Analysts Group

Lord Howell of Guildford
No relevant interests

Baroness Kingsmill
No relevant interests

Lord Marland
Director, Janspeed Technologies Ltd (manufacturer of motor parts)
Shareholder, Screenhits Ltd
Shareholder, Many Group Ltd
Shareholder, SSLP Group Ltd
Shareholder, Zen Risks Ltd
Shareholder, Minden Ventures Ltd
Chairman, World Digital Chamber

Lord Udny-Lister
No relevant interests

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/8432/data-and-digital-trade/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

- | | | |
|----|---|-------------------------|
| * | Chris Southworth, Secretary General, International Chamber of Commerce | QQ 1–5 |
| * | Sabina Ciofu, Associate Director (International), techUK | QQ 1–5 |
| * | Séamus Nevin, Chief Economist, Make UK | QQ 1–5 |
| ** | Dr Emily Jones, Associate Professor of Public Policy at the Blavatnik School of Government, University of Oxford | QQ 1–5 |
| * | Rt Hon Douglas Alexander MP, Minister for Trade Policy and Economic Security, Department for Business and Trade | QQ 6–19 |
| * | Graham Floater, Director, US Services, Investment and Digital, Department for Business and Trade | QQ 6–19 |
| * | Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology | QQ 6–19 |
| * | Vicki Brown, Head of Data Flows Policy, Department for Science, Innovation and Technology | QQ 6–19 |

Alphabetical list of all witnesses

- | | | |
|---|---|-------------------------|
| * | Rt Hon Douglas Alexander MP, Minister for Trade Policy and Economic Security, Department for Business and Trade
(QQ 6–19) | |
| * | Vicki Brown, Head of Data Flows Policy, Department for Science, Innovation and Technology
(QQ 6–19) | |
| | Centre for Inclusive Trade Policy (CITP) and UK Trade Policy Observatory | DDT0002 |
| | Chartered Institute of Export & International Trade | DDT0003 |
| * | Sabina Ciofu, Associate Director (International), techUK
(QQ 1–5) | |
| | Dr Philippa Collins (Senior Lecturer in Law, Co-Director of the Centre for Law at Work, University of Bristol) | DDT0001 |
| | Dr Cosmina Dorobantu (Co-Director of Public Policy Programme and Policy Fellow, The Alan Turing Institute and Turing OII Fellow, the Oxford Internet Institute, University of Oxford) | DDT0001 |

- * Graham Floater, Director, US Services, Investment and Digital, Department for Business and Trade ([QQ 6–19](#))
- Professor Henning Grosse Ruse-Khan (Professor of Law, Co-Director of the Centre for Intellectual Property and Information Law, University of Cambridge) [DDT0001](#)
- Dr Kristina Irion (Associate Professor, Institute for Information Law, University of Amsterdam) [DDT0001](#)
- ** Dr Emily Jones, Associate Professor of Public Policy at the Blavatnik School of Government, University of Oxford ([QQ 1–5](#)) [DDT0001](#)
- * Baroness Jones of Whitchurch, Parliamentary Under-Secretary of State, Department for Science, Innovation and Technology ([QQ 6–19](#))
- Burcu Kilic (Senior Fellow, Centre for International Governance Innovation) [DDT0001](#)
- * Séamus Nevin, Chief Economist, Make UK ([QQ 1–5](#))
- Daria Onitiu (Post-doctoral Researcher, The Oxford Internet Institute, University of Oxford) [DDT0001](#)
- Professor Albert Sanchez-Graells (Professor of Economic Law, Co-Director of the Centre for Global Law and Innovation, University of Bristol) [DDT0001](#)
- * Chris Southworth, Secretary General, International Chamber of Commerce ([QQ 1–5](#))