



Foreign, Commonwealth
& Development Office

Continuing the United Kingdom's Trade Relationship with Ukraine

**Political, Free Trade and Strategic Partnership Agreement between the United Kingdom
of Great Britain and Northern Ireland and Ukraine**

November 2020



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Great Britain and Northern Ireland and Ukraine**

Presented to Parliament

by the Secretary of State for Foreign, Commonwealth and Development Affairs

by Command of Her Majesty

November 2020



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Introduction

1. This report explains the Government's approach to delivering continuity in the United Kingdom's ("UK") trade relationship with Ukraine now that the UK has left the European Union ("EU").
2. With our exit from the EU, the Government has sought to deliver the maximum possible certainty to businesses and consumers through ensuring continuity in the UK's existing trade relationships. It is in no one's interests to disrupt existing trade flows.
3. To achieve this, the Government has developed new bilateral agreements that replicate, as far as possible, the effects of the UK's existing trade agreements with existing partners. The new bilateral agreements provide for entry into force when the existing agreements between the EU and a third country cease to apply to the UK or as soon as possible thereafter. The agreements will form the starting point for the UK's future trade agreements with partners.
4. Wherever possible, the Government has sought a technical replication of the existing EU agreements through these new bilateral 'continuity trade agreements', but in some cases, it has applied bespoke solutions for individual agreements as necessary to ensure continuity of effect and operability in a bilateral context.
5. This report gives details of, and explains the reasons for, any significant trade-related differences between:
 - a. The Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine ("the UK-Ukraine Agreement" or "the Agreement"); and
 - b. The Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part ("the EU-Ukraine Agreement").
6. This report first sets out the general drafting changes which are consistent across all the UK's continuity trade agreements and which do not have a significant impact on the effect of the UK's current trade relationships. It then explains any significant differences between the trade-related provisions in the UK-Ukraine Agreement and the existing EU-Ukraine Agreement. To assist the reader, we have included some discussion of the economic impacts, as appropriate. This report focuses solely on the changes made to the trading arrangements between the UK and Ukraine in preparation for the UK ceasing to be bound by the EU-Ukraine Agreement and entering into the UK-Ukraine Agreement. Any wider economic impacts resulting from the UK's exit from the EU or the nature of the Future Relationship Agreement (the "FRA") have been excluded from this report.

Legal approach

7. The UK and Ukraine have agreed that the most appropriate form of legal instrument to ensure continuity in this case is a long form agreement. To draft the UK-Ukraine Agreement, we have reproduced all relevant sections of the existing EU-Ukraine Agreement with the necessary technical and administrative changes to make it operable in a bilateral context.

Resources

8. This report is intended to aid businesses, consumers, and parliamentarians in understanding any significant changes made to the UK's trade or political, economic, or social cooperation relationship with Ukraine by the UK-Ukraine Agreement, the reasons for any changes, and their impact.
9. Should you wish to view the EU-Ukraine Agreement as originally published, it can be found online on the [European Commission's website](#).
10. More detail, including decisions of the Association Council established under the EU-Ukraine Agreement, can be found on the [EUR-Lex website](#). A consolidated version of the EU-Ukraine Agreement can also be found on the [EUR-Lex website](#). The consolidated text is not an authoritative version of the EU-Ukraine Agreement but will assist readers to understand how the EU-Ukraine Agreement has been amended since its entry into force.
11. Should you wish to view the full text of the UK-Ukraine Agreement, it will be laid in Parliament alongside an Explanatory Memorandum as part of the UK's treaty ratification process in accordance with the Constitutional Reform and Governance Act 2010 (the "CRaG Act"). The text will also be available on GOV.UK.

Economic Background

12. This section provides a country-specific background analysis of trade between the UK and Ukraine.

Trade between the UK and Ukraine

13. Ukraine is the UK's 69th largest trading partner¹, accounting for 0.1% of total trade. Total trade in goods and services between the UK and Ukraine was £1.5 billion in 2019.²

14. In 2019, UK exports to Ukraine were £0.7 billion, making it the UK's 71st largest export market (accounting for 0.1% of all UK exports). UK imports from Ukraine were £0.8 billion, making it the UK's 66th largest import source (accounting for 0.1% of all UK imports).

Table 1: Trade between the UK and Ukraine, 2019 (£ billion)

	Trade in goods	Trade in services	Total trade
UK exports to Ukraine	0.6	0.2	0.7
UK imports from Ukraine	0.6	0.2	0.8
Total trade	1.2	0.3	1.5

Source: [ONS \(2019\), UK total trade: all countries, non-seasonally adjusted \(accessed 25th August 2020\)](#). Totals may not sum due to rounding.

15. Using data from HMRC for trade in goods only, Table 2 shows that, in 2019, the top goods exported to Ukraine were vehicles other than railway or tramway rolling stock (HS87, £78 million) and aircraft, spacecraft and parts thereof (HS88, £77 million), together representing under a third of the total value of goods exported to Ukraine. The UK's top goods imported from Ukraine were iron and steel (HS72, £177 million) and cereals (HS10, £173 million), together representing over half of goods imported from Ukraine.

¹ EU member states are treated as individual trading partners with the UK.

² [ONS \(2019\), UK total trade: all countries, non-seasonally adjusted](#), accessed 25th August 2020

Table 2: Top 5 UK goods exports to and imports from Ukraine 2019 (HS2³, £ million)

Top 5 UK goods exports to Ukraine	Value	Top 5 UK goods imports from Ukraine	Value
Vehicles other than railway or tramway stock	77.9	Iron and steel	177.14
Aircraft, spacecraft, and parts thereof	76.6	Cereals	172.6
Machinery and mechanical appliances	67.0	Animal or vegetable fats and oils	70.6
Pharmaceutical products	58.0	Oil seeds and oleaginous fruits	34.9
Other made up textile articles; sets	37.3	Residues and waste (food industries)	17.4

Source: [HMRC trade statistics by commodity code](#) (accessed 15th September 2020). Sectors classified according to Harmonised System chapters. Data presented is recorded on a physical movement basis where a good is recorded as an export (import) if it physically leaves (enters) the economic territory of a country.

16. Table 3 shows that, in 2019, travel services and other business services⁴ were the largest UK service sectors exported to Ukraine (both £37 million). These two service sectors were also the largest import services from Ukraine, with other business services valued at £62 million and travel services valued at £54 million in 2019.

Table 3: Top 5 UK services exports to and imports from Ukraine, 2019 (£ million)

Top 5 UK service exports to partner, 2019	Value	Top 5 UK service imports from partner, 2019	Value
Travel	37	Other Business Services	62
Other Business Services	37	Travel	54
Government	19	Transportation	14
Personal, Cultural and Recreational	10	Telecommunications, computer and information services	14
Transportation	9	Government	5

³ The Harmonised System (HS) is an international nomenclature for the classification of products. It allows participating countries to classify traded goods on a common basis for customs purposes.

⁴ 'Other business services' includes research and development services, professional and management consulting services, and technical, trade-related and other business services

Source: [ONS, \(2019\). UK trade in services: service type by partner country, non-seasonally adjusted](#) (accessed 15th September 2020)

ONS data is recorded on a 'Balance of Payments' or 'change of ownership' basis where a good or service leaving (entering) the economic territory of a country is recorded as an export (import) only if it has changed ownership between the resident of the reporting country and non-residents. Goods exports (imports) are recorded by HMRC if a good physically leaves (enters) the economic territory of a country.

UK businesses exporting to and importing from Ukraine

17. In 2019, HMRC estimated that around 2,300 VAT-registered UK businesses exported goods to and around 700 imported goods from Ukraine.⁵ As these figures only include businesses trading in goods, they are likely to underestimate the total number of businesses trading with Ukraine.
18. For context, provisional survey data from the ONS shows that around 340,500 (non-financial) registered businesses in the UK traded in either goods or services, or both in 2018 with another country.⁶ This was just under 15% of all VAT/PAYE registered businesses. There were around 211,100 (non-financial) registered businesses in the UK engaged in goods trade with another country and 188,400 (non-financial) registered businesses trading in services in 2018. Some of these businesses traded in both goods and services. There will be other businesses trading internationally, which are not identified by these surveys as they are not registered for VAT. Neither of these sources include businesses trading below the VAT registration threshold.

Economic impact of the existing DCFTA

19. The EU-Ukraine Deep and Comprehensive Free Trade Area (DCFTA) entered into force in 2017 after being provisionally applied since 2016. The EU-Ukraine DCFTA is the main economic pillar of the EU-Ukraine Agreement.
20. A 2018 European Commission report looking at implementation of EU free trade agreements included information on the EU-Ukraine DCFTA.⁷ It highlighted that total trade in goods between the EU and Ukraine increased by 24% between 2016 and 2017, although it is not clear how much of this resulted from the DCFTA versus trade which would have occurred regardless if the DCFTA was not in place. Ukraine's trade with the world increased sharply in 2016. However, Ukraine's trade with the EU increased at a faster rate than its overall trade in 2016.
21. A 2007 sustainability impact assessment was undertaken on an extended EU-Ukraine free trade agreement ("FTA").⁸ The simulation, which used computational general equilibrium (CGE) modelling, estimated that an extended FTA⁹ would result in additional 5.3% in the long run. This was expected to reinforce existing trends in trade flows and lead to gains for the sectors with a comparative advantage in both economies. In Ukraine, this applies to processed foods, agriculture, and various other goods sectors. In the EU, the growth in income was expected to be spread over a wide range of sectors. While the relative estimated

⁵ HMRC, [Regional trade statistics interactive analysis: second quarter 2020](#), exports/imports using proportional business count method (accessed 5 October 2020)

⁶ ONS, (2019). [Annual Business Survey exporters and importers](#) (accessed 25th September 2020)

⁷ European Commission. (2018). [Individual reports and info sheets on Implementation of EU Free Trade Agreements](#).⁸ TSIA EU-Ukraine FTA - Studies. (2007). [Trade Sustainability Impact Assessment for the FTA between the EU and Ukraine within the Enhanced Agreement](#).

⁹ "Extended FTA" was the modelled scenario going beyond a "limited FTA". Since the FTA which was implemented was deep and comprehensive, the former is more relevant to the present discussion.

potential economic gains were expected to be higher in Ukraine, the EU's gains were expected to be larger in absolute value, with overall gains in real income of around \$8.5 billion¹⁰.

Potential loss to the UK if the UK-Ukraine Agreement is not brought into force

22. Not being able to bring into force the transitioned Agreement would result in UK businesses losing the preferences negotiated in the EU-Ukraine Agreement. This would include the re-imposition of many tariffs, returning to World Trade Organization ("WTO) Most-Favoured-Nation (MFN) treatment with Ukraine. The benefits derived from trading under preferences within the EU-Ukraine Agreement, such as increases in trade flows, may then be reversed.
23. It is unlikely that the entire effect of the EU-Ukraine Agreement would disappear. Tariffs would revert to MFN rates, discussed in further detail below, but it could take longer for some of the other benefits to be lost. Some gains might endure even in the long run. For example, the UK might still benefit from any regulatory arrangements agreed because of the EU-Ukraine Agreement. Business connections formed because of the EU-Ukraine Agreement might endure.
24. The size of the impact of not bringing into force the UK-Ukraine Agreement would depend on the responsiveness of trade flows to increased costs brought about by the loss of provisions within the Agreement.¹¹

Immediate impact if not brought into effect

Impact of tariffs under current MFN and GSP rates¹²

25. Much international goods trade takes place in products for which MFN rates are already zero. However, an FTA provides additional opportunities by reducing tariffs in products where this is not the case. If the UK-Ukraine Agreement is not brought into effect, tariffs between the two countries would revert to MFN rates, other than where Ukraine benefitted from preferential access to the UK market under a unilateral preference scheme that the UK is implementing after EU exit (the "UK GSP" (Generalised System of Preferences), see below). This would lead to an increase in duties on some UK exports to and imports from Ukraine.
26. The UK is implementing a unilateral preference scheme as the transitional period agreed with the EU comes to an end. It is the Government's intention that countries that currently benefit from preferential access to the EU through the Generalised Scheme of Preferences (GSP) would continue to receive the same access through a new UK trade preference scheme.¹³ At

¹⁰ In 2007 prices.

¹¹ Head K and Mayer T. (2014). '[Gravity Equations - Workhorse, toolkit and cookbook](#)'. *Handbook of International Economics*, 4, pp. 131-195.

Dhingra S, et al. (2018). '[Beyond Tariff Reductions: What Extra Boost From Trade Agreement Provisions?](#)'. *CEP Discussion Paper No 1532*, LSE, pp. 1-38.

¹² Tariff schedules used in this impact assessment are the applied tariff rates, not bound tariff rates.

¹³ The Taxation (Cross-Border Trade) Act enables the UK to put in place a UK trade preference scheme for developing countries. The necessary secondary legislation is now well-advanced, and regulations will be laid in Parliament ahead of the end of the transition period. The Government intends to put in place a trade preference scheme which maintains the preferential market access we currently offer to around 70 developing countries under the EU's

the end of the transition period, we will follow the EU's eligibility criteria. Ukraine is classified as a Lower-Middle Income Country by the World Bank, and, as such, it would be eligible for unilateral preferences under the UK's GSP scheme. This would provide tariff reductions, but not the same level of access as that offered by an FTA. Higher-income partner countries would not benefit from unilateral preferences.

27. To estimate the potential impact of losing tariff preferences, assumptions have to be made. It is assumed that all current trade between the UK and Ukraine occurred at the negotiated preferential tariff rate and current patterns of trade remained unchanged in future. Without taking into account the effect of any unilateral preferences other than the UK's GSP tariff rates, reverting to Ukraine's current MFN tariff rates and the UK's GSP tariff rates would result in an annual increase in total duties of around £21 million. This would predominately be duties on UK exports (£17 million). Duties on imports would be estimated to increase by £4 million.¹⁴ This is relatively small compared to the value of total trade with Ukraine of £1.5 billion in 2019.
28. These estimates assume that all tariff preferences offered under the current EU-Ukraine Agreement are fully utilised by exporters. This is unlikely to be true. For example, the Department for International Trade's ("DIT") estimates suggest that 91% of the UK's eligible goods imports from Ukraine in 2019 (defined as those which occurred under tariff lines where a preferential rate was offered under the EU-Ukraine Agreement) were imported utilising the preferences under the EU-Ukraine Agreement.¹⁵
29. Similar data on UK eligible goods exports to Ukraine is not publicly available. The European Commission has recently published available data on preference utilisation of exports to selected partner third countries with FTAs in place.¹⁶ For these countries, 68% of UK eligible goods exports were traded under preferences. This means that the actual increase in duties could be lower than the estimates above.
30. The total duty which would in fact be charged on exports and imports would depend on how quantities and prices of traded products adjusted to the imposition of tariffs. If UK producers were not previously utilising the preferential rates or producers and consumers changed their behaviour in response to higher tariffs, this cost would be lower than estimated above. These are strong assumptions, so this figure should be treated as an indicative estimate of the magnitude of the trade barrier under this scenario.

Generalised Scheme of Preferences (GSP). This will grant duty-free, quota-free access to Least Developed Countries, which is a target in the UN's Sustainable Development Goals and is in line with our commitments in the WTO. It will also maintain the generous tariff reductions for other developing countries.

¹⁴ DIT calculations using tariff data from ITC Market Access Map ([MacMap](#)) and trade data from [ITC TradeMaps](#) for exports calculations (accessed 21st September 2020). DIT calculations using tariff data from the European Commission and Eurostat trade data (accessed 25th August 2020) for imports. Implied additional duties are calculated using the difference in MFN and preferential tariff rates (simple average tariffs at CN8 level) and the value of trade for each product at CN8 level (2019 for imports, 2018 for exports). Different approaches and data sources for this analysis are likely to yield different results. Calculations on export duties also assume trade is not eligible for duty relief under inward/outward processing rules, nor under specific plurilateral agreements such as those covering civil aviation and pharmaceuticals, nor WTO or preferential quotas. Calculations on import duties take into account inward/outward processing rules and trade which is eligible for relief under specific plurilateral agreements but not any WTO or preferential quotas.

¹⁵ DIT calculations using data from [Eurostat](#) (accessed June 2020). Note that using a single year does not account for fluctuating trends in bilateral trade flows, which can be significant. In general, data on the preference utilisation of trade deals is not readily accessible and should be treated with caution. They indicate whether businesses trading in goods are benefitting from negotiated preferences, but do not tell us which or how many businesses are using these preferences. Nor do they cover services trade.

¹⁶ Nilsson L and Preillon N. (2018). '[EU Exports, Preferences Utilisation and Duty Savings by Member State, Sector and Partner Country](#)'. *European Commission*, pp. 1-17. This report uses data collected by EU Delegations from relevant authorities in countries with which the EU has bilateral reciprocal free trade agreements in place.

31. The indicative estimates show that the largest implied increases in UK export duties would be for beverages, spirits and vinegar (HS22) at around £4.8 million, vehicles other than railway or tramway stock (HS87) at £1.9 million, and nuclear reactors, boilers, machinery and mechanical appliances (HS84) at £1.6 million.
32. Accounting for unilateral preferences, the largest implied increases in UK import duties would be on animal or vegetable fats and oils (HS15) of around £1.8 million, preparations of cereals etc. (HS19) of £1.0 million, and articles of apparel and clothing, not knitted (HS62) of £0.3 million.
33. Indicative estimates of implied additional tariff duties are provided above to provide a sense of scale of possible additional costs of trade. Tariff duties are transfers, where the cost to business is equal to the extra tariff revenue collected by the UK Exchequer and Ukraine's government. However, there could be wider effects of increased costs of trade, including negative impacts on consumer choice, prices, and ultimately economic growth and welfare.

Businesses

34. Additional duties could be absorbed by either UK or Ukrainian businesses (depending on whether it is the importer or exporter paying the duty), passed on to consumers, or existing trade patterns could be interrupted. This could impact UK competitiveness, leading to disruptions in supply chains and job losses in the short term.
35. Businesses that rely on imports as part of their supply chains may be affected if import prices rise, including UK exporters that rely on Ukrainian inputs to export goods to the rest of the world. In 2016 (latest data), around 15.4% of the value added in UK's gross exports reflected imports from abroad, even though the data does not provide how much of this is from imports from Ukraine.¹⁷ UK companies which rely on Ukrainian imports would become less competitive. Given the small share of UK trade under this Agreement, in this case we would expect these impacts to be relatively small but could be noticeable for some specific companies.

Consumers

36. Imported products could be more expensive for consumers if retailers pass on additional duties to consumers through increases in domestic prices. This could disproportionately affect certain groups of consumers, for example, those at the lower end of the income distribution, depending on the specific sectors affected. Consumers might also see a reduction in choice of products and services available. Given the small share of UK trade under this Agreement, in this case we would expect these impacts to be relatively small but could be noticeable on specific product lines.

Longer-term impact

37. In the long run, the UK would forgo the longer-term benefits that the UK-Ukraine Agreement would have brought to UK. This could result in the long-term UK Gross Domestic Product ("GDP") marginally decreasing if a deal is not reached. Given the small share of UK trade under this Agreement, we would expect the impact on GDP to be relatively small.

¹⁷ OECD, 2018. [Trade in Value Added \(TiVA\): Origin of value added in gross exports, December 2018](#). Experimental statistics.

Explanation of this Agreement, including Significant Differences between the UK-Ukraine Agreement and the EU-Ukraine Agreement

38. This section provides a discussion of the changes in the UK-Ukraine Agreement.

Nature of the EU-Ukraine Agreement and the UK-Ukraine Agreement

39. Technical transition of the EU-Ukraine Agreement with few changes means that the substance of the new UK-Ukraine Agreement is broadly the same as that of the EU-Ukraine Agreement. This includes on those issues of particular importance, such as human rights, democracy, and good governance. Some changes have been made to provisions referring to the Russia-Ukraine conflict and to Ukraine's membership of international institutions to reflect the UK's foreign and security policy. Further details on those provisions are available in the Explanatory Memorandum.

Trade

40. The main effects of the EU-Ukraine Agreement have been to encourage greater trade and investment between the EU and Ukraine. It has addressed obstacles to trade in goods and services, eliminating almost all tariffs on trade in goods, banned anti-competitive practices, created a level playing field for the export of goods and services, increased transparency, moved towards international standards in a number of areas, developed small- and medium-sized enterprises (SMEs) and simplified requirements in customs. The UK-Ukraine Agreement contains clear commitments to international standards on Intellectual Property (IP), and UK Geographical Indications ("GIs"), such as Scotch whisky and Irish whiskey, which are protected in the Ukrainian market.

General Provisions

Removal and replacement of references to the EU

41. Where necessary, references to the “European Union”, “the European Community”, the “EU”, “EU Party”, and “Member States” are replaced by “the UK”. Similarly, references to EU institutions have been replaced with appropriate references to the equivalent institutions in the UK. All other references to “European Union”, “the European Commission”, the “EU”, “EU Party”, “Member States” and similar are explicitly changed.

Territorial Application

42. In the existing EU-Ukraine Agreement, the territorial application article defines that Agreement’s territorial application to the EU by referencing the territorial application of the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community (“EURATOM Treaty”). Article 416 of the UK-Ukraine Agreement applies the Agreement to the UK to the extent that and under the conditions which the EU-Ukraine Agreement applied.
43. In respect of the UK, the territories to which the UK-Ukraine Agreement will apply, other than the UK itself, are:
- a. the Crown Dependencies (Isle of Man, Bailiwick of Jersey, Bailiwick of Guernsey), to which, broadly, provisions relating to trade in goods and customs apply; and
 - b. Gibraltar, to which, broadly, provisions not relating to trade in goods or customs apply
44. The European Atomic Energy Community (EURATOM) is a Party to the EU-Ukraine Agreement and Article 483 of the EU-Ukraine Agreement provides that such Agreement applies to the territories to which the EURATOM Treaty applies, under the conditions laid down in that Treaty. The EURATOM Treaty applies to all Overseas Territories for whose international relations the UK is responsible, excluding the Sovereign Base Areas of the UK in Cyprus. The Government understands that EURATOM is specified because provisions relating to civil nuclear trade and co-operation (which make up only a small part of the Agreement) fall within an area of EURATOM competence. It was not intended that this should extend the application of the EU-Ukraine Agreement to territories to which such Agreement would not otherwise apply. The Government has therefore amended the territorial scope of the EU-Ukraine Agreement to remove reference to territories to which the EURATOM Treaty applies, having consulted with relevant territories to ensure they would not be affected. We do not expect this change to have an impact.
45. As the EU-Ukraine agreement predated the Russia-Ukraine conflict, an amendment has been made to the application of the UK-Ukraine Agreement to the territory of Ukraine. Article 416(2) of the Agreement provides that the application of the Agreement, or of Title IV (Trade and Trade-related Matters) thereof, shall commence in the Autonomous Republic of Crimea, the city of Sevastopol and parts of the Donetsk and Luhansk Oblasts of Ukraine, once Ukraine ensures the full implementation and enforcement of the Agreement, or of Title IV thereof, on its entire territory. The Strategic Partnership Dialogue created under Article 400 of the Agreement shall adopt a bilateral decision on when full implementation and enforcement of the Agreement has been ensured.

Continuation of Time Periods

46. Article 29(4) of the EU-Ukraine Agreement provides that from five years after its entry into force, at the request of either Party, the Parties shall consult one another in order to consider accelerating and broadening the scope of the liberalisation of customs duties in the trade between them. As this time period has now elapsed, the equivalent provision in the UK-Ukraine Agreement, Article 29(4), provides that either Party may request such review from two years after the entry into force of the UK-Ukraine Agreement.
47. In accordance with Article 29(4), the UK and Ukraine committed to a political (non-binding) Joint Declaration reiterating their intention to examine on a product by product basis, the possibility of further concessions with regards to agricultural and processed agricultural products, including poultry products imported under the tariff quotas poultry meat and poultry meat preparations. Further, during the second year after the entry into force of the Agreement, for poultry products imported under the tariff rate quotas poultry meat and poultry meat preparations only, the UK and Ukraine decided to consider entering into the consultations provided for in Article 29(4) immediately after Ukrainian imports of such poultry products exceed 80% of their respective quota volume determined in Appendix to Annex I-A. All other references to time periods in the EU-Ukraine Agreement have been replicated in the UK-Ukraine Agreement unamended.

Institutions and Committees

48. Most of the institutional provisions and bodies provided for in the EU-Ukraine Agreement have been incorporated and adopted into the UK-Ukraine Agreement with some modifications to remain operable in a bilateral UK-Ukraine context. Changes have been made to the institutional provisions to reflect the bilateral context of the UK-Ukraine Agreement.
49. The primary bodies responsible for overseeing the operation and implementation of the UK-Ukraine Agreement are the Strategic Partnership Dialogue (“the Dialogue”) and the Trade Committee, which will both be comprised of representatives of the UK and Ukraine.
50. Article 4(1) provides that the Dialogue shall meet at least once a year in a specific configuration to address all aspects of bilateral cooperation, including security, economic and migration issues, as well as international and regional issues of mutual interest. Article 404(3) provides that the Trade Committee shall also meet at least once a year, or as otherwise agreed by the Parties.
51. Article 402(5) provides that, upon entry into force of the UK-Ukraine Agreement, any decisions adopted by the committees or sub-committees established by the EU-Ukraine Agreement before the EU-Ukraine Agreement ceased to apply to the United Kingdom shall, to the extent those decisions relate to the Parties to the UK-Ukraine Agreement, be deemed to have been adopted, *mutatis mutandis*. This approach provides for continuity of effect as it ensures that the decisions in force when the EU-Ukraine Agreement ceases to apply to the UK continue to apply under the UK-Ukraine Agreement.

Amendment Clauses

52. The Government is committed to ensuring the right level of Parliamentary scrutiny for all amendments to international agreements, whilst ensuring that the UK can keep agreements up-to-date and respond to changes in domestic legislation or wider economic considerations.
53. There is no overarching amendment article in the EU-Ukraine Agreement, however the parties to a treaty can always mutually agree to amend the text by way of an exchange of notes, in accordance with their internal procedures. In the UK, amendments to an agreement

that are subject to a formal exchange of notes to confirm completion of internal procedures would engage the parliamentary scrutiny process set out in the CRaG Act 2010.

54. Article 400 of the UK-Ukraine Agreement establishes a 'Strategic Partnership Dialogue' and a 'Trade Committee'. These committees streamline the powers of the Association Council and the Association Committee (which had the power to sit in a trade configuration) under the EU-Ukraine whilst retaining the necessary sub-committees in Title IV (Trade and Trade-Related Matters). The Association Council under the EU-Ukraine Agreement has the power under Article 463(3) to update or amend the annexes to that Agreement. The Dialogue and the Trade Committee of the UK-Ukraine Agreement therefore also have the power under Article 403(3) and 404(7) respectively, to update or amend the annexes to the UK-Ukraine Agreement. It is in the UK's interests for the Committees to have this function, both to ensure continuity of effect of the EU-Ukraine Agreement as far as possible and to streamline the process of making changes to the UK-Ukraine Agreement, if required.

Entry into Force

55. Entry into force provisions specify the date from which the terms of an agreement will bind the parties. Existing entry into force provisions have been replaced with new provisions to ensure that, whatever the scenario in which the EU-Ukraine Agreement ceases to apply to the UK the UK-Ukraine Agreement enters into force as swiftly as possible thereafter.
56. Article 418(2) of the UK-Ukraine Agreement provides that the Agreement will enter into force on the later of: (a) the date on which the EU-Ukraine Agreement ceases to apply to the United Kingdom, and (b) the date of receipt of the later of the Parties' notifications that they have completed their internal procedures.
57. For the UK-Ukraine Agreement to enter into force between the UK and Ukraine, both Parties must first complete their domestic legal procedures required for entry into force. In UK domestic law, before an agreement subject to ratification may be brought into force, it must be laid before Parliament for scrutiny under the CRaG Act 2010.

Trade Remedies

58. Trade remedies provide a safety net for domestic industry against unfair or injurious trading practices caused by dumped, subsidised or unexpected surges of imports of goods.
59. Most WTO Members have a trade remedies system. The UK will operate its own system once the transitional period agreed with the EU comes to an end. The UK-Ukraine Agreement replicates the effects of the trade remedies provisions in the EU-Ukraine Agreement, with some amendments. The product-specific safeguard on passenger cars and the related provision on the application of multiple safeguard measures have been removed. This specific change is unlikely to have an impact, given that imports from the UK are much lower than the specified trigger volume.

Dispute Settlement

60. The economic benefits of the UK-Ukraine Agreement can only be realised if the Agreement is faithfully implemented and complied with. A dispute settlement mechanism in an agreement signals the parties' intention to abide by the agreement, thereby increasing businesses' and stakeholders' confidence that commitments set out in the agreement can, and will, be upheld. The dispute settlement mechanism serves an important deterrent function. It also provides an effective mechanism for enforcing those commitments, and for resolving any disputes that may arise in the future.

61. The UK-Ukraine Agreement replicates the effects of the dispute settlement provisions in the EU-Ukraine Agreement. The dispute settlement provisions are set out in Chapters 14 and 15 of the UK-Ukraine Agreement and its Annexes on the Rules of Procedure for Dispute Settlement and the Code of conduct for members of arbitration panels and mediators. Some amendments were necessary for the purposes of legal certainty and consistency.
62. Articles 294(1) and 307(2) of the EU-Ukraine Agreement state that the arbitral panel needs to share an interim and final report with the Parties “setting out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations that it makes”. We have made a small modification in the UK-Ukraine Agreement to ensure that the panel sets out the facts and “the basis on which these findings were determined” in order to have a clearer understanding of the basis for the decision.⁶⁰ Article 320 of the EU-Ukraine Agreement requires panels to “adopt an interpretation which is consistent with any relevant interpretation established in rulings of the WTO Dispute Settlement Body where an obligation under the EU-Ukraine Agreement is identical to an obligation under the WTO Agreement”. Article 306 in the UK-Ukraine Agreement has softened the previous requirement and now only obligates panels to “take into account relevant interpretations”, in order to not bind the panel’s hands when making appropriate rulings, while maintaining the commitment to WTO jurisprudence. This language also replicates the wording used in the relevant provisions of the EU-Moldova and EU-Georgia agreements. One of the impacts of transitioning the dispute settlement chapters in the existing EU trade agreements is that, in the event where a dispute arises, the UK will be directly responsible for any appropriate costs associated with the dispute settlement process.

Entry Price System

63. The existing EU-Ukraine Agreement contains a reference to the Entry Price System (“EPS”). The EPS provides for an additional specific import tariff to be levied on 28 kinds of fruits and vegetables entering the EU market if their price falls below specified price thresholds. Some of these fruits and vegetables are produced in the UK whilst others are not. Under Article 30(a) of the UK-Ukraine Agreement, the UK has preserved the right, but not the obligation, to introduce legislation replicating the EU’s EPS on the same terms. To reflect this, the requirements of its application has been changed from ‘shall’ to ‘may’. We do not expect this to have an impact on trade flows.

Approximation

64. Approximation is the process by which EU partners must align their national laws, rules, and procedures in order to give effect to the entire body of EU law contained in the *Acquis Communautaire* (“*acquis*”).
65. Unless their removal affects market access, articles mandating or promoting the gradual approximation of legislation between the EU and Ukraine have been removed. Maintaining these commitments would require our partners to approximate their legislation to both the UK’s and the EU’s legislation, which would create an inappropriate commitment in a bilateral context. We do not expect this change to have an economic impact.

Annexes and Protocols

Goods

66. Goods chapters in trade agreements set out the treatment and the level of access to the domestic market granted to goods of the respective parties. Such provisions include setting tariff levels and quotas on various products, establishing agricultural safeguards and determining the rules of origin for goods to qualify for preferential treatment. Commitments on tariffs for both the UK and Ukraine have, other than in those cases detailed below, been transitioned without changes. This means that tariff preferences applied by the UK for products from Ukraine will remain the same as those applied by the EU and, likewise, Ukraine will continue to apply the same preferences to products from the UK that it is currently applying to products from the EU.
67. The only exception to tariff commitments being transitioned without modifications relates to the size of tariff-rate quotas (“TRQs”, see below), which can be found in Annex I-A and Appendix to Annex I-A to the UK-Ukraine Agreement (concerning Annex 1-A to chapter 1 and Appendix to Annex I-A of the EU-Ukraine Agreement, as incorporated) where these have to be resized to deal with the fact that the UK is no longer a Member of the EU. These changes are detailed further below.

Tariff Rate Quotas (TRQs)

Justification for policy change

68. TRQs allow a certain quantity of a product to enter the market at a zero or reduced tariff rate. Imports above that quantity are subject to a higher tariff rate – usually the MFN rate. The EU has agreed TRQs, both for imports to the EU and to partner countries, in some of its trade and association agreements. In order for the products to be able to continue to benefit from the use of TRQs in trade between the UK and Ukraine, these quotas need to be present in the new UK-Ukraine Agreement.
69. TRQs administered by the UK and by Ukraine have been resized to reflect the fact that the UK is a smaller importer and exporter than the EU. Solutions were agreed with Ukraine to set quotas to a sufficient level that will allow for continuity of historical trade flows, in most circumstances, for importers and exporters from both sides.
70. The quotas given in the UK-Ukraine Agreement were calculated based on a mixture of customs and trade flow data.
71. In order to address future market access opportunities for the UK and Ukrainian businesses, it was also agreed that a minimum level of access should be provided for these quotas, based on a proxy measure relevant to UK trade. Doing so allows future market access opportunities for UK and Ukrainian businesses using a fair and evidence-based methodology.

Impacts

72. Without transitioning these TRQs, and without any other mitigating actions, goods imported from Ukraine that are currently covered by TRQs in the EU-Ukraine Agreement could face MFN tariffs. This could make these imports more expensive. The nature of this impact will depend on a number of factors, including existing trading patterns and the behaviour and responsiveness of domestic consumers and businesses to the change in tariff. Historically, Ukraine’s usage of TRQs to export to the UK was mostly low. UK imports from Ukraine based

on trade data (at HS6 level) of products that are currently covered by the 40 inward TRQs under the EU-Ukraine Agreement were worth £2 million in total in 2019. This is equivalent to less than 1% of total UK goods imports from Ukraine.¹⁸

73. Overall, we would expect the impact on UK producers and consumers resulting from this approach to resizing TRQs to be limited.

Inward TRQs

74. See the UK-Ukraine Agreement text for more detail of the agreed TRQ, such as the tariff line.

Table 4: List of Tariff Rate Quotas administered by the United Kingdom for products originating in Ukraine (tonnes, unless otherwise specified)

¹⁸ HM Revenue and Customs, UK trade statistics data. <https://www.uktradeinfo.com/trade-data/>, 2019 average. It should be noted that not all commodity codes within the HS product codes will be covered in every TRQ. Further, it is not necessarily the case that all trade in products under the quota will enter under this access commitment. As such, estimates based on HS6 data are likely to give an upper bound to the volume of imports and exports covered by the TRQ.

Quota No.¹	Product description	Tariff classification²	New UK quota volume (tonnes unless otherwise specified)
094270	Beef meat	0201 10 (00) 0201 20 (20-30-50-90) 0201 30 (00) 0202 10 (00) 0202 20 (10-30-50-90) 0202 30 (10-50-90)	1,634*
094271	Pork meat	0203 11 (10) 0203 12 (11-19) 0203 19 (11-13-15-55-59) 0203 21 (10) 0203 22 (11-19) 0203 29 (11-13-15-55-59)	2,724*
094272	Pork meat	0203 11 (10) 0203 12 (19) 0203 19 (11-15-59) 0203 21 (10) 0203 22 (19) 0203 29 (11-15-59)	2,724*
096700	Sheep meat	0204 22 (50-90) 0204 23 (00) 0204 42 (30-50-90) 0204 43 (10-90)	306
094273	Poultry meat and poultry meat preparations ³	0207 11 (30-90) 0207 12 (10-90) 0207 13 (10-20-30-50-60-70-99) 0207 14 (10-20-30-50-60-70-99) 0207 24 (10-90) 0207 25 (10-90) 0207 26 (10-20-30-50-60-70-80-99) 0207 27 (10-20-30-50-60-70-80-99) 0207 32 (15-19-51-59-90) 0207 33 (11-19-59-90) 0207 35 (11-15-21-23-25-31-41-51-53-61-63-71-79-99) 0207 36 (11-15-21-23-31-41-51-53-61-63-79-90) 0210 99 (39) 1602 31 (11-19-30-90) 1602 32 (11-19-30-90) 1602 39 (21)	9,534*
094274	Poultry meat and poultry meat preparations	0207 12 (10-90)	2,724*

094600	Milk, cream, condensed milk and yogurts	0401 10 (10-90) 0401 20 (11-19-91-99) 0401 30 (11-19-31-39-91-99) 0402 91 (10-30-51-59-91-99) 0402 99 (10-31-39-91-99) 0403 10 (11-13-19-31-33-39) 0403 90 (51-53-59-61-63-69)	1,362*
094601	Milk Powder	0402 10 (11-19-91-99) 0402 21 (11-17-19-91-99) 0402 29 (11-15-19-91-99) 0403 90 (11-13-19-31-33-39) 0404 90 (21-23-29-81-83-89)	681*
094602	Butter and dairy spreads	0405 10 (11-19-30-50-90) 0405 20 (90) 0405 90 (10-90)	409*
094275	Eggs and albumins	0407 00 (30) 0408 11 (80) 0408 19 (81-89) 0408 91 (80) 0408 99 (80) 3502 11 (90) 3502 19 (90) 3502 20 (91-99)	409**
094276	Eggs and albumins	0407 00 (30)	409*
096701	Honey	0409 00 (00)	1,000*
096702	Garlic	0703 20 (00)	68*
096704	Sugars	1701 12 (10-90) 1701 91 (00) 1701 99 (10-90) 1702 20 (10) 1702 90 (30-50-71-75-79-80-95)	2,734*
096705	Other sugars	1702 30 (10-50-90) 1702 40 (10-90) 1702 60 (10-80-95)	2,724*
096706	Sugar syrups	2106 90 (30-55-59)	272*
094306	Common wheat, flours, and pellets	1001 90 (99) 1101 00 (15-90) 1102 90 (90) 1103 11 (90) 1103 20 (60)	136,200
094307	Barley, flour and pellets	1003 00 (90) 1102 90 (10) 1103 20 (20)	47,670
096703	Oats	1004 00 (00)	545
094308	Maize, flour and pellets	1005 90 (00) 1102 20 (10-90) 1103 13 (10-90) 1103 20 (40) 1104 23 (10-30-90-99)	108,355

096707	Barley groats and meal; cereal grains otherwise worked	1103 19 (30-90) 1103 20 (90) 1104 19 (10-50-61-69) 1104 29 (01-03-05-07-09-11-18-30-51-59-81-89) 1104 30 (10-90)	1,062
096708	Malt and wheat gluten	1107 10 (11-19-91-99) 1107 20 (00) 1109 00 (00)	953
096709	Starches	1108 11 (00) 1108 12 (00) 1108 13 (00)	1,362
096710	Starch processed	3505 10 (10-90) 3505 20 (30-50-90)	272*
096711	Bran, shaps and residues	2302 10 (10-90) 2302 30 (10-90) 2302 40 (10-90) 2303 10 (11)	2,860
096712	Mushrooms	0711 51 (00) 2003 10 (20 30)	68*
096713	Mushrooms	0711 51 (00)	68*
096714	Processed tomatoes	2002 10 (10-90) 2002 90 (11-19-31-39-91-99)	2,000*
096715	Grape and apple juice	2009 61 (90) 2009 69 (11-71-79-90) 2009 71 (20-99) 2009 79 (11-19-30-91-93-99)	2,724*
096716	Fermented milk processed products	0403 10 (51-53-59-91-93-99) 0403 90 (71-73-79-91-93-99)	272*
096717	Processed butter products	0405 20 (10-30)	34*
096718	Sweet corn	0710 40 (00) 0711 90 (30) 2001 90 (30) 2004 90 (10) 2005 80 (00)	204*
096719	Sugar processed products	1702 50 (00) 1702 90 (10) 1704 90 (99) (for sugar content \geq 70 %) 1806 10 (30-90) 1806 20 (95) (for sugar content \geq 70 %) 1901 90 (99) (for sugar content \geq 70 %) 2101 12 (98) 2101 20 (98) 3302 10 (29)	409*
096720	Cereal processed products	1903 00 (00) 1904 30 (00)	272*

096721	Milk cream processed products	1806 20 (70) 2106 10 (80) 2202 90 (99)	68*
096722	Food preparations	2106 90 (98)	272*
096723	Ethanol	2207 10 (00) 2208 90 (91-99) 2207 20 (00)	13,620*
096724	Cigars and Cigarettes	2402 10 (00) 2402 20 (90)	341*
096725	Mannitol-sorbitol	2905 43 (00) 2905 44 (11-19-91-99) 3824 60 (11-19-91-99)	14*
096726	Malt- Starch Processed products	3809 10 (10-30-50-90)	272*

¹ Inward quotas, which are administered by the European Union, each have a unique order number. Further information about existing EU quotas can be found on the EU Customs and Taxation [website](#).

² Tariff classification for the products is under CN 2008.

³ Poultry tariff rate quota coverage has been amended to reflect the updated Agreement between the EU and Ukraine.

* Expressed in net weight.

** Expressed in shell-egg equivalent.

Outward TRQs

Table 5: List of Tariff Rate Quotas administered by Ukraine for products originating in the United Kingdom (tonnes, unless otherwise specified)

Product description	Tariff classification ²	New quota volume (tonnes)
Pork meat	0203 11 (10-90) 0203 12 (11-19-90) 0203 19 (11-13-15-55-59-90) 0203 21 (10-90) 0203 22 (11-19-90) 0203 29 (11-13-15-55-59-90)	1,700*
Pork meat	0203 11 (10) 0203 12 (19) 0203 19 (11-15-59) 0203 21 (10) 0203 22 (19) 0203 29 (11-15-59))	1,700*
Poultry meat and poultry meat preparations	0207 12 (10-90) 0207 14 (10-20-30-40-50-60-70-91-99) 0207 26 (10-20-30-40-50-60-70-80-99) 0207 27 (10-20-30-40-50-60-70-80-91- 99) 0207 35 (11-15-21-23-25-31-41-61-63-71-79-99) 0207 36 (31-41-61-63-71-79-89-90)	2,000*
Poultry meat and poultry meat preparations	0207 12 (10-90)	2,000*
Sugars	1701 11 (10-90) 1701 12 (10-90) 1701 91 (00) 1701 99 (10-90)	6,668*

² Tariff classification for the products is under CN 2008.

*Expressed in net weight.

Product	Tariff classification	Quantity	
		New quota volume (tonnes)	Yearly increase (new) in tonnes
Pork meat	0203 11 (10-90) 0203 12 (11-19-90) 0203 19 (11-13-15-55-59-90) 0203 21 (10-90) 0203 22 (11-19-90) 0203 29 (11-13-15-55-59-90)	[1,700]	No staging
	0203 11 (10) 0203 12 (19) 0203 19 (11-15-59) 0203 21 (10) 0203 22 (19) 0203 29 (11-15-59))	[1,700]	
Poultry meat and poultry meat preparations	0207 12 (10-90)	[2,000t]	No staging
	0207 12 (10-90) 0207 14 (10-20-30-40-50-60-70-91-99) 0207 26 (10-20-30-40-50-60-70-80-99) 0207 27 (10-20-30-40-50-60-70-80-91-99) 0207 35 (11-15-21-23-25-31-41-61-63-71-79-99) 0207 36 (31-41-61-63-71-79-89-90)	[1,253]	[54]
Sugars	1701 11 (10-90) 1701 12 (10-90) 1701 91 (00) 1701 99 (10-90)	[4,093]	[272]

Rules of Origin

75. In free trade agreements, rules of origin are used to determine the economic nationality of a good. In order to qualify for preferential tariff rates, a good has to “originate” in the territory of one of the parties to the agreement. The trade pillar in a free trade agreement may also allow materials originating and/or processed in a country other than the exporting party to count towards meeting the specific origin requirements for preferential treatment, a process known as “cumulation”.

76. There are two main categories relevant to determining whether goods “originate” in the exporting country for the purposes of a free trade agreement:

- a. **Wholly obtained** – These are goods that are wholly obtained or produced entirely in a single country. Examples include mineral products extracted from the soil and live animals born and raised there.
- b. **Substantial transformation** – These are goods that are made from materials which come from more than one country, and the origin is therefore defined as that of the country where the goods were last substantially transformed. This can be determined in three ways:

- i. **Value added** – This type of rule requires that a particular proportion of the final value of the product be added in the exporting country.
- ii. **Change in Tariff Classification (CTC)** – This type of rule requires that the final product be sufficiently different from the imported materials so that it moves to a different tariff classification altogether.
- iii. **Specific processing or manufacturing** – These rules typically apply where value added or CTC rules may not adequately determine originating status, and where specific processes are required to meet originating criteria.

77. During the transition period, all UK content is currently considered as “originating” in the EU and UK exports are designated as “EU origin”. This means that originating materials from, and processing in, the UK and the rest of the EU can be used interchangeably in bilateral trade with existing EU free trade agreement partners. This will no longer be the case when existing EU free trade agreements stop applying to the UK at the end of the transition period.

78. At that point, the designation of UK exports will shift from “EU” originating to “UK” originating and EU content will (unless specific provision is made in new agreements) no longer count towards meeting the origin requirements for preferential treatment for either party. This would have implications for goods traded between the UK, EU, and Ukraine.

79. To address these implications and to provide maximum continuity for business, the UK-Ukraine Agreement provides that EU materials can continue to be used, and count as originating (e.g. cumulated), in UK and Ukrainian exports to one another. Furthermore, EU processing can continue to be used and count as originating in UK exports to Ukraine. The possibilities to cumulate with other third countries, as per the EU-Ukraine Agreement, are replicated in the UK-Ukraine Agreement on the same terms.

80. The cumulation arrangements are set out in detail in Title II (Definition of the Concept of “Originating Products”) of Protocol I to the UK-Ukraine Agreement and are subject to certain conditions specified in the Agreement being satisfied.

81. Ukraine and the UK (as it continues to be bound by agreements to which the EU is a party to) are currently contracting parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (“PEM Convention”) and apply the PEM Convention between them. The PEM Convention is a multilateral agreement that harmonises preferential rules of origin across the Euro-Med area and provides for cumulation between contracting parties to that Convention¹⁹. The UK’s future relationship with the PEM Convention is yet to be determined, so the UK-Ukraine Agreement reflects the provisions of the PEM Convention in a bilateral context with modifications.

82. The text of the Rules of Origin Protocol can be found in the Protocol I to the UK-Ukraine Agreement.

Impact

83. If cumulation of EU content for the UK and Ukraine was not permitted under the UK-Ukraine Agreement, some UK and Ukrainian-based exporters could find themselves unable to access preferences as they are currently able to under the EU-Ukraine Agreement.

¹⁹ The Contracting Parties as defined in the Regional Convention on Pan-Euro-Mediterranean preferential rules of origin as at the date the Agreement is signed.

84. UK exporters to Ukraine who rely on EU inputs might have to revert to paying MFN tariff rates if they continue using EU content, or they might have to review and reassess their existing supply and value chains as a result of this change to the existing terms. The impact would, of course, vary across sectors.
85. The UK-Ukraine Agreement provides only for trade between the UK and Ukraine and does not provide for either Party's direct trade with the EU, including, for example, where UK and Ukrainian-based exporters use content from each other in exports to the EU. The imposition of higher MFN tariffs on such exports may have a minor negative impact on trade flows.

Customs

86. The EU-Ukraine Agreement customs provisions were replicated in the UK-Ukraine Agreement. However, minor changes were made to Protocol II. Article 14(2) of Protocol II of the EU-Ukraine Agreement was amended to refer to both the UK and Ukraine. The last point of Article 14(1) of Protocol II, which relates to mutual administrative assistance between the EU and Ukraine, was not replicated in the UK-Ukraine Agreement, as this provision refers to communication between competent services of the European Commission and the customs authorities of EU Member States and is therefore not relevant in a bilateral agreement.

Sanitary and Phytosanitary Measures (SPS)

87. Sanitary and Phytosanitary Measures (SPS) articles in free trade agreements concern the application of food safety and animal and plant health regulations. SPS provisions in free trade agreements allow countries to set standards and regulations that allow for the protection of human, animal or plant life and health. SPS provisions can increase transparency in trading by allowing the recognition of equivalent measures in relation to animal health, and import requirements, including health certification.
88. Minor, non-substantive changes were made to remove the reference to EU Protected Zones and replace them with Pest-Free Areas. This does not affect the operation of the UK-Ukraine Agreement. Additionally, in accordance with the approach outlined in paragraph 63, we have deleted all references to approximation. This does not affect the operation of the UK-Ukraine Agreement and is not expected to have a significant impact on trade flows. Moreover, in the UK-Ukraine Agreement changes have been made to reflect that both the UK and Ukraine are members of the World Organisation for Animal Health ("OIE") and meet requirements on notification of any outbreaks of diseases on the market. We do not expect these changes to have an impact.

Intellectual Property and Geographical Indications

89. Our existing obligations on intellectual property ("IP") found in international agreements will remain in place. The UK will remain a Member of the World Intellectual Property Organization ("WIPO") and remains fully compliant with those WIPO treaties to which we are already a party. The UK will also remain fully compliant with the World Trade Organization's Agreement on the Trade-Related Aspects of Intellectual Property Rights ("TRIPS").
90. The IP Chapter in the EU-Ukraine Agreement includes issues such as approximation, EU regulation and time-bound commitments. The IP Chapter in the UK-Ukraine Agreement retains all the substantive provisions on copyright, trademarks, geographical indications (GIs), industrial designs, patents, regulatory test data exclusivity, new plant varieties, genetic resources, traditional knowledge and folklore, and enforcement, as under the EU-Ukraine Agreement, with some amendments to ensure continuity of effect and operability in a bilateral context, the more significant of which are detailed below.

91. Article 162 of the EU-Ukraine Agreement has been changed to prevent any breach of copyright in the future for certain works and to bring consistency to the Article. In the UK, longer copyright terms are available for certain works and the changes made to the Agreement with Ukraine ensure that these rights can continue to be protected. The new wording says that the rights of an author of a literary or artistic work shall run for “the life of the author and for not less than 70 years after his/her death”. The original wording in the EU-Ukraine Agreement said that the rights shall run for “for the life of the author and for 70 years after his/her death”. Similar changes have been made in respect of anonymous or pseudonymous works, as well as in relation to unpublished works, in order to provide consistency and ensure legal compliance.
92. Also, in the Copyright and Related Rights sub-section, two minor amendments have been made to Article 166, which covers the scope of exception for the Protection of Technological Measures, to ensure no conflict between this agreement and our disability exception derived from the Marrakesh Directive and to enable the UK not to prohibit the circumvention of the Protection of Technological Measures attached to computer programs. At Article 180(1) – Resale Right - a footnote has been added to make an important clarification of the meaning of ‘original work of art’ in the UK.
93. There are two types of unregistered design right that operate alongside one another in the UK: (i) the Unregistered Design Right provided for by the Copyright, Designs and Patents Act 1988, and (ii) the Community Unregistered Design Right as transposed into UK legislation by the European Union (Withdrawal) Act 2018. The two types of unregistered design rights differ in scope and duration. In order to provide clarity and ensure continuity of effect, we have added a footnote to make it clear that the unregistered design rights referred to in Article 202(a) apply only to the Council Regulation (EC) No 6/2002 on Community Designs as transposed into UK legislation by the European Union (Withdrawal) Act 2018.
94. In relation to GIs, the retained provisions continue to protect UK and Ukrainian GIs that were already protected under the EU-Ukraine Agreement. These provisions include those that extend the protection to the territory of both Northern Ireland and the Republic of Ireland (known as ‘transborder GIs’) for Irish Whiskey / Uisce Beatha Eireannach/ Irish Whisky, Irish Cream and Irish Potteen / Irish Poitín. All other GIs, traditional expressions and protected designations which relate to EU Member States are not replicated into the Annex XVII-D to Chapter 9 of the UK-Ukraine Agreement. This is because the UK-Ukraine Agreement is a bilateral Agreement, and therefore can only protect GIs of States that are Party to the Agreement. This has no effect on existing GI protections relating to EU Member States in Ukraine, which will remain protected under the EU-Ukraine Agreement.
95. The changes to IP provisions are not expected to have a significant impact on trade flows between the UK and Ukraine, as they are simply technical changes designed to ensure continuity of effect and operability.

Sustainability

96. The UK has long supported the promotion of our values globally and this will continue to do so now that we have left the EU. We want to ensure that economic growth, and development, labour and environmental protection go hand-in-hand. The sustainability provisions in the EU-Ukraine Agreement have in very large part been replicated in their entirety in Articles 275-288 of the UK-Ukraine Agreement. These changes are not expected to have a significant impact on trade flows.
97. The Sustainability Chapter in the EU-Ukraine Agreement refers to other (non-EU) international agreements on issues like labour and environment. The UK and Ukraine are

parties to these agreements in their own right; therefore, the provisions reflecting this will continue to apply to the UK after the end of the transition period.

Government Procurement

98. Government procurement commitments in trade agreements provide enforceable rules and standards for a transparent and non-discriminatory framework on government procurement. They also liberalise specific procurement markets between the parties and provide enforceable market access commitments.
99. The UK-Ukraine Agreement has retained the commitments on public procurement that relate to the UK and Ukraine.
100. Article 148 of the EU-Ukraine Agreement refers to a requirement that Ukraine shall progressively approximate its domestic public procurement legislation with the EU public procurement *acquis*. This approximation is to take place in accordance with the timetable and phases set out in the EU-Ukraine Agreement's Annex XXI to Chapter 8. In the UK-Ukraine Agreement, commitments relating to approximation to aspects of the EU procurement *acquis* have been removed, but commitments that relate to the time-phased reciprocal opening of the procurement market access offer have been retained. In the UK-Ukraine Agreement, the phased opening of the market will take place on the dates specified in Annex XVI-A, rather than when the approximation targets have been reached (e.g. the specified dates in the UK-Ukraine Agreement are the same as the approximation dates in the EU-Ukraine Agreement). This approach retains the staged market access benefit of the Agreement. The changes could potentially reduce incentives for Ukraine to meet EU approximation targets but are not expected to have a significant impact on trade flows.

Technical Barriers to Trade

101. Technical Barriers to Trade ("TBT") articles in free trade agreements cover aspects relating to regulations, standards, and conformity assessment for goods. TBT provisions in preferential trade agreements play an important role in reducing non-tariff barriers for businesses, for example, through increasing the transparency of a trading partner's regulatory requirements. Changes to these provisions have been limited to non-substantive technical changes.
102. The EU-Ukraine Agreement originally contained provisions for Ukraine to approximate their legislation to the EU *acquis*. We have followed the general approach detailed earlier in this report and removed this provision from the UK-Ukraine Agreement, as it would not be appropriate to replicate such a provision in a bilateral context. This change is not expected to have a significant impact on trade flows.

Competition

103. Chapters or articles in free trade agreements relating to competition and subsidies/state aid help to ensure that open and fair competition exists for both parties.
104. Article 253(2) of the EU-Ukraine Agreement sets out the definitions for each of the Parties' competition laws. This Article has therefore been amended in the UK-Ukraine Agreement to remove references to the EU *acquis* and replace them by references to the relevant UK domestic laws and regulations.
105. Article 264 of the EU-Ukraine Agreement also provided that certain practices in conflict with the Agreement shall be assessed on the basis of criteria arising from the application of EU rules. It would not be appropriate to replicate such provisions in a bilateral context. This Article has therefore been amended in the UK-Ukraine Agreement so that those practices shall be

assessed based on each of the Party's domestic laws and regulations. The amendment of this provision is not anticipated to have an impact on British businesses, as they will continue to be subject to UK domestic law, which does not conflict with the provisions of the Agreement.

106. Other minor non-substantive technical changes to remove references to the EU acquis have been carried out in the areas of competition and state aid to ensure that the effect of the provisions are replicated without altering their substance. The UK-Ukraine Agreement will not have any effect on the financial support the Government provides to our agricultural and fishing industries. As a result, it is not expected to have a significant impact on trade flows.

Services

107. Services chapters and corresponding annexes in free trade agreements set out the treatment and level of access to the domestic market granted to that trade partner's service suppliers and services. Commitments written into these agreements build upon the level of access and the treatment granted to all WTO members, whilst protecting governments' right to regulate their domestic markets.

108. Amongst the EU's agreements with third countries, the content of the services chapters and depth of the commitments undertaken vary considerably. The variety of these services provisions have in some cases necessitated a bespoke approach to deliver continuity in services commitments between the UK and the third country. Some agreements have not required amendment, whilst others have required technical alteration to their text to deliver continuity of effect. Where such technical changes have been necessary, the effects of the original commitments have been replicated as far as is operable.

109. The services provisions in the UK-Ukraine Agreement include changes from the EU-Ukraine Agreement to remove references to regulatory approximation. Regulation for services governs the operation of services markets, and influences service trade flows. Regulatory approximation by a trading partner guarantees that trade in services in the specific sectors is regulated as the EU would expect. The provisions in the EU-Ukraine Agreement were included in the context of regulatory approximation.

110. In replicating the effects of the EU-Ukraine Agreement into the UK-Ukraine Agreement, the provisions which contain the obligation to approximate in services have been removed because they would no longer be operable. This has created the need for consequential amendments to maintain operability of the establishment commitments for service providers, ensuring continuity in the bilateral trade relationship between the UK and Ukraine. This includes amendments to Articles 120 and 134 of the UK-Ukraine Agreement, and the inclusion of additional reservations in Annex XII to bring the UK-Ukraine Agreement into line with other EU trade agreements which do not contain the obligation to approximate. These changes are not expected to have a significant impact on trade flows

111. The UK accepted a new Ukraine reservation that stipulated that legal advisory and legal authorisation, documentation and certification services provided by legal professionals entrusted with public functions can only be supplied by Ukrainian citizens. We were able to accept this reservation due to a change in Ukrainian domestic law requiring Ukrainian citizenship for these services. We expect the impact to be negligible as with the change in Ukrainian domestic law, the access was already prohibited.

112. The UK also expanded the scope of its sectoral reservations to include bailiffs to better reflect our domestic practice. This change is expected to have limited implications on trade flows.

Energy Community Treaty

113. The Energy Community Treaty (“ECT”) extends EU energy market legislation to the Contracting Parties to the ECT. Contracting Parties have agreed to implement core EU energy legislation and to create an integrated energy market allowing for cross-border energy trade and integration with the EU market. The ECT is between the EU and the Contracting Parties, and the UK is not a member of the ECT in its own right. After the end of the transition period, the UK will not seek to become a party to the ECT. Therefore, we have not replicated any provisions of the EU-Ukraine Agreement that refer to the ECT, in line with the approach adopted in relation to other provisions on approximation to the EU acquis that do not have an implication to market access.

Internal Waterways Arrangements

114. References to EU internal waterway arrangements, such as the ‘Rhine-Main-Danube Link’ in Annexes XII-A, XII-B XII-D and XII-E, have been removed as they no longer apply in a bilateral context. This change is not expected to have a significant impact on trade flows.

Aircraft Leasing Text

115. In Annex XII-B of the UK-Ukraine Agreement, a minor change has been made to market access reservations under the EU-Ukraine Agreement requiring that aircraft used by European Union air carriers be registered in the Member State licensing the air carrier or elsewhere in the Union. For this reservation, the phrase 'or elsewhere in the European Union' and a reference to the licensing European Member States have been removed as they are no longer required in the bilateral context.

116. The new reservation requires that aircraft used by UK carriers be registered in the UK in certain circumstances. We would expect that any economic impact of this change would be limited. UK carriers will continue to benefit from the conditions of mutual market access in air transport, which shall be dealt with by the Agreement between the Government Ukraine and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Air Services as amended from time to time (the “UK-Ukraine Air Services Agreement”).

Transport – Air Services

117. The Common Aviation Area liberalises air transport by extending the single market in the field of aviation to various third countries. It is based on various international agreements between the EU and third countries, including the European Common Aviation Area (ECAA) Agreement. Third-country parties to these agreements are required to implement the relevant EU acquis in the aviation sector. After the end of the transition period, the UK will no longer be a party to the ECAA and related agreements and will instead revert to traditional bilateral air services arrangements with partner countries. In line with the Government’s wider approach to international agreements affected by our departure from the EU, these new bilateral arrangements will seek to replicate the effects of existing EU agreements as far as is possible on a bilateral basis. Therefore, references to the ECAA throughout the EU-Ukraine Agreement have been removed or replaced with references to the UK-Ukraine Air Services Agreement as appropriate to reflect the UK-Ukraine bilateral context.

118. We have a 2015 ASA with Ukraine, which is in force, and will apply continue to apply once any EU arrangements fall on 31 December. There will be no impact on UK-Ukraine air services.

Professional Services Recognition

119. A reservation clarifying that EU Directives on mutual recognition of diplomas only apply to nationals of EU Member States and that the right to practice a regulated professional services in one Member State does not grant the right to practice in another Member State has not been replicated in Annexes XII-C and XII-D to the UK-Ukraine Agreement, as this is not applicable in a bilateral context. This change is not expected to have a significant impact on trade flows.

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