



4 November 2022

**Comments to the United Kingdom on
Cross-Border Data Provisions in UK Trade Negotiations**

The Global Data Alliance¹ (GDA) congratulates the United Kingdom (UK) on its robust policy of international economic engagement with trading partners around the world. As the UK continues to advance international trade negotiations, we wish to share our perspectives on certain digital trade and cross-border data provisions in those negotiations.

In a span of just over two years, UK trade negotiations have produced remarkable results, including in the UK-EU Trade and Cooperation Agreement, the UK-Japan Comprehensive Economic Partnership Agreement, the UK-Australia Free Trade Agreement (FTA), the UK-New Zealand Free Trade Agreement, and the UK-Singapore Digital Economy Agreement, among other agreements. Ongoing negotiations present an opportunity to build upon these results with trading partners including Canada, India, Israel, Mexico, Switzerland, Ukraine, the United States, as well as the CPTPP Parties and the Gulf Cooperation Council.

While the GDA offered comments in prior public consultations relating to the aforementioned negotiations,² we respectfully submit the following supplemental comments containing new evidence and policy arguments. This submission expresses the support to the UK's recent approach in digital trade negotiations and urges the UK to continue providing for strong cross-border data commitments that built on the UK's prior FTAs. In addition, this submission also identifies other potential digital trade topics concerning data transfers and digital trust that could be explored further.

I. Introduction

The GDA is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. GDA member companies employ tens of thousands of workers across the UK in digitally-intensive industries. GDA member companies are active in a broad array of sectors, including aerospace, agriculture, automotive, energy, electronics, film, music, finance, health, logistics, retail and consumer goods, technology, and telecommunications, among others.

GDA members welcome the UK's proactive approach in working to ensure that the UK's FTA negotiations address the cross-border digital interests of all UK industries and their workers, including in the agriculture, automotive, clean energy, finance, healthcare and medical technology, logistics, media (including film, music and publishing), pharmaceutical, software, semiconductor, and telecommunications sectors. Digital networks lie at the heart of today's interconnected global economy: they support jobs across the UK in every sector, and at every stage of the value chain in millions of transactions every day. More information to illustrate the cross border digital interests of different sectors can be found here: <https://globaldataalliance.org/sectors/>

II. Discussion

The GDA welcomes The United Kingdom's leadership on digital trade at the World Trade Organization (WTO) and in FTA negotiations and congratulates the continuity. Recent UK achievements in trade negotiations, such as the UK-Singapore Digital Trade Agreement, are to be celebrated.

The UK's Digital Strategy sets out a vision of UK being the best place to start and grow business and estimates the tech sector's annual growth by 41,5 billion pounds by 2025 and in order to achieve that resists unreasonable attempts at data localization, and seeks international trade agreements to facilitate the free flow of data with trust. Digital sector alone adds £151 billion to the economy and lifts wages, with workers earning around 50% more than the UK average, while UK-founded tech unicorns are being created at a rate of almost one a week.

Cross border data transfers are a critical part of trade agreements. As the UK Department of International Trade has stated in light of the negotiations with Singapore, this includes:

- Free and trusted cross-border data flows. Data flows are vital for the modern global economy, enabling everything from more efficient manufacturing and supply chains to effective maintenance of jet engines.
- Strengthening the UK's ... financial services [sector] by ensuring data can flow freely without unjustified barriers and enhanced cooperation for innovative financial services.

III. Proposed Cross-Border Data Commitments

As the UK continues digital trade negotiations with various partners, we further encourage the consistency with prior UK digital trade agreements, such as the UK-Singapore Digital Economy Agreement, and express our support to the UK to continue negotiating provisions in all areas that implicate the cross-border movement of data, including:

- Cross-Border Transfer of Information by Electronic Means: Across all sectors, Parties shall not prohibit or restrict the cross-border transfer of information, including personal information, by electronic means if this activity is for the conduct of a business.
- Location of Computing Facilities: Across all sectors, Parties shall not impose requirements to use or locate computing facilities in their own territory as a condition for conducting business.
- Custom Duties: Parties shall not impose customs duties on electronic transmissions.

These provisions, which are broadly recognized, are also embedded in the UK – EU Trade and Cooperation Agreement, US-Japan Digital Trade Agreement, United States – Mexico – Canada agreement, to name a few.

The GDA also supports the UK's efforts to promote the WTO's longstanding tenets of international law and practice in digital trade, namely: (1) the freedom to pursue necessary public policy objectives; (2) the renunciation of discrimination against non-national persons, products, services, or technologies; (3) the commitment to minimize trade-restrictive effects; and (4) due consideration to principles of compatibility and interoperability with trading partner laws. We support the efforts of UK digital trade negotiators to explicitly clarify that these same core tenets apply to trade rules relating to the cross-border movement of data.

As explained above, we strongly support UK's ongoing negotiations and policy engagements with its trading partners, and welcome the opportunity to provide this submission. It is of increasing importance that like-minded stakeholders cooperate to strengthen and reinforce an international policy consensus that is focused on data transfers and built on a foundation of trust.

As the UK continues negotiating digital trade agreements, we would like to reiterate our position and offer the GDA's additional input in the annexes of this submission:

1. **Evidentiary Support for Cross-Border Data Commitments in FTA agreements**, naming widespread evidence of cross-border access to information, knowledge, and digital tools;
2. **GDA Cross-Border Data Principles**, identifying six major pillars that can strengthen the international consensus on data transfers.

We would be happy to discuss with you further the attached annexes and engage in the exchange of views. We look forward to continuing to work with the UK in connection with its ongoing trade negotiations. We thank you for the opportunity to share these views. Please do not hesitate to contact us with any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Thomas Boué', written over a horizontal line.

Thomas Boué
Director General, Policy - EMEA

¹ For more information on the Global Data Alliance, please see: <https://www.globaldataalliance.org/>

² See *generally*, Global Data Alliance, GDA Website – Filings submitted to the United Kingdom, at: https://globaldataalliance.org/resources-results/?pub_type=&location=loc-united-kingdom§or=&language=&posts_filtered=1