

WTO TRIPS Council July 2022: UK statements

PARAGRAPH 8 OF THE MINISTERIAL DECISION ON THE TRIPS AGREEMENT ADOPTED ON 17 JUNE 2022

Thank you, Chair.

The UK would like to thank you and the Secretariat for navigating the TRIPS Council through a complex negotiating process during MC12. While the process for reaching the consensus-based TRIPS Decision was by no means perfect, and lessons could be learned, your leadership and guidance was valuable in helping us reach an outcome and will no doubt be required moving forward. We also extend our gratitude to all Members for their cooperation and patience throughout the process.

The UK has listened carefully and understood concerns raised by developing countries, particularly those regarding use of the compulsory licensing system. Bearing such feedback in mind, the UK engaged constructively in discussions on how compulsory licensing could help developing countries to achieve their public health policy objective of accessing COVID-19 vaccines.

After a series of intense negotiations, we understand the aim of this Decision is to make it easier for eligible Members, who choose to do so, to make exports of life-saving COVID-19 vaccines more streamlined, while preserving incentives to invest in innovation embedded in IP rights.

The UK will engage constructively and in good faith, being guided by evidence and noting the distinction between vaccines, therapeutics, and diagnostics. We welcome all Members' views and the opportunity to engage bilaterally on the matter.

We are pleased to see the IP framework has been put in use by licensing partnerships for COVID-19 treatments underway, including via the Medicines Patent Pool.

Chair, we also thank delegations for the unofficial room document RD/IP/49 circulated today. This text will certainly form part of our analysis of the matter. Given the complexities of therapeutics and diagnostics, we will use the time available, and we call on others to do the same, to gather and analyse evidence and engage bilaterally during the summer months, so that we are able to deliver on the mandate via multilateral evidence-based discussions after the summer. We see the TRIPS Council, with you, Chair, at the helm, as the right forum to hold these discussions.

Thank you, Chair.

INTELLECTUAL PROPERTY AND INNOVATION: IP LICENSING OPPORTUNITIES

Thank you Chair,

We would like to thank the US for drafting and presenting this paper, and share some of the UK's experience in this area.

Firstly, on the kinds of licensing that are possible in the UK for each right:

In essence – a licence is an agreement between the IP right owner and another party. It grants them permission to do something that would be an infringement of the rights without the licence.

IP can be “licensed-out” or “licensed-in”. The rights owner can “license-out” to another company in return for a fee. A business can “license-in” if it wants to use another company's IP to develop its own business and products. In the UK, licences can be for patents, trade marks, designs and copyright as well as trade secrets/know how. Any licence arrangement, including any financial element, is made directly between the licensee and the right owner.

In the case of patents, the patent holder can request that the patent be endorsed with a “licence of right” in the register. This means that the owner must grant a licence to anyone who wants one.

The licence will still be an ordinary, commercial licence and the terms and fees will be a private matter between the licensee and licensor. The main advantages of having a patent endorsed with a licence of right is that it lets other people know that the owner is willing to licence the patent. Annual renewal fees are also reduced to half the usual cost if the patent is endorsed with a licence of right.

Though notifying the UK Intellectual Property Office of the grant or assignment of a licence for patents is not mandatory, it is recommended and will be recorded in the patents register.

Trade marks can also be licensed by the owner to give a licensee permission to use their registered mark. This can form part of a wider commercial arrangement, such as a franchise agreement. The terms of the licence are also between the licensee and the licensor, for example if the licence is exclusive, so the mark cannot be used by anyone else, including the registered owner, or limited to a particular geographical area.

Again – notifying the UK Intellectual Property Office of the grant or assignment of a licence for a trade mark is not mandatory, but is recommended and will be recorded in the trade mark register.

A design owner can give someone else permission to use their registered design by granting them a licence, and in this instance, notifying of the grant or assignment of a licence for registered designs is required and will be recorded in the designs register.

Licences can also be granted for unregistered designs. In addition to usual

licensing arrangements, a licence of right must be made available to third parties in the last 5 years of the term of protection for a UK unregistered design right.

A copyright owner may decide whether and how to license use of their work, and any licence agreed can relate to one or more of the rights granted by copyright, and can also be limited in time, geographical extent or any other way. An exclusive licence can also be granted, which enables the licensee to use the copyright work in the manner specified by the licence to the exclusion of all others, including the copyright owner. Notably, licensing may be carried out by direct negotiation, or through agents or collective management organisations (CMOs).

A copyright owner may also prefer to allow limited access to, and use of, their work without charge – and one way to do this is by using a Creative Commons Licence.

In instances where a copyright owner is unknown or cannot be found, individuals or businesses may apply to the UK Intellectual Property Office for an “orphan works” licence. Subject to completion of a diligent search, and payment of appropriate fees, such a licence will be limited to the UK for a maximum length of seven years and will be non-exclusive. The paid licence fees are retained for eight years in case the right holder comes forward.

We would also like to note that the UK is also considering IP licensing as part of its Futures Programme, to anticipate potential evolution in the kinds of IP licensing that may occur due to emerging technologies and new business models.

The UK would also like to briefly look at the benefits of IP licensing:

When a company licenses the right to manufacture and sell products, the costs and risks are shared between the licensor and the licensee. The licensor will receive revenue from licensing but will not take the risk of manufacturing, promoting, or selling the licensed products. The licensee will have the right to use the IP without incurring the expense and risk of undertaking research, or the cost of developing the product.

Some of the potential benefits to the licensor will include increasing revenue by broadening the reach of IP into different markets. Market penetration would be increased by licensing another business to sell in territories that the owner cannot cover.

Though exceptions and limitations exist within the IP framework, a licence usually provides a higher degree of business certainty than relying on an exception.

The potential benefits to a licensee include reducing research and development costs by ‘licensing-in’ innovation. By taking a licence, a business may tap into expertise that it does not have in-house. A business may save time and get its products or services to market more quickly by acquiring a licence to use existing IP, rather than starting from scratch.

Acquiring a licence to use existing IP may help a business obtain a competitive advantage over its competitors.

So, both licensors and licensees can benefit from collaboration to develop new products and services, creating a highly beneficial partnership.

I hope that these highlights from how licencing of IP works in the UK have been of interest to members, and I would like to again thank the US for their paper on this topic.

Thank you, Chair.

[Update on the proposed acquisition of Ultra Electronics Holdings plc by Cobham Ultra Acquisitions Limited](#)

Press release

The acquisition of Ultra by Cobham has been cleared to proceed.



Following advice from the Ministry of Defence and after careful consideration of responses to a consultation, the Business Secretary has today (Wednesday 6 July) cleared the acquisition of Ultra by Cobham to proceed.

The announcement follows the Business Secretary consulting on steps to address the national security concerns raised by the proposed acquisition of Ultra, a UK defence company, by Cobham, a defence, aerospace, and communications company that was acquired by US private equity firm Advent International. The government consultation on the undertakings offered by the companies to address the concerns identified ran until 3 July 2022.

The Business Secretary has accepted the undertakings from the parties to mitigate national security risks, with a small number of changes to reflect

the responses to a consultation on them.

The undertakings to mitigate the national security concerns came into force today and details are available on the [decision notice](#). In summary, the undertakings are:

- SecureCos: creating 2 new 'SecureCos', UK legal entities which encompass the UK Ultra facilities that deliver the sensitive capabilities to HM Government
- Board Representation: placing an HM Government appointed non-executive director on the Board of each SecureCo to protect UK national security interests and provide oversight of any disinvestment or divestment of sensitive capability
- Articles of Association: giving HM Government the right to approve the Articles of Association of each SecureCo and draft their strategic objectives which would transfer to any future owner, locking that protection in. Any changes would be subject to the HM Government Director's agreement
- Step-In Rights: giving HM Government strong step-in rights (similar to a 'special share'), enabling transfer of ownership of the SecureCos on national security grounds, either to a third party or the government
- Access to Intellectual Property: giving HM Government the power to access intellectual property and / or to transfer knowledge or training necessary for HM Government to exercise its step-in rights effectively
- ITAR Protections: requiring Advent to institute an HM Government-approved control plan to prevent International Traffic in Arms Regulations controls applying to ITAR-free products designed and manufactured by Ultra

Separate to the public interest intervention and the mitigation of national security concerns, the government has agreed a [deed](#) offered by the parties to:

- maintain a corporate headquarters of the Ultra Group in the UK
- increase engineering R&D expenditure by at least 20% by the end of 3 years
- continue in good faith with Ultra's proposal to establish a centre of excellence for cyber capabilities in Maidenhead
- by the end of the 3-year period, increase the number of UK-based engineering R&D FTEs by at least 15%
- by the end of the 3-year period, increase the number of UK-based manufacturing FTEs by at least 10%
- maintain the aggregate number of UK-based engineering and manufacturing FTEs above a baseline level, equivalent to the number of associated FTEs at deal close minus any headcount changes associated with Ultra's existing transformation programme
- establish a scholarship fund of up to £5,000,000 to support over 100 university undergraduates from under-represented backgrounds in the UK to pursue degrees in engineering and related disciplines
- by the end of the 3-year period at least double the number of apprentices employed by Ultra

In addition, by the end of the 3-year period, Cobham commits to establishing programmes intended to:

- promote the objective of reducing Ultra's greenhouse gas emissions to net zero by 2050
- promote the objective of increasing the levels of diversity in the UK workforce of the Ultra Group

Published 6 July 2022

[Defence Academy hosts Capture the Flag challenge](#)

News story

The Defence Academy has held a Capture the Flag competition which saw personnel from across Defence battle it out in cyber-security challenges.



Air Marshal Ian Gale, Director General of Joint Force Development, at the event.

Over 50 teams took part in the event which was designed identify future talent and combat skills by testing competitors' existing skills.

A team from 21 Signals Regiment narrowly took the first-place position, edging up from second place just two minutes before the competition's end.

One of the aims of the Defence Academy is to deliver a cyber workforce with a consistent cyber operations skill set and a technological edge.

Air Marshal Ian Gale, Director General of Joint Force Development, attended the event and said; "Events like this are crucial in identifying those personnel who have an aptitude for working in the cyber domain.

“As part of Joint Force Command the Defence Academy play a critical role in training and educating our personnel to face the threats of the future.”

Whilst the Defence Academy caters to those already working in Defence there are plenty of resources to develop your own cyber skillset.

The NCSC offer a certified training scheme which offers high quality cyber security training whether you're a newcomer to the field or have skills you would like to develop further.

[Access NCSC Training Scheme](#)

Published 6 July 2022

[Government seeks views on Highly Protected Marine Areas \(HPMAs\)](#)

News story

The Government has today (6 July 2022) launched a consultation to gather views and evidence on five candidate sites for pilot Highly Protected Marine Areas (HPMAs).



Defra is consulting on five candidate pilot Highly Protected Marine Areas which are geographically spread around English waters.

Highly Protected Marine Areas (HPMAs) will have the highest levels of protection in our seas. They will conserve all species and habitats within the HPMA boundary, enabling nature to fully recover.

This is the latest step in the Government's progress towards our ambitious ocean commitments and builds on the existing Marine Protected Area (MPA) network extending across 40% of English seas.

To enable the ecosystem to recover to as natural a state as possible, activities such as fishing, dredging, construction and anchoring are set to be prohibited in HPMA sites.

Environment Minister Rebecca Pow said:

Highly protected marine areas will offer the highest levels of protection in our seas. They will help a wide range of valuable habitats and species to fully recover, boosting the resilience of our ecosystem and allowing the marine environment to thrive.

As demands on our oceans increase, it is more important than ever that we take decisive action to safeguard nature whilst ensuring we can continue to meet the sustainable needs of those who rely on our seas.

Defra is consulting on five candidate pilot HPMA sites which are geographically spread around English waters and cover inshore and offshore habitats. These are:

- Two inshore sites: Allonby Bay (Irish Sea) and Lindisfarne (Northern North Sea).
- Three offshore sites: North East of Farnes Deep (Northern North Sea), Inner Silver Pit South (Southern North Sea) and Dolphin Head (Eastern Channel).

The five candidate pilot sites are a mixture of natural and degraded sites and include a wide range of biodiversity such as sheltered intertidal mudflats, subtidal kelp forests, and biogenic and rocky reef. They are also home to valuable marine species, commercially important fish stocks, and include blue carbon habitats which play an important role in capturing and storing carbon. The candidate sites were selected using ecological analysis and advice from Natural England and the Joint Nature Conservation Committee (JNCC).

Chair of Natural England, Tony Juniper, said:

By supporting the full recovery of vital marine ecosystems, Highly Protected Marine Areas will be a critical mechanism to reverse the damage imposed on our ocean and safeguard it for future generations.

The five candidate sites outlined today present the chance to protect some of our most vulnerable marine wildlife, and I welcome this consultation as we take the next step forward in securing the long-term sustainability of our ocean.

The consultation will run for 12 weeks from today, 6 July 2022. The evidence gathered will inform which candidate sites are taken forward as pilot HPMA's. The first HPMA's will be designated in 2023.

Published 6 July 2022

[New bill introduced to ensure thousands of seafarers receive fair pay](#)

- new pay protection laws on minimum wage for thousands of seafarers regularly entering UK waters
- laws will prevent firms undercutting fair pay for seafarers by using legal loopholes to pay low wages
- government publishes response to the consultation on Seafarers' Wages Bill

The UK government has today (6 July 2022) introduced new legislation to make sure seafarers get paid at least equivalent to the UK National Minimum Wage.

We are closing a loophole that allowed seafarers who work on vessels that regularly serve UK ports, to be paid below an equivalent to the UK National Minimum Wage for the simple fact that the vessel operates an international service.

Following P&O Ferries' decision to dismiss 800 loyal and hardworking workers without consultation or notice, the government took immediate action to begin changing the law on seafarer pay protection.

The changes mean that thousands of seafarers regularly entering the UK will receive fairer pay, putting the UK ahead of every EU state in its pay protections.

The Seafarers' Wages Bill – introduced in the House of Lords today – enables port authorities to deny access to services calling regularly at UK ports who do not pay their workers equivalent rate to the UK National Minimum Wage (NMW) for time spent in UK waters – closing a legal loophole which was exploited by P&O Ferries.

Maritime Minister Robert Courts said:

Britain's rich maritime history and exciting future is thanks to the extraordinary men and women who work at sea.

Fair pay for seafarers is a must and the new laws we've introduced in Parliament today send a clear signal to operators that the UK will not let seafarers be priced out of their jobs by rogue bosses.

Following P&O Ferries' shameful conduct, the government launched the consultation on the Seafarers' Wages Bill in May 2022. The [response](#), published alongside the introduction of the bill today, shows that the overwhelming majority of respondents agreed that pay protection must remain at the forefront of the sector's objectives.

The government spoke extensively with industry on how it can rapidly shape new laws on seafarer pay protection and has used the information and perspectives to shape the bill's scope and compliance policies.

Vessels and services that call on UK ports at least every 72 hours on average, or more than 120 times a year, will fall under these new pay requirements and the ports, Maritime and Coastguard Agency and Department for Transport will all have a role in ensuring compliance.

In parallel, the Insolvency Service's criminal and civil investigation into the circumstances of the redundancies made by P&O Ferries continues.

Labour Markets Minister Paul Scully said:

Just because someone works out at sea, it doesn't mean they should be excluded from the protections UK workers receive.

That's why we've moved at pace to get this bill across the line, levelling the playing field and ensuring everyone working in UK territorial waters will benefit from the equivalence of the National Minimum Wage.

We hope seafarers will soon see the difference in their pay packets, as we continue to protect and enhance the rights of all workers

As part of the Secretary of State for Transport's [seafarer protections 9-point plan](#), we are continuing to work with our near European neighbours on bilateral agreements.

This discussion focuses on exploring agreements that help to improve seafarer welfare and protections and the potential development of bilateral minimum wage corridors.

British seafarers are recognised as some of the most highly skilled worldwide and the UK's [Maritime 2050 strategy](#) sets out a plan for a fairer global maritime industry.

Seafarers' Charity. Deborah Layde, Chief Executive, said:

After P&O Ferries appalling disregard for their hardworking seafarers, many of whom had given many years of loyal service to the company, I am delighted to see government taking steps to ensure fair pay and enhanced protections for seafarers regularly entering UK ports.

The Seafarers' Charity welcomes The Seafarers' Wages Bill as an important step in recognising the substantial contribution seafarers make to our economy in what can be a very demanding job.

At The Seafarers' Charity we fully support efforts to ensure that all seafarers receive equivalent pay and protections as those working ashore.