

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT DOUBLE TAXATION RELIEF AND
INTERNATIONAL TAX ENFORCEMENT
(BELARUS) ORDER 2018

DRAFT DOUBLE TAXATION RELIEF AND
INTERNATIONAL TAX ENFORCEMENT
(UKRAINE) ORDER 2018

Monday 4 June 2018

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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| † Afriyie, Adam (<i>Windsor</i>) (Con) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Blunt, Crispin (<i>Reigate</i>) (Con) | † Stride, Mel (<i>Financial Secretary to the Treasury</i>) |
| Bryant, Chris (<i>Rhondda</i>) (Lab) | † Thewliss, Alison (<i>Glasgow Central</i>) (SNP) |
| † Dodds, Anneliese (<i>Oxford East</i>) (Lab/Co-op) | † Vickers, Martin (<i>Cleethorpes</i>) (Con) |
| Lammy, Mr David (<i>Tottenham</i>) (Lab) | † Walker, Thelma (<i>Colne Valley</i>) (Lab) |
| † Lamont, John (<i>Berwickshire, Roxburgh and Selkirk</i>) (Con) | † Whittaker, Craig (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Mahmood, Shabana (<i>Birmingham, Ladywood</i>) (Lab) | † Whittingdale, Mr John (<i>Maldon</i>) (Con) |
| † Mann, Scott (<i>North Cornwall</i>) (Con) | Laura-Jane Tiley, <i>Committee Clerk</i> |
| † Morris, Anne Marie (<i>Newton Abbot</i>) (Con) | |
| † Sheerman, Mr Barry (<i>Huddersfield</i>) (Lab/Co-op) | † attended the Committee |

First Delegated Legislation Committee

Monday 4 June 2018

[MR LAURENCE ROBERTSON *in the Chair*]

Draft Double Taxation Relief and International Tax Enforcement (Belarus) Order 2018

4.30 pm

The Chair: I call the Minister to move the first motion and to speak to both orders. At the end of the debate, I will ask him to move the second motion formally.

The Financial Secretary to the Treasury (Mel Stride): I beg to move,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (Belarus) Order 2018.

The Chair: With this it will be convenient to consider the draft Double Taxation Relief and International Tax Enforcement (Ukraine) Order 2018.

Mel Stride: Mr Robertson, it is a pleasure to serve under your chairmanship for, I think, the first time. It is nice to be able to do that, and it is also nice to be in the presence of my right hon. Friend the Member for Maldon, who is the chair of the all-party parliamentary groups on Belarus and on Ukraine. I know he has important matters that he wants to discuss with the Committee imminently.

I will speak to both orders before the Committee. The first gives effect to a first-time double taxation agreement with Belarus, and the second contains a protocol amending our existing agreement with Ukraine. DTAs remove barriers to international trade and investment and provide a clear and fair framework for taxing businesses that trade across borders. In doing so, they benefit business and the economies of the countries signed up to them.

I will briefly say a few words about each agreement. Belarus is the last country still applying the UK's 1985 double taxation agreement with the former Soviet Union. When it enters into force, the new DTA will effectively terminate that old agreement. The new DTA with Belarus will mean that the UK has bilateral DTAs with all the countries that once made up the USSR. The USSR agreement provided for broad exemptions from source-state taxation. Belarus takes a different approach to its bilateral DTAs, seeking to preserve taxing rights in respect of dividends, interest and royalty payments that arise there. While the UK takes a different approach, we recognise that states will want to renegotiate treaties to reflect their own circumstances, and nothing would be gained by refusing to engage with Belarus's wish to replace the USSR DTA.

The new agreement compares favourably with those that Belarus has agreed with other countries since its independence. For example, we have agreed a withholding

tax rate of 5% on dividends, while preserving our right to tax dividends from real estate investment trusts at 15%. We have agreed a 5% withholding tax rate on interest, but with an important exemption for lending by banks. The agreement also contains the most up-to-date provisions to guard against treaty abuse, the latest OECD exchange of information article, and a provision for mutual assistance in the collection of tax debts. Those features strengthen both countries' defences against taxation avoidance and evasion.

The protocol with Ukraine amends our existing 1993 DTA. We entered into negotiations at Ukraine's request, as part of an exercise it is undertaking to amend its treaties with a number of European partners. The agreements that Ukraine entered into shortly after independence provided for broad exemptions from source-state taxation. It wishes to change that to enable it to tax interest and royalties arising in Ukraine and to raise the rate at which portfolio dividends can be taxed. Ukraine has chosen to do that on a consistent basis across its network as it seeks to reset its position. As such, United Kingdom businesses will not be disadvantaged as compared to their competitors in other jurisdictions.

The new protocol also improves the position of UK businesses in receipt of dividends from Ukrainian subsidiaries. Currently, the provision requires a company to be subject to tax on dividends it receives, while dividends in the United Kingdom are no longer taxable following the introduction of a corporate dividend exemption regime in 2009. The protocol also provides for a more general modernisation of the DTA to reflect changes in the domestic laws of the two states and the OECD model, including substantially all the provisions included in the multilateral convention to implement tax treaty-related measures to prevent base erosion and profit shifting, or the MLL.

In summary, these are agreements that the UK, Belarus and Ukraine should be happy with. They will provide a stable framework in which trade and investment between the UK and Belarus, and the UK and Ukraine, can continue to flourish.

4.34 pm

Anneliese Dodds (Oxford East) (Lab/Co-op): It is a pleasure to serve with you in the Chair, Mr Robertson. It was very helpful to have the Minister's explanation of the two orders. It would also be helpful if we could have some of this information in advance—in the notes that are produced alongside orders—because the Minister just answered some of the questions that came to my mind when I looked at the orders. It would be useful if the Government were a little fuller in their introductions to these kinds of order when they are presented to the House.

My first question relates to the overall structure for these kinds of protocol. I expect a number of other protocols will come now that we have agreement on the model tax convention—the OECD instrument that we discussed at length in the House. In November 2015, Her Majesty's Revenue and Customs published its programme for future negotiations on double tax agreements. That mentioned some of the tax agreements that we have had the pleasure of discussing, but not all of them. It would be helpful to know when HMRC will produce its forward plan, so that the whole House, or at least the Members interested in this area, can scrutinise it.

It was helpful to have the Minister's explanation on some aspects of the Belarusian agreement. The Belarus economy is quite different from that of neighbouring countries, because of the larger extent of state ownership than in many other nations, and that is reflected in the character of the agreement. However, I have a question about the rules on permanent establishment—a topic that comes up frequently in double tax agreements. Different nations and their companies have often attempted to ensure that profit is taxed in their jurisdiction or not taxed at all, rather than in the area where it is generated. In the Belarus agreement there is a temporal threshold of 12 months to determine the permanent establishment for construction sites. Why was that inserted? I cannot remember that exact threshold from previous discussions, but perhaps the Minister will enlighten us.

Again, I am grateful for the Minister's explanatory remarks on the Ukraine agreement. The amending protocol was signed by both nations on 9 October. It has been quite a long time between it being signed and it coming in front of the House. It would be helpful to know why it has taken more than six months for it to come to Parliament. There may be legitimate reasons for that, but the process of making these agreements is something of a black box for many parliamentarians. Perhaps that issue is not for this moment, but in future the Government could be open about what the process is between an amending protocol being signed and it coming in front of us. It would be useful to have that information.

The Minister stated that most of the changes in the amending protocol are consistent with the OECD's model approach. They seem to simplify a situation where, from what I could see, many transactions were exempted from withholding tax. Instead, a reduced rate of tax is now applied more generically across different activities—royalties, for example—which seems sensible.

The Minister answered my question about why withholding tax rates have gone up to 15%, having previously been 10% for dividends where there is not a very large beneficial holding in the paying entity. However, again, it would be useful if, with these agreements, we could have a little more information about these topics so that, as a House, we are not scrabbling around before we come to these Committees, trying to work out why certain decisions have been taken.

4.38 pm

Alison Thewliss (Glasgow Central) (SNP): Many of my questions have already been asked by the hon. Member for Oxford East, which is great. Obviously, the Scottish National party welcomes both treaties. I very much echo the point the hon. Lady made about getting more information on the process behind them ahead of time. I asked in the Library, but it was not able to provide something at such short notice. It would be useful to have more narrative information in advance of these Committees so that we are well versed on what is happening.

It would be useful to get a better understanding, as the hon. Member for Oxford East mentioned, of the forward plan and of the timescale of these treaties. As she mentioned, it was October for Ukraine, and it was September for Belarus—the agreement was signed on 26 September—so it would be useful to know the Government's timescale for future agreements. Where are they at the moment? When are they likely to be signed off and to come to the House? We want a clear idea of when they are coming, so that we can prepare

adequately for them and engage with all-party groups that may have interest in talking about such things, so that they, too, are well prepared.

That is about all the information that I was seeking. It is interesting that it has taken this long to get to a treaty to replace the USSR one—it must have been an interesting, as well as long, process to get from that point to now—so it would be useful to know the Government's timescales. Some of the African double taxation treaties have issues as well, because of references to countries that have not existed for quite some time. It would be useful to see the detail of anything that the Government are preparing, so that we can see who the agreements are with and perhaps prioritise those that might be overdue for being looked at.

4.40 pm

Mr John Whittingdale (Maldon) (Con): I apologise to colleagues for delaying our proceedings, but I promise not to do so for too long. As the Minister pointed out, I am honoured to be chair of the all-party parliamentary groups on Belarus and on Ukraine, so I wanted to say a brief word about both those countries.

Last week, as it happens, I led a cross-party delegation to Minsk, in Belarus. I thank the Government of Belarus for their invitation and their hospitality during that time. Belarus is of course close to Russia. It is a member of the Eurasian customs union, and we should be under no illusion that it is likely to continue to be a close ally of Russia's. Nevertheless, there are signs that it wishes to improve its relationship with the west, and one of the areas in which it can certainly do so is trade.

In 2015, according to the Foreign Office, the value of UK trade to Belarus was \$214 million. The value of Belarusian exports to the UK was \$3.2 million, making the UK the country's second largest export market after Russia. Belarus has considerable potential, though both Belarus and Ukraine have considerable challenges as countries. Both offer us potential as trading partners. Politically, Belarus has a long way to go—in essence, it is a one-party state still—but it enjoys considerable growth and has major economic opportunities for us.

I shall not go through the list of all the various enterprises that my colleagues and I visited, but I shall highlight two. We visited Belaz, the biggest dump truck manufacturer in the world—the biggest in terms of not just numbers, but the size of the trucks, which were about the size of a house. The hon. Member for Oxford East talked about most—indeed, almost all—of the major enterprises being state owned. That is correct, but it was interesting to discover that the Belaz plant is considering an initial public offering to sell about 25% of the shares in the near future. A privatisation programme is under way.

The other enterprises that we visited were in the Hi Tech Park, which is the home of Viber, which many Members will know but may not realise is a Belarusian invention, and World of Tanks, which is one of the biggest electronic games in the world. Furthermore, by coincidence, I have a constituent in the IT industry who employs software engineers from Belarus to develop his products, so there are considerable opportunities for us in that country. I therefore welcome the agreement as a small measure that will, as the explanatory memorandum states, strengthen and

“promote international trade and investment.”

[Mr John Whittingdale]

I shall say a few words about Ukraine too. Ukraine is different from Belarus; Ukraine is much more westward-looking. It has signed the association agreement with the European Union, and a deep and comprehensive free trade agreement. Plainly, therefore, it has a considerable wish to develop economic relations with the west and particularly with the UK.

Ukraine is beset with different problems. Part of the country is under Russian occupation, and that includes the major industrial areas in Donbass, which I visited last year with three of my parliamentary colleagues. Corruption is also endemic from top to bottom. However, Ukraine is making progress towards reform. The anti-corruption court will—I hope—be established soon, and if we can gain greater confidence in the justice and enforcement system in that country, that, too, should promote economic opportunity.

The great potential in Ukraine is agriculture. The west of Ukraine has something like a third of the world's black soil reserves. It used to be known as the breadbasket of the Soviet Union and, if it receives the support it needs in terms of modern technology and farming practices, it could become the breadbasket for most of Europe. Again, I hope that these arrangements to counter double taxation will provide businesses with greater confidence to invest in Ukraine and indeed Belarus.

The only other point I will leave the Minister with is not for his Department, but perhaps he can pass it on. The Department for International Trade is rightly looking to develop our trade with countries outside the European Union, and as a supporter of Brexit I strongly believe in the opportunities that exist. However, we seem to be devoting a lot of effort to signing trade agreements with small Commonwealth islands. Important as they may be, they are small in potential compared with two big countries such as Ukraine and Belarus, and very little attention is being given to those two countries. I have talked to the ambassadors in both countries, and there is a view that we could be doing much more to develop trade relations. I certainly intend to take that thought up with the Minister's colleagues in the Department for International Trade. He is playing his part through these international agreements on taxation, but we could be doing much more now to assist those countries to reform and develop their economies, and also to benefit our own businesses. On that note, I shall say no more.

4.47 pm

Mel Stride: I thank the three contributors to this important debate. I turn to the matters raised by the hon. Member for Oxford East, some of which were in unison with those raised by the hon. Member for Glasgow Central. First, on the information provided in advance, I would be happy to take a representation from the hon. Ladies on the specific points that it might have been useful to have had included and perhaps use that as the starting point for considering the more general point they both made. It is probably worth pointing out that when we know that such legislation is coming forward, I am always happy to take any questions by way of letter or to meet and discuss the legislation in advance.

I will certainly look into HMRC and its forward programme, as it was described. I am not aware, certainly within my part of the Treasury, of there being a particular list of such matters that are coming forward. Of course, such things are always subject to the timetabling of the business of the House of Commons, as Members will know.

In the context of Belarus, the hon. Member for Oxford East raised the permanent establishment arrangements around the temporal threshold—the 12 months—in respect of construction sites, and she asked the perfectly reasonable question of why that was the case. I am informed that it is a standard OECD-based rule. [Interruption.] She is looking at me slightly quizzically, which is perfectly in order. If she would like some more information, I am very happy to dig a little deeper on her behalf outside the Committee.

There are a couple of points on the timing of the orders and why it has taken quite a considerable time for them to come before the Committee. We have now negotiated DTAs with all of the Soviet successor states. We negotiated with Belarus in 1995 and in 2011, but the political situation and EU sanctions meant that things stalled. The situation has now improved, so we have successfully renewed our efforts. Ukraine has not yet ratified the treaty, so the fact that there may have been a delay between the protocol and the order—hopefully—going through this afternoon should not have any impact.

I turn to the valuable contribution from my right hon. Friend the Member for Maldon, who shared with us his detailed experience of both Belarus and Ukraine. I entirely agree with him about the importance of developing relationships with Belarus for the reasons he gave—the geopolitical reason of its particular leaning towards Russia, and the value of trade with our country in building relationships and encouraging things such as privatisation. I also agree with the important points he made about Ukraine. On corruption, one of the benefits of double taxation agreements is that there are specific measures in place to ensure that we can exchange information on tax matters, wherein a lot of corruption often lies. That is a positive aspect to his point.

My right hon. Friend finished by rightly raising the need, post Brexit, to increase trade with Ukraine and Belarus, and with other, similar countries. Thankfully, as he suggested, that is not a matter for me but for Ministers in the Department for International Trade, where I know he will make representations.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (Belarus) Order 2018.

DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (UKRAINE) ORDER 2018

Resolved,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (Ukraine) Order 2018.—
(*Mel Stride.*)

4.52 pm

Committee rose.

