



HOUSE OF LORDS

International Agreements Committee

Oral evidence: UK-Switzerland recognition of professional qualifications agreement

Thursday 20 July 2023

11 am

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Members present: Lord Goldsmith (The Chair); Lord Fox; Lord Geidt; Lord Grimstone of Boscobel; Baroness Hayter of Kentish Town; Lord Howell of Guildford; Lord Kerr of Kinlochard; Lord Razzall; Lord Udny-Lister; Lord Watts.

Evidence Session No. 1

Heard in Public

Questions 1 - 19

Witness

I: Marco Cillario, International Policy Manager, The Law Society of England and Wales.

Examination of witness

Marco Cillario.

Q1 The Chair: Good morning, Mr Cillario. Thank you very much for joining us at this meeting of the International Agreements Committee of the House of Lords. We look forward to hearing from you in relation to the UK-Switzerland professional qualification agreement. I will start questions in a moment. As they come to ask their questions, Members may wish to make a declaration of interest. I make a declaration of my own: I am a practising barrister and am therefore very interested in what these agreements do for the legal profession.

The Law Society in its written submission welcomed the signing of this agreement. What do you see as its most significant benefits? Are there any provisions that you would have liked to see in the agreement?

Marco Cillario: By way of introduction, I am the international policy manager of the Law Society of England and Wales. We represent 220,000 solicitors; it is the largest legal profession in the UK. A lot of solicitors and law firms operate internationally and Switzerland is the fourth-largest legal services export market globally. It is a very important market for the UK legal profession.

We believe that the RPQ agreement represents the most ambitious and advanced agreement for the recognition of professional qualifications that the UK has negotiated since leaving the European Union. Specific provisions for UK lawyers—solicitors and other UK legal professionals—in Annex A to the agreement give UK lawyers who want to requalify as Swiss lawyers the ability to do so through an adaptation period of practical experience without the need to sit any exam or aptitude test.

In so doing, the agreement sets out a framework that is similar, although not identical, to the one that was in place in Switzerland for UK lawyers before the UK left the single market. That system is still in place, in a four-year transition period until the end of 2024. The new agreement is set to enter into force at the beginning of 2025, meaning that Brexit-related disruption for UK lawyers who wish to requalify in Switzerland will be minimised.

While it does all that, the agreement also ensures that regulators in the UK and Switzerland retain the autonomy to set professional standards and decide on admission to their respective professions. The agreement also exactly reflects the asks and recommendations that the Law Society made in consultation with the Government throughout the negotiations. We believe that it sets an important precedent and should be used as a blueprint or model for future negotiations on RPQ with other countries around the world.

You asked whether there was anything missing from the agreement. On RPQ, we believe this is the most advanced and ambitious agreement that the UK has negotiated so far. Of course, we will have to see how it is implemented, and I will probably say more on that later.

However, it is important to bear in mind that RPQ is not the only element that matters to UK lawyers practising overseas. There is an important distinction to bear in mind between practice under home title and requalification, which applies to the legal profession and does not apply in the same way to other regulated professions. A UK lawyer practising in Switzerland or any other foreign market may wish to simply provide advice to clients on English law and public international law.

In so doing, we believe that RPQ is not required. The ability for UK lawyers to practise under home title in foreign markets should be protected outside any RPQ arrangements, because a UK lawyer practising under home title in a foreign country practises a different profession from lawyers in the host country. They provide clients with two different sets of expertise. A UK lawyer will provide advice on English law. A Swiss lawyer, or a lawyer in another foreign country, will provide clients with advice on their home country law.

We know that the UK is negotiating a free trade agreement with Switzerland. There are important points that this FTA should include for lawyers to be able to take full advantage of those arrangements. It should protect the ability of UK lawyers to practise under home title. It should also have business mobility provisions that are suited to the way lawyers practise internationally. However, the agreement we are discussing today is an RPQ agreement. In so far as RPQ provisions are concerned, we believe it is a very good agreement.

The Chair: That is helpful. I now have the correct pronunciation of your name, Mr Cillario. I apologise for the mispronunciation before.

Marco Cillario: Thank you. It is a difficult surname to pronounce.

Q2 **Lord Fox:** Good morning and thanks for coming. I have no relevant interest to declare.

We have talked about the benefits of exporting services. What effect do we expect in the UK from the reciprocation of this agreement—in other words, with Swiss lawyers being able to practise in the UK? If there were an equivalent committee sitting in Switzerland, what would it identify as the key export opportunities for Swiss lawyers working in the United Kingdom, for example?

Marco Cillario: Obviously, the same provisions apply to Swiss lawyers practising in the UK. They will be able to continue requalifying as solicitors, barristers and advocates through a three-year adaptation period, if they so wish. The UK is an important market for Switzerland, and Swiss lawyers will have the option to acquire one of the UK professional titles through this route, which at the moment will apply only to Swiss lawyers in the UK. They will have a special route to requalifying in the UK.

We believe there is strong interest in that in Switzerland. Obviously, I cannot speak on behalf of our counterparts in Switzerland, but certainly the ability to access the solicitor, advocate and barrister titles through

these provisions is advantageous to them. It is also advantageous for UK law firms that have offices in Switzerland and for Swiss law firms with offices in the UK. Lawyers working for firms that wish to dual-qualify—to be qualified in the UK and in Switzerland—will have a quicker route to do so than if they had to sit an exam.

Lord Fox: I get that part, but what will they be doing? You identified the Swiss market as the fourth-largest market for exports of legal services for the United Kingdom. How does the United Kingdom rate as an export market for the Swiss law profession? What areas of expertise do you expect them to practise in this country? Will it simply be interpreting Swiss law for British companies or are there other things that they can do?

Marco Cillario: Normally, foreign lawyers practising in the UK wish to provide advice to clients on international law and on their home country law. This agreement will continue to allow them to provide advice to clients, if they requalify, on English law as well. English law underpins a vast amount of economic activity, not just in the UK but around the world. That is why so many of our law firms and lawyers practise around the world.

On how the UK rates as an export market for legal services for Switzerland, I will have to get back to the committee with the stats. It is a relevant market for Switzerland.

The Chair: For clarity, there are lots of things that foreign lawyers can do in the UK without requalifying and without constraint. Is that right?

Marco Cillario: Yes, that is right. We have a very liberal regulatory regime for foreign lawyers. We believe that is one of the strengths of our legal market, because it makes it very international, and open to foreign lawyers and law firms. It is one of the reasons why the UK legal market is the second largest in the world. Yes, there are a lot of things that Swiss lawyers can do outside the RPQ agreement. However, requalifying as UK lawyers, as one of the professions in the UK, will certainly add to what they can do here, and the solicitor title and other UK titles are considered very prestigious internationally.

Q3 **Lord Watts:** My question is on the same line. We seem to have protectionism, where Swiss lawyers will continue to offer advice in their own country, and in Britain we will do the same. However, in Britain there appears to be a far more liberal view about what Swiss lawyers can do in the UK without any of these registrations. Is that reflected in the Swiss system? Do we have an open system with the Swiss?

Marco Cillario: By and large we do, but there is a complication, which is that, in Switzerland, the legal profession is regulated at cantonal level. Different cantons in Switzerland have slightly different provisions in the regulation of legal services and other areas. That is why it is so important that the FTA that the UK and Switzerland are negotiating includes provisions that protect the ability of UK lawyers to practise under home

title in Switzerland without requalifying, and the same for Swiss lawyers practising here. The principle of reciprocity should be protected through the FTA.

Lord Geidt: Apologies for my poor connection. Good morning, Mr Cillario. You noted in an earlier response that you will see how this agreement is implemented. Could I press you for more—[*Inaudible.*]

The Chair: Lord Geidt has sadly disappeared. We will come back to him in a moment.

Q4 **Lord Watts:** Other sectoral bodies have noted the lack of detail in aspects of the agreement, such as the functioning of the aptitude test for certain sectors. Do you share their concern? How might the Government address any concerns they might have?

Marco Cillario: There are three things in response to that. First, we are probably not as concerned as other professions. That is because there is an annex to the agreement specifically dedicated to legal services that sets out the additional option for UK lawyers to requalify in Switzerland to which I referred earlier. Instead of sitting the aptitude test, which still exists as an option for them, they can decide to undertake an adaptation period of practical experience. That means that they will register and practise in Switzerland for a certain period under their home title. After that adaptation period, provided that they gain experience of Swiss law, they will be able to requalify without sitting the aptitude test. The period is three years normally, but it can be reduced for those who have relevant prior experience.

On the lack of detail in the aptitude test, as I said at the beginning, to an extent it is important that regulators retain autonomy in setting standards for their respective professions. We need to allow for some flexibility in the way regulators in both the UK and Switzerland will apply these provisions.

Another important point is that we need to monitor how the agreement is implemented. Resources should be dedicated by the UK Government to monitor implementation of the agreement, to ensure, for example, that the way the aptitude test is implemented respects the spirit and letter of the agreement. The agreement sets out the establishment of a joint committee, which should meet at least once a year. That committee's purpose is to monitor implementation of the agreement, to raise issues and to allow professions to raise issues with the way it is implemented. I say this, because we come to it with experience of other agreements: it is really important that when issues are raised, they are followed through and discussed with Switzerland, in this case, to ensure that the agreement is fully implemented. We have no reason to believe that it will not be, but it is important that resources are dedicated to address any issues with implementation. What we have on paper now is one thing; what is implemented is something else. We need to monitor that.

Lord Watts: Going forward, it seems that the lack of detail so far means

that both sides will attempt to work through this in practice and then raise any matters of concern that either side may have as it develops. Would having more detailed aspects of it make life easier for everyone, so that they know clearly how they would implement this deal?

Marco Cillario: Yes, again provided that the additional detail does not mean that regulators are deprived of their autonomy when setting professional standards. We have to bear in mind that, obviously, this agreement has to apply to a number of different professions, so some leeway will be needed. Having said all that, this is a first-of-its-kind agreement, so we do not have much precedent to see how an agreement like this is implemented in practice.

One additional point that reassures us about the legal profession in particular is that these arrangements are already in place to an extent between the UK and Switzerland, because they replicate in part what was in place before the UK left the single market. The ability for UK lawyers to requalify in Switzerland and for Swiss lawyers to requalify in the UK through an adaptation period is already in place. That was what the directives on lawyers set out pre-Brexit for UK lawyers in Switzerland. That arrangement remains in place during the transition period until the end of 2024. We expect the new agreement to be in place in 2025. At that point, we do not believe that there will be substantive changes to the way UK and Swiss lawyers operate when requalifying in the other country.

The Chair: Thank you. Lord Geidt has rejoined us. I hope he can hear us. He was going to ask about implementation, so this is a good moment to bring him back in.

Lord Geidt: [*Inaudible.*]

The Chair: Oh dear, I spoke too soon. Lady Hayter.

Q5 **Baroness Hayter of Kentish Town:** Thank you. Apologies, Mr Cillario, that I cannot be with you in person. Although my interest is an old one, you will understand why I want to declare that I was chair of the Legal Services Consumer Panel.

You discussed how this will bed down, and you said that it is in a way an ongoing agreement, so much will be the same as before. You also said that you want to see it as the first such model for possible future agreements, so we need to get it right at this stage. My questions are about incoming Swiss lawyers rather than your members being able to work in Switzerland, but you will have an interest in the joint committee on that.

What are the implications for the users of legal services? Will there be proper assurances on lawyers' linguistic ability, for example, in speaking the right language for British users? There are also things on which all your members need to be accessible—for example, that clients have access to the Legal Services Ombudsman for service complaints or for compensation if things go wrong, or the assurance you give at the

moment for CPD and the demonstration of ongoing competence. In other words, there are all those things where you, or the SRA, protect consumers at the moment. How confident are you that incoming Swiss lawyers will similarly be covered to protect consumers?

Marco Cillario: You mentioned the SRA. Thank you for that; it is an important point. The Law Society of England and Wales is not the regulator. The regulatory function is carried out independently by the SRA. I can speak on behalf of the SRA only to an extent. Points in the agreement give regulators, including the SRA, the ability to test language/linguistic skills where required. That is in Article 2.9. The agreement also sets out the need for lawyers who register during the three-year adaptation period to be subject to the same standards, requirements and rules that apply to domestic professionals. The SRA will retain the ability to protect consumers by making sure that Swiss lawyers during the adaptation period are subject to the same duties as solicitors and other professions regulated in the UK.

It is important to stress that the minimum three-year adaptation period applies when a Swiss professional in the UK is gaining experience of English law. It is not as if we are allowing a Swiss lawyer to practise here, provide advice on Swiss law for three years and then suddenly become a solicitor. There is a requirement for Swiss lawyers who want to requalify here to practise at least some areas of English law during that period. On top of that, there is the ability for regulators, including the SRA, to restrict during the adaptation period the range of activities that Swiss lawyers can carry out while registered here.

Again, I cannot pre-empt how the SRA will implement those provisions in practice, but at the moment Swiss lawyers registered here are subject to some restrictions in the activities they can carry out. In litigation, for example, they need to work alongside a fully qualified solicitor. The SRA protects the standards and ensures that there is supervision of Swiss lawyers practising here during that adaptation period. I cannot speak on behalf of the SRA, but the agreement will certainly allow the SRA to continue imposing those additional rules on Swiss lawyers practising here.

The Chair: Thank you. You have answered Lord Fox's question without him having to pose it, which is good.

Q6 **Baroness Hayter of Kentish Town:** In what you put to us in writing, Mr Cillario, you said that "similar arrangements should be pursued through trade negotiations with other countries". That is why I touch on the importance of this as a model. From the point of view of the Law Society, which countries would take the highest priority for that? What are the reasons?

Marco Cillario: I am not in a position to give a full list. The important point is that every time the UK sets out to negotiate free trade agreements or other arrangements with foreign countries, there should be consultation and engagement with the sector, ideally through the Law

Society. Each market will have its own situation and arrangements. It is important that the UK bears those in mind and has specific engagements for each negotiation.

Looking at what is in the pipeline, one thing on our minds is the upcoming review of the EU-UK Trade and Cooperation Agreement. The EU remains the largest market for legal service exports, even post Brexit. At the moment, the provisions on RPQ in the TCA are disappointing for the legal sector. The TCA does not have provisions that set out recognition of professional qualifications directly. It provides only a framework for regulators in the UK and EU to negotiate mutual recognition agreements.

However, for the legal sector, that framework is all but unworkable, because the legal profession in the EU is regulated not at EU level but at member state level. In some member states, there are regional or even local regulators of the legal profession. For us to negotiate an MRA with the EU through these provisions, we will need to negotiate with dozens of different regulators, and that is a system that we do not believe has many chances of producing results. We now have this very ambitious agreement with Switzerland. Should it be the model, for example when the TCA is renegotiated in 2026?

Q7 The Chair: I want to follow that with one point. You talked about the need to negotiate with or talk to different representative bodies in other countries. What about in the UK? I mentioned that I am a barrister. I am regulated by the Bar Council. I am also a partner in an international law firm, so I think we are regulated to some extent by the SRA and the Law Society. What discussions do you have? Does the Law Society tend to take the lead in these international negotiations? How do you talk to other representative bodies?

Marco Cillario: It depends on the market. Generally, the English solicitors profession tends to be the most internationally facing. We often have more members based abroad than some other UK professions. Indeed, in the UK we have three jurisdictions: England and Wales, Scotland, and Northern Ireland. Each jurisdiction has a solicitor and a barrister profession. In Scotland, they [barristers] are called advocates. That means that we have six regulators in the UK. In England and Wales, the regulatory function is separate from the representation functions. The SRA and the Bar Standards Board are the regulators. We interact with them when appropriate and required. Obviously, further negotiations would be needed in the context of an MRA with the EU, for example.

Baroness Hayter of Kentish Town: That goes back to my point about whether it is just among solicitors. Is the Law Society driving this or the SRA? The SRA has a stronger consumer remit than, understandably, the Law Society. I am interested in that relationship and who drives this.

Marco Cillario: In trade negotiations, usually the Law Society has a stronger interest in representing members who operate abroad. Our function, among others, is to represent the interests of the legal profession. The function of the SRA, among others, is to protect the

standards of the profession. Although we have different functions, we respect the independence and importance of the role played by the SRA. As I said at the beginning, we believe that one of the strengths of this agreement with Switzerland is the fact that it ensures that regulators, including the SRA, retain their autonomy when setting and protecting professional standards. We respect the fact that that is within the remit of the SRA. Obviously, we want that to be protected, and we believe that the agreement protects the ability of the SRA to set standards.

The Chair: We may have moved on to a slightly different topic, but, Baroness Hayter, could you pick up your next question, please?

Baroness Hayter of Kentish Town: I think it has been covered.

The Chair: Then we will move to Lord Kerr.

Q8 **Lord Kerr of Kinlochard:** Mr Cillario, you say it is an ambitious agreement and you like it. I think I agree. Would it be possible or desirable to have a similar agreement with the United States? Should similar provisions be written into a free trade agreement with India?

Marco Cillario: We believe there is an interest in similar arrangements that facilitate the requalification of UK lawyers abroad in English-speaking common-law jurisdictions. On paper, we believe that for example the United States, particularly some jurisdictions, would benefit from similar arrangements.

Lord Kerr of Kinlochard: Is that possible with the United States? Is it state by state or federal?

Marco Cillario: It would be regulated state by state. Obviously, the UK would need to set out trade negotiations with the US, which at the moment are not ongoing. There are quite a lot of conditions to be met, but on paper, yes, it would be beneficial. At the moment, it is a challenge for our members who want to requalify for example in New York, because the requirements are very different. We believe that there could be more recognition of existing qualifications and experience in the US.

Obviously, India is a very different market. You may be aware that India recently announced new regulations on foreign lawyers and law firms. Before those regulations were introduced, it was not possible for UK lawyers to establish to practise in India under home title. With the new regulations, we are not talking about requalification; we are talking about UK lawyers and law firms providing advice on English law. We are at the moment focusing on the importance of those provisions and getting them fully implemented. Once that is established, we should probably discuss whether RPQ arrangements could be beneficial there as well.

To go back to what I was saying earlier, the point is that each market is different. Each market has a different level of liberalisation. The interests of UK lawyers practising in different markets will be different, so it is very important that there is full engagement with the profession through the Law Society for each of those markets.

Lord Kerr of Kinlochard: You are not aware that there is any discussion with the Indians at the moment. The negotiation of the free trade agreement is quite far advanced.

Marco Cillario: Yes.

Lord Kerr of Kinlochard: Do you think we may have missed the boat on that one?

Marco Cillario: No, we have made the point that legal services should be part of those discussions. Obviously, some of the discussions that are happening are confidential at the moment, so I would not be in a position to say to what extent legal services will be included in a free trade agreement with India. At the same time, India recently introduced new regulations on foreign law firms, so the two things are running in parallel. We are working with our counterparts in India to make sure that the new regulations actually work in practice. We are also having conversations with the UK Government about that. There are improvements that are needed for the new regulations in India to make sure that they can be used by the UK legal profession. The fact that at the same time the UK is negotiating an FTA with India provides the opportunity for the UK Government to have discussions about those regulations with their Indian counterparts.

Q9 **Lord Fox:** The prospect of a US trade deal is a long way away, but MoUs with individual states are already under way and there are ongoing negotiations now with big states such as Texas and Florida. What representations are you making to those people about the opportunity to bring legal services under those MoUs?

Marco Cillario: There could perhaps be a little more engagement when choosing the states that we negotiate MoUs with. Not all the states matter the same for UK legal professionals in the US. We made that point to the Government before. Obviously, big states such as Texas are of interest. An MoU is not an RPQ agreement. An MoU does not have direct legal—

Lord Fox: It sets out a route to doing things, largely.

Marco Cillario: Yes.

Lord Fox: Are you getting those kinds of things into the minds of the negotiators when they sit down with their Texas counterparts?

Marco Cillario: It will be interesting for us to understand more about how an MoU is a means to these ends, because I think we have a degree of scepticism that an MoU can achieve a system for the recognition of professional qualifications. It does not create a legal obligation for any of the parties. It is simply a commitment to work together to a goal, so it is probably not necessarily the most effective way to get to these goals in the US.

I appreciate that in the absence of trade negotiations, and because it is difficult to see them starting soon, MoUs could be the next best arrangement. The number of resources we put into the negotiations should be proportionate to what we can achieve through them, so we would like to hear more about what the UK Government aim to achieve through that.

Lord Fox: Okay. I think we hear what you are saying about MoUs.

Q10 **Lord Howell of Guildford:** I am interested in the same thing as Lord Fox on your "state by state" comment. As we know, the City nowadays is populated by giant American legal firms, usually in very glossy glass buildings with long names, which seem to be pushing into almost every area, including Switzerland of course. Does this agreement in any way stem the tide, or do you feel, speaking for the legal profession in this country, that it is being quite severely challenged and even overtaken by those huge American combines?

Marco Cillario: I guess that is probably separate from the RPQ agreement or from trade arrangements with the US. In general, we believe that the fact that the UK is an open legal market to foreign law firms, including firms from the US, is beneficial to the legal sector overall. We are not against competition. We are not protectionists. We do not believe that protectionism is the right solution, because, of course, foreign firms in general create employment opportunities for UK lawyers as well; they employ many UK-qualified lawyers.

As the Law Society, it is important that we represent the interests of all the UK legal profession. Some UK firms might have a different view, but as the Law Society we want to represent the interests of the UK legal profession overall, and we believe that for the UK legal profession overall it is beneficial to have an open system to foreign law firms, including US firms. I do not know whether that answers the question.

Lord Howell of Guildford: Thank you. I will not press it.

The Chair: I should declare that my firm is an American firm.

Q11 **Lord Kerr of Kinlochard:** Could I pick you up on something you said about the EU and the TCA, Mr Cillario? You referred to the review in 2026 and you implied that it might be possible to make considerable improvements. Have you had any indication from the EU side that that might be possible? The review clause in the TCA is not a review of the terms of the TCA; it is a review of the implementation of the TCA. I have not detected many signs in Brussels of enthusiasm for any reopening of the TCA. You are more hopeful about that than I am.

Marco Cillario: Yes, I think we need to be hopeful, because at the moment the arrangements are not satisfactory in many respects, and RPQ is not the only one. There are actually other very pressing issues when it comes to trade in legal services with the EU. The way we see the review of the TCA is that it could be either. It could be a review of some of the terms of the agreement. It will not be renegotiated in its entirety,

but there are parts of the agreement that could be renegotiated, and should be renegotiated in our view. For example, the business mobility provisions under the TCA—the provisions that should facilitate business travel between the UK and the EU—are not satisfactory at the moment. There is a specific article under the TCA, Article 126, that earmarks these provisions as up for review in 2026. Yes, you could see the review as a review of the implementation of the agreement, but we believe that the UK should push for a substantive improvement.

By the way, I have one point to make about the TCA. I referred earlier to the importance of dedicating resources to the implementation of the trade agreements that the UK negotiates. More should be done to implement the TCA as it is, because there are provisions under the TCA that have not been fully implemented. Provisions on legal services in certain member states and provisions on transparency of mobility rules post Brexit have not been fully implemented. It has been several years. We would like to see those provisions fully implemented as it stands.

Lord Kerr of Kinlochard: I think you have a very strong case there and are likely to make progress. I am just not so sure that you are likely to change the actual terms.

Marco Cillario: We will certainly push for that, and I think the UK should push for that. One point is that the environment is, we believe, improving when it comes to UK-EU relations, so there is an opportunity to negotiate better terms, and it should be used.

Q12 **Lord Watts:** Today, you have been talking about a deal between the UK and Switzerland. You have been talking about India and the potential in America. Have you any feel for the size of the benefits to the legal profession of a European deal compared to all the other deals that are being looked at? It seems to me that you are very interested in a European deal. Is that where you think there should be concentration, because it is most likely to benefit the legal profession most?

Marco Cillario: No, Europe is not the only market. India is a really important market, and we are putting a lot of resources and efforts into seeking to improve conditions for our members practising there and for international lawyers practising in India in general. The US is obviously a very important market. With each of those we need to deal with what is currently there. There are no FTA negotiations with the US at the moment. There are FTA negotiations with India. There are new rules on foreign lawyers in India, and we are dedicating a lot of resources to making sure that those rules work.

The EU is the single largest export market for legal services. It is geographically very close. Brexit does not change the importance of the EU as a market for the legal sector. We have the TCA review coming up; 2026 might seem some way down the line, but it is not, actually, if we want to be ambitious. We believe that some work should start now, which is why I brought up Europe in this discussion.

Q13 Lord Udney-Lister: Thank you very much. Before I ask my question, I declare an interest that is in the register of interests. I work for an international bank that has an extensive footprint in Switzerland.

I want to go into an area you have already been into, and I want to take you back there. What is your view on the need for consistency of mutual recognition provisions across countries, and to what extent might this agreement act as a template for others? In asking that, could I follow up on the India point? My understanding is that the issues around the India chapter for the FTA will very much be about the mutual recognition qualification point, and that could well become a big issue. I am really interested in the consistency question.

Marco Cillario: Normally, when we consult the Government and when we set out our recommendations and asks for trade negotiations, RPQ arrangements are part of those. There is one important point that I want to stress again: RPQ provisions apply differently to the legal profession compared with other professions. With legal professionals, it is not just about the profession being regulated differently in different countries; it is also about the fact that the knowledge of the law of someone who qualifies in the UK is different. The expertise is different from someone who qualifies in India or in other countries.

When an English solicitor practises in India, often they want to provide advice to clients on English law, not on Indian law—on their home country law, not on the law of the host country. We believe that there is a difference both in the expertise and in the way they compete with each other. They provide clients with a different expertise, so they do not directly compete with each other in the same way as other professionals might compete with each other.

When it comes to India, we are seeking, first, the ability for UK lawyers to practise under home title—the ability for solicitors to practise in India as English solicitors. That should be negotiated separately from RPQ arrangements. It has already happened, by the way, because the TCA, even though it has disappointing provisions on RPQ, has a legal services section that does exactly that. On principle, it protects the ability, with some exceptions, of UK lawyers to practise under home title in the EU. If you are an English solicitor and you work in Germany, you can work in Germany without needing to sit an exam in Germany to become a German Rechtsanwalt—a German lawyer. Again, that is separate from the discussion on RPQ.

Having said all that, we believe that this agreement with Switzerland, when it comes to RPQ provisions, should be the model, because it demonstrates that it is possible to be very ambitious when it comes to RPQ. It is now on paper here. We will have to see how it is implemented, but on paper it is very ambitious and advanced, and we believe it should be the model.

The Chair: Having raised points in relation to implementation, I think it may be appropriate to bring in Lord Grimstone, who wanted to ask you

about TCA implementation.

Q14 **Lord Grimstone of Boscobel:** Yes, thank you. I think the TCA points have been covered by Baroness Hayter and others.

Good morning, Mr Cillario. The Law Society was very helpful to the House when we were considering the Professional Qualifications Act last year. I would like to talk to you in relation to that. First, how do you see the Professional Qualifications Act working in practice now that it is on the statute book? Much more particularly, there are certain things that this agreement almost claims as due to itself. For example, the question of regulatory autonomy is enshrined in primary law in the UK anyway, so it has not been achieved through this agreement.

Marco Cillario: Of course.

Lord Grimstone of Boscobel: It is there anyway. It is open to any professional body, including the SRA or the Law Society, itself to seek a mutual recognition agreement with its counterparts in other countries. It may be convenient to have these things done under the umbrella of an agreement of this sort, but professions, of course, have the ability themselves to proceed in that direction.

Could you give us a view on all those points and the extent to which this almost seems to have been done slightly in isolation from the Professional Qualifications Act? It is quite interesting how rarely it is referred to in the Explanatory Memorandum, almost as if it had a bit of a different life from the work that you and others did on the Professional Qualifications Act. We would be very interested to hear your comments in the round on that.

Marco Cillario: Thank you for that. When the discussion and consultation were going on for the Professional Qualifications Act, the point we made is that we believe that the system that the SRA has in place is already, essentially, compliant with the need to recognise qualifications both intra-UK and from foreign professions, which brings me back to the point I made earlier: we do not believe that the SRA will need to make any substantive changes in the way it approaches the recognition of qualifications by Swiss lawyers.

We mentioned before that the UK has a fairly liberal system when it comes to the legal profession and professionals from other jurisdictions. The SRA also has a system in place, the Solicitors Qualifying Examination—the SQE—that allows for the recognition of pre-existing experience of foreign lawyers and intra-UK lawyers. Foreign lawyers can apply to be exempted from parts of the SQE. We believe that it is a very effective system for the recognition of professional qualifications of foreign lawyers.

Because the UK already has those in place, we think that it is important that the UK seeks reciprocity from its foreign counterparts. There is a benefit to us in clarifying on paper what we currently offer and seeking

reciprocity from foreign markets. Essentially, that is what we are asking—reciprocity.

Lord Grimstone of Boscobel: But you could do that without the benefit of an agreement such as this. You could yourselves have negotiated reciprocity with your Swiss counterparts. I can see that it is extraordinarily convenient to have it done via mechanisms such as this, but you and other professional bodies could have done it yourselves. I am not saying for one moment that you should have done it via that route, because, as I said, I can see the convenience of that.

Marco Cillario: There are some issues with that. One of the issues is that in Switzerland and in the EU the legal profession is regulated at local level, but often, certainly for the EU, the Commission wants to assert its role in overseeing RPQ arrangements. For us, it would be nearly impossible to negotiate separately RPQ arrangements with individual member states, so we believe that it is really important that the Government provide the framework for these negotiations.

Lord Grimstone of Boscobel: Thank you.

Q15 **Lord Razzall:** As we are disclosing historical interests, I had better disclose that some years ago I was a managing partner of a firm of solicitors that had eight offices outside the UK, mostly in Europe.

Certainly I, and a number of colleagues, feel that in their trade negotiations the Government have very much focused on the manufacturing sector—egged on not only by Lord Frost and whisky but by other forms of manufacturing—and less so on services. To what extent do you feel that the Government consult and involve you sufficiently, both in general and in specifics, with regard to the opportunity to market legal services outside the UK?

Marco Cillario: I share the concern that often trade negotiations are more focused on goods than services. For us, it is really important that the UK focuses on its areas of strength, including services, and in particular legal services, which are one of the key exports of the UK internationally.

Recent trade agreements include some of our asks. We very much welcome this agreement, as we discussed today. We also welcome the fact that FTAs with counterparts including the EU, Australia, New Zealand and others have a specific section dedicated to legal services that protects the ability of UK lawyers to practise under home title. There are, however, other areas where more could and should be done to listen to the needs of the legal and other professions. That is particularly true of RPQ provisions, as we discussed, and business mobility provisions.

We have in the EU the slight irony that, while UK lawyers can practise on paper under home title in many member states, under the terms of the TCA, when it comes to travelling physically to EU member states to provide their services, there are actually a lot of barriers. That is because

there is a discrepancy between satisfactory, to an extent, provisions on legal services and dissatisfactory provisions on business travel.

Yes, the Government listen. Yes, some of our priorities are reflected in the agreements that the UK has negotiated so far, but certainly more could and should be done to make it easier for UK lawyers to practise abroad.

Lord Razzall: Let us take the example of India, which various colleagues have brought up. We know that there are discussions going on with India currently. We do not know how successful they are going to be or whether they will be successful. India is obviously a very important issue for the legal profession, as you have indicated. Do you feel that your organisation is satisfactorily involved with the Government in raising the importance of that for you?

Marco Cillario: We are certainly consulted. We are involved in discussions with both the MoJ and the DBT, but, obviously, until we see the final results and until it becomes possible for UK law firms and lawyers to establish in India we will not be fully satisfied.

At the moment, we have provisions in India that on paper allow UK lawyers to establish, but we believe that more should be done in implementing those provisions. By the way, those provisions were introduced by the Bar Council of India, so at the moment they are within the remit of our counterparts in India, and we are discussing with them. Of course, we would like to see the ongoing trade negotiations as an opportunity to strengthen those provisions.

Lord Razzall: Thank you.

Q16 **The Chair:** What do you see as the broader outlook for UK legal services trade, Mr Cillario? What trade measures should the Government prioritise in supporting the sector's objectives?

Marco Cillario: I have two things on that. On what our priorities and the priorities of the Government should be when negotiating trade agreements with countries around the world, we would certainly like those agreements to protect and, where needed, enhance the ability of UK lawyers to practise under home title and to requalify in a host country's legal profession. For that [requalification in a host country], the RPQ agreement that we are discussing today is a good model. They should also protect and, where needed, improve the ability of law firms to establish offices in foreign markets; protect and, where needed, improve the ability of UK lawyers to partner with foreign lawyers in host countries; and protect and, where needed, improve the ability of UK lawyers to advise clients on arbitration, mediation and conciliation and to act as arbitrators, conciliators and mediators. Those are our key asks for trade negotiations.

On the situation at the moment, the FTAs that the UK has negotiated with foreign countries have so far had limited impact on the ability of UK lawyers to practise in foreign countries, because—I go back to my

previous point—more should be done to implement FTAs. Signing an FTA is not the end of the story; it needs to be implemented. We think that more should be done to dedicate resources to the implementation of FTAs going forward.

The Chair: You are getting quite a lot of support from around the table for that.

- Q17 **Lord Kerr of Kinlochard:** I want to ask an impertinent question. Do you expect to lose many members on the grounds that they will see a tax advantage in achieving domicile in the canton of Zug? I was struck by the number of international businesses and hedge funds that are domiciled in Zug. Given that they can now practise in Switzerland, probably, do you think that they might choose to domicile in Switzerland?

Marco Cillario: First, all those who are qualified as English and Welsh solicitors are members of the Law Society automatically, and they remain members of the Law Society. Although they can decide to be non-practising solicitors, they remain members of the Law Society even if they requalify or are dual-qualified abroad, including Switzerland.

The other point that is really important to highlight is that this agreement does not change the immigration status of UK citizens in Switzerland. It allows those who have the right to live and work in Switzerland to do so as solicitors and to requalify as Swiss lawyers after three years, but it does not change the immigration and business mobility arrangements between the UK and Switzerland, which is why, going back to my earlier point, this is not job done. It only covers a specific area. We need an FTA that also supports and facilitates business travel between the UK and Switzerland. The short answer is no, we would not expect to lose members over this.

The Chair: There you go.

- Q18 **Lord Howell of Guildford:** There is one further aspect I want to raise. You speak for the interests of the legal profession very well, if I may say so. We have seen a submission from the Institute of Chartered Accountants in England and Wales, which is generally supportive but with quite a lot of qualifications as well; for instance, it says that wider recognition will still be needed, that there are still questions to answer and that there is missing detail, and there is a call for further clarity. Do you have any comment on that, as it were, from outside?

I ought to have declared my interest. I used to work for Coopers & Lybrand before it merged with Price Waterhouse a long time ago.

Marco Cillario: I do not think it would be appropriate for me to comment on other organisations' submissions. In our view, yes, regulators will retain some flexibility in the way they implement the RPQ agreement, which, as I understand it based on your comments, is of concern to some professions. For us, it is less of a concern because, to an extent, it is an extension of existing provisions that work satisfactorily for UK lawyers in Switzerland and, we believe, for Swiss lawyers in the UK.

To go back to my earlier point, we need to ensure that regulators retain some autonomy in the way they implement the agreement. Having said all that, there is a joint committee that will monitor the implementation of the agreement, and it is important that the implementation is monitored. Maybe one or two years down the line, we could see issues, and it is important that those issues are addressed in the agreement. By the way, I said “one or two years down the line”, but, actually, the agreement comes into force on 1 January 2025, so we will have to wait a little bit longer to see it implemented.

Q19 Lord Watts: You say that the agreement basically means that British lawyers can practise English law in Switzerland, and vice versa. Do you see any scope for extending that to allow them to do Swiss law? Could that be done through detailed work?

Marco Cillario: Actually, the agreement allows UK lawyers in Switzerland and Swiss lawyers in the UK to practise the other country’s law with some restrictions during the adaptation period. The actual agreement is precisely about allowing UK lawyers to requalify in Switzerland and allowing Swiss lawyers to requalify in the UK, so it already does that. Regulators have the ability to restrict the range of activities that UK lawyers in Switzerland and Swiss lawyers in the UK can practise during the adaptation period, but after a three-year adaptation period UK lawyers in Switzerland and Swiss lawyers in the UK, provided that they practised effectively and regularly the other country’s law, can fully requalify.

If you are a UK lawyer and you have the right to live and work in Switzerland, under this agreement you can register with one of the cantonal authorities and for a period of three years practise Swiss law with some possible restrictions; it is within the remit of Swiss regulators to decide what the restrictions are. After three years of effective and regular practice you can become a fully qualified Swiss lawyer.

Lord Watts: Is that practical? I gather that they have to be supervised.

Marco Cillario: That is, again, down to the regulators. They may have to be supervised. That is in the gift of the regulators.

Lord Watts: This is going back to the detail of that level of supervision. In theory they can do it, but there is no practical way now, we understand, in which they can do it.

Marco Cillario: The interesting thing about this system is that it is already in place for UK lawyers in Switzerland. A similar system—it is not exactly the same—is in place in the EU. The EU lawyers establishment directive allows EU member state lawyers to move to a different member state, register there, and for a period of three years practise the host country’s profession, and after three years requalify in the host country’s legal profession. The system has already been in place for decades in the EU, and it was in place in the UK when the UK was a member of the EU.

This agreement, which is why it is so ambitious, essentially sets out a similar system to the one that is already in place in the EU and that works so effectively throughout the EU. We already have some evidence that the system works.

Lord Watts: How widely is that used?

Marco Cillario: It is used very widely. I do not know whether statistics exist. They might, and we might get back to the committee on those. It is used very widely. It was used by UK lawyers very widely before Brexit.

The Chair: Thank you very much, Mr Cillario. Thank you so much for your evidence. It has been very helpful, very clear and very communicative. You are an old hand at this, so you will know that there will be a transcript of the evidence that you have been giving, and you will have a chance to check it for accuracy. If there are any other questions that occur to the committee following your evidence, may we write to you and seek further answers?

Marco Cillario: Absolutely. I would be very happy.

The Chair: That would be very helpful. Thank you very much indeed.