



Select Committee on the European Union

Sub-committee on EU Services

Corrected oral evidence: Future UK-EU relations: trade in services

Thursday 4 February 2021

10.00 am

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Members present: Baroness Donaghy (The Chair); Lord Bruce of Bennachie; Baroness Couttie; Lord Davies of Stamford; Lord McNally; Baroness Neville-Rolfe; Baroness Prashar; Lord Sharkey; Lord Thomas of Cwmgiedd; Viscount Trenchard; Lord Vaux of Harrowden.

Evidence Session No. 5

Virtual Proceeding

Questions 43 - 58

Witnesses

I: Lord Grimstone of Boscobel, Minister of State, Department for Business, Energy, Industrial Strategy; Tim Courtney, Director, Trade and Investment Negotiations, Services Directorate, Department for Business, Energy, Industrial Strategy; Thomas Walkden, Deputy Director, Europe and Rest of World Trade, International Policy Directorate, Intellectual Property Office.

Examination of witnesses

Lord Grimstone of Boscobel, Tim Courtney and Thomas Walkden.

Q43 **The Chair:** Welcome to the EU Services Sub-Committee's final public evidence session as part of our inquiry into the future of UK-EU relations on trade in services. The session is being broadcast on parliamentlive.tv and a full transcript is being taken and will be made available to you shortly after the session to make any corrections.

I am pleased to welcome to this session Lord Grimstone of Boscobel, Minister of State at the Department for Business, Energy and Industrial Strategy; Tim Courtney, also from BEIS; and Thomas Walkden, from the International Policy Directorate at the Intellectual Property Office.

I will ask the first question. Lord Grimstone, you know how important business and professional services are to our economy. Although the EU single market was less complete in the professional services, there is no doubt that there will be major changes compared with single market membership. Witnesses have said to us that the TCA was a good outcome for services compared with a no-deal scenario. How do you think the sector has adjusted to these changes so far, and how are the Government supporting businesses to make these changes?

Lord Grimstone of Boscobel: First, I thank the committee for inviting me to attend today. If I may, I might put the question into the context of a very short introductory speaking note, because it will be easier to put my subsequent answers into context.

I really do believe that the UK-EU trade and co-operation agreement offers businesses and individuals the certainty and transparency that they need to continue trading profitably with the EU while of course maintaining the UK's right to regulate as an independent nation. The agreement significantly builds on the UK's and the EU's services commitments under WTO rules and locks in market access substantially across all sectors. In its level of ambition it reflects the UK's and EU's respective free trade agreements with Japan, and in a few areas—I would perhaps immediately call out legal services—it breaks new ground. That is good news for UK services firms, which are highly competitive internationally. For example, the UK is the second largest exporter of professional business services worldwide, following the United States.

If I may, I call to the committee's attention some of the key features of the agreement, which includes clear provisions on cross-border trade in services and investment, and secures continued market access across a broad range of sectors, including professional and business services, and I believe that they will support new and continued foreign direct investment, which of course is a particular responsibility of mine.

The agreement also includes commitments on the temporary entry and stay of natural persons for business purposes. We agreed with the EU not to impose market-access restrictions, such as economic needs tests or discriminatory barriers, subject of course to member state reservations.

We also agreed commitments on length of stay, which allows UK short-term business visitors to travel to the EU for 90 days in any 180-day period.

The agreement's domestic regulation provisions commit parties across services and investment sectors—this is very important—to ensure that avoidable regulatory barriers are limited, while preserving the regulatory autonomy of both parties. These avoidable barriers include, for example, limiting overly lengthy and opaque authorisation processes.

The agreement includes a framework for the recognition of qualifications, which is based on the EU's recent FTA agreements but with improvements to make the system more flexible and easier for regulatory authorities to use.

Finally, the agreement includes ground-breaking provisions on legal services. I am sure we will return to this later. They go beyond what the EU has included in any other FTA to date and give UK solicitors, barristers and advocates the right to advise their clients across the EU on UK and public international law using their home professional titles, except of course where EU member states have placed specific limits on these activities.

We are continuing to work with businesses to support them as they adjust to life outside the single market and customs union. It is a different world; I acknowledge that frankly. Things did change on 1 January for the services sector, but we remain confident that this deal, taken in the round, provides the kind of long-term, stable business environment that firms value and which will benefit businesses, we trust, in both the UK and the EU. Thank you.

The Chair: Thank you very much, Lord Grimstone. How do you think the services are coping?

Lord Grimstone of Boscobel: I have just attended a meeting of the Professional and Business Services Council, at which there were 44 representatives of service firms, so in a sense I am dealing with this realm in real time. When I say they are coping with it as well as might be reasonably expected, those may sound like slightly weaselly words. There is increased bureaucracy, and people are having to get to grips with all of that.

The benefits and advantages of the single market were in the name. It was a single market and firms did not have to concern themselves over much, although, of course, there were some country reservations about what happened at the country level. A number of things that were determined at the EU level are now determined at the country level, and firms are having to get used to that. I think they are getting used to it. They see the upside. We had a long discussion this morning about the advantages which the other free trade agreements, which we are negotiating, will bring to the firms.

There is a slight “on the one hand, on the other hand” feel about this. There is more bureaucracy, and more restrictions in relation to the European Union, but more freedom of action in relation to other countries around the world.

The Chair: We had evidence from witnesses from that council with some very can-do, positive attitudes. Their particular concern was about small companies. Did they say anything to you about SMEs at your meeting?

Lord Grimstone of Boscobel: We touched on that. Of absolute importance to the SMEs is to get the information to them. We are doing that, but again I frankly admit that we have more to do in that area. SMEs, particularly in the present climate, do not have the time to comb through page after page on GOV.UK. They need to have the information that they want readily available to them. There is a lot to digest.

Frankly, it is hard to say that anything of the slightest good is coming out of the dreadful Covid pandemic, but of course it has subdued business and economic activity, which in a sense has given some firms a more gentle lead in to some of the complexities than they would have had if times were normal. But there is a lot for them to digest, and it is our job, and frankly my responsibility, to make sure that information is available to them so that they can digest it as easily as possible.

The Chair: Thank you very much for that introduction. I should make it clear to Tom Courtney and Thomas Walkden that they should feel free to come in at any stage if they want to add anything. Do not think you have to be particularly invited.

Q44 **Lord Sharkey:** Good morning, Minister. The commitments in the TCA to liberalising services trades are subject to a large number of national reservations and annexes, and these reservations are not formulaic; they can vary significantly by member state. What is your assessment of the overall impact of these reservations? Do any specific reservations have a particular impact on trade in services? Are any particular sectors most affected?

Lord Grimstone of Boscobel: Thank you very much for that question, Lord Sharkey. It is a difficult question to answer granularly, because, as you say, there are so many reservations and of course they bear down on different businesses and different sectors in different ways. Of course, some of them are very specific indeed. Without wanting to introduce levity into this, Finland has a reservation relating to a particularly niche sector where only EEA nationals resident in the reindeer herding area of the country may own reindeer and exercise reindeer husbandry. So there is a lot of detail in it.

But, again, the fact is that countries can put in reservations, and they do put in reservations, and we have had reservations ourselves in the past, although far fewer than you find in Europe. These reservations, and again I speak frankly, will have to be navigated around by our businesses, and in some areas they will obviously produce a constraint on what UK firms can do. That is a feature of the landscape in Europe. Would it have been

nice to have negotiated them all away? Of course it would, but that luxury was not open to us. I know members of the committee will appreciate that when you are in negotiation you win some points, you call a score-draw on others, and some you lose.

If I may, I will bring in Tim Courtney, who was deeply involved in the negotiations, to give us some extra insight on the question of reservations.

Tim Courtney: Thank you, Minister, and good morning, members of the committee.

One of the successes of the negotiation, which shows how the TCA is better than WTO rules, is that to begin with we secured what we call a negative list. Under the WTO's General Agreement on Trade in Services, WTO members are required to expressly list the sectors in which they are liberalising. That is a positive-listing approach. Under the TCA, we use a negative list, so both the UK and the EU had to explicitly list the sectors and the measures that were excluded. Immediately you are locking in that greater certainty, because businesses can see quite clearly that if something is not mentioned, market access is okay. That is one point to mention.

When it comes to reservations, the numbers are not the most important factor; it is the nature of the reservation that is important. The EU has a great many reservations—something like 500—but about 40 are EU-wide, and then there are reservations for each member state. Therefore, if you are a UK services firm trading into the EU, you might have to deal with EU-wide reservations and then a fairly small number of reservations in the particular member state in which you are looking to operate. It is not as though you have to deal with all 500 at one time.

Therefore, the levels of market access will vary, as Lord Grimstone says. A key difference for services firms is that they will have to consider the individual local laws and regulations of the territory into which they are trading rather than considering some EU-wide laws, but we will be taking steps to publish guidance to help businesses to understand more easily the kinds of reservations and other things they need to be mindful of when conducting that trade. I emphasise that it is important to consider the nature of the reservations rather than the actual number.

Lord Sharkey: Could I follow up on that briefly by asking whether you yet have a sense of which service sectors are likely to be most affected by the reservations? Also, could you expand on what the Government are doing to help businesses to navigate these really rather large complexities?

Lord Grimstone of Boscobel: We are helping them by making information available. We still have further to go on that, but we are carrying on with it. One of the great advantages of the round tables and the council meetings that I have been attending is that we hear directly from firms what kind of information will be available.

It is quite hard to be specific about who is most affected, because certain niche reservations may affect completely one firm that was hoping to do business in that sector in that country, whereas other reservations may have a smaller effect on a large number of firms. Without in any way wanting to dodge the question—I can completely understand the import of it—it is far too hard to categorise the effect.

However, we have to accept that this brings home to us that the European Union is a collection of member states, which are sovereign in a number of areas and have used their sovereignty in the past to put in reservations in relation to what could be done in the service sector in their states.

I will certainly look out for any information. I will talk to my co-chair of the council to see if any information has been collected about who is better off and who is worse off, and if I may I will communicate that in a letter to the clerks. I cannot promise that the information is there; I have not seen it. If it is there, I will dig it out and present it to the committee.

Lord Sharkey: That would be very useful. Thank you.

Q45 **Baroness Couttie:** Good morning. While there is much to be lauded in the TCA for the services sector, one area where we did not achieve our aims was the mutual recognition of professional qualifications. As you set out in your introductory remarks, there is a framework for achieving this. The services sector is concerned about the uncertainty that this gives, both on a timeframe and whether mutual recognition will be granted, as well as a certain cynicism that certain EU countries have a more protectionist approach to their economy than we in the UK would like.

Could you talk me through why the Government were not able to achieve mutual recognition of professional qualifications before we signed the TCA? What were the main issues and hurdles associated with that which left us with the framework as the way to take this forward?

Lord Grimstone of Boscobel: Sharply and concisely, the main reason we did not achieve it was because the European Union did not want us to achieve it.

Baroness Couttie: Right. They were prepared to agree a framework, which is a woolly thing that you may be able to take forward over some form of timeframe. The fact that they were not prepared to touch on the negotiations during the phase when we were negotiating a TCA implies to me that they are going to be a bit difficult about mutual recognition of qualifications.

Lord Grimstone of Boscobel: Apologies for interrupting. It is one of the difficulties of being on Zoom.

I do not quite see it in that way. We proposed a fully comprehensive solution to the EU for the mutual recognition of professional qualifications. Our solution would have guaranteed a pathway for assessment while ensuring regulatory autonomy, allowing both UK and EU regulators to reject candidates with insufficient experience.

Where I think the European Commission was coming from was that it did not want to enter into such an agreement, which would bind EU member states in a cross-cutting way. Its preference, the route it insisted on, was to see this as a regulator-led arrangement that could be flexible to the needs of different professions. I do not think it was an antipathy to these qualifications being mutually recognised. It was that it felt that the route to recognition should be led on a profession-by-profession basis by the regulators.

In a sense, you could say that that is a more sophisticated and more granular approach. It suffers the difficulty that you have to do it case by case. We have put together a unit within BEIS to assist UK regulators in this matter. I have asked the department to do careful monitoring of what progress individual regulators make in relation to their professions. Some of the professions are self-regulated. Now, and over the next few months, that pressure will come up from people in the professions to their regulators on both sides of the channel to get on with this and to have mutual recognition of professional qualifications.

It is more complicated, it will take more time, it requires more effort, and the end result will be perhaps a more sophisticated recognition of qualifications, but it will take time for us to get there.

I will ask Tim if he wants to come in and put a bit more colour on that, if that would be permissible.

Tim Courtney: Of course. Thank you. My first point is that while we did not agree provisions for the mutual recognition of professional qualifications that will kick in from day one of implementation of the TCA, that is not to say that UK professionals are prohibited from getting their qualifications recognised in various member states. It just means that for now they will have to use third-country routes to have their qualifications recognised in member states, where they exist. That means that, as with so many of the other things we are covering, they might have variable experiences between different member states. That is the first point. These markets are not necessarily closed to them right now.

I agree with what the Minister says. The issue we had in negotiations was that the EU was not prepared to bind its regulators to having to consider UK professional qualifications in a certain way, but preferred it to be demand led. We ended up agreeing an evolution of precedent in this area, where we took the EU standard approach and incorporated into how it operates some of the things that the UK had asked for.

I will point to a couple of improvements that we made above the EU's usual approach. First, we streamlined the requirements that professional bodies will have to meet when making a recommendation to the Partnership Council, the governance body that oversees the implementation of the TCA, to make it more straightforward for them to put forward those recommendations for mutual recognition agreements.

Secondly, and significantly, we increased the flexibility within the framework. We hope that it will be possible to agree mutual recognition agreements that do not require so much labour and time-intensive up-front assessment of every single professional qualification for a given profession across the whole of the EU and the UK. We hope that we will be able to put in place some arrangements whereby regulators can make these assessments on a case by case basis so that we will be able to get the mutual recognition agreements in place more quickly for particular professions.

Baroness Couttie: If I could build on that, because it is so unclear, when we talk about the regulators, and it will obviously vary from sector to sector, are we talking about EU-wide regulators or each domestic regulator? I am sure there will be a mass of regulations, which will obviously be at the domestic level, but I am talking about the framework and what we are trying to achieve at the higher level.

Lord Grimstone of Boscobel: I will ask Tim to give chapter and verse, but in some areas there is EU-wide regulation. In other areas, there is country regulation.

Baroness Couttie: Exactly.

Lord Grimstone of Boscobel: That is why this is so awfully complicated. There is no getting around that. This is a complex field. Tim, can you expand on that?

Tim Courtney: Of course. The Minister is right. In practice, the recommendations to the Partnership Council for a mutual recognition agreement will need to come from the 27 member states' regulators and the UK counterpart, and they will have to make that recommendation before the negotiation can continue. As the Minister rightly says, in some cases there are harmonised minimum training requirements across the EU, such as in architecture, which should make that process a little bit easier because the member-state regulators are dealing with very similar sets of qualifications. In other areas, where there are very different approaches to the regulation of a profession in different members states, it will be a bit more challenging. That is why we tried to build in a mechanism to allow less up-front assessment of all those different qualifications before making a recommendation.

Baroness Couttie: Thank you very much.

Q46 **Lord Thomas of Cwmgiedd:** May I take up the same subject, from a slightly different angle, and ask the Minister and his officials, as the Minister thinks fit, what the Government are going to do to help in what will obviously be a very protracted and difficult process—helping the professions? Some of the big professions can possibly manage on their own. Some of the smaller ones may need some help. Could you outline what the Government are going to do?

Lord Grimstone of Boscobel: Yes. As I mentioned earlier, Lord Thomas, we have set up a group within BEIS to assist the regulators.

That assistance will come in different forms. It may be technical help with the negotiations. Some professions, as you say, will be very well versed in this matter and would have dealt with it in the past; others will not, so we will have to lend a helping hand. In some instances, we may have to jolly them along a bit, because they may not be doing this as actively as the professions they are regulating would wish, but I am sure the market will put pressure on them in that regard. We will be using the normal offices of government, our knowledge of overseas countries, our posts overseas, and the knowledge we have, to make sure that the expertise is with the regulators.

My strong presumption is that the regulators will guard their autonomy in these matters, quite rightly so, and the ultimate responsibility rests with the regulators. We will give them every help that we can, but in the end this task falls upon the regulators, and I do not think it could be done in any other way without impinging on the autonomy of regulators to carry out these activities within their own responsibilities.

I absolutely understand the importance of this matter, and of course it is important at the individual level for the people concerned. It is as important to the small professions as it is to the large professions. Every one of these cases may have an individual at the end of it whose business has been constrained.

There will be a big monitoring job to be done. We will have to develop a system of monitoring, a system of dashboards, so that we can see exactly where we are getting to. I see my job, acting through organisations such as the business council and other representative groups, as jollying them along so that we can get this process completed as soon as possible.

I am in no way diminishing the complexities, because if you start perming the countries across the professions you end up with a large number of things that have to be done. That is a consequence of the EU not being prepared to deal with this at the Union level but, for reasons we discussed earlier, pushing it down to regulators and member states.

Lord Thomas of Cwmgiedd: Some professions are somewhat restrictive in their attitudes. The last thing they want is to see UK firms coming in and taking the market. How will you try to address attempts by various professions to cut out UK professions wherever possible in the interests of protectionism?

Lord Grimstone of Boscobel: We will complain and we will try to bring home to them the great advantage that our professionals have. The UK is a repository of professionalism. One would hope that there would be market demand in those countries to continue to access the professionalism of UK professions, because in the end this is not an abstract construct; this is about customers in these markets wanting to go to where they think is the best source of professional advice or support for what they do. In the end, our job will be to chivvy this along,

encourage people to complain, deal with it at the diplomatic level, and do all that we can to facilitate it.

Q47 **Baroness Neville-Rolfe:** Minister, it is very good to see you and to hear about the active role that the PBSC is playing.

Evidence to our inquiry has shown that arrangements on business mobility will have a significant impact on trade in services. How do the Government plan to help businesses adjust to these new arrangements once travel resumes after Covid? For example, is derogation a practical possibility?

Lord Grimstone of Boscobel: Thank you for the question. My answer to this question has some similarities to my earlier answers. First, we have commissioned some help from outside to make sure that we can get up on GOV.UK as quickly as possible what the travel restrictions are at the country level. A number of countries have their own rules in relation to this—how you apply for the work permits, what you have to do to get one, what the restrictions are. It is absolutely important that information is available to businesses.

Again, a bit like we were saying earlier, it is what it is. If it had been possible to agree a Union-wide approach, we would have done so. Not through lack of effort, and despite the huge ability of our negotiators, it was not possible to do that, which drives you back, I am afraid, to the individual member states' individual reservations and requirements. I suspect we will come back to this theme, rightly and properly, a number of times in this session.

Mr Courtney can give a flavour of how those aspects of the negotiations went.

Tim Courtney: Thank you, Lord Grimstone. I echo the point that guidance is key here. We are pulling together summaries of some of the guidance issued by different member states on the visa and work permit arrangements that are in place in their territories to try to help UK businesses to navigate the new complexities that they will have to deal with.

The negotiations in this area were quite complicated. The UK made various proposals as part of our chapter on the temporary entry of natural persons for business purposes. That is Mode IV of services trade. At one point, the EU was talking about having a separate mobility agreement, but of course the UK, as part of its mandate, did not want to negotiate and bind elements around visas, for example, into an international agreement of this kind. Both sides had very clear mandates in these negotiations. Ultimately, in some areas where there has been significant media interest recently, for example in musicians, the mandates were incompatible.

Baroness Neville-Rolfe: I am glad you mentioned musicians, because it fair to say that we are deeply concerned by evidence that we have received on the impact of the mobility provision on the creative

industries. They employ 2 million people in the UK and generate £110 billion a year of GVA. They are desperate for clarity, particularly on the absence of a touring visa. What are Government going to do about these issues? I understand the past and the negotiations of the past, but how do we find a way forward, Minister?

Lord Grimstone of Boscobel: Thank you for that question. Let me make this quite clear. In negotiations with the EU we explicitly proposed that the activities of musicians, artists and entertainers and their accompanying staff be added to the list of short-term business visitor activities. At the very least, this would have ensured that touring artists did not need work permits to perform in the EU, subject perhaps to some country reservations, and it is likely that if we had been able to include the category on the short-term business visitor list, many, if not most, member states would have waived visas as a result.

However, and let me be blunt, the EU repeatedly refused the UK's proposals in this area and refused to recognise touring musicians and artists as short-term business visitors, stating that they were providing a service rather than conducting a business, and would thus require visas.

So what are doing about this? Of course, we are considering what is open to us, and the Secretary of State for Digital, Culture, Media and Sport is setting up a working group with sector representatives to seek solutions, because you are completely right, Baroness: the creative professions are being deeply affected, and none of us would wish that, but there cannot be a unilateral solution by the UK. It is not in our own hands to determine this. It has to be determined with the European Union or with member states, and they were adamant in the negotiations that they did not wish to facilitate this.

I completely share the strong feelings of people in these professions. It goes wider; we are getting representations from fashion models whose work activities often require them to go from country to country. This is causing a lot of people a lot of inconvenience, and perhaps, most importantly, robbing audiences in these countries of the benefit of the cultural experience that this gives.

If it not something that you can determine unilaterally, which it clearly is not, the only way to proceed is to hope that, now that the crash and thunder of the negotiations is over, wiser heads will prevail and that over time, through negotiation, we will be able to remove this frankly ridiculous prohibition. Tim, you might want to use some more diplomatic language in relation to that.

Tim Courtney: We will be looking to provide guidance and help. It is not inconceivable that there could be facilitations and things that we can discuss with different member states in the EU to try to make the experience easier for musicians. I am sure that the group that has been set up by the Secretary of State for DCMS will look at all these options. I know that he is speaking to many different representatives from the

industry. Where there is a will, there is a way. Hopefully we can do something.

Baroness Neville-Rolfe: We do need to find a way, even if that means going back to the negotiating table, but thank you very much. We share concern about the problem, clearly.

Q48 **Lord Bruce of Bennachie:** You said at the outset, Minister, that you are looking at the TCA in comparison with the WTO, but I am sure you will recognise that most service businesses will be comparing the TCA with what membership of the EU brought them. Indeed, I suppose most of them would not have given much regard to WTO isolated rules because they hoped they would never be totally dependent on them.

The consequence is that we are hearing from many of our witnesses that they are addressing the problem by considering relocating some or all of their business from the UK to the EU. Obviously, large companies will already have operations in the EU and can simply shift people around, but small companies may have to make a more fundamental decision.

To what extent do you think that is likely to happen? May I say that it is not just a question of jobs being directly moved, but future jobs being created that would have been created in the UK now being created at locations in the EU in order to enable businesses that may be UK-based or UK-majority businesses to maximise their access to the market.

Lord Grimstone of Boscobel: I am very well aware of that. This is done, in a sense, through commercial decisions by individual businesses, so it is hard to give a generic view on it. I speak as someone who has had to learn the trade of a Minister over the last year, but I was a businessman operating in the services sector before then. Sometimes these moves do not mean that substantial economic activity is being located in another country. In some instances, it may involve setting up a subsidiary, a branch office, which may be very small, in certain countries in order to take advantage of liberalisations that might be available through those means. It is hard to give a definite answer.

Of course, the other side of the coin is that we want to encourage as many businesses as possible to set up in the UK.

Lord Bruce of Bennachie: That was my follow-up question.

Lord Grimstone of Boscobel: It would seem too trite to say that sometimes when one door closes, another door opens, but one of the reasons why we are negotiating, or we have negotiated, this huge network of free trade agreements around the world is to try to find compensating advantages.

I do see that in order to have the UK sitting at the centre of a global network of agreements with strong services chapters in them—if I may say so, I completely take and understand your point that the traditional free trade agreement, going back in history, was not constructed around services—the services chapter will be all important. We are completely seized on that point.

To the extent that we may lose some opportunities through obduracy or difficulties with individual member states of the European Union, let us try to replace them elsewhere. However, it will obviously be a commercial matter for individual firms to decide how they progress their business in different countries.

Q49 Lord Bruce of Bennachie: Accepting that, may I ask what action the Government might take, both to persuade companies to retain as many of their activities here as possible and to attract companies, from the EU specifically but also from the rest of the world, that will want to access what we are proud to offer as our extensive range of services, which they may find they can do more efficiently if they have a UK base? Is there a government unit or an active policy to persuade businesses to keep as much of their business here as possible and to attract businesses to locate at least subsidiaries in the UK from elsewhere in the EU?

Lord Grimstone of Boscobel: Of course, you could say that this is one of the core duties of the Department for International Trade, my department, working with the business department and the Cabinet Office. There are many, many advantages to businesses operating out of the UK, and businesses take these decisions in the round. In my experience, taking these decisions for one reason is always a mistake. You have to take a holistic view. You have to look at it in the round.

We will work flat out to encourage these businesses to keep as much of their activity here as possible. Nobody minds if they open up a letterbox in another country, but we want as much of the economic activity as possible to be retained in the UK, for quite straightforward reasons, and we want to attract as much additional economic activity into the UK as we possibly can.

Lord Bruce of Bennachie: I can only conclude by saying that there is obviously a lot of dynamic here. I agree with you, Minister, that we have lots of attractions here, and I would like to think that there are some EU-based businesses that will reverse the flow and see the benefits of coming here, just as much as our businesses may feel the need to locate within the EU. Thank you for your answers.

Lord Grimstone of Boscobel: I completely and thoroughly endorse that, Lord Bruce.

Q50 Viscount Trenchard: I would like to ask you to talk about the new opportunities that the Government have identified for the professional and business services sector coming after Brexit. Some of our witnesses have advised us that divergence for divergence's sake would be a mistake. Others have said things like, "Alignment for alignment's sake would equally be a mistake".

Of course, professional and business services depend heavily on financial services, and with the Financial Services Bill coming to the House of Lords at the present time it is a particularly apt moment to discuss this. Some people think, for example, that we should chuck out the whole of MiFID in order to maintain the City's position, and there are others who think that

to diverge to any significant extent is a very risky thing to do for jobs in the future.

Therefore, could you tell us what plans the Government have for regulatory divergence in this sector, and how and to what extent you have consulted with businesses in the sector on future opportunities?

Lord Grimstone of Boscobel: Thank you very much, Viscount Trenchard. We are in constant dialogue with businesses, as you can imagine, both before the agreement was negotiated and of course subsequently.

The great thing about businesses—as I know you know from your deep experience of these matters—is that they are very good at determining what is in their self-interest and what they need to do to take advantage of opportunities, so again it is very hard to give a generic answer to this because different businesses see this in different ways according to their individual business models and individual business establishments.

It is the job of government, and it is the job of me and our officials, to gather information in from as wide a range of businesses as we possibly can and then to work out where the United Kingdom's self-interest best lies in these matters. There will be some instances where we feel that the United Kingdom's interest best lies by some divergence from standards in the European Union or other countries. There will be other instances where we take the view that firm alignment is the best way, and it is a matter that we constantly touch on in the debates in our House on the Trade Bill.

There are other areas where we are proud of our enhanced standards. People come to the United Kingdom because of our enhanced standards and because we want to keep them and reinforce them. So I do not think there is one answer to this question in any way, other than a trite one, which I suspect would not go down well with committee members.

I frequently say, and I am happy to repeat it now, that it absolutely was not seen as an advantage of leaving the European Union that we should diminish our high standards of this country across a whole range of areas. These standards mark out the UK, and people come to the UK because of these standards. Customers trade with businesses in the UK because of these standards. Equally, if there is some nonsensical piece of bureaucracy that we can eliminate, which benefits UK businesses and does not strike at the heart of how we see ourselves as a nation, of course we would be foolish not to do that.

There is a job of work going through all of this. It has taken an awful lot of time to get to the point of having this agreement. I suspect that it will take a little time to get to the point of optimising the UK's positioning as we go forward.

Viscount Trenchard: Thank you, Minister, but have you actually at this point identified any specific new opportunities for the sector that might result from our freedom to diverge without dropping our high standards?

Lord Grimstone of Boscobel: I myself have not in relation to Europe, because it has not been my focus. There are aspects of the Japan free trade agreement, which we negotiated and signed before Christmas, such as in the digital area and the SME area, where there are clear advantages to UK businesses. We are already seeing a pick-up in activity between the UK and Japan in relation to that. It was very important in that agreement, for example, to make sure that SMEs can access these opportunities.

One thing that is very important to do now is to bring home to our businesses, particularly our small and medium-size businesses, what commercial advantages are available to them through this web of free trade agreements that we have negotiated. I always say that the purpose of a free trade agreement is not to put ink on a piece of paper at the end of it; it is the economic and commercial opportunities that flow from it to UK businesses afterwards.

That is what we are engaged in. That is what we are doing through the BROs, the business representative organisations. For example, Minister Stuart, the Exports Minister, and I had a specific meeting yesterday with five of the BROs about how they could help their members in relation to this, so it is a very important piece of work over the next few months.

Tim Courtney: To add to what the Minister was saying, there are opportunities to look afresh at pieces of regulation. The business department has been conducting a review of the recognition of overseas professional qualifications and the regulation of professions as we seek to replace the EU-derived system for the recognition of qualifications. That is one area that we are looking at at the moment, and we are speaking a great deal to businesses and to representatives of different sectors. I mention that, because I know the committee is interested in professional qualifications.

Viscount Trenchard: Thank you.

Q51 **Baroness Prashar:** Good morning, Minister. I want to talk a little bit about investments. What has been the impact of the agreement on investment in the UK, and what is the expected impact over the medium term?

Lord Grimstone of Boscobel: Thank you very much for that question, Baroness Prashar. The immediate reaction was a huge sigh of relief from investors around the world that the uncertainties over whether we were going to sign an agreement or not, and if so what kind of agreement, had finally been dispelled by an agreement being signed. I have absolutely no doubt that the uncertainty over the last few years had created a form of planning right, in a sense. It was not that investors had a huge preference for one outcome or the other. They just wanted to know what the outcome was so that they could construct their investment theses accordingly.

My primary responsibility in government is to be Minister for Investment. I am Minister for Investment across the trade department and the business department. I am also responsible for the new Office for Investment in 10 Downing Street that we have established, and I see 2021 and beyond as the year of investment for the UK.

If I may say so, and I feel a little bit evangelical about this, overseas investment is vital for the UK, and not just because of the financial flows but because of the jobs that are created by overseas investment; some 600,000 jobs have been in the last 10 years. That is because overseas invested companies are often more productive and have a greater productivity level than their British counterparts. They are more innovative than their British counterparts, and they export more than their British counterparts, so it is not just the financial flows. We get an uplift in all sorts of different areas, as well as the competition they provide, which spurs British companies, which is just important, on to higher things themselves.

We have set up the Office for Investment under the direct sponsorship of the Prime Minister, and it is providing a one-stop shop for some of the world's largest investors to access the UK. Frankly, if you are to open up a one-stop shop, there is no better sign to have hanging on the door than a large No. 10, because it allows you to mobilise the forces at the centre of government to attract it.

Also, through that unit, we are looking to remove barriers to investment wherever we can find them. The way that we are hoping to achieve that is by applying what I call the investor lens to the heart of our policy-making. When our policymakers make policies, it is very important that investability is at the heart of their thinking, and perhaps that has not always been the case in the past.

I look at the opportunities in life sciences, in net zero, in our tech sectors, in infrastructure and I am excited about the possibilities. I have become a bit of a travelling salesman on these matters, but perhaps I am expressing more enthusiasm than I should in front of an august committee such as this. I am genuinely enthusiastic about the possibilities going forward.

Baroness Prashar: I share your enthusiasm about the broader impact of investment, but what are you expecting in the medium term?

Lord Grimstone of Boscobel: More of it.

Baroness Prashar: Fine. Thank you.

Q52 **Lord Vaux of Harrowden:** Good morning, Minister. Many of our witnesses have emphasised the need for engagement with businesses on the institutional frameworks that are established under the TCA, such as the Specialised Committee on Services, Investment and Digital Trade. How are you intending to involve businesses in these frameworks, and how are you intending to ensure that the processes are transparent and

can be scrutinised by Parliament?

Lord Grimstone of Boscobel: Thank you very much for that question. I am a huge believer in transparency. I think it is transparency that encourages people to participate and to make sure that nothing is going on that any right-minded person would not think appropriate. Throughout my business life I have believed that integrity and transparency are the way you build good relationships and a good business. Therefore, we have to publicise this. This is a new world for businesses.

I suppose, looking at my calendar, that we are, what, five weeks into this, so we are at the beginning of a journey, but we clearly want maximum participation from UK businesses across a wide range of sectors in these committees. We have to draw the best possible advice that we can from the whole range of opinion in the United Kingdom. That does not just mean seeking advice close to my home. It means travelling across the UK. It means involving the regions. It means involving the metro mayors and the devolved Administrations in all this, because we have to open up the possibilities and we have to have as wide a participation as we can.

Perhaps Mr Courtney can give some more specific examples, just to help us on this.

Tim Courtney: Thank you, Minister. It is worth saying that the TCA establishes various governance mechanisms to ensure successful monitoring and implementation of the deal, including requirements for a Partnership Council to oversee the implementation of the deal as a whole.

Sub-committees on trade and on services, investment and digital trade will be included in that structure. We will use those governance structures, as I said, to monitor and review the impact on services trade, exchange information on what is working and what is not working, and promote best practice.

While details are yet to be sorted, I am very confident that engagement with businesses will be critical in trying to make sure that those committees and governance structures have the information they need to really understand whether this is working or not. We engaged with businesses before the negotiations and during them, and I am sure we will carry on doing so afterwards, too.

Lord Vaux of Harrowden: That is helpful, but what form does that engagement take, and are you actively involving professional bodies in the discussions?

Lord Grimstone of Boscobel: It depends of course on the nature of the negotiation but we reach out constantly and widely. A day does not go by where myself and my ministerial colleagues are not holding round tables with business on this. Some of these arrangements allow for the direct participation of businesses. Others are done on a Government to Government level. It would be the height of foolishness for us not to bring businesses into the heart of this, as we do with our trade advisory

groups with the Department for International Trade. We are not doing this for our own amusement. That is almost certainly the wrong word I have used there. We are doing it for the benefit of British businesses, so in a sense why would one not want to involve them to the greatest possible extent? They know more about this than we do.

Lord Vaux of Harrowden: What form do you see the parliamentary scrutiny of this taking?

Lord Grimstone of Boscobel: I am sure noble Lords on the committee know more about this than I do as a relatively new boy. Of course, in our own House the committee structure has been updated and modernised to reflect leaving the European Union. Committees in the other place are very active in relation to this. I am a great believer in parliamentary scrutiny. It is something that I have been debating at great length with our colleagues during the passage of the Trade Bill.

These committees, like this committee under the superb chairmanship of its Lord Chair, do a fantastic job in bringing this home. In this new world that we are in we are having to evolve and develop our scrutiny arrangements. The role of the committees is evolving and changing as one would want it to, and without reservation I am a great enthusiast for this. I believe that we get better government through scrutiny.

Lord Vaux of Harrowden: Thank you.

Q53 **Lord Davies of Stamford:** I would like to ask two questions, if I may. Minister, you have been saying that there is a difference among businesses and that not all businesses have definitively decided what opportunities there are for them in the new situation and how they should best exploit them.

I know that you and your department are monitoring the situation very carefully, so could you quantify a little the picture you are giving us this morning? How many jobs have been created in the professional services sector in this country, and how many have been created on the European continent over the last 10 years?

That will give us an idea as to whether we are winning or losing the competition in this respect. I then have a second question to ask you about intellectual property, if I may.

Lord Grimstone of Boscobel: On the first question, I do not have these figures at my fingertips, so if I may I will write to the committee with whatever information is available. Four weeks into this, the figures will not yet come through in any meaningful sense that allow us to monitor the impact of arrangements post 1 January. I will write to the committee with as much information as I can on the first question.

Q54 **Lord Davies of Stamford:** Thank you very much, Minister. On intellectual property, what impact will the TCA's provision on intellectual property have on trade and services with the EU? Will the Government seek to diverge from the EU's intellectual property regime and, if so, in what specific ways would they like the regime to be modified?

Lord Grimstone of Boscobel: Thank you very much for that question. I will make a few introductory remarks, and I will then bring in one of my officials who the committee has yet not heard from: Thomas Walkden, who is our expert on intellectual property.

Just a few introductory remarks from me. The TCA's intellectual property provision commits both the UK and the EU to provide high standards of protection for the enforcement of IP rights. They absolutely ensure that high standards are maintained across both territories. This includes registered IP rights such as patents, trademarks and designs, and unregistered rights such as copyright, trade secrets and unregistered designs.

Regarding our future framework, any future changes to the UK copyright framework, for example, will be considered as part of our usual domestic policy process, as justified by evidence. If ever we should wish to introduce our own measures, that would be a domestic matter, of course. It would not be subject to the TCA but something that we will take entirely within the interests of the United Kingdom and its businesses.

I will ask Mr Walkden to come in at this point, if I may, to give us some detail of how the negotiations went and his professional assessment of the outcome and the likely future direction of travel on this.

Thomas Walkden: Thank you, Minister. Good morning to the committee. I 100% agree with everything the Minister has said there. The first point I would make is that the UK framework has been developed over a long time, and in a lot of areas in conjunction with EU partners, so we share a lot of the same values in terms of the importance of getting that right balance in our IP framework.

We do think that where we have got to it broadly strikes the right balance between incentivising and rewarding innovation and creativity and protecting consumer interests and competition. This is definitely not an area where we have been waiting to leave the EU in order to make radical changes and, as the Minister says, any changes that come will be part of that normal domestic process and be subject to evidence.

On that point, one important area that I would flag at the moment, which will be subject to scrutiny over the next few months, is our IP exhaustion regime. It is a slightly techy area, but it is the extent to which IP rightsholders are able to control the parallel import of their IP-protected products into the UK from other countries. Currently, these IP-protected products can flow into the UK without rightsholder consent from anywhere in the European Economic Area, but the rightsholder has control of parallel imports from outside the EEA.

Previously we were part of a regional regime with a reciprocal agreement, of course, that facilitates the single market where goods flow in both directions. Now, of course, we are no longer part of the EEA, so those IP-protected goods can be prevented by the rightsholders from entering the EEA from the UK.

We need to decide on a long-term future regime, and this has an impact across a huge array of sectors. A very wide number of sectors are involved in the parallel import of IP-protected products of various kinds, and we will be consulting very shortly and looking for those sectors to advise us, to give us their evidence, and to help us to make a decision on that future UK regime.

That is one area, I suppose, where we will be looking at what Brexit means for us.

Lord Grimstone of Boscobel: I knew, Chair, that I would do well to have an expert alongside me when I answered some of these questions, so I thank Mr Walkden on that; he is a true expert on these matters.

Q55 **Lord McNally:** The Minister has obviously come well armed with advisers, and very sensibly too.

I want to turn now to our future in the Horizon programme. Witnesses to our inquiry have welcomed the UK's decision to associate with the EU's Horizon Europe programme. Given that the UK and the EU still need to finalise the details of UK participation in Horizon Europe, what are the Government's priorities in these negotiations? Perhaps you could explain the downsides of the associate status that we now have.

What are our priorities and plans for domestic research funding in addition to the Horizon programme? Do these align with the proposals in the research and development road map published in July 2020?

Finally, again we turn to the question of SMEs. As an associated country, the UK will not have access to Horizon Europe's SME funds. Are the Government planning to provide support for SMEs engaged in research?

Sorry, that is a long and three-pointed question, but I am sure you and your advisers will handle it.

Lord Grimstone of Boscobel: Thank you, Lord McNally. I will do my best to remember the points as I go through, and I am sure you will remind me if I forget anything.

Lord McNally: I will.

Lord Grimstone of Boscobel: It was extremely important to us to have access to the Horizon programme. It was one of our key negotiating objectives. It was not clear until we got to the end of the negotiations that we would be able to do it, so we were very pleased that we could.

The details of the participation have been substantively agreed, and we will associate to Horizon Europe once the EU has finalised the regulations for the programme. The protocol that sets out the detail of the programme which the UK will participate in will have to be adopted by the UK-EU joint Specialised Committee on Participation in Union Programmes. It is both the EU's and our firm intention to adopt the protocol at the earliest opportunity; we want UK entities to be able to participate in the opening calls. That is very important. It is of huge benefit to our R&D community.

As for our wider plans for R&D, I think our long-term objectives are clear. We absolutely want to invest in the science and research that will deliver economic growth and societal benefits across the UK—I stress across the UK—for decades to come, and of course to build the foundations for the new industries of tomorrow. We are building towards a target of increasing UK investment in R&D to 2.4% of GDP by 2027.

Coming back to one of the earlier questions, private investment is also key to this. Again, one of my personal objectives is to increase the amount of co-investment that we find alongside government investment in some of these R&D programmes. Obviously, it is very important to our universities. I am constantly struck in this role by the importance of place and by the importance that universities and our academic institutions have in anchoring investment in place. They develop ecosystems around them that are of huge benefit to large companies, to SMEs and so on.

I do not have specific information available to me on exactly what we are doing for SMEs. I might just ask Mr Courtney whether he does, and, if not, perhaps I could write to you about that subsequently, Lord McNally. Can I just turn to Mr Courtney to see whether he has anything at his fingertips?

Tim Courtney: Thank you, Minister. I see no reason why SMEs cannot participate in various projects under the Horizon programme in the same way as firms of any other size do. I know that there is a particular SME fund under Horizon Europe which we are not going to have access to as an associate country¹, but the UK of course has other funds available that could be used to support SMEs² because, as the Minister said, we know how important innovation and collaborative research is.

Q56 **Lord McNally:** If some specifics come to mind, please let us have a written response on that SME funding, if you could.

Just as a supplementary, Minister, we have already seen with touring musicians that there is a truth and consequence to being on the outside. I wonder if associate status will leave our research and academic communities, like the Bisto kids, sniffing gravy but not getting the full benefit of Horizon. If that is not a pessimistic view, how are you going to make sure that this associate status will give us the full benefits that we want?

Lord Grimstone of Boscobel: We must be of a similar generation, because I recognise your analogy.

Lord McNally: That is the advantage of being in the House of Lords. You

¹ The UK has chosen not to participate in the European Innovation Council Fund which provides equity funding and blended finance. However, UK entities will be eligible to participate in all other elements of the European Innovation Council, including grant funding and soft support.

² BEIS works closely with organisations like Innovate UK and the British Business Bank, which already provide support for research-intensive and innovative SMEs across numerous schemes.

talk to people who know what you are talking about.

Lord Grimstone of Boscobel: We will not hesitate to put programmes alongside the Horizon programme. We were preparing ourselves in case we were not able to access the Horizon programme, and we were looking at what the UK alternatives will be.

We will monitor this very closely, and if we find that the associate status of the Horizon programme is leaving us gaps in our R&D armoury and our funding of this in the UK, we will take steps to close those gaps by UK-specific programmes.

We should not see that accession to the Horizon programme in its associate status is the beginning and the end of this. We will just need to monitor this carefully, because, to position the UK for the future, R&D is probably one of the most important tasks that we have to do. We are living, perhaps without realising it, between the third, fourth or fifth industrial revolution.

I fully believe that one of the impacts of the dreadful pandemic is that the world will in no way return to the way it was before. Innovation and R&D will be absolutely key to that. At times of great change, as we are experiencing at the moment, those who innovate are those who succeed, so it will be absolutely vital to us to do this. If gaps emerge, I am sure that my ministerial colleague and Minister Solloway will be on to it. It is something that I will closely monitor, because getting R&D and innovation right is absolutely one of the ways we will attract investment and economic activity into this country.

Lord McNally: Thank you.

The Chair: Minister, we have a couple of supplementaries, if you do not mind spending a little bit of time on those. The first is from Lord Vaux and the second is from Lord Thomas.

Q57 **Lord Vaux of Harrowden:** Minister, I want to raise the question of data adequacy. I know that falls within DCMS, but it has potentially significant implications for the professional and business services sector, so I am sure you are keeping a close eye on it, at the very least. How likely do you think it is that we will get a positive data adequacy decision? What would be the implications for the sector if we do not, and what are you doing to help businesses to prepare for that eventuality?

Lord Grimstone of Boscobel: Thank you very much for that question. The only reason we did not conclude negotiations on data adequacy in no way related to any questions of principle or substance. It was purely that we ran out of time to do it. The negotiators agreed that we should put it on one side and come back to it within a period of six months to get it done.

It is absolutely clear to me that ensuring ongoing reciprocal free flow of data between the EU and the UK is in both parties' mutual interest. We

have already legislated to deem the EEA as adequate on a transitional basis to allow for free flow from the UK to the EEA.

The EU began its data adequacy assessments of the UK in 2020 but again, frankly, left insufficient time to ratify decisions before the end of the year, so we have agreed the time-limited bridging mechanism that will allow personal data to completely flow at the moment. We see no reason why these decisions should not be adopted within, let us say, four months from the beginning of this year. Let us set ourselves a target for that.

We hope and believe this process should be both technical and confirmatory, given that we have an existing data protection framework that is exactly the same as the EU, and obviously we have no intention to water that down. We think that we meet the essential equivalence test.

I raised this topic at the Professional and Business Services Council this morning. I said, and it was right for me to do so, that as a sensible precaution, in case something thwarts our best objectives, that, under the bridging mechanism, businesses and other organisations should consider putting alternative transfer mechanisms in place to safeguard any interruption in the free flows. I absolutely stress that I am not expecting that, but any responsible business looking at its risk register will want to know what its plan B is, because, as you say Lord Vaux, this is absolutely critical to professional business services. This data transfer underpins a lot of activities, at least in some firms in this sector.

I will ask Tim to give a bit of flavour as to how the negotiations are being conducted. We are on to it, and our fervent hope is that it will be concluded in the period that I mentioned. Tim, do you mind coming in and just adding a bit of colour on that?

Tim Courtney: Thank you. I do not really have a great deal to add, because, as the Minister rightly says, the legacy framework we have in the UK is based on EU legislation, so the EU's assessment of whether our UK framework meets its standards should surely come back with a positive result.

That said, we have been engaging with businesses and making them aware of the things they would need to do if, for any reason, we do not get the outcome we expect. The issue we have at the moment is simply due to the very large amount of work that both sides had to do to prepare for the end of the transition period and in a short amount of time, and not everything got done.

Lord Vaux of Harrowden: Thank you.

Q58 **Lord Thomas of Cwmgiedd:** Can I ask you just one question? Some perceive the longer-term risk that the dominance of UK interests in some international professional firms such as lawyers or accountants, which influences the choice of professional standards, the choice of law, the choice of jurisdiction and the like, will be replaced by the dominance of

EU interests that will influence similar choices in favour of the EU. If there is any such risk, what can the Government do to mitigate it, looking at it from a longer-term perspective?

Lord Grimstone of Boscobel: Let me give you my initial, snap reaction to that. It is not very likely that EU interest will somehow pool around some of these professional status matters, because, as I think we probably recognise, that professionalism and expertise are rested in long traditions of culture, history, the way some of the large partnerships operate, the transfer of information, the training.

The intellectual infrastructure in the UK in these matters is wonderful to behold. I am arguing wherever I can that one of our exports will be professionalism, and it is clearly absolutely right for us to position the UK as the heart of professionalism in the world in some of these sectors.

The good news in this whole question of professional standards is that truth often outs. It is the actuality of the quality of the professions that determines this, so I am pretty optimistic that the UK way of doing things will carry on. In legal services, the fact that we were able to negotiate with the EU the right of access of UK lawyers to practise in the EU demonstrated a straightforward recognition by the EU of its self-interest in having UK legal expertise available within the European Union. Let us not fool ourselves. It was not done as a politeness towards the UK. It was done because users of these services in the European Union would demand it, and I am sure we will see similar matters arising in respect of other professions.

Lord Thomas of Cwmgiedd: Thank you very much indeed, Lord Grimstone, for that very encouraging answer and for all your answers.

The Chair: Thank you very much, Lord Thomas. That concludes the questions. I picked up three points that you indicated you might be able to follow up and provide information on, if you had it. The first was about the dashboard or systematic infrastructure of national reservations. Lord Davies asked about the impact on jobs, and Lord McNally asked about SME funding, so any information that you have in those areas would be much appreciated.

The committee has also appreciated your emphasis on the importance of research and development to aid our economy, and the mutual co-operation that that leads to. The committee equally feels that, although Horizon is incredibly important, not being able to stay in Erasmus was unfortunate. Anything that you could do to think about reopening negotiations on that would go down extremely well in the House as a whole, not just with this committee.

Finally, I just want to thank you very much for your frankness. We have all appreciated the details of your answers. I do not know to what extent some of this will be wishful thinking, and a lot depends on the efforts of your department to make sure that it works. Certainly the impression that you have given is that you know all the issues and you will do your

best to assist professional and business services. After all, they are a success story in this country and we want to make sure that it continues. We are very grateful to you for coming along to the meeting. It has been an extremely interesting session and I thank you very much for your time.

Lord Grimstone of Boscobel: Can I thank you, Chair, and members of the committee, on behalf of my officials too, for the courtesy with which you extended the session? I am never sure whether I am allowed to say that I enjoyed a session, because it might imply that the questions were not far-reaching and incisive, but I thought they were great questions. I did enjoy it, and if we were able to be of help to the committee I am very pleased about that.

The Chair: I think we are more relaxed on that, so thank you. I am glad you enjoyed it. This public evidence session has now ended, and I now formally end the meeting. Thank you very much.