



International Agreements Committee

Corrected oral evidence: Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and UK-Australia Trade Negotiations

Wednesday 12 May 2021

4.05 pm

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Members present: Lord Goldsmith (The Chair); Lord Foster of Bath; Lord Gold; Lord Kerr of Kinlochard; Lord Lansley; Baroness Liddell of Coatdyke; Lord Morris of Aberavon; Lord Oates; Lord Robathan; The Earl of Sandwich; Lord Watts.

Evidence Session No. 2

Virtual Proceeding

Questions 13 - 23

Witnesses

I: Lucy Monks, Public Affairs Manager, Royal Institute of British Architects; Konrad Shek, Director of Policy Research, Advertising Association; Sabina Ciofu, Head of EU and Trade Policy, techUK.

Examination of witnesses

Lucy Monks, Konrad Shek and Sabina Ciofu.

Q13 **The Chair:** Good day. I am pleased to welcome everybody to this meeting of the International Agreements Committee. I particularly welcome our witnesses.

This session is being broadcast. A transcript will be taken and you will have an opportunity to review the transcript before it is finalised. Members may declare relevant interests prior to asking questions, although this will probably be quite short. We expect this session to take perhaps an hour.

I welcome Lucy Monks from the Royal Institute of British Architects, Konrad Shek, Director of Policy Research, from the Advertising Association, and Sabina Ciofu, head of EU and trade policy from techUK.

I will start the questions. What is the assessment of each of you of the CPTPP agreement, and what specific provisions would benefit the businesses you represent the most in the UK if the UK acceded to that agreement?

Lucy Monks: Thank you very much for inviting me to give evidence at this session. Exports in the international sector are really important to UK architecture. The UK is still one of the few net exporters of architectural services in the world, so we have a significant interest in seeing how trade agreements unfurl themselves as the UK enters into this next stage, and it is really great to talk to you about this.

On the general picture, about three-quarters of the barriers to trade for architecture relate to the movement of people and provisions relating to the recognition of professional qualifications. If you can imagine, our biggest focus would be on anything to do with reducing barriers on visas or on recognition agreements that could be provided for through the existing agreement. How much allowance there is for that and how successful that would be for architecture is up for question.

We had a bit of good progress on this a couple of hours ago, and this will be crucial to what happens next. The Government published the Professional Qualifications Bill, which is aimed at providing specifically our regulator arm with the powers it needs to enter into some of these agreements and move forward. Given that it was published only a couple of hours ago, we will have to go through the details, but we have to match up the direction the Government may be taking in the Bill with the measures in the CPTPP to ascertain how successful it will be for the architecture sector, just because there are a few bits still up in the air.

The Chair: That is interesting. We noted, as I am sure you did before you had the notification a couple of hours ago, that this was announced in the Queen's Speech. This committee has picked up on professional recognition several times, so we are looking forward to seeing how that progresses.

Konrad Shek, what is your assessment of CPTPP and what specific provisions would benefit the businesses you represent most if the UK does, in fact, accede to this agreement?

Konrad Shek: Thank you, and thank you very much for the invitation to give evidence today.

To set some context, advertising, like architecture, is a net exporter of advertising services. Advertising services have an unusual role, because they intersect with goods as well. Advertising is very important for bringing products and services to new markets. According to 2019 ONS figures, the UK exported £11 billion worth of advertising services to the rest of the world. It is a serious exporting market.

Our general assessment of the CPTPP is that we are very supportive. It gives the UK a higher profile within the Asia-Pacific region. The CPTPP will also benefit from UK membership.

A key benefit from the trade agreement is that it sets regional benchmarks for trade rules and locks in a certain level of liberalisation for the area. Another key benefit is the horizontal measures, which in theory should simplify market access for such a large region.

Our general interest for advertising is quite similar to other professional services. We are looking for flexible temporary movement arrangements, national treatment for pre and post-establishment cross-border services, strong digital provisions and access to public procurement.

Going back to the export numbers, I have calculated that in 2020—again, according to the latest ONS figures and so subject to revision—we exported a little over £360 million worth of advertising services to CPTPP countries. The largest of those markets were Japan, Canada, Australia and Singapore. To put that into perspective, we export just under £2 billion to Germany, France and Spain. This comes down to the international gravity model of trade, which you may be familiar with. There are physical constraints, given the geography, time zone, distance and culture, which all act as natural barriers.

The specific chapters are interesting: Chapter 2 on national treatment and market access for goods—this might be unusual for advertising—is really helpful for moving goods around, such as shipping out samples, advertising material or high-value equipment which supports the advertising sector. The digital chapter is quite an advance on most EU free trade agreements. The chapter on state-owned enterprises is potentially interesting, because it forces SOEs to be a bit more competitive through opening up their procurement.

At the end of the day, it is a very complex deal. There are a lot of annexes and side letters, which makes it hard to decode and analyse all the potential benefits and trade-offs. I am not entirely clear how the investor dispute mechanism will work. My reading is that there is no

official or formal arbitration court. It is created from a panel from CPTPP members.

On the overall economic impact, I do not know what more the CPTPP will give on top of bilateral deals. We already have a lot of deals with these countries through rollover agreements by virtue of our EU membership. That is something to bear that in mind. CPTPP feels very much like a geopolitical play. The main benefits of being part of the club is that it could influence trade in the Asia-Pacific region in the coming years.

The Chair: That is very helpful. You raise a number of topics, some of which we will come back to, such as digital provision, which Lord Watts will ask about in a few minutes, and the point you just made about what this provides over and above bilateral agreements. The committee is definitely interested in that, so thank you for that. Before we follow this up further, we go to Sabina Ciofu for her answer.

Sabina Ciofu: Thank you. It is great to be back. It is a very important year for UK trade policy in general. We will see agreements for the first time negotiated without deadlines, as trade agreements tend to be negotiated everywhere else in the world. We are really excited about the agenda for digital trade in particular, and I know that we will dig into those provisions a little later.

I echo the previous speakers in comparing the volume of trade and exports to CPTPP countries versus the EU. The figures are dwarfed by exports to the EU, so it is important to note that it is a significant market for exports for the tech sector, but it is very much a geopolitical strategic exercise of joining the club of countries that have some of the most advanced digital trade provisions in the world. That is the true value of this agreement.

We have seen tech exports to CPTPP countries growing year on year throughout the last six or seven years. There is definitely an increased interest from our members in the Indo-Pacific region and the CPTPP countries we traditionally have good relationships with.

It is a very exciting time. We have been broadly supportive of the UK joining CPTPP from the first conversations on this in 2018, and we think that this will create good opportunities for the UK tech sector.

The Chair: Great. Thank you. Mr Shek said a few moments ago that he thought that our joining would be valuable not only for the UK but for the existing CPTPP members. Do you share that view?

Sabina Ciofu: Yes. If the UK joins CPTPP, it will be the second largest economy in that group. That will be important for the group, because it will potentially create more expansion opportunities. It will be the first country out of the region to join. That will create conversations around the bloc further. Yes, the CPTPP group will also benefit from having the UK on board.

Q14 **Lord Lansley:** I am very grateful to our witnesses for joining us this

afternoon. I would like each of you to respond to this question. What market access opportunities would you hope to see as arising from our accession to the CPTPP? In what particular markets are you hoping to secure additional opportunities? Given the nature of the way the CPTPP works, with the market access schedule, which has a negative list and exceptions country by country, where at present are there exceptions to market access in services that might limit the benefits that would otherwise be available?

Lucy Monks: I did not give the vital statistics on architecture before. My position is slightly different from my colleagues' on the panel. The EU is not the biggest export market for architecture in the world; that is the Middle East. North America and Asia last year were the second and third highest and represented about a fifth each. At the bottom end is Australasia, which is quite a small export market for UK architecture. That is important to note because quite clearly, given the scope of the countries covered by CPTPP, a range of opportunities is available. Some of those markets are highly developed and ready for architecture and some are not. Some want to see a lot more UK architects getting involved in the work there and some have already developed domestic architecture sectors themselves, which we would be competing with.

That said, the biggest thing is the recognition of professional qualifications, which we talked about in the first part of the conversation. Since Brexit, and before actually, it has been the number one issue that our members have been lobbying the RIBA to lobby the Government on. That has not changed for one second since 2016. It is a long time since we started having those conversations with the Government; it is 2021 now.

We are hoping with the publication of today's Professional Qualifications Bill that the UK can start to understand and assess what it wants to see out of these agreements. The position we are in, and the reason why I am taking a step back from the conditions set within the CPTPP, is that our regulator has not come forward yet to say what we as a country want to see out of the professional qualifications that we recognise and our standards. They are likely to shift slightly. That will inform the kinds of conversations we want to have with individual states that are already involved with the CPTPP about how we could move forward.

As you are aware, the CPTPP already has a bit of an outline of a recognition agreement through APEC, which has a much higher barrier than architects were used to when the only mutual agreement we had was with the EU. That required a flat agreement for recognition. At the moment APEC requires at least seven years' experience after initial registration, which will push up the age group of people who have access to exporting into particular markets. We know from our own research at the RIBA that the people who tend to do the travelling around and exporting work tend to be younger.

I understand that there is a balance to be struck between ensuring that people are properly qualified to work on and sign off complicated projects

and making sure that they can access the market. For us, recognition of professional qualifications is the number one issue and we need to progress this area as a country if we accede. The RIBA and policymakers like you also need to have a significant conversation with government about where we strike that balance.

Lord Lansley: I should make sure that people are aware that my register of interests includes my chairmanship of the UK-Japan 21st Century Group, which is directly relevant to CPTPP.

I was interested in what you were saying. Do you see, not least with our recognition of professional qualifications legislation, an opportunity for us to develop the CPTPP provisions on recognition generally and take them beyond where they are now?

Lucy Monks: In the conversations we had from 2016 onwards, if you asked architects where they wanted to see recognition agreements outside the EU—obviously, the EU was the most important one that people were talking about at the time, because of the Brexit negotiations and everything else that was going on—it tended to be the US, Canada, Australia and New Zealand. Those were the conversations that the RIBA was having with the Department for International Trade and other government departments with an interest in or responsibility for the area.

Our understanding of the situation is that it is absolutely fine for the UK potentially to enter into agreements with those individual member states outside what the CPTPP provides for. But it is a question for the Department for International Trade and negotiators as to whether they want to use that potentially as an opportunity to restart those conversations more broadly on a more substantial level or if they want to stick to considering these conversations to be ongoing as a bilateral part of what we are trying to do in this area.

Lord Lansley: No, I get it. Of course, the structure of the CPTPP allows for side letters and special arrangements between countries.

Lucy Monks: Yes.

Lord Lansley: Sabina, would you be kind enough to talk about your specific hope on market access?

Sabina Ciofu: The CPTPP is a good agreement when it comes to market access provisions. In principle, UK services exports to CPTPP countries would benefit from legal protections guaranteeing market access and non-discriminatory treatment. They would be treated in the same way as local providers, which is all very good.

In terms of that negative list and the many lists and annexes of exemptions, as Lucy was saying, we are much more likely to get better provisions and market access in bilateral agreements than we are in an agreement with 11 other countries. That is purely the nature of the negotiating room and whether you are negotiating with one or 11. In the UK-Japan agreement, for example, we have seen progress even on the

EU-Japan agreement on those lists. We see some of those market access exemptions being dropped as we progress with those negotiations.

It is a perfectly good agreement. We are likely to see better market access provisions in our bilateral negotiations with CPTPP members. They have those within their own bilateral trade agreements. We have seen progressions from the CPTPP throughout the years between CPTPP members. That is probably the greatest value of joining CPTPP and that iteration process—moving along, seeing what works and what does not, how the industry responds and what sectors become interested and start exporting, being able to analyse that and growing together with our partners as we develop these provisions to better fit the times we live in.

Konrad Shek: To echo my previous comments, probably the greatest benefits are achieved through bilateral deals as opposed to the wider CPTPP agreement, because obviously we have to give that same benefit to all 11 members. Statements from the Japanese suggesting that there is little room to negotiate are understandable, in a sense, because the UK will probably be the first non-founding member to join this agreement. I suspect that there is a consideration about whether, as a new member, they give concessions and if that sets a precedent for new members joining. Once the UK does join, we will be in an advantageous position, because we can then use our membership as leverage for new members coming into the agreement.

Lord Lansley: Thank you. That is all very helpful.

Q15 **Lord Kerr of Kinlochard:** I am very struck by what Sabina said about probably having better luck on market access in bilateral agreements than in the CPTPP.

May I generalise that question? What benefits does joining the CPTPP offer us on top of what we have or could get in bilateral agreements? We have bilateral agreements with everybody except Brunei and Malaysia, and Australia and New Zealand, where we are negotiating. Let us take Australia. This committee is looking at the Australian negotiation now. What are we likely to get for services with Australia and what more are we likely to pick up through joining the CPTPP? I will start with Sabine, because I am picking up her point, really.

Sabina Ciofu: It is likely to be slightly the other way around. As I mentioned earlier, CPTPP is the baseline. Until maybe January 2020, there was CPTPP on one side and the US-Mexico-Canada agreement on the other. Until that point in time, those were the gold standards in digital trade provisions. We have in CPTPP things such as the cross-border flow of data, which is absolutely essential for the entire services sector regardless of whether it is tech or not. We had a ban on the forced localisation of data and a ban on the imposition of customs duties on electronic transmissions. They are the classic provisions of a good, solid digital trade chapter.

Since that point, we have had ongoing negotiations between the UK, Australia and New Zealand, and we will have a digital-only trade agreement starting with Singapore sometime in the next couple of months. A lot of innovations have happened, but all the innovators are CPTPP members. This is the core message of what we are all talking about: the value of being part of that club.

Since mid-2020, we have seen since two or three agreements that are really interesting and build on CPTPP provisions: the digital economy partnership agreement between New Zealand, Chile and Singapore; the digital economy agreement between Australia and Singapore; and, in a similar vein, the UK-Japan trade agreement with very similar provisions to the CPTPP and other modern trade agreements when it comes to digital trade. There, we are seeing innovations in regulatory co-operation on emerging technologies. We are looking at things that are coming down the line and how we work together on regulation.

We have seen in the UK-Japan agreement access to open government data, which is very important for a sector like ours because, for example, it gives access to Japanese public databases and the ability to deliver services pretty much readily on the Japanese market without having to set up shop there. We have seen a lot of pick-up in interest from our members, especially in the fintech and artificial intelligence areas, in the Japanese market from 1 January because of that deal.

We have seen co-operation on digital identity, which again is very important now as we look to reopen travel around the world and how to do that safely. Some of these innovators are working with each other to figure out ways to co-operate on making the systems interoperable.

The Australia-UK agreement is likely to be more advanced in its digital trade provisions than CPTPP. That is also because Australia and Singapore have their own digital-only agreement, which is probably the most advanced to date. It is a very interesting agreement, not only because it has expanded provisions but because it has a series of memoranda of understanding that accompany that agreement, so it allows the agreement to be a living document and move with technology. These memoranda of understanding include things like data innovation, artificial intelligence and co-operation on digital identity, which I mentioned. Given how fast technology is moving, that helps the trade agreements to keep pace.

We definitely think that the Australia-UK agreement is likely to be based on similar lines and will likely be a modern agreement when it comes to the digital trade, building on that CPTPP standard. That is the value of joining CPTPP: we are joining all these countries that are at the forefront of innovation when it comes to digital trade provisions in trade agreements.

Lord Kerr of Kinlochard: Now Konrad, a former colleague.

Konrad Shek: It is about the horizontal commitments that you can get for a wide region. It is a similar argument, if you think about it—why join the WTO if you can do bilateral FTAs? Everyone benefits if there is a common standard, a minimum benchmark and a minimum level of liberalisation.

In the CPTPP, as Sabina was saying, the digital provisions are much more advanced than the EU trade deals. We have already seen these types of provisions being inserted into the UK-Japan FTA. You can see the UK already trying to diverge towards a CPTPP digital framework.

It is very much a case of looking at future iterations. We may not necessarily see an immediate impact right now, but it is all about thinking about the future iterations. We have already seen countries like the US and China potentially showing interest in joining. South Korea and Taiwan have already shown interest in joining. As we have seen with the WTO, it goes through several rounds of negotiations to change these rules, and I would like to think that the UK will be right at the heart of that negotiation process.

That said, we should bear in mind that CPTPP is not the only game in town. RCEP is much more geared towards goods liberalisation as opposed to services. ASEAN is another kettle of fish. We can see that these are competing things. The danger is that the proliferation of different types of agreements could lead to increased transactional costs. This is because of the need to understand how to go from one regional agreement to another agreement, and also take into consideration your own bilateral agreements. There is that danger there. But the core benefit is very much looking towards the future and being part of that future iteration.

The Chair: Thank you very much for that. I am intrigued by what you just said about an increase in friction rather than more frictionless trade in a number of different agreements.

Q16 **Lord Lansley:** I have a quick question on SMEs. Do our witnesses have any particular points to make about the access and SME provisions? The CPTPP has an SME chapter and various intentions to support SMEs, and obviously SMEs are a substantial proportion of services sectors. Are you comfortable with this, or are you looking for some development of the SME provisions?

Sabina Ciofu: SME chapters in trade agreements are important. They are also the easiest ever to agree. Everyone tends to agree that we need to support our SMEs to trade more. That also means that they do not change the world as trade agreement chapters.

What needs to come out of that is the practical help and advice that our Department for International Trade and various ministries of trade around the world are offering to the SMEs in the various sectors in those countries so that they can be aware of opportunities in those markets, have first contact with those markets and understand where the opportunities may lie for their specific sector.

DIT has been doing an exceptional job over the last few years of building that capacity up. We have seen trade missions happening. We have seen a digital trade network happening for the Asia-Pacific. We have seen all these opportunities coming the way of our smaller members and our smaller technology companies, which allows them to see what the markets may be about and to understand where the opportunities may lie and how to go about setting up business in another country, which may be confusing, especially if it is half way around the world.

SME chapters are great and are generally easy to agree. They tend to commit parties to translating trade agreements in easy language on their websites. They need to be paired with export support and practical advice for companies.

This is a really important sector. We are famous for our SMEs underutilising our trade agreements. There is a lot of work to be done as industry buddies and as government to make sure that we share that increase.

The Chair: I am glad you got that in. That is important.

Q17 **Lord Watts:** Konrad and Sabina have dealt with most of the things I was going to ask about, but I will perhaps just extend the theme by asking which digital trade provisions in CPTPP will be most useful to the organisations you represent.

How does the CPTPP provision compare to recent agreements? Sabina touched on the Australia, Singapore, New Zealand and Chile agreements. What areas in those two last agreements should the British Government pursue in the most active way we can that will give the most benefits to the UK?

Sabina Ciofu: DEPA and DEA have expanded the regulatory co-operation aspect of digital trade. We have seen signs of it in CPTPP. Provisions on artificial intelligence and cybersecurity are already in CPTPP, asking parties to work together and inform each other when coming up with new regulations in that space.

New Zealand, Australia and Singapore in those two digital trade agreements last year have gone a bit further. They have provisions on regulatory co-operation and digital ID, which I talked about earlier. They have provisions on a safe and secure online environment. That does not take away from either New Zealand or Australia the power to regulate, but it asks the countries to put their regulators in touch with each other and to talk as each develops legislation.

There is a risk of creating what we call a "splinternet" in which everyone comes up with their own laws for the internet economy. Those are the biggest barriers for digital trade behind the border. The more regulatory co-operation we can have with our likeminded partners, the better. That is where we see the most innovation in these more modern trade agreements.

The Chair: Did you call that a “splinternet”?

Sabina Ciofu: I did.

The Chair: I have never heard that expression before.

Q18 **The Earl of Sandwich:** You have all been very positive but fair so far when describing the advantages in the agreement, but what is the downside for intellectual property? Witnesses at the end of last year said that the withdrawal of the US had a very bad effect on IP. What do you make of that?

Konrad Shek: IP is not a particularly huge area of concern for the advertising industry, partly because when agencies create creative assets they normally hand the IP and the copyright over to the advertiser or the brand itself. Apart from the general point about signing up to international terms—that is our general position.

The withdrawal of the US is an interesting debate. I am not an expert on it, but one observation I would make is that international agreements all point to author rights of 50 years. That is the international standard. The US was pushing for 70. Some of the provisions in the CPTPP have been suspended, which in fact allowed the signing of the CPTPP because they were major stumbling blocks. We have a trade continuity deal already with Canada, which has a 50-year limit, and we are looking to negotiate with New Zealand a similar 50 years. The Vietnam continuity deal also stipulates 50 years. It is quite a complex debate.

Lucy Monks: I echo Konrad’s remarks. It is not the highest priority for architecture because of the way many of the projects unfurl in different countries. If we asked members, they would be more concerned about the general rule of law and access to justice issues if there were problems between the architect and the client or the architect and the practice they are working with on the ground. But it does not upset the architecture sector in the way it may affect those relating to copyright or trade.

The Earl of Sandwich: I declare my interest. I have a niece who is an architect in Indonesia, which has not yet joined the CPTPP.

Q19 **Lord Foster of Bath:** I will continue on from the Earl of Sandwich’s questions about the downsides and the “splinternet” issues. Sabina, as we have had this conversation in part already, do you foresee any of the CPTPP provisions conflicting either with our own UK laws and practices on the one hand—a good example, from the Queen’s Speech yesterday, might be the online safety Bill, which may well be contrary to the safe harbour provisions within CPTPP—or do you see conflicts with our trade with the EU, which will continue to be very important to us?

We have already heard other witnesses concerned about patent law and how CPTPP rules are incompatible with our continuing to be part of the European Patent Office, and concerns about how the EU will regard us having joined CPTPP, with its data flow rules with a number of countries that do not have data adequacy agreements with the European Union.

Should we be particularly concerned about those conflicts, or are you not that worried?

Sabina Ciofu: It is an important conversation, because we often talk about data flows as in some kind of competition between the EU and the rest of the world. CPTPP has an exemption covering legitimate public policy objectives. That covers a lot of the domestic regulations that you have been touching upon, whether it is the online safety Bill or international data transfers. We are still waiting to see how the national data strategy will regulate UK international data transfers after Brexit.

It is important to note that general exemption. A number of countries benefit from it. If they need to legislate for a legitimate public policy objective, every party of the CPTPP is free to do that.

When it comes to data transfer, GDPR is covered by this exemption. Technically, you can do your data protection laws the way you want and then have an exemption under the CPTPP for your personal international data transfers. That is technically covered by the CPTPP.

Another thing to consider is that both Japan and New Zealand have adequacy decisions from the European Union and are members of the CPTPP. Canada has a partial adequacy agreement and is part of the CPTPP. We are about to get our own adequacy decision, hopefully by the deadline.

Lord Foster of Bath: Do you know something we do not?

Sabina Ciofu: I do not have that information, but I assume that we will have a European Parliament plenary vote in favour of that adequacy decision regardless of the slight bump in the road today.

Generally, because of this CPTPP exemption, all these concerns and all these conversations are covered. Our ability to legislate domestically on online harms and on data flows is not hampered by accession to CPTPP, and neither is the EU adequacy, because, as we have seen, a number of CPTPP members have EU adequacy and are part of this agreement as well.

Konrad Shek: Advertising services are very heavy users of data, so data protection and digital clauses are of particular interest. The CPTPP marks a departure from the EU way of doing FTAs because, in the EU and according to the European Convention on Human Rights, which the UK is a signatory to, privacy is a fundamental right. Is the principle here — privacy is a tradeable commodity? The CPTPP mentions personal information protection, and so there is entanglement of data privacy with trade aspects there.

There is another question, which I tried to challenge the DIT on a bit more, but did not necessarily get a satisfactory response, is the issue about the UK's own adequacy framework. Article 14.8 looks at personal information protection. If we think about data adequacy and how it works, it is very much a carrot-and-stick approach: "This is the ideal we

want you to achieve, because we're looking for regulatory equivalence with an equivalent outcome as opposed to the same laws and legislation". Protection is afforded to citizens in the UK, and we would expect to have a similar type of protection if that data were also being held in that country.

Some of the language talks about taking different legal approaches and protecting personal information and about how each party should encourage the development of mechanisms to promote compatibility between these different regimes. To my mind, that is a softening of the language and gives a lot of room to manoeuvre. Is the UK data adequacy mechanism largely redundant? If we are giving that much room to manoeuvre and are saying, "It's okay. You have different rules and we have different rules. We'll figure out a way to come in between"—that is a large question in my mind.

The UK would also have its own public policy objectives but, likewise, other countries can also take that approach. The aspect about the data localisation is interesting. At face value, what CPTPP says is pretty good and is quite standard—there is no requirement for data localisation. But my understanding from reading law blogs that talk about Vietnam's laws is that there are certain criteria that mean that you have to localise your data. If you are dealing with a Vietnamese citizen's data or if you are using social media, you need to localise it. There is a weird dynamic going on there. I do not think that it necessarily gives the full protections that we like to think it does. It is very ambitious, but my assessment is that it is not as ambitious as the USMCA, which uses a lot tighter language when saying what is and is not allowed. There is a lot of room for manoeuvre and interpretation.

Article 14.11 talks about cross-border of information by electronic means and says that, "Each party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of the covered person". That goes against the GDPR, which has a number of derogations that allow, in the absence of data adequacy, standard contractual clauses or binding corporate rules to allow that information to be transferred to a third country. There is a potential conflict. You could say that there is a legitimate public policy objective to say that we need these SCCs or BCRs in place before that data goes anywhere, but it is not clear when looking at this at face value. It requires clarification.

Lord Foster of Bath: Konrad, could you provide the committee with more details of your thinking, which has been enormously helpful? I am grateful. Am I not correct in believing that one of the conditions under GDPR would require the consent of the initial person whose data we are referring to anyway?

Konrad Shek: Consent is one of the main derogations, but it is not the only one. You can use legitimate interests. There are a number of derogations there. It is quite complex.

Lord Foster of Bath: Indeed.

Konrad Shek: I am not clear whether the Government—they have never said clearly—would issue data adequacy to CPTPP as a grouping or continue on an individual country basis. Also, if there is a data-sharing agreement between that country and others within CPTPP, does that allow for potential backdoor access and the transfer of data across there? I have these questions in my mind and I am not satisfied that I know the answers.

Lucy Monks: Konrad and Sabina have both mentioned small and medium practices, particularly the kinds of behaviours and businesses we are supporting. At the moment, nothing within the EU TCA is special to architects. There are no higher allowances that we are worried could not be carried through to the CPTPP, depending on what happens with the recognition of professional qualifications Bill and the surrounding provisions.

My main concern is that, as I flagged earlier, Europe is not the biggest market for UK architecture—that is further afield—but it is a very important market for architecture, because it is very much more accessible for small and medium practices interested in exporting than the countries covered by the CPTPP. The net result is that many UK practices have set up their own businesses in those regions and work and operate with locally based architects and other businesses to provide services into those markets. That is how they manage to overcome the barriers that exist at the moment.

Could significant diversion or splintering between the EU agreements and whatever comes up through the next stage of the TCA and the CPTPP change any of that behaviour to the point where the people we want to get exporting into those markets would feel comfortable doing so? Essentially, the divergence and the number of different regulations that they had to get their heads round would be so significant that it would not necessarily be worth the cost or risk of entering into those new markets.

To take it back to a fundamental point, who are we trying to help here? Are we trying to help the people who are already doing things or the people who could be doing things in the future? That is our bigger concern.

The Chair: Is it either/or?

Lucy Monks: It does not have to be either/or. The point I am trying to make is that, if there is acceptance of a differing set of conditions opening up between what the UK negotiates with the EU and what it negotiates as part of the CPTPP, we will not necessarily flatten the barriers to help the people who would consider exporting to regions that are further afield. We would not necessarily be beneficiaries, because the deck is already stacked for large practices anyway.

Q20 **Baroness Liddell of Coatdyke:** We have heard a few times this afternoon about how the UK could shape the CPTPP in the longer term, but I am having some difficulty with this, not least because there is a feeling that we will not be able to get change in the rules as part of the accession process. Indeed, techUK's written evidence to us says that the UK influencing the rules going on would be a great idea. I am intrigued as to how this could happen. We have heard that we would get better access from bilateral arrangements. We need to give all benefits to all members. Non-founding members are not the only game in town. That has been part of the discussions. How will you pull this off and get the UK to influence the CPTPP going forward?

Lucy Monks: I agree with a point that Konrad made earlier: that it is helpful in the economic power access that it provides, in the potential for it to evolve over the medium to long term, and in the opportunities that might progress. In that instance, it might be better to be part of that conversation rather than outside it. It is quite right to say that lots of opportunities could, should and have been pursued bilaterally with many of the members.

Baroness Liddell of Coatdyke: Sabina, given that it is in the written submission from techUK that we will influence things going forward, I am interested in a short summary of how you think we can do this.

Sabina Ciofu: Thank you for the question. Yes, there is value in being part of the club, even if you have more advanced agreements with Australia, New Zealand and Japan already. There is value in being part of that iteration and part of that club. These countries are at the forefront of innovation when it comes to digital trade, so this is the club you want to be part of.

As we look at the UK's weight in this agreement, if it does join it will be a big country, it will be a European country, it will be outside the region, and it will have a different angle in the conversation. We are likely to see other countries wanting to join if this is a successful process. The UK being part of this particular club as a large economy will give weight to the club in areas around the world.

It is also valuable from the point of view of the WTO e-commerce negotiations that are going on in Geneva. Almost 90 countries are now negotiating a deal on digital trade. Being part of the club that leads this conversation between the liberal economies within that larger group—and with an understanding of the European Union, having just come out of it—gives the UK a particularly valuable geopolitical place in these larger global conversations, in understanding the EU, being part of the CPTPP, and negotiating with the UK. That puts it in a pretty important strategic position for those conversations.

Konrad Shek: I just reiterate the point that we may not necessarily get huge benefits initially. It is all about the future iterations, in the same way in which the WTO operates—it has gone through several rounds of

negotiations. It is always true that the nature of trade changes. It is important to adapt those rules to meet current needs.

Going back to the original point of TPP, the forerunner of CPTPP, the Obama Administration wanted to create a set of rules that would, in effect, coerce China to conform. By creating this club, the ones outside the club who want to join have to converge with these rules. That is the benefit, to my mind.

Q21 Lord Gold: Picking up on Sabina's point about joining the club, I am all for that, but I am not quite sure how joining this club helps us with mutual recognition of professional qualifications and temporary movement of skilled professional staff. As I understand it, we have to agree things separately with each country. The CPTPP may encourage this to happen, but in practice will it make any difference? Lucy, I think this is in your court.

Lucy Monks: Yes, I agree. Entering bilateral agreements is the direction that I think we would be going in. As has been said, generally it is better to be part of the broader conversations that are going on. On recognition of professional qualifications, we hope and expect bilateral discussions to be the way forward, and on access and movement of people.

The Chair: As you understand it, is that what the Professional Qualifications Bill is also based on?

Lucy Monks: I believe the Professional Qualifications Bill is based on the idea of bilateral agreements, but you could have a bilateral agreement, I guess, if you were re-entering an agreement with the EU. Yes, it would be bilateral.

Q22 Lord Morris of Aberavon: My question is to Lucy Monks. Referring in particular to the trade negotiations with Australia, what would you like to see in the provision for mutual recognition of professional qualifications and labour mobility?

Lucy Monks: With Australia in particular, this is interesting and good for us. Australia, as I said before, is not one of our big exporting markets, but there are two quite significant benefits to having a good agreement there. One is access to the young talent and students who might otherwise be put off from studying here, because a lack of agreement means that their qualification would not be recognised if they went back home or to another country. That is of big importance to our education sector.

There is also a real opportunity to get involved with the infrastructure development happening in Australia. A number of UK practices are already doing that and we want to build that up. The practices working in Australia have spoken considerably about the delays and impacts of the lack of recognition agreements and visa issues when providing services out to those areas.

In particular in relation to a recognition agreement on professional qualifications with Australia, the general direction taken by our regulator, the ARB, is that it wants to have the same framework agreement potentially for Australia, the EU, the US, New Zealand or wherever the UK looks to strike an agreement, which we hope would be predicated on balancing the need to make sure people are professionally qualified and able to deliver buildings to a professional standard with not holding up or creating too much of a barrier to getting people into the UK or elsewhere. In some countries, including Australia, at the moment you also need quite a number of hours of additional professional practice before you are allowed to be recognised by their regulator, which is a real barrier. It is difficult to get UK architects practising over there. We want a reduction of barriers to a standard point at which balance is achieved.

The Chair: I ought to declare as a partner in an international law firm that this area is of significance and economic importance to us.

Q23 **Lord Oates:** Lucy, RIBA has promoted some ambitious environmental and climate targets for the industry. Are there provisions that would help to facilitate architectural services that specialise in sustainability and environmental services, such as designing green buildings or infrastructure?

Lucy Monks: This is a huge one for us and a huge one for the profession, especially in the countries that are involved in the CPTPP. There is a real opportunity for the UK. Our biggest focus is changing the definition of environmental services at the WTO level to include services such as architecture, because that is missing at the moment and we think that it would be really helpful to understanding exactly how design and architecture fit into creating more sustainable and greener buildings across the globe.

We want to see the promotion of standards. Another benefit of being in the room with other countries is that we want to promote UK standards for the environment. UK standards such as passive houses are the gold standard globally and an area in which UK businesses and UK practices are well accustomed to delivering in. That could be a good trade opportunity for us as well.

This is about changing the WTO definition and about encouraging the use of UK standards through our soft power and relationships.

The Chair: Thank you, Lucy. Thank you, Sabina. Thank you, Konrad. That has been enormously helpful. We have covered a lot of territory in a short amount of time with your great assistance. We do not promise that we will not call on you again. Thank you very much for helping us on this occasion. This concludes the public session.