Select Committee on the European Union

Internal Market Sub-Committee

Corrected oral evidence: Brexit: Future trade between the UK and the EU

Thursday 27 October 2016

10.10 am

[Watch the meeting]

Members present: Lord Whitty (The Chairman); Lord Aberdare; Lord Balfe; Baroness Donaghy; Lord German; Lord Green of Hurstpierpoint; Lord Liddle; Baroness Noakes; Baroness Randerson; Lord Rees of Ludlow.

Evidence Session No. 3 Heard in Public Questions 20 - 31

Witnesses

I: Sally Jones, Sally Jones, Director of International Trade Policy and Global Brexit Insight Lead, Deloitte LLP (and representing the Professional and Business Services Council); Ian Harris, Director, Z/Yen Group Limited; Mickaël Laurans, Head of Brussels Office, the Law Society; James Kenny, Head of Global Affairs, Arup.

Examination of witnesses

Sally Jones, Ian Harris, Mickaël Laurans and James Kenny.

Q20 **The Chairman:** Good morning. Welcome. Thank you all very much for joining us this morning and thank you for the written evidence you have already supplied. We are beginning to look at the trade in services. Clearly, you represent different forms of service within the professional and business services sector, and some of the issues you may wish to raise or register with us will be very esoteric to your sector. When we come to the questions, please do not feel you are all obliged to answer every question. I should point out this is recorded and there will be a transcript, so you are on record for this session.

First of all, could each of you provide us with a summary of the main ways in which you trade your services and the how the professional and business services sector is traded as a whole? Perhaps, Ms Jones, you could start.

Sally Jones: Certainly. I would be delighted. Thank you for allowing us this opportunity to give our evidence. I am representing the Professional and Business Services Council here, which cuts across the professional and business services sector. I will leave it to my colleagues to speak specifically about their businesses and their subsectors.

The reality is that we trade in a number of different ways. You may be familiar with things such as remote provision, whereby we provide services by electronic means or otherwise. Sometimes customers come to the UK from overseas, sometimes we have member firms or even subsidiaries in local jurisdictions through which services are provided, and sometimes, perhaps most frequently, we send staff overseas, when that is required, to provide the best service we can to our clients. The UK is a leading economy and at the cutting edge of innovation in many areas, so we export a great deal, even when local firms associated with our companies could in theory provide the services instead. Oftentimes they need our expertise as well.

The Chairman: Thank you very much. Perhaps the rest of you could identify the issues in your particular sectors.

James Kenny: I am James Kenny from Arup, which is a design engineering firm working globally from China, the Middle East and Latin America. Lots of our services are provided on the ground by way of international global knowledge networks. Obviously, some of those skills can exist in centres of excellence, whether it be the UK, Milan or wherever. Using those skills we can deliver projects around the world from the UK. As it stands, between 6% to 8% of our UK workload is exported, to use the term, and I think it is fair to say that a lot of the exports do not appear in the internal accounts because it is people moving back and forth across to global projects.

Mickaël Laurans: My name is Mickaël Laurens. I represent the Law Society of England and Wales in talking about the UK legal services sector. I would concur with what Sally has said. There are number of ways in which legal services can be provided. We have a figure for export for 2015 that was provided by the ONS: £3.6 billion in the export of legal services. A commercial and physical presence, with the ability to open offices in other countries and to send solicitors there, is crucial for the sector.

The Chairman: Thank you all very much.

Ian Harris: My name is Ian Harris. I am from a small think-tank research company called the Z/Yen Group. I would like to point out the interconnectedness of all the different disciplines in professional and business services and, indeed, the interconnectedness of professional and business services and other sectors. We do most of our research work globally, very often in collaboration with firms of accountants, lawyers and other types of professional firms. I do not believe that we can look at these practices as separate things; they are all interconnected. Economically, they are also interconnected. In some of my answers to your questions I might mention passporting, and you might think, "Hold on, we asked you not to think about financial services", but we cannot not think about financial services; it is a huge chunk of the professional and business services that we deploy.

Economically, I see Brexit potentially having direct and indirect impacts on our sector: directly, obviously, if certain things change and we cannot do our work the way we used to do our work, but also indirectly if the changes have a significant effect on the economy. My background is in the management consulting profession. I have been through three recessions now, and in each of those recessions, when we had a small recession in the economy, the management consultancy profession dropped in numbers by maybe 25% or 30%. The biggest competitor to a lot of the services that that sector provides is apathy or sitting on your hands waiting to see what is going to happen before you implement deals or new ideas, and that sort of thing. I see that side of it as being fundamentally important.

I was asked to represent the SME sector, and despite the fact I have been around for so many years I do not feel I can represent something as broad as that without help. We are a research company and we have a lot of people on our database. I shouted out to about 2,000 on our database, and 300 people have either written back to me or picked up the telephone in the last few weeks to make points to me directly. One of those people is the CEO of the Managing Partners' Forum. He did a flash survey of 1,500 managing partners of professional firms—firms of accountants, lawyers, management consultants, that sort of thing—and in two days, in half-term week, he had 164 responses. So when I answer your questions this is not just one small firm's opinion; I am representing the views of hundreds of people who bothered to get back to me with their thoughts on these questions.

The Chairman: That is very helpful. Thank you very much for triggering that rather large network.

Q21 **Lord Green of Hurstpierpoint:** Perhaps I could pose the question, which starts to open up the issues about Britain's membership or non-membership of the Single Market. The services Directive guarantees freedom of establishment, but its record in eliminating cross-border non-tariff barriers is much patchier. On the other hand, the Professional and Business Services Council has told us in written evidence that the EU is still the most integrated market in the world for services not traded in a single state. Can you please from your perspectives tell us which aspects of the real existing Single Market in the EU—if I can use a phrase borrowed from the former East Germany—benefits the activities of either your firms directly or your network, as you have described? How does that compare with the ability to access the professional and business services market in, for example, the United States?

Sally Jones: Shall I pick up with the cross-cutting view?

The Chairman: Before you reply, I have been told that technologically we are a bit impaired today. The microphones are definitely working but the speakers are not. Could everybody please speak up?

Sally Jones: We will do our very best for you. Taking a cross-cutting view, in many ways professional and business services should have no barriers to entry. At heart, all we are people with knowledge that we bring together for our clients. The reality is that there are barriers to us being able to trade, and there are four things that tend to cut across all professional and business services firms. I am sure my colleagues will be able to give you more information.

The first one that is vital to us is being able to put the right people in the right place at the right time on the right clients. If we cannot do that, we cannot provide the services that we need to. The free movement of persons has been absolutely key for us to do that. It has two aspects: there is the ability to service short-term projects, and there is the ability to put long-term—two, three and five-year—secondments in place to build our businesses and overseas firms.

There is also another aspect, which is the attractiveness or otherwise of the UK as a place to do business. For example, around one-third of all global advertising is written out of Soho. It could be written out of anywhere. People come to Soho because it has critical mass for the creative sector—for advertising and marketing—but there is nothing to keep it there intrinsically other than the critical mass that is there. People from the creative sectors are already looking to Berlin in particular as a great city to live and work. We need to be cognisant of the fact that it is not as simple as visas and quotas; it is about the overall environment.

Moving on from the free movement of persons, the next thing that is critical to us is that we have to be able to move data cross-border. If we have multinational clients we need to be able to ensure that we can send emails to and fro freely in a way that guarantees individual privacy but that nevertheless creates a transparent data environment so that our knowledge can be passed to the places it needs to.

The next thing is regulation. If you look across the four of us, I represent accountancy, because I work for Deloitte as well as the cross-cutting sector, but Mickaël and I both come from very heavily regulated sectors. It is right and proper that they should be regulated, but it is also important that we can provide our services cross-border without fear that our regulators will not be recognised as appropriate. At the moment, the Financial Reporting Council is the main regulator for the accountancy and auditing profession, and it is recognised as such across Europe. If it were not so recognised it would be far harder for us to be able to do cross-border work.

The final thing, which again is much more relevant to Mickaël and me, is the recognition of professional qualifications. That is far harder to determine, because in our regulated professions we are all regulated through professional qualifications and membership of professional bodies. They are set up in local member firms and they can only, almost by definition, regulate in respect of their local rules and laws. Therefore, it is far harder for those professional qualifications, even though they are recognised in theory, to be treated in practice as truly international.

The Chairman: Thank you very much. That is a good start. Who would like to go next?

Mickaël Laurans: I will, if I may, on legal services. The Single Market in legal services is a reality; it exists. Beyond the framework services Directive, which you mentioned, and the Professional Qualifications Directive, which Sally mentioned, we have two specific EU lawyers Directives which have worked extremely well, which enable you to provide temporary services or to establish in another Member State under your home title—as UK solicitors, as UK law firms. We have 36 of the top 50 UK law firms with offices in 25 of the 27 EU Member States, and we have qualified solicitors in 24 of the 27 EU Member States. It is a uniform set of rights and obligations, and with the prospect of exiting the EU you revert back to 27 different models of regulation, some of them very generous to foreign lawyers, some of them less so. Some do not have foreign lawyers' consultant status, so that would mean not being able to operate in that Member State. Some of them do not allow third-country lawyers to partner, employ or be employed with local lawyers, which would impact on the structure of how law firms operate. It is a very significant issue for the legal services sector and it is certainly one of the issues which the Law Society for England and Wales has put to the UK Government—to seek to keep access to the EU lawyers' Directives.

Another important aspect is legal advice on the Single Market itself. There is a significant and successful practice area for legal services, which is on EU competition and regulatory work, which we would run the risk of losing, both in the legal privilege we have in Commission investigations and the right of audience in front of the European Court of Justice in Luxembourg. The statutes of the court limit that to someone with a title from the EU or the European Economic Area. To give you an example, at the moment we have a big competition and corporate taxation issue in Brussels, Apple Ireland versus the Commission. It is an Anglo-German law firm leading on the advice, with an English barristers' chamber leading as well. In 10 years' time, would that still be the case?

James Kenny: In practice, trade in services for construction and design engineering is slightly varied depending on the specialism under consideration. For example, a planning expert would be a planning expert who would be able to design great cities, towns and urban environments. However, in practice, in the detail, it becomes quite tricky because you have to understand the local context and the local laws, so there is a degree of stickiness. The laws of physics do not change for structural engineers so they move around slightly more freely. Again, it comes back to freedom of movement of people; being able to move the best talent back and forth within the European Union is very helpful for our business. Of course, mutual recognition of professional qualifications is not an issue at the moment because what tends to happen is the member will sign up to the national register. Of course, we have a degree of uncertainty as to whether that might still be the case once we leave the European Union. In the case of lawyers we see it might be an issue, so with professional engineers and designers it may also be an issue.

Ian Harris: My Lord Chairman, a couple of points picking up on what my colleagues have said, because I think their answers are fairly comprehensive. I would particularly like to pick up on Sally's point about access to skills and talent being a key point, mainly because that was the biggest message I had from our community of people and from the Managing Partners' Forum. If I could do a tag cloud of the words that came back to me, access to skills and talent would be the biggest words on that tag cloud, and that seems to be their biggest concern. That clearly leads us down the line of thinking that free movement of people is important. I would support what Sally says about people having a feeling that it is an environment in which they want to come and live and work, not just a regulatory matter or a matter of whether we agree treaties to permit the free movement of people or not.

The other thing I would say is I think this is a potentially more significant problem for smaller firms than it is for larger firms. You have some smaller firms where this does not affect them at all because of the area in which they are working—either the area of work or the geographical area is not a problem for them at all. But the smaller firms that say this is an issue for them, some of them say it is an existential issue for them as to whether they will be able to continue to do the sort of work they are doing at the moment. I would place a little more binary emphasis, if you will, on the effect it will have on some SME firms.

Q22 **The Chairman:** Could I add a quick follow-up on that? One, would the same availability of skills and the same facility of doing business arise if we were, such as Norway, a member of the EEA? Secondly, could you rather more clearly define the crucial difference between you doing business in your various specialisms in Europe and doing business in, say, Canada or the USA?

Sally Jones: If we talk about the EEA briefly, then intrinsic within it there is the free movement of persons. From that perspective, that would be a good outcome in the main for professional and business services. I do not comment on the acceptability or otherwise, or how well it coincides with the referendum result. Broadly, we would be pretty happy if we came to an EEA outcome at least on the free movement of persons. Can we do business in the US? Yes, evidently we can. There are frictional costs and administrative costs associated with getting our people out to the US, or vice versa. It is materially harder to do so. One of the reasons why we have member firms or subsidiaries in the US with local recruitment is to get round the difficulty of moving the right people to the right place. We would far, far rather, if we could, have the same freedom with the US than move Europe to a US model.

The Chairman: Does anybody else want to add to that?

Mickaël Laurans: As far as legal services are concerned, certainly the same EU lawyers Directives apply to the EEA and to Switzerland. Both models would work for us. However, the legal advice on the EU competition and regulatory law at the moment only applies to EU and EEA lawyers. In comparison with what we can do in the US or Canada, I would agree with Sally; it is possible—not in all states or provinces but in some of the significant ones—but it is more complicated, more complex and it costs more.

Lord Liddle: A Swiss lawyer does not have right of access to the ECJ at present because they are not in the EEA.

Mickaël Laurans: That is correct.

James Kenny: A final point on the impact on the UK itself is that we already have a skills shortage. Your colleague, Lord O'Neill of Gatley, last year produced a report suggesting we were short of somewhere round about 250,000 engineers, based on the current national infrastructure plan. There is a more recent report from Engineering UK which suggests a similar number, and I can send these to the Committee.

The Chairman: That would be helpful.

James Kenny: Railway electrification engineers are already on the limited list, and if we cannot have European freedom of access that will hold up growth in the UK.

Ian Harris: Lord Chairman, I mostly support what Sally said. I think the EEA model is, frankly, the only workable model on the free movement of people. Addressing the question of passporting, if we lost that it would have a profound effect on professional and business services—if we went EFTA rather than EEA, the Swiss model does not have passporting. If I may interject, as a professional think-tank problem-solver, I have given the matter of Brexit a great deal of thought in the last few months. I happen to think that the EEA model is the only one we could possibly, possibly, in practical terms, implement without damaging ourselves economically within the time-frame permitted. I am not a politician, but politically I think it is entirely in line both with the referendum result and, as it happens, with the Conservative manifesto upon which the current Government was elected.

The Chairman: Let us not go too far down that road.

Ian Harris: Not too far.

Q23 **Baroness Noakes:** I would like to explore what the limitations would be if we fell back on a WTO position. I hear what you say about what you believe is the most desirable outcome, but that may not be the outcome.

It is quite important to understand what the practical impact would be on the services sectors represented by you here today if we went back on WTO terms, in particular on the Trade in Services Agreement.

Sally Jones: I would make various points, some of which other people may have made to you previously. The first point I would make is that we do not currently have a regularised WTO position in any case. The UK has membership of the WTO as a nation in its own right, but all the terms of our accession were negotiated by the EU, and all of those terms will need to be renegotiated before we even have a WTO trading position on which we could fall back.

Baroness Noakes: We have taken separate evidence on how this is achieved. Let us just assume that we can operate on the Trade in Services Agreement; forget the mechanism for how we get there.

Sally Jones: The General Agreement on Trade in Services (GATS) was signed and ratified in 1994. It goes some way towards liberalising trade in services; it does not go so far as the EU already gives in market access. It is very hard to say what WTO trading would look like with the EU; there is no comparison that can be made in the current environment because the EU already gives better market access. TiSA, the Trade in Services Agreement, which is currently in negotiation and has 23 parties—Australia co-chairs it and leads on professional and business services in the professional and business services annexe—would go significantly beyond the GATS commitments. I would certainly look to TiSA as the way forward rather than WTO. TiSA is expected to conclude during 2016; there are a handful of fairly significant issues outstanding but which we expect to resolve in the next two or three months, touch wood. The WTO is looking to multilateralise TiSA and I think that would be a far better option for professional and business services going forward.

Baroness Noakes: What would be the differences?

Sally Jones: Market access is better in professional and business services; data localisation and data flows, which are key to all industries but are particularly important to us, are far better under TiSA. They are far more recent because they recognise technological developments. There is far greater mutual recognition of qualifications and regulatory coherence. It is a far better, more robust agreement. It borrows from much more recent free trade agreements and is, in some ways, best in class.

Lord Green of Hurstpierpoint: Did I understand you correctly that TiSA is best in class?

Sally Jones: It is across all professional and business services sectors. The Korea-EU free trade agreement is often seen as being the pinnacle of free trade agreements for services, but I would look to Mickaël because I understand it is not particularly good for legal services, although it is quite good for the rest of us. We have to be a little careful.

Mickaël Laurans: I would agree with that. On practical consequences, as I said, the Single Market for legal services is a reality. If you look back at GATS, the EU's codes of commitments would list, per Member State, the number of restrictions on market access and on national recruitment. If you move to 27 models of market, some of them will not have third-country lawyer status, so you will not be able to practise in that Member State. In other Member States you will not be able to set up a law firm with local lawyers, so that will be a significant setback for the legal services sector.

On free trade agreements, TiSA is useful in that it lists the restrictions in the number of markets, which improved the transparency of the restrictions. For legal services, unfortunately, it does not constitute liberalisation of market access. Data flows and the points that Sally made are very important for members as well, but on market access it is not there.

Baroness Noakes: Could I explore data flows? What is the real importance that we need to understand? There is the protection of personal data.

Sally Jones: Yes.

Baroness Noakes: Is it more than that?

Sally Jones: The other big issue is called data localisation. As I understand it, 21 of the 28 Member States currently have local laws that require emails and similar electronic data to be held on local servers. We operate with multinational clients. Supposing I wanted to send an email to Mickaël in Brussels and James when he is in the US; imagine that that email could only be hosted on a Brussels server, plus it could only be hosted on a US server, plus it could only be hosted on a UK server; you cannot square the circle around the various data localisation rules that exist or could come into existence absent some form of understanding that there should be, in effect, a Single Market for data. There are the practical, administrative issues of, "Where are we actually going to put this stuff?", and then there is a separate issue of, "How do we ensure that privacy is protected?" Those are the two absolutely fundamental points around data.

Baroness Noakes: Does TiSA deal with that former issue, data localisation?

Sally Jones: That is a very good question. The current state of TiSA negotiations is that the parties are waiting for the EU to put forward a data proposal. The EU has said it will do so in November. If it does so within the first week of November then we are in with a decent shot at getting TiSA concluded this year; if it is the third week in November it does not give the various parties time to get their head around it in time to conclude in 2016. That is with the EU at the moment.

Lord Green of Hurstpierpoint: Assuming Britain ends up not being part of the Single Market, assuming TiSA does come into full agreement by the end of the year or even a bit later than that, and assuming that CETA is finally ratified, would you rather be trading under a CETA-like arrangement or under a TiSA-like arrangement with the European Union?

Sally Jones: My understanding is that the EU, on the whole, is taking what is referred to as a CETA-minus approach to TiSA. Its TiSA offer is just a little bit less generous across the board than what it has agreed on CETA. That is a negotiation point as much as anything. The EU wants to hold back certain things so that it has currency to negotiate with other free trade agreements. That said, even the CETA-minus position is, for most professional and business services—legal notwithstanding—significantly better than GATS.

The Chairman: Baroness Noakes has a supplementary.

Baroness Noakes: No, I will pass on that.

Q24 **Baroness Randerson:** Can you tell us to what extent an exceptionally comprehensive free trade agreement such as the potential agreement between the EU and Canada—I realise that has hit problems but they may be resolved—would offer good access for each of your sectors? Can you identify any EU free trade agreement with a third country which is an off-the-shelf template of what would be ideal for the market access that you require?

Sally Jones: Can I start with the second part of your question? There are two free trade agreements which are best in class: there is the EU-Korea free trade agreement and the TPP, which is not an EU agreement at all; it is the Trans-Pacific Partnership between the US and various Pacific Rim nations. TPP is probably the best there is. The language of TPP is a little bit different from the kind of language the EU typically negotiates into its free trade agreements. That is linguistic. It is very easy, I think, to cut it into EU language in a way that the Commission would like. That would be my take on the good ones to use as a copy. Would a best-in-class free trade agreement do it for us? From my Deloitte perspective, yes, a best-in-class free trade agreement would be pretty much the optimal non-EEA answer, for the reasons we have outlined. Again, Mickaël, I do not think it would work for you, would it?

Mickaël Laurans: For the legal services sector any off-the-shelf free trade agreement would be a setback to current levels of market access and national treatment. I agree with Sally's assessment of what is the best at the moment. There is another dimension to the EU-Korea free trade agreement; it is the one example of a free trade agreement that achieved a significant change in market access for the legal services sector. All UK law firms that are in Korea, at the moment, are there on the basis of this EU free trade agreement, and obviously there is a question mark over whether, with the prospect of exiting the European Union, that would remain. That is an important question for us. Free trade agreements, so far, in the GATS have been a fairly blunt instrument in dealing with non-tariff barriers, which are the most significant barriers we have in trade in services. The EU, through mutual recognition equivalence, or passporting—however you want to call it—has been very effective, certainly for the legal services sector, in dealing with this. In new free trade agreements moving forward, we have to be very, very ambitious for the services sector to achieve the kind of market access we would like.

Sally Jones: Perhaps I could add a supplementary to that. Without in any way wishing to be critical, from a services perspective the EU is often seen as dragging its feet by the other parties to TiSA on data, on market access and, also, critically, on what are referred to as new services. The issue here is that the EU argues that everything that exists in the world of services did exist in 1994 and, therefore, can fit into one of the 1994 categories. That is one end of the spectrum. China, at the other end of the spectrum, says that nothing that has been invented since 1994 fits into new services, and therefore it is not obliged to meet its WTO commitments in respect of, for example, cloud computing.

The other, non-EU parties to TiSA are concerned that the EU is so trenchant in refusing to acknowledge the possibility that there are unknown new services because of the conceptual issue it brings of how China, in particular, and others will deal with WTO exclusions. One opportunity for the UK, if we are not bound to EU negotiations, is that perhaps we can recognise new services and get ourselves to a better position on cloud computing or what-have-you with other jurisdictions. There are definitely opportunities for the UK to create upsides to the negotiations here, if we choose.

Q25 **Lord Aberdare:** I think you have partially addressed this, because my question is to do with existing EU-third party agreements, and what the impact would be if these lapsed. Perhaps we should focus more on the supplementary, although Ms Jones has just addressed that as well. How enthusiastic are non-EU countries about doing deals with us which liberalise their service sectors and improve the opportunities for us? If we left the Single Market, what are the opportunities to, as you were just describing, negotiate new deals with countries such as the US, which would represent a positive, as opposed to all the negative news we seem to hear about the impact?

Mickaël Laurans: Certainly, on the opportunities, looking at negotiating new free trade agreements with some markets that are not yet covered by EU free trade agreements or that are not covered so well, I would say that the most significant existing free trade agreement on legal services, on opening market access, has been the one with Korea. There is a lot of work to be done to negotiate further market access with other countries, including some large markets where the EU has no free trade agreements; for example, with China or India. I think this is where I would see some opportunities but we should not undermine the challenges of negotiating these free trade agreements as well.

Sally Jones: There is a massive capability gap in the UK. To give you some anecdotal numbers, we think there are 40 people in the UK Civil

Service who have the experience to negotiate trade agreements. That compares to 600 trade negotiators that the US has on TTIP, the EU-US agreement, alone. To a certain extent it does not really matter if we want to negotiate free trade agreements with other jurisdictions, and they want to negotiate them with us, if we do not have the bandwidth to do it.

Ian Harris: Lord Chairman, I would like to add to that. In no way do I wish to seem critical of the question, but I do not think the question is about negotiating free trade agreements for professional and business services on the whole; the question is about the access to skills and talent and being in a position, as a nation, to provide the sorts of services we want to provide. In the areas where we work, it can be very, very difficult to categorise what we are doing and to categorise the people we are using into the sorts of categories either that fit in any of these free trade agreement models or, indeed, into the categories that fit into Tier 2 visa applications, for example. We have just struggled our way through one of those for a member of staff, for that very reason.

My view, for what it is worth, is that professional and business services are going to change enormously over the next 15 to 25 years—I have written very widely about this—through the advent of technology and the advent of machine learning to support the decisions of all the professions: the accounting profession, the legal profession and pretty much everything else that we do. We, whoever "we" are, need to be in a position, perhaps unilaterally— to be breaking down some of these definitions—to say, "skills and talents of this very general kind are welcome here and we want to be a centre of excellence for these types of activities"—most of which do not really have a very firm name yet. Names such as "Fintech" are emerging. No one had used that term until two or three years ago, and now everyone thinks they know what it means. We need a few more terms like that, and I do not think we can be as categorical or trade-agreement-by-trade-agreement about it as perhaps we have been in the past.

Lord Liddle: On the UK outside the EU, it is often argued there are lots of business opportunities for us in what is called the Anglosphere: roughly, the white Commonwealth, the Gulf, India, Hong Kong, Singapore and all that area. Obviously, sectors such as law have done very well in these parts of the world. What is the scope for increasing our access to these markets to do FTAs, in your view?

Sally Jones: As a general observation, because we sell local knowledge by local people with local feet on the ground, there are opportunities to do professional and business services work in those territories. They are not necessarily opportunities for us as UK individuals to do that work. We typically grow not by exporting, as it is traditionally understood to mean, but by setting up a local subsidiary or a local member firm, staffing it and then using that local firm to build local relationships. That is typically how we grow. If we take Deloitte as a purely indicative example, we will have an Indian member firm, a Singapore member firm and a US member firm, because you need those local relationships. You cannot do it from out of the UK.

The reality is that, no matter what comes out of Brexit, in 20 years' time firms like mine will be fine. The question is how big the UK part of Deloitte will be relative to the other parts of Deloitte. My fear is that the UK will become a smaller slice of the overall pie because of Brexit.

Mickaël Laurans: I would strongly support that point. One of the questions we face is the standing of solicitors and the solicitor profession within law firms that are becoming global, international and so on. You also ask about relative openness of the Anglosphere, and so on. Certainly there are still some US states where it would be a criminal offence for UK solicitor or barrister advocate to come and give advice—

Lord Liddle: A criminal offence?

Mickaël Laurans: Yes, on the laws of England and Wales, Scotland or Northern Ireland. The EU Single Market for legal services is very open and very established; the reality in other parts of the world it is very mixed. You mentioned India. India is currently closed for legal services, so there is potentially an opportunity there. It is a very mixed picture in the rest of the world.

Q26 **Lord Green of Hurstpierpoint:** Very briefly, do any of you have any comments on the actual experience of trading in Korea as a result of the Korean agreement? I have heard that there has been a tremendous amount of foot dragging on the Korean side in implementing the services component of that agreement. Goods trade has rocketed; I am not so sure about services. I wonder whether you have some practical experience.

Mickaël Laurans: We have a number of member law firms established in Korea. A colleague of mine was in Seoul last week for discussions with them. I think I could say that yes, there are some delays in the implementation of the agreement but it is still a lot better than nothing. I would be very happy to provide further evidence to you, or the Committee.

The Chairman: That could apply to everybody on that issue.

Q27 0

Ian Harris: Lord Chairman, we are now in the realms of my opinion rather than anything I have as an evidence base. In my opinion, we either go down the EEA route or we need to take some very radical unilateral action and say, "We are absolutely open and we don't care whether you're reciprocal with us", more or less.

Lord Aberdare: That was exactly the point.

Ian Harris: That might be politically difficult, whatever happens, but I believe those are the only two shows in town, frankly; everything else is moving deckchairs around on the sundeck of the Titanic.

Q28 **Lord German:** Can I take you back to the Professional Qualifications Directive? You have mentioned it in several respects so I am going to try and sweep up all these issues in one question. Obviously, withdrawal from the reach of the Directive would have an impact. What sort of impact would that have on the nature of your businesses? Also, would we lose out on signing up to national registers and all the ways in which the imperfect world has moved on? Because it is not yet a perfect Directive and does not apply universally across all professions, if the European Union, as presumably it will, proceeds in trying to make it a more perfect open market, what would that mean we would have to do in the UK to be able to trade with it? Thirdly, are the qualifications procedures under TiSA better, and what would that enable us to do in relation to being able to trade with the European Union?

Sally Jones: If I could start to unpick that, I will forget some of your questions—

Lord German: I am trying to pick up on all the things you said earlier and put them all in one hat.

Sally Jones: And you did a fantastic job of it. Starting with TiSA, we do not have text at this point in time so I cannot tell you—none of us can—what TiSA will say on professional qualifications. I can write to the Committee as and when text becomes available but I cannot comment on that now.

The Chairman: That would be helpful, yes.

Sally Jones: In terms of the current situation for professional qualifications, it is worth remembering that not all of us have professional qualifications to worry about. The recruitment consultants, for example, are effectively free to trade without qualifications at all. That is not to say they are unqualified in what they do, but it is in the loose sense rather than the professional body membership sense. Then you turn to those of us who have professional qualifications, and it is a very mixed bag. Actuaries, for example, and architects both have, in effect, full and complete mutual recognition of professional qualifications. In the case of actuaries, for example, it is because their membership body is recognised across Europe as being of equivalent status to any other local, equivalent body and therefore membership of one is as good as membership of any.

Turning to those of us who do not enjoy such freedoms, again it is very, very patchy. I am a chartered tax adviser. Even if there were complete and free market access I could not hope to provide tax advice in any other Member State because of the taxes and competence of the Member States. The language barrier notwithstanding, I could not go to Ireland and pick up its tax statute and sensibly advise on it. In the context of tax advice, for example, it becomes a meaningless question. For accountancy and audit, in theory, there is mutual recognition. In practice, you have to be a member of the local body to be recognised. Taking Germany as an example, if you want to be a member of the German accountancy body you have to sit an exam in German, in Germany—which as a practical matter makes it impossible for a UK accountant or auditor to so practise. It is very patchy implementation.

My favourite example is mountain guides. They are fully able to practise anywhere, so you can be a mountain guide on Ben Nevis and, in theory, go to Mont Blanc and practise—but that is about as open as it gets.

Mickaël Laurans: Certainly for the legal profession, because we have these two EU lawyers Directives, the Professional Qualifications Directive has been possibly less important for us because we are able to practise under our home title in another EU Member State. Historically, on flows of qualifications, we have seen a lot more European lawyers requalifying as solicitors than the other way round, because it is a qualification that is recognised globally and sought after. This qualification examination is open to non-EU lawyers already, so there is no prospect of that changing post-exiting the EU. Some of my colleagues have said that that certainly will not remain open to foreign lawyers requalifying.

More recently, you may have heard of a number of solicitors seeking to requalify—certainly the Irish—with the Law Society of Ireland as Irish solicitors. In this calendar year so far 700 solicitors in England and Wales have requalified as Irish solicitors. This is linked to the potentiality of losing access to advise on EU competition and regulatory issues, and that is why a number of members are seeking to get something that would definitely allow them to remain entitled to be able to carry on doing that type of work.

The Chairman: We are running into our last 10 minutes, so I am going to try and fit in another two or three questions.

Q29 **Baroness Donaghy:** The Financial Reporting Council has already been mentioned by you. It is not clear whether the Financial Reporting Council, or indeed any other regulator or competent authority, will continue to be recognised. Would this have significant effects in each of your sectors or are there alternative means by which you could continue to trade?

Sally Jones: Yes, it would, is the short answer. There are two different ways that we could continue to benefit: one is called equivalence and one is called mutual recognition. Equivalence means—I am paraphrasing a little—every single way that the regulator acts mirrors exactly the way that the European regulators act, so you have to have zero divergence in how regulations are written and applied. Equivalence is very inflexible. Mutual recognition is better because it focuses on the outcome instead of the manner in which you get there. As long as the outcome of regulation is acceptable, there is flexibility around how you come to that answer.

I am hopeful that in five or 10 years' time, or however long, we will get to a position where our regulators are mutually recognised or of equivalent status. The issue, to my mind, is whether we will get there soon enough. The reason it will cause issues if we do not get there soon enough is that, as it stands, our clients are global and we have to be able to service them on a global basis. Part of that is being able to operate across Europe without restriction. The ability, for example, to have a UK member firm lead on an audit, even if local member firms are doing the local audit requirements, is critical for consolidation.

The Chairman: How does passporting fit into all that?

Sally Jones: Passporting is a financial services-specific term.

The Chairman: Other services are using it, at the moment.

Sally Jones: Not in the way that financial services use it, no.

The Chairman: Thank you. Does anybody else want to comment?

Mickaël Laurans: It is not that much of an issue for legal services.

Q30 **Lord Liddle:** We would like an indication of how important free movement is to you, both with continentals coming to work in Britain and access for Brits to go and do professional work on the continent.

Sally Jones: It is critical. That is the short answer. Deloitte has done some work on high-skilled jobs in London and we have looked at where the growth is in high-skilled work and the sectors in which those jobs sit. London has more high-skilled jobs than any other city in the world. It has 1.7 million high-skilled jobs compared to New York, which has 1 million. Our closest competitor in Europe is Paris, which has around 600,000. The vast majority of those jobs are in business and professional services, high-tech or financial services. If we cannot get the people to fill those roles we will not grow; worse, we will diminish. Not all of those jobs are filled by Europeans; clearly, some are filled by UK people and some by non-UK people, but a decent chunk of them are filled by European persons, and we need them.

Lord Liddle: Because they are the best available talent?

Sally Jones: Often they are—not because they are European but because they happen to be the best people for the job in any given circumstance.

Lord Liddle: The aspect that is not covered much in UK debate is access for Brits on the continent. How important is that to service industries?

Sally Jones: Again, it is really important. Supposing my firm won a big consulting engagement for a FTSE-100 company. Because the UK is genuinely market leading in many areas of consultancy and innovation, the best people to service that, whether in Germany, France, Spain, Italy or the US, will often be Brits. Being able to send somebody for three months to Germany or three months to the US or three months to India or wherever it might be is a really critical part of us doing the best job we can for our clients. It is vital.

Ian Harris: Lord Chairman, that was exactly the feedback we had from our research. Nearly half the people said that it was absolutely critical to them and another quarter said that it was very important.

The Chairman: In your sectors, is there a difference between the broad concept of freedom of movement and the concept of freedom to recruit?

Sally Jones: I am not sure I understand the question, sir.

The Chairman: Freedom of movement means somebody can come here and look for a job; freedom of recruitment means you can pick and choose. Either could be subject to a visa or a points system, or whatever, but there is a difference.

Sally Jones: I think it is both. Free movement in the context of being able to service a specific project you could get round with a visa system. Free movement in the context of, "Can we attract people to the UK on a permanent or long-term basis?" will be eroded if we do not have free movement of people, partly because it is that much harder to bring their families over and partly because it makes it seem as though we are less friendly. It is a psychological barrier as much as anything. Not being able to say, "You are the man or woman for the job and we will make it possible for you and your family to be here", is a massive worry.

Ian Harris: My Lord Chairman, a lot of the work we do is project work and you do not know what is going to happen on the project from one week to the next or one month to the next. There are huge swathes of work and potential work with complexity: global projects, where you might look at the project and simply think, "We won't be able to service that if it's not possible for me to just jump on a plane and go to such-and-such a place to sort a problem out if a problem arises on this project or if it isn't possible for me to bring somebody from such-and-such a country over to London for a few days to do some troubleshooting on this project". It is not necessarily even about recruitment or people settling. I would pick up on Sally's point as well that there is an element of psychology to it; you are either open for business in this complex, interconnected world of professional services or you are not.

James Kenny: We have already referenced the burgeoning skills crisis within the construction sector on major infrastructure projects, and we will be absolutely delighted if the Autumn Statement includes a lot more infrastructure investment, but we will need people to do it and we are already hitting against limits on HS2 for planning and design engineers environmentally and so forth. The first place we would normally look to fill those gaps would be Europe. That could be a brake on the UK economy as well.

Lord Green of Hurstpierpoint: Two quick points. One is a question about numbers. I was very interested in your numbers about high-skilled jobs in London versus New York and Paris. I had not heard that before. Do you have a ready breakdown of the 1.7 million as between the UK, EU and rest of world?

Sally Jones: The honest answer is that I do not know, but I will find out for you.

Lord Green of Hurstpierpoint: That would be interesting. My supplementary to that is: to what extent is it true that, whatever the EU percentage is, it is higher because of difficulties of recruiting from the rest of the world?

Sally Jones: Again, I am not sure if the research looks at that. I will come back to you on that in writing.

The Chairman: Thank you very much. We will move to the last set of questions and Lord Rees.

Q31 **Lord Rees of Ludlow:** It is a wrap-up question. The Government have proclaimed the importance of growth in professional and business services. Would you like to say what should be the negotiating priorities for the sector to achieve these aims? Do you have any preference for a particular model for UK-EU trade? Can you go further and say the extent to which the Government has already engaged with your sector up to now?

Sally Jones: The Government are definitely engaging with our sector. The Department for Business, Energy and Industrial Strategy sponsors, in effect, the Professional and Business Services Council—but it is our route into the rest of Whitehall, so we are talking to other Government departments, most notably the Department for International Trade and, also, to a limited but increasing extent, to the Department for Exiting the EU and to the Treasury. We are definitely being engaged with by Government, without a doubt. On opportunities, we have talked about the free trade agreements and the possibility that we might be able to negotiate new free trade agreements. Ian has talked about the EEA as being, by a country mile, for the sector, the best opportunity, but Mickaël has mentioned that it does not work for legal, as a subsector.

Mickaël Laurans: I would say that yes, the Government are engaging with us. My president this morning is meeting with David Davis on the same issue as the Committee is discussing. It certainly would be useful to have an indication of the Government's thinking on this issue, and reassurance that the points we are putting across are being taken on board. My organisation, the Law Society of England and Wales, is not taking a position on a macro model of relationship, on EEA or otherwise, but certainly we are seeking continuing access to the lawyers Directives. Also, the issue of advice on EU competition and regulatory matters is a key ask for us.

Sally Jones: Cutting across the sector, it has to be access to talent and access to the market. Everything else, for us, hinges on those two things.

The Chairman: Does anybody want to add anything else or is there anything else we have not covered? If you think of anything subsequent to this, please get in contact either on the phone or in writing. Meanwhile, this has been a very interesting session. Thank you very much for your time and your efforts. We will follow up, particularly with Sally Jones, on some of the additional information we have asked for. Thank you for your efforts in getting a case together and, particularly, for the network you have set up in relation to small businesses.