



HOUSE OF LORDS

Select Committee on the European Union

Internal Market Sub-Committee

Corrected oral evidence: Brexit: Trade in Non-Financial Services—Follow Up

Thursday 1 February 2018

10.05 am

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Members present: Lord Aberdare (The Chairman); Baroness Donaghy; Lord German; Baroness McGregor-Smith; Lord Mawson; Baroness Noakes; Baroness Randerson; Lord Rees of Ludlow; Lord Wigley.

Evidence Session No. 2

Heard in Public

Questions 12 - 17

Witnesses

I: Mr Alan Leaman, Management Consultancies Association; Ms Sally Jones, Deloitte LLP; Mr Ian Harris, Z/Yen Group; Mr Mickaël Laurans, Law Society.

Witnesses

Mr Alan Leaman, Ms Sally Jones, Mr Ian Harris and Mr Mickaël Laurans.

Q12 **The Chairman:** Good morning and welcome. As you know, I am not Lord Whitty. I am Lord Aberdare, standing in for Lord Whitty, who is on a visit to Ireland. Thank you very much for coming to this follow-up from our earlier session on professional and business services. I think we have met three of you before, so welcome back. Mr Leaman, from the Management Consultancies Association, you are very welcome too.

This is a public session. It is being broadcast and it will be transcribed. I think you are familiar with that. We are trying a slightly different format today. I think you have seen the paper. Instead of allocating questions to members of the Committee, we are going to work through the topics in a slightly more free-for-all way, with members asking questions as the spirit takes them.

To orient us before we start, it might be helpful if each of you would give a short opening statement on where things are, and what sort of developments there might have been since the last time we looked at the issue and since the report was published. I do not know what order you would like to start in. Ladies first, perhaps, if we work from left to right.

Ms Sally Jones: You are such a gentleman. It is as if you had planned it. Thank you very much for inviting us back. My name is Sally Jones and I am here with two hats on. The first is as Deloitte's director of international trade policy. I am also the secretariat to the Professional and Business Services Council, which is one of the industrial councils set up between industry and BEIS. In that role, I am responsible for the trade technical group of the Professional and Business Services Council, so I represent both Deloitte and the professions in a wider sense.

To answer your question as to what has changed in the 16 months since we were last here, the decision by the Government to end free movement of people and to leave the customs union and the single market has clearly reduced the options that seem to be on the table for us. It was collectively the opinion of the witnesses last time we were here that for us the European Economic Area agreement would be the best option, failing full EU membership, although I think Mickaël was very clear from a legal perspective that even the EEA does not get us to where we would ideally like to be. I think our position—my position—remains the same, which is that if we are going for a bespoke free trade agreement, it would be a laudable ambition, but it needs to go significantly further than any EU free trade agreement has ever gone to give us the market access we seek.

The Chairman: Thank you very much.

Mr Alan Leaman: There is good news, in the sense that it is widely accepted now that services as well as goods matter in the post-Brexit world, and that professional services and business services are a key

component and a key UK strength. That has landed in government and elsewhere.

Our experience has been that, although at the start of the process there was a sort of view that “If you cannot be supportive, don’t come and see us; we want to hear from supportive people”, there is now more openness about getting into some of the issues that are involved. Frankly, we are all playing in the foothills of these big issues; they are very important foothills, and some of them are very technical and need to be addressed. The big question for us is: are the messages landing where they matter? Indeed, where will they matter when key decisions are taken for the future?

Mr Mickaël Laurans: I am Mickaël Laurans from the Law Society of England and Wales. For the past 16 months, there has been great engagement with the Government, and we may come to that in a minute, but we in the legal services sector still lack clarity as to what the final outcome will look like. I echo what Sally said; there is no off-the-shelf free trade agreement—whether the Canada model, the Korea model or so on—that would really take into account legal services while giving us the market access we currently have and dealing with a number of other legal issues such as judicial co-operation and enforcement of judgments, which are also important for us.

Mr Ian Harris: I am Ian Harris from Z/Yen Group. We are a small advisory practice. We help organisations to make better decisions, so hopefully we will be useful in this type of environment, but I felt last time and still feel that I should not be talking from the point of view of my own firm; so, again, we have done a shout-out to many other firms, on this occasion through the Managing Partners’ Forum. I will talk about that again in a moment.

To answer your question about what seems to have changed, from my perspective it is very little apart from 16 months having passed. I said last time that I thought that in the timeframe available the only possible solution would be an off-the-peg one, and that seems to me to be even more the case now than it was 16 months ago.

In the shout-out to firms, the Managing Partners’ Forum did a survey specifically for us when we found out we were coming here—and also one of their regular surveys. When we go through the specific areas for discussion, there is some quite useful data on several of those that I think you will enjoy. This time, we combined forces with the Professional and Business Services Group as well, so the questions were informed by it as well as by my suggestions. Hopefully, that covers larger firms as well as smaller firms.

In my own soundings-out, and talking to people about this when I found out I was coming back, I detected an outbreak of cynicism. That outbreak of cynicism is not directed towards this Committee. The people who took an interest in what we did last time pretty much universally told me that they were very impressed by the report, but several people said that the

aftermath of that, and the general election being called at fast notice and everything that has happened since, has made them very cynical. That is probably the main reason why the response rates have been lower this time than before. It is not that people are no longer interested, but I think a lot of people feel that they would not necessarily be listened to. Several people I think of as good community citizens who would not normally have this opinion wondered why, to use their words, I was "wasting my time going back; no one is going to listen to what you have to say".

I do not believe that is true, and that is why I am here, but it is very damaging for our society and our democracy when people I think of as being informed and good community citizens seem to be forming that sort of view, and were prepared to express it so strongly when I asked them questions specifically before I came before you.

Q13 The Chairman: Thank you very much. I think most of you referred to the first issue we are looking at, which was the level of engagement. I would like to open that up. You have mainly said that you feel you are getting encouraging levels of engagement with government. Are you being listened to and do you feel a sense of confidence that the messages you are giving will result in an outcome that meets your needs and priorities?

Ms Sally Jones: It is quite important to draw a clear distinction between engagement with government in a policy-setting sense and engagement with government in the sense of getting down to the nitty-gritty technical detail. When it comes to getting down to the nitty-gritty technical detail, my main involvement is with BEIS and the Departments for International Trade and Exiting the EU, where my engagement with politicians and, even more so, officials is very high. I cannot praise highly enough the officials at BEIS and the Department for International Trade. They are, to a person, dedicated, smart and hard-working, on their emails at 10 o'clock at night and 7 o'clock in the morning, asking sensible, intelligent questions that are appropriate and right for the circumstances. They are excellent. I would go so far as to say that they are better prepared than their counterparties on the EU side in preparing the Government for negotiations. Our guys are great.

The issue, looking at it from the business side, is that we still do not know what the broad policy is. When we came here 16 months ago, we said that things were getting a little difficult in preparing our businesses and our clients' businesses for Brexit because we were running a bit short of time. We are no further forward as regards what the future trade deal is going to look like or how we are going to transition towards it. From our perspective as a business, and from the perspective of the clients on whom we rely, we are getting to the stage where it does not really matter all that much any more what the final deal is. We just need to know what it is going to be because we need to start planning and preparing for it. There was a statement by the CEO of Barclays today that it needs to know by the end of this quarter what things are going to look like, or it

will transition in any case. I do not think that is scaremongering. It is simply a statement of fact.

The Chairman: They may have to transition again, of course.

Ms Sally Jones: Yes. From our perspective, the worst of all is going from A, where we are, to B, a transitionary interim state, and then to C, which is different again. We would far rather go from A to C than have to go through two sets of systems changes, trade changes and people changes. The wasted resource involved in two sets of changes is enormous.

Mr Alan Leaman: Our engagement is primarily via BEIS, much of it via the Professional and Business Services Council and some of it direct. It is absolutely right that the officials we encounter are keen to learn; they want to understand and they are sponges for information, which is extremely positive. There have obviously been a lot of changes in the ministerial ranks in departments and that may have hampered continuity.

The two big issues that matter for consulting firms are the health and vitality of their clients. We want to be as much engaged in the future of automotive, pharma and financial services as we are in professional services, and that has been frustrating. I do not think the Government have opened up on those fronts. The second big issue for us is migration and talent. We have struggled to engage with the Home Office. Policy is yet to emerge from Home Office thinking on what a post-Brexit migration system ought to look like. The Migration Advisory Committee is doing some important work. That issue is now the big driver for our members in what they think the impact will be.

Ms Sally Jones: It is important, however, to draw a distinction—if you will forgive me—between consultancies, which are not regulated professions, and law, accounting, architecture and actuaries, which are regulated, and indeed advertisers, whose product is regulated even though the profession itself is not. There is a distinction. While we are desperately concerned with all the things that Alan rightly mentions, we have additional issues to tackle on top of that. I am sorry to have interrupted.

Mr Alan Leaman: You are quite right.

Mr Mickaël Laurans: For the Law Society, for legal services, engagement has been excellent. There is not a week when we do not have either meetings or conversations with officials from DIT, BEIS and DExEU. Ministry of Justice engagement with the sector is great. We also have regular meetings at ministerial level where we can articulate our key asks for the transition period and the final outcome and so on. The Law Society, joining some voices in the City, such as the City of London Corporation, would like to see position papers on financial services and non-financial services, for example. That would help with clarity and certainty.

The difficulty is that we are about to enter a negotiation. We do not know what the final outcome will be. It is true that member firms have put together a number of contingency plans. Some of them would involve discussions with partners, directors or managers in structures across several countries. They would involve discussion with tax authorities in various member states. A conservative estimate of how long it will take to sort out the transition is probably 12 months, so we are looking at working back from the time of exit, or from when there is certainty about the transitional arrangement. I did not hear the comment from Barclays, but it is true that we are looking at quarter 1 and quarter 2 for the triggering of contingency plans if there is no certainty on transition.

The Chairman: Yes, and, even if we know where we are going, the transition could be quite a complicated negotiation in itself. Mr Harris, did you want to add anything?

Mr Ian Harris: I have very little to add. I concur with my colleagues. The research done by the Managing Partners' Forum also concurs with this view, and that is across the board, in regulated and unregulated parts of the professional sector. One bit of anecdotal evidence, which came through strongly from the people I spoke to, is the feeling that in two places, DExEU and at junior ministerial level, there is very rapid movement of people; you talk to someone and they seem to be listening to you, but the next time that person is not there any more and you have to explain it all again to a new person. Given that we are on a very tight timetable for trying to make a smooth Brexit, I understand people's frustration when they find that has happened.

Ms Sally Jones: We have had five professional and business services Ministers at BEIS in the past 15 months, which is unhelpful in the extreme.

Lord Wigley: Could I pick up on a point that Sally Jones made right at the opening? She said that we need a free trade agreement that goes further than any other has ever gone, if I got her words down correctly. If that is the case, what is the timeframe, on an optimistic and a pessimistic basis, for negotiating such an agreement?

Ms Sally Jones: That is an excellent question. As a general rule of thumb, a comprehensive free trade agreement will take quite a long time to negotiate. Five years is entirely standard. The EU-India free trade agreement has been in negotiation for 20 years and is showing no signs of coming to fruition. I absolutely accept that that is an outlier, but five years is fairly standard.

That said, we are in an almost unique situation in that we have two parties that are trying to diverge, as opposed to two parties that are trying to come together. A lot depends on how both sides come into the negotiations. I can see that it might be a quicker process if you said, "This is the body of regulation and directive that applies now; we want to take these bits out and we'll just talk about them", as opposed to, "This is

us starting from scratch. Let's build up the regulations on which we wish to agree".

As far as I know, there is only one example of two parties deliberately seeking to diverge, which was when Greenland left the EEC in the 1980s. It is worth bearing in mind that it still took Greenland about three and a half years to regularise its position with the EU, and that is a country that had a population at the time of about 60,000 people and an economy 95% dominated by fishing. If we add 30 years of digitalisation and globalisation, and the sheer complexity of the British economy compared with that of Greenland, something like three to four years is a more realistic timeframe than suggesting that we can have a deal ready to go by March 2019.

Lord Wigley: That being so, is the right interpretation that any transition or implementation period has to go over that time range, and therefore we have to extend the period that has been discussed so far?

Ms Sally Jones: In my professional experience, there is no possibility that we will not be negotiating the trade deal in the transitionary period. It is an inevitability in my mind.

Lord German: To go back to the issue of engagement with government, the common theme from all of you is that you have brilliant and very good conversations with officials, even on technical issues. Can you tell us a little about your engagement with Ministers and whether that has proved useful, or does it bear out Sally's point that you have got nowhere in the sense of where the policy is going?

Ms Sally Jones: I feel I am dominating things here, but if nobody is going to step in—

Lord German: If no one else has talked to Ministers, that would be the answer.

Ms Sally Jones: No, other people do.

Mr Mickaël Laurans: We have had very good engagement at ministerial level. As I mentioned earlier, because we are the legal services sector, we meet people at the Ministry of Justice to discuss all the issues. For example, we are very pleased that, as a result of those discussions, a position paper was issued on civil justice co-operation with the EU, which brings an element of clarity for us. Engagement is very good. The difficulty is what final outcome we will get from the negotiations and how we as businesses and professional bodies prepare for it.

Ms Sally Jones: I agree. The Ministers we interact with now understand the issues. That is not a criticism that they did not understand before. We as a sector have never really sought engagement with government, or resources from government, because we have not needed to. We have been somewhat below the radar, but now we are on the radar as the largest sector of the economy and Ministers have listened. They understand the issues we face, but they cannot give us any clarity or

certainty because they themselves do not have clarity and certainty over the direction in which we will seek to travel. Until that comes, everyone's hands are tied.

The Chairman: We need to move on. I am reminded that we have only an hour and we have a lot of significant issues still to cover. Let us move on to post-referendum business activity and, hopefully, Mr Leaman, you will be able to feed your point in at a suitable time.

Q14 **Baroness McGregor-Smith:** Based on what you have said and based on where we are today on Brexit, what is your current view of what is going to happen to the industry revenues between now and when we leave the European Union?

Mr Alan Leaman: Early in the process, we were warned by quite senior people in government not to be seen to be having a good Brexit and we have fulfilled that part of the bargain. If anything, it has had a dampening effect, primarily because it is very difficult to advise clients and to prepare plans, still less to implement them, if we are not sure about what they are preparing for. It would be irresponsible to do that.

We think there is a push-me, pull-you effect at the moment. Particularly since the turn of the year, funnily enough, a lot of the UK operations of major corporates are waking up to the fact that they really need to get their plans in place, and are probably being instructed by head office or asked to justify what they have been doing on those fronts. That is creating more activity. At the same time, many of those companies are putting plans on hold, or investments are being delayed, simply because they do not know whether it is a good bet at the moment. There is a sort of tension, and it will probably balance out. Overall, we have observed a declining growth rate in our industry, which I think is partly about Brexit but partly about the general economic climate of which that is a part.

The Chairman: Lady Randerson, did you have a question?

Baroness Randerson: I was going to chip in on the last question, but we can leave it until we get to preparations for no deal.

The Chairman: Lord Rees, did you have a question?

Lord Rees of Ludlow: It was mainly on the transition period, so maybe I will wait until the end.

The Chairman: Lord Mawson?

Lord Mawson: This relates to the earlier question rather than to where we are. My sense of things, and one hears this from many different people in the Tory party and elsewhere, is that this Government fundamentally do not get business; they fundamentally do not understand enterprise. In the world where I work, they do not seem very interested in the fact that a lot of things on the ground are not working. They are getting smothered in treacle and a whole range of stuff, and there is no attention to detail. Is that fair or unfair? Is it simply that there

are five different views in the Cabinet and they cannot come to a resolution on the issue, or is it that, fundamentally, in the leadership of this country at the moment, we happen to have a group of people who are not interested in detail and do not understand what business and enterprise is about? Is that too harsh?

Ms Sally Jones: That is too harsh. My engagement is often with people in the business department, and if anyone is going to understand business it will be them.

Lord Mawson: I am not talking about the civil servants.

Ms Sally Jones: No. I am talking about Ministers as well. The Ministers we deal with typically come from a business background, and therefore they do understand where business is coming from. Whether it is Lord Prior with his health background or Richard Harrington with his legal background, or whatever it may be, we find that the Ministers have that experience.

Lord Mawson: Lord Prior has left.

Ms Sally Jones: Yes. We have Richard Harrington, which is why I picked him as the counterfactual. I do not think it is entirely fair to say that the Government do not understand business. It would be fair to say, although my colleagues may disagree with me, that the Government do not necessarily have business at the forefront of their mind, because they are preoccupied with Brexit and so many other things, but I do not think that is quite the same thing.

Lord Mawson: It is slightly encouraging that civil servants are working on this stuff until 10 pm. As you look at the world out there at the moment, given all the messy stuff you were talking about, what do you spy as the opportunities? We are going to enter this new world and new land; lots of people are trying to pretend that we are not, but we are, and we have to be very entrepreneurial and grasp the realities. What would you see emerging as the four or five opportunities that have major implications for the economy of this country and where we are going?

Ms Sally Jones: I would very much focus on emerging markets. To take a step back, if you were just to read the UK media, you would be forgiven for thinking that the EU has a crack trade negotiating team that is the bee's knees when it comes to international trade negotiations, but in trade policy circles it has a reputation for being difficult to negotiate with, not least because it is constantly trying to balance the needs and demands of 28 different countries. If the UK can enter trade deals with places such as China, India, Brazil and Russia, we could quite conceivably open corridors for trade to the UK that do not currently exist with the EU. If I ruled the world, that is what I would be doing. I would be looking for deals with countries that are traditionally difficult to negotiate with and where the EU has not traditionally had a great deal of traction. I would not be concentrating on the US, because we already trade very successfully with the US.

Lord Mawson: Can I add one point that links to China?

The Chairman: Lady McGregor-Smith has a question. Maybe you should ask your question, Lady McGregor-Smith, and then we will see.

Mr Mickaël Laurans: Could I answer that question? If there is an opportunity—albeit theoretical at the moment—it would indeed be free trade agreements with other countries. A caveat might be that we are dealing with quite complex regulatory frameworks, especially in the regulated services sector, the accountants, the lawyers and so on. Free trade agreements have so far been fairly blunt instruments, whether for open market access or to secure national treatment. We face a number of domestic regulations that may make it more difficult to do business with those countries even though, on the face of it, the free trade agreement would say that we can do so. We would say yes to free trade agreements with a number of emerging markets, but with the services sector at the forefront of the negotiating team's priorities.

Baroness McGregor-Smith: To continue Lord Mawson's point, while all this is going on, and nothing has actually been agreed, how are you planning? The industry has to plan, regardless of what happens. It has to make a business plan; it has to work out what it wants to invest in and what it is going to do. Regardless of what happens on all these deals, which may take years to do—nothing will be done quickly—what is the industry doing at the moment to plan for a range of scenarios, none of which we really understand? What planning is happening? We are getting into the detail of trade negotiations, but small businesses still have to plan. Your industries have lots of small businesses within them. They still have cash flows and they still have employees. What are they doing?

Mr Ian Harris: We have some useful evidence for you in the survey work that the Managing Partners' Forum has done and, with your permission, we will submit the results, as there is too much detail to go into today. To summarise it, and I think Sally will bear this out, most are producing or planning to produce contingency plans, but most are also not making their move yet. The reason they are not making their move yet is, from my behavioural economics point of view, a perfectly logical way of behaving: when you do not know what is going to happen, you think through at a high level the various contingencies—what you might do and when you might start to plan in detail—but in a sense you buy an option in any of the possible futures by not doing anything much.

Baroness McGregor-Smith: We are in limbo.

Mr Ian Harris: That is, to some extent, why management consultants are finding it a little difficult to get very much business. It is also partly why some other professions are getting plenty of business; at a high level, people want at least to think through what they might do in various scenarios without actually doing much.

At the moment, the way I personally see what might happen is that we have a leaky pipe. I was thinking through this yesterday: I live in west

London where most of us were either without water or had very low water pressure yesterday because there was a major burst pipe. That got me thinking of burst-pipe analogies. What we have at the moment is a slightly leaky pipe. We probably do not have quite as much growth in our economy as we would like because people are sitting on their hands and waiting to see what is going to happen.

My personal view is that a chaotic kind of no-deal, hard Brexit will be like a burst pipe. If it becomes the prevailing view that that will happen—it might even happen if we get a bit of deadline-riding where it starts to look the most likely scenario— even if it does not happen, we will have either a major or a minor burst in the economy. People do not predict it; it is not there in the survey results. But I was in the management consultancy profession for many years—Alan might or might not want to bear this out—and from my experience of living through three recessions, nobody predicted the level of the slump in that profession before it happened. You cannot think about losing a third of your business almost overnight because there is a recession in the economy, but that is more or less what happened to the profession. Those are everyday recessions. We might get one of those in the next few years anyway, because that tends to be what happens on a cycle of eight to 10 years. Nobody predicts that is what is going to happen, but my personal view is that it will.

When we look at the contingency plans that people are putting together, as I said last time we have to watch the financial services sector. So much of our business comes from, or is ancillary to, financial services, and so much of the economy is driven by them that a financial services dip is likely to cause a general dip in the economy. To throw in a lot of the other things that we are talking about, such as whether we can do a deal with this or that country and come to some sort of regulatory agreement for this particular profession in this particular area, those are small beer compared with what will happen to the economy generally. It is to do with behaviour. It is to do with the financial system as well. The markets will go through quite a shudder if it starts to look as though we are heading towards a chaotic no deal. Even if it is just brinksmanship ahead of a deal, we will start to see some major market stuff. That is a prediction; you can take it or leave it but that tends to be the way economies work.

The Chairman: We will come back to no deal, assuming we get that far. I want to move things on, in particular to address the specific areas of the free trade agreement we might have and the transition arrangements. If by some miracle we have time at the end and there are burning issues you want to raise, we can come back to some of them.

Q15 **Lord German:** Sally, you were here before, and I am picking up from our report things you said that have now become more prescient. You said that the “best-in-class free trade agreement would be pretty much the optimal non-EEA answer”. In other words, that is the sort of free trade agreement you would be looking for if there were no arrangements

for EEA and things had already been ruled out by the Government. Can you tell me whether you believe that mutual recognition and movement of talent are the two key issues you face? Of course, one of those includes the difficulty of how to arrange that if we are able to diverge; ability to diverge and mutual qualifications do not necessarily go together. Could you pinpoint for us what you see as the key difficulties the UK will have in negotiating an EU free trade agreement for your sectors?

Ms Sally Jones: First, it is by no means uncommon for certain sectors of the economy to be deliberately excluded from a free trade agreement. If we take CETA as an example, Canada successfully managed to exclude law almost entirely from the free trade agreement, and entirely excluded creative industries. The first thing I would be looking for would be a free trade agreement that included all the subsectors of PBS and as many of the sectors of the economy as we could possibly wedge in.

Secondly, any free trade agreement has what are called commitments and reservations by geography, which are where the parties to it have come to an agreement about a particular thing, but individual countries either acknowledge that they do not currently comply with those terms and commit to make themselves compliant over a period of time, or permanently reserve the right not to comply with the terms of the free trade agreement. The EU, perhaps because of its 28-country nature, has multiple times more reservations in every free trade agreement than any other party. Minimising the EU reservations is a really important point.

We also need a professional and business services annexe that deals with the stuff that is specific to our industry. Historically, free trade agreements have not been good on professional and business services. They are always written in "best endeavours" language rather than language that is binding, so we would look for the PBS chapter, if we have one, to be really committed. I would be looking for confirmation that all four of the modes of supply are included: remote consumption, consumption abroad, the ability to set up an office, and the ability for people to fly in and fly out.

Mutual recognition is vital for law and accountancy. There are two aspects: mutual recognition of our professional qualifications, with minimal need to requalify if somebody moves territory; and recognition that our regulators are as stringent, if not more stringent, than EU regulators. It is appropriate that the outcomes of UK regulation are recognised and respected in the EU, and vice versa. If we have all of those things, from a PBS perspective, we are in decent shape.

There is then the question about the things that matter across the entirety of the economy. Alan was talking about people. I would add to that data flows. The entirety of the economy needs the right people in the right place at the right time. The entirety of the economy needs to make sure that, if we have an email going from Germany to the UK, it can be received by the UK recipient. Those are things we would call horizontals. We need to make sure that the horizontals that underpin our sector and

every other sector of the economy are managed appropriately in a free trade agreement.

The EU has a bad reputation on data. There has been a dust-up in the Commission between the Trade Commissioner and various other Commissioners over data. Only this week, the Commission released new text on what the EU would want to see for data in a free trade agreement. The text itself has been agreed at Commission level, and it now has to be agreed by the Parliament. It has not yet been released, but I am hopeful that it would be included in an EU free trade agreement and would be a significant step forward.

Mr Mickaël Laurans: There should be particular attention to some of the country-specific limitations. When we begin free trade agreements, we may take the GATT commitment and try to improve on it. Some member states will not authorise any non-EU lawyer to be based in that member state; Greece is an example. Others insist that you first requalify as a lawyer of that member state. Currently, that is the case in France. Other member states—Germany, for example—do not allow fly-in, fly-out, or, as in Spain, do not allow partnerships between local lawyers and non-EU lawyers. You need to look at that level of country-specific restriction to see what market access you are losing or trying to gain.

Mr Alan Leaman: To put one small consulting gloss on it, we are vigorously in favour a very open UK market for consulting, regardless of what we agree with the rest of the EU. We think that is good for our industry, for competition and for serving clients. We went to our opposite numbers in the EU 27 to check what their views were and discovered that they were in favour of the same thing. They believe, as we do, that the more open the market is, the more competition there is and the greater the chance there is for innovation, the more we learn from one another and the better the whole European economy will perform. We have happily issued a joint statement with all of them saying that we should remain as open as possible post Brexit.

Mr Ian Harris: One piece of evidence from the research, which is very specific to your question, is that top of the list of priorities for managing partners is maintaining freedom of movement of talent. That was top of their list of concerns. That echoes the research we did last time as well, when talent seemed to be very high on their list of worries and concerns.

The Chairman: Are there other existing EU free trade agreements that we would want to continue to have access to or that might serve as a model for our own arrangement with the EU?

Mr Mickaël Laurans: The Law Society has commented on that recently. To take the example of CETA, we understand that it may be beneficial for various sectors of the economy, so we are not undermining that, but for legal services it would be the equivalent of no deal. If you are looking at what trade agreements the EU has with other third countries, and whether they are beneficial for legal services, South Korea is one example; we have five member firms based in Seoul on the back of the

EU free trade agreement. We have been talking regularly with the Department for International Trade about whether the UK could continue such an arrangement with South Korea. It is one of our priority countries, and I will be going to Korea in March for discussions on the issue.

Lord Rees of Ludlow: Mr Harris, when you talk about the need for free movement of talent, is it sufficient to have the system we have with the rest of the world, or do you think there would be a big loss if we cannot have the mobility that goes with EU membership, for families, long-term stays and all that?

Mr Ian Harris: There is already a significant loss. It is already becoming that bit harder to find talent, which is reflected through the education system. Like a lot of professional firms, we are often in the business of taking people pretty much straight out of the education system.

Mr Alan Leaman: I think people do not always appreciate that the benefits of free movement have enabled our industry to compete right round the world. Because we can pull in all the diversity of talent and perspectives within the EU, it makes our offer much more global.

Lord Mawson: What about China? We are talking to China. We have had dealings with China in east London. It is interesting to listen to the rhetoric and then see what happens in practice. Part of the question is whether we are up to negotiating with China. I watch this stuff. My experience is that China is fundamentally about China, and it is probably about nicking quite a lot of our ideas, to be blunt. When you look at who is employed on the Silk Road thing, they are Chinese people. The money flows are going into Chinese companies, not here. We may be pretending that there is a negotiation with China, but I worry. This is a very one-sided affair. Given what you are describing, are we capable in this country of doing that negotiation in a way that has teeth for the economy?

Ms Sally Jones: That is an entirely fair challenge. My observations on it, in no particular order, are that, first, any free trade agreement with China is better than the current status with China and would therefore, open markets. Secondly, China is very keen, for all kinds of technical reasons, to be seen as a good, free trade, open market economy—mostly because, if it is recognised as a market economy, the sanctions available to counterparties who believe it to be acting unfairly are reduced when punishment is calculated. But you cannot be treated as a market economy unless you are actually behaving like one. There is push from the Chinese side to open their markets. Thirdly, it is a country whose population dwarfs every other; being able to sell into that market, whether services or goods, would almost certainly create new trade that currently does not exist, as opposed to merely re-characterising trade that is already happening. The same is true for Brazil and India. Those are the reasons why I would characterise those countries as ones we should prioritise.

Lord Mawson: It is interesting that China has already built its own

version of the Range Rover. It has a slightly different brand and name, but it looks almost exactly the same.

The Chairman: I am anxious to move on to transition. I know Lady McGregor-Smith has another question but perhaps we can come back to that. Rita, were you going to kick-start the next section?

Baroness Donaghy: I am transitioning, Chairman, and I hope everybody else is.

The Chairman: I should have put that a different way.

Q16 **Baroness Donaghy:** When we last saw you, the whole issue of the transition period, implementation period or standstill adjustment period—you name it—was not really on the agenda. It needed some nudging by Michel Barnier on the EU side and, I have to say, by some Lords Select Committees saying that it would be necessary. What we have now is transition, implementation or a potential standstill period. There has been comment by the Commons Treasury Select Committee that, notwithstanding that, there might still need to be an adjustment period afterwards. Ms Jones talked about four to five years as a realistic timeframe. What is your view about managing this rather arbitrary two-year period? What would be your preference? You talked about going from A to C, which implies a standstill period. What room is there for adjustment in that period, or will it just be another two years of sitting and waiting?

Mr Mickaël Laurans: For lawyers, legal certainty is an absolute for their clients, families and businesses. As regards the EU framework, it needs to be an A; there needs to be continuation of the current situation for maybe two years or longer. That is the one viable solution to guarantee legal certainty. It would also mean that the EU would not have to engage in a number of ratifications of wider agreements that would involve the national and regional levels as well. Keeping to A—the standstill—would be essential.

We consider two years to be a minimum. That would prevent our members triggering their contingency plans. I could provide a more detailed response as to what our members are doing, whether it is requalifying people in other member states' professions, shifting people from one location to another, or opening offices in other member states as a result of the potential for no deal. We welcome the transition period. I think it has to be under the same framework to guarantee legal certainty, but it is a minimum and, hopefully, it should give enough time to negotiate the final outcome of a new trade relationship.

Ms Sally Jones: I always come back to the point that a transition is only good if people trust what we are transitioning towards. If people do not believe we are transitioning towards something that works for them, they will still take steps to manage their risks. Whether they take those steps over the period between now and October 2018 or between now and December 2020, if there is no clarity about the outcome, then all a

transitory period will do is to turn what would have been a military rout into an orderly retreat. But there will still be that retreat if there is no clarity as to where we are going.

The Chairman: Is there a time by which you need to know what we are transitioning to? Is there any sort of deadline you can put on when businesses need to know that?

Ms Sally Jones: This is true not just of Deloitte but of all the clients that have engaged me to help them with their Brexit readiness. In my experience, it varies enormously and is very specific to fact and circumstance. It ranges from financial services companies that had to start on their implementation plan last year, because of the sheer length of time it takes to take out and receive a banking licence, to one of my manufacturing clients that has worked out that its number one action would be to reconfigure its factories, but that it can do that in about two or three months. That company has its Brexit-readiness plan sitting on a shelf ready to go, knowing that it does not have to do anything until, say, six months before the uncertainty hits. It is quite happy to sit back and watch what happens, but other companies do not have the luxury of that time.

Mr Alan Leaman: Sally is right. There will be a series of stages in this for different types of firms and clients. Our working assumption is that, whether you call it transition or implementation, it is but the first of several stages in the process and we will be working on it for many years to come; indeed, it is quite likely that we will be negotiating through them as well. One point that always strikes me is how much the public sector will have to do to change itself and transition to new ways of working, new regulatory arrangements and so on. These are going to be massive change programmes, which I do not think we have begun to scope yet, either in the public sector or in much of the private sector. Logistics, customs, borders and freight are all issues rising up the agenda.

Baroness McGregor-Smith: If you are a business going through all this uncertainty, whether or not we have a good set of transitional arrangements, whether or not we have any good trade negotiators, or whether anyone really knows what they are doing, is not the stark reality that businesses just have to plan and get on with it? They have to plan now for whatever the outcome is. They have to go with it in stages, accept it all completely and accept that it is unusual.

Ms Sally Jones: Yes.

Baroness McGregor-Smith: We have no real concept of what is happening and they just have to plan for the future regardless of the outcome. Is that not the message to business?

Ms Sally Jones: Yes, absolutely, and it is what we have done for ourselves and our clients. We say, "By all means hope for the best, but you have to plan for the worst".

Baroness McGregor-Smith: Effectively, what business tends to do in such uncertain times is to be unduly cautious, hold back on investment, not do anything until it really believes it is going to happen and then plan accordingly, because each business has to think about itself. That is what will happen, surely.

Ms Sally Jones: Yes.

Mr Ian Harris: It is happening already.

Baroness McGregor-Smith: That will continue.

Ms Sally Jones: I completely agree with that.

Lord Wigley: Sally Jones mentioned that businesses and manufacturers were reconfiguring their factories. Is that reconfiguring so that they can apply to new markets, or are they reconfiguring the location of their factories with regard to whether they will be supplying existing European markets?

Ms Sally Jones: In the particular case I was thinking of, they have European factories and UK factories that currently specialise in what they manufacture. If they have five products in their range, each of their five factories would specialise in one particular product. They are aiming to make sure that each factory can make each product, so that if they have a European customer he or she can be supplied from their European factory without having to worry about the border. That is the kind of thing we are seeing.

We see companies taking exactly that kind of optionality decision now. They have a choice: either upgrade their existing UK factory, office, service location or service centre, or create a new one in the EU. They may decide to create a new one in the EU because that means they have capacity in the UK and in the EU, and, no matter what the outcome is, they will be able to serve their client base.

Lord Rees of Ludlow: Sally Jones made it clear that the preference would be for a standstill period, so that we go straight from A to C, as it were. Do the other panellists agree that the optimum would be for the two years after September 2019 to be a continuation of what we have now, as far as possible?

Mr Alan Leaman: Absolutely. Make it as long as possible. There are many benefits of the status quo that we want to keep going.

Mr Ian Harris: But it depends on what C is. If C looks as though it is going to be dire and chaotic, we will have a very leaky pipe during that transition period, even if it is a standstill.

Lord Rees of Ludlow: But it is still better than having A to B.

Mr Ian Harris: Yes. Standstill is better than going from A to B to C.

Mr Mickaël Laurans: We need to stay at A; we need time to negotiate what C looks like.

The Chairman: Let us move on to what happens in the event of no deal or an unsatisfactory deal.

Q17 **Baroness Noakes:** I want to concentrate on the businesses you come from, not the ones you do business with, and to explore further the issue of contingency planning, which I think we have already covered. I am trying to get an idea of the type of contingency planning that is currently being done and the scale of the impact on the UK. Obviously, each of you represents service areas that vary enormously, from the large multinational to the small. I do not really know how big an issue it is for the economy overall. Perhaps you could scale your responses.

Ms Sally Jones: In the world of accountancy, the big firms such as mine have largely managed to trade in and with the EU despite existing restrictions, by finding work-arounds. They are not perfect work-arounds and some of them will not exist once we have left the EU. In my sector of accountancy, I worry more for the medium-sized firms that may not yet have the international footprint in Europe that we have but would like to have it. They will find it materially harder to expand into Europe than would have been the case pre Brexit.

Baroness Noakes: Would it affect their current operations? Forget future expansion. What is the impact on what we have today?

Ms Sally Jones: Fundamentally, Deloitte, as a global firm, will be fine. We have a particularly unusual partnership structure. I think only Deloitte and EY have a properly pan-European partnership structure in place. We would need to look at the location of the holding partnership, which is currently in the UK. The issue at stake is whether, if you have a UK holding partnership, you can continue to perform EU-based audits. That would be one of the key areas of focus for a firm such as ours.

Typically, mid-tier firms currently trade in Europe by entering some kind of agreement with a counterpart partnership in that territory. That relies on a degree of acceptance and trust that, if you are a UK partnership entering into an agreement on a one-to-one basis with a French partnership, your work is as good as theirs, and vice versa. That would be potentially at stake in a post-Brexit era if there is divergence of regulation.

Baroness Noakes: The international networks would not operate.

Ms Sally Jones: It would be materially harder for small firms to create, in the first place, the international networks that they are looking to create. That is the issue.

Baroness Noakes: What about the other professional areas?

Mr Alan Leaman: Clearly, all the global firms are thinking about what this does for the balance of where they put services and people.

Baroness Noakes: Do you know what contingency planning they are doing?

Mr Alan Leaman: They are just looking at options at the moment. The biggest factor they all mention to me is that they are having greater difficulty in attracting people to come to work in the UK and retaining them.

Baroness Noakes: It is mobility of labour as opposed to business structure.

Mr Alan Leaman: You go where the talent is. For multinational clients who want to be able to access services they can use around the world, that will clearly be a factor for them.

Mr Mickaël Laurans: For firms in the legal services sector, there are a number of factors at play. Their response and contingency planning depend very much on their size, their international and European footprints, which member states they have offices in, and their client base. There is a people element and a structural element.

On the people element, as solicitors of England and Wales can they remain in a member state in the event of no deal? Do people need to requalify into the local title, or do firms need to shift people back to London or to another country? What type of areas would they be able to practise in? For us, one key issue is the ability to provide advice on EU law in competition matters, regulatory matters and intellectual property. London is a big legal centre for EU law advice on both the solicitor and barrister side of the profession. Will it be able to continue? A lot of our members—1,300—have requalified as Irish solicitors as part of their contingency planning, so that they retain an EU title to carry on practising as EU competition lawyers. At the moment, they do that from London, but do they need to move to Brussels, Dublin or elsewhere to carry on that work?

On companies, most of our firms operate as branches of UK limited liability partnerships. Can they do so moving forward? That is a big question. A lot of contingency planning will look at the restructuring of that, and at European company or partnership structures, which may or may not come with other regulations. There may be an equity cap; EU lawyers may need to have the majority of the equity in a partnership. There may be a provision, as in Spain, whereby Spanish lawyers cannot be in partnership with non-EU lawyers. Firms will have to reconfigure their network, and their response will depend very much on where they have offices and the people in those offices.

Baroness Noakes: What proportion of the Law Society's membership is likely to be affected?

Mr Mickaël Laurans: Thirty-five per cent of our members work in the City, or with the City, providing legal support to the financial services industry. I think 36 of the top 50 law firms in the UK have offices in other

member states of the European Union, and the response will be based on where the offices are. Again, we need to take a country-by-country approach. Which member states would remain open to non-EU lawyers? Some jurisdictions are friendlier than others and there are some where things will get complicated.

We are having a very interesting conversation at the moment with national and regional firms that do not have an office in another EU member state, and may, as a result of Brexit or no deal, open an office in some of the most friendly jurisdictions so that they can keep access to their EU client base, regardless of the outcome.

Mr Ian Harris: I have a quick point about the unregulated sector. In the main, I agree with what Alan says. We are a small firm; we are 80% export, and almost all of that is outside the EU, including China. We are able to do business with China, Singapore, the Arab world and so on. We seem to be able to do that without difficulty, and I am sure that will continue. I made most of my points that are pertinent to this question a little earlier in the piece. People on the whole do not do contingency planning for serious economic shocks, and the no deal scenario would be one.

Baroness Randerson: You have made numerous references to plans for the future and proposals that might be made to cope with the new situation. What if there is no deal or a free trade agreement that is really bad for you? Can I have a more systematic answer? Mr Laurans has given us quite a lot of detail. Is it common now for firms in your sphere to be taking these steps already, or are they just planning for it as a proposition and waiting to see what happens? Have a number of firms already taken the necessary steps to open new subsidiaries, relocate staff and, as Mr Laurans pointed out, register with professional bodies in other member states?

Ms Sally Jones: That is where the work of the Managing Partners' Forum is really important. It found that eight out of 10 respondents are actively doing contingency planning and that, of those, 20% are already implementing their contingency plans.

Mr Ian Harris: Anecdotally, the survey evidence feels right to me as well.

The Chairman: We have reached the end of our allotted time. Are there any burning, one-sentence points any members of the panel wish to make that we have not covered in the session so far?

Mr Mickaël Laurans: We have to make sure that the professional services industry is covered in any future trade relationship with the EU.

The Chairman: Are there any burning, one-sentence questions that members of the Committee have been sitting on and are anxious to get on the record?

Baroness Randerson: Can I do just that? In another sector, firms tell

me that they are planning and quietly moving, but do not want to say so publicly because it discourages customers. Are you coming across that mood? "Afraid" is a strong word, but are individual companies wary of speaking up?

Ms Sally Jones: I find it varies quite a lot. If I think about the companies that are specifically working with me on their Brexit planning, at one end of the spectrum I have a client so sensitive about the fact that it is doing Brexit planning that only two people from Deloitte are allowed to talk to two people at the client about Brexit, and we are not allowed to use the word "Brexit" in our emails. That is one extreme end of the spectrum.

At the other end of the spectrum, I have another client that is a big business but operates primarily with small and medium-sized enterprises. It is looking very hard to educate those small and medium-sized enterprises as to what Brexit might mean for them, so that they can be Brexit-ready. It is actively looking to engage with its stakeholders. There is quite a variety, depending on the attitude of the company itself.

Mr Alan Leaman: There is a big mood that announcing your worst-case scenario plans becomes a self-fulfilling prophecy and that there is real risk in that. Finally, we are all being very tactical about the big issues but, as a country, we need to be much more strategic. That involves a much better debate and conversation than the country is currently having.

Baroness McGregor-Smith: I agree with you, but I suggest that most businesses are probably less interested in what is happening strategically; they are trying to focus on the day to day of what they are doing and how they plan. Surely, we need to encourage all of them not to get too involved in the detailed debates but to plan the future regardless of where all of this goes. That would be my recommendation.

The Chairman: Although we could certainly continue this discussion for a considerable length of time, I would like to draw it to a close. If there are things that occur to you that we have not covered, or that you would have liked to mention, please let the secretariat have something in writing, or whatever.

I thank all four of our witnesses for a helpful and interesting session, and, in three cases, for coming to repeat the ordeal—or adventure. A transcript will be sent to you for minor or technical corrections. With that, I declare the public session closed. Thank you very much indeed for joining us.