

Written evidence submitted by The Law Society (ELG0048)

Parliamentary Briefing Trade in Legal Services International Market Access for Legal Services

The Law Society of England and Wales is the independent professional body that works globally to support and represent 200,000 solicitors, promoting the highest professional standards and the rule of law.

1. As the UK government seeks to support British businesses to grow and export in a new post-Brexit trading environment, the Government must prioritise the export of legal services.
2. Our legal services provides the hidden wiring that supports UK exports and global enterprise, and we are the global jurisdiction of choice for international business deals and the largest legal services sector outside of the US. To capitalise on our strengths, the government must ensure that ongoing and future trade agreements include market access for English and Welsh lawyers. Doing so will enable the UK to reap the full economic benefits of one of its most sought-after exports and allow legal services to act in their full capacity as a trade facilitator.
3. The Law Society has recently launched its [annual international insights report](#) highlighting the global position of English and Welsh law. Our analysis shows:

The international power of English and Welsh law:

- The value of the UK's legal services exports continues to rise.
- The UK's total exports for legal services was **£6.6bn in 2021**, compared to £5.9bn in 2020.
- The **European Union is the UK's most valuable trading bloc** for legal services, accounting for **£2.15bn in exports** from the UK in 2021.
- **London is the most attractive centre** for commercial litigation and international arbitration, attracting international business into the UK.
- **English law governed £545 trillion** in over-the-counter (OTC) derivatives transactions and metals trading in 2021.

Export of Legal Services

4. According to figures from [TheCityUK](#), legal services consistently generate a trade surplus, helping to offset the UK's overall trade deficit. In 2021, total exports of UK legal services stood at £6.6bn, up from £5.9bn in 2020.
5. The sector provides crucial support to UK and multinational firms and is especially helpful when organisations seek to develop a presence in new international markets or structure multi-jurisdictional projects.
6. English law is a key part of what makes England and Wales an attractive place to do business for internationally mobile activity and underpins a vast amount of economic activity both in the UK and globally. For example, in 2019, English law governed around £250bn of global mergers and acquisitions and 40% of global corporate arbitrations.

a) How does English and Welsh law work as an export?

Prioritising English and Welsh law is not just beneficial for solicitors. When our highly trusted common law system is included in trade agreements, the UK experiences twin benefits – revenue and reputation.

Businesses overwhelmingly favour England and Wales as the jurisdiction of choice for international business deals. It is reliable, based on precedent, and provides the framework for swift dispute resolution.

This valuable export brings in **£6.6 billion to the UK economy** and bolsters Britain’s reputation overseas.

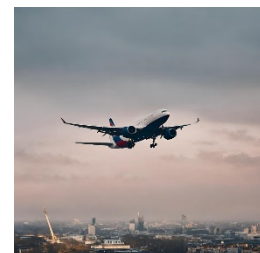
English and Welsh law in action:

What the sector needs from future trade deals

7. Legal services are a crucial export for the UK. In order to harness the economic power of trade in legal services, the sector needs government to prioritise the following in future trade deals:

Mobility

8. UK lawyers rely heavily on the possibility of **short-term visits** to a given jurisdiction for the purposes of providing legal advice (fly-in fly-out or FIFO) as well as **temporary secondment/establishment rights** in a jurisdiction.
9. We believe that the UK should seek to negotiate free trade agreements which include the following:
 - a) Greater transparency and clarity on the mobility provisions, their application to the legal sector as well as their translation/implementation into the domestic immigration regime of the host country.
 - b) The list of activities permitted to short-term business visitors should include the provision of legal services. Short-term business visitors should be entitled to provide legal services in return for payment without the need for a visa or work permits or measures having equivalent effect.
 - c) Mobility provisions should also consider options to facilitate the international intra-corporate transfer of lawyers between law firm offices. Where UK law firms work with partner law



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firms, mobility provisions should also facilitate the secondment of lawyers to offices of those partner or alliance law firms.

- d) In cases where a visa is required, it is imperative that processing times are kept to a minimum and that eligibility criteria are straightforward and no more burdensome than necessary.
- e) Economic needs tests or labour market tests should have no role to play in relation to provisions on home title practice.

Mutual Recognition Agreements

- 10. Recognition agreements (MRAs) apply differently to the legal services sector due to the distinction between domestic and foreign law.
- 11. As such, the Law Society considers the recognition of professional qualifications as:

“the recognition of existing home country qualifications and experience for the purposes of requalification into a host state profession.”



- 12. We also support a **clear definition of legal services** that recognises the **specifics of home title practice in international legal practice without the need for mutual recognition procedures and/or requalification in the host title.**
- 13. The EU-UK Trade and Cooperation Agreement (TCA) and the FTA with Norway, Iceland and Liechtenstein make the useful distinction between **practise in home jurisdiction and international law** and **practise in host country law**. Unfortunately, in many cases any market access gains are eroded by the non-conforming measures in the agreements or by mobility restrictions.
- 14. The right to home-title practice for lawyers should be recognised independently of any arrangement for the mutual recognition of professional qualifications, as is the case for foreign lawyers in England and Wales.
- 15. Key benefits of MRAs are:
 - a) The recognition of solicitors’ qualifications and experience for the purposes of dual-qualification.
 - b) A forum to discuss mutually relevant issues. This includes access to host country courts, conflicts between host and home state rules of professional conduct and recognition of business structure;
 - c) Greater cooperation between domestic regulatory and representative bodies.

Key asks from the legal sector:

- 16. Take advantage of the legal sector’s export potential by ensuring legal services feature at the heart of trade agreements and securing greater market access and practising rights for our lawyers.
- 17. Ensure that the provisions under the EU-UK Trade Cooperation Agreement are fully implemented, and that legal services are considered fully in the forthcoming review of the agreement.
- 18. Work with the sector when negotiating trade deals to ensure that the right kind of market access rights are pursued. Prioritise access across the EU, Australia, South Korea, Nigeria, and India.

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