

Constitution, Europe, External Affairs and Culture Committee
Thursday 12 December 2024
28th Meeting, 2024 (Session 6)

Review of the EU-UK Trade and Cooperation Agreement inquiry: Part 2

1. The Committee published the [UK-EU Trade and Cooperation Agreement: Barriers to trade in goods and opportunities to improve the UK-EU trading relationship](#) report on 10 September 2024, following the first part of our [Review of the EU-UK Trade and Cooperation Agreement](#) inquiry.
2. That piece of work focused on trade in goods between the UK and the EU. The second part of the inquiry is currently focusing on trade in services (including the mutual recognition of professional qualifications) and will subsequently cover youth mobility.
3. The Cabinet Secretary's [response to CEEACC TCA Report Part I](#) set out the Scottish Government priorities for improving UK EU relations, including its aim to—
 - Seek full participation in relevant EU programmes, with specific priority to request a commitment to open negotiations with the EU Council to discuss options for partial or full association with Erasmus+ and Creative Europe
 - Seek restored opportunities for professionals in sectors across our economy to work in the EU
4. We began the second part of the inquiry on 31 October with [a panel representing the legal profession](#), continued on 21 November with [a panel of academics and think tanks](#), and on 5 December heard from the [veterinary, architectural and IT sectors](#). The witnesses this week are—
 - Adam Berman, Director of Policy and Advocacy, Energy UK
 - William Bain, Head of Trade Policy, British Chambers of Commerce
5. A SPICe briefing is provided at **Annexe A**.

Clerks to the Committee
December 2024



Constitution, Europe, External Affairs and Culture Committee

28th Meeting, 2024 (Session 6), Thursday, 12 December

Inquiry into the review of the EU-UK Trade and Cooperation Agreement – Phase 2: trade in services and mobility of people

This paper for today's Committee meeting includes background briefing on trade in services, mutual recognition of professional qualifications and mobility provisions which have also previously been highlighted in SPICe papers provided to the Committee during its consideration of this element of the TCA inquiry. The paper also includes an indication of issues the Committee may wish to discuss in today's evidence session.

A summary of the issues discussed at the meetings on 31 October and 21 November is appended to this paper.

Context

The first phase of the Committee's inquiry into the review of the Trade and Cooperation Agreement [focused on the provisions related to trade in goods](#) reported on 10 September 2024.

At its meeting on 5 September 2024, the Committee agreed to take evidence in relation to—

- Trade in services, such as financial and legal services, (including mutual recognition of professional qualifications), and

- The mobility of people (including youth mobility schemes, Erasmus+, and touring artists and creative professionals).

Both these areas are addressed in the free trade agreement section of the TCA.

Trade in services as an EU member state

Whilst the TCA provides a number of measures to facilitate the trade in goods, it is more limited in its coverage of trade in services. As a result of Brexit and the UK decision to leave the Single Market, UK service providers lost the right to free movement in the EU and the right to freely provide services across the EU.

For EU member states, the free movement of services covers two elements:

- i. the freedom of establishment for individuals and companies to provide services in another Member State on a 'permanent' basis and
- ii. the freedom to provide cross border services to a recipient established in another Member State on a 'temporary' basis. This may involve cross-border movement by the service provider or the recipient, or, in the case of services delivered online or at a distance, no cross-border movement by either party.

This means that EU based service providers who follow the regulations and rules in their home country can freely provide services elsewhere in the EU Single Market.

Writing for the UK in a Changing Europe, Dr Sarah Hall [summarised the possible barriers for trade in services](#):

“For services, barriers to trade are so-called non-tariff barriers that regulate both services delivered cross-border and the person delivering them, for example, by specifying the qualifications and work experience of the service provider. Trade agreements in services aim to make delivery of cross-border services easier by reducing (or removing) these barriers, by, for example, recognising qualifications from other jurisdictions so that individuals no longer require checks and paperwork. They also include provisions that make it easier to establish an office overseas.”

Trade in services under the Trade and Cooperation Agreement

When the UK left the EU, UK service providers such as lawyers, architects, businesspeople or other professionals lost the ability to freely provide services in EU member states. Instead, they are required to abide by the domestic rules, procedures, and authorisations applicable to their activities in the member states where they operate. This means complying with – often varying – host-country rules of each Member State, as they will no longer benefit from the EU's common rules or mutual recognition of standards across the EU.

European Commission [guidance on the TCA summarises how the agreement supports trade in services](#):

“The EU-UK Trade and Cooperation Agreement (TCA) provides for a significant level of openness for trade in services and investment in many sectors including professional and business services (e.g. legal, auditing, architectural services), delivery and telecommunication services, computer-related and digital services, financial services, research and development services, most transport services and environmental services...

... The actual level of market access will depend on the way the service is supplied: whether it is supplied on a cross-border basis from the home country of the supplier, e.g. over the internet ('mode 1'); supplied to the consumer in the country of the supplier, for example a tourist travelling abroad and purchasing services ('mode 2'); supplied via a locally-established enterprise owned by the foreign service supplier ('mode 3'), or through the temporary presence in the territory of another country by a service supplier who is a natural person ('mode 4'). In practice, the actual ability to supply a particular service or invest in a certain sector also depends on specific reservations set out in the TCA, which may be imposed on EU service suppliers when supplying services in the UK in some sectors, and vice-versa.”

The [World Trade Organisation provides further information on the four modes](#) which are used to define services trade and which are referenced above.

The TCA's impact on different service providers in the UK is not uniform as the Agreement does not provide a common approach for all services trade.

Mutual recognition of professional qualifications under the TCA

A contributor to the way in which the EU has facilitated trade in services is through a process of mutual recognition of professional qualifications.

European Union member states usually regulate access to professions such as medicine, nursing and engineering in their own countries in order to protect the public. However, requiring professionals to re-train if they want to work in another Member State would discourage mobility and limit their freedom of establishment. To avoid this, EU member states agreed an approach to facilitate the mutual recognition of professional qualifications meaning where a professional is qualified in one member state, they are able to freely work in another member state.

The TCA provides very little in the way of supporting continued mutual recognition of qualifications for UK workers in the EU and vice versa. Instead, EU qualified workers wishing to work in the UK and UK nationals wishing to work in the EU must meet the qualification requirements of the UK and each individual Member State respectively.

However, the Agreement includes a commitment from both sides that they may seek to negotiate more detailed reciprocal arrangements on a sector-by-sector basis in the future.

Writing in December 2021, Dr Sarah Hall [set out the impact of the TCA on some professionals in](#) the UK:

“For professional business services such as audit and architecture, the ending of the Mutual Recognition of Professional Qualifications has erected new trade barriers with the EU. The UK had pressed for automatic recognition to continue in the TCA, but the EU refused. Instead, a process similar to that in the CETA was reached, whereby professional bodies will have to separately negotiate mutual recognition agreements. This is likely to be a drawn-out process: so far only the architecture profession has started the process. The only exception in the TCA is for lawyers. The TCA allows British lawyers to practise under their UK title and provide advice in the EU on UK and international law.

Mobility of people under the Trade and Cooperation Agreement

As referenced above, the UK’s decision to leave the Single Market meant that the automatic right to freedom of movement was lost for UK nationals. As a result, EU qualified workers wishing to work in the UK and UK nationals wishing to work in the EU have to meet the qualification requirements of the UK and each individual Member State respectively.

[According to Catherine Barnard, Professor of EU law at the University of Cambridge and Trinity College, and deputy director of UK in a Changing Europe and Emilija Leinarte, British Academy Postdoctoral Fellow at the Lauterpacht Centre for International Law at the University of Cambridge, Trinity College](#), during negotiation of the TCA, the European Commission proposed that a standalone chapter on mobility should be included in the Agreement but this was rejected by the UK Government at the time. As a result, the mobility provisions in the TCA make no commitment as such for visa-free travel instead allowing visa-free travel for short-term visits. From a UK perspective travelling to the EU, the Schengen visa allows people to travel to any members of the Schengen Area for stays of up to 90 days for tourism or business purposes.

Mobility under the TCA is temporary in nature and is limited to those who are engaged in trade in services. However, as Catherine Barnard and Emilija Leinarte have highlighted, under the TCA significant groups of persons will be excluded from the TCA even if they are engaged in the provision of services. One such group is musicians and other creative professionals.

The UK Government’s decision not to include participation in the EU’s youth mobility programme Erasmus+ within the TCA also means that young people from the UK do not have opportunities to live, study and work in the EU in the same way as they enjoyed when the UK was a member state.

For persons wishing to undertake business in the EU or the UK, the mobility rights in the TCA are [slightly more expansive](#):

“The EU-UK TCA includes limited mobility rights for natural persons intended to facilitate certain categories of business and professional mobility, in the context of trade in services: business visitors for establishment purposes, intra-corporate transferees, short-term business visitors, independent

professionals and contractual service providers. However, these persons are subject to eligibility criteria and conditions as regards their experience, professional status, remuneration and allowed length of stay. Additional restrictions are found in the reservations made by Member States and the UK.”

[Annex 21 of the TCA](#) sets out the activities which short-term business visitors are permitted to engage in:

meetings and consultations: natural persons attending meetings or conferences, or engaged in consultations with business associates;

research and design: technical, scientific and statistical researchers conducting independent research or research for a legal person of the Party of which the Short-term business visitor is a natural person;

marketing research: market researchers and analysts conducting research or analysis for a legal person of the Party of which the Short-term business visitor is a natural person;

training seminars: personnel of an enterprise who enter the territory being visited by the Short-term business visitor to receive training in techniques and work practices which are utilised by companies or organisations in the territory being visited by the Short-term business visitor, provided that the training received is confined to observation, familiarisation and classroom instruction only;

trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;

sales: representatives of a supplier of services or goods taking orders or negotiating the sale of services or goods or entering into agreements to sell services or goods for that supplier, but not delivering goods or supplying services themselves. Short-term business visitors shall not engage in making direct sales to the general public;

purchasing: buyers purchasing goods or services for an enterprise, or management and supervisory personnel, engaging in a commercial transaction carried out in the territory of the Party of which the Short-term business visitor is a natural person;

after-sales or after-lease service: installers, repair and maintenance personnel and supervisors, possessing specialised knowledge essential to a seller's contractual obligation, supplying services or training workers to supply services pursuant to a warranty or other service contract incidental to the sale or lease of commercial or industrial equipment or machinery, including computer software, purchased or leased from a legal person of the Party of which the Short-term business visitor is a natural person throughout the duration of the warranty or service contract;

commercial transactions: management and supervisory personnel and financial services personnel (including insurers, bankers and investment brokers) engaging in a commercial transaction for a legal person of the Party of which the Short-term business visitor is a natural person;

tourism personnel: tour and travel agents, tour guides or tour operators attending or participating in conventions or accompanying a tour that has begun in the territory of the Party of which the Short-term business visitor is a natural person; and

translation and interpretation: translators or interpreters supplying services as employees of a legal person of the Party of which the Short-term business visitor is a natural person.

More detail on the TCA's approach to temporary business travel is available in this [House of Commons Library briefing](#).

Today's evidence session

Today's evidence session is a further opportunity for Members to discuss with witnesses what the provisions in the TCA mean for trade in services and how the processes might be developed further in the context of the TCA review.

The Committee will take evidence from:

- British Chambers of Commerce
- Energy UK

Trade in services

In a news release published on 11 November 2024, the [British Chambers of Commerce \(BCC\) wrote](#):

“The UK's trade in services has also continued to grow as a success story in the 2020s. And there are strong growth opportunities ahead in business and professional services, pensions, insurance, health, travel, transport, and creative services, as well as traditional strengths such as financial services.

The UK economy is now 81% services based, and increasing amounts of these activities are exportable to customers overseas. Growth and consumer demand in the Asia-Pacific region is looking particularly strong for 2025 and 2026, and by the middle of the century it is expected to account for as much as 60% of global output.”

In October 2024, Energy UK published [Energy UK Explains: the cost of the UK-EU relationship for energy](#). This set out “the reality of post-Brexit trade”:

- Following Brexit, the UK moved to a set of less efficient trading arrangements with the EU.
- Whilst some sectors were able to redirect trade flows to work around these new barriers, this wasn't possible for energy.

- The UK is no longer part of the EU, but it is part of a broader European energy system. The UK and EU remain deeply interconnected in terms of energy: from electricity to gas, the pipes and wires which run under the North Sea support both security of supply and the transition to Net Zero.
- Whilst energy is still traded on a daily basis between the UK and EU, the broader cost of our relationship has gone up. These costs are borne by consumers through higher energy bills, and lower revenues collected by the Treasury.
- Over time, these divergences are likely to become even more important. The UK is set to become a net exporter of electricity by 2030, and barriers to trade will make it harder for the UK to fulfil its potential to become a clean energy superpower.”

In terms of proposals for improving the TCA, Energy UK wrote:

- Recognising the impact inefficient electricity trade has on the UK and EU, the Trade and Cooperation Agreement (TCA) signed post-Brexit instructs both sides to explore a technical solution known as ‘multi-region loose volume coupling’ (MRLVC).
- However, MRLVC has never been implemented before in any jurisdiction and remains unworkable in the opinion of Transmission System Operators in the UK and EU and power exchanges (responsible for electricity trading between both sides). Progress has been repeatedly promised by policymakers, both in the TCA and in updates since, with little action to show.
- Energy UK believes that a new approach to resolving this impasse is required. We support GB interconnectors being recoupled with the EU Internal Energy Market through rejoining the EU’s Single Day Ahead Market Coupling (SDAC) on a contractual basis. This would avoid the UK having to be within the jurisdiction of the European Court of Justice whilst providing the benefits of efficient trading.
- New arrangements must be implemented rapidly to avoid becoming politically sensitive ahead of the expiry of the TCA’s Energy Title on 30 June 2026.
- Linking the UK Emissions Trading Scheme (ETS) with the EU ETS will create equivalent prices in the two schemes, generating additional revenue in GB, whilst eliminating additional charges on electricity export from GB and possible tariff barriers on Carbon Border Adjustment Model (CBAM) goods.
- Linkage would be subject to negotiation between the UK and EU. Energy UK believes that any negotiation should be swift due to the shared climate ambitions of both sides, highly similar schemes and political will.
- Both sides should also pursue mutual CBAM exemptions to avoid adverse consequences for their market whilst negotiations are ongoing, given the EU CBAM implementation date of 1 January 2026.

The Committee may wish to explore the balance between UK services trade with the EU and with the rest of the world. Linked to this, the Committee may wish to explore how that balance has changed following EU exit and the reasons for any change.

The Committee may also wish to discuss how the provision of trade in services in the EU has changed for UK based businesses and individuals following Brexit. This could include seeking some examples from witnesses.

Focussing on energy policy, the Committee may wish to discuss how energy trading has changed following EU exit and the proposals from Energy UK to address issues which have emerged.

The Committee may wish to discuss how the Scottish and UK Governments are supporting UK service providers operating in the EU in negotiating the new trading environment following EU exit. The Committee may also wish to discuss what more support the Scottish and UK Governments can provide to UK service providers operating in the EU.

Mutual recognition of qualifications

The mutual recognition of professional qualifications allows professionals qualified in one country to practise in another (and vice-versa) without having to requalify and with only minimal additional paperwork.

The [BCC has indicated](#) that one of its priorities for developing the UK-EU relationship would be to seek “more recognition of professional qualifications”.

The Committee could usefully explore what this means in practice based on how the current arrangements work and how an agreement for more recognition of professional qualifications would be beneficial.

The Committee may wish to discuss with the witnesses what progress the UK and EU have made towards agreeing procedures for seeking MRPQ arrangements.

Linked to this, the Committee may wish to discuss how the TCA currently operates for UK service providers seeking to provide services in the EU. In particular the Committee may wish to seek examples of how the arrangements are working in practice for different professions.

The Committee may also wish to discuss with the witnesses whether reaching agreements on the MRPQ are important, what those agreements should contain and how any such agreements would benefit UK service providers operating in the EU.

Mobility

The Committee has previously heard evidence setting out the relevance of mobility provisions to UK service providers ability to provide services in the EU. For those service providers wishing to deliver services on the ground, there is a requirement to be based in the EU. As a result, operation of the mobility arrangements under the TCA are crucial to UK service delivery in the EU.

[Annex 22 to the TCA](#) includes a long list of service suppliers and independent professionals who are permitted to provide services in the other territory subject to a number of limitations and exceptions. However, the Annex also states that:

“In addition to the list of reservations in this Annex, each Party may adopt or maintain a measure relating to qualification requirements, qualification procedures, technical standards, licensing requirements or licensing procedures that does not constitute a limitation within the meaning of Article 143 of this Agreement. These measures, which include requirements to obtain a licence, obtain recognition of qualifications in regulated sectors or to pass specific examinations, such as language examinations, even if not listed in this Annex, apply in any case to contractual service suppliers or independent professionals of the Parties.”

The Committee may wish to discuss with the witnesses how the mobility arrangements under the TCA are working for UK service providers. This could include examples of professions where the arrangements are working well and where they are more challenging.

In addition, Members may wish to discuss with the witnesses whether activities in addition to the 11 permitted activities (set out in [Annex 21 of the TCA](#)) that business visitors can perform could usefully be added to.

The Committee might wish to explore how the mobility arrangements set out in the TCA affect UK service providers who wish to operate on the ground in the EU.

The Committee might wish to explore with the witnesses how the mobility arrangements between the EU and the UK following Brexit would operate alongside possible MRPQ agreements.

**Iain McIver
SPICe Research**

Summary of issues discussed with the legal services panel on 31 October 2024

At the meeting on 31 October 2024, the Committee took evidence from:

- Dr Ross Anderson (Faculty of Advocates)
- Professor David Collins (City St George's, University of London)
- Dr Adam Marks (Law Society of Scotland)

Legal services provision as an EU member state and under the TCA

Members discussed the opportunities to provide legal services in the EU when the UK was a member compared to the situation under the TCA with witnesses from the legal profession. The witnesses told the Committee that when the UK was a member of the EU, Scottish lawyers could provide advice on EU law, had the right to appear in EU courts, and could register in another EU country to eventually provide advice on national law. The ability to give advice on EU law and the right of audience in EU courts have been lost.

Opportunities presented by the TCA

The panel indicated the recent reset of relations between the UK Government and the European Commission is seen as a positive development, and could potentially lead to a more constructive approach to trade relations. Professor David Collins indicated that the express mention of legal services in the TCA is a positive sign, and signals recognition of the importance of legal services to the economy. The panel also positively remarked that the TCA allows legal services providers to offer "designated legal services" concerning "home state law, public international law, and arbitration", and includes new categories (such as inter-corporate transferees and business visitors for establishment purposes) not mentioned in WTO's GATS.

Challenges Arising from the TCA in Relation to Legal Services Provision

The Committee heard that the TCA has many reservations at the member state level, which may limit the liberalisation of legal services beyond what is established under the WTO's General Agreement on Trade in Services. The panel indicated that greater clarity from member states about what service activities are possible under the TCA is crucial. Similarly, the panel agreed that some issues, such as the definition of "designated legal services" in the TCA, need to be addressed at the EU-UK negotiating level and are beyond the influence of individual professional bodies.

The panel indicated that the upcoming implementation review process presents an opportunity to address current limitations. However, members of the panel noted that there are issues (e.g., the transparency and clarity of information from Member States required by Article 145 of the TCA) that could be addressed outside of the review process and as part of wider EU-UK relations.

Mobility and Fly-In/Fly-Out (FIFO) legal work

Specifically, the panel indicated Article 126 of the TCA, which commits both sides to review permitted activities for short term business visitors, could be addressed through the implementation review. The panel indicated that the mobility of professionals has been severely reduced as the legal services sector must now navigate 27 different legal regimes post-EU exit. The panel discussed how lawyers can provide legal advice on UK or Scotland-related matters and international legal matters if they have the appropriate visa. However, the need for country-specific visas complicates this process. Dr Adam Marks suggested that adding legal services to the list of permitted activities for short-term business visitors under Article 126 of the TCA could simplify this process.

The Committee also discussed the lack of comprehensive data on the extent to which Scottish lawyers provided advice on the laws of EU member states when the UK was a Member State. Panel members indicated it is generally believed that this was relatively infrequent because, in practice, law firms often collaborate with local professionals in EU member states. The panel indicated that clients generally prefer to be represented by lawyers who are recognised and familiar with the national courts and legal systems. This preference may reduce the frequency of Scottish lawyers appearing in foreign national courts and mitigate some of the challenges to service provision under the TCA.

The panel indicated that Scottish lawyers working in the EU tend to be concentrated in locations like Brussels and Luxembourg due to economic interests and significant legal institutions. Dr Adam Marks also indicated that challenges arose in geographical clusters. Luxembourg and Greece were specifically mentioned, due to the respective countries' legal frameworks not anticipating the TCA.

Mutual recognition agreements

The panel indicated that the EU currently seems unwilling to negotiate mutual recognition agreements for services, despite the UK's interest.

The Committee heard from Dr Ross Anderson that there is no mutual recognition between Ireland and Scotland. Dr Ross Anderson explained that Scottish lawyers often acquire dual qualifications in England and then use the appropriate route to qualify in Ireland. The primary reason for registering in Ireland is its EU membership, which grants lawyers rights of audience before EU courts and the ability to provide advice on EU law with legal professional privilege. Professor David Collins highlighted the complexity of Northern Ireland's situation, given its status within the EU single market, and suggested that Northern Ireland-based lawyers might still have rights of audience before the European Court of Justice.

Youth mobility

Members also discussed youth mobility and mobility of legal scholars with the panel. The discussion highlighted the significant impact of withdrawing from Erasmus on opportunities for law students and young lawyers, the potential benefits of the Turing scheme as a replacement, and the importance of youth mobility for professional development in the legal sector. Dr Adam Marks expressed support for rejoining a

programme like Erasmus. Dr Ross Anderson cited the ending of the EuroDevil Scheme after 40 years due to uncertainty around freedom of movement and visas post-Brexit. Professor David Collins acknowledged the benefits of the Erasmus programme but indicated his view that the UK Turing scheme replacing the Erasmus scheme is “just as good”.

Summary of issues discussed with the panel of academics on 21 November 2024

At the meeting on 21 November 2024, the Committee took evidence from:

- Professor Catherine Barnard, Professor of European and Employment Law, University of Cambridge;
- Professor Sarah Hall, Deputy Director, UK in a Changing Europe;
- Mike Buckley, Director, Independent Commission on UK EU Relations;
- Professor Jonathan Portes, Professor of Economics and Public Policy, King's College London.

The Official Report from the meeting is published on the [Scottish Parliament website](#).

Lack of clarity on the impact of the TCA on trade in services

The panel highlighted significant uncertainties regarding the specific impacts of the TCA on trade in services compared to goods. Much of the Committee’s discussion focussed on the lack of disaggregated data for the constituent nations and regions of the UK, making it difficult to identify which sectors are most affected. Mike Buckley stated:

We are missing data on the regional impacts. Before Brexit happened, research was done into what the regional impacts would be. Essentially, the determination was that areas such as London and other high-performing areas of the UK would not be particularly badly affected, but that the regions of the UK that were already poorer, such as Northern Ireland, the north-east, the poorer parts of Wales and south Yorkshire, would be much more badly impacted. [...] We simply do not know whether that has been borne out. I suspect that it probably has been, but I am not aware of anybody who has the capacity or the choice to do that research [...] there is some evidence from the regional GDP figures, which show that Northern Ireland has jumped from being bottom of the pile in every survey pre-Brexit to being consistently number 2 after London. London is not doing too badly [...] it sounds as if the rest of the UK, including Scotland, is doing worse.

The panel indicated the lack of data on trade in services is particularly problematic for new and emerging sectors (such as Financial Technology, FinTech) that are not well-represented in the Office for National Statistics’ existing data categorisations. Professor Hall stated:

There are some activities where the data clearly shows that Scotland does very well—I am thinking of fintech, which is at the intersection between financial services, technology and consultancy—but that do not fit neatly into

the Office for National Statistics categorisations. When the ONS set up the business codes, something like fintech did not exist as an activity. We do not accurately know how those new and emerging activities are playing into our economy, so that is still an area of uncertainty.

Differential impact of the TCA on certain sectors

The panel indicated that physical presence and therefore mobility is crucial for certain sectors, such as the creative industries, and this may mean that they are likely to be more adversely affected by the TCA. Professor Barnard stated:

The first thing to understand is that the trade and co-operation agreement is not EU law minus; it is actually World Trade Organization law with a tiny bit plus. [...] The reason why that is relevant is because there are categories of individuals who are allowed to move, and the three categories that are most relevant for the purposes of creative professionals are short-term business visitors, contractual service suppliers and independent professionals.

From those three titles, you might think that it is obvious that creative professionals would probably fall into one of those. The problem is that the TCA operates based on what is called a positive listing system, which means that you enjoy the rights under those three headings—short-term business visitors, contractual service suppliers and independent professionals—only if your activity, profession or sector is listed in one of the annexes to the TCA. The problem is that none of the creative industries is listed in those annexes. Under those annexes, consultants and academics can physically move but cannot be paid for their work if they go as a short-term visitor. The big difference between the creative industries and those providing the other business services that we have been talking about is that the creative industries require physical presence.

The panel also discussed how other business services that do not require professional qualifications or memberships (e.g., consultancy) can more easily adapt by setting up operations remotely or without needing a physical presence in an EU member state. This means that sectors requiring mutual recognition of qualifications are more likely to face challenges in trading services. Professor Portes stated:

I and, I suspect, others are strongly of the view that the data on the services trade is also significantly more inaccurate, because it is very hard to measure some of the trade that happens remotely. However, we know that organisations under the general category of other business services—in other words, legal, consultancy and accounting services—have been doing extremely well. That has particularly been the case for consultancy services, broadly defined, as there are relatively few trade barriers of any sort.

Professor Hall stated:

The barriers to trade in services are not tariffs; they are essentially about regulatory alignment between the two trading parties. In many ways that regulation is sensible and important. I think that we would all agree that we

want to be certain about a medic's qualifications before they operate in our country—there is a really good rationale for that. However, that means that, for services such as consultancy, which have much lower regulatory standards—I could set up as a consultant with no professional qualification if I had the capital do to that—it is much easier to sell services into another country. It is not like being an architect, where you need to have a professional qualification.

Challenges for seeking mutual recognition agreement(s) with the EU

The panel suggested that the UK may face unique challenges in securing MRQ or mobility agreements with the EU given that the UK's perceived baseline for negotiations is the UK's previous EU membership. Members of the panel suggested that this may be perceived by the EU as giving the UK an unfair advantage if it can secure similar arrangements post EU exit. For example, this situation could be seen by the EU as prejudicial to EU professionals, as the UK might achieve favourable terms that were available during its EU membership, potentially creating an imbalance. The recent proposal for a UK-EU mutual recognition agreement for the professional qualifications of architects (and its comparison with the recent mutual recognition agreement adopted by the EU and Canada) was mentioned by Professors Hall and Barnard. Professor Hall explained:

I want to follow up on the case of architecture, which is one of the impacted sectors, because a professional qualification is required to practise as an architect. Catherine Barnard is exactly right that the EU and the UK can try to agree an MRPQ that follows the Canadian deal.[...] under the proposal, UK architects would have had a level of recognition similar to that which they enjoyed when the United Kingdom was a member state. That points to the difficulty of translating an agreement that the EU has with Canada to an agreement that the EU might have with the UK, because of the proximity of the UK to the EU [...] —and because of the UK's relative strength in services. The really important point is that the EU met a lot of its negotiating ambitions on its strategically strong goods sector, but, arguably, the UK did not meet as many of its negotiating objectives around the UK's strategic strengths in services.