



Trade in Legal Services Working Party –Terms of Reference

1. Background

- 1.1. The International Department directly lobbies governments and bar associations on market access and practice rights. It also pursues market access for the profession through the formal global trade system through the UK government and the European Union (primarily the Commission) which negotiates on behalf of its Member States bilaterally and at the World Trade Organisation.
- 1.2. Our trade policy work is also, to a great extent, a means of increasing the influence, and raising the profile of the Law Society as the leading promoter of cross-border legal services and thought-leader in developing appropriate responses to the globalisation of legal services.
- 1.3. The Department has regular meetings with the EU trade negotiators on the legal services component of current and future European Free Trade Agreements (FTAs) and Economic Partnership Agreements (EPAs); in particular, India, Singapore, Malaysia, MERCOSUR and the recently concluded FTA with Korea. The trade negotiators are in regular contact for clarification on specific issues or to provide and (and receive) updates as negotiations progress.
- 1.4. Regular meetings are also held in the UK with the Trade in Services team at BIS as the negotiations progress. We also represent the profession on other UK and EU bodies that lobby for liberalisation in services including *TheCityUK's* Liberalisation of Trade in Services (LOTIS) Committee and the policy committee of the European Services Forum (ESF) and the International Legal Services Committee (formerly GATS Committee) of the CCBE.

2. Requirements of the Law Society's Working Party on trade policy

2.1. Objective

The main objective of the Working Party is to advise the Law Society on developing a policy position on some of the key issues arising from ongoing trade negotiations between the EU and other states. Whilst these agreements broadly seek to liberalise professional and financial services sectors and thus provide new opportunities for English solicitors and law firms, there are other elements of the agreements that could have a significant impact on solicitors' practice and therefore need closer examination to help ensure that this impact is a positive one. This expertise will provide the Law Society with invaluable capacity which, in turn, will raise the profile of the expertise in the English profession in the development of regulatory frameworks for various forms of financing. The Law Society will establish a structured programme for the provision of advice, and any substantial reports will be presented to the Law Society's Legal Affairs and Policy Board (LAPB) and Regulatory Affairs Board (RAB) via the International Issues Committee.



2.2. Key issues for consideration:

- **Investor state dispute settlement/resolution (ISDS/ISDR)** - The European Commission has issued a consultation looking at ISDS in the context of bilateral investment treaties (BITs). The Commission is looking to standardise the EU approach to these treaties and as such the position taken in TTIP will inform the approach taken in BITs and potentially also multilateral agreements on this issue going forward.
- **Data protection** - Data protection requirements/obligations vary significantly between the two sides of the Atlantic. This may have a direct impact on lawyers wishing to supply services themselves, in addition to advice given to clients on compliance with the relevant rules.
- **Public procurement** - This is another issue which may directly affect the way that lawyers carry out their business and the advice they give to clients.
- Other issues which may arise from time to time which are likely to have a significant impact for solicitors and the clients they advise

2.3. Main tasks

- Agree the Terms of Reference of this ad-hoc Working Party with guidance from the Law Society;
- Inform the development of Law Society's work on building capacity in a key areas relevant to the legal profession both here and abroad;
- Advise relevant policy advisers on specific topics and enable them to produce briefings for third party Law Society contacts on capital markets issues;
- Develop a relationship with key Law Society stakeholders, who will call on the Emerging Markets Working Group for advice on an ad hoc basis;
- There will be opportunities for those involved to meet foreign delegations while in London, and to participate in projects in overseas jurisdictions, to share advice and to build networks.

3. Methodology and Expected Output

- 3.1. It is proposed that the work of the Party be over the course of two years, to meet approximately four times over the next year.
- 3.2. Advice will also be given on an ad hoc basis by email as appropriate, and further discussion by email or tele-conference.
- 3.3. Staff from the International Department will co-ordinate the programme and provide administrative support to the ad-hoc Working Party.



4. Composition of the Working Party

4.1. The Working Party will be recruited from respondents to an advertisement and from existing leading trade lawyers who are already providing ad hoc advice to the policy advisers, including members of the International Issues Committee.