

SRA response

Opening trade negotiations with Australia / New Zealand / The United States / The Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Department for International Trade

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Introduction

1. The Solicitors Regulation Authority (SRA) is the regulator of solicitors and law firms in England and Wales. We work to protect members of the public and support the rule of law and the administration of justice. We do this by overseeing all education and training requirements necessary to practise as a solicitor, licensing individuals and firms to practise, setting the standards of the profession and regulating and enforcing compliance against these standards. We are the largest regulator of legal services in England and Wales, covering around 80% of the regulated market. We oversee some 184,000 solicitors and more than 10,400 law firms.
2. We welcome the opportunity to respond to the Department for International Trade's four separate consultations on opening trade negotiations with:
 - a. Australia¹ [#n1]
 - b. New Zealand² [#n2]
 - c. The United States³ [#n3]
 - d. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership⁴ [#n4]
3. We wish to contribute our thoughts in relation to the mutual recognition of professional qualifications - the text of which is identical in each of the four information packs provided with each of the consultations⁵ [#n5]. As our comments are also identical for each we are therefore providing one single combined submission to all four of these individual consultations.

Our response

Our regulation supports the government approach of promoting an open, fair, transparent and competitive service market.

4. Our regulation seeks to address the public interest in access to high quality legal services. We regulate to give effect to the regulatory objectives of the Legal Services Act 2007, particularly: protecting and promoting the interest of consumers; supporting the constitutional principle of the rule of law; and encouraging competition in the provision of legal services [<https://www.sra.org.uk/sra/policy/future/looking-future/>] .
5. Our ongoing regulatory reform programme is designed to help the domestic market for legal services innovate and grow and to encourage inward investment [<https://www.sra.org.uk/sra/policy/future/looking-future/>] . Our evaluation shows that introducing Alternative Business Structures and Multi-Disciplinary Partnerships, and removing restrictions on firm ownership, has allowed new entrants (including foreign law firms) into the market. This has resulted in improved access, choice and quality of service for legal service users and innovation in provision.

Recognition of professional qualifications should not be based on reciprocity but assessed on a case by case basis, to ensure that consumers' interests are protected, and any restrictions are targeted and proportionate.

6. We are of the view that recognition of legal professional qualifications should not be based on reciprocity.
7. We need to balance the advantages of an open and competitive market in legal services against the need for practitioners to be competent to practise as solicitors of England and Wales.
8. We must therefore assess on a case by case basis the extent to which a candidate's home legal qualification is sufficiently similar in content and standard to enable them to practise safely as a solicitor of England and Wales. Basing recognition of legal services on reciprocity would restrict our ability to evaluate comparability of an overseas qualification and to require adaptation measures only where necessary.
9. Where a home qualification is not comparable, there must be adaptation measures to facilitate admission of overseas professionals.

We already have regulations in place, which enable us to require targeted and proportionate adaptations where a candidate's home

qualification is not comparable with the competences required for practice as a solicitor of England and Wales.

10. We currently offer the Qualified Lawyers Transfer Scheme (QLTS) [<https://www.sra.org.uk/become-solicitor/qualified-lawyers/qlts/>] as a means for foreign qualified lawyers to qualify as solicitors of England and Wales.
11. We will be introducing a new standardised admission examination for all intending solicitors, the Solicitors Qualifying Examination (SQE) [<https://www.sra.org.uk/sra/policy/solicitors-qualifying-examination/>], not before September 2020. Through the SQE we will assess the competence of all candidates, both domestic and international on a comparable basis.
12. The SQE will replace the QLTS. Currently, exemptions from the QLTS are available only to EU lawyers and other intra-UK lawyers. Lawyers qualified in other jurisdictions we recognise round the world are required to pass all parts of the QLTS.
13. Under the SQE we will have a consistent approach to recognising international legal qualifications. Where any qualified lawyer - whether from an EU jurisdiction or elsewhere - can demonstrate that their home qualification is equivalent in content and standard to the SQE, or part of it, they will be exempt from the relevant elements of the SQE. Work is currently underway on mapping the jurisdictions and qualifications that we currently recognise and developing a process for identifying equivalence with the SQE.
14. This approach means that we can target any adaptation measures at candidates who need them. And where adaptation measures are required, they can be focused on those areas of legal practice where they are needed. This means that any additional requirements are the minimum needed to ensure consumer protection.
15. Like the QLTS, the written components of the SQE will be available worldwide. In future, we will consider whether all elements of the SQE (including oral assessments of legal skills like client interviewing and advocacy) may be available internationally, so that people will be able to qualify as solicitors of England and Wales without being in the UK. This approach will help spread and support the practice of English and Welsh law throughout the world.

Contact details

16. Submitted by Steven Toole, Head of Public Affairs, on behalf of the SRA

Notes

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2. <https://consultations.trade.gov.uk/policy/consultation-on-trade-negotiations-with-newzealand/>
[<https://consultations.trade.gov.uk/policy/consultation-on-trade-negotiations-with-newzealand/>]
3. <https://consultations.trade.gov.uk/policy/consultation-on-trade-negotiations-with-the-us/>
[<https://consultations.trade.gov.uk/policy/consultation-on-trade-negotiations-with-the-us/>]
4. <https://consultations.trade.gov.uk/policy/consultation-on-uk-accession-to-the-cptpp/>
[<https://consultations.trade.gov.uk/policy/consultation-on-uk-accession-to-the-cptpp/>]
5. On page 10 of the New Zealand, Australia and USA information packs and p19 of the CPTPP information pack, provided to be read in conjunction with each consultation it states: "Members of the WTO's General Agreement on Trade in Services (GATS) provide lists of commitments relating to maintaining the openness of their services sectors. In general, FTAs can provide opportunities to agree 'GATS-plus' provisions, such as: ... improving transparency of domestic regulation such as standards, licensing and recognition of qualifications"

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