

The changing nature of trade in legal services

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Trade in Legal Services - How does it work?

An interaction of three sets of issues:

- **Market access commitments:** What type of services (mode) can you provide in which part of the legal sector (scope of services)?
- **Horizontal commitments:** If you need to, can you enter the foreign market to deliver your service (short or long-term work permit or visa)?
- **Domestic regulation:** What conditions govern the provision of your service? (e.g. Are you inside or outside regulation? Do you need recognition, if so how? and for what? (e.g. full admission, partial licensing?))



Domestic Regulation of Legal Services

- **Scope of what is regulated:** Court work? Specific reserved activities? 'Legal advice'? Title?
- **Who is regulated?:** Individuals or firms?
- **Common models for allowing entry of foreign legal services:**
 - **By full requalification (sic)** (nb. Nationality requirements, reciprocal recognition arrangements, mutual recognition etc.)
 - **By co-existence:** Foreign legal consultancy (regulated)
 - **By partnership:** Fee sharing



Trade in Legal Services – How is it evolving?

Estimated size of legal market: \$849 bn (accountancy =\$500 bn);
CAGR: 3-4.5% p.a. over past decade.

What is driving this growth?: Globalisation, infrastructure investment, privatisations, diversification.

Value of legal exports: Unreported. But 48 countries have national law firms with branch or subsidiary offices outside their own jurisdictions.

Wider significance?: Legal Services in the export value chain (embodied in sales via contract negotiations, IP protection, dispute resolution services etc). Investment climate. SME growth.



Trade in Legal Services – Some Examples

- **Mode 1:** Email/phone: May be jurisdiction specific or agnostic (e.g. If client wants specific expertise)
- **Mode 2:** Battle for the footloose client: Dispute resolution centre promotion (UK, Germany, Singapore), incorporation (Delaware, Mauritius), IP protection (EU, Japan)
- **Mode 3:** Costa Rican law firm establishing an office in Spain. Senegalese firm across West Africa. UK-Irish law firm merger.
- **Mode 4:** Kenyan lawyer seeking a visa to take part in a UK based arbitration; Japanese law firm sending lawyer to Myanmar office.

Relative importance of different modes?



Market Trends since 1995

- Growth of commercial transactional law – “follow your client” (cf. traditional court work)
- Growth of the law firm and pressure for them to increase in size and specialisation to land high ticket work (nb. Continued volume share of solo practice globally)
- Expansion of countries involved in exporting legal services (e.g. In 157 jurisdictions there are law firms with foreign “associations” (e.g. who are either members of an international law firm swiss verein or other type of association)
- Growing importance of neighbourhood (e.g. Cambodian law firm in Myanmar, Albanian law firm in Kosovo) and regional integration (nb. EU and WAEMU)



Trade Policy Trends since 1995

- No movement at a multilateral level except new accessions.
Ongoing importance of commitments (c.f. Hong Kong)
- Quality of new accession commitments better than those of existing members (but variation in scope of sector definition)
- Autonomous liberalisation (e.g. Israel, Malaysia, Korea) driven by domestic economic policy



What are the ongoing obstacles to trade in legal services?

- **Market access:** Lack of clarity and transparency in what real market access is available
- **Domestic regulation:** Outdated legislation incl. nationality requirements, regulatory restrictions on how law firms/lawyers can do business
- **Movement of natural persons:** Discretionary and changing visa and work permit requirements





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