

WORKING PARTY OF THE TRADE COMMITTEE

**STRI: A GUIDE TO THE REGULATORY DATABASE: MEASURES, EXPLANATORY NOTES
AND EXAMPLES**

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PREFACE

A progress report with preliminary estimates of the STRIs was presented at the October Trade Committee [TAD/TC(2009)5] which agreed to devote the first day of the December 2009 Working Party to discussions of the STRI data and methodology. The Secretariat prepared an issues paper for the December Working Party [TAD/TC/WP(2009)30], which addressed the questions raised during the October Trade Committee. The issues paper presented a revised list of measures to be included in the final STRIs for the pilot sectors.

The December Working Party agreed that the Secretariat prepare guidelines based on the revised list of measures. The guidelines should contain a list of all the measures included in the STRI accompanied by explanations and examples where necessary. The purpose of the guidelines is to help Members complete and verify the information contained in the regulatory database and to ensure that the measures are interpreted the same way in all Member countries.

This document provides guidelines for filling in and verifying the regulatory database for the STRI pilot sectors. The measures have been sharpened to further improve sector specificity. Explanations are provided for each measure. The vast majority of measures concern laws and regulations that in principle are available in the OECD Code of Liberalisation of Capital Movements, Code of Liberalisation of Current Invisible Operations, OECD National Treatment for Foreign Controlled Enterprises and Member governments' and regulators' websites. The Secretariat will fill in the database using these sources and each Member will be asked to verify the information.

The Guidelines are a living document, which is updated as needed during the process of filling in and verifying the STRI database.

STRI: A GUIDE TO THE REGULATORY DATABASE: MEASURES, EXPLANATORY NOTES AND EXAMPLES

Introduction

1. This document provides guidelines for filling in and verifying the information entailed in the regulatory database on which the Services Trade Restrictiveness Indices (STRI) for computer services, construction, professional services and telecommunications are constructed. The purpose of the note is to explain and provide examples of the measures included in the database to ensure that the information is accurate and comparable across countries.

2. The guidelines are structured as follows: Section one explains the structure of the database, including the grouping and coding of measures. Sections two to five explain the measures included in the STRIs for each of the four pilot sectors. Each measure is presented with its code and the text found in the database, followed by an explanation and examples where needed. Although many measures are the same in all sectors, the full list of measures is presented for each sector, for the benefit of the users who may be interested in one sector only.

The structure of the database

3. The database contains information on the four STRI pilot sectors for 34 countries; all OECD member countries plus the acceding countries (Estonia, Israel and Slovenia). Measures are organised under five policy areas and each measure and policy area is assigned a code:

1. *Restrictions on foreign ownership and other market entry conditions.* The measures included under this heading relate to restrictions on entry which can take the form of limitations on foreign ownership and screening requirements. The measures correspond to a large extent to restrictions on market access in the GATS. However, restrictions on board of directors are also included under this heading as it is envisaged that a board of directors will be appointed upon entry and restrictions on the composition of the board will affect both the cost of entry and the decision whether or not to enter the market. Measures under this policy area are similar in all sectors, although there are some sector-specific nuances.
2. *Restrictions on the movement of people.* The measures included under this heading relate to restrictions under mode 4 as defined in the GATS. The measures distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers.
3. *Other discriminatory measures and international standards.* Under this heading are found measures related to national treatment, discrimination in government procurement; and the lack of adoption of international standards when such standards exist and are found to reduce technical barriers to trade.
4. *Barriers to competition and public ownership*¹. Barriers to competition that are considered trade restrictive fall under two broad categories. First, there are discriminatory measures where foreign

¹ Public ownership may have the effect of market access restriction.

suppliers' rights under the competition law are inferior to that of local companies. These also concern to what extent state-owned enterprises have privileges that may put foreign enterprises at a competitive disadvantage. The second category relates to inherently uncompetitive markets. In such markets lack of regulation is trade restrictive in the event that local incumbents may prevent competitors from entering the market. One particularly relevant competition policy instrument is price controls. In markets that are inherently uncompetitive, price controls in the form of e.g. price caps, cost-plus regulation or other measures are imposed in order to prevent incumbents from abusing market power. Price regulation can also stifle competition and restrict trade. Regulated minimum prices for example may prevent more cost-effective foreign suppliers from competing in the market.

5. *Regulatory transparency and administrative requirements* The measures found under this heading are related to regulatory efficiency and include information on costs in terms of time and money of obtaining necessary licenses or permits. Most of the measures included in this category are horizontal. The nature of the measures implies that information cannot always be found directly in laws and regulations but are based on surveys such as OECD Indicators of Regulatory Management systems from GOV, the Product Market Regulation (PMR) survey from ECO, the World Bank's Doing Business Indicators as well as other relevant and reliable sources.

Structure of the spreadsheets

4. Each country file displays seven spreadsheets, one for each pilot sector, but for professional services there is one spreadsheet for each subsector (legal, accounting, architecture and engineering). The spreadsheets include five columns of information with the following headings and content:

- **Code:** unique identifying variable of the measure (see Box 1)
- **Measure:** the measure label
- **Qualitative:** information on regulation as described in the measure label. This is a qualitative answer **yes/no** or in some cases quantitative (% , months, dollars). For some measures n.a. is entered. This appears when the measure does not apply. Examples are questions related to criteria for obtaining a license to provide a professional service if a license is not required; or privileges for state-owned enterprises when there is no state-owned enterprise in the sector.
- **Comments:** provide additional detail and explanation.
- **Sources:** the precise reference (name and article of the law or regulation) from where the information is taken. Both reference and link to source are provided if available.

Federal states

In federal states some measures related to domestic regulation are under state/province authority. In such cases one representative state/province is selected and regulation from that state is entered in the database. The main criterion to select a state is economic importance. In addition, to the extent other OECD indices of relevance to the STRI (the FDI restrictiveness index, the PMR and the Indicators of Regulatory Management Systems) record information from a representative state/province; the STRI database is coordinated with these. For questions related to national, state or provincial government control of a major firm, however, all states or provinces are considered. The criterion is whether a publicly-controlled firm is among the major firms nation-wide.

Box 1. The coding system

The code synthesises the information by combining letters and numbers in the following manner:

The identifier of the sector is a combination of two capital letters for the sector and three lower case letters for subsectors when relevant.

Computer services: **CS**
Construction: **CO**
Professional services have four subsectors:
 Legal services: **PS.leg**
 Accounting services: **PS.acc**
 Architectural services: **PS.arc**
 Engineering services: **PS.eng**
Telecommunications: **TC**

The identifier of the policy heading named 'type' is the same across sectors:

- 1: Restrictions on foreign ownership and other market entry conditions
- 2: Restrictions on the movement of people
- 3: Other discriminatory measures and international standards
- 4: Barriers to competition and public ownership
- 5: Regulatory transparency and administrative requirements

The identifier of measures within the policy areas (types) is unique to the measure. Numbering starts with the measures that are common to all sectors followed by measures that are unique to one or more sectors, such that the more sector-specific, the higher the identifier number

The identifiers of sub-measures (details and nuances) are numbered in the order they appear and are harmonised across sectors when relevant.

Example

PS.leg.2.3.0	<i>Duration of stay for natural persons is limited (months)</i>
PS.leg.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
PS.leg.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
PS.leg.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):

The measure *Duration of stay for natural persons is limited (months)* under the policy heading *Restriction on the movement of people* (**type = 2**) is collected for all sectors (**identifier = 3**) with 3 sub-measures (**identifier = 1, 2, 3**) and in the case of Legal services the code for all the measures starts with '**PS.leg**'.

COMPUTER AND RELATED SERVICES

Computer services are defined as W/120 sector 1.B, ISIC Rev 3.1 sector 7200 or EBOPS sector 262.

Restrictions on foreign ownership and other market entry conditions

Foreign equity restrictions: maximum foreign equity share allowed (%)

5. Foreign equity restrictions are defined as restrictions on the equity share foreign natural or juridical persons can hold in a computer services firm incorporated in the country in question. The limit refers to the combined share of non-residents (not limits on individual non-resident natural or juridical person, if any). In cases where there is a specific limit to the equity share that foreign natural and juridical persons can hold directly, the limit does not include additional indirect foreign ownership, e.g. through minority shares in local investment companies (see next measure).

Non-residents are allowed to invest in local computer services firms through minority shares in local investment companies. Maximum foreign equity limit in such investment companies (%).

6. Countries that have foreign equity limits often distinguish between direct and indirect ownership. When direct ownership is restricted, but additional non-resident ownership is allowed through indirect ownership e.g. via a local investment company or other channels, it is captured by this measure. Regulation in this area varies among countries. In some cases the restriction is in the form of maximum foreign equity share below which a company is considered a local investor. In other cases more complex rules apply.

There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national, state or provincial governments.

7. This measure only applies if there is at least one computer services firm controlled by national, state or provincial government. By “controlled by” is meant that government holds at least a blocking minority or a golden share in the company. The equity threshold for “control” may vary between countries according to legislation on the required majority for certain corporate decisions. Such differences are taken into account when filling the database.

There are restrictions on legal form

- *Legal form: only joint ventures allowed* which applies when non-residents can only establish a commercial presence in computer services through a joint venture with a local firm.

The number of firms permitted to practice is restricted by quotas

8. This measure refers to numerical limitations on the establishment of computer services firms, be they local or foreign.

Requirements for board of directors

9. This measure refers to requirements that either the majority or at least one of the members of the board of a computer services firm established in the host country is national or resident therein. It captures the freedom foreign investors have to appoint board members of their choice. Majority refers to simple majority. The question refers to legal forms that are required by law to have a board or equivalent (e.g. corporations). The measure applies also if foreign companies are allowed to enter the market through legal forms where a board or equivalent is not required by law.

Other restrictions on market entry

- *Screening of investment*
 - *Screening: foreign investors must show net economic benefits.* In the STRI regulatory database economic needs test is understood as a requirement that foreign investors must show that the investment will generate additional employment, income or technology; and not merely replace existing local capacity. The most common variables that the regulator takes into account when assessing economic needs are the number of suppliers, the level of competition and the size of the market.
 - *Screening: approval unless contrary to national interest.* If there is a requirement by law or regulation that foreign investors must have prior approval and such approval is not automatic, it is recorded as a restriction in the database. Note that such screening is considered a restriction even if no computer services firm hitherto has been denied market access under the regulation.
 - *Screening: notification.* This is the lightest measure under the screening heading and applies when notification involves the fulfilment of a set of minimum standards, but no prior approval is needed. If notification is required for purely statistical purposes, however, it is not recorded as a restriction.
- *Restrictions on type of shares or bonds held by foreign investors.* Examples of such restrictions are that foreign investors can only hold shares with non-voting rights.
- *Conditions on subsequent transfer of capital and investments* entail compulsory transfer of ownership to local firms over a given time period; whether there are restrictions on the free transfer of shares or other proprietary rights; restrictions on foreign shareholders' rights such as payment of dividends or reimbursement of capital upon liquidation; and whether there are restrictions on the scale and scope of future expansions or downsizing.
- *Restrictions on cross-border mergers and acquisitions (M&A).* This measure applies to specific restrictions on cross-border M&A over and above general restrictions on M&A for competition reasons, if any.

Other restrictions

10. Examples of other restrictions are if any legal form is not allowed for local and foreign investors alike, or if foreign suppliers are restricted from opening branches or representative offices (as opposed to establishing a subsidiary).

Restrictions on the movement of people

11. All measures under this heading distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers. These categories are commonly found in GATS schedules and regional free trade agreements and most OECD countries use these terms in their legislation or regulation. The definitions of the three categories are as follows (based on WTO):

12. *Intra-corporate transferees (ICT)* work for an enterprise established in the territory of a Member [of the WTO] and are transferred to the enterprise's commercial presence in the territory of another Member in the context of the supply of a service, often as executives, managers or specialists. *Executives* direct the management, have wide latitude in decision-making, are supervised only by board of directors or stockholders and do not provide service directly. *Managers* direct organisation or department, hire/fire, have day-to-day discretion and supervise other staff. *Specialists* have essential knowledge at advanced level of expertise and proprietary knowledge of organisation

13. *Contractual service suppliers (CSS)* are employees of a juridical person (which has no commercial presence in the host Member) who supply a service on the basis of a contract their employer has concluded with a consumer in host Member. The employee receives remuneration from the employer while abroad, has appropriate educational and professional qualifications and may not engage in other employment.

14. *Independent professional (IP)* is a self-employed person based in the territory of another Member who supplies a service on the basis of a services contract with a consumer in the host Member. IP has appropriate educational and professional qualifications.

15. When countries do not use these terms in their regulation, the STRI database is filled on the basis of the regulations that come closest to the definitions. The comment column explains which visa categories are assumed to correspond to the ITC, CSS and IP categories respectively.

Temporary movement of natural persons is restricted by quotas

16. A quota is defined as a numerical limitation, in the form of an absolute number or a percentage, to temporary movement of natural persons providing computer services. A restriction is noted if there is a horizontal quota under which computer services providers fall, or a quota on certain skills categories to which computer services providers belong. Quotas are typically set annually based on an assessment of labour market conditions. The measure captures the discretion a country has to set binding quotas e.g. in economic downturns or otherwise when there is excess supply of local computer services providers.

Temporary movement of natural persons is restricted by labour market tests

17. Labour market tests are undertaken to determine whether suitably qualified local workers are available (or could easily be trained to do the work). They typically involve seeking advice from industry representatives and government agencies to determine current skill shortages. The measure includes all instances where the temporary movement of foreign services providers is restricted by discrimination in the labour legislation of the country in question. A positive list of occupations for which labour market tests for individual persons are eased is still a labour market test if based on the evaluation of shortages in the labour market and subject to regular assessments.

Duration of stay for natural persons is limited to (months)

18. The number of months refers to the time limit of the initial work/residence permit which is given prior to entry, and does not include number of months of possible extension.

Other discriminatory measures and international standards

Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies

19. Discriminatory tax treatment relates to higher direct or indirect taxes charged to foreign providers of computer services in the host market. Subsidies refer to government support granted only or more favourably to local computer services companies in the local market. Examples: Grants, loans at preferential rates, direct and indirect tax incentives, or provisions of goods or services by the government at prices below market levels. Withholding taxes are not considered a trade restriction.

Foreign firms face discrimination in public procurement.

- *Foreign participation in public procurement: discrimination in the application of financial or technical criteria for project tender.* This measure applies to branches or subsidiaries of foreign computer services firms in the country in question. Examples of discriminatory measures are stricter financial or technical criteria for project tender and stricter criteria for inclusion on the list of prequalified suppliers.
- *Foreign participation in public procurement: Restrictions on government offshoring of computer services.* The measure refers to laws or regulations that restrict national, state or regional government, regulatory bodies or other government entities from offshoring computer services. By offshoring is meant a contract with a foreign supplier for mainly cross-border delivery of computer services. The measure also applies if there is a local content restriction on contracts made with local suppliers. For example if a domestic computer services firm is restricted from subcontracting to offshore suppliers.

There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards.

20. This is a horizontal measure which refers to the requirement that regulators take international standards into account when setting new domestic standards. The source of the measure is OECD/GOV Indicators of Regulatory Management Systems. However, if the country in question reports that international standards and rules must be considered “in some cases” local primary sources are sought in order to establish whether or not international standards are required in the computer services industry. Examples of relevant standards for the computer services sector are ISO 9001-2000 on software engineering and ISO 10032:2003 on data management.

Barriers to competition and public ownership²

When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well.

21. This measure relates to discrimination of foreign suppliers concerning access to appeal procedures related to decisions taken by a regulatory body. The STRI does not provide a definition of “affected party” or “interested party”, and the distinction between them. Rather, the definition in each country is taken as given, and the question is whether the same criteria for being considered an “affected party” or “interested party” apply to foreign and local suppliers and foreign suppliers have the same access to appeal procedures.

Foreign firms have redress when business practices are perceived to restrict competition in a given market.

22. This measure relates to the extent and channels through which foreign firms can have redress when business practices e.g. by local firms with a strong market position restrict competition. Examples of channels open to foreign firms are competition agencies, trade policy bodies, regulatory bodies or through private rights of action. When foreign suppliers have redress through one or more of these channels the measure is not considered restrictive.

National, state or provincial government control at least one major firm in the sector

23. By major firm is meant one of the 10 largest computer services firms in the country. By control is meant that government holds at least a blocking minority or a golden share in the company. Government ownership does not entail equity stakes held by commercial state owned enterprises or investment by social security funds and the like.

Publicly-controlled firms or undertakings are subject to an exclusion or exemption, either complete or partial, from the application of the general competition law.

24. The measure only applies if there is at least one major computer services firm controlled by national, state or provincial government. Government control means that the government holds at least a blocking minority or a golden share in the company. Exclusion results from actions by the courts, legislature or government to remove publicly-controlled firms from the general competition law or the competition agency's jurisdiction. Exemptions arise under the competition law and represent decisions by the enforcement body or others about how the law should be applied.

Minimum capital requirements.

25. This measure is included to capture barriers that mainly affect small and medium size enterprises. It reflects the minimum amount of capital an entrepreneur must deposit in a bank or with a notary in order to register a business. The amount in national currency is filled in the comments column. If there is a minimum capital requirement specifically for computer services firms, that amount is entered in the database. If there is a minimum that applies to all sectors, the horizontal requirement is entered. If there are exemptions in certain regions, the general requirement is entered.

² Public ownership may have the effect of market access restriction.

Regulatory transparency and administrative requirements

Regulations are published or otherwise communicated to the public prior to entry into force.

26. The measure relates to the obligation of countries to publish laws, regulations, and administrative decisions prior to entry into force, allowing a reasonable period of time between publication and their effective date, so that foreign suppliers may become acquainted with relevant regulations. The source of this measure is the administrative procedures law of the country, and/or sector-specific regulations or decisions mandating publication. International best practice is to publish new regulation within a specified timeframe prior to its effective date, preferably on the internet.

There is a public comment procedure open to interested persons, including foreign suppliers

27. This measure captures whether there is a prior notice and public comment procedure open to interested persons, including foreign suppliers, and/or the regulator has a formal mechanism for consultation with stakeholders that is open to foreign private parties. Draft regulations are posted on the internet or otherwise published in a manner that makes it accessible for foreign suppliers, and foreign suppliers are allowed to comment on the regulation before it is being implemented. The US, for example, has a searchable website where regulations are published and users can click on “newly posted regulation”, or “regulations with comment periods closing soon”. Regulations can be searched by agency and online comments are invited and those who wish to make a comment can do so, irrespective of nationality (www.regulations.gov/search/Regs/home.html#home).

Range of visa processing time (days)

28. This measure captures the ease of business travel, which may be an important complement to cross-border supply and commercial presence in computer services. The information entailed in this measure is the number of days it takes on average to process a visa application for business visitors. The number of days may depend on the country of the applicant. In order to have comparable information on visa processing time, information on visa processing time is gathered from all Member countries' embassies in India, Australia and Japan. For Australia and Japan their US embassies are consulted. The number entered in the database is the simple average of these three. India is chosen because all OECD countries require a visa for business visitors from that country and India is thesecond largest exporter of services other than transport and travel in the world and the only significant non-OECD exporter of services to all OECD Members. If computer services providers are subject to special treatment, this is reported otherwise it is a horizontal measure.

Number of working days to complete all mandatory procedures to register a company

29. The measure includes the number of working days it normally takes to register a company including pre-registration and registration procedures. Together with the two next measures it addresses efficiency in implementation of regulation. If the same procedures and number of working days apply horizontally to all sectors, the horizontal measure is used. If there are special incentives related to investing in certain regions, additional working days to obtain such investment incentives are not counted. The measure is horizontal.

Total cost to complete all mandatory procedures to register a company (in % of income per capita)

30. The measure includes all fees and charges that a company has to pay for pre-registration and registration procedures. It does not include the cost of the investor company's time or foregone profits. If there are special incentives related to investing in certain regions, additional procedures to obtain such investment incentives are not counted.

Number of mandatory procedures to register a company

31. The measure includes all the mandatory pre-registration and registration procedures to register a company. If there are special incentives related to investing in certain regions, additional bodies to contact to obtain such investment incentives are not counted. The measure is horizontal.

Table 1. Measures included in the STRI for computer services

code	measure
	Restrictions on foreign ownership and other market entry conditions
CS.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
CS.1.1.2	Non-residents are allowed to invest in local computer services firms through minority shares in local investment companies. Maximum foreign ownership in local investment companies (%).
CS.1.1.3	There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national state or provincial governments
	<i>There are restrictions on legal form</i>
CS.1.2.1	Legal form: only joint ventures are allowed
CS.1.3.1	The number of firms permitted to practice is restricted by quotas
	<i>Requirements for board of directors/manager</i>
CS.1.4.1	Board of directors: majority must be nationals
CS.1.4.2	Board of directors: majority must be residents
CS.1.4.3	Board of directors: at least one must be national
CS.1.4.4	Board of directors: at least one must be resident
CS.1.4.5	Manager must be national
CS.1.4.6	Manager must be resident
	<i>Screening of investment:</i>
CS.1.5.1	Screening: foreign investors must show net economic benefits
CS.1.5.2	Screening: approval unless contrary to national interest
CS.1.5.3	Screening: notification
CS.1.8.1	Restrictions on the type of shares or bonds held by foreign investors
CS.1.9.1	Conditions on subsequent transfer of capital and investments
CS.1.10.1	Restrictions on cross-border mergers and acquisitions
CS.1.11.1	Other restrictions
	Restrictions to the movement of people
	<i>Temporary movement of natural persons is restricted by quotas</i>
CS.2.1.1	Quotas: intra-corporate transferees
CS.2.1.2	Quotas: contractual services suppliers
CS.2.1.3	Quotas: independent services suppliers
	<i>Temporary movement of natural persons is restricted by labour market tests</i>
CS.2.2.1	Labour market tests: intra-corporate transferees
CS.2.2.2	Labour market tests: contractual services suppliers
CS.2.2.3	Labour market tests: independent services suppliers
	<i>Duration of stay for natural persons is limited (months)</i>
CS.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
CS.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
CS.2.3.3	Limitation on duration of stay for independent services suppliers is limited to (months):
	Other discriminatory measures and international standards
CS.3.1.1	Foreign suppliers are treated less favourably regarding taxes and eligibility to subsidies
	<i>Restrictions on foreign participation in public procurement</i>

code	measure
CS.3.2.1	Foreign participation in public procurement: discrimination in the application of financial or technical criteria for project tender
CS.3.2.2	Foreign participation in public procurement: restrictions on government offshoring of computer services
CS.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards
	Barriers to competition and public ownership
CS.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well.
CS.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
CS.4.3.1	National, state or provincial government control at least one major firm in the sector
CS.4.4.1	Publicly-controlled firms or undertakings are subject to an exclusion or exemption, either complete or partial, from the application of the general competition law.
CS.4.6.1	Minimum capital requirements
	Regulatory transparency and administrative requirements
CS.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
CS.5.3.1	There is a public comments procedures open to interested persons, including foreign suppliers
CS.5.4.1	Range of visa processing time (days)
CS.5.5.1	Time to complete all official procedures required to register a company (in calendar days)
CS.5.6.1	Total cost to complete all official procedures required to register a company (in % of income per capita)
CS.5.7.1	Number of official procedures required to register a company

CONSTRUCTION SERVICES

32. The coverage of construction services corresponds to W/120 (CPC PROV. 511-518). Table II presents the full list of measures for the sector. For regional groupings where measures have been removed (e.g. nationality requirements in the EU), restrictions are intended for countries outside the group (e.g. nationality requirements for non-EU nationals).

Restrictions on foreign ownership and other market entry conditions

Foreign equity restrictions: maximum foreign equity share allowed (%)

33. Foreign equity restrictions are defined as restrictions on the equity share foreign natural or juridical persons can hold in a construction services firm in the country in question. The limit refers to the combined share of non-residents (not limits on individual non-resident natural or juridical person, if any). In cases where there is a specific limit to the equity share that foreign natural and juridical persons can hold directly, the limit does not include additional indirect foreign ownership, e.g. through minority shares in local investment companies.

There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national, state or provincial governments

34. This measure only applies if there is at least one construction services firm controlled by national, state or provincial government. “Controlled by” means that government holds at least a blocking minority or a golden share in the company. The equity threshold for “control” may vary between countries according to legislation on the required majority for certain corporate decisions. Such differences are taken into account when filling the database.

Restrictions on legal form

35. This set of measures refers to instances where the legal form a business can take is restricted and only some kinds of businesses are permitted in the country in question. It comprises restrictions to establish a branch or representative office and joint venture requirements between foreign contractors and local construction firms. For each measure, if any type of legal form is not allowed it is considered a restriction.

The number of construction firms is restricted by quotas

36. This measure refers to numerical limitations on the establishment of construction firms in the host country, be they local or foreign.

Requirements for board of directors

37. This measure refers to requirements that either the majority or at least one of the members of the board of a construction firm established in the host country is national or resident therein. It indicates the freedom foreign investors have to appoint board members of their choice. Majority refers to simple majority. The question refers to legal forms that are required by law to have a board or equivalent (e.g.

corporations). Thus, if there is a requirement that a certain portion of the board of directors must be nationals or residents in those legal entities that are required by law to have a board or equivalent, the measure applies also if foreign companies are allowed to enter the market through legal forms where a board is not required by law.

Screening of investment

- *Foreign investors must show net economic benefits.* In the STRI regulatory database economic needs test is understood as a requirement that foreign investors must show that the investment will generate additional employment, income or technology, not merely replace existing local capacity. The most common variables that the regulator takes into account when assessing the investment are the number of suppliers, the level of competition and the size of the market.
- *Approval unless contrary to national interest.* If there is a requirement by law or regulation that foreign investors must have prior approval and such approval is not automatic, it is recorded as a restriction in the database. Note that such screening is considered a restriction even when no construction services firm hitherto has been denied market access under the regulation.
- *Notification.* This is the lightest measure under the screening heading and applies when notification involves the fulfilment of a set of minimum standards, but no a priori approval is needed. If notification is required for purely statistical purposes, however, it is not considered restrictive.

Restrictions on acquisition of land and real estate by foreign suppliers

38. This measure refers to instances where acquisition of land and real estate by foreign contractors is prohibited or is subject to restrictions. For example, foreign property developers may not be able to own real estate under construction until completion of the project.

Conditions on subsequent transfer of capital and investments

39. This measure entails compulsory transfer of ownership to local firms over a given time period; whether there are restrictions on the free transfer of shares or other proprietary rights; restrictions on foreign shareholders' rights such as payment of dividends or reimbursement of capital upon liquidation; and whether there are restrictions on the scale and scope of future expansions or downsizing.

Local content of personnel and/or goods

40. This measure relates to requirements for foreign contractors to source personnel and products locally or to subcontract work to local companies.

Discriminatory qualification requirements for building permits to undertake construction work

41. Construction regulations and codes typically require that one or more permits be obtained before starting construction work. The requirements to qualify for permits include both financial guarantees and technical qualifications of contractors. This question refers to instances where such requirements are more favorable to local suppliers. In particular, best practice is to judge the financial, commercial and technical capacity of a supplier on the basis of both that supplier's global business activity and its activity in the host market.

Other restrictions on market access

42. This heading includes other market access restrictions not covered above. One example is when full payment of minimum capital is required before a contractor can obtain a construction permit (as opposed to allowing firms to make payment of their registered capital in a number of instalments over a longer period of time).

Restrictions on the movement of people

43. All measures under this heading distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers. These categories are commonly found in GATS schedules and regional free trade agreements and most OECD countries use these terms in their legislation or regulation. The definitions of the three categories are as follows:

- *Intra-corporate transferees (ICT)* work for an enterprise established in the territory of a Member [of the WTO] and are transferred to the enterprise's commercial presence in the territory of another Member in the context of the supply of a service, often as executives, managers or specialists. *Executives* direct the management, have wide latitude in decision-making, are supervised only by board of directors or stockholders and do not provide service directly. *Managers* direct organization or department, hire/fire, have day-to-day discretion and supervise other staff. *Specialists* have essential knowledge at advanced level of expertise and proprietary knowledge of organisation
- *Contractual service suppliers (CSS)* are employees of a juridical person (which has no commercial presence in host Member) who supply a service on the basis of a contract their employer has concluded with a consumer in host Member. The employee receives remuneration from the employer while abroad, has appropriate educational and professional qualifications and may not engage in other employment.
- *Independent professional (IP)* is a self-employed person based in the territory of another Member who supplies a service on the basis of a services contract with a consumer in the host Member. IP has appropriate educational and professional qualifications.

44. When countries do not use these terms in their regulation, the STRI database is filled on the basis of the regulations that come closest to the definitions. The comment column explains which visa categories are considered equivalent to ITC, CSS and IP categories respectively.

Temporary movement of natural persons is restricted by quotas

45. A quota is defined as a numerical limitation, in the form of an absolute number or a percentage, on the temporary movement of natural persons providing construction services in the host country. It applies also if there is a horizontal quota under which construction personnel falls. Quotas are typically set annually based on an assessment of labour market conditions. The measure captures the discretion a country has to set binding quotas e.g. in economic downturns or otherwise excess supply of local construction services providers. A distinction is made between different categories of services providers to which the quota applies.

Temporary movement of natural persons is subject to labour market tests

46. Labour market tests are undertaken to determine whether suitably qualified local workers are available (or could easily be trained to do the work). They typically involve seeking advice from industry representatives and government agencies to determine current skill shortages. A distinction is made between different categories of services providers to which the tests apply. The measure includes all instances where the temporary movement of foreign services providers is restricted by discrimination in the labour legislation of the country in question. A positive list of occupations for which labour market tests for individual persons are eased is still a labour market test if based on the evaluation of shortages in the labour market and subject to regular assessments.

Duration of stay for natural persons is limited (months)

47. The number of months refers to the time limit given prior to entry, and does not include number of months of possible extension. A distinction is made between different categories of services providers to which the measures apply.

Nationality or citizenship required for construction engineers

48. The movement of foreign construction engineers is restricted by nationality or citizenship requirements in the host country. The measure relates to MFN regulation and does not take into account preferential measures.

Residency required for construction engineers

49. The movement of foreign construction engineers is restricted by residency requirements in the host country. These requirements can take the form of prior and permanent residency. Prior and permanent residency refers to a requirement which extends for more than 12 months.

Recognition of foreign qualifications for foreign construction engineers

This set of measures refers to the recognition of qualifications and experience gained abroad to be able to practice as an engineer in the host country. It covers instance where higher degrees in engineering gained abroad are not recognised; examinations gained abroad are not recognised; and practice acquired abroad is not recognised. With respect to the recognition of degrees, the answer is “yes” if it is process codified in the law that provides for substantive criteria and administrative procedures for recognising higher education degrees gained in foreign countries, as opposed to an ad hoc process. Substantive criteria should include outcomes and competencies (e.g. theoretical and practical aspects of training acquired through the degree) in addition to inputs and processes (e.g. length of education and training). Procedures include the period of time needed by authorities to take the decision on whether to recognise a foreign diploma, a requirement that reasons for rejected applications are given to applicants and right of appeal before the courts under national law.

Other discriminatory measures and international standards

Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies

50. Discriminatory tax treatment relates to higher direct or indirect taxes charged to foreign providers of construction services in the host market. Subsidies refer to government support granted only or more significantly to local construction companies in the local market. Examples: Grants, loans at preferential rates, direct and indirect tax incentives, or provisions of goods or services by the government at prices below market levels. Withholding taxes are not considered a trade restriction.

Restrictions on foreign participation in public procurement

- *Explicit access discrimination in favour of local firms.* This measure relates to outright discrimination, for example through domestic price preference.
- *Domestic content of personnel and/or goods.* Imposition of conditions to foreign contractors to source personnel and products locally for selection of tenders and contract award.
- *Technical specifications affect the conditions of competition in favour of local providers.* This measure relates to specifications based on design or descriptive characteristics rather than performance; and/or specifications not based on international standards when they exist or on established national standards.
- *Discriminatory qualification processes and procedures.* This item refers to instances where the conditions for participation in tendering procedures are not limited to what is necessary to fulfil a given contract. Such conditions include both financial guarantees and technical qualifications of suppliers. In particular, best practice is to judge the financial, commercial and technical capacity of a supplier on the basis of both that supplier's global business activity as well as its activity in the host market.
- *Contract award on the basis of non-objective/discriminatory criteria.* Procurement entities do not award contracts to capable suppliers on the basis of either the lowest tender or the most advantageous as set forth in the notice; and/or a law or regulation is not in place to question abnormally low tenders.
- *Procurement laws, regulations and procedures are transparent.* Information on regulations is published or otherwise communicated to the public, including in relation to technical specifications, tendering procedures, criteria for qualification of suppliers, selection procedures, as well as submission, receipt and opening of tenders.
- *Foreign suppliers are provided the opportunity to challenge the consistency of the conduct of procurement with the laws and regulations.* Law or regulation allows foreign suppliers to challenge procurement process and procedures to ensure fairness in the application of the process.

Laws or regulations require or encourage the use of international standards

51. *Building design code standards.* Example: The law or regulation provides that construction firms use ISO standards 91.080.01 (Structures of Buildings in General). If there are departures from existing international standards the regulation shall stipulate the reason for such departure (e.g. specific local or urgent needs may require the development of standards at the national or regional level for which there is no need at the international level).

52. *Construction product standards.* Example: The law or regulation provides that construction firms use ISO standards 91.100 (Construction Materials). If there are departures from existing international standards the regulation shall stipulate the reason for such departure (e.g. specific local or urgent needs may require the development of standards at the national or regional level for which there is no need at the international level).

Barriers to competition and public ownership³

When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well

53. This measure relates to discrimination against foreign suppliers concerning access to appeal procedures related to decisions taken by a regulatory body. The STRI does not provide a definition of “affected party” or “interested party”, and the distinction between them. Rather, the definition in each country is taken as given, and the question is whether foreign suppliers that fall under the definition have the same access to appeal procedures as local affected or interested services suppliers.

Foreign firms have redress when business practices are perceived to restrict competition in a given market

54. This measure relates to the extent and channels through which foreign firms can have redress when business practices, e.g. by local firms with a strong market position, restrict competition. Examples of channels open to foreign firms are competition agencies, trade policy bodies, regulatory bodies or through private rights of action. If foreign suppliers have redress through one or more of these channels, the measure applies.

National, state or provincial government control at least one major firm in the sector

55. By major firm is meant one of the 10 largest construction firms in the country. By control is meant that government holds at least a blocking minority or a golden share in the company. Government ownership does not entail equity stakes held by commercial state owned enterprises or investment by social security funds and the like.

Publicly-controlled firms or undertakings are subject to an exclusion or exemption from the application of the general competition law

56. This measure only applies if there is at least one construction services firm controlled by national, state or provincial government. General competition law refers to general restrictions on the abuse of market power, such as predatory pricing. Exclusion results from actions by the courts, legislature or government to remove publicly-controlled firms from the general competition law or the competition agency's jurisdiction. Exemptions arise under the competition law and represent decisions by the enforcement body or others about how the law should be applied.

Minimum capital requirements.

This measure is included to capture barriers that mainly affect small and medium size enterprises. It reflects the minimum amount of capital an entrepreneur must deposit in a bank or with a notary in order to register a business. The amount in national currency is filled in the comments column. If there is a minimum capital requirement for construction firms, that amount is entered in the database. If there is a minimum that applies to all sectors, the horizontal requirement is entered. If there are exemptions in certain regions, the general requirement is entered.

³ Public ownership may have the effect of market access restriction.

Regulatory transparency and administrative requirements

Regulations are published or otherwise communicated to the public prior to entry into force

57. The measure relates to the obligation of countries to publish laws, regulations, and administrative decisions prior to entry into force, allowing a reasonable period of time between publication and their effective date, so that foreign suppliers may become acquainted with relevant regulations. The source of this measure is the administrative procedures law of the country, and/or sector-specific regulations or decisions mandating publication. International best practice is to publish new regulation within a specified timeframe prior to its effective date, preferably on the internet.

There is a public comment procedure open to interested persons, including foreign suppliers

58. This measure captures whether there is a public comment procedure open to interested persons, including foreign suppliers, and/or the regulator has other formal mechanisms for consultation that are open to foreign parties. Draft regulations are posted on the internet or otherwise published in a manner that makes it accessible for foreign suppliers, and foreign suppliers are allowed to comment on the regulation before it is being implemented. The US, for example, has a searchable website where regulations are published and users can click on “newly posted regulation” or “regulations with comment periods closing soon”. Regulations can be searched by agency and online comments are invited and those who wish to make a comment can do so, irrespective of nationality (www.regulations.gov/search/Regs/home.html#home).

Range of visa processing time (days)

59. This measure captures the ease of business travel, which may be an important complement to cross-border supply and commercial presence in construction services. The information entailed in this measure is the number of days it takes on average to process a visa application for business visitors. The number of days may depend on the country of the applicant. In order to have comparable information on visa processing time, information on visa processing time is gathered from all Member countries’ embassies in India, Australia and Japan. For Australia and Japan their US embassies are consulted. The number entered in the database is the simple average of these three. India is chosen because all OECD countries require a visa for business visitors from that country and India is thesecond largest exporter of services other than transport and travel in the world and the only significant non-OECD exporter of services to all OECD Members. If construction services providers are subject to special treatment, this is reported otherwise it is a horizontal measure.

Time required to obtain a construction permit

60. This measure relates to the time to complete all the procedures necessary to build a warehouse, including obtaining necessary licenses and permits, completing required notifications and inspections, and obtaining utility connections (in calendar days).

Total cost required to obtain a construction permit (in % of income per capita)

61. This measure relates to official costs associated with completing the procedures necessary to build a warehouse, including obtaining necessary licenses and permits, completing required notifications and inspections, and obtaining utility connections.

Number of procedures required to obtain a construction permit

62. This measure relates to all procedures that are necessary to build a warehouse, including obtaining necessary licenses and permits, completing required notifications and inspections, and obtaining utility connections.

Table 2. Measures included in the STRI for construction services

code	measure
	Restrictions on foreign ownership and other market entry conditions
CO.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
CO.1.3.1	There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national, state or provincial governments
CO.1.2.1	Legal form: branches or representative offices are prohibited
CO.1.2.4	Legal form: joint venture required
CO.1.3.1	The number of construction firms is restricted by quotas
CO.1.4.1	Board of directors: majority must be nationals
CO.1.4.2	Board of directors: majority must be residents
CO.1.4.3	Board of directors: at least one must be national
CO.1.4.4	Board of directors: at least one must be resident
CO.1.4.5	Manager must be national
CO.1.4.6	Manager must resident
CO.1.5.1	Screening: foreign investors must show net economic benefits
CO.1.5.2	Screening: approval unless contrary to national interest
CO.1.5.3	Screening: notification
CO.1.7.1	Acquisition of land and real estate by foreigners is prohibited
CO.1.7.2	Acquisition of land and real estate by foreigners is subject to restrictions
CO.1.8.1	Conditions on subsequent transfer of capital and investments
CO.1.8.2	Local content of personnel and/or goods
CO.1.8.4	Discriminatory qualification requirements for building permits to undertake construction work
CO.1.11.1	Other restrictions
	Restrictions on the movement of people
CO.2.1.1	Quotas: intra-corporate transferees
CO.2.1.2	Quotas: contractual services suppliers
CO.2.1.3	Quotas: independent services suppliers
CO.2.2.1	Labour market tests: intra-corporate transferees
CO.2.2.2	Labour market tests: contractual services suppliers
CO.2.2.3	Labour market tests: independent services suppliers
CO.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
CO.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
CO.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
CO.2.4.1	Nationality or citizenship required for construction engineers
CO.2.5.1	Residency required for construction engineers
CO.2.6.1	Foreign qualifications for construction engineers: laws or regulations establish a process for recognising higher education degrees in engineering gained abroad
CO.2.6.2	Foreign qualifications for construction engineers: foreign engineers are required to undertake local examinations to qualify for membership of the profession
CO.2.6.3	Foreign qualifications for construction engineers: foreign engineers are required to undertake at least 1 year of local practice to become a member of the profession

code	measure
	Other discriminatory measures and international standards
CO.3.1.1	Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies
CO.3.2.1	Foreign participation in public procurement: explicit access discrimination in favour of local firms
CO.3.2.2	Foreign participation in public procurement: domestic content of personnel and/or goods
CO.3.2.3	Foreign participation in public procurement: technical specifications affect the conditions of competition in favour of local providers
CO.3.2.4	Foreign participation in public procurement: discriminatory qualification processes and procedures
CO.3.2.5	Foreign participation in public procurement: contract award on the basis of non-objective/discriminatory criteria
CO.3.2.6	Foreign participation in public procurement: procurement laws, regulations and procedures are transparent
CO.3.2.7	Foreign participation in public procurement: foreign suppliers are provided the opportunity to challenge the consistency of the conduct of a procurement with the laws and regulations
CO.3.3.1	Laws or regulations encourage or require the use of international standards: building design code standards
CO.3.3.2	Laws or regulations encourage or require the use of international standards: construction product standards
	Barriers to competition and public ownership
CO.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
CO.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
CO.4.3.1	National, state or provincial government control at least one major firm in the sector
CO.4.4.1	Publicly-controlled firms or undertakings are subject to an exclusion or exemption from the application of the general competition law
CO.4.6.1	Minimum capital requirement
	Regulatory transparency and administrative requirements
CO.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
CO.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
CO.5.4.1	Range of visa processing time (days)
CO.5.5.1	Time required to obtain a construction permit
CO.5.6.1	Total cost required to obtain a construction permit (in % of income per capita)
CO.5.7.1	Number of procedures required to obtain a construction permit

PROFESSIONAL SERVICES

63. Professional services comprise legal, accounting, architectural and engineering services. The coverage of services within the four categories corresponds respectively to W/120 (CPC PROV.) 861; 862; 8671 and 8674; and 8672 and 8673. While the measures are very similar for the four sectors, there are some departures in the STRI to reflect sector specificities. The description and explanation of measures here covers legal services in full and focuses only on the different measures for the other three sectors. Table III presents the lists of measures for all four sectors. For regional groupings where measures have been removed (e.g. nationality requirements in the EU), restrictions are intended for countries outside the group (e.g. nationality requirements for non-EU nationals).

Legal services

Definition of limited license

64. Some measures in the STRI distinguish between lawyers with a full license and lawyers with a limited license. As defined by the International Bar Association (IBA), a limited license refers to: “Regulation of Foreign Lawyers as practitioners of foreign law for the limited purpose of permitting them to practice the law of their home jurisdiction in the host jurisdiction without examination or full admission to the host bar”. A limited license is intended for the purpose of the STRI as allowing foreign lawyers to provide advisory legal services in home-country law, international law and where qualified third-country law, as well as a right to appear in international commercial arbitration. The right to practice host-country law is excluded.

Restrictions on foreign ownership and other market entry conditions

Foreign equity restrictions: maximum foreign equity share allowed (%)

65. Foreign equity restrictions are defined as restrictions on the equity share foreign natural or juridical persons can hold in a legal services firm in the country in question. The limit refers to the share of non-residents regardless of whether they are lawyers.

Equity restrictions applying to not locally-licensed individuals or firms

66. This measure requires that equity shares of legal services firms be held only by locally licensed individuals or firms. The entry in the database is YES* if the majority of shares must be owned by locally-qualified lawyers. It is YES if only minority shares are required or if other legal forms are allowed to enter the market for professionals.

Restrictions on legal form

67. This set of measures refers to instances where the legal form a business can take is restricted and only some kinds of businesses are permitted in the country in question. Corporations and partnerships include limited liability and joint-stock entities. For each measure, if any type of legal form is prohibited not allowed the answer is yes (e.g. if limited liability corporations are not allowed but joint-stock corporations are allowed then the answer is yes). Sole proprietorship is a form of juridical person to be distinguished from natural persons.

Commercial association is prohibited between not fully integrated lawyers (limited license) and fully integrated lawyers

68. The STRI does not define “commercial association” and this measure casts the net broadly to cover the different interpretations of this term in different jurisdictions, ranging from a limited cooperation of two legally separate entities to achieve a shared objective, to the joint establishment of an affiliate company without limitation in terms of duration or objectives. It is different from partnerships in PS.leg.1.2.3 since, unlike the latter, this measure is specifically based on licensing and qualifications of providers. It is also different from PS.leg.1.1.2 since the latter focuses on ownership of the firm while this measure focuses on undertaking legal work. Nevertheless, in cases of possible overlap with PS.leg.1.1.2 — when the regulation stipulates that all partners must be locally-licensed and is silent with respect to association between locally-licensed lawyers and lawyers with a limited license — the entry here will be “no” (i.e. it is not inferred from equity restrictions that commercial associations in a broad sense are prohibited).

Commercial association is prohibited between lawyers and other professionals

69. This measure entails a prohibition on commercial association (intended as in PS.leg.1.2.4 above) with other professions (e.g. accountants), also named restrictions on inter-professional or multidisciplinary cooperation.

Prohibitions on hiring locally-qualified lawyers

70. This measure refers to instances where foreign lawyers who are not licensed to practice as fully integrated lawyers but have a limited license, are not allowed to engage locally-qualified lawyers as employees to undertake host-country law. Analogously, the measure should be answered with “yes” when the law specifies that locally-licensed lawyers are prohibited to work outside locally-licensed law firms.

The number of law firms is restricted by quotas

71. This measure refers to numerical limitations on the establishment of law firms in the host country, be they local or foreign.

The establishment of foreign law firms is restricted by economic needs tests

72. Economic needs tests, also referred to in investment legislations as “net economic benefits”, include a range of criteria for granting foreign law firms the right to establish from the perspective of how the local economy would benefit (e.g. number of suppliers, level of competition and the size of the market). This measure applies if the foreign investor must show net economic benefits.

Requirements for board of directors

73. This measure refers to requirements that either the majority or at least one of the members of the board of a law firm established in the host country is national, resident or locally-qualified therein. It indicates the freedom foreign investors have to appoint board members of their choice. Majority refers to simple majority. The question refers not only to legal forms that are required by law to have a board (e.g. corporations), but also applies if foreign companies are allowed to enter the market through legal forms where a board is not required by law. Since in the context of legal services concepts and definitions of board members may vary, for the purpose of the STRI the latter should mean anybody elected or appointed to oversee the activity of the company (“equity partners” or equivalent).

Requirements for managers

74. These measures refer to requirements that at least one manager of a law firm established in the host country is national, resident or locally-qualified therein. As for board members, the terminology may vary in the context of legal services. Hence, “managing partners” or equivalent would be considered managers for the purpose of the STRI.

Restrictions on the movement of people

75. All measures under this heading distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers. These categories are commonly found in GATS schedules and regional free trade agreements and most OECD countries use these terms in their legislation or regulation. The definitions of the three categories are as follows:

- *Intra-corporate transferees (ICT)* work for an enterprise established in the territory of a Member [of the WTO] and are transferred to the enterprise’s commercial presence in the territory of another Member in the context of the supply of a service, often as executives, managers or specialists. *Executives* direct the management, have wide latitude in decision-making, are supervised only by board of directors or stockholders and do not provide service directly. *Managers* direct organisation or department, hire/fire, have day-to-day discretion and supervise other staff. *Specialists* have essential knowledge at advanced level of expertise and proprietary knowledge of organisation
- *Contractual service suppliers (CSS)* are employees of a juridical person (which has no commercial presence in host Member) who supply a service on the basis of a contract their employer has concluded with a consumer in host Member. The employee receives remuneration from the employer while abroad, has appropriate educational and professional qualifications and may not engage in other employment.
- *Independent professional (IP)* is a self-employed person based in the territory of another Member who supplies a service on the basis of a services contract with a consumer in the host Member. IP has appropriate educational and professional qualifications.

When countries do not use these terms in their regulation, the STRI database is filled on the basis of the regulations that come closest to the definitions. The comment column in the database explains which visa categories are considered equivalent to the ITC, CSS and IP respectively.

Nationality or citizenship required for license to practice

76. This measure conditions the ability to practice legal services on the basis of nationality. The measure relates to MFN regulation and does not take into account preferential measures.

Residency required for license to practice

77. These requirements can take the form of prior and permanent residency, or domicile. Prior and permanent residency refer to a requirement which extends for more than 12 months. Domicile requires the establishment of an address where the lawyer can be reached in the host country. A distinction is made on whether the restrictions apply with regard to the practice as fully integrated lawyers or also to practice under a limited licensing regime.

Recognition of foreign qualifications to become a fully integrated lawyer

78. This set of measures refers to the recognition of qualifications and experience gained abroad to be able to practice as a fully integrated lawyer in the host country. It covers instance where higher degrees in law gained abroad are not recognised; examinations gained abroad are not recognised; practice acquired abroad is not recognised; and membership in the local bar is not automatically granted if the lawyer has the required qualifications (e.g. there are additional/discriminatory fees for foreign lawyers).

79. With respect to the recognition of degrees, the answer is “yes” if there is a process codified in the law that provides for substantive criteria and administrative procedures for recognising higher education degrees gained in foreign countries, as opposed to an ad hoc process. Substantive criteria should include outcomes and competencies (e.g. theoretical and practical aspects of legal training acquired through the degree) in addition to inputs and processes (e.g. length of education and training). Procedures include the period of time needed by authorities to take the decision on whether to recognise a foreign diploma, a requirement that reasons for rejected applications are given to applicants and right of appeal before the courts under national law.

80. The measures relate to MFN regulation and do not take into account preferential measures. However, information on equivalence or mutual recognition agreements is entered in the comments column.

There is a limited licensing system in place

81. This measure refers to whether the country in question has adopted a limited licensing regime. This is regarded as a trade facilitating measure. Given that terminology in different countries may differ, if a country allows rights to practice equivalent to a limited licensing regime, without having the regime as such in place, it is also understood as a limited licensing provided that it can be inferred from the regulation.

Memo: Foreign providers have to completely re-do the university degree, practice and exam in the domestic country

82. This memo item relates to the set of measures on recognition of foreign qualifications (PS.*.2.6.1-2.6.4). It covers instances where foreign legal services suppliers are required to re-do in full the university degree, the local practice and exam in the host country in order to be qualified for full license.

Temporary movement of natural persons is restricted by quotas

83. A quota is defined as a numerical limitation, in the form of an absolute number or a percentage, on the temporary movement of natural persons providing legal services in the host country. This applies also if there is a horizontal quota under which legal services providers fall. Quotas are typically set annually based on an assessment of labour market conditions. The measure captures the discretion a country has to set binding quotas e.g. in economic downturns or otherwise excess supply of local legal services providers. A distinction is made between different categories of services providers to which the quota applies.

Temporary movement of natural persons is subject to labour market tests

84. Labour market tests are undertaken to determine whether suitably qualified local workers are available (or could easily be trained to do the work). They typically involve seeking advice from industry representatives and government agencies to determine current skill shortages. A distinction is made between different categories of services providers to which the tests apply. This measure includes all other instances where the temporary movement of foreign services providers is restricted by discrimination in the labour legislation of the country in question. A positive list of occupations for which labour market tests for individual services suppliers are eased is still considered a labour market test if the list is based on evaluation of skills shortages and subject to regular assessments.

Duration of stay for natural persons is limited (months)

85. The number of months refers to the time limit given prior to entry, and does not include number of months of possible extension. A distinction is made between different categories of services providers to which the measures apply.

Other discriminatory measures and international standards

Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies

86. Discriminatory tax treatment relates to higher direct or indirect taxes charged to foreign providers of legal services in the host market. Subsidies refer to government support granted only or more significantly to local law firms in the local market. Examples: Grants, loans at preferential rates, direct and indirect tax incentives, or provisions of goods or services by the government at prices below market levels. Withholding taxes are not considered a restriction.

Restrictions on public procurement

87. The measure under this heading relates to either outright prohibition to foreign providers to supply legal services to the government or to preferences in procurement given to local suppliers.

There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards.

88. This is a horizontal measure which refers to the requirement that regulators take international standards into account when setting new domestic standards. The source of the measure is OECD/GOV Indicators of Regulatory Management Systems. If the country in question reports that this is always required, the GOV database is used. If the GOV database reports “in some cases”, local primary sources are consulted to establish whether or not international standards are required for legal services. An example for legal services is the IBA International Code of Ethics for technical standards such as professional competence, conduct and ethics international standards.

Restrictions on the use of foreign/international firm names

89. This set of measures comprises outright prohibition to use the foreign name of the firm (e.g. the name the firm has in its country of origin), the possibility to include the foreign firm name only alongside that of a local partner and allowing the use of the name or title "Lawyer" only to locally-licensed lawyers. The latter covers instances where foreign lawyers have their qualifications recognised and are allowed to practise as locally-licensed lawyers, but they are still required to use their original title.

Barriers to competition and public ownership⁴

Restrictions on fee-setting

90. This set of measures includes mandatory and recommended minimum and/or maximum fees. These may be set either by government or by the bar association.

Restrictions on advertising and marketing

91. Includes general prohibitions or restrictions on advertising and instances where such restrictions do not apply to locally-qualified lawyers. The latter covers instances where foreign lawyers with a limited license are prohibited from advertising or market their services in relation to the types of practice for which they are qualified. Examples of restrictions: only availability (name, address, telephone number or office hours) and types of service the lawyer provides can be advertised, while prices and information evaluating the skills of practitioners to attract clients cannot be advertised.

When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well

92. This measure relates to discrimination against foreign suppliers concerning access to appeal procedures related to decisions taken by a regulatory body. The STRI does not provide a definition of "affected party" or "interested party", and the distinction between them. Rather, the definition in each country is taken as given, and the question is whether foreign suppliers that fall under the definition have the same access to appeal procedures as local affected or interested services suppliers.

Foreign firms have redress when business practices are perceived to restrict competition in a given market

93. This measure relates to the extent and channels through which foreign firms can have redress when business practices, e.g. by local firms with a strong market position, restrict competition. Examples of channels open to foreign firms are competition agencies, trade policy bodies, regulatory bodies or through private rights of action. If foreign suppliers have redress through one or more of these channels, the measure applies.

Regulatory transparency and administrative requirements

Regulations are published or otherwise communicated to the public prior to entry into force.

94. The measure relates to the obligation of countries to publish laws, regulations, and administrative decisions prior to entry into force, allowing a reasonable period of time between publication and their effective date, so that foreign suppliers may become acquainted with relevant regulations. The source of this measure is the administrative procedures law of the country, and/or sector-specific regulations or

⁴ Public ownership may have the effect of market access restriction.

decisions mandating publication. International best practice is to publish new regulation within a specified timeframe prior to its effective date, preferably on the internet.

There is a prior notice and comment procedure for interested persons

95. This measure captures whether there is a public comment procedure open to interested persons, including foreign suppliers, and/or the regulator has other formal mechanisms for consultation with stakeholders that are open to foreign parties. Draft regulations are posted on the internet or otherwise published in a manner that makes it accessible for foreign suppliers, and foreign suppliers are allowed to comment on the regulation before it is being implemented. The US, for example, has a searchable website where regulations are published and users can click on “newly posted regulation”, “regulations with comment periods closing soon”. Regulations can be searched by agency and online comments are invited and those who wish to make a comment can do so, irrespective of nationality (www.regulations.gov/search/Regs/home.html#home).

Range of visa processing time (days)

96. This measure captures the ease of business travel, which may be an important complement to cross-border supply and commercial presence in professional services. The information entailed in this measure is the number of days it takes on average to process a visa application for business visitors. The number of days may depend on the country of the applicant. In order to have comparable information on visa processing time, information on visa processing time is gathered from all Member countries’ embassies in India, Australia and Japan. For Australia and Japan their US embassies are consulted. The number entered in the database is the simple average of these three. India is chosen because all OECD countries require a visa for business visitors from that country and India is thesecond largest exporter of services other than transport and travel in the world and the only significant non-OECD exporter of services to all OECD Members. If professional services providers are subject to special treatment, this is reported otherwise it is a horizontal measure.

Number of working days to complete all mandatory procedures to register a company

97. The measure includes the number of working days it normally takes to register a foreign subsidiary, including pre-registration and registration procedures. Together with the two next measures it addresses efficiency in implementation of regulation. If the same procedures and number of working days apply horizontally to all sectors, the horizontal measure is used. If there are special incentives related to investing in certain regions, additional working days to obtain such investment incentives are not counted.

Total cost to complete all mandatory procedures to register a company(in % of income per capita)

98. The measure includes all the fees and charges that a company has to pay for pre-registration and registration procedures. It does not include the cost of the investors company’s time or foregone profits. If there are special incentives related to investing in certain regions, additional procedures to obtain such investment incentives are not counted. The measure is horizontal.

Number of mandatory procedures to register a company

99. The measure includes all the mandatory pre-registration and registration procedures to register company. If there are special incentives related to investing in certain regions, additional bodies to contact to obtain such investment incentives are not counted. The measure is horizontal.

Accounting services

100. The measures for accounting are largely the same as for legal services, although the list does contain some departures to take account of the specificities of accounting and auditing services. In general, as the concept of “limited licensing” does not correspond exactly to the one developed for legal services, the distinction here relates to locally-licensed accountants and auditors versus not locally-licensed accountants and auditors. Nevertheless, albeit somewhat less important than for legal services, a limited or temporary license regime is also possible in this sector (*A limited or temporary licensing system is available*). Foreign accountants or auditors licensed in their home country may practice temporarily to carry out specific projects or to “consult”, including on professional business incidental to their regular practice in their home country. There is in addition a further, sector-specific question relating to international standards:

Laws, regulations or relevant standard-setter require the use of or have adopted the international standards on auditing (ISAs)

101. The international standards on auditing relate directly to the professional practice of auditors. They have the objective to ensure high quality of auditing, review, other assurance, quality control and related services. The answer to this measure is “yes” if the use of international standards on auditing (ISAs) is required or has been adopted - including possibly some national modifications - by the law, the regulator or the relevant standard setter. The answer is “no”, if the regulator only indicates that the local generally accepted auditing standards is "based on" or "similar to" to the ISAs. Furthermore, if the convergence with ISA standards is an objective, but the convergence process is at an early stage then the answer is also “no”. ISAs harmonise professional practice across countries. This is regarded as trade facilitating measure.

Architecture and engineering services

102. Similarly to accounting services, the concept of “limited licensing” does not correspond exactly to the one developed for legal services, so the distinction relates to locally-licensed architects and engineers versus not locally-licensed architects and engineers. Limited or temporary licensing is relevant for these services as well (PS.arc.2.7.2 and PS.eng.2.7.2 — *A limited or temporary licensing system is available*). Foreign architects and engineers may be authorised temporary entry and stay to carry out a specific project or to “consult” (excluding the right to sign drawings or supervise construction).

103. Since architectural and engineering services are considerably more liberal than legal and accounting or auditing services, some countries do not require service providers to be licensed. Hence, this possibility is reflected in the database (PS.arc.2.7.1 and PS.eng.2.7.1 — *License or authorisation is required to practice as an architect – engineer*).

104. Finally, perhaps in light of the more liberal nature of regimes for architecture and engineering services, restrictions on commercial association between locally-qualified and non-locally qualified professionals are less relevant for these services. Instead, commercial association is sometimes required in order for foreign providers to supply architecture and engineering services in the host country: *Commercial association required between not locally-licensed architects (engineers) (or with limited license) and locally-licensed architects (engineers)*.

105. The following measure is also sector-specific:

Restrictions on acquisition of real estate by foreign providers

106. This measure refers to instances where acquisition of real estate by foreign providers of architecture (engineering) services is prohibited or when is subject to restrictions, for example where non-nationals with less than five years residence may not acquire land.

Table 3. Measures included in the STRI for professional services

Legal services	
code	Measure
	Restrictions on foreign ownership and other market entry conditions
PS.leg.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
PS.leg.1.1.2	Equity restrictions applying to not locally-licensed lawyers/firms
PS.leg.1.2.1	Legal form: sole proprietorship is prohibited
PS.leg.1.2.2	Legal form: corporation is prohibited
PS.leg.1.2.3	Legal form: partnerships is prohibited
PS.leg.1.2.4	Commercial association is prohibited between not fully integrated (limited license) lawyers and fully integrated lawyers
PS.leg.1.2.5	Commercial association is prohibited between lawyers and other professionals
PS.leg.1.2.8	Prohibitions on hiring locally-licensed lawyers
PS.leg.1.3.1	The number of law firms permitted to practice is restricted by quotas
PS.leg.1.4.1	Board of directors: majority must be nationals
PS.leg.1.4.2	Board of directors: majority must be residents
PS.leg.1.4.3	Board of directors: majority must be locally-licensed lawyers
PS.leg.1.4.4	Board of directors: at least one must be national
PS.leg.1.4.5	Board of directors: at least one must be resident
PS.leg.1.4.6	Board of directors: at least one must be locally-licensed
PS.leg.1.4.7	Manager must be national
PS.leg.1.4.8	Manager must be resident
PS.leg.1.4.9	Manager must be locally-licensed lawyer
PS.leg.1.5.1	The establishment of foreign law firms is restricted by economic needs tests
	Restrictions on the movement of people
PS.leg.2.1.1	Quotas: intra-corporate transferees
PS.leg.2.1.2	Quotas: contractual services suppliers
PS.leg.2.1.3	Quotas: independent services suppliers
PS.leg.2.2.1	Labour market tests: intra-corporate transferees
PS.leg.2.2.2	Labour market tests: contractual services suppliers
PS.leg.2.2.3	Labour market tests: independent services suppliers
PS.leg.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
PS.leg.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
PS.leg.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
PS.leg.2.4.1	Nationality or citizenship required for license to practice as a fully integrated lawyer
PS.leg.2.5.1	Prior or permanent residency required for license to practice as a fully integrated lawyer
PS.leg.2.5.2	Prior or permanent residency required for license to practice under a limited license
PS.leg.2.5.3	Domicile required for license to practice as a fully integrated lawyer
PS.leg.2.5.4	Domicile required for license to practice under a limited license
PS.leg.2.6.1	Recognition of foreign qualifications to become a fully integrated lawyer: laws or regulations establish a process for recognising higher education degrees in law gained abroad
PS.leg.2.6.2	Recognition of foreign qualifications to become a fully integrated lawyer: foreign lawyers are required to undertake local examinations to qualify for full membership of the profession
PS.leg.2.6.3	Recognition of foreign qualifications to become a fully integrated lawyer: foreign lawyers are required to undertake at least 1 year of local practice to become a full member of the profession
PS.leg.2.6.4	Recognition of foreign qualifications to become a fully integrated lawyer: compulsory membership in a professional association for foreign lawyers is automatically granted if the lawyer has the required qualifications
PS.leg.2.7.1	There is a limited licensing system in place

Legal services	
code	Measure
PS.leg.2.8.1	Memo: Foreign providers have to completely re-do the university degree, practice and exam in the domestic country
	Other discriminatory measures and international standards
PS.leg.3.1.1	Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies
PS.leg.3.2.1	Foreign participation in public procurement: foreign suppliers are prohibited from supplying legal services to the government or preferences are given to local suppliers
PS.leg.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards
PS.leg.3.4.1	Use of foreign/international firm names: the use of foreign firm names is prohibited
PS.leg.3.4.2	Use of foreign/international firm names: the use of foreign firm names is allowed only alongside that of a local partner
PS.leg.3.4.3	Use of foreign/international firm names: only locally-licensed lawyers may use the name or title "Lawyer"
	Barriers to competition and public ownership
PS.leg.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
PS.leg.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
PS.leg.4.6.1	Fee-setting: mandatory minimum and/or maximum fees
PS.leg.4.6.2	Fee-setting: recommended minimum and/or maximum fees
PS.leg.4.7.1	Advertising and marketing: lawyers are either prohibited to advertise or subject to restrictions on advertising
PS.leg.4.7.2	Advertising and marketing: only locally-licensed lawyers are permitted to advertise and market legal services
	Regulatory transparency and administrative requirements
PS.leg.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
PS.leg.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
PS.leg.5.4.1	Range of visa processing time (days)
PS.leg.5.5.1	Time to complete all official procedures required to register a company (in calendar days)
PS.leg.5.6.1	Total cost to complete all official procedures required to register a company (in % of income per capita)
PS.leg.5.7.1	Number of official procedures required to register a company

Accounting services	
code	Measure
	Restrictions on foreign ownership and other market entry conditions
PS.acc.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
PS.acc.1.1.2	Equity restrictions applying to not locally-licensed accountants and auditors/firms
PS.acc.1.2.1	Legal form: sole proprietorship is prohibited
PS.acc.1.2.2	Legal form: corporation is prohibited
PS.acc.1.2.3	Legal form: partnerships is prohibited
PS.acc.1.2.4	Commercial association is prohibited between accountants and auditors and other professionals
PS.acc.1.3.1	The number of accounting firms permitted to practice is restricted by quotas
PS.acc.1.5.1	The establishment of foreign accounting firms is restricted by economic needs tests
PS.acc.1.4.1	Board of directors: majority must be nationals
PS.acc.1.4.2	Board of directors: majority must be residents
PS.acc.1.4.3	Board of directors: majority must be locally-licensed accountants and auditors
PS.acc.1.4.4	Board of directors: at least one must be national
PS.acc.1.4.5	Board of directors: at least one must be resident
PS.acc.1.4.6	Board of directors: at least one must be locally-licensed
PS.acc.1.4.7	Manager must be national
PS.acc.1.4.8	Manager must be resident
PS.acc.1.4.9	Manager must be locally-licensed accountant and auditor
	Restrictions on the movement of people
PS.acc.2.1.1	Quotas: intra-corporate transferees
PS.acc.2.1.2	Quotas: contractual services suppliers
PS.acc.2.1.3	Quotas: independent services suppliers
PS.acc.2.2.1	Labour market tests: intra-corporate transferees
PS.acc.2.2.2	Labour market tests: contractual services suppliers
PS.acc.2.2.3	Labour market tests: independent services suppliers
PS.acc.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
PS.acc.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
PS.acc.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
PS.acc.2.4.1	Nationality or citizenship required for license to practice accounting and auditing
PS.acc.2.5.1	Residency required for license to practice accounting and auditing: prior or permanent residency
PS.acc.2.5.2	Residency required for license to practice accounting and auditing: domicile
PS.acc.2.6.1	Recognition of foreign qualifications for accountants and auditors: laws or regulations establish a process for recognising higher education degrees in accounting or auditing gained abroad
PS.acc.2.6.2	Recognition of foreign qualifications for accountants and auditors: foreign accountants and auditors are required to undertake local examinations to qualify for full membership of the profession
PS.acc.2.6.3	Recognition of foreign qualifications for accountants and auditors: foreign accountants and auditors are required to undertake at least 1 year of local practice to become a full member of the profession
PS.acc.2.6.4	Recognition of foreign qualifications for accountants and auditors: compulsory membership in a professional association for foreign accountants and auditors is automatically granted if the accountant or auditor has the required qualifications
PS.acc.2.7.1	A limited or temporary licensing system is available
PS.acc.2.8.1	Memo: Foreign providers have to completely re-do the university degree, practice and exam in the domestic country
	Other discriminatory measures and international standards
PS.acc.3.1.1	Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies
PS.acc.3.2.1	Foreign participation in public procurement: foreign suppliers are prohibited from supplying accounting and auditing services to the government or preferences are given to local suppliers

Accounting services	
code	Measure
PS.acc.3.3.1	Laws, regulations or relevant standard-setter require the use of or have adopted the international standards on auditing (ISAs)
PS.acc.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards
PS.acc.3.4.1	Use of foreign/international firm names: the use of foreign firm names is prohibited
PS.acc.3.4.2	Use of foreign/international firm names: the use of foreign firm names is allowed only alongside that of a local partner
PS.acc.3.4.3	Use of foreign/international firm names: only locally-licensed accountants and auditors may use the name or title "Accountants" and "Auditors"
	Barriers to competition and public ownership
PS.acc.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
PS.acc.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
PS.acc.4.6.1	Fee-setting: mandatory minimum and/or maximum fees
PS.acc.4.6.2	Fee-setting: : recommended minimum and/or maximum fees
PS.acc.4.7.1	Advertising and marketing: accountants and auditors are either prohibited to advertise or subject to restrictions on advertising
PS.acc.4.7.2	Advertising and marketing: only locally-licensed accountants and auditors are permitted to advertise and market these services
	Regulatory transparency and administrative requirements
PS.acc.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
PS.acc.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
PS.acc.5.4.1	Range of visa processing time (days)
PS.acc.5.5.1	Time to complete all official procedures required to register a company (in calendar days)
PS.acc.5.6.1	Total cost to complete all official procedures required to register a company (in % of income per capita)
PS.acc.5.7.1	Number of official procedures required to register a company

Architectural services	
code	Measure
	Restrictions on foreign ownership and other market entry conditions
PS.arc.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
PS.arc.1.1.2	Equity restrictions applying to not locally-licensed architects
PS.arc.1.2.1	Legal form: sole proprietorship is prohibited
PS.arc.1.2.2	Legal form: corporation is prohibited
PS.arc.1.2.3	Legal form: partnerships is prohibited
PS.arc.1.2.4	Commercial association is prohibited between architects and other professionals
PS.arc.1.2.5	Commercial association is required between not locally-licensed architects (or with limited license) and locally-licensed architects
PS.arc.1.3.1	The number of architectural firms permitted to practice is restricted by quotas
PS.arc.1.4.1	Board of directors: majority must be nationals
PS.arc.1.4.2	Board of directors: majority must be residents
PS.arc.1.4.3	Board of directors: majority must be locally-licensed architects
PS.arc.1.4.4	Board of directors: at least one must be national
PS.arc.1.4.5	Board of directors: at least one must be resident
PS.arc.1.4.6	Board of directors: at least one must be locally-licensed
PS.arc.1.4.7	Manager must be national
PS.arc.1.4.8	Manager must be resident
PS.arc.1.4.9	Manager must be locally-licensed architect
PS.arc.1.5.1	The establishment of foreign architectural firms is restricted by economic needs tests
PS.arc.1.7.1	Acquisition of land and real estate by foreigners is prohibited
PS.arc.1.7.2	Acquisition of land and real estate by foreigners is subject to restrictions
	Restrictions to the movement of people
PS.arc.2.1.1	Quotas: intra-corporate transferees
PS.arc.2.1.2	Quotas: contractual services suppliers
PS.arc.2.1.3	Quotas: independent services suppliers
PS.arc.2.2.1	Labour market tests: intra-corporate transferees
PS.arc.2.2.2	Labour market tests: contractual services suppliers
PS.arc.2.2.3	Labour market tests: independent services suppliers
PS.arc.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
PS.arc.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
PS.arc.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
PS.arc.2.4.1	Nationality or citizenship required for license to practice architectural services
PS.arc.2.5.1	Residency required for license to practice architectural services: prior or permanent residency
PS.arc.2.5.2	Residency required for license to practice architectural services: domicile
PS.arc.2.6.1	Recognition of foreign qualifications for architects: laws or regulations establish a process for recognising higher education degrees in architecture gained abroad
PS.arc.2.6.2	Recognition of foreign qualifications for architects: foreign architects are required to undertake local examinations to qualify for full membership of the profession
PS.arc.2.6.3	Recognition of foreign qualifications for architects: foreign architects are required to undertake at least 1 year of local practice to become a full member of the profession
PS.arc.2.6.4	Recognition of foreign qualifications for architects: compulsory membership in a professional association for foreign architects is automatically granted if the architect has the required qualifications
PS.arc.2.7.1	License or authorisation is required to practice as an architect
PS.arc.2.7.2	Limited or temporary licensing system is available

Architectural services	
code	Measure
PS.arc.2.8.1	Memo: Foreign providers have to completely re-do the university degree, practice and exam in the domestic country
	Other discriminatory measures and international standards
PS.arc.3.1.1	Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies
PS.arc.3.2.1	Foreign participation in public procurement: foreign suppliers are prohibited from supplying architectural services to the government or preferences are given to local suppliers
PS.arc.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards
PS.arc.3.4.1	Use of foreign/international firm names: the use of foreign firm names is prohibited
PS.arc.3.4.2	Use of foreign/international firm names: the use of foreign firm names is allowed only alongside that of a local partner
PS.arc.3.4.3	Use of foreign/international firm names: only locally-licensed architects may be use the title "Architect"
	Barriers to competition and public ownership
PS.arc.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
PS.arc.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
PS.arc.4.6.1	Fee-setting: mandatory minimum and/or maximum fees
PS.arc.4.6.2	Fee-setting: : recommended minimum and/or maximum fees
PS.arc.4.7.1	Advertising and marketing: architects are either prohibited to advertise or subject to restrictions on advertising
PS.arc.4.7.2	Advertising and marketing: only locally-licensed architects are permitted to advertise and market these services
	Regulatory transparency and administrative requirements
PS.arc.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
PS.arc.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
PS.arc.5.4.1	Range of visa processing time (days)
PS.arc.5.5.1	Time to complete all official procedures required to register a company (in calendar days)
PS.arc.5.6.1	Total cost to complete all official procedures required to register a company (in % of income per capita)
PS.arc.5.7.1	Number of official procedures required to register a company

Engineering services	
code	Measure
	Restrictions on foreign ownership and other market entry conditions
PS.eng.1.1.1	Foreign equity restrictions: maximum foreign equity share allowed (%)
PS.eng.1.1.2	Equity restrictions applying to not locally-licensed engineers
PS.eng.1.2.1	Legal form: sole proprietorship is prohibited
PS.eng.1.2.2	Legal form: corporation is prohibited
PS.eng.1.2.3	Legal form: partnerships is prohibited
PS.eng.1.2.4	Commercial association is prohibited between engineers and other professionals
PS.eng.1.2.5	Commercial association is required between not locally-licensed engineers (or with limited license) and locally-licensed engineers
PS.eng.1.3.1	The number of engineering firms permitted to practice is restricted by quotas
PS.eng.1.4.1	Board of directors: majority must be nationals
PS.eng.1.4.2	Board of directors: majority must be residents
PS.eng.1.4.3	Board of directors: majority must be locally-licensed engineers
PS.eng.1.4.4	Board of directors: at least one must be national
PS.eng.1.4.5	Board of directors: at least one must be resident
PS.eng.1.4.6	Board of directors: at least one must be locally-licensed
PS.eng.1.4.7	Manager must be national
PS.eng.1.4.8	Manager must be resident
PS.eng.1.4.9	Manager must be locally-licensed engineer
PS.eng.1.5.1	The establishment of foreign engineering firms is restricted by economic needs tests
PS.eng.1.7.1	Acquisition of land and real estate by foreigners is prohibited
PS.eng.1.7.2	Acquisition of land and real estate by foreigners is subject to restrictions
	Restrictions to the movement of people
PS.eng.2.1.1	Quotas: intra-corporate transferees
PS.eng.2.1.2	Quotas: contractual services suppliers
PS.eng.2.1.3	Quotas: independent services suppliers
PS.eng.2.2.1	Labour market tests: intra-corporate transferees
PS.eng.2.2.2	Labour market tests: contractual services suppliers
PS.eng.2.2.3	Labour market tests: independent services suppliers
PS.eng.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
PS.eng.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
PS.eng.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
PS.eng.2.4.1	Nationality or citizenship required for license to practice engineering services
PS.eng.2.5.1	Residency required for license to practice engineering services: prior or permanent residency
PS.eng.2.5.2	Residency required for license to practice engineering services: domicile
PS.eng.2.6.1	Foreign qualifications for engineers: laws or regulations establish a process for recognising higher education degrees in engineering gained abroad
PS.eng.2.6.2	Foreign qualifications for engineers: foreign engineers are required to undertake local examinations to qualify for full membership of the profession
PS.eng.2.6.3	Foreign qualifications for engineers: foreign engineers are required to undertake at least 1 year of local practice to become a full member of the profession
PS.eng.2.6.4	Foreign qualifications for engineers: compulsory membership in a professional association for foreign engineers is automatically granted if the engineer has the required qualifications
PS.eng.2.7.1	License or authorisation is required to practice as an engineer
PS.eng.2.7.2	Limited or temporary licensing system is available

Engineering services	
code	Measure
PS.eng.2.8.1	Memo: Foreign providers have to completely re-do the university degree, practice and exam in the domestic country
	Other discriminatory measures and international standards
PS.eng.3.1.1	Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies
PS.eng.3.2.1	Foreign participation in public procurement: foreign suppliers are prohibited from supplying engineering services to the government or preferences are given to local suppliers
PS.eng.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards
PS.eng.3.4.1	Use of foreign/international firm names: the use of foreign firm names is prohibited
PS.eng.3.4.2	Use of foreign/international firm names: the use of foreign firm names is allowed only alongside that of a local partner
PS.eng.3.4.3	Use of foreign/international firm names: only locally-licensed engineers may use the title "Engineer"
	Barriers to competition and public ownership
PS.eng.4.1.1	When appeal procedures are available in domestic regulatory systems, they are open to affected or interested foreign parties as well
PS.eng.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
PS.eng.4.6.1	Fee-setting: mandatory minimum and/or maximum fees
PS.eng.4.6.2	Fee-setting: : recommended minimum and/or maximum fees
PS.eng.4.7.1	Advertising and marketing: engineers are either prohibited to advertise or subject to restrictions on advertising
PS.eng.4.7.2	Advertising and marketing: only locally-licensed engineers are permitted to advertise and market these services
	Regulatory transparency and administrative requirements
PS.eng.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
PS.eng.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
PS.eng.5.4.1	Range of visa processing time (days)
PS.eng.5.5.1	Number of working days to complete all mandatory procedures to register a company
PS.eng.5.6.1	Total cost to complete all mandatory procedures to register a company (in % of income per capita)
PS.eng.5.7.1	Number of mandatory procedures to register a company

TELECOMMUNICATIONS

107. Telecommunications are defined as W/120 sector 2.C, ISIC rev. 3.1 code 6420, and EBOPS sector 247. A key concept in the regulation of telecommunications is dominance or significant market power. It is common practice in OECD countries to impose regulation on dominant firms/major supplier/suppliers with significant market power, hereafter denoted dominant firm, to ensure that the markets stay competitive.⁵ Such regulation is considered a trade issue as for instance spelled out in the WTO/GATS reference paper on telecommunications. There is, however, no standard definition that can be used mechanically to assess the presence of dominance in a particular market.⁶ In most OECD countries the regulator assesses the competitiveness of each market segment at regular intervals and identifies dominant firms. Whenever possible, the STRI will apply the regulators' definition of dominance. In the cases where the regulator does not identify dominant firms, an assessment will be made based on market share and information on developments in prices. The presence of a dominant firm is indicated as a memo item in the database. The telecommunications STRI entails three sub-sectors (fixed, mobile and internet), and when relevant measures are entered separately for each of them.

Restrictions on foreign ownership and other market entry conditions

Foreign equity restrictions: maximum foreign equity share allowed (%) (fixed, mobile, internet)

108. Foreign equity restrictions are defined as restrictions on the equity share foreign natural or juridical persons can hold in a telecommunications services firm incorporated in the country in question. The limit refers to the combined share of non-residents (not limits on individual non-resident natural or juridical person, if any). Foreign equity restrictions that apply to facilities-based or non-facilities based are recorded in the database. In cases where there is a specific limit to the equity share that foreign natural and juridical persons can hold directly, the limit does not include additional indirect foreign ownership, e.g. through minority shares in local investment companies (see next measure).

Non-residents are allowed to invest in local telecommunications services firms through minority shares in local investment companies. Maximum foreign equity limit in such investment companies (%). (fixed, mobile, internet)

109. Countries that have foreign equity limits often distinguish between direct and indirect ownership. When direct ownership is restricted, but additional non-resident ownership is allowed through indirect ownership e.g. via a local investment company or other channels, it is captured by this measure. Regulation in this area varies among countries. In some cases the restriction is in the form of maximum foreign equity share below which a company is considered a local investor. In other cases more complex rules apply.

5. Different regulators use different phrases for firms with sufficient market power to warrant regulation. In these guidelines "dominant firm" will be used throughout.

6. The preliminary STRIs for telecommunications used market share as an indicator of dominance, acknowledging that this is not a perfect measure since markets are not necessarily national in scope and firms can exhibit market power even if the national market share is moderate.

There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national, state or provincial governments (fixed, mobile, internet).

110. This measure only applies if there is at least one major telecommunications firm controlled by national, state or provincial government. The phrase “controlled by” means that government holds at least a blocking minority or a golden share in the company. The equity threshold for control may vary between countries according to legislation on the required majority for certain corporate decisions. Such differences are taken into account when filling the database.

There are restrictions on legal form (fixed, mobile, internet)

- *Legal form: only joint ventures allowed* which applies when non-residents can only establish a commercial presence in telecommunications through a joint venture with a local firm.

The number of firms permitted to practice is restricted by quotas (fixed, mobile, internet)

111. This measure refers to numerical limitations on the establishment of telecommunication services firms, be they local or foreign. Limitations due to scarcity of spectrum is not considered a restriction if access to networks is ensured for companies that do not own networks.

Requirements for board of directors (fixed, mobile, internet).

112. This measure refers to requirements that either the majority or at least one of the members of the board of a telecommunications firm established in the host country is national or resident therein. It indicates the freedom foreign investors have to appoint board members of their choice. Majority refers to simple majority. The question refers to legal forms that are required by law to have a board or equivalent (e.g. corporations). It applies also if foreign companies are allowed to enter the market through legal forms where a board or equivalent is not required by law.

Restrictions on type of shares or bonds held by foreign investors (fixed, mobile, internet).

113. Examples of such restrictions are that foreign investors can only or partly hold shares with non-voting rights.

Conditions on subsequent transfer of capital and investments (fixed, mobile, internet)

114. Examples are: compulsory transfer of ownership to local firms over a given time period; whether there are restrictions on the free transfer of shares or other proprietary rights; restrictions on foreign shareholders’ rights such as payment of dividends or reimbursement of capital upon liquidation; and whether there are restrictions on the scale and scope of future expansions or downsizing.

Restrictions on cross-border mergers and acquisitions (M&A) (fixed, mobile, internet).

115. This measure applies to specific restrictions on cross-border M&A over and above general restrictions on M&A for competition reasons, if any.

Screening of investment (fixed, mobile, internet)

- *Screening: foreign investors must show net economic benefits.* In the STRI regulatory database economic needs test is understood as a requirement that foreign investors must show that the investment will generate additional employment, new services or technology, not merely replace

existing local capacity. The most common variables that the regulator takes into account when assessing economic needs are the number of suppliers, the level of competition, the size of the market and the range and quality of services available in the market.

- *Screening: approval unless contrary to national interest.* If there is a requirement by law or regulation that foreign investors must have prior approval and such approval is not automatic it is considered a restriction in the database. Note that such screening is considered a restriction even if no telecommunications firm hitherto has been denied market access under the regulation.
- *Screening: notification.* This is the lightest measure under the screening heading and applies when notification involves the fulfilment of a set of minimum standards, but no prior approval is needed. If notification is required for purely statistical purposes, however, it is not recorded as a restriction.

Other restrictions

116. Examples of other restrictions would be if telecoms firms are restricted from establishing a commercial presence through one or more legal form or if there is a restriction on opening branches (as opposed to establishing a subsidiary).

Restrictions on the movement of people

117. All measures under this policy area distinguish between intra-corporate transferees, contractual services suppliers and independent services suppliers. These categories are commonly found in GATS schedules and regional free trade agreements and most OECD countries use these terms in their legislation or regulation. The definitions of the three categories are as follows:

118. *Intra-corporate transferees (ICT)* work for an enterprise established in the territory of a Member [of the WTO] and are transferred to the enterprise's commercial presence in the territory of another Member in the context of the supply of a service, often as executives, managers or specialists. *Executives* direct the management, have wide latitude in decision-making, are supervised only by board of directors or stockholders and do not provide service directly. *Managers* direct organization or department, hire/fire, have day-to-day discretion and supervise other staff. *Specialists* have essential knowledge at advanced level of expertise and proprietary knowledge of organisation

119. *Contractual service suppliers (CSS)* are employees of a juridical person (which has no commercial presence in host Member) who supply a service on the basis of a contract their employer has concluded with a consumer in host Member. The employee receives remuneration from the employer while abroad, has appropriate educational and professional qualifications and may not engage in other employment.

120. *Independent professional (IP)* is a self-employed person based in the territory of another Member who supplies a service on the basis of a services contract with a consumer in the host Member. IP has appropriate educational and professional qualifications.

121. When countries do not use these terms in their regulation, the STRI database is filled on the basis of the regulations that come closest to the definitions. The comment column in the database explains which visa categories are considered equivalent to the ITC, CSS and IP respectively.

Temporary movement of natural persons is restricted by quotas.

122. A quota is defined as a numerical limitation, in the form of an absolute number or a percentage, to temporary movement of natural persons providing telecommunication services. A restriction is noted also if there is a horizontal quota under which telecommunications services providers fall; or a quota on certain skills categories to which telecommunications services providers belong. Quotas are typically set annually based on an assessment of labour market conditions. The measure captures the discretion a country has to set binding quotas e.g. in economic downturns or otherwise excess supply of local telecommunications services providers.

Temporary movement of natural persons is restricted by labour market tests.

123. Labour market tests are undertaken to determine whether suitably qualified local workers are available (or could easily be trained to do the work). They typically involve seeking advice from industry representatives and government agencies to determine current skill shortages. The measure includes all instances where the temporary movement of foreign services providers is restricted by discrimination in the labour legislation of the country in question. A positive list that of occupations for which labour market tests for individual services suppliers are eased is still a labour market test if based on the evaluation of skills shortages and subject to regular assessments.

Duration of stay for natural persons is limited (months)

124. The number of months refers to the time limit of the initial work/residence permit which is given prior to entry, and does not include number of months of possible extension.

Other discriminatory measures and international standards

Foreign suppliers are treated less favourably regarding taxes or eligibility to subsidies

125. Discriminatory tax treatment relates to higher direct or indirect taxes charged to foreign providers of telecommunications services in the host market. Subsidies refer to government support granted only or more favourably to local telecommunications companies in the local market. Examples: Grants, loans at preferential rates, direct and indirect tax incentives, or provisions of goods or services by the government at prices below market levels. Withholding taxes are not considered a restriction.

Foreign participation in public procurement: discrimination in the application of financial or technical criteria for project tender

126. This measure applies to branches or subsidiaries of foreign telecommunications services firms in the country in question. Examples of discriminatory measures are stricter financial or technical criteria for project tender; and stricter criteria for inclusion on the list of prequalified suppliers.

Laws or regulations require or encourage the use of international standards.

127. The question relates to whether in cases where standards are imposed by law or regulation, the law or regulation refers to international standards and certification procedures. ITU standards and several ISO standards are relevant for this sector.

Barriers to competition and public ownership⁷

128. *Minimum capital requirements (fixed, mobile, internet).*

129. This measure is included to capture barriers that mainly affect small and medium size enterprises. It reflects the minimum amount of capital an entrepreneur must deposit in a bank or with a notary in order to register a business. The amount in national currency is filled in the comments column. If there is a minimum capital requirement for telecommunication firms, that amount is entered in the database. If there is a minimum that applies to all sectors, the horizontal requirement is entered. If there are exemptions in certain regions, the general requirement is entered.

National, state or provincial government control at least one major firm in the sector (fixed, mobile, internet)

130. The phrase “controlled by” means that government holds at least a blocking minority in the company. Government ownership does not entail equity stakes held by commercial state owned enterprises outside the telecommunications sector or investment by social security funds and the like.

Publicly-controlled firms or undertakings are subject to exclusion or exemption, either complete or partial, from the application of the general competition law or pro-competitive regulation in the telecommunications law (fixed, mobile, internet).

131. The measure only applies if there is at least one telecommunications firm controlled by national, state or provincial government. Government control means that the government holds at least a blocking minority or a golden share in the company. Exclusion results from actions by the courts, legislature or government to remove publicly-controlled firms from the general competition law, pro-competitive legislation under telecommunications law or regulation, the competition agency's jurisdiction, or the telecoms regulator's jurisdiction. Exemptions arise under the competition law or telecommunications law and represent decisions by the enforcement bodies or others about how the law should be applied.

National, state or provincial government have special voting rights (e.g. golden shares) in any firms in the sector (fixed, mobile, internet)

132. This measure applies to cases where the government has special voting rights in any firm in the telecoms sector. In federal states the measure applies to any telecommunications firms that are allowed to operate at a national level, or is among the 10 largest firms nationwide.

Foreign firms have redress when business practices are perceived to restrict competition

133. This measure relates to the extent and channels through which foreign firms can have redress when business practices e.g. by dominant firms restrict competition. Examples of channels open to foreign firms are competition agencies, trade policy bodies, regulatory bodies or through private rights of action. If foreign suppliers have redress through one or more of these channels, the measure applies.

The government can overrule the decision of the telecommunications regulator

134. The measure refers to cases where by law or regulation the decision of the telecommunications regulator is advisory and a final decision is taken by the government or if the law opens for government reversals of decisions taken by the telecommunications regulator.

⁷ Public ownership may have the effect of market access restriction.

The decision by the telecommunications regulator can be appealed

135. The measure refers to whether the regulator's decision can be appealed to an appeal body that is independent of the parties.

Access to and use of public telecommunications service is mandated (fixed, mobile, internet)

136. Regulation ensures that enterprises, including foreign, have access to and use of any public telecommunication service, including leased circuits. The measure relates to the extent to which foreign suppliers have the opportunity to purchase or lease and attach terminal or other equipment that interfaces with a public telecommunication network; to provide services over leased or own circuits, connect owned or leased circuits with public telecommunications networks, perform switching, signalling, processing and conversion of functions and use operating protocols of their choice. When access is mandated, the regulator requires that a dominant firm applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provide services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.

Wholesale access prices are regulated (fixed, mobile, internet)

137. Wholesale access refers to obligations of incumbent owners of public telecommunications networks to provide access to services providers at reasonable prices. Price regulation is typically based on long-run incremental costs and often contains a clause that specifies price reduction over time.

Interconnection is mandated (fixed, mobile)

138. The measure refers to obligations to respond favourably to reasonable requests for interconnection, including from foreign firms, at any technically feasible point in the network.

Interconnection prices and conditions are regulated (fixed, mobile)

139. Interconnection can be one-way or two-way and interconnection prices may differ in the two cases. Regulated interconnection prices may be based on the additional cost to the incumbent from providing interconnection services i.e. allowing another operator to use his network to originate or terminate a call. For two-way interconnection pricing may also be based on bill and keep. When interconnection is mandated, the regulator typically requires that a dominant firm applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provide services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.

Interconnection and/or access agreements are made public

140. This measure relates to transparency requirements and covers regulatory requirements that the dominant supplier makes public specified information such as accounting information, technical specifications, network characteristics, terms and conditions for supply and use, and prices. An example of such regulation is to require dominant firm to make a reference offer publicly available.⁸

8. It is distinguished between transparency regulation imposed on the dominant firm, which is found under barriers to competition, and transparency on the part of the regulator or other government agencies, which is found under the heading "Regulatory transparency and administrative requirements".

Unbundling of the local loop is required

141. Local loop unbundling (LLU) is the process where the incumbent operator(s) makes its local network (the copper cables that run from customers premises to the telephone exchange) available to other companies.

Local loop unbundling prices are regulated

142. Local loop unbundling (LLU) is the process where the incumbent fixed line operator makes its local network (the copper cables that run from customers premises to the telephone exchange) available to other companies. The price of access to unbundled local loops is one aspect of regulating the conditions under which unbundled local loops are offered. Price regulation refers to setting prices based on e.g. costs, or mandating that dominant firms negotiate such prices.

Collocation or site sharing is mandated

143. The measure refers to the obligation of dominant firm to provide physical collocation of equipment necessary for interconnection or access to unbundled network elements where technically feasible.

Resale of public telecommunications services to other suppliers of telecommunications services, including foreign suppliers is mandated (fixed, mobile, internet)

144. Resale is the ability of a firm to purchase a service on a wholesale basis, for the purpose of reselling that same service, either alone or in combination with other services or features, to end users in direct competition with the original service provider.

Rates and conditions for resale of public telecommunications services to other suppliers of telecommunications services are regulated (fixed, mobile, internet).

145. Resale of public telecommunications services to other suppliers of public telecommunications services are often mandated on reasonable and non-discriminatory conditions. When resale is mandated, the regulator requires that a dominant firm applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and provide services and information to others under the same conditions and of the same quality as it provides for its own services, or those of its subsidiaries or partners.

Secondary spectrum trading is allowed

146. Secondary spectrum trading allows parties to transfer the spectrum rights and obligations to another party in return for a financial or market benefit. Trading can take several forms: Sale, where the ownership of the usage right is transferred to another party; Buy-back, where the user right is sold to another party with an agreement that the seller will buy back the usage right at a fixed point in the future; leasing, where the usage right is transferred to another party for a defined period of time, but the ownership remains with the original rights holder; and mortgage where the usage right is used as a collateral for a loan. If every transaction has to be approved by the regulator in advance, it is not considered a secondary market.

Mobile termination rates are regulated

147. Mobile termination rates are the fees that mobile operators charge other carriers to terminate calls on their networks. Other carriers can be fixed line telephony suppliers, voice over internet protocol

providers or other mobile operators. Examples of regulation of termination rates are cost oriented prices (e.g. long run incremental cost including a reasonable rate of return) combined with a schedule for reduction of the rates over time. Another form of regulation recently introduced in many countries is a requirement that calls are charged by seconds rather than minutes. In a system where receiving party pays, mobile termination rate regulation is not considered necessary for open markets to prevail, as the terminating mobile operator does not have market power.

Wholesale roaming rates are regulated

148. International roaming allows travelers to use their mobile handsets to make and receive calls or send and receive Short Messaging Service (SMS) whilst visiting another country. With this arrangement, the customer is afforded similar functionality on the visited country's network as they obtain at home. The home country's operator pays the visited country's operator a wholesale charge for use of its infrastructure. The database records whether this charge is regulated. Regulation of roaming rates is typically price caps that are linked to mobile termination rates.

Retail roaming rates are regulated

149. The home country's operator adds a retail mark-up to the wholesale roaming charge to create a profit margin on the final charge to its customers. The measure refers to whether this mark-up is regulated.

Number portability is required (fixed, mobile, voice over internet protocol)

150. By number portability is meant that final consumers are entitled to keep their telephone number when switching supplier of public telephone services. The existing supplier is obliged by law to transfer the number to another company upon request from the customer. The measure concerns number portability within an area code when area codes apply.

Time and other conditions for porting telephone numbers are regulated (fixed, mobile, voice over internet protocol)

151. This measure refers to regulation of the maximum time for porting from the point when the request from the customer is received. Other conditions being regulated include quality of services and who should bear the porting cost.

Dialling parity is required (fixed, mobile, voice over internet protocol)

152. This measure requires that regulators ensure that dominant suppliers provide dialling parity to other suppliers of public telecommunications and non-discriminatory access to telephone numbers and related services.

Vertical separation is required (fixed, mobile, internet)

153. Vertical separation can take the form of accounting separation, functional separation or legal separation. All three forms are captured in one measure, but the comment column in the database contains information on which form of separation is required.

Contracts for universal services obligations are assigned through grandfathering (fixed, mobile, internet)

154. This measure relates to how USO contracts are awarded. Grandfathering refers to the situation where the incumbent services provider retains the USO contract for historical reasons although the law requires e.g. competitive bidding for future contracts.

Regulatory transparency and administrative requirements

Licensing agreements are publicly available

155. When it is required that a supplier of public telecommunications services have a license, all the licensing criteria and procedures, and terms and conditions of all licenses issued are publicly available.

Information on spectrum (regulations, spectrum management table, spectrum fees etc.) is publicly available.

156. Publicly available means for instance that the information is accessible on the regulator's website.

Regulations are published or otherwise communicated to the public prior to entry into force.

157. The measure relates to the obligation of countries to publish laws, regulations, and administrative decisions prior to entry into force, allowing a reasonable period of time between publication and their effective date, so that foreign suppliers may become acquainted with relevant regulations. The source of this measure is the administrative procedures law of the country, and/or sector-specific regulations or decisions mandating publication. International best practice is to publish new regulation within a specified timeframe prior to its effective date, preferably on the internet.

There is a prior notice and comment procedure for interested persons, including foreign suppliers

158. This measure captures whether there is a public comment procedure open to interested persons, including foreign suppliers, and/or the regulator has other formal mechanisms for consultation that are open to foreign parties. Draft regulations are posted on the internet or otherwise published in a manner that makes it accessible for foreign suppliers, and foreign suppliers are allowed to comment on the regulation before it is being implemented. The US, for example, has a searchable website where regulations are published and users can click on "newly posted regulation", "regulations with comment periods closing soon". Regulations can be searched by agency and online comments are invited and those who wish to make a comment can do so, irrespective of nationality (www.regulations.gov/search/Regs/home.html#home).

Range of visa processing time (days)

159. This measure captures the ease of business travel, which may be an important complement to cross-border supply and commercial presence in telecommunications services. The information entailed in this measure is the number of days it takes on average to process a visa application for business visitors. The number of days may depend on the country of the applicant. In order to have comparable information on visa processing time, information on visa processing time is gathered from all Member countries' embassies in India, Australia and Japan. For Australia and Japan their US embassies are consulted. The number entered in the database is the simple average of these three. India is chosen because all OECD countries require a visa for business visitors from that country and India is thesecond largest exporter of services other than transport and travel in the world and the only significant non-OECD exporter of services to all OECD Members. If telecoms services providers are subject to special treatment, this is reported otherwise it is a horizontal measure.

Number of working days to complete all mandatory procedures to register a company

160. The measure includes the number of working days it normally takes to register a company, including pre-registration and registration procedures. Together with the two next measures it addresses

efficiency in implementation of regulation. If there are special incentives related to investing in certain regions, additional working days to obtain such investment incentives are not counted. The measure is horizontal.

Total cost to complete all mandatory procedures to register a company (in % of income per capita)

161. The measure includes all the fees and charges that a company has to pay for pre-registration and registration procedures to register a company. It does not include the cost of the investors company's time or foregone profits. If there are special incentives related to investing in certain regions, additional procedures to obtain such investment incentives are not counted. The measure is horizontal.

Number of mandatory procedures to register a company.

162. The measure includes all mandatory pre-registration and registration procedures to register a company. If there are special incentives related to investing in certain regions, additional bodies to contact to obtain such investment incentives are not counted. The measure is horizontal.

Table 4. Measures included in the STRI for telecommunications (fixed, mobile and internet separately when relevant)

code	measure
	Restrictions on foreign ownership and other market entry conditions
TC.1.1.1,2,3	Foreign equity restrictions: maximum foreign equity share allowed (%) (fixed, mobile, internet)
TC.1.1.4,5,6	Non-residents are allowed to invest in local telecommunication services firm through minority shares in local investment companies: Maximum foreign equity limit in such investment companies (%) (fixed, mobile, internet)
TC.1.1.7,8,9	There are statutory or other legal limits to the number or proportion of shares that can be acquired by foreign investors in firms that are controlled by national state or provincial governments (fixed, mobile, internet)
	<i>There are restrictions on legal form (fixed, mobile, internet)</i>
TC.1.2.1,2,3	Legal form: only joint ventures are allowed
TC.1.3.1,2,3	The number of firms permitted to practice is restricted by quotas (fixed, mobile, internet)
	<i>Requirements for board of directors/manager (fixed, mobile, internet)</i>
TC.1.4.1,2,3	Board of directors: majority must be nationals
TC.1.4.4,5,6	Board of directors: majority must be residents
TC.1.4.7,8,9	Board of directors: at least one must be national
TC.1.4.10,11,12	Board of directors: at least one must be resident
TC.1.4.13,14,15	Manager must be national
TC.1.4.16,17,18	Manager must be resident
	<i>Screening of investment (fixed, mobile, internet):</i>
TC.1.5.1,2,3	Screening: foreign investors must show net economic benefits
TC.1.5.4,5,6	Screening: approval unless contrary to national interest
TC.1.5.7,8,9	Screening: notification
TC.1.8.1,2,3	Restrictions on type of shares or bonds held by foreign investors (fixed, mobile, internet)
TC.1.9.1,2,3	Conditions on subsequent transfer of capital and investments (fixed, mobile, internet)
TC.1.10.1,2,3	Restrictions on cross-border mergers and acquisitions (fixed, mobile, internet)
TC.1.11.1	Other restrictions
	Restrictions to the movement of people
	<i>Temporary movement of natural persons is restricted by quotas</i>
TC.2.1.1	Quotas: intra-corporate transferees
TC.2.1.2	Quotas: contractual services suppliers
TC.2.1.3	Quotas: independent services suppliers
	<i>Temporary movement of natural persons is restricted by labour market tests</i>
TC.2.2.1	Labour market tests: intra-corporate transferees
TC.2.2.2	Labour market tests: contractual services suppliers
TC.2.2.3	Labour market tests: independent services suppliers
	<i>Duration of stay for natural persons is limited (months)</i>
TC.2.3.1	Limitation on duration of stay for intra-corporate transferees (months):
TC.2.3.2	Limitation on duration of stay for contractual services suppliers is limited to (months):
TC.2.3.3	Limitations on duration of stay for independent services suppliers is limited to (months):
TC.2.11.1	Other restrictions
	Other discriminatory measures and international standards
TC.3.1.1	Foreign suppliers are treated less favourably regarding taxes and eligibility to subsidies
	<i>Restrictions on foreign participation in public procurement</i>
TC.3.2.1	Foreign participation in public procurement: discrimination in the application of financial or technical criteria for project tender
TC.3.3.2	There is a formal requirement that regulators consider comparable international standards and rules before setting new domestic standards

code	measure
TC.3.11.1	Other restrictions
	Barriers to competition and public ownership
TC.4.1.1	The decision of the regulator can be appealed
TC.4.2.1	Foreign firms have redress when business practices are perceived to restrict competition in a given market
TC.4.3.1,2,3	National, state or provincial government control at least one major firm in the sector (fixed, mobile, internet)
TC.4.4.1,2,3	Publicly-controlled firms or undertakings are subject to an exclusion or exemption, either complete or partial, from the application of the general competition law (fixed, mobile, internet)
TC.4.5.1,2,3	National state or provincial government have special voting rights (e.g. golden shares) in any firms in the sector (fixed, mobile, internet)
TC.4.9.1	The government can overrule the decisions of the telecommunications regulator
TC.4.10.1,2,3	Access to and use of public telecommunications service is mandated (fixed, mobile, internet)
TC.4.11.1,2,3	Wholesale access prices are regulated (fixed, mobile, internet)
TC.4.13.1,2	Interconnection is mandated (fixed, mobile)
TC.4.13.3,4	Interconnection prices and conditions are regulated (fixed, mobile)
TC.4.13.5	Interconnection and/or access agreements are made public
TC.4.14.1	Unbundling of the local loop is required
TC.4.14.2	Local loop unbundling prices are regulated
TC.4.15.1	Collocation or site sharing is mandated
TC.4.16.1,2	Resale of public telecommunications services to other suppliers of telecommunications services, including foreign suppliers are mandated (fixed, mobile)
TC.4.16.3,4	Rates and conditions for resale by dominant firms of public telecommunications services to other suppliers of telecommunications services are regulated (fixed, mobile)
TC.4.17.1	Secondary spectrum trading is allowed
TC.4.18.1	Mobile termination rates are regulated
TC.4.19.1	Wholesale roaming rates are regulated
TC.4.19.2	Retail roaming rates are regulated
TC.4.20.1,2,3	Number portability is required (fixed, mobile voice over internet protocol)
TC.4.21.1,2,3	Time and conditions for porting are regulated (fixed, mobile, voice over internet protocol)
TC.4.22.1,2,3	Dialing parity is required (fixed, mobile, voice over internet protocol)
TC.4.23.1,2,3	Vertical separation is required (fixed, mobile, internet)
TC.4.24.1,2,3	Contracts for universal services obligations are assigned through grandfathering (fixed, mobile, internet)
TC.4.6.1,2,3	Minimum capital requirements (fixed, mobile, internet)
TC.4.11.1	Other restrictions
	Regulatory transparency and administrative requirements
TC.5.8.1	Licensing agreements are publicly available
TC.5.9.1	Information on spectrum (regulations, spectrum management table, spectrum fees etc.) are publicly available
TC.5.1.1	Regulations are published or otherwise communicated to the public prior to entry into force
TC.5.3.1	There is a public comment procedure open to interested persons, including foreign suppliers
TC.5.4.1	Range of visa processing time (days)
TC.5.5.1	Time to complete all official procedures required to register a company (in calendar days)
TC.5.6.1	Total cost to complete all official procedures required to register a company (in % of income per capita)
TC.5.7.1	Number of official procedures required to register a company
TC.5.11.1	Other restrictions
	Memo
TC.4.25.1,2,3	There is at least one dominant firm in the market segment considered (fixed, mobile, internet)

