

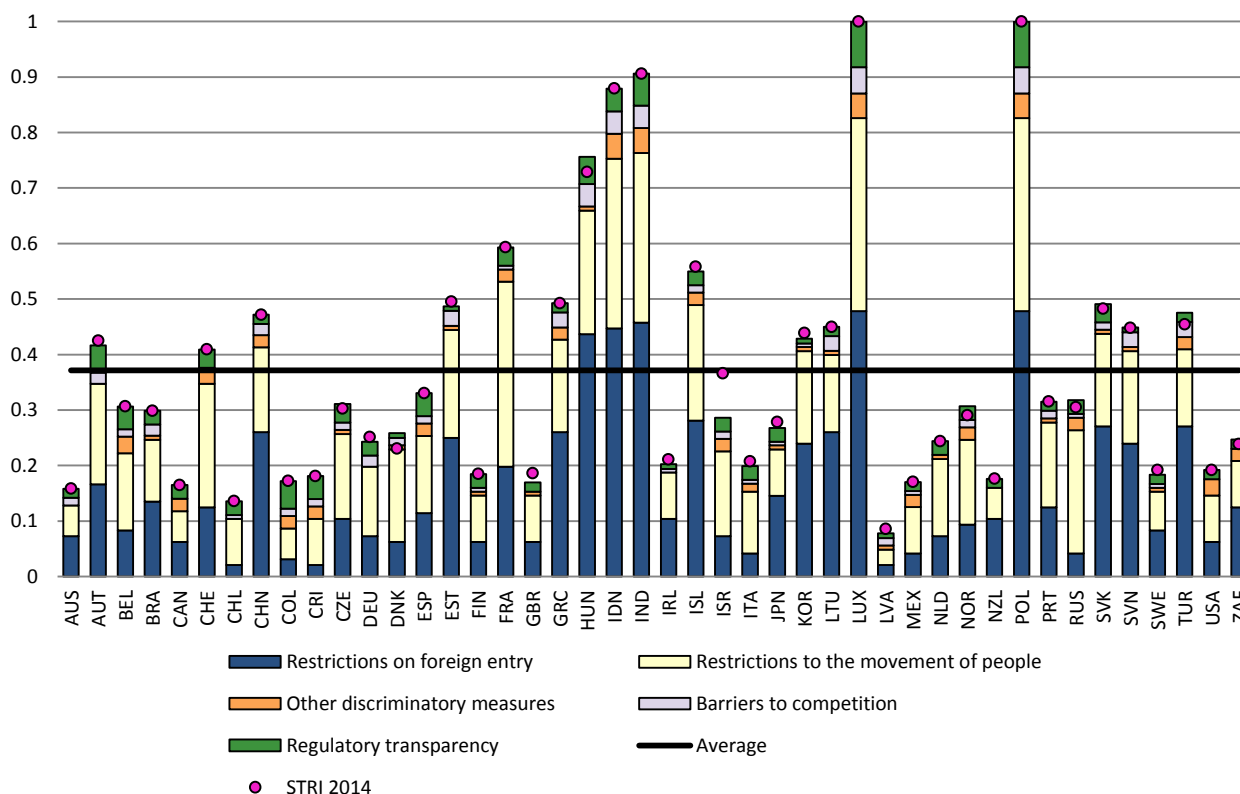
STRI Sector Brief: Legal services

This note presents the Services Trade Restrictiveness Indices (STRIs) for the 35 OECD countries and Brazil, the People’s Republic of China, Colombia, Costa Rica, India, Indonesia, Lithuania, the Russian Federation and South Africa for legal services in 2016.

Legal services cover advisory and representation services in domestic and international law, and where relevant measures are entered separately for each of them. International law includes advisory services in home country law, third country law, international law, as well as a right to appear in international commercial arbitration. Domestic law extends to advising and representing clients before a court or judicial body in the law of the host country.

Qualification requirements in these services are particularly stringent since the profession is divided along national lines and reflects the national character of the law. International law firms and lawyers typically enter foreign markets through a commercial presence to practice international law, following business clients abroad. An additional entry channel for lawyers, which has gained relevance in recent years, is temporary licensing. Typically termed by experts “flying in and flying out (FIFO)”, this measure allows lawyers from other jurisdictions to temporarily enter the country in question for the purpose of providing advice in international law.

STRI by policy area: legal services (2016)



Note: The STRI indices take values between zero and one, one being the most restrictive. They are calculated on the basis of the STRI regulatory database which records measures on a Most Favoured Nations basis. Preferential trade agreements are not taken into account.

The chart depicts the index for each country. The overall level of restrictiveness is quite high with an average of 0.37. The 2016 scores range between 0.08 and 1, highlighting significant variation in trade restrictiveness among

the countries covered in the analysis. The distribution according to restrictiveness is skewed towards the low end, as there are 27 countries below and 17 countries above the average, two countries are completely closed.

The measures in the STRI database are organised under five policy areas as indicated in the chart. In the legal services sector, the results are driven by two policy categories: *Restrictions on the movement of people* and *Restrictions on foreign entry*. This reflects the characteristics of the sector and the policy environment in which it operates. Legal services are skilled labour intensive and subject to licensing in a number of countries.

Though foreign equity limits are rarely used in legal services, most countries restrict the ownership of law firms to locally-qualified lawyers, particularly in the area of domestic law. Ownership restrictions are often coupled with requirements that the majority of the board (or equity partners in the case of partnerships) and the manager of law firms must be locally qualified.

Lawyers are subject to economy-wide limitations on natural persons wishing to provide services on a temporary basis as intra-corporate transferees, contractual services suppliers or independent services suppliers. In fact, there is no country in the database that does not limit market access for natural persons providing services on a temporary basis as intra-corporate transferees, contractual services suppliers or independent services suppliers. Eight countries have quotas on one or more of these three categories, 37 countries apply economic needs tests to stays that last longer than 3-6 months and the duration of stay is limited to less than three years in 34 countries. In addition, the movement of lawyers across borders is significantly affected by licensing and related issues as noted above. These include nationality and residency requirements to practice, as well as lack of recognition of foreign qualifications. Additional limitations include restrictions on fee-setting and advertising. It is notable that 22 countries do not require a license to practice international law. In Latvia, Sweden and Finland licensed lawyers do not have exclusive rights to provide services and appear in court, except for a few specific duties.

The requirements for obtaining a license to practice and the activities reserved for licensed professionals largely define market access for foreign suppliers. In cases where only nationals can obtain a license and a license is required to practice and to hold shares in law firms, market access for foreign suppliers is very limited. When these apply to both domestic and international law, and are coupled with non-availability of temporary licensing as an additional channel for entry into the market, the sector is completely closed (apart from any preferential trade). This is the case for the two countries in the sample which have an STRI score of one.

Compared to 2014, denoted by the pink dots in the chart, the STRI index is unchanged for 23 countries, 12 countries have a lower (less restrictive) score, and 9 record a higher value of the STRI index (more restrictive) in 2016. The most significant reductions in services trade restrictiveness are found in Israel, which have eased quotas and other horizontal impediments to the movement of people and liberalised the practice of international law, respectively. Japan has lifted a residency requirement for at least one board member of a domestic corporation. Almost 90% of the increase in the STRI scores stems from the introduction of labour market tests and shortening the duration of stay for temporary services suppliers.

Legal services are knowledge intensive business services and many activities in the sector have been digitised in recent years. To realise the new opportunities for trade and exchange of ideas and knowledge that technology has opened, countries could consider modernising regulations and ease the entry barriers to the profession.

More information

- » Access all of the country notes, sector notes and interactive STRI tools on the OECD website at <http://oe.cd/stri>
- » Contact the OECD Trade and Agriculture Directorate with your questions at stri.contact@oecd.org

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.