Chapter 5
Legal Services

Summary

In 2015, the global legal services market was valued at $593.4 billion, with the United States accounting for 48.8 percent of global revenue. After slow growth in the immediate aftermath of the 2008–09 recession, the U.S. legal services market grew at a compound annual rate of 4.2 percent from 2011 to 2015, reflecting rising demand for legal services across the country.

In 2015, U.S. exports and imports of legal services were valued at $9.0 billion and $2.2 billion, respectively, resulting in a trade surplus of $6.9 billion. Although there was a U.S. trade surplus each year during 2010–15, the balance narrowed slightly after 2013, reflecting slower or negative export growth. In 2014, sales by U.S.-owned foreign affiliates, which were valued at $6.8 billion, far exceeded purchases from foreign-owned U.S. affiliates, valued at $0.1 billion.

Introduction

International trade in legal services typically involves foreign lawyers providing legal services related to their home country's law, international law, or third-country law. A fourth category, host-country law, is normally subject to local requalification requirements for foreign legal services providers or other restrictions. However, with a growing number of foreign affiliates supplying multi-jurisdictional advice regarding their local clients’ international business dealings, an increasingly important area of international trade is the foreign provision of legal advice related to host-country law. 177

The preferred modes of delivery in foreign markets are through the establishment of a commercial presence (mode 3) and the temporary movement of people geographically (mode 4). Since policies related to the foreign provision of legal services tend to be the most restrictive of all those that affect professional services, differing regulations in various national markets have a significant impact on international trade in legal services.

177 Geloso Grosso et al., “Services Trade Restrictiveness Index,” 2014, 7–8. For example, a U.S. lawyer working in Panama might provide advice on aspects of U.S. law (home-country law), the law of the sea (international law), Canadian law (third country law), or Panamanian law (host-country law). Cross-border trade in legal services makes up a small portion of the global legal services market, and trade is limited in many areas of legal services that tend to be country- or locality-specific, such as family law (divorce, child custody, etc.), criminal law, property law, and litigation in national or local courts.
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Market Conditions

In 2015, the global legal services market was valued at $593.4 billion (table 1). This market grew by 3.7 percent in 2015, in line with the 3.9 percent compound annual growth seen during 2011–14.\(^{178}\) The United States accounted for 48.8 percent of global revenue in 2015, followed by Europe (27.2 percent) and Asia-Pacific (14.4 percent).\(^{179}\) The United Kingdom, France, Germany, and Italy each accounted for more than 10 percent of Europe’s share, while China, Australia, and India each accounted for more than 10 percent of the Asia-Pacific share.

### Table 5.1: Global and country/regional revenues in legal services

<table>
<thead>
<tr>
<th>Country or region</th>
<th>2014 revenue (billion $)</th>
<th>2015 revenue (billion $)</th>
<th>Growth, 2015 (%)</th>
<th>Share of global revenue, 2015 (%)</th>
<th>Share of regional revenue, 2015 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>278.6</td>
<td>289.8</td>
<td>4.0</td>
<td>48.8</td>
<td>*</td>
</tr>
<tr>
<td>Europe</td>
<td>156.0</td>
<td>161.2</td>
<td>3.4</td>
<td>27.2</td>
<td>*</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>46.0</td>
<td>49.5</td>
<td>7.5</td>
<td>8.3</td>
<td>30.7</td>
</tr>
<tr>
<td>France</td>
<td>24.3</td>
<td>24.9</td>
<td>2.4</td>
<td>4.2</td>
<td>15.4</td>
</tr>
<tr>
<td>Germany</td>
<td>22.6</td>
<td>22.7</td>
<td>0.4</td>
<td>3.8</td>
<td>14.1</td>
</tr>
<tr>
<td>Italy</td>
<td>*</td>
<td>21.0</td>
<td>*</td>
<td>3.5</td>
<td>13.0</td>
</tr>
<tr>
<td>Spain</td>
<td>*</td>
<td>10.2</td>
<td>*</td>
<td>1.7</td>
<td>6.3</td>
</tr>
<tr>
<td>Rest of Europe</td>
<td>*</td>
<td>32.9</td>
<td>*</td>
<td>5.5</td>
<td>20.4</td>
</tr>
<tr>
<td>Asia-Pacific (A-P)</td>
<td>82.1</td>
<td>85.3</td>
<td>3.9</td>
<td>14.4</td>
<td>*</td>
</tr>
<tr>
<td>China</td>
<td>*</td>
<td>39.8</td>
<td>*</td>
<td>6.7</td>
<td>46.7</td>
</tr>
<tr>
<td>Australia</td>
<td>14.3</td>
<td>14.0</td>
<td>-2.0</td>
<td>2.4</td>
<td>16.4</td>
</tr>
<tr>
<td>India</td>
<td>*</td>
<td>8.8</td>
<td>*</td>
<td>1.5</td>
<td>10.3</td>
</tr>
<tr>
<td>South Korea</td>
<td>*</td>
<td>5.2</td>
<td>*</td>
<td>0.9</td>
<td>6.1</td>
</tr>
<tr>
<td>Japan</td>
<td>3.0</td>
<td>3.0</td>
<td>0.2</td>
<td>0.5</td>
<td>3.5</td>
</tr>
<tr>
<td>Rest of A-P</td>
<td>*</td>
<td>14.5</td>
<td>*</td>
<td>2.4</td>
<td>17.0</td>
</tr>
<tr>
<td>Middle East</td>
<td>*</td>
<td>6.2</td>
<td>*</td>
<td>1.0</td>
<td>*</td>
</tr>
<tr>
<td>Rest of the world</td>
<td>*</td>
<td>50.8</td>
<td>*</td>
<td>8.6</td>
<td>*</td>
</tr>
<tr>
<td>Total</td>
<td>572.0</td>
<td>593.4</td>
<td>3.7</td>
<td>100.0</td>
<td>*</td>
</tr>
</tbody>
</table>


Note: * = not available. As indicated in MarketLine, *Global Legal Services*, June 2016, 7, “The market’s value is calculated as the total revenue received by law companies for services rendered.” The share of global revenue adds up to 100 percent when Europe and Asia-Pacific (which have country shares listed) are not included in the sum. The share of regional revenue adds up to 100 percent separately for Europe and Asia-Pacific. Note that 2015 is the latest available year for all countries. Europe comprises Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, the Netherlands, Norway, Poland, Portugal, Russia, Spain, Sweden, Switzerland, Turkey, and the UK; Asia-Pacific comprises Australia, China, Hong Kong, India, Indonesia, Kazakhstan, Japan, Malaysia, New Zealand, Pakistan, the Philippines, Singapore, South Korea, Taiwan, Thailand, and Vietnam; the Middle East comprises Egypt, Israel, Saudi Arabia, and the United Arab Emirates.

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\(^{179}\) Though not strictly comparable due to differences in the country samples in earlier publications, these shares in 2009 were United States (47.6 percent), Europe (30.4 percent), and Asia-Pacific (10.4 percent). Datamonitor, *Legal Services in the United States*, July 2010, 9.
The U.S. legal services market rose by 9.8 percent in 2012, but grew more modestly thereafter. Overall, the U.S. market expanded at a compound annual growth rate of 4.2 percent from 2011 to 2015 (figure 5.1). These trends reflect a return to faster growth in U.S. consumption of legal services in the post-recessionary period. Nonetheless, the growth rate is still lower than during the 2004–07 pre-recessionary period (when demand grew at a compound annual rate of 5.0 percent180), and a larger share of firms reported declines and instability in demand in the post-recessionary period.181 In comparison, during 2011–15 the Asia-Pacific and European markets grew at compound annual growth rates of 5.0 and 2.7 percent, respectively.

Figure 5.1: Legal services revenue: The United States surpassed Asia-Pacific and Europe during 2011–15

France and Germany showed similar growth in their legal services markets, with 2011–15 compound annual growth rates of 2.1 and 2.0 respectively, while the UK grew much faster (5.6 percent) over the same period.182 Within the Asia-Pacific region, the Chinese market experienced strong growth, increasing at a compound annual growth rate of 7.1 percent during 2011–15, while Australia’s and Japan’s markets both declined (falling at rates of 0.9 and

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180 U.S. Census Bureau, “Quarterly Services Survey” (accessed March 10, 2017). Data are seasonally adjusted. For comparison, compound annual growth from 2009 to 2014 was only 2.5 percent, with growth accelerating to 4.0 percent in 2015.
181 Hildebrant and Citi, “2017 Client Advisory,” 3–4. See publication for information on underlying firm surveys used to assess law firm demand, which appears to be related to the number of billable hours.
182 MarketLine, Legal Services in Europe, June 2016, 7-8; MarketLine, Legal Services in France, June 2016, 8; MarketLine, Legal Services in Germany, June 2016, 8, MarketLine, Legal Services in the United Kingdom, June 2016, 8.
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2.4 percent, respectively).\(^{183}\) Growth in China's legal services market has been boosted by continued—albeit decelerating—growth in the country's overall economy.\(^{184}\) It is reported that the Indian legal services market also expanded over this period, though comparable data are not available.\(^{185}\)

Firms in the United States and the UK accounted for 93 of the world's 100 top-grossing firms, and for 9 of the top 10 law firms in 2016 (table 5.2).\(^{186}\) The Chinese firm Dentons was also on the top 10 list; this firm recently completed multiple mergers—including with China's Dacheng—to become the world's largest law firm by number of lawyers at over 6,500 attorneys.\(^{187}\) Based on revenue from 2015, the top 100 firms also included two Canadian firms, one other Chinese firm, and one firm each from Australia, Germany, and South Korea (the first time a South Korean firm has appeared on the list). Illustrating the globalization of large law firms, the top 100 firms have, on average, a presence in 10 countries.

Table 5.2: Top 10 global law firms by 2015 revenue

<table>
<thead>
<tr>
<th>Firm</th>
<th>Country base</th>
<th>Revenues (billion $)</th>
<th>Share of global 100 total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latham &amp; Watkins</td>
<td>United States</td>
<td>2.650</td>
<td>2.74</td>
</tr>
<tr>
<td>Baker &amp; McKenzie(^{a})</td>
<td>United States</td>
<td>2.620</td>
<td>2.71</td>
</tr>
<tr>
<td>DLA Piper</td>
<td>United States</td>
<td>2.543</td>
<td>2.63</td>
</tr>
<tr>
<td>Skadden, Arps, Slate, Meagher &amp; Flom</td>
<td>United States</td>
<td>2.410</td>
<td>2.49</td>
</tr>
<tr>
<td>Kirkland &amp; Ellis</td>
<td>United States</td>
<td>2.305</td>
<td>2.39</td>
</tr>
<tr>
<td>Dentons(^{a})</td>
<td>China</td>
<td>2.120</td>
<td>2.19</td>
</tr>
<tr>
<td>Clifford Chance</td>
<td>United Kingdom</td>
<td>2.119</td>
<td>2.19</td>
</tr>
<tr>
<td>Freshfields Bruckhaus Deringer</td>
<td>United Kingdom</td>
<td>2.082</td>
<td>2.10</td>
</tr>
<tr>
<td>Allen &amp; Overy</td>
<td>United Kingdom</td>
<td>2.003</td>
<td>2.07</td>
</tr>
<tr>
<td>Linklaters</td>
<td>United Kingdom</td>
<td>2.003</td>
<td>2.07</td>
</tr>
</tbody>
</table>


Note: Revenues refer to the most recent fiscal year (2015) and the ranking refers to 2016. Share of Global 100 total is calculated by listed revenue as a share of gross revenue for the top 100 global firms ($96.4 billion). The Global 100 lists the country with the most lawyers, which usually coincides with the country base/headquarters, but may not when firms have alternate firm structures, as indicated in the table.

\(^{a}\) The firm structures for Baker & McKenzie and Dentons differ from those of other firms on this list as related to profit sharing.


\(^{186}\) Information in this paragraph is from *American Lawyer*, “The Global 100, Most Revenue,” October 2016, 75–77, and *American Lawyer*, “The Global 100” (accessed December 16, 2016). The United States and the UK accounted for 81 and 12 of the world’s 100 top-grossing firms, respectively.

Emerging Supply and Demand Trends

Policies affecting the foreign provision of legal services tend to be the most restrictive of all those affecting professional services industries.\(^{188}\) Nationality and/or residency requirements, along with lack of recognition of foreign qualifications, are significant impediments that affect all modes of trade.\(^{189}\) Countries commonly restrict foreign firms from practicing domestic (host-country) law—for example, by limiting foreign ownership of law firms that practice domestic law or through limits on commercial association between locally and non-locally licensed attorneys.\(^{190}\)

Among countries that restrict but do not completely prohibit trade in legal services, China provides an interesting case study. Foreign law firms are permitted to establish representative offices to practice foreign and international law in China, but are not allowed to practice Chinese law or hire Chinese lawyers.\(^{191}\) Only locally qualified Chinese nationals are permitted to practice Chinese law.\(^{192}\) However, recent reforms allow foreign and Chinese firms to operate jointly in free trade zones.\(^{193}\)

These regulations, along with other factors, restrict the growth and profitability of foreign law firms operating in China. For example, because foreign law firms are limited to certain practice areas (they mostly advise on international transactions such as mergers and acquisitions), their opportunities are few and their need for additional lawyers is limited.\(^{194}\) It is reported that while such firms are unprofitable, they nevertheless maintain a presence in China because they are already licensed to operate in the country and are optimistic that future liberalization may

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\(^{188}\) Information on restrictions is based on Geloso Grosso et al., “Services Trade Restrictiveness Index,” 2014, 9–10, and OECD, “STRI Sector Brief,” 2016, 2.

\(^{189}\) Some countries have implemented limited-licensing schemes which allow foreign attorneys to practice in their qualified areas of law (typically as foreign legal consultants) without being licensed in the host country. Temporary practice rules adopted by some jurisdictions are an additional avenue for foreign attorneys to practice law.

\(^{190}\) Restrictions on commercial association can impede the ability of foreign firms to partner with or employ local lawyers to advise their clients on host-country law, eliminating the need for foreign lawyers to requalify in host-country markets.

\(^{191}\) In this case, host country law (also called domestic law) refers to Chinese law. Foreign law typically refers to the laws of the country in which the foreign attorney is qualified. According to the OECD, “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.” OECD, “STRI Sector Brief,” 2016, 1.


\(^{194}\) Stern and Li, “The Outpost Office,” 2015, 9, 16–17.
increase opportunities for foreign law firms. Apart from regulations, competition from Chinese and other international law firms, as well as the profit-sharing structure of most surveyed law firms, act as further limits on growth.

These constraints are evident in that, among the top five countries purchasing U.S. legal services through affiliates, foreign purchases in China account for the smallest share of total domestic legal services revenues (see the affiliate transactions section for more information). China's relatively low share is also interesting given the healthy presence of U.S. law firms there: in 2012, there were 81 U.S. law firms in China (accounting for 57 percent of all foreign law firms in the country).

In general, the availability of data on legal services trade by specific countries is limited, but a higher level of restrictions (as measured by the OECD Services Trade Restrictiveness Index, or STRI) is estimated to significantly curb cross-border exports of legal services. Similarly, a quantitative analysis of the impact of restrictions on trade across services industries (as measured by the World Bank Services Trade Restrictions Index) shows that these restrictions have a negative and significant impact on foreign affiliate sales of U.S.-owned companies located abroad. Partial equilibrium modeling of the effects of trade liberalization on services industries, including legal services, also suggests that reducing the fixed costs of trade can significantly expand cross-border imports and foreign affiliate purchases (see box 5.1).

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196 Stern and Li, “The Outpost Office,” 2015, 12, 16–18. Additionally, differences among firms, such as length of time in China, are correlated with foreign law firm size in China.
197 Among the top five purchasers of legal services from U.S.-owned foreign affiliates (the UK, Germany, France, Japan, and China), China maintains the highest level of restrictions in legal services international trade; OECD Services Trade Restrictiveness Index Simulator, http://sim.oecd.org/default.ashx (accessed January 17, 2017).
199 Nordás and Rouzet, “The Impact of Services Trade Restrictiveness,” 2015, 17. The Services Trade Restrictiveness Index compiled by the OECD uses more indicators of restrictiveness than the World Bank’s STRI, but contains far fewer countries.
200 Riker, “The Impact of Restrictions on Mode 3,” 2015. Though Riker analyzes total foreign affiliate sales and does not look specifically at legal services, the results, which indicate positive trade effects from liberalization, would likely hold in the case of legal services, given the prevalence of restrictions on legal services in foreign markets. While Riker finds that restrictions on mode 3 reduce foreign affiliate sales, restrictions on mode 1 increase foreign affiliate sales, which suggests substitution between different modes of supply.
Box 5.1: Effects of Trade Liberalization on Professional Services Markets in the United States

Quantitative analysis of services trade, including computable general equilibrium modeling and econometric estimation, are often hampered by the limited availability of data. Partial equilibrium models provide a helpful tool to focus on policies and outcomes in a particular segment of the economy, and therefore are especially useful for assessing the effects of industry-specific changes in trade policy. The modest data requirements of this type of model also accommodate the sparseness of available trade data on services.

A USITC staff research paper by Khachaturian and Riker (2016) provides an interesting case study on the potential market effects of a hypothetical liberalization in two professional services industries: legal services and architecture and engineering services. This research paper—and its companion piece on the EU professional services market—uses a partial equilibrium model approach similar to the Helpman, Melitz, and Yeaple (HMY) model of cross-border trade and horizontal foreign direct investment, and extends previous literature on estimating the effect of services trade liberalization by incorporating multiple modes of supply for trade in professional services. In professional services, including architecture and engineering services and legal services, services are supplied through multiple modes of delivery (e.g., architectural designs can be provided digitally, the architect may visit the project site, or firms may establish a commercial presence). Further, there are significant NTMs across countries (e.g., trade in legal services may be hobbled by lack of recognition of foreign qualifications). And finally, firms provide differentiated services (e.g., firms specialize in certain practice areas or subcategories of services and have distinct reputations).

Khachaturian and Riker simulate the impact of trade liberalization on the U.S. professional services market. The authors estimate the impact of reducing two types of fixed costs faced by foreign firms that provide services to the U.S. market—those related to cross-border trade, and those related to provision via foreign affiliates—on cross-border imports, purchases from foreign-owned affiliates, sales of domestic suppliers, and prices. The model results show large potential effects in percentage terms on the value of cross-border imports into the U.S. market and on purchases from foreign affiliates in the U.S. market, but only small effects on the sales of domestic producers and on overall prices of professional services in the U.S. market.

The small estimated percentage changes in sales of domestic producers and the average industry price in the U.S. market reflect the relatively small share of the U.S. market held by foreign suppliers (combined foreign affiliate sales and cross-border trade account for less than 7% of the U.S. market). The relatively large percentage changes in both U.S. cross-border imports and purchases from foreign affiliates are from a small base and do not represent much movement in the market share of foreign suppliers. For example, holding the incremental fixed costs of provision via foreign affiliates constant, a 50 percent reduction in the fixed costs of exporting into the U.S. market would increase cross-border imports by about 52 percent (for architecture and engineering services) and 28 percent (for legal services), but would reduce average prices in the U.S. market for these industries by only 0.19 and 0.04 percent, respectively. Holding the fixed costs of exporting into the United States constant, a 50 percent reduction in the incremental fixed costs of provision by foreign affiliates would increase purchases from foreign affiliates in the United States by 27 percent (architecture and engineering services) and 28 percent (legal services), but would reduce average prices in the U.S. market for these industries by only 0.18 and 0.001 percent, respectively.

The analysis in Khachaturian and Riker focused on reducing fixed costs in the United States. However, there may be larger potential gains from liberalizing services markets in other countries with greater trade restrictions.
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Trade Trends

Cross-Border Trade

In 2015, U.S. cross-border exports and imports of legal services were valued at $9.0 billion and $2.2 billion, respectively, resulting in a trade surplus of $6.9 billion. Although there has been a U.S. trade surplus each year during 2010–15 (see figure 5.2), the balance declined slightly after 2013, reflecting slower or negative export growth. Exports declined 0.7 percent in 2015, after posting a compound annual growth rate of 5.9 percent during 2010–14.\(^{201}\) Exports to all regions except Latin America experienced a decline in 2015, with exports to Europe and Africa experiencing the largest decline. Imports grew 2.7 percent in 2015 after rising at a compound annual growth rate of 8.3 percent between 2010 and 2014.\(^{202}\)

\(^{201}\) Much of the growth during this period occurred from 2010 to 2013, with annual growth in 2011 (6.3 percent), 2012 (7.8 percent), and 2013 (9.1 percent) far exceeding annual growth in 2014 (0.9 percent).

\(^{202}\) Imports experienced a large jump between 2010 and 2011, growing by 26.4 percent.
Figure 5.2: Legal services: U.S. cross-border trade resulted in a U.S. trade surplus in the sector each year during 2010–15

Regionally, U.S. exports of legal services are concentrated in Europe and Asia-Pacific, which represented 47.9 and 30.2 percent of total exports in 2015, respectively. Overall, the top five U.S. export markets for legal services, which accounted for about half of all exports in 2015, were the UK, Japan, Canada, Germany, and Switzerland (figure 5.3). Export shares for the top five countries have remained relatively stable since 2010, with Japan's share dropping slightly (from 14.7 to 12.1 percent) and Switzerland's rising slightly (from 3.9 to 4.6 percent) as it overtook France to become the fifth-largest export market. Examining the overall growth in U.S. export values between 2010 and 2015, exports to all top five markets rose by at least 25 percent, except those to Japan, which grew by only 2.2 percent. Moreover, U.S. legal services exports to at least five countries (including two of the United States' free trade agreement partners) more than doubled during that time: Chile, Ireland, Malaysia, Singapore, and Venezuela.

As with exports, Europe and Asia-Pacific accounted for the majority of U.S. imports of legal services, at 47.3 and 31.7 percent of total imports in 2015, respectively. The top five import

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203 Total U.S. exports of legal services increased by 25 percent during 2010–15.
204 Growth is calculated as the difference between the 2015 and 2010 levels. For comparison, the compound annual growth rate rates for 2010–15 were 20.5 percent for Ireland, 42.1 percent for Chile, 15.3 percent for Venezuela, 17.1 percent for Malaysia, and 19.6 percent for Singapore.
sources, which together supplied just over half of all imports, were the UK, Germany, Canada, China, and Japan (figure 5.3).

Import shares for the top five countries have remained relatively stable since 2010, with a change in rank as China overtook Japan to become the fourth-largest import supplier. (Between 2010 and 2015, China’s share of U.S. imports increased from 4.7 to 7.1 percent, while Japan’s declined from 10.9 to 6.6 percent.) U.S. imports from four of these top five markets grew by at least 31 percent between 2010 and 2015, while U.S. imports from Japan experienced a decline. U.S. imports from China in 2015 were more than double those in 2010.\textsuperscript{205} During the same time period, at least four additional import suppliers (Bermuda, the Philippines, Thailand, and U.S. free trade agreement partner Singapore) doubled the value of their imports, while total U.S. imports from the Middle East nearly tripled from 2010 to 2015.

\textsuperscript{205} Growth is calculated as the difference between the 2015 and 2010 levels.
Figure 5.3: Legal services: The United Kingdom was the leading market for U.S. cross-border exports and imports of legal services in 2015

**U.S. exports**

Total = $9.0 billion

- United Kingdom 18%
- Japan 12%
- Canada 8%
- Germany 7%
- Switzerland 5%
- Other Europe 19%
- Other Asia-Pacific 18%
- Other Western Hemisphere 8%
- Africa and the Middle East 5%

**U.S. imports**

Total = $2.2 billion

- United Kingdom 22%
- United States 17%
- Other Europe 17%
- Other Asia-Pacific 18%
- Other Western Hemisphere 8%
- Africa and the Middle East 5%
- Germany 8%
- Canada 8%
- China 7%
- Japan 7%

Source: USDOC, BEA, table 2.2, “U.S. Trade in Services, by Type of Services and Country or Affiliation” (accessed November 14, 2016). (See appendix table B.21.)
Box 5.2: Understanding data on cross-border trade and affiliate Transactions in Legal Services

The Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce publishes data on both cross-border trade and affiliate transactions in legal services. BEA collects data through surveys, which differ in their methodologies. Cross-border trade surveys are collected by type of service, rather than by type of firm, and cover the provision of legal services regardless of whether the companies providing the services are law firms. By contrast, data on affiliate transactions are collected based on the industry classification of the parent or affiliate, rather than on the type of service provided. BEA data on affiliate transactions by legal services firms capture sales by and purchases from firms categorized in North American Industry Classification System (NAICS) 5411.

Due to these differences in approach, concordance issues may arise between cross-border trade and affiliate transactions statistics. However, in legal services there appears to be a strong agreement between the two types of statistics. This is because most of the companies that respond to the cross-border trade surveys provide only legal services, which suggests it is uncommon for law firms to export secondary activities (i.e., non-legal services) or for non-law firms to provide legal services abroad (though there may be some instances of this—for example, if a non-law corporation’s in-house counsel provides legal services). Additionally, a majority of affiliates in the legal services industry do not report sales of other types of services, and affiliates in other industries tend not to supply legal services. Statistics in both instances are reported as an aggregate and do not differentiate among the specific categories of legal services that are traded.

Data on affiliate transactions may also be impacted by changes stemming from the BEA’s benchmark surveys, which were most recently conducted for 2009 and 2014. These changes are frequently a result of improved affiliate coverage, rather than shifting trends in affiliate sales and purchases.

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b Statistics for transactions by majority-owned legal services affiliates are collected through BEA’s Annual, Quarterly, and Benchmark Surveys of Foreign Direct Investment in the United States and through its Annual, Quarterly, and Benchmark Surveys of U.S. Direct Investment Abroad, which can be found at http://www.bea.gov/surveys/fdiusurv.htm and http://www.bea.gov/surveys/diaisurv.htm.

c BEA representative, email message to USITC staff, December 9, 2016.

d BEA representative, email message to USITC staff, January 11, 2017. In the cross-border trade statistics, secondary activities exported by law firms would be reported as a separate activity type, while legal services by non-law firms would be combined with legal services provided by law firms. In the affiliate transactions statistics, any secondary activities by law firms would be aggregated into the overall sales of the affiliate, while legal services by non-law firms would be reported under the industry of the affiliate.

e For 2014, the BEA’s benchmark survey for affiliate transactions data increased the number of firms responding to the survey and partially contributed to an apparent 24 percent rise in total U.S. services supplied through foreign affiliates. For more information, see USDOC, BEA, “U.S. International Services,” December 2016, 24.

f BEA representative, email message to USITC staff, November 29, 2016, and telephone interview by USITC staff, December 2, 2016.
Affiliate Transactions

Sales of legal services by U.S.-owned foreign affiliates (U.S. companies with a commercial presence in a foreign country) were valued at $6.8 billion in 2014, compared to $5.3 billion in 2013. Note, however, that the change in sales from 2013 to 2014 is largely attributable to improved coverage of reporting enterprises in BEA’s benchmark survey and should not be interpreted as an actual increase in the amount of services supplied; before this change in coverage, sales grew at a compound annual rate of 2.1 percent between 2010 and 2013.206 Purchases from foreign-owned U.S. affiliates were valued at $0.1 billion in 2014, and grew at a compound annual rate of 1.5 percent during 2010–13.207 U.S.-owned foreign affiliate sales outpaced purchases from foreign-owned U.S. affiliates during 2010–14 by a wide margin (figure 5.4).

Figure 5.4: Legal services: U.S.-owned foreign affiliate sales outpaced purchases from foreign-owned U.S. affiliates during 2010–14

In 2014, Europe was the largest regional market for U.S. affiliate sales of legal services with $5.0 billion (73.4 percent of the total). The UK accounted for $2.5 billion in 2014 (about half of U.S. sales to Europe that year) and for 36.7 percent of the global total (figure 5.5). Other top five markets for sales of legal services by U.S.-owned foreign affiliates in 2014 include France

206 USDOC, BEA, table 4.1, “Services Supplied to Foreign Persons by U.S. MNEs through Their MOFAs, by Industry of Affiliate and by Country of Affiliate,” and table 5.1, “Services Supplied to U.S. Persons by Foreign MNEs through Their MOUSAs, by Industry of Affiliate and by Country of UBO” (both accessed January 4, 2017). (See appendix table B.22.)

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($0.7 billion or 9.7 percent of total U.S. sales), Germany ($0.6 billion or 9.4 percent), Japan ($0.4 billion or 5.3 percent), and China ($0.3 billion or 4.7 percent). Among the top five markets for U.S. sales, U.S. affiliate sales accounted for 10.5 percent of total legal services revenue in Japan, 5.0 percent in the UK, and 2.3 percent in both France and Germany, but only 0.8 percent in China. (See the “Market Conditions” section for more information on the regulatory environment in China.)

Figure 5.5: Legal services: In 2014, the UK was the largest market for sales legal services by U.S.-owned foreign affiliates


Outlook

The U.S. legal services industry is expected to grow modestly, continuing its post-recession trend. Many factors are expected to contribute to volatility in the demand for traditional legal services providers. Among these factors are those relating to the impacts of Brexit and the new U.S. administration, along with increasing competition from in-house legal departments of corporations, alternative legal suppliers, and the Big Four accounting firms. A wider application of technology is expected to improve firm efficiency and competitiveness.

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208 MarketLine, Legal Services in Europe, June 2015, 10; MarketLine, Legal Services in Asia-Pacific, June 2015, 10. It is not clear whether legal services revenue data from MarketLine include both domestic and foreign-owned firms.

209 Alternative legal service providers include firms such as Axiom, which is not structured as a law firm and does not practice law, but provides various cost-effective legal services to corporations. For more information, see Axiom website, http://www.axiomlaw.com/, and Dzienkowski, “The Future of Big Law,” 2014.

Regional outlooks in Asia and Latin America are generally more positive than in Europe, where Brexit has created uncertainty. Future demand for legal services by international law firms in these two regions centers on growth in investment and infrastructure projects. Additionally, though their collaboration is limited to free-trade zones, international and Chinese law firms are anticipated to work more closely together as a result of the changes in the country’s regulations governing foreign legal firms (see previous section). Similarly, if the Indian legal services market liberalizes (as was initially proposed by that country’s legal regulatory body), international law firms are expected to begin opening offices in that country.211

211 Plans for liberalization are currently on hold pending further review by India’s Supreme Court. Coe, “Plans to Open Up Legal Sector,” October 4, 2016; Johnson, “Global Law Firms Face a World of Questions,” January 4, 2017. See also Bruch, “The Forecast for Big Law in 6 Key Markets,” September 26, 2016.
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