Admitting Foreign Trained Lawyers

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Overview of Remarks

- Why this issue matters to the citizens in your state
- The CCJ’s recommendations on this issue
- Why and how the federal government and other countries are talking about your state
- What you can do about it…
Why This Issue Matters to your State

![Map showing states with varying export levels](image)

2014 Exports of NAICS TOTAL in Thousands ($ USD)
- $36,836,016 - $289,023,273
- $19,194,380 - $36,836,016
- $6,299,744 - $19,194,380
- $3,452,109 - $6,299,744
- Zero

Individuals Also Have Global Needs

FOR IMMEDIATE RELEASE: THURSDAY, SEPTEMBER 05, 2013

Census Bureau Reports 21 Percent of Married-Couple Households Have at Least One Foreign-Born Spouse

![Graph showing valid passports circulation](image)

Valid Passports in Circulation (1989-Present)

- Approx. 2/3 of states
- Approx. 1/3 of states
US Lawyers Have Responded

- In a 2010 World Trade Organization Report:*  
  - The U.S. was the #1 legal services exporter  
  - The U.S. was the #1 legal services importer  
- According to the American Lawyer Oct. 2014:  
  "More than 25,000 lawyers from Am Law 200 firms work in foreign offices in more than 70 countries."

* WTO Council on Trade in Services, Legal Services, Background Note by the Secretariat, 2/c/2/318 (14 June 2010)

Law Offices per State That Also Have Foreign Offices

Data for this map provided by General Counsel Metrics, LLC based on the websites of law firms with approximately 37 lawyers or more. This map shows the number of law offices in each state that also have at least one foreign office. This data implicates the issue that is often referred to as "association."
Law Firms With Foreign Offices

21 jurisdictions that have firm(s) whose largest office is in the state + have a foreign office
27 jurisdictions that have firm(s) with foreign office(s) whose largest US office is outside of that jurisdiction

Data provided by General Counsel Metrics, LLC based on the websites of law firms with ≥37 lawyers. For 21 of the 48 US jurisdictions that have firms in their jurisdiction that also have foreign offices, that US jurisdiction has the firm’s largest US office.

Jan. 2015 CCJ Resolution

“[The CCJ] strongly encourages its members to adopt explicit policies that permit the following qualified activities by foreign lawyers as a means to increase available legal services and to facilitate movement of goods and services between the United States and foreign nations:

[association + inbound foreign lawyer policies]
Jurisdictions with Rules Regarding Foreign Lawyer Practice
Prepared by Prof. Laurel Terry (LTerry@psu.edu), April 29, 2015, based on data from the ABA Center for Professional Responsibility and NCBE

LEGEND
Yellow shading = has a foreign legal consultant rule
= rule permits temporary practice by foreign lawyers (also known as FIFO or fly-in, fly-out)
= rule permits foreign pro hac vice admission
= rule permits foreign in-house counsel
= has had at least one foreign-educated applicant sit for a bar exam between 2010 and 2013.

Policies Involve LIMITED Admission

• Foreign in-house counsel
• Foreign Temporary Transactional Work (FIFO)
  – Also includes international ADR
• Foreign Pro Hac Vice
• Foreign Legal Consultants

Note: The CCJ Resolution does not address full admission or the foreign lawyer/LL.M. proposal (not adopted) from the International C’ee of the ABA Sec. of Legal Ed. & Admissions to the Bar to Council
For Help Tackling These Issues

International Trade in Legal Services and Professional Regulation: A Framework for State Bars Based on the Georgia Experience

Available at http://tinyurl.com/GAtoolkit.

American Bar Association Task Force on International Trade in Legal Services
February 4, 2012 (Updated January 8, 2014)

Based on advice from a former regulator
See CCJ Resolution #11 (Jan. 2014) here

These Articles Might Also Help

Admitting Foreign-Trained Lawyers in States Other Than New York: Why It Matters
by Laurel S. Terry

Testing Foreign-Trained Applicants in a New York State of Mind
by Diane F. Bosse
One Reason for CCJ Resolution #2 (2015)

CCBE TTIP Requests for ALL States

- Foreign legal consultant rules
  ABA policy is consistent – FLC rule – ABA MJP #8
- Temporary practice, including international arbitration & mediation
  ABA policy is consistent – see ABA MJP #9-FIFO
- Serving as a “neutral” –
  ABA policy is silent – not UPL in the US
- Association rights (partnership & employment of local lawyers by foreign lawyers and firms)
  ABA policy is consistent.

*CCJ Resolution #2 encourages explicit policies*
The CCJ Resolution & “Association”

- “Association” is about RELATIONSHIPS, not practice rights.

- Almost ALL STATES have lawyers who are part of a law firm that has foreign offices – see the prior maps.

- Few states have explicit policies saying this is ok.

- The current US-EU trade negotiations potentially creates issues/difficulties for firms in your state.

- My view: States should follow the CCJ’s recommendation and adopt explicit policies on this.
Others Are Talking About You…

IBA Global Regulation and Trade in Legal Services Report 2014
http://tinyurl.com/2014IBAReport

Provides Info for these CCBE Maps

FLC rules ↑ “Association “ Rules↓

Foreign Fly in-Fly out ↑ Pro hac vice↓
What Should Regulators Do?

- Consider foreign lawyer admission issues
- Make your informal policies formal
- Help correct-update the IBA info & maps
- Create a committee. *The “Toolkit” can help*
- Acknowledge as regulatory objectives *client needs* as well as client protection

Client Needs as a Regulatory Objective

Client & public protection are important regulatory objectives but there is increasing recognition that client needs should not be ignored.
To Read More About It…


- CCBE “Requests,”


- The “Map” of US Foreign Lawyer Rules & my webpage,
  http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mjr & 9_status_chart岫thchecklam.pdf and http://tinyurl.com/LaurelTerry (see Dec. 2014 Bar Examiner article)

- IBA Global Regulation & Trade in Legal Services Report 2014,

- Laurel Terry’s “Regulatory Objectives” article,

These and other slides are posted here:

http://tinyurl.com/Laurel-Terry-slides