



## **Admitting Foreign-Trained Lawyers**

**National Conference of Bar Examiners  
Seattle, May 3, 2014**



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## **Overview of Remarks**

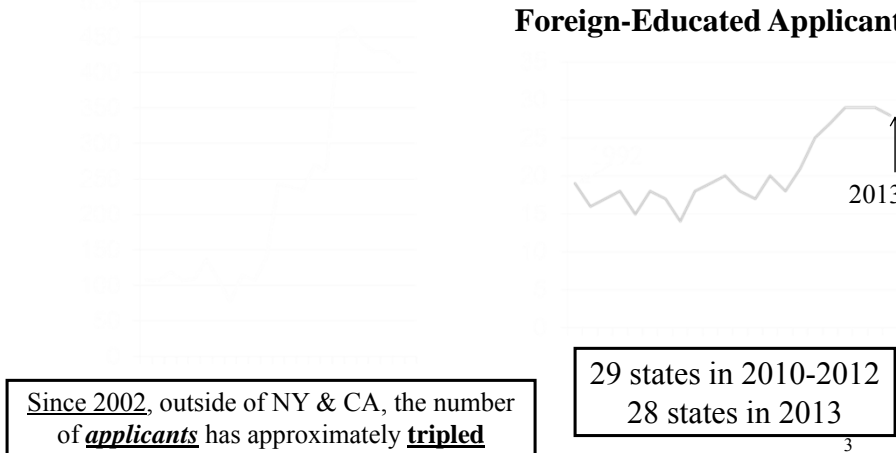


- 1. Trends in foreign-educated applicants**
- 2. Why this trend exists**
- 3. The relevance of your actions to trade agreements**
- 4. Recent developments & resources**
- 5. The “Takeaway” Message**

## Trends Outside of CA & NY (1992-2013)

### Foreign-educated Applicants

### Number of States with Foreign-Educated Applicants



## Finding Data About Your State



### Summary of Statistics of Bar Exam Applicants Educated Outside the US: 1992-2013 (It's Not Just About New York and California)

Excerpts from National Conference of Bar Examiners, Bar Admission Statistics 1992-2013,  
<http://www.ncbex.org/bar-admissions/bar-examination-and-admission-statistics/>  
Prepared by Laurel Terry ([LTerry@psu.edu](mailto:LTerry@psu.edu)) April 30, 2013, Updated April 4, 2014\*

It's in your conference materials and also here:

<http://tinyurl.com/NCBEforeignstats>

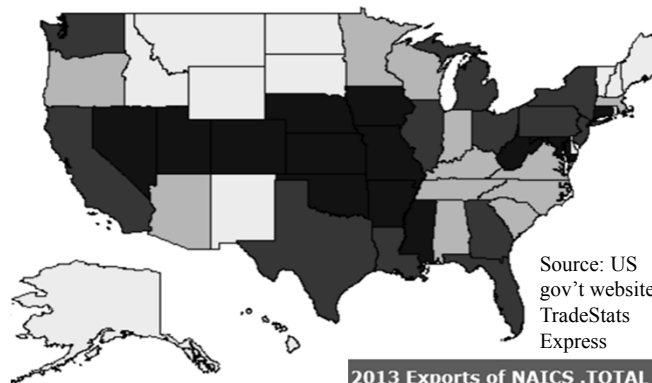
## Reasons for this Trend

- **Mobility**: Lawyers relocate around the world
- **Clients**: Have global needs
- **Lawyers**: Serve clients with global needs
- The “*Credential*” Effect



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## Your Citizens Have Global Legal Needs



- #1: Texas (\$280 billion)
- #4: Washington (82 billion)
- #49: Wyoming (\$1.3 billion)
- #50: Hawaii (\$598 million)

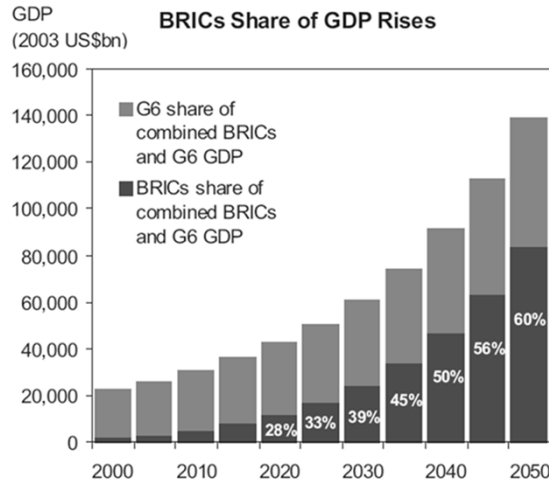
### 2013 Exports of NAICS .TOTAL

darkest gray	\$36,494,286 : \$279,694,917
medium-dark gray	\$17,940,511 : \$36,494,286
medium-light gray	\$6,913,605 : \$17,940,511
lightest gray	\$598,287 : \$6,913,605
white	zero

in thousands [\$ USD]

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## Global Legal Work isn't likely to Decrease

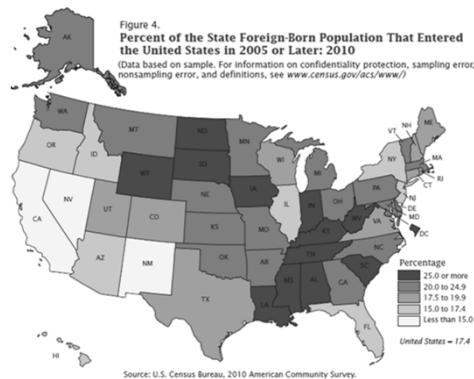
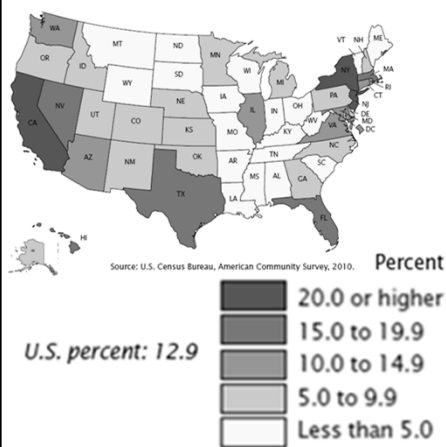


Source: Goldman Sachs, *Dreaming With BRICs: The Path to 2050, Global Economics Paper #99* (2003), <http://www.goldmansachs.com/korea/ideas/brics/99-dreaming.pdf>

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## Globalization Affects Individuals

↓ 2010 Foreign-born US population



↑ **NOTE**... the states for which the 2010 data shows the largest immigration increase

Darker colors = higher percents

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## Changes in U.S. Foreign-Born Population

- Note the dramatic change between 1960 and 2010
- Consider the implications for legal services



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## Your Job & Trade Agreements

Did you know.....

- Legal services are covered by trade agreements?
- Admissions issues are discussed in these agreements?
- The CCBE has formalized its position regarding the *requests* it wants the EU to present to the US in T-TIP
- The CCBE has said it is awaiting the US “requests”
- A high-level official USTR representative spoke at the recent CCJ Midyear Meeting
- The IBA recently completed a 800+page “Report” that includes admissions issues & was sent to gov’ts <sup>10</sup>

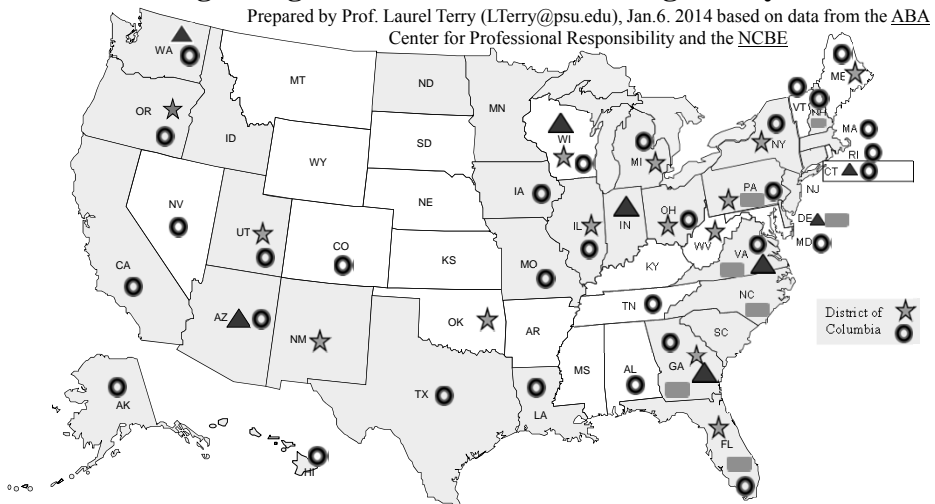
## Some acronyms worth knowing:

- T-TIP =  Transatlantic Trade and Investment Partnership (TTIP)
- TISA =  Trade in Services Agreement (TISA) negotiations
- TPP =  Trans-Pacific Partnership (TPP)
- APEC =  Asia-Pacific Economic Cooperation 






Can a foreign lawyer:		
FIFO?	obtain LL?	obtain FL?
- WTO =  WORLD TRADE ORGANIZATION
- USTR =  OFFICE of the UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT

## U.S. Rules Regarding the Five Methods of Foreign Lawyer Practice

Prepared by Prof. Laurel Terry (LTerry@psu.edu), Jan. 6, 2014 based on data from the [ABA Center for Professional Responsibility](#) and the [NCBE](#)



### Legend

-  = has a foreign legal consultant rule
-  = rule permits foreign *Pro Hac Vice*
-  = rule permits foreign in-house counsel
-  = rule permits temporary practice by foreign lawyers, also known as FIFO or fly in/fly out
-  = had a foreign-educated applicant sit for a bar exam in the past 3 years (2010-2012)

## CCJ Resolution #11 *re* the *Toolkit*



- Jan. 2014: The CCJ encourages states to consider the *Toolkit* for foreign lawyer admission issues
- My impression is that the map was influential
- My view: States need to be willing to consider not only *client protection* but also client needs

See my “Bandwagon” article.

If you don’t consider these issues, others might! 13

## Developments Worth Knowing

- **Global “access to justice” conversations**
  - Will Canada’s conversations spill over to the U.S.?
- **US efforts to respond to the lack of accessible legal services**
  - Washington’s LLLT
  - New York’s new “Navigator” program
  - California’s ongoing study about access issues
- **“Creative disruption” & the increased investment in the “legal services” space**

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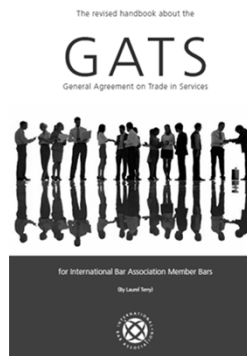
## Resources You Might Not Know



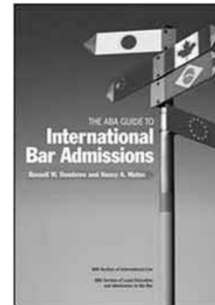
### DIRECTORY OF LEGAL REGULATORS



The IBA Global Regulation and Trade in  
Legal Services Report 2014



NATIONAL CONFERENCE OF BAR EXAMINERS (NCBE)  
Request for Preparation of a Character Report  
□ IV: FOREIGN-EDUCATED OR  
FOREIGN-LICENSED ATTORNEY



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## “Takeaways” for Admissions Regulators

- Respond to governmental requests for information
- Make sure the information is accurate
- Remember that admissions issues are part of nat'l and global conversations about access to legal services
- Trade requests likely will focus on “limited licenses” or temporary practice rights not full admission
- Consider client needs as well as client protection
- Consider how clients in your state who annually export \$1+ billion can get access to foreign legal help

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## To Read More About It...



- See items on the Table of Contents of Materials Submitted by Professor Laurel S. Terry for the 2014 Seattle NCBE Meeting
- ABA ITILS Webpage, <http://tinyurl.com/ABAITILS>
- The State “Toolkit” (based on GA), <http://tinyurl.com/statetoolkit>
- The IBA GATs Handbook <http://tinyurl.com/gats-iba>
- The NY “Navigator” Pilot Project, [http://www.courts.state.ny.us/courts/nyc/housing/rap\\_prospective.shtml](http://www.courts.state.ny.us/courts/nyc/housing/rap_prospective.shtml)
- IBA Global Regulation & Trade in Legal Services Report 2014, [http://www.ibanet.org/PPID/Constituent/Bar\\_Issues\\_Commission/BIC\\_ITILS\\_Map.aspx](http://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/BIC_ITILS_Map.aspx)

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## To Read More About It...

**By Laurel Terry**



### **Global Legal Practice Resources Webpage:**

<http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm>

### **Links to Publications by Topic:**

<http://www.personal.psu.edu/faculty/l/s/lst3/>

### **Presentations Page:**

<http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm>

### **SSRN page:** <http://ssrn.com/author=340745>

**Topics addressed include:** The Impact of Global Trade Agreements on Legal Services; Trends in Global Lawyer Regulation; Regulatory Objectives for the Legal Profession; Creating the International Conference of Legal Regulators; the FATF & Gatekeeper Requirements; Antitrust scrutiny of the legal profession

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## To Read More About It...

### My Presentations Webpage:

- > Global Developments in general (See [1-11](#), [9-09](#) and [11-08](#)) (See also [2008 Service Providers article](#), "[The Legal World is Flat](#)", and other "[Global Legal Practice](#)"

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*To read my law review articles (or testimony) on the topics listed below,  
please visit my "Publications By Topic" section of my webpage*

### My Presentations Webpage.

- > Alternative Business Structure (ABS) developments (including the UK's Legal Services Act 2007, Australia's publicly traded law firms, EU, and OECD dev
- > Antitrust initiatives directed towards the legal profession, including the EU's Professional Services Competition Initiative (See [5-08](#), [4-08](#))
- > the APEC Legal Services Initiative (See [10-09](#))
- > Australian Legal Profession Developments (See [8-08](#) ; [5-09](#))
- > the Bologna Process (See [3-06](#), [1-05](#); see also [1-11](#))
- > Classification Systems for Counting Legal Services (See [10-04](#); [4-07](#))

<http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm> 19