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## Transnational Legal Practice

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## Transnational Legal Practice

LAUREL TERRY\*

### I. Introduction

This Article summarizes transnational legal practice developments that occurred in 2015. Although this article does not use the organizational structure found in the 2014 Year-in-Review,<sup>1</sup> the organizations and networks discussed in the 2014 article continued to play an active role in transnational legal practice in 2015.

Transnational legal practice continued its trend of growth in 2015. For example, during 2015, the U.S. government reported that 2014 legal services exports were more than nine billion dollars, an increase of almost \$75 million from the previous year.<sup>2</sup> The United States imported more than two billion dollars in legal services in 2014, increasing its imports by approximately \$70 million.<sup>3</sup> The annual report from the American Lawyer's 2014 Global 100 issue also pointed to continued growth in transnational legal practice.<sup>4</sup>

Because of the important ways in which global and regional trade agreements affect transnational legal practice, Section II begins with a discussion of developments in these agreements. Section III focuses on U.S. transnational legal practice developments, noting the activities or developments within the ABA, states, and other organizations. Section IV

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1. See Laurel S. Terry & Carole Silver, Transnational Legal Practice, 49 ABA/SIL YIR (n.s.) 413-415 (2015) [hereinafter *TLP 2014*], available at [http://www.americanbar.org/content/dam/aba/uncategorized/international\\_law/inl\\_yir\\_2015\\_cpy.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/international_law/inl_yir_2015_cpy.authcheckdam.pdf) (as corrected) (the online version of this article was the authorized version of the article that replaced the print version of the article and all electronic versions that did not contain a single asterisk footnote noting the substitution. The TLP 2014 article used a frame of reference of national and transnational "TLP-Nets.").

2. See Table 2.2. *U.S. Trade in Services, by Type of Service and by Country or Affiliation*, U.S. DEP'T OF COMMERCE, BUR. ECON. AFFAIRS (Oct. 15, 2015), available at [http://www.bea.gov/international/bp\\_web/tb\\_download\\_type\\_modern.cfm?list=41&RowID=170](http://www.bea.gov/international/bp_web/tb_download_type_modern.cfm?list=41&RowID=170) (listing in millions the 2014 legal services exports as \$9,104).

3. *Id.* (showing imports, in millions, of \$2,050).

4. See, e.g., *By the Numbers: Emerging Opportunities*, AM. LAW. THE GLOBAL 100 ISSUE (Sept. 28, 2015) available at <http://www.americanlawyer.com/id=1202737863330?slreturn=20160208225507> ("This Chart tracks the rate of change in lawyer head counts at large U.S. firms in emerging markets and developed markets.").

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discusses international developments that have the potential to affect the United States. Section V focuses on significant developments in other countries.

## II. International Trade Developments

During 2015, the United States was involved in four different sets of trade negotiations that included legal services: (1) the World Trade Organization's GATS negotiations; (2) the Trade in Services Agreement (TISA) negotiations; (3) the Trans-Pacific Partnership (TPP) negotiations; and (4) the Transatlantic Trade and Investment Partnership (T-TIP) negotiations.<sup>5</sup> The most significant trade developments during 2015 were Congress' re-adoption of "fast track" trade promotion authority<sup>6</sup> and the successful conclusion of the TPP negotiations.<sup>7</sup> Although the legal services portion of the TPP agreement is similar to other U.S. trade agreements,<sup>8</sup> at the time this article was written, the TPP had become the subject of debate among the 2016 presidential election candidates, and it was not clear if or when the TPP would be ratified by Congress and signed by the President.

Although trade promotion authority and the conclusion of the TPP negotiations were the most noteworthy trade events during 2015, from a legal services perspective, most of the 2015 trade activity concerned the T-TIP trade negotiations between the United States and the EU. During 2015, the ABA, the National Conference of Bar Presidents, and the Conference of Chief Justices (CCJ)<sup>9</sup> all participated in discussions about the T-TIP with the Council of Bars and Law Societies of Europe (CCBE).<sup>10</sup>

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5. See generally *WTO Doha Negotiations, Services Negotiations*, OFFICE OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/trade-agreements/wto-multilateral-affairs/wto-doha-negotiations/services-negotiations> (last visited Mar. 19, 2016); *Trade Agreements, Other Initiatives*, OFFICE OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/trade-agreements/other-initiatives> (last visited Mar. 19, 2016); *Free Trade Agreements, Transatlantic Trade and Investment Partnership*, OFFICE OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/ttip> (last visited Mar. 19, 2016).

6. See IAN F. FERGUSSON, CONG. RESEARCH SERV., RL33743, TRADE PROMOTION AUTHORITY (TPA) AND THE ROLE OF CONGRESS IN TRADE POLICY 1 (2015), available at <https://www.fas.org/spp/crs/misc/RL33743.pdf>.

7. See *Trans-Pacific Partnership* [hereinafter *TPP Agreement*], OFFICE OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership> (last visited Mar. 19, 2016); *TPP Agreement Table of Contents*, OFFICE OF THE U.S. TRADE REPRESENTATIVE (Nov. 5, 2015), <https://medium.com/the-trans-pacific-partnership/table-of-contents-83d9de8d01b5>; TIM REIF, *The Path Forward on the Trans-Pacific Partnership*, 1, 3 (Nov. 5, 2015), <https://medium.com/the-trans-pacific-partnership/the-path-forward-on-the-trans-pacific-partnership-f2df5dde4f78#.i37xe48ee>.

8. See generally *TPP Agreement*, supra note 7; Joan Rogers, *Pacific Trade Pact Aims to Liberalize Multinational Legal Practice*, 31 LAW. MAN. PROF. CONDUCT 679 (Nov. 18, 2015), available at [http://lawyersmanual.bna.com.ezaccess.libraries.psu.edu/mopw2/display/batch\\_print\\_display.adp](http://lawyersmanual.bna.com.ezaccess.libraries.psu.edu/mopw2/display/batch_print_display.adp); Laurel S. Terry, *From to APEC: The Impact of Trade Agreements on Legal Services*, 43 AKRON L. REV. 675 (2010).

9. See *Conference of Chief Justices* [hereinafter *CCJ*], CONFERENCE OF CHIEF JUSTICES, <http://ccj.ncsc.org> ("The Conference of Chief Justices (CCJ) was founded in 1949 to provide an opportunity for the highest judicial officers of the states to meet and discuss matters of importance in improving the administration of justice, rules and methods of procedure, and the organization and operation of state courts and judicial systems, and to make recommendations and bring about improvements on such matters.") (last visited Mar. 19, 2016).

10. Some of the key issues included how the current situation regarding "association" should be reflected in the maps the United States and EU were using, given the data that appeared in the 2014 IBA Global Report discussed infra note 52, and the issue of citizenship and EU lawyer mobility. (The author has personal knowledge of these discussions.). See also infra notes 29-31 and accompanying text for additional information

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Another noteworthy trade development during 2015 concerns the Korea-U.S. Free Trade Agreement (KORUS), which was adopted by the United States in 2011.<sup>11</sup> The ABA is concerned that South Korea's proposed legislation to implement the third stage of the legal services provisions in the KORUS undermines the intent of the legal services commitments in that agreement.<sup>12</sup> As of the end of 2015, the differing views on KORUS implementation had not yet been resolved.

### III. U.S. Developments

#### A. ABA ACTIVITY

The Transnational Legal Practice (TLP) committee's parent organization was active during 2015. The Council of the ABA Section of International Law endorsed a proposed resolution to the ABA's model policy on inbound foreign in-house counsel.<sup>13</sup> This resolution, a revised version of which was adopted at the 2016 ABA Midyear Meeting,<sup>14</sup> amends existing policy by adding language that gives each state's highest court discretion to admit a foreign in-house lawyer who is lawfully practicing as in-house counsel under the laws of his or her jurisdiction.<sup>15</sup>

Another ABA entity that is active in transnational legal practice matters is the ABA Task Force on International Trade in Legal Services (ITILS). The ABA ITILS serves as an

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about these discussions; see *About CCBE PECO PORTAL*, <https://ccbepeco.wordpress.com/a-propos/> (The CCBE "represents the bars and law societies of 32 member countries and 13 further associate and observer countries, and through them more than 1 million European lawyers.") (last visited Mar. 19, 2016).

11. Free Trade Agreement Implementation Act, U.S.-Kor., Oct. 21, 2011, 125 Stat. 428; OFFICE OF THE U.S. TRADE REPRESENTATIVE, *Korea-U.S. Free Trade Agreement* [hereinafter *KORUS*], available at [www.ustr.gov/trade-agreements/free-trade-agreements/korus-fta/final-text](http://www.ustr.gov/trade-agreements/free-trade-agreements/korus-fta/final-text); see also Carole Silver ET. AL., What Firms Want: Investigating Globalization's Influence on the Market for Lawyers in Korea, 27 *Columbia J. Asian L.* 1, 4 (2015); see generally Jeanne Lee John, The Korus FTA on Foreign Law Firms and Attorneys in South Korea—A Contemporary Analysis on Expansion into East Asia, 33 *Nw. J. INT'L L. & BUS.* 237, 238-89 (2012).

12. See, e.g., Letter from Thomas Susman, Dir., ABA Governmental Affairs Office, to the Int'l Legal Affairs Div. of the Ministry of Justice of the Republic of Kor. (Mar. 10, 2015), available at [http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015mar10\\_koreausfa\\_l.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015mar10_koreausfa_l.authcheckdam.pdf); Letter from William C. Hubbard, ABA President, to the Int'l Legal Affairs Div. of the Ministry of Justice of the Republic of Kor. (May 7, 2015), available at [http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015may7\\_foreignlegalconsultact\\_c.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015may7_foreignlegalconsultact_c.pdf).

13. See ABA DRAFT-REPORT, *The Regulation of Foreign Lawyers, and in Particular Foreign In-House Counsel, in the U.S.: Proposals for a Better and More Comprehensive Framework*, available at [http://www.americanbar.org/content/dam/aba/uncategorized/international\\_law/report\\_with\\_recommendation.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/international_law/report_with_recommendation.authcheckdam.pdf) (adopted by the Council Oct. 20, 2015).

14. MODEL RULES OF PROF'L CONDUCT R. 5.5 resol. (2016), available at [http://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/2016\\_hod\\_midyear\\_rr\\_103\\_adopted.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/2016_hod_midyear_rr_103_adopted.authcheckdam.pdf).

15. *Id.* at Rule 5.5(e) and Report at 6 ("the foreign lawyer or foreign in-house counsel must be subject to effective regulation and discipline by a duly constituted professional body or a public authority, or, in its discretion, be otherwise authorized by [this highest court of appellate jurisdiction] to practice in this jurisdiction as an in-house counsel."); *id.* at Report, p. 1 ("The ABA policies dealing with foreign in-house counsel de facto exclude over 70% of foreign lawyers, particularly lawyers from civil law jurisdictions, who are either not required or not even legally allowed to be members of the bar when practicing as in-house counsel. For example, a lawyer admitted to the practice of law in France, upon going in-house, has to surrender her bar admission status, and consequently, does not fall under the current ABA definition of foreign lawyer.").

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umbrella group that brings together various stakeholders that have an interest in legal services trade negotiations.<sup>16</sup> During 2015, the ABA ITILS held monthly conference calls to discuss issues related to transnational legal practice. Among other actions, the ABA ITILS submitted comments to the ABA Commission on the Future of Legal Services<sup>17</sup> reminding the group of the importance of transnational legal practice issues to lawyers, clients, and the public.<sup>18</sup>

The ABA Commission on the Future of Legal Services took several actions that were inspired, at least in part, by its awareness of legal developments in other countries. For example, in November 2015, the ABA Commission of the Future of Legal Services released the final draft of its proposed Model Regulatory Objectives, which were adopted in a slightly revised format during the 2016 ABA Midyear Meeting.<sup>19</sup> The accompanying report cites, *inter alia*, international developments.<sup>20</sup>

The ABA Center for Professional Responsibility is another ABA entity whose work is relevant to TLP. For example, during 2015, the Center for Professional Responsibility continued to update its charts that show state adoption of the ABA's inbound foreign lawyer policies.<sup>21</sup>

**B. ACTIVITIES BY OTHER U.S.-BASED ORGANIZATIONS**

In addition to the ABA entities described above, there were a number of other U.S. organizations that were active on TLP matters during 2015.

**1. CCJ Activities**

During 2015, the Conference of Chief Justices (CCJ) continued to be actively involved in issues related to TLP. For example, in January 2015, it adopted Resolution 2, which “strongly encourages its members to adopt explicit policies that permit qualified activities by foreign lawyers as a means to increase available legal services, and to facilitate the

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16. See *About the Task Force*, ABA (2016), [http://www.americanbar.org/advocacy/governmental\\_legislative\\_work/priorities\\_policy/promoting\\_international\\_rule\\_law/internationaltradetf/taskforceabout.html](http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/promoting_international_rule_law/internationaltradetf/taskforceabout.html).

17. See *Comm'n on Future of Legal Services*, ABA (2016), [http://www.americanbar.org/groups/centers\\_commissions/commission-on-the-future-of-legal-services.html](http://www.americanbar.org/groups/centers_commissions/commission-on-the-future-of-legal-services.html).

18. See Letter from David Tang, Chair, ABA Task Force on Int'l Trade in Legal Serv., to Judy Perry Martinez, Chair, ABA Comm'n on the Future of Legal Serv. (Dec. 20, 2014), *available at* [http://www.americanbar.org/content/dam/aba/images/office\\_president/international\\_trade\\_in\\_legal\\_services.pdf](http://www.americanbar.org/content/dam/aba/images/office_president/international_trade_in_legal_services.pdf).

19. See ABA COMM'N ON THE FUTURE OF LEGAL SERVICES, RESOL. 105, (Feb. 8, 2016), *available at* [http://www.americanbar.org/content/dam/aba/directories/policy/2016\\_hod\\_midyear\\_105.docx](http://www.americanbar.org/content/dam/aba/directories/policy/2016_hod_midyear_105.docx) h see also *ABA Comm'n on the Future of Legal Services*, *supra* note 17 (homepage includes links to comments); Joan C. Rogers, ABA Comm'n Suggests Overall Regulatory Objectives, BLOOMBERG BNA, (Oct. 21, 2015), *available at* <http://www.bna.com/aba-commission-suggests-n57982062517/>.

20. *Id.* at Report, pp. 2-3. See also ABA COMM'N ON THE FUTURE OF LEGAL SERVICES, Proposed RESOL. 105 (Nov. 2015), *available at* [http://www.americanbar.org/content/dam/aba/images/office\\_president/final\\_regulatory\\_objectives\\_resolution\\_november\\_2015.pdf](http://www.americanbar.org/content/dam/aba/images/office_president/final_regulatory_objectives_resolution_november_2015.pdf).

21. See Laurel Terry, *Summary of State Foreign Lawyer Practice Rules* (Apr. 29, 2015), *available at* <http://www.americanbar.org/content/dam/aba/uncategorized/GAO/ITILSCLEProgramMaterials72915.authcheckdam.pdf>.

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movement of goods and services between the United States and foreign nations.”<sup>22</sup> This Resolution listed seven items, all of which had been identified in the CCBE’s T-TIP trade negotiation “request” to the ABA and CCJ,<sup>23</sup> and all of which have been endorsed by the ABA.<sup>24</sup>

In addition to the CCJ’s adoption of Resolution 2, the CCJ Task Force on Foreign Lawyers was actively engaged in TLP matters during 2015. Under the leadership of New York Chief Judge Jonathan Lippman, the CCJ Task Force held quarterly meetings, inviting representatives from the Office of the U.S. Trade Representative, the ABA, the CCBE, the Law Council of Australia, and—new in 2015—the Federation of Law Societies of Canada. Judge Greg Mize, who staffed the CCJ Task Force for the National Center on State Courts, regularly provided Task Force members with updates on TLP developments.

## 2. NOBC Activities

The National Organization of Bar Counsel (NOBC) is an organization that brings together state officials involved in lawyer regulation and discipline issues.<sup>25</sup> During 2015, the NOBC launched its “Global Resources” webpage intended to educate NOBC members about regulatory developments in other countries.<sup>26</sup> The 2015 NOBC Annual Meeting included a session entitled “What Can the U.S. Expect From the Rest of the World?” featuring speakers from the UK and Canada.<sup>27</sup> The NOBC also offered to sponsor a new U.S.-Canadian regulator listserv, as a follow-up to the networking breakfast for U.S. and Canadian lawyer regulators that took place during the ABA’s 2015 National Conference on Professional Responsibility.<sup>28</sup> These NOBC efforts to facilitate regulator relationships and dialogue are consistent with the international cooperation resolution adopted by the ABA in 2013.<sup>29</sup>

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22. See CCJ, RESOL. 2, *In Support of Regulations Permitting Limited Practice by Foreign Lawyers in the United States to Address Issues Arising from Legal Market Globalization and Cross-Border Legal Practice* (Jan. 28, 2015), <http://ccj.nesc.org/-/media/microsites/files/ccj/resolutions/01282015-legal-market-globalization.aspx>; see TLP 2014, *supra* note 1, at 419-20, 424-25 (citing CCJ RESOL. 11) (The year previously the CCJ had adopted Resolution 11 which endorsed the ABA “Toolkit” that was based on a model developed by Georgia.).

23. For a discussion of the CCBE’s T-TIP requests, see TLP 2014, *supra* note 1, at 425-426; see also *supra* note 5 for a citation to the ongoing U.S.-EU T-TIP trade negotiations.

24. See *generally* Task Force on Int’l Trade in Legal Services, ABA (2016), [http://www.americanbar.org/advocacy/governmental\\_legislative\\_work/priorities\\_policy/promoting\\_international\\_rule\\_law/internationaltradetf.html](http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/promoting_international_rule_law/internationaltradetf.html); see also Letter from William Hubbard, ABA President, to Mr. Aldo Bulgarelli, President, Council of Bars and Law Societies of Europe (Nov. 19, 2014), *available at* [http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015jan15\\_ccbeletter.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/uncategorized/GAO/2015jan15_ccbeletter.authcheckdam.pdf).

25. See *About NOBC*, NATIONAL ORGANIZATION OF BAR COUNSEL [hereinafter NOBC], <http://nobb.org/index.php/about-us> (“The National Organization of Bar Counsel (NOBC) is a non-profit organization of legal professionals whose members enforce ethics rules that regulate the professional conduct of lawyers who practice law in the United States, Canada and Australia.”) (last visited Mar. 19, 2016).

26. See *Global Resources*, NOBC, <http://nobb.org/index.php/jurisdiction-info/global-resources> (The topics on this webpage include: Alternative Business Structures; Entity Regulation; Alternative Licensure; and State and International Reciprocity) (last visited Mar. 19, 2016).

27. See *NOBC 2015 Annual Meeting Program*, NOBC (Chicago, Jul. 29, 2015), *available at* [http://nobb.org/docs/events/2015\\_NOBC\\_Annual\\_Brochure.pdf](http://nobb.org/docs/events/2015_NOBC_Annual_Brochure.pdf).

28. See Email from Paul Burgoyne, President, NOBC, to Author (Sept. 30, 2015) (on file with journal).

29. The ABA Guidelines for an International Lawyer Regulatory Information Exchange were adopted in 2013, and encourage, *inter alia*, U.S. regulators to identify their regulatory counterparts in other countries.

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3. *NCBE Activities*

The National Conference of Bar Examiners (NCBE) is an organization that brings together state governmental officials and others interested in lawyer admission issues.<sup>30</sup> For a number of years, the NCBE has made it a practice to include in its annual admissions conference at least one session that includes foreign perspectives and global developments.<sup>31</sup> The NCBE's 2015 conference also included in its session on "Admitting Foreign Lawyers" the head of the City and International Divisions of the Law Society of England and Wales.<sup>32</sup>

4. *National Conference of Bar Presidents' Activities*

The National Conference of Bar Presidents (NCBP)<sup>33</sup> was also active during 2015 on TLP matters. Its 2015 Midyear Meeting included a session on the U.S.-EU T-TIP negotiations.<sup>34</sup> This session provided the impetus for an exchange of documents and discussions among ABA and CCBE representatives, some of which are ongoing.

C. STATE-BASED DEVELOPMENTS

In addition to the activity by various ABA entities and other entities, including the CCJ, NOBC, NCBE, and NCBP, there was significant TLP-related activity by U.S. states during 2015. For example, during 2015, some states took the opportunity to review the ABA's model inbound foreign lawyer policies.<sup>35</sup> After reviewing these model policies, a number of states adopted rules that recognize or liberalize the conditions under which inbound foreign lawyers may practice in the United States.<sup>36</sup> The current status of these state rules can be found by consulting the ABA Center for Professional Responsibility's implementation charts, which are regularly updated.<sup>37</sup>

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See ABA RESOL. 104 (Aug. 12-13, 2013), available at [http://www.americanbar.org/content/dam/aba/directories/policy/2013\\_hod\\_annual\\_meeting\\_104.authcheckdam.docx](http://www.americanbar.org/content/dam/aba/directories/policy/2013_hod_annual_meeting_104.authcheckdam.docx) (regarding guidelines for an International Regulatory Information Exchange).

30. See *About NCBE*, NAT'L CONFERENCE OF BAR EXAM'R [hereinafter NCBE], <http://www.ncbex.org/about/> (last visited Mar. 19, 2016).

31. See *TLP 2014*, supra note 1, at 417.

32. See 2015 NCBE Annual Bar Admission Conference Program (on file with journal).

33. See *History*, NAT'L CONFERENCE BAR PRESIDENTS, <http://ncbp.org/?page=history> (last visited Mar. 19, 2016).

34. See *NABE/NCBP/NCBF Midyear Meeting*, 19-20 (Feb. 3-7, 2015), available at [http://c.ymedn.com/sites/www.nabenet.org/resource/resmgr/Events\\_2015Midyear/2015MM\\_Final\\_Program.pdf](http://c.ymedn.com/sites/www.nabenet.org/resource/resmgr/Events_2015Midyear/2015MM_Final_Program.pdf).

35. See *ABA Comm'n on Ethics 20/20*, ABA, [http://www.americanbar.org/groups/professional\\_responsibility/aba\\_commission\\_on\\_ethics\\_20\\_20.html](http://www.americanbar.org/groups/professional_responsibility/aba_commission_on_ethics_20_20.html) (the policies the ABA adopted appear on the homepage of this Commission) (last visited Mar. 19, 2016).

36. At the time this article was submitted (Nov. 2015), Oregon and New Mexico had added temporary practice rules and Illinois, Iowa, Montana, New Hampshire, Oregon and Texas had added foreign in-house counsel rules. Cf. Laurel S. Terry, Summary of State Foreign Lawyer Practice Rules (Nov. 29, 2015) (on file with journal), with Laurel S. Terry, Summary of State Foreign Lawyer Practice Rules (Nov. 14, 2014) (on file with journal). The current version is available at <http://tinyurl.com/laurelterrymap>.

37. See *State by State Adoption of Selected Ethics 20/20 Comm'n Policies and Guidelines for an Int'l Regulatory Info. Exch.* [hereinafter *Ethics 20/20 Implementation*], ABA CTR. FOR PROF'L RESPONSIBILITY POLICY IMPLEMENTATION COMM. (Jan. 26, 2016), available at <http://www.americanbar.org/content/dam/aba/>

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Some additional state-based TLP activity that occurred in New York during 2015 included: New York's decision to admit its first undocumented lawyer;<sup>38</sup> New York's adoption of the Uniform Bar Exam, which is significant because of the large number of foreign-educated lawyers that take the New York bar exam;<sup>39</sup> the Southern District of New York's rejection of Jacoby & Myers' constitutional challenge to the ethics rule that prohibited outside investment in law firms;<sup>40</sup> and New York's proposal to expand its temporary practice rule to include foreign lawyers—which is a concept sometimes referred to as “FIFO” for fly-in, fly-out.<sup>41</sup>

Notable developments elsewhere in the United States included the District of Columbia's decision to conduct a survey on the international activities of its members,<sup>42</sup> and Georgia's new international arbitration center.<sup>43</sup> Another notable development that was largely state-driven was the May 2015 conference on proactive lawyer regulation that was held at the Colorado Supreme Court building.<sup>44</sup> This conference included not only U.S. regulators, but also current and former regulators from Canada and Australia.<sup>45</sup> As these examples, and the work of the Commission on the Future of Legal Services webpage, have shown, the states continue to be laboratories of innovation with respect to legal services regulation.<sup>46</sup>

#### **IV. The Continued Role of International Organizations**

During 2015, there were a number of international developments relevant to TLP. The sections that follow describe some of the notable events of 2015.

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administrative/professional\_responsibility/state\_implementation\_selected\_e20\_20\_rules.authcheckdam.pdf. For additional information about the ABA's 20/20 policies, see *TLP 2014*, supra note 1, at 419.

38. See Cristian Farias, César Vargas Just Became New York's First Undocumented Lawyer, N.Y. MAG. (June 15, 2015, 1:15pm), <http://nymag.com/daily/intelligencer/2015/06/new-york-just-got-its-first-undocumented-lawyer.html#>.

39. See Diane F. Bosse, Testing Foreign-Trained Applicants in a New York State of Mind, 83(4) The Bar Examiner 31 (Dec. 2014).

40. See *Jacoby & Meyers, LLP v. Presiding Justices of the First, Second, Third, & Fourth Dep'ts, Appellate Div. of the Supreme Court of the State of N.Y.*, 847 F.Supp.2d 590 (S.D.N.Y. 2015), available at <http://nylawyer.nylj.com/adgifs/decisions15/071615kaplan.pdf>; see also *TLP 2014* supra note 1, at 422-423.

41. See Memorandum from John W. McConnell, Counsel, N.Y. State Unified Court Sys. to Members of the Pub. (Sept. 21, 2015), available at <http://www.nycourts.gov/RULES/comments/PDF/Amendment%20Rule%20523%20Sept%2021.pdf>; see also Memorandum from John W. McConnell, Counsel, N.Y. Unified Court Sys. to All Interested Pers. (Sept. 24, 2015), available at <http://www.nycourts.gov/RULES/comments/PDF/Part522ForeignIHC.pdf>.

42. News Release, D.C. Bar, Global Legal Practice Task Force Seeks Member Input (Oct. 6, 2015) (“As part of the D.C. Bar's continued efforts to meet the needs of members not only locally but around the world, its Global Legal Practice Task Force has distributed an e-mail survey among members living and working outside of the United States.”).

43. See *About Atlas*, ATLANTA INT'L ARBITRATION CTR., <http://arbitrateatlanta.org/the-atlanta-international-arbitration-society/>.

44. See, e.g., James Coyle & Laurel S. Terry, Session 3 - States as Laboratories: Articulating Steps for Moving Forward (May 30, 2015) (on file with journal) (summarizing the remarks in the prior sessions of the Workshop sponsored by Colorado Office of Attorney Regulation, the ABA Center for Professional Responsibility, and the Maurice Deane School of Law at Hofstra University).

45. See Denver Conference Attendance List (on file with journal).

46. See *NOBC 2015 Annual Meeting Program*, supra note 27.

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A. THE INTERNATIONAL CONFERENCE OF LEGAL REGULATORS

The International Conference of Legal Regulators (ICLR) is an organization that was launched in 2012.<sup>47</sup> The ICLR held its fourth conference in Toronto during July 2015.<sup>48</sup> Because this ICLR meeting was discussed during the 2015 NOBC Annual Meeting,<sup>49</sup> U.S. regulators who were not able to attend this meeting heard about the themes of the conference, including TLP, and learned about the materials that are available online.<sup>50</sup>

B. THE INTERNATIONAL BAR ASSOCIATION

The International Bar Association (IBA) is another entity that is active in transnational legal practice issues.<sup>51</sup> The IBA's Global Regulation and Trade in Legal Services Report 2014,<sup>52</sup> which was discussed in the prior Year-in-Review, continued to be influential during 2015. For example, its data was cited by the ABA and the CCBE in the context of the T-TIP trade discussions.<sup>53</sup>

The 2014 Global Report was sponsored by the IBA International Trade in Legal Services (ITILS) Committee. In addition to promoting this report, during 2015 the IBA ITILS Committee held a retreat in Prague that focused on the issues of mutual recognition and "association," the latter of which involves partnership and employment relationships among domestic and foreign lawyers.<sup>54</sup> Some Committee members had hoped that the Committee might reach sufficient consensus in 2015 to recommend a resolution on the topic of association, but that did not happen.

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47. See Laurel S. Terry, *Transnational Legal Practice (International) [2010-2012]*, 47 *Int'l Law.* 485, 493-94 (2013); Laurel S. Terry, *Creating an International Network of Lawyer Regulators: The 2012 International Conference of Legal Regulators*, 82(2) *BAR EXAM'R* 18 (June 2013).

48. See *Building Blocks to Better Regulation*, INT'L CONF. OF LEGAL REGULATORS (Jul. 27-28, 2015), available at <http://docs.flsc.ca/INTLegalRegulatorsProgrammeFINAL-July24.pdf>. The prior meetings were held in London in 2012 and 2014 and San Francisco in 2013. *London 2014*, THE INT'L CONFERENCE OF LEGAL REGULATORS, <http://www.international-conference-of-legal-regulators.org/past-conferences/london-2014/> (last visited Mar. 19, 2016); *San Francisco*, THE INT'L CONFERENCE OF LEGAL REGULATORS, <http://www.international-conference-of-legal-regulators.org/past-conferences/san-francisco-2013/> (last visited Mar. 19, 2016); *London 2012*, THE INT'L CONFERENCE OF LEGAL REGULATORS, <http://www.international-conference-of-legal-regulators.org/past-conferences/london-2012/> (last visited April 17, 2016).

49. See *What Can the U.S. Expect from the World?*, NAT'L CONF. OF BAR COUNSEL ANN. MEETING (July 29, 2015) (on file with journal).

50. See *Presentation Materials for ICLR 2015 Conference Sessions*, 2015 INT'L CONF. OF LEGAL REGULATORS, <http://flsc.ca/building-blocks-to-better-regulation/presentation-materials-for-iclr-2015-conference-sessions/> (last visited Mar. 19, 2016). Current or former NOBC members who spoke at the 2015 Toronto meeting of the International Conference of Legal Regulators included Robert Hawley, Deputy Executive Director, State Bar of California; Jerry Larkin, Attorneys Disciplinary Commission, Illinois; and Gene Shipp, Office of Bar Counsel, Washington, D.C.

51. See *About the IBA*, INT'L BAR ASS'N, [http://www.ibanet.org/About\\_the\\_IBA/About\\_the\\_IBA.aspx](http://www.ibanet.org/About_the_IBA/About_the_IBA.aspx) (explaining that the IBA includes more than 50,000 individual lawyers and over 200 bar associations) (last visited Mar. 19, 2016).

52. See *IBA Global Regulation and Trade in Legal Services Report 2014*, INT'L BAR ASS'N (Oct. 2014); *TLP 2014* supra note 1, at 428-429.

53. See *supra* text accompanying note 10.

54. See *Minutes of the IBA Bar Issues Commission International Trade in Legal Services Committee Annual Retreat (Prague May 19, 2015)* (on file with journal).

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During 2015, the IBA ITILS Committee debated whether it should participate in the discussions related to trade agreement dispute resolution systems, which sometimes are referred to as Investor State Dispute Systems (ISDS). As part of the T-TIP negotiations, the EU proposed the establishment of a new dispute resolution tribunal.<sup>55</sup> One reason for this proposal was concern about conflicts of interest among international arbitrators, many of whom are lawyers.<sup>56</sup> The IBA President responded by issuing, on behalf of the IBA, a “statement correcting misconceptions and inaccurate information around the discussions on investor-state dispute settlement.”<sup>57</sup> As of the end of 2015, the IBA ITILS committee was discussing, but had not reached a consensus about, whether it was appropriate for it to participate in the ISDS debates.<sup>58</sup>

**V. Transnational Legal Practice Developments in Other Countries**

There were additional developments during 2015 outside the United States that are worth noting because they have the potential to influence discussions or actions in the United States. For example, in February 2015, the Canadian Supreme Court struck down parts of Canada’s Proceeds of Crime (Money Laundering) and Terrorist Financing Act, resolving an issue that had been in the courts for approximately a decade.<sup>59</sup> This decision undoubtedly will be cited if and when the U.S. legal profession’s implementation of the

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55. See Press Release, European Union, Comm’n Proposes New Investment Court System for TTIP and Other EU Trade and Investment Negotiations (Sept. 16, 2015), <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1364>.

56. See, e.g., Jonathan Goldsmith, ICDS- A Lawyers’ Issue, *LAW SOC’Y GAZETTE* (July 10, 2015), <http://www.lawgazette.co.uk/analysis/comment-and-opinion/isds-a-lawyers-issue/5049949.article> (“When I wrote about this last time, I mentioned that international trade lawyers involved in these cases were being accused - by the European Commission, among others - of being subject to conflicts of interest, leading to perceptions of lack of partiality and of financial incentives to multiply ISDS cases.”); Jonathan Goldsmith, A New International Trade Court, *LAW SOC’Y GAZETTE* (Sept. 21, 2015), <http://www.lawgazette.co.uk/analysis/comment-and-opinion/a-new-international-trade-court/5051122.article> (“So far, arbitration lawyers have failed to persuade anyone influential in the EU of the rightness of their case. Now that a new text has been presented, it is incumbent on lawyers and others to study it, and in particular the ethical code, and contribute to the best possible new system.”).

57. See *IBA Issues Fact-Correcting Statement on ISDS*, INT’L BAR ASSOC. (Apr. 20, 2015), <http://www.ibanet.org/Article/Detail.aspx?ArticleUId=1DFF6284-E074-40EA-BF0C-F19949340B2F>.

58. Resources that might prove useful during these debates include Professor Catherine Rogers’ book on ethics in international arbitration that was issued in 2014 after the prior Year-in-Review was written. See CATHERINE ROGERS, *Ethics in International Arbitration* (Oxford U. Press, 2014). Another potentially useful resource is the American Law Institute’s Restatement of the Law, U.S. Law on International Commercial Arbitration, which was nearing completion in 2015. See *RESTATEMENT (THIRD) OF THE U.S. LAW ON INT’L COMMERCIAL ARBITRATION* (AM. LAW INST., Proposed Official Draft 2015), <https://www.ali.org/projects/show/international-commercial-arbitration/>.

59. See *Fed’n of Law Soc’ys of Can. v. Canada*, [2015] 1 S.C.R. 401 (Can.) (affirmed the result reached in British Columbia provincial court, although the reasoning differed); see also *Fed’n of Law Soc’ys of Can. v. Canada*, [2013] CanLII 147 (Can. B.C. B.C.C.A.); *SCC Decision Makes Important Statement About Core Legal Principles*, FED’N OF LAW SOC’YS OF CAN. (Feb. 14, 2015), <http://flsc.ca/category/federation-news/>. For information about the application of money laundering provisions to the U.S. legal profession, see Symposium, *Combating Threats to the International Financial System: The Financial Action Task Force*, 59 *N.Y.L. Sch. L. Rev.* 417 (2014-15), available at <http://www.nyslawreview.com/201415-volume-59-number-3/>.

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FATF recommendations is challenged during the 2016 U.S. 4th Mutual FATF Evaluation.<sup>60</sup>

Another Canadian development that frequently was cited in the United States during 2015 was the Nova Scotia Barristers' Society's "Transform Regulation" initiative that is developing a new "*Triple P*" system of lawyer regulation that is principled, proactive, and proportionate.<sup>61</sup> For example, these changes were featured at an April 2015 ABA Section of International Law program, at the May 2015 Denver Regulators' Workshop, and during the 2015 NOBC Annual Meeting.<sup>62</sup>

U.S. observers have been interested in developments in Ontario, as well as those in Nova Scotia. During 2015, its Alternative Business Structures (ABS) Working Group encountered resistance to its proposals, and ABS became a key issue in the 2015 Law Society of Upper Canada's Benchers' elections.<sup>63</sup>

ABS developments in the United Kingdom (UK) continued to be a topic of discussion during 2015.<sup>64</sup> The UK affiliate of a U.S. law firm was among those who became an ABS during 2015.<sup>65</sup> During 2015, the Bar Standards Board, which regulates barristers in England and Wales, joined other UK regulators and began licensing and regulating alternative business structures.<sup>66</sup>

The UK's ABS developments seem to garner the most attention in the United States, but the 2015 UK developments were not limited to ABS. One can get a sense of the range

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60. For more information on this, see Laurel S. Terry, U.S. Legal Profession Efforts to Combat Money Laundering & Terrorist Financing, 59 N.Y.L. Sch. L. Rev 487 (2014-15).

61. See *Legal Services Regulation*, NOVA SCOTIA BARRISTERS' SOC'Y, <http://nsbs.org/legal-services-regulation>. This webpage is relatively new; it aggregates information about the project, including the development of regulatory objectives, the launch of a blog, an e-newsletter, and a consultation on a self-assessment procedure. *Id.*

62. See Press Release, European Commission, *supra* note 55; see also *Ethics 20/20 Implementation*, *supra* note 37; *NOBC 2015 Annual Meeting Program*, *supra* note 27, at 42.

63. See *Alternative Business Structures*, LAW SOC'Y OF UPPER CANADA, <http://www.lsuc.on.ca/ABS/> (includes submissions received in response to September 2014 Discussion Paper); see also Yosie Saint-Cyr, Why the 2015 LSUC Bencher Election Deserves Your Attention, *SLAW* (Apr. 19, 2015), <http://www.slaw.ca/2015/04/09/why-the-2015-lsuc-bencher-election-deserves-your-attention/>; but see Mitch Kowalski, Bencher Election? What Bencher Election?, *SLAW* (May 14, 2015), <http://www.slaw.ca/2015/05/14/bencher-election-what-bencher-election/>.

64. See, e.g., Authorized Revolution: Regulatory Disruption of the Legal Services Market, GEORGETOWN LAW CONTINUING LEGAL EDUC. (Apr. 24, 2015), <http://www.law.georgetown.edu/continuing-legal-education/programs/academic-conferences/Regulating-Legal-Services.cfm?ID=361>.

65. See, e.g., John Hyde & Monidipa Fouzder, Chicago firm heralds London arrival with ABS first, *LAW SOC'Y GAZETTE* (Mar. 27, 2015), [http://www.lawgazette.co.uk/5047920.article?utm\\_source=dispatch&utm\\_medium=email&utm\\_campaign=GAZ270315](http://www.lawgazette.co.uk/5047920.article?utm_source=dispatch&utm_medium=email&utm_campaign=GAZ270315) (noting the SRA's approval of an ABS affiliate of U.S. law firm Jenner & Block).

66. Gazette newsdesk, *BSB to regulate entities from January*, *LAW SOC'Y GAZETTE* (Dec. 4, 2014), <http://www.lawgazette.co.uk/practice/bsb-to-regulate-entities-from-january/5045451.fullarticle>; see generally *Press releases and news*, BAR STANDARDS BD. <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/> (last visited Mar. 19, 2016) (including an April 8, 2015 announcement about the approval of fifteen BSB-regulated entities that included companies or partnerships with barristers that provide advocacy, litigation, and expert legal advice services. *New legal services businesses now being authorised by regulator*, BAR STANDARDS BD. (Apr. 8, 2015), <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/new-legal-services-businesses-now-being-authorised-by-regulator/>).

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of developments by looking at the “News” page of Solicitors’ Regulation Authority;<sup>67</sup> the developments included closing several law firms because of the financial risk they posed,<sup>68</sup> and updating the “Handbook” that contains solicitors’ ethics rules.<sup>69</sup> The Legal Services Board, the Bar Standards Board, and the Solicitors Regulation Authority, also issued useful reports and consultations during 2015, including reports on innovation in legal services,<sup>70</sup> the costs of regulation,<sup>71</sup> diversity,<sup>72</sup> unbundling,<sup>73</sup> and regulation of in-house counsel,<sup>74</sup> among other topics.<sup>75</sup>

Although there has been great interest around the world in the 2007 UK Legal Services Act, changes to this Act may be forthcoming. In July 2015, the Legal Services Board, which is the overarching regulator, issued a report entitled “*The Case For Change: Legislative Options Beyond the Legal Services Act 2007*.”<sup>76</sup> An October 2015 news story reported that Michael Gove, the Lord Chancellor and Secretary of State for Justice, was considering consulting on deregulatory amendments to the 2007 Legal Services Act.<sup>77</sup>

There were a number of developments elsewhere in the world. The most significant development in Australia probably was the adoption by New South Wales and Victoria of

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67. See generally *News releases*, SOLICITORS REGULATION AUTH., <http://www.sra.org.uk/sra/press/news-releases.page> (last visited Mar. 19, 2016) (and subsequent pages).

68. See, e.g., News Release, Solicitors Regulation Auth., Operational Notice – Blavo & Co (Oct. 14, 2015), <http://www.sra.org.uk/sra/news/press/blavo-intervention-october-2015.page>.

69. See News Release, Solicitors Regulation Auth., Version 13 of Handbook published (Apr. 1, 2015), <https://www.sra.org.uk/sra/news/press/version-13-handbook.page>.

70. See, e.g., News Release, Solicitors Regulation Auth., Joint research looks at innovation in the legal services market, (Feb. 19, 2015), <http://www.sra.org.uk/sra/news/press/innovation-research-second-phase.page>.

71. See, e.g., *Cost of Regulation In-Depth Research*, LEGAL SERV. BD., <https://research.legalservicesboard.org.uk/news/latest-research-7/> (last visited Mar. 19, 2016).

72. See, e.g., Press Release, Legal Serv. Bd., Making a difference on diversity: regulators need to do more with their data (Mar. 25, 2015), [http://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/PDF/2015/20150325\\_LSB\\_Publishes\\_Report\\_On\\_Diversity\\_Data\\_Collection\\_And\\_Transparency.html](http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2015/20150325_LSB_Publishes_Report_On_Diversity_Data_Collection_And_Transparency.html)

73. See, e.g., Press Release, Legal Serv. Bd., Unbundle legal services and make them more accessible (Sept. 16, 2015), [http://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/PDF/2015/20150916\\_LSB\\_Publishes\\_Report\\_Into\\_The\\_Unbundling\\_Of\\_Legal\\_Services.html](http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2015/20150916_LSB_Publishes_Report_Into_The_Unbundling_Of_Legal_Services.html).

74. See, e.g., Press Release, Bar Standards Bd., Bar regulator wants to remove restrictions on employed barristers, seeking views (Oct. 13, 2015), <https://www.barstandardsboard.org.uk/media-centre/press-releases-and-news/bar-regulator-wants-to-remove-restrictions-on-employed-barristers,-seeking-views/>.

75. See generally *LSB News*, LEGAL SERV. BD., [http://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/Index.htm](http://www.legalservicesboard.org.uk/news_publications/LSB_news/Index.htm) (last visited Mar. 19, 2016); *News releases*, *supra* note 67; *Press releases and news*, *supra* note 65.

76. See Press Release, Legal Serv. Bd., The Case for change: legislative options beyond the Legal Services Act 2007 (July 27, 2015), [http://www.legalservicesboard.org.uk/news\\_publications/LSB\\_news/PDF/2015/20150727\\_The\\_Case\\_For\\_Change\\_Legislative\\_Options\\_Beyond\\_The\\_Legal\\_Services\\_Act\\_2007.html](http://www.legalservicesboard.org.uk/news_publications/LSB_news/PDF/2015/20150727_The_Case_For_Change_Legislative_Options_Beyond_The_Legal_Services_Act_2007.html).

77. John Hyde, *Gove ready to deregulate legal services market ‘in the near future’*, LAW SOC’Y GAZETTE (Nov. 19, 2015), [http://www.lawgazette.co.uk/law/gove-ready-to-deregulate-legal-services-market-in-the-near-future/5052270.article?utm\\_source=dispatch&utm\\_medium=email&utm\\_campaign=GAZ191115](http://www.lawgazette.co.uk/law/gove-ready-to-deregulate-legal-services-market-in-the-near-future/5052270.article?utm_source=dispatch&utm_medium=email&utm_campaign=GAZ191115).

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acts implementing the Uniform Legal Profession Act.<sup>78</sup> These long-awaited developments have changed the structure of regulation in these jurisdictions.<sup>79</sup>

A number of recent developments in Europe concern surveillance issues. For example, in October 2015, a Dutch Court of Appeals upheld a lower court decision about lawyer surveillance that the CCBE had described as follows:

The [lower] Court was questioned on the legality of eavesdropping by domestic intelligence agencies on lawyers' calls and communications. In its verdict delivered on July 1st, the court recognised that the ability to communicate confidentially with a lawyer is a fundamental right which is currently being breached under Dutch surveillance policy. The court therefore ordered the Dutch government to stop all interception of communications between clients and their lawyers under the current regime within six months.<sup>80</sup>

Another noteworthy development related to lawyer surveillance is the European Parliament's October 2015 adoption of a resolution related to mass surveillance.<sup>81</sup> Among other things, this Resolution calls on the European Commission "to present a communication on the protection of confidential communications in professions with legal professional privilege, by the end of 2016 at the latest."<sup>82</sup> Another EU development that is likely to prove noteworthy is the appointment of a new CCBE Secretary General; Philip Buisseret took over from Jonathan Goldsmith, who stepped down in January 2015.

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78. See *Legal Profession Uniform Law (NSW) No 16a 2015* (Austl.), <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+16a+2014@d+0+N>; *A new framework for practicing law in NSW*, LAW SOC'Y OF NEW SOUTH WALES, <http://www.lawsociety.com.au/ForSolicitors/advocacy/nationallegalreform/index.htm> (last visited Mar. 19, 2016) (includes many useful links); *Legal Profession Uniform Law Application Act 2014* (Vic) (Austl.), available at [http://www.legislation.vic.gov.au/domino/Web\\_Notes/LDMS/LTObject\\_Store/ltobjst9.nsf/DDE300B846EED9C7CA257616000A3571E737D364AFDF26E5CA257E2F00139C2B/\\$FILE/14-17aa003%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/ltobjst9.nsf/DDE300B846EED9C7CA257616000A3571E737D364AFDF26E5CA257E2F00139C2B/$FILE/14-17aa003%20authorised.pdf); *Legal Profession Uniform Law*, LAW INST. OF VICTORIA, <http://www.liv.asn.au/For-Lawyers/Regulation/Legal-Profession-Uniform-Laws> (contains many useful links); *Legal Profession Uniform Law*, LAW COUNCIL OF AUSTRALIA, <http://www.lawcouncil.asn.au/lawcouncil/index.php/current-issues/legal-uniform-professional-law-consultation> (last visited Mar. 19, 2016).

79. See Steve Mark, *The Regulatory Framework in Australia*, CREATIVE CONSEQUENCES P/L, Mar. 2014, at 11-12 available at [http://www.americanbar.org/content/dam/aba/events/professional\\_responsibility/2014/05/40th-aba-national-conference-on-professional-responsibility/session1\\_02\\_mark\\_the\\_regulatory\\_framework\\_in\\_australia\\_final.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/events/professional_responsibility/2014/05/40th-aba-national-conference-on-professional-responsibility/session1_02_mark_the_regulatory_framework_in_australia_final.authcheckdam.pdf).

80. Press Release, Council of Bars and Law Societies of Europe, Dutch court upholds lower court ruling banning surveillance of lawyers' communications after successful CCBE intervention (Oct. 29, 2015), [http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/EN\\_pr\\_0615pdf1\\_1446127708.pdf](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_pr_0615pdf1_1446127708.pdf); See also *CCBE committees and working groups*, COUNCIL OF BARS AND LAW SOCIETIES, [http://www.ccbe.eu/index.php?id=94&id\\_comite=69&L=0](http://www.ccbe.eu/index.php?id=94&id_comite=69&L=0) (last visited Mar. 19, 2016).

81. See Press Release, European Parliament, Mass surveillance: EU citizens' rights still in danger, says Parliament (Oct. 29, 2015), <http://www.europarl.europa.eu/news/en/news-room/content/20151022IPR98818/html/Mass-surveillance-EU-citizens%27-rights-still-in-danger-says-Parliament>.

82. European Parliament resolution of 29 October 2015 on the follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens, EUR. PARL. DOC. 2015/2635(RSP) ¶ 43 (2015), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0388&language=EN&ring=B8-2015-1092>.

83. CCBE Welcomes New Secretary-General, N° MAR. 2015 (CCBE/Plenary Session, Brussels) Nov. 2014, at 1, available at [http://www.ccbe.eu/fileadmin/user\\_upload/NTCdocument/EN\\_newsletter\\_40](http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_newsletter_40)

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Useful sources for monitoring TLP developments include the IBA's Global Legal Services Discussion Forum<sup>84</sup> and the "News" section of the ABA ITILS webpage.<sup>85</sup> When reviewing the 2015 ABA ITILS news items, one might have noticed that many of the reports concerned India, but ultimately there was little change in India with respect to foreign lawyer regulation (although there were hints that change may come in the future).<sup>86</sup> The pending Indian Supreme Court case discussed in a previous Year-in-Review continues;<sup>87</sup> during 2015, the Court agreed to hear additional appeals that involve the practice rights of foreign lawyers and law firms in India.<sup>88</sup>

Developments in Singapore included regulatory changes,<sup>89</sup> the opening of Singapore's International Commercial Court,<sup>90</sup> and the merger of one of Singapore's largest law firms with U.S. law firm Morgan, Lewis, & Bockius, LLP.<sup>91</sup> In April 2015, Malaysia awarded a UK law firm its first Qualified Foreign Law Firm (QFLF) license.<sup>92</sup>

While a number of law firms opened foreign offices during 2015 (and a few closed offices),<sup>93</sup> the most noteworthy market development during 2015 was undoubtedly the

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pdf1\_1426752116.pdf ("Philip Buisseret is the new Secretary-General of the CCBE, taking over from Jonathan Goldsmith, who stepped down in January after 13 years as the head of the Brussels office.").

84. See generally *IBA Global Legal Services Announcement*, INT'L BAR ASS'N, (Dec. 10, 2014) <http://www.ibanet.org/Forum/Detail.aspx?ForumUid=03E2F023-6378-42AE-B3D6-051B6DDB2AEA>.

85. See generally *News on International Trade*, ABA (Aug. 17, 2015), [http://www.americanbar.org/advocacy/governmental\\_legislative\\_work/priorities\\_policy/promoting\\_international\\_rule\\_law/internationaltradetf/news.html](http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy/promoting_international_rule_law/internationaltradetf/news.html).

86. See Kian Ganz, *Liberalisation step 1? Gov't to allow foreign lawyers to arbitrate in India by amending Act, perhaps via ordinance*, LEGALLY INDIA (July 22, 2015), <http://www.legallyindia.com/Law-firms/liberalisation-step-1-via-arbitration-ordinance-or-bill>.

87. See Laurel S. Terry, *Transnational Legal Practice (International)*, 47 YEAR-IN-REVIEW 485, 492 (2013), available at [http://www.americanbar.org/content/dam/aba/publications/international\\_lawyer/til\\_47\\_1/inl\\_yir47\\_cpy.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/international_lawyer/til_47_1/inl_yir47_cpy.authcheckdam.pdf).

88. SCOI Report, *SCOI Report: Uncertainty ahead for foreign lawyers case in SC: Lawyers Collective make appearance with Datar, BCI*, LEGALLY INDIA (Sept. 15, 2015), <http://www.legallyindia.com/SCOI-Reports/scoi-report-uncertainty-ahead-for-foreign-lawyers-case-in-sc-lawyers-collective-make-appearance-with-datar-bci> ("The Indian judiciary has been grappling with the question of whether to permit foreign lawyers to practice in India for more than two decades. After yesterday's heading in the Supreme Court, it doesn't look like any end is in sight at least without parliamentary intervention. As widely expected, it now appears that it will continue to take more time to reach finality as the Supreme Court yesterday (14 September), decided to grant leave in two appeals against the Madras high court judgment and the Bombay high court judgment against foreign law firms.").

89. See Joan Janssen, *Building a Regulator – The Singapore Experience*, MINISTRY OF LAW SING. 7 (2015), available at [http://docs.flsc.ca/ICLR-Building\\_a\\_Regulator\(Ministry\\_of\\_Law\\_Singapore\)\(final\).pdf](http://docs.flsc.ca/ICLR-Building_a_Regulator(Ministry_of_Law_Singapore)(final).pdf).

90. Hoe Pei Shan, *Buzz over new Singapore court for cross-border disputes*, STRAITS TIMES (Jan. 14, 2015), <http://news.asiaone.com/news/singapore/buzz-over-new-singapore-court-cross-border-disputes>.

91. See Claire Huang, *Stamford Law to go global after full merger with top US law firm (Amended)*, BUS. TIMES (Mar. 16, 2015, 5:50 AM), <http://www.businesstimes.com.sg/companies-markets/stamford-law-to-go-global-after-full-merger-with-top-us-law-firm>; Janssen, *supra* note 89; Pei Shan, *supra* note 90.

92. See *Malaysia*, TROWERS & HAMLINS, <http://www.trowers.com/offices/malaysia> (last visited Mar. 19, 2016) (noting its April 2015 license).

93. See generally *IBA Global Legal Services Announcement*, *supra* note 52 (noting mergers, new offices, and office contractions). The discussion forum also noted that the legal services offerings of accounting firms have expanded, with EY Legal, for example, expanding from twenty-three countries to sixty-four and merging with a Chinese firm. *Thread: Accounting Firms and Legal Services*, INT'L BAR ASS'N (Mar. 25, 2015), <http://www.ibanet.org/Forum/Thread/Default.aspx?ForumUid=03e2f023-6378-42ae-b3d6-051b6ddb2aea&ThreadUid=314ae6c1-bca7-483b-bbc5-ee35a0be66a1>. See, e.g., *Thread: Paris - Canadian Firm to Close*, INT'L BAR ASS'N (Dec. 10, 2014), <http://www.ibanet.org/Forum/Thread/>

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merger of Dentons with the Chinese law firm Dacheng.<sup>94</sup> The combined law firm is now the world's largest law firm.<sup>95</sup> Following this merger, Dentons, which is organized in a *verein* structure,<sup>96</sup> merged with U.S. law firm McKenna.<sup>97</sup> During 2015, Dentons reportedly was in merger discussions with twenty-one firms in Latin America, Europe, Africa, and Asia.<sup>98</sup>

Although the Dentons-Dacheng mergers were the most noteworthy market developments during 2015, they are representative of a larger pattern of growing TLP. For example, a map prepared during 2015 showed that law firms located in forty-seven U.S. states (plus the District of Columbia) also had an office in a foreign country.<sup>99</sup> In 2015, the American Lawyer reported that "Global 100 firms continue to expand their geographic reach, with half having offices in eight countries or more."<sup>100</sup>

## VI. Conclusion

The developments highlighted in this article have shown that transnational legal practice is an important phenomenon, and that it continued to grow in 2015.

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94. See Neil Gough, *Dentons to Merge with Dacheng of China to Create World's Largest Law Firm*, N.Y. TIMES (Jan. 27, 2015, 4:14 AM), [http://dealbook.nytimes.com/2015/01/27/dentons-to-merge-with-dacheng-of-china-to-create-worlds-largest-law-firm/?\\_r=1](http://dealbook.nytimes.com/2015/01/27/dentons-to-merge-with-dacheng-of-china-to-create-worlds-largest-law-firm/?_r=1).

95. *Id.*

96. Michael Lipkin, *McKenna Long Partners Approve Dentons Merger*, LAW360 (Mar. 16, 2015, 10:17 PM), <http://www.law360.com/articles/632228/mckenna-long-partners-approve-dentons-merger>. For information about the *verein* structure, see generally Douglas R. Richmond & Matthew K. Corbin, Professional Responsibility and Liability Aspects of Vereins, *The Swiss Army Knife of Global Law Firm Combinations*, 88 ST. JOHN'S L. REV. 917 (2014). The American Lawyer's annual October *Global 100* issue now identifies which of the listed global law firms are organized as a *verein*. *The Global 100*, supra note 4, at 102-03 (listing "verein" next to some law firms' names in the "Most Lawyers" chart).

97. Lipkin, supra note 96.

98. See *Thread: Global firm starts talks with 21 firms over potential mergers*, INT'L BAR ASS'N (Dec. 10, 2014), <http://www.ibanet.org/Forum/Thread/Default.aspx?ForumUid=03E2F023-6378-42AE-B3D6-051B6DDB2AEA&ThreadUid=C3dec918-eb51-4917-9ff7-e022d5a10fd7>. While it isn't as dramatic as the news of twenty-one potential additional Dentons mergers, see *id.*, a merger between UK firm Eversheds and U.S. firm Foley & Lardner would have been noteworthy. Brian Baxter, *Foley & Lardner, Eversheds Won't Pursue Combination*, AM. LAW DAILY (Nov. 9, 2015), <http://www.americanlawyer.com/id=1202741973830/Foley—Lardner-Eversheds-Wont-Pursue-Combination>. The reports of merger discussions were followed soon thereafter by an announcement that these firms would not merge. *Id.* One transatlantic merger that did occur was between U.S. employment and labor law firm Littler Mendelson and a German law firm. *Law Firm Mergers and Acquisitions Q4 2015*, ALTMAN WEIL, INC. at 5, available at [http://www.altmanweil.com/dir\\_images/upload/docs/ML2015List.pdf](http://www.altmanweil.com/dir_images/upload/docs/ML2015List.pdf) (last visited Mar. 19, 2016).

99. See Laurel S. Terry, Relevant for "Association" Issues: *US Jurisdictions with Law Firms That Also Have Foreign Offices* (Apr. 9, 2015), available at [http://www.personal.psu.edu/faculty/l/s/lst3/Terry\\_Association\\_maps\\_and\\_firms.pdf](http://www.personal.psu.edu/faculty/l/s/lst3/Terry_Association_maps_and_firms.pdf) (using data provided by General Counsel Metrics). In twenty-one of these jurisdictions, one or more of the law firms whose largest U.S. office is in that jurisdiction had a foreign office, suggesting that it was not just branch offices of New York, Chicago, or California law firms that had foreign offices, but "home grown" firms in these states. *Id.*

100. *The Global 100: Most Global*, AM. LAW. (Sept. 28, 2015), <http://www.americanlawyer.com/id=1202738118370/The-Global-100-Most-Global> (this language summarizing the chart data appears online, but is not in the print journal); see also *The Global 100*, supra note 4, at 109-11.

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