

# Trans-Atlantisch vrijhandels- en investeringsverdrag

Deel III: Overzicht van de dienstenhandel tussen België en de VS  
en de bijhorende handelsrestrictieve maatregelen



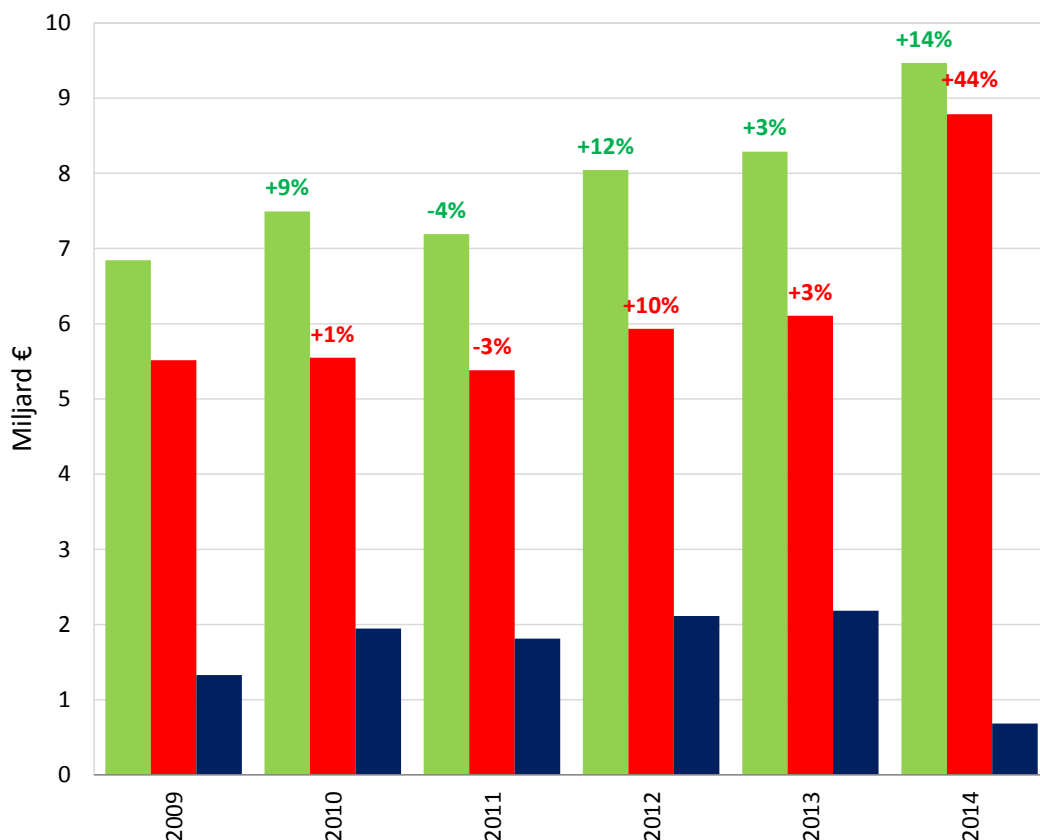
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## A. Algemeen overzicht van de dienstenhandel tussen België en de VS

Volgens ramingen door de Nationale Bank leverde België 9,47 miljard € diensten aan de VS in 2014, een toename met 14,2 % in vergelijking met 2013. Eveneens in 2014 kocht België voor 8,79 miljard € diensten aan bij leveranciers in de VS, wat 44 % meer was dan in 2013. De forse toename van de invoer van diensten betrof vooral de categorie "overige diensten aan het bedrijfsleven." De balans van de dienstenhandel vertoonde in 2014 een overschot van 680 miljoen €, in 2013 was er een overschot van 2,18 miljard €.

Belgische dienstenhandel met de VS					
Jaar	Uitvoer	Invoer	Saldo	Jaarlijkse groeivoet	
	In miljard €			In %	
2009	6,85	5,52	1,33		
2010	7,49	5,55	1,95	9,5%	0,6%
2011	7,19	5,38	1,81	-4,0%	-3,0%
2012	8,05	5,93	2,11	11,8%	10,2%
2013	8,29	6,11	2,18	3,0%	3,0%
2014	9,47	8,79	0,68	14,2%	43,9%



Bron: Nationale Bank van België, berekeningen door de Afdeling Internationale Economie van de FOD Economie.  
 Uitvoer (groen), invoer (rood) en saldo (blauw) gemeten in lopende prijzen.  
 De percentages boven de staven zijn de jaarlijkse groeivoeten (%).

## ***B. Samenstelling van de Belgische dienstenuitvoer naar de VS***

De cijfers over de dienstenhandel zijn ingedeeld in een beperkt aantal grote rubrieken. Daarvan vormt de rubriek "**andere commerciële diensten**" het belangrijkste onderdeel van de Belgische dienstenuitvoer naar de VS, met een aandeel van 60 %. Het gaat om een zeer ruime categorie, waarin uiteenlopende diensten aan het bedrijfsleven zijn opgenomen, zoals boekhoudkundige diensten, revisoraat, juridisch advies, fiscaal advies, reclame, marktonderzoek, onderzoek en ontwikkeling, architecturale diensten, ingenieurs- en technische diensten. Een andere belangrijke groep diensten betreft de **vervoersdiensten**, met een aandeel van bijna 15 %.

<b>Belgische dienstenuitvoer naar de VS, in miljoen €</b>				
<b>Rubriek</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Andere commerciële diensten	4.170	4.630	4.685	5.722
Vervoer	1.145	1.350	1.309	1.406
Telecommunicatie, informatica- en informatiediensten	486	435	510	471
Auteursrechten, royalty's, licenties	265	286	411	425
Financiële diensten	473	649	640	374
Reizen	258	284	273	295
Overige diensten of niet nader bepaald	396	411	461	776
<b>Totaal</b>	<b>7.193</b>	<b>8.045</b>	<b>8.289</b>	<b>9.469</b>

Bron: Nationale Bank van België, berekeningen door de Afdeling Internationale Economie van de FOD Economie.  
 Uitvoer gemeten in lopende prijzen.

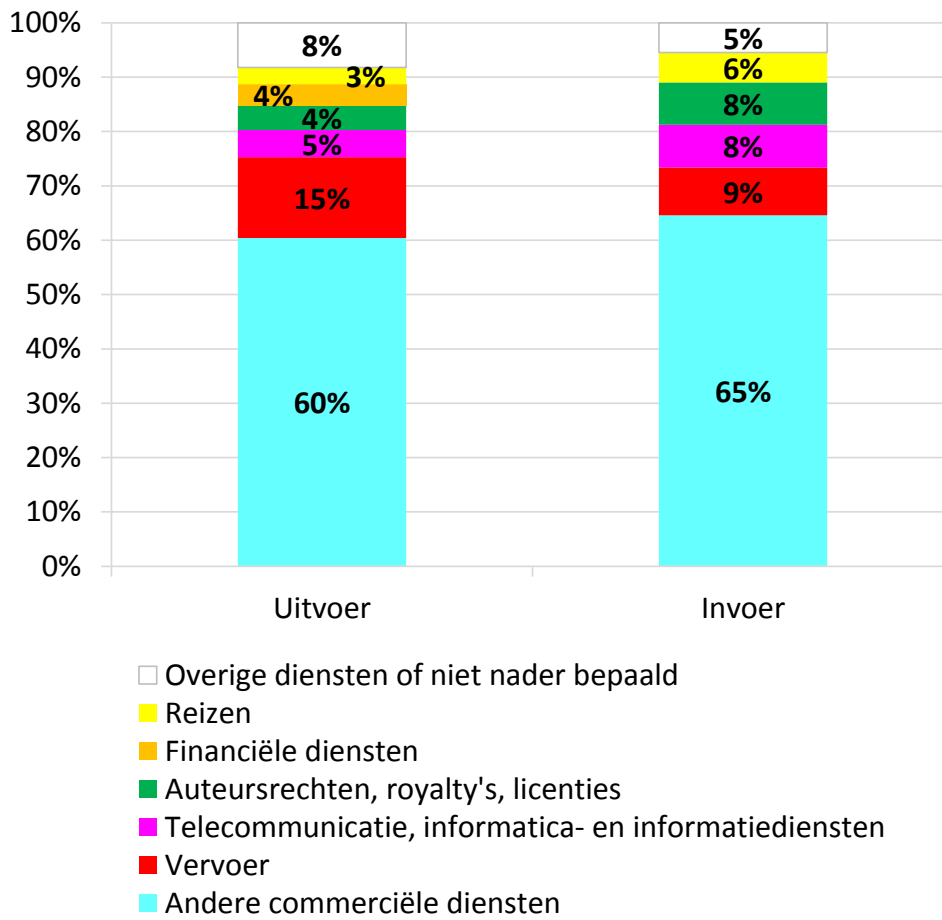
## ***C. Samenstelling van de Belgische diensteninvoer uit de VS***

België kocht de voorbije jaren vooral diensten uit de rubriek "andere commerciële diensten" aan bij leveranciers in de VS. Met een waarde van 5,67 miljard €, vertegenwoordigde deze groep diensten in 2014 bijna twee derden van de totale Belgische diensteninvoer vanuit de VS. Opvallend is de forse toename van de invoer van dit soort diensten uit de VS, van 2,99 miljard € in 2013 tot 5,67 miljard € in 2014.

<b>Belgische diensteninvoer uit de VS, in miljoen €</b>				
<b>Rubriek</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Andere commerciële diensten	2.770	3.114	2.991	5.673
Vervoer	765	772	742	775
Telecommunicatie, informatica- en informatiediensten	406	644	774	687
Auteursrechten, royalty's, licenties	491	487	638	685
Reizen	447	464	465	485
Overige diensten of niet nader bepaald	503	451	497	480
<b>Totaal</b>	<b>5.382</b>	<b>5.932</b>	<b>6.107</b>	<b>8.785</b>

Bron: Nationale Bank van België, berekeningen door de Afdeling Internationale Economie van de FOD Economie.  
 Invoer gemeten in lopende prijzen.

### Belgische dienstenhandel met de VS, 2014



Bron: Nationale Bank van België, berekeningen door de Afdeling Internationale Economie van de FOD Economie.  
 In- en uitvoer gemeten in lopende prijzen. Enkel de voornaamste rubrieken zijn weergegeven.

### D. Handelsrestrictieve maatregelen

	Sector	Description	Relevant Law	Source	Date
1	Horizontal	Screening of investment : The Committee on Foreign Investment in the United States (CFIUS) has no mandatory filing requirement and does not require prior approval of any investment, and thus is not a general screening process. The CFIUS process is essentially voluntary, though CFIUS does have the authority to initiate reviews of transactions that may be covered by Section 721 of the Defense Production Act, as amended, and that may raise national security considerations. CFIUS is only authorized to review certain foreign investments (generally, mergers, acquisitions, and takeovers by which a foreign person could obtain control of a U.S. business) solely for national security concerns. / Only voluntarily-submitted transactions are generally subject to approval, the number of which is a small fraction of total transactions, but CFIUS may review transactions that have not been notified. The screening process is for national security only.	<ul style="list-style-type: none"> <li>- Foreign Investment and National Security Act of 2007 (Public Law 110-49): <a href="http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf">http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf</a></li> <li>- Final defense production act s. 721: <a href="http://www.fema.gov/library/viewRecord.do?id=3590">http://www.fema.gov/library/viewRecord.do?id=3590</a></li> <li>- Regulation pertaining to mergers, acquisitions, and takeovers by foreign persons: <a href="http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf">http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf</a></li> <li>- Foreign Investment and National Security Act of 2007 (Public Law 110-49): <a href="http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf">http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf</a></li> <li>- Final defense production act s. 721: <a href="http://www.fema.gov/library/viewRecord.do?id=3590">http://www.fema.gov/library/viewRecord.do?id=3590</a></li> <li>- Regulation pertaining to mergers, acquisitions, and takeovers by foreign persons: <a href="http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf">http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf</a></li> </ul>	OECD-STRI Database	2014
2	Horizontal	Quota for the H2-B visa category for temporary, non-agricultural workers which is considered closest to contractual services suppliers	Immigration and Nationality Act (INA) 214(g)(1)(B): <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html</a>	OECD-STRI Database	2014

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
3	Horizontal	Quota for the independent services suppliers. This category is assumed to fall under the H-1B category in all sectors. The quota is 65 000. The numerical limitations do not apply to individuals employed at an institution of higher learning or a related or affiliated nonprofit entity; individuals employed at a nonprofit research organization or government research organization; or individuals who have earned a master's or higher degree from a U.S. higher education institution, up to a maximum of 20,000 individuals.	Immigration and Nationality Act (INA) 214(g)(1)(A): <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html</a>	OECD-STRI Database	2014
4	Horizontal	Limitation on stay for intra-corporate transferees equals to 36 months. L-1A and L-1B visas apply to intra-corporate transferees, but limited to executive (L-1A), managerial (L-1A) or specialized knowledge of the firm's product (L-1B).	Code of Federal Regulations Title 8, 214.2(l)(11): <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-11261/0-0-0-17197/0-0-0-18918.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-11261/0-0-0-17197/0-0-0-18918.html</a>	OECD-STRI Database	2014
5	Horizontal	Limitation on stay for contractual services suppliers equals to 12 months. The H2-B visa category is considered closest to contractual services suppliers. The validity of the labour certification is "up to one year".	Code of Federal Regulations Title 8: Aliens and nationality, part 214.2(h)(6)(iv)(B): <a href="http://www.uscis.gov/iframe/ilink/docView/SLB/HTML/SLB/8cfr.html">http://www.uscis.gov/iframe/ilink/docView/SLB/HTML/SLB/8cfr.html</a>	OECD-STRI Database	2014
6	Horizontal	Limitation on stay for independent services suppliers equals to 36 months. The maximum duration of stay according to the law is 6 years, but the H-1B visa is initially issued for three years.	- Immigration and Nationality Act (INA) Act 214(g)(4): <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-3422/0-0-0-3594.html</a> - Code of Federal Regulations Title 8: Aliens and nationality: part 214.2(h)(13)(iii): <a href="http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-11261/0-0-0-17197/0-0-0-18684.html">http://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-11261/0-0-0-17197/0-0-0-18684.html</a>	OECD-STRI Database	2014

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
7	Horizontal (Public procurement)	There are limitations on foreign participation in public procurement. 19 USC Chapter 13 establishes discriminatory purchasing requirements. The US procurement market is open only to WTO GPA parties and free trade agreement partners (exceptions can be granted for developing countries). The GPA threshold is 130,000 SDRs for federal purchases and 355,000 SDRs for sub-federal purchases covered by the agreement. New York procurement rules also impose reciprocity conditions. The award of a NY procurement contract over \$1 million to a foreign enterprise must be notified to the commissioner of economic development and at least 15 days must elapse before the start of the procurement contract.	<ul style="list-style-type: none"> <li>- Trade Agreements Acts of 1979 (19 USC Chapter 13), sections 2511-2512: <a href="http://uscode.house.gov/browse/prelim@title19/chapter13/subchapter1">http://uscode.house.gov/browse/prelim@title19/chapter13/subchapter1</a>;</li> <li>- Federal Acquisition Regulation, part 25.408: <a href="http://www.acquisition.gov/far/current/pdf">http://www.acquisition.gov/far/current/pdf</a> (lien ne fonctionne pas)</li> <li>- New York State Finance Law, section 165(6): <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=\$\$STF165\$\$@TXSTF0165">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=\$\$STF165\$\$@TXSTF0165</a>; (lien ne fonctionne pas)</li> <li>-New York Public Authorities Law, section 2879(5)(d): <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=\$\$PBA2879\$\$@TXPBA02879">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=\$\$PBA2879\$\$@TXPBA02879</a>. (lien ne fonctionne pas)</li> </ul>	OECD-STRI Database	2014



	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
8	Professional services	Individual states have responsibility for the regulation, licensing, and oversight of the professions practiced within their jurisdictions. There is no national regulatory regime. This means foreigners wishing to work in professions such as accounting, architecture, engineering and law have different requirements to meet in different states. Access for foreigners may be affected by the need to be located in the state, domiciled in the state, of U.S. nationality, or other legal form of entry requirements. Regulations vary from state to state and usually there is no automatic recognition of licences. The absence of a national regulatory regime means there are different rules across the states for providing professional services. Some professions are subject to national qualifying examinations recognized in most states as part of the licensing process, but there is no federal-level licensure that supersedes state regulation		APEC Services Trade Access Requirements (STAR) Database UE report SME-TTIP 2015 Architects' Council of Europe	2012
9	Professional services	In practice, there is a high degree of commonality across the states for some professions. For example, single national examinations are recognized by state authorities for accounting, architectural, and engineering services. Residency and local presence requirements remain in a number of states, but have been eliminated for over 75% of the U.S. market for accounting, architectural, engineering, and foreign legal consultancy services		APEC Services Trade Access Requirements (STAR) Database	2012

	Sector	Description	Relevant Law	Source	Date
10	Legal services	<p>Attorneys must be licensed in the U.S. jurisdiction in which they practice law. This requires admission to the bar of a particular state or jurisdiction. Each U.S. state/jurisdiction has its own rules for bar admission. The state or territorial licensing board sets the individual qualification requirements. Most licensing boards require a degree from an American Bar Association (ABA) approved and accredited law school and the successful completion of the bar exam for that jurisdiction. All jurisdictions require that applicants for admission to the bar pass a written bar examination. All jurisdictions, except Maryland, Puerto Rico, Wisconsin, and Washington, also require applicants to pass a separate Multistate Professional Responsibility Examination (MPRE). Eighteen states limit eligibility for the bar exam to Juris Doctor or LL.B. graduates of ABA-approved law schools. The remaining states have more extensive lists of approved law schools and/or allow other means for meeting the education requirement, including foreign law degrees. Foreign Legal Consultants (FLC) Rules permitting the supply of foreign legal consultancy services in U.S. states. These rules have been adopted in 30 jurisdictions. The ABA continues to seek adoption of similar rules by more states. Under these rules, registered foreign lawyers may provide legal advice in the law of the country in which they are licensed to practice law. Graduates of foreign law schools are eligible for admission in 25 states, generally upon a determination of educational equivalency. The state-administered bar exam includes the Multistate Bar Examination (MBE), in all jurisdictions except Louisiana, Washington, and Puerto Rico. Lawyers who have been admitted to the bar in one jurisdiction may be admitted to the bar in another without taking another examination if they meet the latter jurisdiction's standards, which usually include a specified period of legal experience. In most cases, however, lawyers must pass the bar examination in each state in which they plan to practice."</p> <p>(*ABA = American Bar Association).</p>		APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
11	Legal services	In some states, Foreign legal consultants (FLC) are only entitled to provide advice on legal matters relating to the country where they hold a legal qualification; in some other states they may also provide advice on international law and/or third-country law, and in other states an FLC can also provide advice on U.S. or state law if they rely on a local lawyer. In some cases, the restrictions and requirements may be quite severe; for example, New Jersey requires that an FLC work in association with a New Jersey attorney who assumes full responsibility for the FLC; and North Carolina prohibits an FLC from being hired as a partner, and requires that s/he be supervised by a North Carolina attorney.	-	WTO, "Trade Policy Review - Report by the Secretariat - United States" (2010) (p. 114, para. 142)	2010
12	Legal services	Foreign lawyers must meet state licensing requirements to practice law in that state. Nine jurisdictions require practising lawyers to maintain in-state offices: District of Colombia, Indiana, Michigan, Minnesota, Mississippi, New Jersey, Ohio, South Dakota, and Tennessee. 15 jurisdictions have either in-state or U.S. residency requirements for licensure: Iowa, Kansas, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, New Jersey, New Hampshire, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia, Wyoming		APEC Services Trade Access Requirements (STAR) Database	2012
13	Accounting services	Accountants must hold a license in the state in which they wish to practice accounting services.		APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
14	Accounting services	<p>Accountancy services are subject to professional licensing at the state level. Licensure requirements vary by state with respect to education, examination, and experience and ethical qualifications. A general summary of state licensure requirements may be accessed by searching the Accountancy Licensing Library by jurisdiction at Individuals and/or firms must meet state licensure requirements to practice as Certified Public Accountants (CPAs). The title of Certified Public Accountant (CPA) is the statutory qualification for accountants. In most U.S. states, only CPAs are licensed to provide public attestation opinions on financial statements (including auditing). However, in Arizona, Kansas, North Carolina, and Wyoming the CPA designation, but not the practice of auditing, is restricted to those meeting the specific requirements in the state. A few states have another tier of accountant qualification (Public Accountant - PA), which is being phased out. In a number of states a CPA from another state is restricted from using the CPA designation until a practice privilege licence or certificate from that State is obtained. Almost all states require a firm permit for auditing services, and many require that each office within the state register. In nearly all states, ownership of firms that perform audits is limited to persons licensed as accountants. Accounting services other than auditing do not require a license. Since 2008, the number of U.S. states with 'mobility' provisions has risen from 23 to 45. Practice mobility is the ability of a licensee in one U.S. state to gain a practice privilege outside of his or her home jurisdiction without needing to obtain an additional license in another state where he or she will be serving a client or an employer. Most states also require continuing professional education in order to maintain an active license. Here is a list of state-by-state Accountancy Boards. There are no nationality requirements in 48 states. The exceptions are Alabama and North Carolina where U.S. citizenship (or permanent residency, in North Carolina) is a requirement for licensing, except if there is international reciprocity. Thirteen states require state residency, employment in the state, or an in-state office for licensing of accountancy.</p>		APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
15	Accounting services	Majority of shareholders must be locally-licensed	New York Business Corporation Law, Articles 15 and 15A: <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC</a>	OECD-STRI Database	2014
16	Architectural services	Architectural firms in the state of Michigan must have two thirds of the officers, partners, and/or directors licensed in that state as architects, professional engineers, and/or land surveyors. To register as an architect in a U.S. state or jurisdiction, a foreign architect must first comply with the education, training and examination requirements of that jurisdiction. The right to practice architecture and to use the title 'architect' is granted by registration boards in each of the 50 states. The National Council of Architectural Registration Boards (NCARB), which represents state boards, works with its member boards to establish registration or licensing policies. The National Architectural Accrediting Board (NAAB) is the sole agency authorized to accredit U.S. professional degree programmes in architecture. Most state registration boards require a degree in architecture from a NAAB accredited programme as a precondition to registration. The NAAB examines non-U.S. programmes in order to give NCARB a basis for deciding whether the architectural education in another country is comparable. Foreign architects qualified in countries that the NCARB determines offer reasonable reciprocal credentialing opportunities for U.S. architects may apply for NCARB certification through the Broadly Experienced Foreign Architects process. (...). The NCARB has agreements with entities in at least Australia, Canada, China, the Czech Republic, Japan, Mexico, and New Zealand		APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
17	Architectural services	Majority of shareholders must be locally-licensed	New York Business Corporation Law, Articles 15 and 15A: <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC</a>	OECD-STRI Database	2014
18	Architectural services	Equity restrictions apply to non-locally licensed professionals/firms. Shareholders of a professional service corporation must be locally-licensed. However, shareholders of a foreign professional service corporation must be licensed in their jurisdiction.	New York Business Corporation Law, Articles 15 and 15A: <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC</a>	OECD-STRI Database	2014
19	Engineering services	Foreign engineers must obtain a license in the relevant state. The following 12 states require residency in-state to obtain an engineering license in that state: Idaho, Iowa, Kansas, Maine, Mississippi, Nevada, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and West Virginia. Applicants for an engineering license in the District of Colombia must be U.S. citizens		APEC Services Trade Access Requirements (STAR) Database	2012
20	Engineering services	Majority of shareholders must be locally-licensed	New York Business Corporation Law, Articles 15 and 15A: <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC</a>	OECD-STRI Database	2014

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
21	Engineering services	Equity restrictions apply to non-locally licensed professionals/firms. Shareholders of a professional service corporation must be locally-licensed. However, shareholders of a foreign professional service corporation must be licensed in their jurisdiction.	New York Business Corporation Law, Articles 15 and 15A: <a href="http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC">http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&amp;QUERYDATA=@LLBSC</a>	OECD-STRI Database	2014
22	Energy services	Exports and re-exports of commodities, software, and technology subject to the Export Administration Regulations generally require a license from the Bureau of Industry and Security, U.S. Department of Commerce (BIS) (there are some limited exceptions). See the Export Administration Act of 1979 and Export Administration Regulations. Written authorization from the U.S. Department of Commerce is required for foreign nationals working in the U.S. to access certain 'controlled technology'. For example, certain computer technology and software is considered 'controlled technology', such as optical switching or common channel signalling. Access by foreigners (even through every day disclosures such as business consultations or training) is considered to be an export to the home country of the foreign national and written authorization is required for export of the technology from U.S. territory. See U.S. Export Administration Regulations		APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
23	Energy services	Foreign investors involved in export trading companies in the U.S. may not receive the same exemptions from antitrust laws that U.S. residents or firms receive under the Export Trading Company Act of 1982. The Act offers protection for joint activities to stimulate exports of products and services. Protection is given by applying for and receiving a 'certificate of review' from the government. For a foreign national or firm to qualify for protection, it may seek to partner with a U.S firm that qualifies for the exemption		APEC Services Trade Access Requirements (STAR) Database	2012
24	Energy services	Foreign investors in the United States are accorded the same treatment as domestic investors (a policy of national treatment), subject to national security, sector-specific considerations, and prudential concerns. The President may suspend or prohibit foreign acquisition of a U.S. business for national security considerations. The Committee on Foreign Investment (CFIUS) conducts investigations of a small number of foreign acquisitions on the basis of domestic security concerns under the provisions of the Exon-Florio Amendment to the Defense Production Act of 1950. For further information on the operation of the CFIUS, see the U.S. Department of the Treasury website: <a href="http://ustreas.gov/offices/international-affairs/cfius/">ustreas.gov/offices/international-affairs/cfius/</a> . Sector specific restrictions on FDI relate to atomic energy operations, rights of way for oil pipelines, and leases to develop mineral resources on on-shore federal lands. Also, national treatment may not be offered in certain cases with respect to the eligibility for public funding for research and development; and loans, guarantees, and political-risk insurance for investment. Some restrictions are also applied by State governments. Foreign direct investment into the United States is subject to reporting requirements under the International Investment and Trade in Services Survey Act		APEC Services Trade Access Requirements (STAR) Database	2012
25	Energy services	<a href="#">Energy Acts: Foreign Direct Investment Limitations</a>	Energy Acts	MADB	2009



	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
26	Telecom services - Cable services	Foreign companies wishing to operate in the cable services operators must comply with a national requirement to obtain authorization (called a 'franchise').	Communications Act of 1934, as Amended by the Telecommunications Act of 1996: <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	APEC Services Trade Access Requirements (STAR) Database	2012
27	Telecom services	Foreign entities wishing to operate as a domestic interstate communications provider is authorized to provide domestic interstate services to any domestic point and to construct or operate any domestic transmission line as long as it obtains all necessary authorizations from the FCC*for use of radio frequencies. However, operators usually must obtain state authorization to provide intrastate service. To supply international services, an individual authorization is required. This is generally pro forma, with most authorization granted automatically. Processing takes from 14 days for routine authorizations to provide international services, to one year or longer for applications related to large, complex mergers or acquisitions. Certain foreign carriers (those that have market power for the exchange of international switched traffic) may be required to enter into agreements with the U.S. that provide for: an equal division of accounting rates between foreign and U.S. carriers; the non-discriminatory treatment of U.S. carriers; and a share to U.S. carriers of U.S. inbound traffic proportionate to their share of U.S. outbound traffic. The FPP policy requiring this is call the international settlements policy (ISP). It is only applied by the FCC to routes on which termination rates exceed FCC-specified benchmarks. In early 2008, 165 routes were exempt from the ISP."*(FCC = Federal communications commission)	Communications Act of 1934, as Amended by the Telecommunications Act of 1996: <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
28	Telecom services	Foreign governments, individuals and entities cannot hold a common carrier fixed or mobile radio station license under sections 310(a) and 310(b)(1)-(2). Foreign governments and entities may hold equity and voting interests of up to 20% indirectly in a common carrier licensee through a U.S.-organized entity that holds non-controlling interests in the licensee, under section 310(b)(3). Foreign governments, individuals and entities can own, in the aggregate, 25% of the equity and voting interests in a U.S. parent that controls a common carrier radio station licensee and may own up to 100% of the U.S. parent with prior FCC approval under section 310(b)(4). "Branches" is not really a relevant term in the telecommunications sector. That said, a non-incorporated entity could offer mobile services (e.g MVNO) as long as it did not itself hold the radio license.	Communications Act of 1934, as Amended by the Telecommunications Act of 1996: <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	OECD-STRI Database	2014
29	Telecom services	<a href="#">Ownership Regulations</a>	Section 310 of the 1934 Communications Act	MADB	2009
30	Telecom services	<a href="#">Wire Line and Wireless Telecommunications: Discriminatory treatment</a>	-	MADB	2009
31	Satellite services	The Communications Satellite Corporation (Comsat) has exclusive rights to links with the International Telecommunications Satellite Consortium (Intelsat) and the International Maritime Satellite Organization (Inmarsat)."	Communications Act of 1934, as Amended by the Telecommunications Act of 1996: <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	APEC Services Trade Access Requirements (STAR) Database	2012
32	Satellite services	<a href="#">Satellite services: Discriminatory treatment</a>	ORBIT Act of 2000	MADB	2009

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
33	Audiovisual services – Broadcasting	No foreign government, foreign citizen or corporation organized under foreign laws may hold a broadcast license directly. Direct foreign ownership in a US corporation holding a broadcast license is limited to 20%. Indirect foreign ownership is limited to 25% unless the FCC finds that it would serve the public interest (such authorization has never been granted in practice).	Communications Act of 1934, as Amended by the Telecommunications Act of 1996, section 310(b): <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	OECD-STRI Database	2014
34	Audiovisual services – Broadcasting	Indirect foreign ownership in excess of 25% in a US broadcaster requires FCC approval for "public interest" (such authorization has never been granted in practice). Only voluntarily-submitted transactions are generally subject to approval by the Committee on Foreign Investment, the number of which is a small fraction of total transactions, but CFIUS may review transactions that have not been notified. The screening process, where applicable, is for threats to national security.	Communications Act of 1934, as Amended by the Telecommunications Act of 1996, section 310(b): <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a> Foreign Investment and National Security Act of 2007 (Public Law 110-49): <a href="http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf">http://www.gpo.gov/fdsys/pkg/PLAW-110publ49/pdf/PLAW-110publ49.pdf</a> Final defence production act s. 721: <a href="http://www.fema.gov/library/viewRecord.do?id=3590">http://www.fema.gov/library/viewRecord.do?id=3590</a> 31 CFR Part 800 - Regulation pertaining to mergers, acquisitions, and takeovers by foreign persons: <a href="http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf">http://www.gpo.gov/fdsys/pkg/CFR-2012-title31-vol3/pdf/CFR-2012-title31-vol3-part800.pdf</a>	OECD-STRI Database	2014

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
35	Audiovisual services – Broadcasting	Direct foreign ownership in a US corporation holding a foreign license is limited to 20% of equity or voting interest. Indirect foreign ownership is limited to 25% of equity or voting interest. Transactions involving transfer of control of a licensee must be approved by the FCC under a public interest test, but such transfer of control can in any case only be to a US corporation or individual.	Communications Act of 1934, as Amended by the Telecommunications Act of 1996, section 310(b): <a href="http://transition.fcc.gov/Reports/1934new.pdf">http://transition.fcc.gov/Reports/1934new.pdf</a>	OECD-STRI Database	2014
36	Audiovisual services – Broadcasting	<a href="#">Broadcasting and public performance rights</a>	Legislation on Copyright and Related Rights	MADB	2009
37	Audiovisual services – Broadcasting	<a href="#">Digital Terrestrial Television: Standards and Other Technical Requirements</a>	-	MADB	2009
38	Audiovisual services - Motion pictures	The MFN rate is 1.4% for sound recordings on motion-picture film suitable for use in connection with motion-picture exhibits (HS 3706.10.3000). There is no import duty on DVDs (HS 8523.49.4000).	US Harmonized Tariff Schedule: <a href="http://hts.usitc.gov/">http://hts.usitc.gov/</a>	OECD-STRI Database	2014
39	Distribution services	Wholesale and retail alcohol licenses can only be obtained by US citizens or permanent residents. The licensee must also have an office in NY state.	New York Alcoholic Beverage Control Law, Articles 4, 5, 6 and 8: <a href="http://codes.lp.findlaw.com/nycode/ABC">http://codes.lp.findlaw.com/nycode/ABC</a>	OECD-STRI Database	2014
40	Insurance services	Board of directors: majority must be nationals. A majority of directors of insurance companies incorporated in New York shall be citizens and residents of the United States, and not less than one shall be a resident of NY state.	New York Insurance law, section 1201(a)(5)(B): <a href="http://codes.lp.findlaw.com/nycode/ISC/12/1201">http://codes.lp.findlaw.com/nycode/ISC/12/1201</a>	OECD-STRI Database	2014

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
41	Insurance services	Restrictions on cross-border mergers and acquisitions. NY insurance companies are authorized to consolidate or merge with domestic (i.e. NY) or foreign (i.e. from other states) insurance companies, but not with alien (i.e. from other countries) insurers.	New York Insurance law, section 7102: <a href="http://codes.lp.findlaw.com/nycode/ISC/71/7102">http://codes.lp.findlaw.com/nycode/ISC/71/7102</a>	OECD-STRI Database	2014
42	Insurance services	Period of time since an applicant's incorporation in its home country before obtaining a licence. The company should have continuously transacted an insurance business in the state or country of its incorporation for at least three years immediately prior to the issuance of a license for property/casualty insurance.	New York Insurance law, section 4119: <a href="http://codes.lp.findlaw.com/nycode/ISC/41/4119">http://codes.lp.findlaw.com/nycode/ISC/41/4119</a>	OECD-STRI Database	2014
43	Insurance services	Criteria to obtain a licence are more stringent for foreign companies. Alien insurers authorized to do business in NY state must deposit with the superintendent or as trustee assets an amount at least equal to 150% of the capital required to be maintained by a domestic stock insurer licensed to do the same kinds of insurance.	New York Insurance law, section 1312: <a href="http://codes.lp.findlaw.com/nycode/ISC/13/1312">http://codes.lp.findlaw.com/nycode/ISC/13/1312</a>	OECD-STRI Database	2014
44	Insurance services - Surety bonds for government contracts	Branches of foreign insurance companies are not permitted to provide surety bonds for U.S. Government contracts.	-	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
45	Insurance services - Brokers and auxiliary insurance services	U.S. citizenship and in-state residency requirements apply in most states to brokers and suppliers of other services auxiliary to insurance	-	APEC Services Trade Access Requirements (STAR) Database	2012
46	Reinsurance services	Non-U.S. licensed reinsurers must post collateral when they conduct cross-border reinsurance business with U.S. licensed companies in order for the U.S. licensed company to receive a credit for the reinsurance. Posting collateral requires making a trust account deposit in the United States for the whole of the operation equivalent, or submitting a letter of credit for collateral.	-	APEC Services Trade Access Requirements (STAR) Database	2012
47	Reinsurance services	<a href="#">100 % collateral requirement on reinsurance business and discriminatory tax treatment</a>	-	MADB	2014
48	Banking services	All directors of a national bank must be U.S. citizens unless the bank is an affiliate or subsidiary of a foreign bank, in which case only a majority of the board need be U.S. citizens. The requirement for all directors to be U.S. citizens may also be waived for not more than a minority of the total number of directors by the Comptroller of the Currency. Approximately half of the states also require all or the majority of the board of directors of depository financial institutions to be U.S. citizens	-	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
49	Banking services	<p>Initial entry into the U.S. market through the establishment or acquisition of a nationally chartered bank subsidiary by a foreign person is permitted in all states. Initial entry or expansion by a foreign person (but not a domestic person) through acquisition or establishment of a state-chartered commercial bank subsidiary is prohibited or limited in 29 states. Foreign banks cannot establish a federal branch or agency in the following states:- Branches and agencies may be prohibited in Alabama, Kansas, Maryland, North Dakota, and Wyoming. - Branches, but not agencies, may be prohibited in Delaware, Florida, Georgia, Idaho, Louisiana, Mississippi, Missouri, Oklahoma, Texas, and West Virginia.</p> <p>Certain restrictions on fiduciary powers apply to federal agencies. Representative offices of foreign banks are not permitted in 18 states, and are subject to limitations in Oklahoma, while some states require the incorporation of representative offices. Federal and state laws do not permit a credit union, savings bank, or savings association (both of the latter two entities may be also called thrift institutions) in the United States to be established through branches of corporations organized under a foreign country's law. Foreign persons cannot acquire savings banks or loan associations in Delaware, Ohio, Tennessee, and Washington."</p>	-	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
50	Banking services	Board of directors: majority must be nationals. Every director must be a citizen of the United States, and at least a majority of the directors must have resided in the State where the bank is located for at least one year. The Comptroller of the Currency can waive the citizenship requirement for not more than a minority of directors for a bank.	US Code Title 12, Chapter 2, section 72: <a href="http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title12-section72&amp;num=0&amp;edition=prelim">http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title12-section72&amp;num=0&amp;edition=prelim</a> New York Banking Law Article 15, section 7001: <a href="http://law.justia.com/codes/new-york/2013/bnk/article-15/title-7">http://law.justia.com/codes/new-york/2013/bnk/article-15/title-7</a>	OECD-STRI Database	2014
51	Other Financial services - Securities supervisory and investment management services	Foreign banks are required to register as investment advisers under the Investment Advisers Act of 1940 to engage in securities advisory and investment management services in the United States, while domestic banks (or a separately identifiable department or division of the bank) do not have to register unless they advise registered investment companies. The registration requirement involves record maintenance, inspections, submission of reports and payment of a fee."	Investment advisers Act of 1940	APEC Services Trade Access Requirements (STAR) Database	2012
52	Other Financial services	<a href="#">SEC Regulations for Securities Firms: Discriminatory treatment</a>	Investment Company Act of 1940	MADB	2009
53	Other Financial services - Custodians	<a href="#">Treatment of EU Global custodians</a>	Securities and Exchange Act of 1934	MADB	2008
54	Other Financial services	<a href="#">Foreign Account Tax Compliance Act (FATCA): Other trade in services issues</a>	Foreign Account Tax Compliance Act (FATCA)	MADB	2014



	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
55	Other Financial services	<a href="#">Sarbanes-Oxley Act: Other Non-Tariff Measures</a>	Sarbanes-Oxley Act	MADB	2009
56	Other Financial services	<a href="#">PATRIOT Act: Other Non-Tariff Measures</a>	PATRIOT Act	MADB EU report SME-TTIP 2015	2009
57	Maritime transport	U.S.-flag vessels must be owned by a U.S. entity, but that entity may be owned up to 100% in turn by non-citizen interests.	-	APEC Services Trade Access Requirements (STAR) Database	2013
58	Maritime transport	Vessels registered in the U.S. must be crewed by U.S. citizens or lawful permanent residents ('green card' holders). Foreign seafarers are allowed to work on U.S.-flag vessels in the domestic and international trades if they hold a 'green card,' but are limited to only 25% of the licensed crewmembers. All licensed officers must be U.S.citizens.	-	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
59	Maritime transport	Companies owning vessels must be US citizens. A corporation is considered a citizen of the United States if it is incorporated under the laws of the United States or a state, the chief executive officer and chairman of the board of directors are US citizens, and no more than a minority of the number of directors necessary to constitute a quorum are non-citizens (=> the majority of the board of directors must be nationals of the United States). The Chief Executive Officer must be a citizen of the United States. For vessels operating in the coastwise trade (cabotage), at least 51% of the stock and 75% of the voting power in the shipping corporation must be vested in citizens of the United States.	46 USC - Shipping, section 12103 - General eligibility requirements; and section 50501 - Entities deemed citizens of the United States: <a href="http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46.pdf">http://www.gpo.gov/fdsys/pkg/USCODE-2011-title46/pdf/USCODE-2011-title46.pdf</a>	OECD-STRI Database	2014
60	Maritime transport	Merchant Marine vessels used for transport within the national boundaries must be owned by U.S. citizens, operated by U.S. nationals (75% of the crew), U.S. flagged and build by an American shipyard.	Merchant Marine Act of 1920 (Jones Act) The Foreign Dredge Act of 1906 The Shipping Act of 1916	<a href="http://en.wikipedia.org/wiki/Merchant_Marine_Act_of_1920">http://en.wikipedia.org/wiki/Merchant_Marine_Act_of_1920</a> Position paper FEB, janvier 2015 European Dredging Association 2014 Presse	

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
61	Maritime transport	<a href="#">Shipping on U.S. - flagged Vessels: Standards and Other Technical Requirements</a>	The Cargo Preference Act of 1904 Public Resolution N°17, enacted in 1934 Food Security Act of 1985 US Mineral Leasing Act	MADB	2008
62	Maritime transport	<a href="#">Food Aid Program: Quantitative Restrictions and Related Measures</a>	Food Aid Program	MADB	2009
63	Air transport	The DOT requires that an applicant for a certificate of public convenience and necessity be a citizen of the US. 75% of the voting interest in the corporation must be owned or controlled by US citizens. The DoT has interpreted this requirement to mean that US citizens must also be in actual control of the carrier and must have control of at least 51% of non-voting equity and 75% of voting equity. The president and at least two-thirds of the board of directors and other managing directors must be citizens of the US.	The Transportation Code, Section 41103: <a href="http://uscode.house.gov/browse/prelim@title49&amp;edition=prelim">http://uscode.house.gov/browse/prelim@title49&amp;edition=prelim</a> Code of Federal Regulations, Title 14, Part 204.2: <a href="http://www.ecfr.gov/cgi-bin/textidx?SID=9f7ab36826d6fc2b7a70fbf1874fb456&amp;mc=true&amp;tpl=/ecfrbrowse/Title14/14cfrv4_02.tpl#0">http://www.ecfr.gov/cgi-bin/textidx?SID=9f7ab36826d6fc2b7a70fbf1874fb456&amp;mc=true&amp;tpl=/ecfrbrowse/Title14/14cfrv4_02.tpl#0</a>	OECD-STRI Database	2014
64	Air transport	<a href="#">Aviation: ownership restrictions: Foreign Direct Investment Limitations</a>	US Code 40102	MADB	2014
65	Air transport	<a href="#">Aircraft Leasing: Discriminatory treatment</a>	-	MADB	2008
66	Services auxiliary to all modes of transport - Customs broking	A customs broker's license is required to conduct customs business on behalf of another person. Only U.S. citizens may obtain such a license. A corporation, association, or partnership established under the law of any state may receive a customs broker's license if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license."	-	APEC Services Trade Access Requirements (STAR) Database	2012

	<b>Sector</b>	<b>Description</b>	<b>Relevant Law</b>	<b>Source</b>	<b>Date</b>
67	Courier services	Explicit access discrimination favours local firms in public procurement. The USPS which has been designated by the United States government to provide fundamental postal services is exempted from the application of federal procurement laws - the Federal Acquisition Regulation, but also from the application of other laws concerning contracts, property, works, officers, employees, budgets, and funding; as well as the establishment, adjudication, and judicial review of administrative procedures and determinations. Its special status as part of the government implies that USPS is already exempt from a variety of laws that would otherwise apply to companies, among which competition law. Because this preferential treatment is not applied to other companies, this measure is indirectly imposing an adverse burden on other companies in the sector.	The United States Postal Service: <a href="http://about.usps.com/manuals/spp/html/spp7_034.htm">http://about.usps.com/manuals/spp/html/spp7_034.htm</a>	OECD-STRI Database	2014
68	Courier services	The procurement process affects the conditions of competition in favour of local firms	The United States Postal Service: <a href="http://about.usps.com/manuals/spp/html/spp7_034.htm">http://about.usps.com/manuals/spp/html/spp7_034.htm</a>	OECD-STRI Database	2014
69	Educational services	Cosmetology schools in Kentucky must be licensed. The number of cosmetology school licenses is limited to 48, with a total of 8 licences allowed for operation of such schools per congressional district	-	APEC Services Trade Access Requirements (STAR) Database	2013

