

No reason why this profession should be closed to competition

Many years ago, in response to a question on why lawyers were not included in the list of those liable to pay service tax, the then finance minister [P Chidambaram](#) joked that this was because lawyers never provided any service. Much water has flown under the bridge since and, in recent years, the government has been discussing the possibility of opening the sector to foreign competition. Should this happen, given this is a key demand of countries like the US and the UK, it will also help shore India's position when it comes to negotiations in international trade in services. The problem, however, is that whenever there is talk of opening up the market, local lawyers argue the principle of reciprocity—if Indian lawyers can't practice in the US or the UK, why should their lawyers be allowed to appear in Indian courts? While that is a legitimate demand, it is relatively simple for all countries to either recognise each other's degrees or allow each other's lawyers to pass the local bar exam before practising—in the case of the US, where each state has its own rules, the reciprocity will have to be at that level.

In this context, the recent Supreme Court judgment that allows foreign lawyers to fly in and fly out of India and give advice on international legal issues is a good one. This includes drafting instruments and being part of discussions on the issue. Indian companies do a lot of work, including acquisition of assets overseas, and being able to get legal expertise from these countries is welcome—indeed, foreign companies working in India might be more comfortable getting advice from lawyers/firms they are familiar with. Of course, it remains to be seen how often these lawyers can come in under the fly-in-fly-out principle. What is needed is more liberalisation. Given how most sectors of the economy have been opened up to foreign competition, it is not clear why the legal profession should be sheltered for so long.

Indeed, the presence of foreign law firms will provide more employment opportunities for young lawyers and even help raise their salaries/retainers. While it is natural for bigger law firms to want to keep the competition out, it is worth keeping in mind that, as in all other cases, there is a limit to how many expatriates will actually come in—in order to be taken seriously by Indian clients, as well as to keep costs down, most foreign law firms will prefer to hire as many Indian lawyers as well. At a time when the government is trying to make India a global arbitration hub, the presence of global law firms will, in fact, reassure foreign investors since many of these

firms will be those they have dealt with in the past.