WORLD EMPLOYMENT CONFEDERATION
The Voice of Labour Market Enablers

Smart Regulation Index on the employment industry

Balancing flexibility with security

Introduction

In 2011 the World Employment Confederation[1] together with BCG, developed an index showing how appropriate the regulation of our industry in various countries was. As mentioned in "Adapting to Change":

> *The sector itself recognizes that an appropriate and balanced regulatory framework is an essential pre-requisite for the acceptance and the sound development of the industry (…). In this context, achieving an appropriate balance between flexibility and security is key if the potential of the industry to increase labour market efficiency is to be realized for the benefit of all actors involved. An effective regulatory system needs to maintain flexibility for all parties (…). It also needs to provide a level of security for both parties: companies require legal security when contracting flexible work and access to skills while workers demand work security, continuity of rights between assignments and the possibility to maintain and develop employability.*

In other words, the country with a regulatory framework that allows the employment industry to do business as free as possible while also effectively protecting workers' rights would score best on the index.

In the summer of 2015, the index was updated, giving a new overview of labour markets, adding several countries to the list, and allowing for a comparison of countries over the past four years.

In this toolkit, we will discuss methodology, some general conclusions, some implications for global and European public affairs, and we will end with some suggestions for national public affairs.

Methodology

The index was composed based on a survey among the members of the World Employment Confederation, each assessing the regulation in their respective countries. Each member was asked to score the regulatory framework on four distinct dimensions:

1. **Freedom of establishment** – how easily can agencies set up a legitimate business in a country, addressing legal recognition, limitations on services and any unjustified restrictions in place.
2. **Freedom to provide services and contracts** – are agencies allowed to offer a range of services and contracts, or are they limited in their operations?
3. **Freedom to negotiation and social protection** – is there a meaningful social dialogue that might even establish bi-partite funds, does the sector have the ability to implement social protection for its workers?
4. **Freedom to contribute to labour market policies** – including public private partnerships, access to training for workers, and the commitment to fight illegal practices.

[1] In 2011 the World Employment Confederation existed under the name of Ciett.

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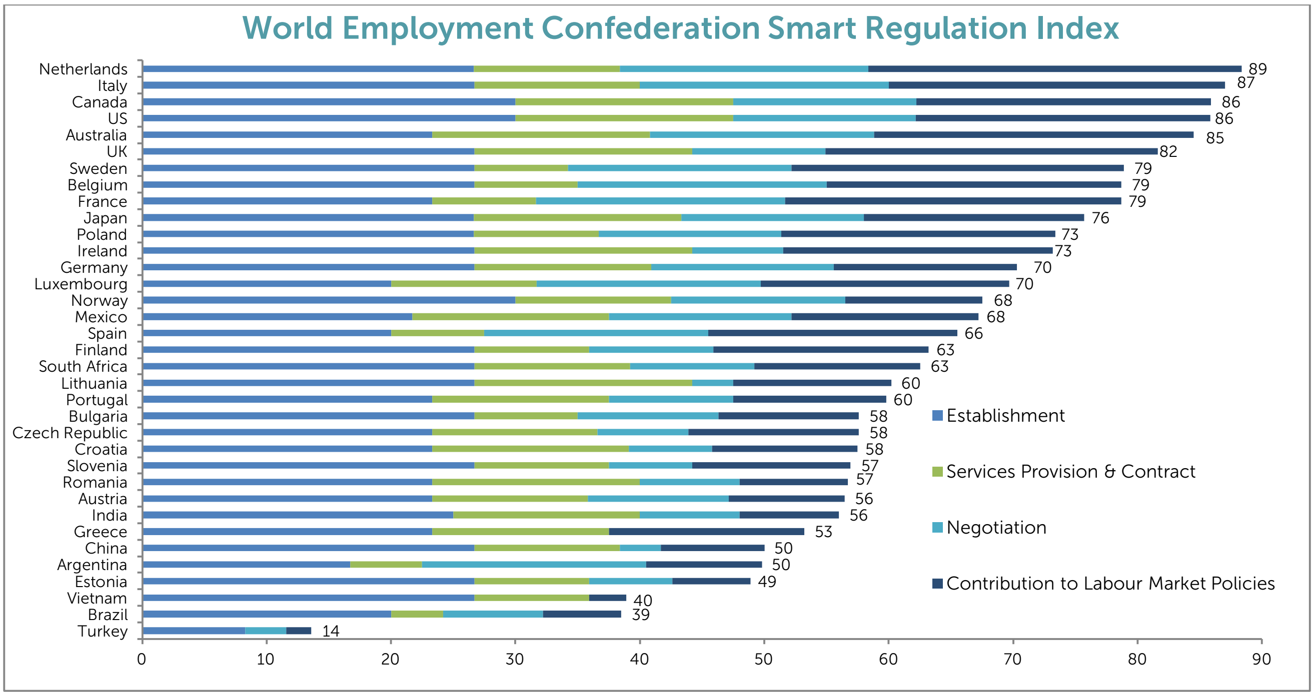
Main outcomes of the survey

These are the results for the 2015 smart regulation Index: For each country listed in this chart, you can see how well they scored on each of the four categories that was mentioned above: freedom of establishment, to provide services, to engage in negotiations, and contribute to labour market policies. The maximum possible score is 100, the country with the highest score offers the best mix of flexibility and security for companies and workers. For a complete breakdown of the index by category, please see Annex 1



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From this chart it becomes clear that two types of countries score well on this index: the "social dialogue countries", where our industry and labour market regulation is strongly influenced by negotiations between the social partners, and the "market driven countries", where labour laws are relatively liberalised. The bottom of the index is mostly formed by emerging market economies that have little or no specific legislation on our industry in place. Where there is legislation, such as in Brazil or Argentina, it is outdated and rigid.

A few remarks on some of the highest scoring countries:

- In the Netherlands, due to a high social acceptance of agency work as well as a strong social dialogue, the regulatory environment is best suited. There is a risk though of a negative effect as more and more restrictions are included in collective labour agreements (CLA's).
- Italy sees the positive effect of its recent jobs act and changes to labour market regulation, giving more freedom to agencies to find solutions for workers and clients.
- The next four countries on the list, Canada, US, Australia and UK are all typical Anglo-Saxon countries, with a low level of labour market regulation, and a great amount of freedom for agencies and employers.

An interesting picture emerges when looking at the development of smart regulation between 2011 and 2015. It clearly shows how some countries made significant labour market reforms in the past few years. A few remarks about the most notable cases:

- Several countries have made significant changes in their overall labour market regulation, also lifting restrictions in place on our industry: Italy, Argentina, Greece, Spain, France. In each case. This leads to a higher score on the index.
- In other countries, smaller changes were made, applying directly to our industry: Czech Republic, Luxembourg, South Africa.
- Austria's situation deteriorated mostly due to restrictions imposed via Collective Labour Agreements, a phenomenon we unfortunately see in more countries such as the Netherlands and Sweden.
- Other countries remain at the bottom due to outdated regulation and a lack of reform. This is most clearly the case in Brazil and Turkey.

To sum up, the following general conclusions can be drawn from the index directly:

- There is still a lot of diversity in smartness of regulation between countries, even countries within the EU, who have all implemented the European Agency Work Directive.
- Countries that update their labour market legislation do indeed offer a smarter regulation, such as the examples of Spain and Italy clearly show.
- Both Anglo-Saxon "market-driven" labour markets as well as social-dialogue countries can offer a smarter regulation for our industry. A range of "emerging" economies, both in Europe (Central and Eastern Europe) as well as other regions (BRICS countries) score less well as proper regulation on the employment industry has not yet been adopted or updated.

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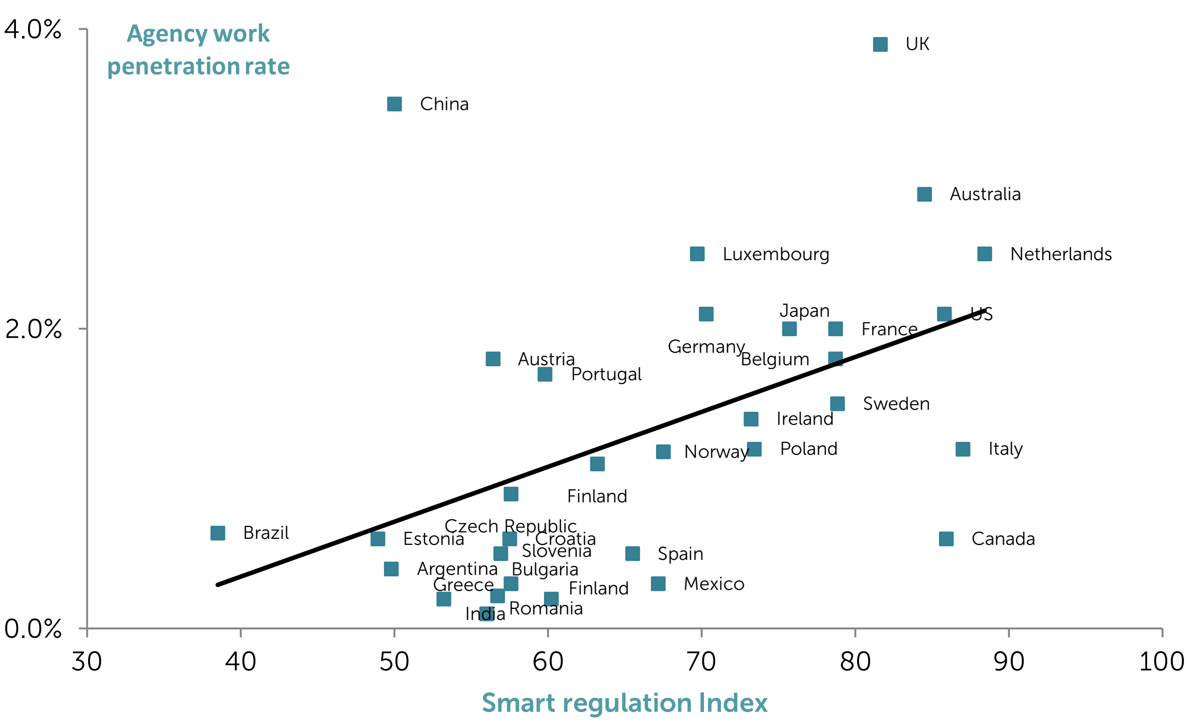
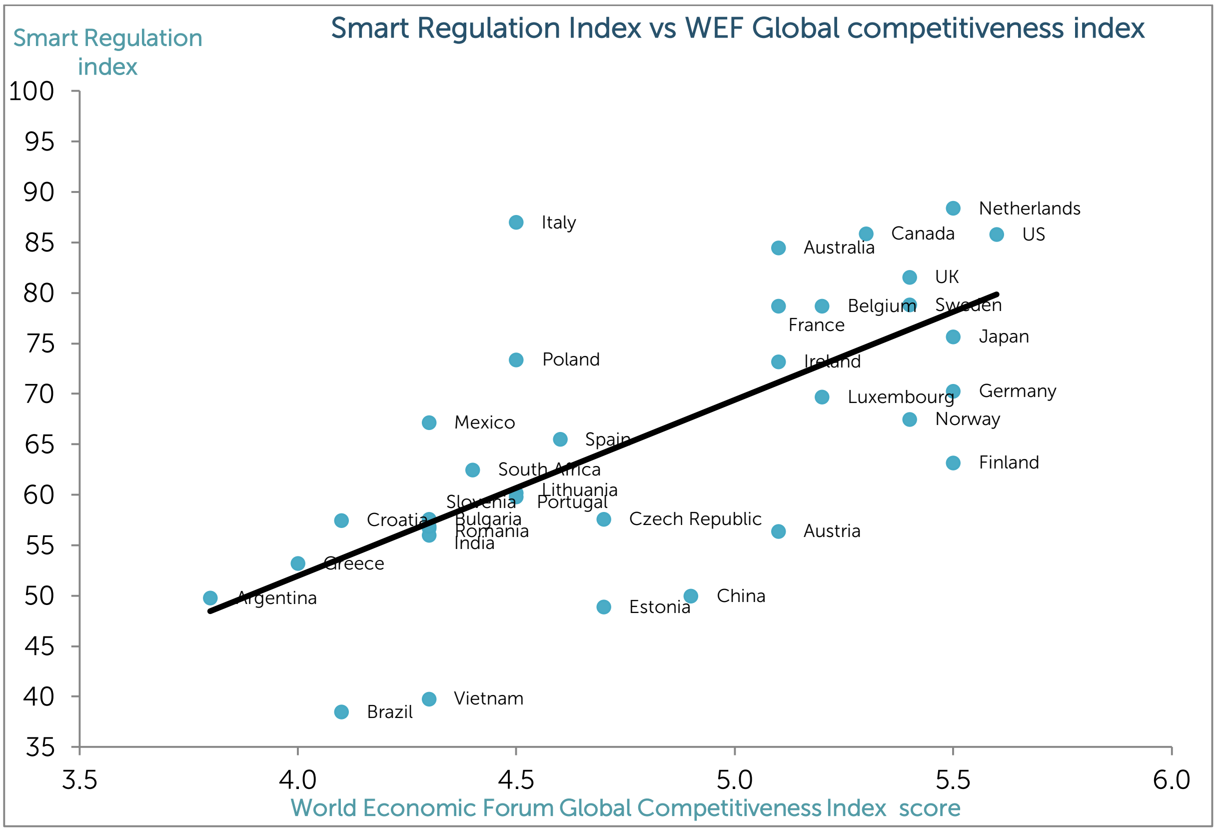
Regulatory fitness plotted against several other indicators

Size of our industry: First of all, it is clear that the employment industry can only thrive in an appropriate regulatory environment. Countries with a better score on the smart regulation index show higher penetration rates of agency work.

Right level of regulation allows agency work to contribute to labour market



Competitiveness: Secondly, if one relates our smart regulation index with the World Economic Forum (WEF) Global Competitiveness index, it clearly illustrates how appropriate labour market regulation correlates with a better competitiveness. Although one has to be careful when ascribing causality to this correlation, the message is clear: more efficient labour markets are an important factor in global competitiveness.



Policy recommendations

The implications of this index for individual countries depend on the situation that country is in. In general:

- Countries that score high on this index:
  - Should make sure to resist the call for a (negative) change in policy, as it will reduce regulatory fitness;
- Countries that score medium to low on this index:
  - While they are not worst off, they could take some higher scoring peers as an example;
- Countries that have improved since 2011:
  - Great to see progress made, an illustration of how legislative changes actually make a difference, but there is still a long way to go, the job is not finished!
- Countries that have deteriorated since 2011:
  - Clearly, regulatory changes are hurting our industry, are hurting the competitiveness of the economy, and are hurting social justice by limiting labour market access.

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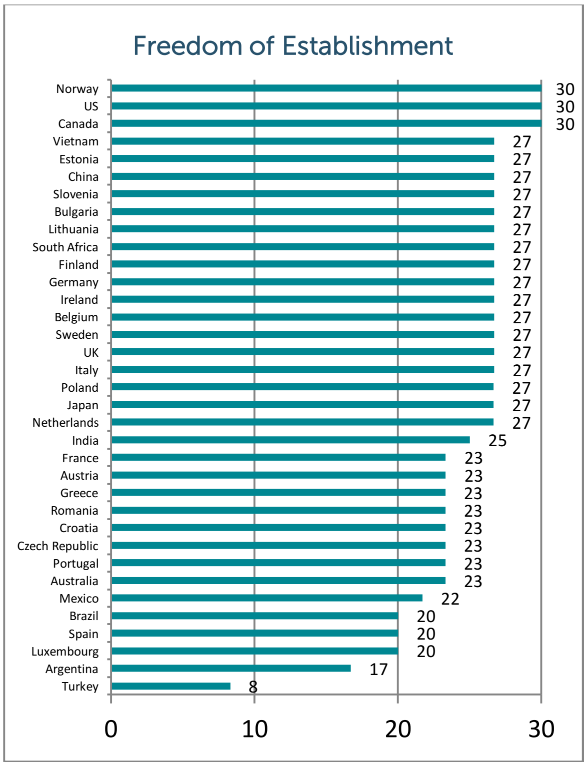
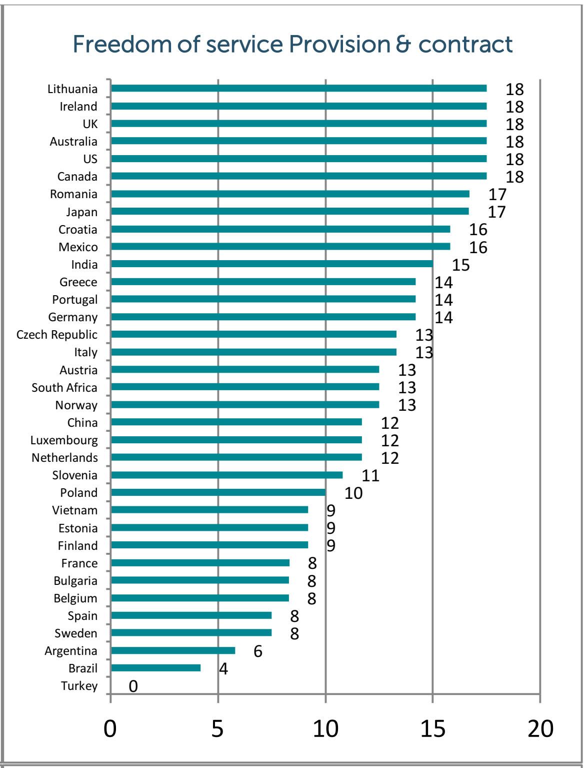
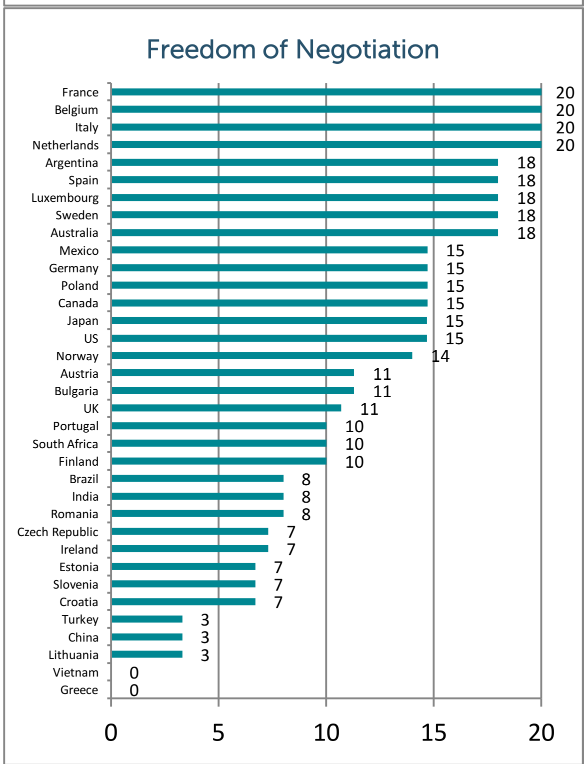
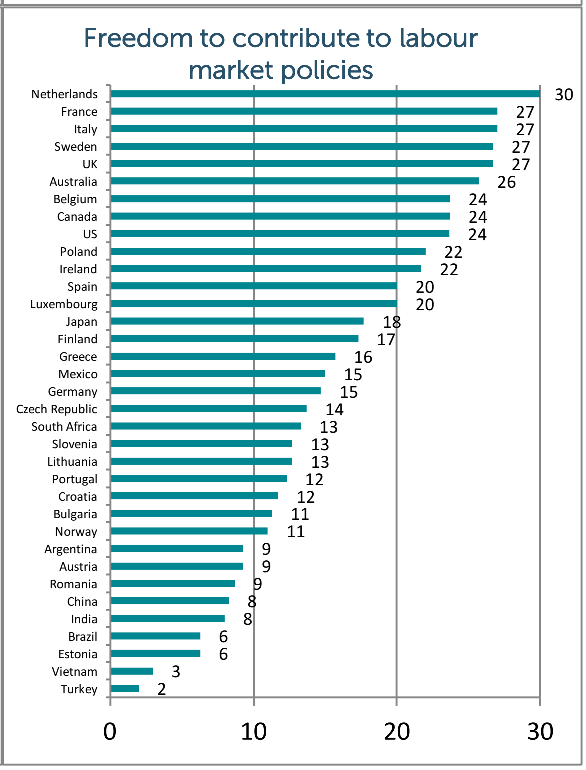
Annex 1: breakdown of the smart regulation index by category









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