



INVESTMENT POLICY MONITOR



UNITED NATIONS
UNCTAD

H I G H L I G H T S

- During the review period (October 2016 - February 2017), several countries took noteworthy investment policy measures at the national level. Among them are the issuance of a comprehensive circular to attract foreign investment in China, the issuance of Guidelines on the National Security Review of Investments in Canada and the introduction of new public-private partnership laws in Argentina and Romania. Another important feature was new privatisation measures in France, Greece, Republic of Korea, the Netherlands and the Russian Federation. On the other hand, Indonesia introduced a foreign ownership limit on electronic payment service firms.
- Thirty-three countries took 49 investment policy measures in the review period. The share of liberalisation and promotion measures reached 82 per cent - broadly in line with the average of the last five years.
- Most policy measures improved entry conditions, reduced restrictions or facilitated foreign investment, with developing countries and transition economies taking the lead. New foreign investment-related regulations or restrictions were mainly based on strategic or national security considerations.
- Despite the overall favourable development for foreign investment, the latter may be negatively affected by policies in other areas, such as protectionist trade policies, or by restrictive administrative decisions of host countries in respect of individual investment projects. This has led to concerns about a rise in investment protectionism.
- The universe of international investment agreements (IIAs) is expanding, as countries continue to sign and negotiate new IIAs, including megaregional initiatives. During the reporting period, countries concluded eleven bilateral investment treaties (BITs) and two treaties with investment provisions (TIPs), bringing the total number of IIAs to over 3,330.
- A number of IIA terminations took effect and negotiations of some mega-regional agreements face mounting challenges due to domestic concerns inducing a recalibration and re-evaluation of international investment policies at the regional level.
- New IIA provisions include elements ensuring the parties' right to regulate in the public interest, clarifying or refining certain provisions (e.g. the definition of investment and investor, fair and equitable treatment (FET), indirect expropriation and investor-State dispute settlement (ISDS)), or addressing corporate social responsibility (CSR) and/or investor obligations.
- Work to establish a multilateral court for settling investment disputes intensified, with exploratory discussions driven by Canada and the European Commission.
- Discussions on investment facilitation to fill the systemic gap in IIAs gained further traction. UNCTAD's Trade and Development Board endorsed the organization's Global Action Menu for Investment Facilitation as a "high-quality reference document". Investment facilitation was also addressed during the first session of the G20 Trade and Investment Working Group (TIWG) held under the German G20 presidency.

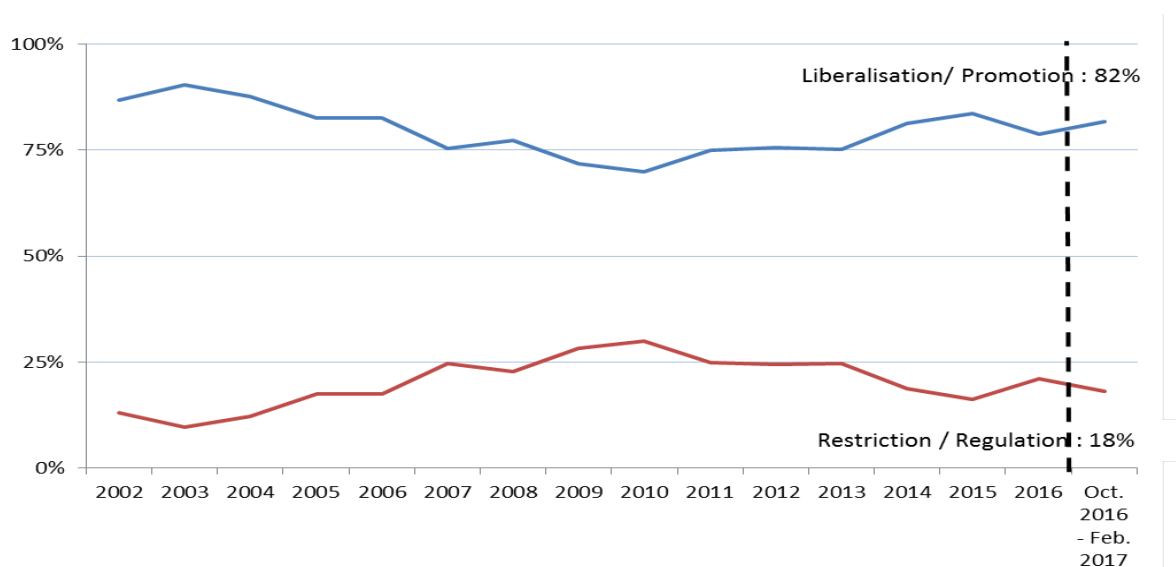
A. National investment policies

In total, 49 measures were taken by 33 countries (table 1). As in previous review periods, the majority of new investment policy measures aimed at creating more favourable investment conditions (figure 1). Investment liberalisation, promotion and facilitation measures were adopted in numerous industries, with developing countries and transition economies taking the lead. New investment restrictions or regulations for foreign investors were mainly based on considerations of national security or development of strategic industries.

The share of investment liberalisation, promotion and facilitation measures during the reporting period (October 2016 - February 2017) attained 82 per cent, broadly in line with the average in recent years. For the entire year 2016, this share stands at 79 per cent. Compared to the peak in investment liberalisation and promotion in 2015, the latest reporting period shows a slight decrease of two percentage points.

The overall favourable development for foreign investment does not mean that investing abroad has generally become easier. The policy measures reported in UNCTAD's Investment Policy Monitor are limited to investment-related laws and regulations. Informal, less traceable measures from home and host countries - such as the exercise of discretion, administrating existing policies and political messages addressed to investors - may negatively affect foreign investment. Also, policy measures in other areas, in particular protectionist trade policies as reported by the WTO¹, can indirectly affect foreign investors in a negative manner. This has raised concerns about a rise in investment protectionism.

Figure 1: Changes in national investment policies, 2002 - February 2017*



Source: ©UNCTAD.

* The data in the figure do not include measures related to the general business climate, such as corporate taxation, environmental or labour legislation.

Table 1. Summary of national investment policy measures adopted between October 2016 and February 2017

	Entry /Establishment (21)	Treatment (13)	Promotion and facilitation (14)	General business climate (9)
Argentina (*)	1	2		
Benin			1	
Brazil	1			
Canada	1			1
China (*)	1	2	1	

¹ Source: The latest 'TRADE MONITORING' on 9 December 2016. See https://www.wto.org/english/news_e/news16_e/trdev_09dec16_e.htm

Colombia (*)	1	1	1	
Croatia				1
Egypt				1
France	2			
Germany	1			
Greece	2			
Hungary				1
Iceland		1		1
India (*)	1	1	1	
Indonesia	1	1		
Israel			1	
Italy			2	
Jordan		1		
Kazakhstan			2	
Korea, Republic of	1		1	
Luxembourg				1
Myanmar (*)	1	2		
Netherlands	1			
Poland		1		
Romania (*)	1	1		
Russian Federation	2			1
Tunisia			1	1
Turkey			1	
Ukraine				1
United States of America	1			
Uzbekistan (*)	1		1	
Viet Nam	1			
Zimbabwe			1	

Source: ©UNCTAD.

* Measures are double-counted because they related to more than one type.

1. Entry/Establishment of investment

Eighteen countries - *Argentina, Brazil, Canada, China, Colombia, France, Germany, Greece, India, Indonesia, Republic of Korea, Myanmar, the Netherlands, Romania, the Russian Federation, the United States of America, Uzbekistan* and *Viet Nam* - adopted new policy measures relating to the entry and establishment of foreign investors. The majority of them relaxed restrictions on foreign ownership or opened up new business opportunities.

Among the most noteworthy investment liberalisation measures are:

- *Argentina* passed a public-private partnership (PPP) law to attract investment in productive activities, public infrastructure, housing, applied research and innovative technologies. The law regulates contracts between the State and the private sector for the development of projects.
- *Brazil* lifted the requirement for the national oil company to be the sole operator of all pre-salt oil fields, and to hold a minimum of 30 per cent equity in each of these fields, opening the door to increased foreign investment.
- *China* issued a circular setting out the blueprint for its policies on attracting foreign investment. Inter alia, the Government decided to revise the "Catalogue for the Guidance of Foreign Investment industries", and to further open various industries.
- The Central Bank of *India* amended regulations in order to further liberalise and rationalise the investment regime for foreign venture capital investors and to encourage foreign investment in startups.
- *Romania* adopted a new PPP law in an effort to facilitate private sector involvement in public projects. The Law includes more flexible terms for determining the technical and economic indicators of the project and provides more options to finance investment.

- Privatisation measures in various sectors were undertaken in *France, Greece, Republic of Korea, the Netherlands* and *the Russian Federation*.

New regulatory or restrictive investment-related policy measures included:

- *Canada* issued "Guidelines on the National Security Review of Investments" in an effort to provide more clarity to foreign investors. These guidelines inform investors of the procedures that will be followed in the national security review process under the Investment Canada Act.
- *Germany* withdrew the initial certificate of non-objection of the takeover of the semiconductor manufacturer 'Aixtron' by a Chinese company.
- *Indonesia* imposed a 20 per cent limit on foreign ownership in companies that offer electronic payment services.
- *The United States of America* prohibited the acquisition of a U.S. subsidiary of 'Aixtron' by a Chinese company on the basis of national security concerns.

2. Treatment of established investment

Ten countries - *Argentina, China, Colombia, Iceland, India, Indonesia, Jordan, Myanmar, Poland* and *Romania* - took measures with respect to the treatment of investors after establishment in the host country. For example,

- *Iceland* relaxed capital controls on households and businesses. Inter alia, it liberalised foreign outward direct investment, subject to confirmation by the Central Bank of Iceland.
- *Indonesia* increased the minimum local content requirement for domestically-produced 4G smartphones that are sold in the Indonesian market from 20 per cent to 30 per cent.
- *Myanmar* revoked the ceiling on the amount of funds that foreign-local joint venture trading firms can use in their operations. This removes the obligation to register any additional amounts of foreign currency required for investment purposes.

3. Promotion/Facilitation of investment

Twelve countries - *Benin, China, Colombia, India, Israel, Italy, Kazakhstan, Republic of Korea, Tunisia, Turkey, Uzbekistan* and *Zimbabwe* - adopted measures for the promotion and facilitation of investment. On the whole, countries encouraged investment through granting tax incentives or facilitating investment procedures. For instance,

- *Benin* launched an on-line platform ('iGuide'), providing information to build and develop business plans for domestic and foreign investors.
- *Colombia* modernized its foreign investment registration scheme. In particular, registration deadlines have been eliminated.
- *Israel* launched a new incentive programme – *Innovation Visas for foreign entrepreneurs* – to attract innovative foreign entrepreneurs.
- *Italy* increased the tax credit for business engaged in research and development (RandD) by 300 per cent. It also adopted new rules to provide for a 'golden visa' for foreign investors, subject to certain conditions.
- In *Kazakhstan*, the Government adopted a resolution listing the categories of expatriates that do not require a work permit. The Government also introduced new rules on the application and extension of work permits for expatriate employees.
- *The Republic of Korea* restructured tax incentives for foreign direct investment (FDI) companies engaged in high-tech businesses and extended the benefits.
- *Turkey* introduced a regulation, offering, subject to certain conditions, Turkish citizenship to foreign investors.

- *Uzbekistan* issued a decree to simplify the procedures and speed up the process of sale of State property, and to eliminate administrative barriers to privatization.
- *Zimbabwe* introduced various tax incentives for companies within special economic zones. These incentives will only apply to production for export.

4. General business climate

Nine countries - *Canada, Croatia, Egypt, Hungary, Iceland, Luxembourg, Russian Federation, Tunisia and Ukraine* - took measures affecting the general business climate.² For example,

- *Egypt* adopted a new bankruptcy law.
- *Hungary* reduced the corporate tax rate to 9 per cent.
- *Tunisia* imposed a 7.5 per cent special contribution tax on the profits of businesses in addition to corporate income tax.

B. International investment policies

1. International investment agreements (IIAs) signed

During the reporting period, eleven bilateral investment treaties (BITs) and two treaties with investment provisions (TIPs)³ were signed, bringing the total number of IIAs to over 3,330 by end-February 2017.⁴ During the reporting period, the termination of four BITs took effect.⁵

Table 2. List of IIAs signed between 1 October 2016 and 28 February 2017

	Name of the agreement	Date of signature
1	Free Trade Agreement (FTA) between Chile and Uruguay	4 October 2016
2	BIT between Morocco and Rwanda	19 October 2016
3	Comprehensive Trade and Economic Agreement between Canada and the European Union (CETA)	30 October 2016
4	BIT between Rwanda and Turkey	3 November 2016
5	BIT between Nigeria and Singapore	4 November 2016
6	BIT between Argentina and Qatar	6 November 2016
7	BIT between Chile and Hong Kong, China SAR	18 November 2016
8	BIT between Morocco and Nigeria	3 December 2016
9	BIT between the United Arab Emirates and Ethiopia	3 December 2016
10	BIT between Republic of Moldova and Turkey	16 December 2016
11	Trade and Investment Framework Agreement between Paraguay and the United States of America (TIFA)	13 January 2017
12	BIT between Mozambique and Turkey	24 January 2017
13	BIT between Israel and Japan	1 February 2017
14	BIT between Iran and Luxembourg	14 February 2017

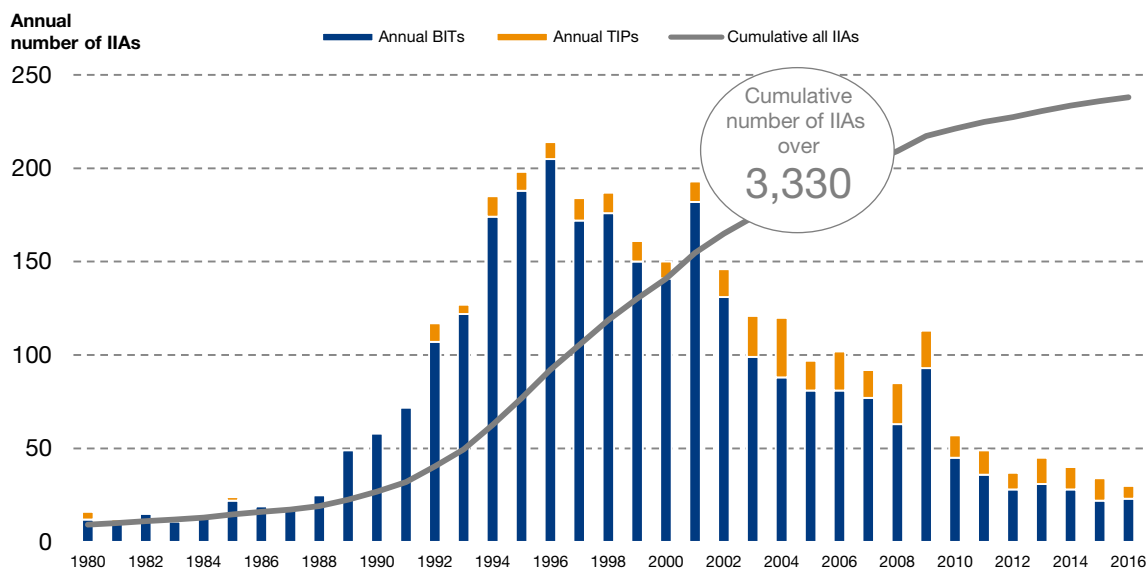
Source: ©UNCTAD, IIA Navigator.

² The following examples are a non-exhaustive overview.

³ Treaties with investment provisions encompass economic agreements other than BITs that include investment-related provisions (e.g. investment chapters in economic partnership agreements and free trade agreements, regional investment agreements and framework agreements on economic cooperation). Three main types of TIPs can be distinguished: (i) TIPs that include obligations commonly found in BITs, including substantive standards of investment protection and ISDS; (ii) TIPs that include limited investment provisions; and (iii) TIPs that establish an institutional framework between the Parties to promote and cooperate on investment.

⁴ The following discussion is based on IIAs for which text was available.

⁵ The Argentina-Indonesia BIT (1995) was jointly terminated on 19 October 2016. Three BITs were unilaterally terminated: the India-Netherlands BIT (1995) on 1 December 2016, the Indonesia-Pakistan BIT (1996) on 3 December 2016 and the Indonesia-Spain BIT (1995) on 18 December 2016.

Figure 2: Trends in IIAs signed, 1980-2016


Source: ©UNCTAD, IIA Navigator.

Note: Preliminary data for 2016.

During the reporting period, Turkey was most active in concluding IIAs with three treaties, followed by Morocco, Nigeria and Rwanda with two treaties each. Looking at 2016 as a whole, the year saw the conclusion of 30 new IIAs – 23 BITs and seven TIPs. A detailed analysis of the 2016 IIAs, including their content and use of sustainable development features, will be available in the World Investment Report 2017 (Chapter III) to be launched in June 2017.

The *Morocco-Rwanda BIT* includes a broad asset-based definition of investment. The definition of investor clarifies that natural persons with dual nationality shall be deemed to be exclusively a national of the State of his or her dominant and effective nationality. The BIT includes a full protection and security provision equated to the level of police protection necessary for investors without any further obligation; as well as a post-establishment national treatment (NT) and most-favoured-nation (MFN) treatment provision (specifying that MFN does not apply to investor-State dispute settlement (ISDS) provisions). The treaty includes provisions on expropriation; a provision on transfer of funds (with a list of exceptions); as well as a provision on ISDS. The BIT omits the fair and equitable treatment (FET) provision.

The *Rwanda-Turkey BIT* connects the definition of investment to business activities acquired for the purpose of establishing lasting economic relations and excludes investments through acquisition of shares amounting to less than ten per cent of a company through stock exchanges. The BIT includes a provision granting investments treatment in accordance with international law, including FET. It includes a post-establishment NT and MFN provision (specifying that MFN does not apply to the ISDS provision). The BIT also includes provisions on direct and indirect expropriation; a transparency provision regarding laws and regulations; a general exceptions provision; a provision on transfer of funds (with a detailed list of exceptions); and an ISDS provision covering only disputes arising directly out of investment activities that have effectively started and have obtained necessary permission in conformity with the relevant legislation of the host Contracting Party.

The *Nigeria-Singapore BIT* lists the characteristics an investment must have in order to be covered by the treaty (commitment of capital, expectation of gain or profit, or the assumption of risk). The treaty excludes from its scope subsidies or grants provided by a Party as well as taxation matters. It includes a FET provision qualified by reference to customary international law with a clarification that the obligation to provide FET includes the obligation not to deny justice and that a breach of another provision of the BIT (or of a separate agreement) does not establish a breach of FET. The BIT also clarifies that the MFN provision does not grant investors options or procedures other than those set out in the BIT. The expropriation provision (covering both direct and indirect expropriation) does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights. The treaty includes detailed exceptions to the transfer of funds provision; a provision on general exceptions; a provision on transparency

regarding laws and regulations; as well as provisions on the protection of health, safety and environmental measures and corporate social responsibility (CSR). The BIT also includes a denial of benefits provision for enterprises that have no substantial business operations in the territory of the other Party. The ISDS provision is detailed and includes among others a requirement that the submission of a dispute to arbitration should take place within three years of the time at which the disputing investor became aware of a breach of an obligation. The BIT does not include a NT provision.

The *Argentina-Qatar BIT* includes a broad asset-based definition of investment as well as post-establishment NT and MFN provisions (specifying that MFN does not apply to dispute settlement provisions of other treaties signed prior to the entry of force of this agreement). It includes an unqualified FET provision as well as an expropriation provision (covering both direct and indirect expropriation) and a free transfer of funds provision subject to exceptions. The BIT includes an ISDS mechanism, where the disputing parties are explicitly given the right to challenge arbitrators in case of a perceived lack of objectivity. The agreement also contains a CSR provision and a right to regulate provision for the protection of public health, safety and the environment.

The *Chile-Hong Kong (China SAR) Investment Agreement* builds on the Free Trade Area (FTA) signed between the Parties on 7 September 2012. It contains an asset-based definition of investment referring to the specific characteristics an investment must have (commitment of capital, expectation of gain or profit, or the assumption of risk). The treaty includes a NT provision setting out specific criteria to determine whether NT is accorded in "like circumstances", as well as a pre-establishment MFN provision that does not encompass international dispute resolution procedures. The agreement includes a FET provision qualified by a reference to the customary international law minimum standard of treatment of aliens. It also clarifies that a measure that may be inconsistent with an investor's expectations does not by itself constitute a breach of FET. The treaty includes an expropriation provision (with an annex clarifying the scope of direct and indirect expropriation), a prohibition on certain performance requirements, a free transfer of funds provision (subject to detailed exceptions), as well as an ISDS mechanism (including an obligation for arbitral tribunals to receive a joint determination on taxation measures by the Party's designated authorities). Before submitting a claim to arbitration, consultations must be held, trying to settle the dispute amicably. The agreement foresees the establishment of a Committee on Investments that can issue interpretations on any provision in the agreement, which are binding on arbitral tribunals. The agreement includes provisions on non-lowering of standards and CSR. It also contains provisions aimed at preserving the States' right to regulate in the public interest and to take measures to protect the environment and public health.

The *Morocco-Nigeria BIT* includes a definition of investment that refers to the sustainable development contribution of the investment on the host party, which describes the characteristics of an investment (commitment of capital or other similar resources, "pending profit", risk-taking and certain duration) and that excludes debt securities issued by a government, portfolio investments, and claims to money arising solely from commercial contracts. It also includes provisions on post-establishment NT and MFN treatment that include a specific definition of "like circumstances"; a FET provision with a clarification of States' obligations; protection in case of expropriation including a definition of what constitutes an indirect expropriation; a free transfer of funds provision subject to detailed exceptions; as well as a detailed provision on dispute prevention and an ISDS mechanism. The agreement contains innovative provisions requiring investors to comply with environmental assessment screening procedures prior to establishment, as well as a provision for investors to conduct social impact assessments of potential investments. The agreement also includes provisions aimed at protecting labour, public health and safety standards as well as separate provisions on the right to regulate, combating corruption and on CSR.

The *Chile-Uruguay FTA* does not include an investment chapter; however, it contains provisions on strengthening investment promotion and facilitation between the parties as well as a chapter on trade in services providing for market access, NT and MFN treatment; however, the services chapter expressly excludes the provision of services in the territory of a Party by a covered investment, as defined in the Chile-Uruguay BIT (2010).

The *Comprehensive Economic and Trade Agreement (CETA)*⁶ between the European Union (EU) and Canada, includes a chapter on investment that covers both liberalisation and protection of investments in both services and non-services sectors (e.g. manufacturing and agriculture). The articles on market access, NT, MFN treatment and on performance requirements apply to pre- and post-establishment. Exceptions to these rules are part of a negative list.

⁶ See also UNCTAD's Investment Policy Monitor (November 2016) available at: http://unctad.org/en/PublicationsLibrary/webdiaepcb2016d2_en.pdf.

The chapter clarifies that the MFN treatment does not cover investment dispute settlement provisions provided in other agreements, nor substantive provisions in other agreements, which are not applied through measures. As far as investment protection is concerned, CETA contains a dedicated provision on the right to regulate to achieve legitimate public policy objectives and to clarify that the mere fact that a Party changes its laws in a manner, which negatively affects an investment or interferes with an investor's expectations, including expectations of profits, does not amount to a breach of the Party's investment protection obligations. The chapter further contains a FET provision qualified with a closed list of situations that can amount to unfair or inequitable treatment. It covers direct and indirect expropriation (with clarifications on how to determine whether a measure of a Party constitutes an indirect expropriation) and a free transfer of funds provision (subject to detailed exceptions).

A key feature of the investment chapter is also the new approach on the resolution of disputes that arise between investors and States from the application of the investment protection provisions. The agreement establishes a first instance and an appellate tribunal, both composed of members appointed by the contracting parties to the agreement and subject to strict ethical standards. The members hearing individual cases are drawn by lot or are randomly assigned. Moreover, the treaty foresees the creation of a Joint Committee that can issue interpretations of the agreement that are binding on the tribunal. The agreement also contains a commitment by the parties to pursue with other trading partners the establishment of a multilateral investment tribunal and an appellate mechanism.

The EU and its member States and Canada adopted a Joint Interpretative Instrument at the time of signature of CETA. The Joint Interpretative Instrument clarifies what the EU and Canada have agreed in CETA, and covers areas such as the new Investment Court System, governments' right to regulate in the public interest, public services, and labour rights and environmental protection.⁷ The EU and Canada have initiated processes for the provisional application of the treaty (pending ratification),⁸ covering selected aspects of the investment chapter (e.g. market access, NT, performance requirements, transfers), among others, not including investment protection provisions (e.g. FET, expropriation) and the resolution of investment disputes between investors and States.

The *United States-Paraguay Trade and Investment Framework Agreement (TIFA)* establishes an institutional framework for cooperation between the two Parties on a number of economic issues that include trade, investment, market access and intellectual property rights protection.⁹

2. IIAs that entered into force

At least three IIAs entered into force during the reporting period: the BIT concluded between Saudi Arabia and Spain;¹⁰ the BIT concluded between Canada-Cameroon;¹¹ and the FTA concluded between Honduras and Peru.¹²

3. Ongoing IIA negotiations

During the reporting period, negotiations on megaregional initiatives continue. These include the negotiations for a Trade in Services Agreement (TISA),¹³ RCEP (ASEAN plus six other countries from the region), an African Continental Free Trade Area (CFTA) and negotiations on Phase II of the Common Market for Eastern and Southern Africa (COMESA)-East African Community (EAC)-Southern African Development Community (SADC) Tripartite Free Trade Area (TFTA). It is important to note that some negotiations are facing mounting challenges due to domestic concerns resulting in a recalibration and reevaluation of international investment policies.

⁷ <http://data.consilium.europa.eu/doc/document/ST-13541-2016-INIT/en/pdf>.

⁸ On 28 October 2016, the Council of the EU adopted a decision on the provisional application of CETA in advance of its ratification. On 24 January 2017, the International Trade Committee of the European Parliament voted in favour of approving the agreement. On 15 February 2017, the agreement was approved by the European Parliament by 408 votes to 254, with 33 abstentions. Canada is also engaged in a parliamentary approval process. Once Canadian parliamentary approval is secured, certain aspects of the agreement falling exclusively within EU competence will be provisionally applied at the time the agreement is ratified by EU member States and Canada. See <http://data.consilium.europa.eu/doc/document/ST-10974-2016-INIT/en/pdf>. See also <http://www.europarl.europa.eu/sides/getDoc.do?type=IM-PRESS&reference=20170124IPR59704&language=EN&format=XML>.

⁹ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/january/united-states-and-paraguay-sign>.

¹⁰ Entered into force on 14 December 2016, available at: <http://investmentpolicyhub.unctad.org/IIA/country/185/treaty/2875>.

¹¹ Entered into force on 16 December 2016, available at: <http://investmentpolicyhub.unctad.org/IIA/country/35/treaty/3537>.

¹² Entered into force on 1 January 2017, available at: <http://investmentpolicyhub.unctad.org/Download/TreatyFile/5341>.

¹³ https://www.wto.org/english/thewto_e/minist_e/mc9_e/brief_serv_e.htm.

Trade in Services Agreement

TISA negotiations are being conducted by 23 members of the World Trade Organization (WTO).¹⁴ On 2-10 November 2016, the 21st round of negotiations was organized and chaired by the EU. Discussions were held on key annexes as well on institutional arrangements, such as dispute settlement. Progress was made on many of these issues, though several differences persist amongst the negotiating Parties (e.g. regarding market access for new services and on certain aspects of dispute settlement). No updated work-plan has been determined regarding the possible end-date of the negotiations.¹⁵

Regional Comprehensive Economic Partnership¹⁶

On 1-10 December 2016, the 16th round of negotiations for RCEP, involving the ten members of the Association of the Southeast Asian Nations (ASEAN) plus six other countries from the region, were held in Tangerang, Indonesia. Discussions focused on trade in goods, trade in services, investment, intellectual property rights, competition and e-commerce. The chapter on Small- and Medium-sized Enterprises was concluded during this round. This is the second chapter to be concluded since the conclusion of the chapter on Economic and Technical Cooperation at the 15th round in Tianjin, China.¹⁷ The 17th round of RCEP negotiations took place in Kobe, Japan from 27 February-3 March 2017.

Continental Free Trade Agreement

On 9-14 January 2017, the 7th meeting of the Continental Free Trade Area Continental Task Force (CFTA-CTF)¹⁸ was held in Nairobi, Kenya. The objective of this meeting was to conduct a diagnostic analysis of the proposed options for CFTA negotiations modalities and to prepare the zero draft text for consideration by the member States. The 5th meeting of the CFTA Negotiating Forum is scheduled to be held on 2-4 March 2017.

Transatlantic Trade and Investment Partnership

On 3-7 October 2016, the 15th round of Transatlantic Trade and Investment Partnership (TTIP) negotiations were held in New York, United States. On 17 January 2017, the EU and the United States published a joint assessment of the progress made in the negotiations for the TTIP. The joint report outlines progress made during the negotiations but also areas where work is still needed. These include for example, tariff lines, market access in services sectors, sanitary and phytosanitary measures, licensing of experienced professionals, government procurement, and investment protection, including with respect to dispute resolution mechanisms.

Trans-Pacific Partnership Agreement

On 30 January 2017, the United States issued a letter to signatories of the Trans-Pacific Partnership Agreement (TPP) that it has formally withdrawn from the agreement and that it has no legal obligations arising from its signature on 4 February 2016.¹⁹ The TPP was originally signed between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Viet Nam, on 4 February 2016.²⁰

COMESA-EAC-SADC Tripartite Free Trade Area

On 25 October 2016, the 10th EAC-COMESA-SADC Tripartite Committee of Senior Officials for Trade, Customs, Finance, Economic matters and Internal Affairs meeting was held in Nairobi, Kenya to resolve outstanding issues

¹⁴ The 23 WTO members that are taking part in the TISA talks are Australia, Canada, Chile, Taiwan Province of China, Colombia, Costa Rica, the European Union, Hong Kong China, Iceland, Israel, Japan, Republic of Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, Turkey and the United States.

¹⁵ http://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155095.pdf.

¹⁶ RCEP (ASEAN+six) is a proposed FTA between the ten member States of the Association of Southeast Asian Nations (ASEAN) (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam) and Australia, China, India, Japan, Republic of Korea and New Zealand.

¹⁷ <http://english.mofcom.gov.cn/article/newsrelease/significantnews/201612/20161202297038.shtml>.

¹⁸ The CFTA would create a free trade area among the member States of the African Union.

¹⁹ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/january/US-Withdraws-From-TPP>.

²⁰ Further details pertaining to the TPP, see UNCTAD's Investment Policy Monitor (March 2016), p. 5-6. http://unctad.org/en/PublicationsLibrary/webdiaepcb2016d01_en.pdf.

before the implementation of the Tripartite Free Trade Area (TFTA).²¹ The COMESA-EAC-SADC TFTA²² was launched in June 2015, and will come into force once ratification is attained by two-thirds of its 26 member States.

4. Other IIA-related developments

In addition to the conclusion, entry into force and negotiation of IIAs, there were a number of other important developments related to international investment policies. The following is a non-exhaustive overview, in chronological order.

Lima Declaration on the Free Trade Area Asia-Pacific

On 20 November 2016, the Asia-Pacific Economic Cooperation (APEC) Economic Leaders' Meeting was held in Lima, Peru, where the Declaration on advancing quality growth and human development was adopted.²³ The Declaration focuses on addressing challenges and opportunities for free trade and investment in the current global context. Annex A to the Declaration entitled, "Lima Declaration on Free Trade Area of the Asia-Pacific (FTAAP)" encourages "the conclusion of comprehensive and high quality" regional trade agreements (RTAs) and free trade agreements and reaffirms that the eventual FTAAP will be of high quality, comprehensive which incorporates and address 'next generation' trade and investment issues.²⁴

The Pan African Investment Code

On 24 November 2016, the Pan African Investment Code (PAIC) was discussed during the 8th African Union (AU) Private Sector Forum held in Nairobi, Kenya. Discussions focused on the legal nature of the PAIC (whether it should be a soft law instrument or a legally binding international treaty). The code was subsequently amended into a model instrument and is now scheduled for submission at the 2017 Conference of AU Ministers to be held in Dakar, Senegal in March 2017.

The Union of South American Nations Centre for the Settlement of Investment Disputes

In November 2016, the national experts from the Union of South American Nations (UNASUR) held a meeting in Caracas, Venezuela to continue the ongoing consultations on the constituting agreement of the region's investment dispute resolution centre.

UNCTAD's Trade and Development Board

On 6 December 2016, the 63rd session of UNCTAD's Trade and Development Board (TDB) was held in Geneva, Switzerland. The high-level session of UNCTAD's governing body debated how to fill the systemic gap caused by the relative absence of investment facilitation elements in both national and international investment policies. In this regard, a full session was dedicated to UNCTAD's Global Action Menu for Investment Facilitation that was included in UNCTAD's World Investment Report 2016 and incorporated feedback from multi-stakeholder consultations and intergovernmental processes at UNCTAD's 14th Ministerial Conference and the 5th World Investment Forum held on 17-21 July 2016 in Nairobi, Kenya. Member States endorsed UNCTAD's Action Menu as a "high-quality reference document for investment facilitation policies".²⁵

EU-Africa Investment Principles

On 9 December 2016, in the context of the Joint African, Caribbean and Pacific (ACP) Group of States-European Commission Ministerial Trade meeting in Brussels, Belgium—a meeting was held on the margins between the

²¹ <https://www.trademarka.com/news/sadc-eac-and-comesa-seek-to-implement-tripartite-free-trade-area/>.

²² The CFTA would create a free trade area among the 26 countries of the EAC, COMESA and SADC.

²³ <http://www.apec2016.pe/2016/11/apec-leaders-issue-declaration-in-lima/>.

²⁴ http://www.apec.org/Meeting-Papers/Leaders-Declarations/2016/2016_aelm/2016_Annex%20A.aspx.

²⁵ UNCTAD's Global Action Menu for Investment Facilitation recently was used for a review of existing policy practices in the area of investment facilitation. This review follows the publication of the updated version of the Action Menu in September 2016. Available at: <http://investmentpolicyhub.unctad.org/EventsCalendar/Details/532>.

European Commission and representatives of a number of African countries to explore opportunities on how to foster a dialogue on investment policy issues in order to develop joint EU-Africa Investment Principles.²⁶

UN Convention on Transparency in Treaty-based Investor-State Arbitration

On 12 December 2016, Canada ratified the UN Convention on Transparency in Treaty-based Investor-State Arbitration, also known as the Mauritius Convention on Transparency,²⁷ becoming the second country to ratify the Convention, after Mauritius. The Convention will provide a global mechanism to make the UNCITRAL Rules on Transparency applicable to existing IIAs (i.e. IIAs concluded before April 2014). Adopted on 10 December 2014, the Convention will enter into force six months only after the deposit of the 'third' instrument of ratification, acceptance, approval or accession.

Discussions on the Establishment of a Multilateral Investment Court

On 13-14 December 2016, Canada and the European Commission co-hosted first exploratory discussions with third countries on the establishment of a multilateral investment court in Geneva, Switzerland.²⁸ A non-paper outlined the functioning of the proposed multilateral investment court and identified discussion points. Shortly after, on 21 December 2016, the European Commission launched a public consultation on a multilateral reform of investment dispute settlement, which is open until 15 March 2017.²⁹ A ministerial-level breakfast discussion on the multilateral investment court initiative was co-hosted by the European Trade Commissioner and Minister of International Trade of Canada on 20 January 2017 on the margins of the World Economic Forum in Davos, Switzerland.³⁰ In CETA, signed in October 2016, Canada and the EU committed to "pursue with other trading partners the establishment of a multilateral investment tribunal and appellate mechanism for the resolution of investment disputes" (Article 8.29). A similar provision for Parties to "enter into negotiations for an international agreement providing for a multilateral investment tribunal in combination with, or separate from, a multilateral appellate mechanism" (Investment Chapter, Article 15) is included in the EU-Viet Nam FTA (negotiations concluded). For the EU, the multilateral mechanism could replace bilateral tribunals included in the aforementioned agreements and in draft agreements currently under negotiation. On 27th February, the European Commission held a stakeholder meeting in Brussels on options for a multilateral reform of investment dispute resolution. The meeting aimed at exchanging views with stakeholders on the EU's policy development in this area including on the possible establishment of a multilateral investment court as part of the options for multilateral reform.³¹

G20 Trade and Investment Working Group

On 6-7 January 2017, the G20 Trade and Investment Working Group (TIWG) was convened in Berlin, Germany under the German G20 presidency. Investment-related discussions covered, among others, investment facilitation³² and anti-protectionism monitoring.³³ Germany's G20 presidency in 2017 follows the Chinese presidency in 2016, which culminated in the adoption, in July 2016, of the Principles for Global Investment Policymaking.³⁴

WTO Trade-related aspects of Intellectual Property Rights Agreement Amendment

²⁶ An earlier EU-hosted meeting held on 19 July 2016 in Nairobi, Kenya, aimed to identify interest in, and possible content of, a set of non-binding key principles on investment between the EU and African countries. The EU proposed that such investment principles could build on the work carried out under UNCTAD's Policy Framework, while drawing inspiration from other relevant sources such as the recently adopted G20 Guiding Principles for Global Investment Policymaking.

²⁷ http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/2014Transparency_Convention_status.html

²⁸ http://europa.eu/rapid/press-release_IP-16-4349_en.htm.

²⁹ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1610>.

³⁰ http://europa.eu/rapid/press-release_CLDR-17-63_en.htm.

³¹ Although outside the reporting period, also the Expert Group Meeting organized by UNCITRAL and the Geneva Center for International Dispute Settlement (CIDS) on 2-3 March 2017 in Geneva, Switzerland, considered how the project of Investor-State dispute settlement reform might be carried forward at a multilateral level.

³² On 3 February 2017, UNCTAD launched a review of policy practices in investment facilitation, available at:

<http://investmentpolicyhub.unctad.org/News/Hub/Home/536>. The review also highlights the key outcomes of the intergovernmental deliberations during the 63rd session of UNCTAD's Trade and Development Board, which dedicated a full day for discussion on the Global Action Menu for Investment Facilitation in December 2016.

³³ See also the Joint UNCTAD-OECD Reports on G20 Investment Measures, available at: <http://unctad.org/en/Pages/DIAE/G-20/UNCTAD-OECD-reports.aspx>.

³⁴ See <http://investmentpolicyhub.unctad.org/News/Hub/Archive/508>; and UNCTAD's Investment Monitor (November 2016) available at: http://unctad.org/en/PublicationsLibrary/webdiaepcb2016d2_en.pdf.

On 23 January 2017, the Protocol amending the WTO Trade-related aspects of Intellectual Property Rights (TRIPS) Agreement entered into force, thereby replacing the 2003 waiver for WTO members who had accepted the amendment.³⁵ WTO members who are yet to accept the amendment currently have until 31 December 2017 to do so with the waiver continuing to apply until a member accepts the amendment and it takes effect for it. The amendment facilitates the exportation of pharmaceuticals produced under a non-voluntary license to countries without sufficient domestic manufacturing capacities. This may be particularly beneficial to developing country-based producers located in RTAs that are made up of at least 50 per cent least developing countries (LDCs). In combination with regional drugs procurement, the TRIPS amendment may provide an incentive to invest in the production of medicines destined for use within the RTA.

International Centre for Settlement of Investment Disputes Rules Amendment

On 25 January 2017, the ICSID Secretariat sent an invitation to file suggestions for amendments of the ICSID rules.³⁶ ICSID started work to update and modernize its rules and regulations in October 2016. Key issues addressed include the simplification of the dispute settlement procedure to make it more cost and time effective. The last amendments, which came into effect in 2006, were adopted after a two year period of public consultation.

UNCTAD's Meeting on IIA Reform

On 23-26 January 2017, a meeting organized by UNCTAD and the Islamic Development Bank (IDB) in Casablanca, Morocco, gathered African and Asian countries members of the IDB to exchange experiences on IIA reform and to provide insights on challenges facing them when engaging or attempting to engage in the second phase of IIA reform. The meeting which gathered 60 government officials from 30 countries provided specific policy options for tackling the existing stock of BITs (Phase II of IIA reform).

North American Free Trade Agreement Consultation

On 1 February 2017, the Mexican government announced that it is beginning a 90-day consultation with the country's Senate and private sector before talks with the United States to review the North American Free Trade Agreement (NAFTA).³⁷

United Kingdom Government White Paper

On 2 February 2017, the government of the United Kingdom (UK) published a white paper on the UK's exit from, and its wish for a new strategic partnership with, the EU. This official policy document lays out twelve principles, among which the pursuit of an ambitious and comprehensive FTA and a new customs agreement with the EU, as well as new FTAs with other countries. Citing several examples of existing approaches to dispute settlement (EU-Canada CETA; EU-Switzerland bilateral treaties; NAFTA; New Zealand - Republic of Korea FTA), the white paper leaves at this point open which approach should ultimately govern the future relationship between the EU and the UK in this respect.

Bilateral Trade and Investment Agreement between the EU and India

On 20 February 2017, EU Parliamentarians visited India to discuss matters concerning EU-India ties, in particular, India's BITs with EU member countries which will cease having effect on 31 March 2017.³⁸ However, investments made prior to the termination would enjoy continued protection under the sunset clauses of the old BITs. The EU delegation discussed with India the possibility of extending the effective termination dates of the BITs by at least six months. Discussions also focused on the negotiations of the Bilateral Trade and Investment Agreement (BTIA) with India, which have been ongoing since 2007.³⁹

³⁵ https://www.wto.org/english/tratop_e/trips_e/amendment_e.htm.

³⁶ <https://icsid.worldbank.org/en/Pages/News.aspx?CID=213>.

³⁷ https://www.nytimes.com/2017/02/01/world/americas/mexico-nafta-renegotiation-trump-wall.html?_r=1.

³⁸ <http://www.thehindubusinessline.com/economy/policy/as-fta-hangs-fire-eu-wants-india-to-extend-investment-pacts/article9552228.ece>.

³⁹ <http://indianexpress.com/article/india/european-union-asks-india-to-give-six-month-extension-to-trade-pact-with-eu-nations/>.

ANNEX. Investment policy measures taken between October 2016 and February 2017

	Description of Measure	Date	Source
Argentina			
Entry/Treatment	Argentina passed a Public-Private Partnership (PPP) law to attract investment in productive activities, public infrastructure, housing, applied research and innovative technologies. The law regulates contracts between the state and the private sector for the development of projects under this format. The law covers commitments between the public and private sector, where a long-term partnership is built, with both agreeing to meet set goals and both benefiting. The law seeks to attract investments in productive activities, public infrastructure, housing, applied research and innovative technologies. It says that all procurement contracts for the provision of goods and services under PPP projects must contain at least 33 per cent of national components.	30 November 2016	Ley 27328, Official Gazette, 30 November 2016
Treatment	Argentina ended a required holding period for foreign capital of 120 days to repatriate funds that foreign investors had moved into the country.	5 January 2017	Modificación. Decreto N° 616/2005, Official Gazette, 5 January 2017
Benin			
Promotion and facilitation	The Investment and Export Promotion Agency (APIEX) officially launched an intelligence platform ("iGuide") to facilitate investment in Benin. It is an on-line tool for directing and informing domestic and foreign investors, covering information on operating costs, salaries, taxes, and laws.	16 February 2017	UNCTAD Business Facilitation Program, "A new way to promote investment in Benin", 20 February 2017
Brazil			
Entry	Brazil's Chamber of Deputies adopted changes to the structure of Brazil's nascent pre-salt oil industry, opening the door to increased foreign investment. The old law required the national oil company, Petrobras, to be the sole operator of all pre-salt fields, and to hold a minimum of 30 per cent equity in each of those blocks. Under the new arrangements, the National Council for Energy Politics (CNPE) will first offer the blocks under the product sharing regime to Petrobras, which may accept or reject the offer within thirty days before they are tendered to other operators.	29 November 2016	Lei No. 13.365, Official Gazette, 30 November 2016
Canada			
General Business Climate	The Parliament of Québec passed the Petroleum Resources Act ("Bill No. 106"). Its purpose is to govern the development of petroleum resources while ensuring the safety of persons and property, and environmental protection. The law establishes a system of licences and authorizations applicable to exploration for the production and storage of petroleum.	10 December 2016	National Assembly of Québec, "An Act to implement to 2030 Energy Policy and to amend various legislative provisions", 10 December 2016

Entry	The Government issued guidelines concerning its national security review of investments. The release of the guidelines is meant to give greater clarity to companies looking to invest in Canada. Inter alia, the Canadian Government will examine the effects that a projected investment may exert on its national defense capabilities, the security of critical infrastructure and the transfer of sensitive technology out of the country. The Government shall also evaluate the impact of the projected investment on Canada's international interests, including foreign relationships. Based on these reasons, the Canadian Government may block the investment or set conditions for its approval.	19 December 2016	Innovation, Science and Economic Department Canada, "Guidelines on the National Security Review of Investments", 19 December 2016
China			
Treatment	China's Supreme People's Court issued a notice entitled "Supreme People's Court Opinions on the Provision of Judicial Safeguards for the Construction of Pilot Free Trade Zones". Among other measures, it provides enterprises registered in Chinese FTZs more options for arbitration.	30 December 2016	ANJIE law firm, "Enterprises in China's Free Trade Zones Enter 2017 with New Options for Arbitration", 20 January 2017
Entry/Treatment/Promotion and facilitation	The State Council issued the "Circular On Several Measures on Expanding the Opening to and Active Use of Foreign Investment". The Circular sets out the guidelines for the country's policies on attracting FDI. The government decided to revise the Catalogue for the Guidance of Industries for Foreign Investment, and to further open the service, manufacturing and mining sectors. Also, the government called for creating a market environment of fair competition, which requires related departments to examine the business licenses and qualification requirements for foreign-invested enterprises by the same standards and processing timetable as those for domestic-invested enterprises. In addition, the circular calls for more efforts to attract foreign investment, allowing local governments to formulate favourable policies to support foreign-invested projects. The circular instructs related ministries to draft detailed rules without giving a timeline.	17 January 2017	The State Council, "Circular On Several Measures on Expanding the Opening to and Active Use of Foreign Investment", 17 January 2017
Colombia			
Treatment	The Government of Colombia ordered the takeover of crisis-hit electricity distributor Electricaribe, a unit of Spain's Gas Natural Fenosa. The action was announced by the Superintendency of Residential Public Services, or SSP, via a resolution that "aims to ensure the provision of electricity service in the provinces supplied by Electricaribe: Atlantico, Bolivar, Cesar, Cordoba, La Guajira, Magdalena and Sucre."	15 November 2016	Superintendency of Residential Public Services, "Superintendencia de Servicios Públicos Domiciliarios toma posesión de Electricaribe S.A. E.S.P.", 15 November 2016
Promotion and facilitation/Entry	The Government of Colombia issued Decree 119 updating the country's investment regime. One of the most significant changes of the decree is the elimination of registration deadlines. It also redefines the concept of "residency", for which the minimum required time in the national territory has been changed from 183 calendar days to one year (365 days).	26 January 2017	Presidencia de la República de Colombia, "Colombia moderniza régimen de inversión extranjera", 10 February 2017

Croatia			
General Business Climate	The Croatian Parliament approved a new law on public procurement. The key objective is to enhance competition for public contracts and limiting related abuses. The law aims to replace the "lowest price" principle with the "most economically advantageous offer" criterion. The law will introduce the European Single Procurement Document (ESPD), which is intended to standardise documentation and prevent the type of contracting that enabled past abuse. All public procurement procedures launched as of 1 January 2017 are subject to the new Public Procurement regulation.	9 December 2016, 1 January 2017	Economist Intelligence Unit, "Parliament approves new public procurement law", 28 December 2016
Egypt			
General Business Climate	The Egyptian Cabinet approved the country's first bankruptcy law as part of an economic reform drive aimed at encouraging investment. The law aims to minimise the need for companies or individuals to resort to the courts and will simplify post-bankruptcy procedures. It also abolishes imprisonment in cases of bankruptcy.	4 January 2017	Reuters, "Egypt approves bankruptcy law to spur investment", 4 January 2017
France			
Entry	As part of the enforcement of the 2015 "Loi Macron" concerning, inter alia, the privatisation of state-owned assets, the French Minister of Transport signed a decree that transfers the State-owned shares of the Airport Nice-Côte d'Azur (60 per cent of the total capital) to the consortium Azzurra (which is made up of Atlantia, EDF and Aeroporti di Roma). The nominal worth of the deal is EUR 1.222 billion.	28 October 2016	Legifrance, "Arrêté du 28 octobre 2016 autorisant le changement de contrôle de la société Aéroports de la Côte d'Azur", 30 October 2016
Entry	The French Government ceded 100 million of shares of Engie (formerly GDF Suez), a global leader in the energy sector, to institutional investors. The ceded shares amount to 3.7 per cent of the capital of the firm. The worth of the transaction amounts to EUR 1.14 billion.	10 January 2017	Agence des Participations de l'Etat "L'Agence des participations de l'Etat annonce la cession de titres ENGIE par l'Etat", 10 January 2017
Germany			
Entry	The German Federal Ministry of Economic Affairs and Energy withdrew the initial certificate of non-objection of the takeover of the semiconductor manufacturer Aixtron by the Chinese firm Fujian Grand Chip.	24 October 2016	The New York Times, "Germany Withdraws Approval for Chinese Takeover of Aixtron", 24 October 2016
Greece			
Entry	The Greek Government finalized the privatization of the Kassiopi site, located in the Corfu island. The New York-based NCH Capital Inc. will acquire a leasehold of the site and will invest an estimated amount of EUR 75 million for the development of the property.	29 December 2016	Hellenic Republic Asset Development Fund, "The privatization of Kassiopi in Corfu completed today", 29 December 2016

Entry	The Greek Court of Auditors approved the sale of the state-owned railway operator TrainOSE to Italian railways Ferrovie dello Stato. The privatisation is part of the bailout deal signed by Greece in 2015. The Greek Government committed to sell TrainOSE and other public utilities with the aim of generating total revenue of EUR 5.8 billion by 2018.	16 January 2017	Hellenic Republic Asset Development Fund, Press release, 14 July 2016
Hungary			
General Business Climate	The Hungarian Parliament approved the Government's plan to cut the corporate tax rate to 9 per cent. The measure entered into force on 1 January 2017.	1 January 2017	Law No. CXXV of 26 November 2016 on the Amendment of Various Tax Laws and Other Related Laws
Iceland			
General Business Climate	The Parliament passed Bill No. 787 that, among other issues, implements some of the recommendations contained in Action 4 (interest deduction limitation) and Action 13 (transfer pricing documentation) of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project. In relation to Action 4, a fixed ratio rule will cap the amount of Icelandic tax relief for gross interest expense from related parties to 30 per cent of taxable earnings before interest, taxes, depreciation and amortization calculated per entity. The fixed ratio rule is subject to certain exceptions. Regarding Action 13, the legislation introduces country-by-country (CbC) reporting for multinational groups with an annual revenue above approximately EUR 800 million.	13 October 2016	EY Global tax alert, "Iceland passes bill to implement OECD BEPS Action 4 and Action 13 recommendations", 21 October 2016
Treatment	The Icelandic Parliament passed a Law removing capital controls on households and businesses. Among the measures that entered into force on 1 January 2017 are: (1) Foreign outward direct investment is unrestricted but subject to confirmation by the Central Bank of Iceland; (2) Individuals are permitted to purchase one piece of real estate per year.	21 October 2016, 1 January 2017	Central Bank of Iceland, "Amendments to the Foreign Exchange Act", 21 October 2016
India			
Promotion and facilitation	India's Ministry of Corporate Affairs introduced a new e-form called "Simplified Proforma for Incorporating Company Electronically (SPICe)". The SPICe allows for all of the relevant documentation to be submitted online. The main objective is to provide speedy incorporation-related services and streamline the process of corporate establishment.	1 October 2016	Ministry of Corporate Affairs (Notice & Circulars), "Companies (Incorporation) Fourth Amendment Rules, 2016", 1 October 2016
Entry/Treatment	The Reserve Bank of India (RBI) amended regulations in order to "further liberalise and rationalise the investment regime for foreign venture capital investors (FVCI) and to give a fillip to foreign investment in the startups". As per the amendment, FVCI will not require any approval from RBI and can invest in equity or equity-linked instruments or debt instruments issued by an Indian company in ten sectors (e.g. biotechnology, IT, dairy and poultry industry, infrastructure) whose	20 October 2016	Reserve Bank of Indonesia (Circular), "Investment by a Foreign Venture Capital Investor (FVCI) registered under SEBI (FVCI) Regulations, 2000", 20 October 2016

shares are not listed. Also, FVCI will not require any approval from RBI and can invest in equity or equity-linked instrument or debt instrument issued by an Indian 'start-up', irrespective of the sector in which the start-up is engaged. Further, FVCI do not need approval for investing in units of venture capital funds. However, FVCI will have to be registered with the Securities and Exchange Board of India (SEBI).

Indonesia

Entry	Indonesia introduced Bank Indonesia Regulation No. 18/40/PBI/2016 on the Operation of Payment Transaction Processing. This regulation imposes a 20 per cent limit on foreign ownership in companies that offer electronic payment services. The new limit applies to (1) new companies in the electronic payment services sector, (2) existing companies that expand into this sector, and (3) those existing companies (in this sector) that change ownership.	9 November 2016	Bank Indonesia, "Peraturan Bank Indonesia No. 18/40/PBI/2016 tentang Penyelenggaraan Pemrosesan Transaksi Pembayaran", 14 November 2016
Treatment	From 1 January 2017, the minimum local content requirement - both in hardware as well as software - for domestically-produced 4G smartphones that are sold in the Indonesian market has been increased to 30 per cent. Previously, the minimum requirement stood at 20 per cent.	1 January 2017	Indonesia-Investments, "Rising Investment in Local Content for Indonesia's 4G LTE Smartphones", 29 October 2016

Israel

Promotion and facilitation	The Government of Israel announced the launch of a new incentive programme - 'Innovation Visas for foreign entrepreneurs' - in order to attract innovative foreign entrepreneurs. As part of this program, entrepreneurs will be able to stay in Israel for a period of up to 24 months. During their stay they can apply for support by the Tnufa Program - the early stage startup programme - to develop their innovative ideas. Further, if the project turns into a company, foreign entrepreneurs can file a request to receive support from the Innovation Authority and after receiving approval, can receive an expert visa to work in the company for a period of up to 5 years.	28 December 2016	Israel Innovation Authority, "Call for Proposals for Organizations willing to host Foreign Entrepreneurs", 28 December 2016
----------------------------	--	------------------	---

Italy

Promotion and facilitation	The Senate of the Republic approved the annual budget law, which provides an array of norms aimed at increasing the attractiveness of Italy for foreign investors. In particular, the new rules provide for a "golden visa" for foreign investors, subject to certain conditions.	7 December 2016	Senato della Repubblica, "Budget Law of the State concerning the fiscal year 2017 and the pluriannual budget 2017-2019", 7 December 2016
Promotion and facilitation	Business engaged in RandD will benefit from a 300 per cent increase in tax credit. These benefits apply to any kind of businesses, regardless to their dimension, business activity or legal structure. The new measure is part of the Stability ("Budget") Law 2017, approved by the Italian Senate.	7 December 2016	Gazzetta Ufficiale della Repubblica Italiana, "2017 Budget Law of the State and provisions for the 2017-2019 balance", 7 December 2016

Jordan				
Treatment	Jordan's 'Telecommunications Regulatory Commission (TRC)' and 'Orange Jordan' signed a settlement agreement concerning an arbitration case on a (900MHz) spectrum license renewal. Accordingly, the (900MHz) spectrum license will remain valid for a cumulative period of 15 years, starting from 9 May 2014. In 2014, 'Orange Jordan' had resorted to the International Centre for Settlement of Investment Disputes and local courts in protest against the TRC's conditions when setting renewal fees for its license for 15 years. 'Orange Jordan' is majority-owned by the French telecoms group Orange and operates fixed, mobile and Internet services.	30 October 2016	Telecommunications Regulatory Commission, "Telecommunications Regulatory Commission and Orange Signs the Final Settlement Agreement In the Arbitration Case Concerning the 900MHz Spectrum Licence", 30 October 2016	
Kazakhstan				
Promotion and facilitation	The Government adopted a resolution listing the categories of expatriates that do not require a work permit. These include (1) expatriate heads of branches and representative offices of foreign legal entities; (2) expatriates coming to Kazakhstan on a business trip not exceeding 120 calendar days within a calendar year, and (3) expatriates who are chief executives in organizations that concluded contracts with the Government for investments exceeding USD 50 million or are conducting investment activities in priority projects and who concluded a contract with the investment authority.	15 December 2016	PricewaterhouseCoopers, "New work permit rules", 1 January 2017	
Promotion and facilitation	New rules on the application and extension of work permits for expatriate employees became effective on 1 January 2017. Inter alia, the new regulations (1) reduce the time required to review work permit applications from at least one month to 7 days; (2) introduce application fees between USD 800 to 1,500; and (3) stipulate that the ratio of expatriate personnel in management and specialist categories coming to Kazakhstan under an inter-corporate transfer arrangement should not exceed 50 per cent of the number of local employees engaged in the same categories (previously no such ratio existed). Individuals having higher educational qualifications for employment in priority sectors are subject to separate immigration rules.	1 January 2017	PricewaterhouseCoopers, "New work permit rules", 1 January 2017	
Korea, Republic of				
Entry	The Financial Services Commission has chosen seven successful bidders, including Chinese-owned Tong Yang Life Insurance Co., to buy a combined 29.7 per cent stake (about KRW 2.4 trillion) in the state-owned Woori Bank on its fifth attempt to privatize the bank since 2010. The success of the latest auction would reduce the stake of the state-run Korea Deposit Insurance Corp. (KDIC) from 51.1 per cent to 21.4 per cent. This sale marks the completion of the first stage of privatizing the Woori Bank and the Government is committed to continue its effort to sell the remaining share in the bank.	13 November 2016	Financial Services Commission, "Seven investors were picked to buy government's stake in Woori bank", 13 November 2016	

Promotion and facilitation	The State Council revised 19 tax enforcement decrees. Among others, the following are introduced to foster new growth industries: (1) The Government increased the RandD tax credit rate on new growth industries to up to 30 per cent, for both large and medium-sized companies. (2) It restructured tax incentives for FDI companies engaged in high-tech businesses and extended the benefits. (A full tax exemption will be provided in the case that the amount of deductible earnings is 80 per cent or more of the total business profits.)	31 January 2017	Ministry of Strategy and Finance, "2016 Revision to Tax Enforcement Decree", 28 December 2016
Luxembourg			
General Business Climate	Luxembourg adopted a change in its tax rules. The rationale of the new norms consists in decreasing the tax avoidance risk ex parte of multinational firms based in the grand duchy. Up to now, Luxembourg has offered companies so-called "tax rulings", which, in some cases, have allowed them to lower their tax bill by reporting lower profit margins and a lower taxable capital base. The new rules have entered into force on 1 January 2017.	1 January 2017	Wall Street Journal, "Luxembourg Tightens Tax Rules Amid EU Pressure", 27 December 2016
Myanmar			
Entry/Treatment	Myanmar's Upper House of Parliament approved the new Investment Law, which consolidates the Myanmar Citizens Investment Law and the Foreign Investment Law. Compared to the old legislation which required all investment proposals to obtain the permission of the Myanmar Investment Commission, the new law subjects only selected investment proposals to screening and authorization. The law also includes a list of activities which are reserved for the State, as well as a list of activities where foreigners will need to set up joint-ventures with Myanmar citizens. In certain areas, such as market access, land lease and technical support, local businesses and SMEs would benefit from some special treatment compared to foreign investors. Investment incentives in the form of corporate tax holidays will be granted only to "promoted economic sectors" which will be specified in future legislation.	7 October 2016	The Directorate of Investment and Company Administration, "Myanmar Investment Law", 3 January 2017
Treatment	The Ministry of Commerce has revoked a ceiling on the amount of funds that a foreign-local joint venture trading firm can use in its operations. Foreign investors engaged in joint venture businesses with Myanmar companies will no longer have their expenditure limited to the initial sum they declared to the Myanmar's Central Bank. This removes the obligation to register any additional amounts of foreign currency required for investment purposes.	22 November 2016	Myanmar Times, "Limits lifted on joint-venture trading firms", 6 December 2016
Netherlands			
Entry	The Dutch Government sold shares of the insurance company ASR up to 13.6 per cent of its total capital. The value of the deal is approximately EUR 451 million at current share prices. The deal will involve institutional investors and the transaction will reduce the participation of the State to 50.1 per cent of ASR's capital.	17 January 2017	NLFI (Dutch agency of public participation), "NLFI sells 20,400,000 shares in A.S.R for total proceeds of approximately EUR 450 million", 12 January 2017

Poland			
Treatment	The Polish Ministry of Energy announced to block the sale of local heating and electricity assets currently owned by France's utility EDF. The decision is based on energy security reasons and is part of a broader strategy to reduce the dependence of Poland's energy supply from foreign suppliers.	9 December 2016	Reuters, "Poland blocks local power and heating asset sale by France's EDF", 14 December 2016
Romania			
Entry/Treatment	The Parliament adopted a new law on PPP, replacing a previous PPP-Law of 2010. The new Law stipulates, inter alia, more flexible terms for determining the technical and economic indicators of the project; it provides both partners with more options to finance their investments; and it limits the possibility for unilateral termination/modification of the project by the public partner. Romanian law and jurisdiction are mandatory in all PPP projects and arbitration is allowed for the interpretation, entering into, execution, amendment and termination of the PPP contracts. The contract award is subject to domestic courts. The Law entered into force on 25 December 2016.	24 November 2016	Law No. 233 on Public-Private Partnership (Official Gazette No. 954/25) of 25 November 2016
Russian Federation			
General Business Climate	The President signed the Federal Law "Concerning the Introduction of Amendments to Parts One and Two of the Tax Code of the Russian Federation and Certain Legislative Acts of the Russian Federation". Inter alia, the law (1) limits the carry-forward of losses made in past periods; (2) limits the amount by which the consolidated tax base of a consolidated group of tax payers may be reduced by losses of loss-making members of the group; (3) introduces a progressive scale of penalty rates; and (4) lists certain transactions which will not be considered as "controlled" for transfer pricing purposes. The changes have entered into force on 1 January 2017.	30 November 2016	Ernst & Young, "Russian Tax Brief December 2016", 1 December 2016
Entry	The Government sold a 19.5 per cent stake in the State-owned company Rosneft for USD 11.3 billion to Qatar's sovereign wealth fund and commodities trader Glencore. The 19.5 per cent stake is equally split between the two acquirers.	7 December 2016	Reuters, "Kremlin says Glencore, Qatari fund to buy 19.5 pct stake in Rosneft", 7 December 2016
Entry	The Government adopted the program on the privatization of state-owned assets for 2017-2019. It is valued at RUB 17 billion (USD 285.30 million). The plan envisages, inter alia, that the State reduces its stake in VTB (Russia's No. 2 bank), Sovcomflot (maritime shipping) and Novorossiysk Commercial Seaport.	2 February 2017	Tass news article, "Russian Government enacts 2017-2019 state assets privatization plan", 2 February 2017
Tunisia			
General Business Climate	From 1 January 2017, a 7.5 per cent exceptional contribution tax is introduced on Tunisian businesses in addition to the standard 25 per cent rate. This temporary tax was introduced in the Finance Law for 2017 and it is uncertain if the tax will be extended beyond 2017.	1 January 2017	Orbitax, "Tunisia Introduces Contribution Tax for 2017 and Revises Individual Income Tax Rates", 20 January 2017

Promotion and facilitation	The House of People's Representatives passed a Bill on tax incentives on 1 February 2017. The Bill aims to streamline and simplify the tax incentive system by focusing on those (incentives) that reflect the priorities of the next period, such as regional development, export and fisheries.	1 February 2017	Tunis Afrique Presse, "HPR passes bill on tax incentives", 1 February 2017
Turkey			
Promotion and facilitation	Turkey published new rules on citizenship ("The Regulation on the Amendment of the Regulation on the Implementation of the Turkish Citizenship Law") in its Official Gazette. Accordingly, foreigners will be able to acquire Turkish citizenship on condition that they, inter alia, (1) purchase real estate worth at least USD 1 million without selling it for at least 3 years, or (2) invest at least USD 2 million in firm capital, or (3) have created jobs for at least 100 people.	12 January 2017	Investment Support and Promotion Agency of Turkey, "Amendments Ease Access to Turkish Citizenship for Foreign Investors", 12 January 2017
Ukraine			
General Business Climate	The Parliament adopted Law No. 1666-VIII which introduces, among other issues, changes to the Law "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organisations". Key changes include: 1) Mandatory notary certification of signatures on documents that introduce changes to the said documents that are subject to the state registration (e.g. a decision of the General Shareholders Meeting); 2) State registration can be performed irrespective of the registered address of legal entities and individual entrepreneurs. The law has entered into force on 2 November 2016.	6 October 2016	PwC Flash Report, "Changes in state registration procedure came into force", 9 November 2016
United States of America			
Entry	The U.S. President blocked the acquisition of the U.S. subsidiary of Aixtron (a German semiconductor producer) by a Chinese company on the basis of national security concerns.	2 December 2016	Bloomberg, "Obama Blocks Chinese Takeover of Aixtron as U.S. Security Risk", 3 December 2016
Uzbekistan			
Promotion and facilitation/Entry	The President issued a decree "On measures to simplify and accelerate the privatization of state-owned assets for business purposes". The decree intends to create favourable conditions for doing business, simplify the procedures and speed up the process of sale of state property, and eliminate bureaucratic barriers to privatization.	17 January 2017	Tashkent Times, "Uzbekistan simplifying privatization of state-owned assets", 19 January 2017
Viet Nam			
Entry	The National Assembly has passed Law No. 03/2016/QH14 amending the list of conditional business lines in the Law on Investment. Companies operating in conditional business lines must satisfy certain "business conditions" (e.g. technical, staffing or facility requirements).	1 January 2017	PwC Legal Vietnam Newsbrief, "Amendments to the Law on Investment", 16 December 2016

Twenty four business lines – out of a total of 267 - have been removed from the list. They include, inter alia, 'Consultancy services in relation to assessment of investment projects', and 'Management and operation services for common infrastructure facilities'. On the other hand, sixteen new conditional business lines have been added, including, e.g. 'Manufacturing, assembling and import of automobiles'.

The new law has become effective on 1 January 2017, except for certain business lines (such as manufacturing, assembling and import of automobiles), for which the law will come into effect on 1 July 2017.

Zimbabwe

Promotion and facilitation

In his 2017 national budget statement, presented to the Parliament on 8 December 2016, the Finance Minister stated that Zimbabwe will provide various kinds of tax incentives to investors including, inter alia, (i) exemption from corporate income tax for the first 5 years of operation, and a rate of 15 per cent, afterwards; (ii) special initial allowance on capital equipment to be allowed at the rate of 50 per cent of cost from year one, and 25 per cent in the subsequent two years; (iii) a flat rate of 15 per cent tax on specialized expatriate staff; (iv) exemption from Non-residents tax on royalties and dividends; (v) duty free import of capital equipment for Special Economic Zones; and (vi) duty free import of inputs including raw materials and intermediate products (materials and products not produced locally) for use by companies set up in the Special Economic Zones. The tax incentives will apply in demarcated geographical areas and are restricted to production for export. It takes effect on 1 January 2017.

1 January 2017

Ministry of Finance and Economic Development, "The 2017 National Budget Statement", 8 December 2016



INVESTMENT POLICY MONITOR



For the latest investment trends and policy developments, please visit the website of the UNCTAD Investment and Enterprise Division

 unctad.org/diae

 investmentpolicyhub.unctad.org

 [@unctadwif](https://twitter.com/unctadwif)


For further information, please contact

Mr. James X. Zhan

Director

Investment and Enterprise Division UNCTAD

 diaeinfo@unctad.org

 +41 22 917 57 60



UNITED NATIONS
UNCTAD