UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

investment policy review

TAJIKISTAN

UNITED NATIONS

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

investment policy review

TAJIKISTAN

UNITED NATIONS
New York and Geneva, 2016

Note

Under its overall mandate on trade and development, UNCTAD serves as the focal point within the United Nations Secretariat for all matters related to foreign direct investment. Its work is carried out through intergovernmental deliberations, research and analysis, technical assistance activities, seminars, workshops and conferences.

The designations employed and the presentation of the material do not imply the expression of any opinion on the part of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The publication has not been formally edited.

The following symbols have been used in the tables:

- **Two dots (..)** indicate that data are not available or not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row.
- **A hyphen (-)** indicates that the item is equal to zero or its value is negligible.
- **A blank in a table** indicates that the item is not applicable.
- **A slash (/) between dates** representing years – for example 2009/10 indicates a financial yea .
- **Use of an en dash (–) between dates** representing years – for example 2008–2010 signifies the full period involved, including the beginning and end years.
- **Reference to "dollars" ($)** means United States dollars, unless otherwise indicated.
- **Annual rates of growth or change**, unless otherwise stated, refer to annual compound rates.
- **Details and percentages** in tables do not necessarily add to totals because of rounding.

The material contained in this study may be freely quoted with appropriate acknowledgement.

UNCTAD/DIAE/PCB/2016/1
UNITED NATIONS PUBLICATION

Preface

UNCTAD Investment Policy Reviews (IPRs) are intended to help countries improve their investment policies and to familiarize Governments and the international private sector with an individual country's investment environment. The reviews are considered by the UNCTAD Commission on Investment, Enterprise and Development. The recommendations of the IPR are then implemented with the technical assistance of UNCTAD. The support to beneficia y countries is delivered through a series of activities which can span over several years.

The Investment Policy Review of Tajikistan, initiated at the request of the Government of Tajikistan, was carried out through a fact-finding mission in March 2015 and is based on information current at this date and additional information made available to UNCTAD until 31 January 2016. The mission received the full cooperation of the relevant ministries, departments and agencies, in particular the Ministry of Economic Development and Trade, the Ministry of Foreign Affairs, the State Committee on Investment and State Property Management, as well as the Government Working Group on the IPR. The mission also benefited from the views of the private sector, foreign and domestic, bilateral donors and development agencies. The United Nations Development Programme (UNDP) in Tajikistan provided substantive contributions as well as financial and logistical support to the IPR process. The Energy Charter Treaty Secretariat also participated in meetings during the fact-finding mission and provided comments on the draft version of the report. The report also benefitted from discussions with the Asian Development Bank (ADB). A preliminary version of this report was discussed with stakeholders at a national workshop in Dushanbe on 3 November 2015. The final report reflects comments from stakeholders, including ministries and agencies of the Government of Tajikistan.

The analysis is based on the UNCTAD Investment Policy Framework for Sustainable Development and its core principles (UNCTAD, 2015a). It follows, to a large extent, the national investment policy guidelines of the UNCTAD Policy Framework, which deal with concrete measures to formulate investment policies and regulations and ensuring their effectiveness, especially in terms of grounding investment policy in development strategy. The IPR also deals with institutional mechanisms for effective policy implementation.

This report was prepared by the Investment Policy Reviews Section under the supervision of Chantal Dupasquier, Chief of the Section. Joerg Weber, Head of the Investment Policies Branch in DIAE, and James Zhan, Director of DIAE, provided overall guidance. The report was drafted by Ariel Ivanier, Kalman Kalotay, Massimo Meloni and Irina Stanyukova, with inputs from Ismoil Gaffarov, Trevor Killen and Julien Levis. It has also benefited from substantives inputs and suggestions from Bahriddin Azamatov, Ruben Barreto, Richard Bolwijn, Stephania Bonilla-Féret, Hamed El Kady, Maha El Masri, Joachim Karl, Yongfu Ouyang, Manuchehr Rakhmonov, Sergey Ripinski, Elisabeth Tuerk and Paul Wessendorp. The report was co-funded by the Government of Sweden and UNDP in Tajikistan.

Geneva, March 2016

Table of contents

PREFACE iii

ABBREVIATIONS vi

KEY MESSAGES vii

CONTEXT 1

I. The legal and operational framework for investment in Tajikistan 5

A. Foreign investment-specifi regulation *6*

a. Entry and establishment 6

b. Treatment and protection 7

B. Company operations *11*

C. Taxation *14*

D. Commercial justice and governance *19*

E. Competition regime *21*

F. Labour *22*

II. Attracting FDI and enhancing its impact for sustainable development 25

A. Institutional framework for investment policy and promotion in Tajikistan *27*

B. Building absorptive capacities for attracting and benefitin from FDI *34*

a. Skills development and access to foreign skills 34

b. Entrepreneurship and SME development 38

C. Policies for the transfer of technology, spillovers and business linkages *44*

REFERENCES 48

Annexes

Annex 1. Summary of recommendations 52
Annex 2. Bilateral investment treaties signed by Tajikistan as of June 2015 55
Annex 3. Methodology of international corporate tax comparisons 56

Figures

Figure 1. Limited and volatile FDI infl ws 2
Figure 1.1. Comparison of tax regimes in selected countries and industries 15
Figure 2.1. Institutional architecture for investment in Tajikistan 27

Tables

Table 1. Tajikistan lags behind comparator countries in terms of infl ws of foreign direct investment 3
Table 1.1. Starting a business in Tajikistan and selected countries in 2016 12
Table 2.1. Quotas and issuance of work permits in Tajikistan 37

Boxes

Box 1.1. Overview of company taxation and incentives in Tajikistan 18
Box 2.1. Free economic zones in Tajikistan 30
Box 2.2. The PARE 1+1 programme of the Republic of Moldova 42
Box 2.3. Development of ICT exports in Armenia 46

Abbreviations

ADB	Asian Development Bank
BIT	bilateral investment treaty
CAREC	Central Asia Regional Economic Cooperation
CIS	Commonwealth of Independent States
EBRD	European Bank for Reconstruction and Development
ECE	Economic Commission for Europe
FAO	Food and Agriculture Organization of the United Nations
FDI	foreign direct investment
FET	fair and equitable treatment
FEZ	free economic zone
GDP	gross domestic product
GIZ	German Agency for International Cooperation
IAP	Istanbul Anti-Corruption Action Plan
ICSID	International Centre for the Settlement of Investment Disputes
IIA	international investment agreement
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
IP	intellectual property
IPA	investment promotion agency
ISDS	investor–State dispute settlement
ITC	International Trade Centre
LLC	limited liability company
MFN	most favoured nation
MIGA	Multilateral Investment Guarantee Agency
MNE	multinational enterprise
NBT	National Bank of Tajikistan
NDS	National Development Strategy
NSED	National Strategy of Education Development
OECD	Organization for Economic Cooperation and Development
PPD	public–private dialogue
PPP	public–private partnership
PRAI	principles for responsible agricultural investment
RandD	research and development
SRRP	Silk Road Regional Programme
SMEs	small- and medium-sized enterprises
SOE	State-owned enterprise
TIN	tax identific tion number
TAJSTAT	Agency for Statistics under the President of the Republic of Tajikistan
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TWh	terawatt-hours
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
VAT	value added tax
VET	vocational education and training
WIR	*World Investment Report*
WTO	World Trade Organization

Key messages

- Since 1997, Tajikistan has experienced sustained growth, which has contributed to social and political stability and poverty reduction. However, the economy remains concentrated in a few sectors, making it vulnerable to external shocks. Other critical challenges persist, including excessive reliance on official development assistance (ODA), loans and remittances, and high informality.
- Private investment, including foreign direct investment (FDI), has been low and concentrated in a few large projects, with the extractive sector attracting more than half of infl ws since 2009. More diversified FDI will be needed to support the country's economic and social development objectives, and the potential for increasing foreign investments is significant particularly in agribusiness, tourism and textiles.
- Over the last two decades, significant reform efforts have been undertaken to open up the economy and introduce market-based mechanisms. The authorities have carried out reforms to streamline business registration, ease the burden of licensing and inspections, and improve the taxation and competition regimes. However, several regulatory obstacles persist, and Tajikistan still lags behind other countries in the region in terms of FDI attraction.
- The authorities have acknowledged the need for further reform. Private sector development and investment attraction figure among the long-term priorities highlighted in the Concept of State Policy for Attraction and Protection of Investment of the Republic of Tajikistan of 2012 and will be tackled by the national development strategy up to 2030, which is under preparation.
- In this context, the Investment Policy Review (IPR) of Tajikistan proposes concrete measures to improve the investment environment and attract impactful projects for sustainable development, including:
    - Adopting clearer definitions and objectives in the legisl tion on investment;
    - Finalizing the centralization of business registration procedures;
    - Accelerating the development of a land market;
    - Reducing the complexity of the tax regime;
    - Fostering the competition regime;
    - Improving the labour regulation;
    - Strengthening commercial justice;
    - Addressing governance challenges.
- The IPR finds that the institutional basis for investment promotion has been established. However, the everyday operations of investment promotion institutions face coordination challenges that are compounded by limited resources. The IPR provides recommendations for implementing a modern investment promotion strategy in an efficient manne , including by upgrading existing promotion structures with adequate resources.
- Tajikistan should also adopt policies and programmes to orient and maximize the sustainable development impact of FDI on the local economy. To this end, the IPR recommends enhancing policies to promote skills development, entrepreneurship and knowledge transfer, as well as improving the conditions for technology transfers and the development of linkages between small and medium-sized enterprises (SMEs) and larger companies.

Context

More than a decade of high economic growth has contributed to poverty reduction in Tajikistan. Following independence, the country suffered significant economic losses and social costs, which were compounded by the consequences of the civil war that ended in 1997. Since that time, peace and political stability have been consolidated, and Tajikistan has adopted a reform agenda to progressively enhance its development prospects. The reforms contributed to higher economic growth rates and positive social development. For instance, since 2000, gross domestic product (GDP) growth averaged about 8 per cent, contributing to significant poverty reduction, and the infl tion rate fell from close to 40 per cent in 2001 to 6 per cent in 2014 (World Bank, 2015a).

However, low competitiveness and limited private sector development make the national economy vulnerable. Two commodities (i.e. aluminium and cotton) account for over 60 per cent of exports, exposing the country to external shocks, such as the decline in the world price of aluminium since the late 2000s. Investment (measured in terms of fixed capital) has been around 17–20 per cent of GDP in recent years, a significant share of which is from the public budget. Indeed, these statistics are evidence of limited private sector involvement in economic development (IMF, 2015). Recent macroeconomic imbalances linked to rising budget deficits and a chronic savings–investment gap have further increased the country's dependence on external sources of finance (i.e. official development assistance, loans and remittances). In this context, GDP per capita remains the lowest among the countries of the Commonwealth of Independent States (CIS).

The Tajik labour market suffers from high rates of unemployment, informality and work-related migration. According to the national statistical agency, of a working-age population of 4.8 million, only 2.3 million are officially employed. These statistics reflect significant unemployment as well as a high degree of informality.[1] Furthermore, many citizens of Tajikistan work abroad, including an estimated 700,000 in the Russian Federation. Remittances thus provide a substantial share of household incomes (42 per cent of GDP in 2013, among the highest shares in the world), making Tajikistan even more vulnerable to exogenous economic shocks (World Bank, 2015b). For instance, the recent economic crisis affecting the Russian Federation, an important partner and also a source of substantial remittances, unfavourably impacts the Tajik economy.[2] The implications include the need to support returning migrants' reinsertion through retraining programmes, certific tion of skills acquired abroad and allocation of agricultural land.

Foreign direct investment (FDI) inflows have been low and concentrated in a few large projects. Foreign investors have been present in the country since the late 1990s, but large transactions were registered only after 2006. These comprise investments in mobile telephony, a five-star hotel and a business centre in Dushanbe as well as the construction of the Sangtuda-1 hydroelectric power plant on the Vakhsh river.[3] Following the completion of the latter and the onset of the global economic crisis in 2009, FDI declined sharply. Since then, FDI infl ws have shown signs of recovery, which may reflect some of the recent reforms undertaken by the Government (figure 1). However, when compared with other landlocked countries, Tajikistan still lags behind in absolute terms and with respect to FDI per capita or per GDP (table 1).

The extractive sector has attracted more than half of FDI inflows since 2009. Preliminary data also showed that FDI infl ws rose sharply in the mining sector in 2014, with more than 40 per cent of them occurring in geologic and prospecting activities. Government initiatives, such as the adoption of a programme for the improvement of investment attraction in

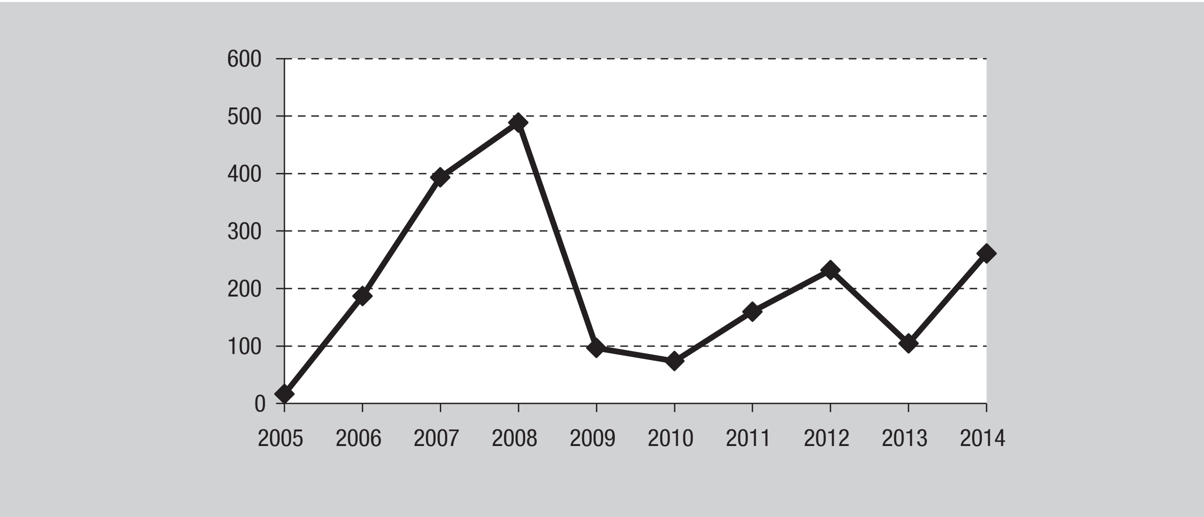
1 According to national statistics, the official rate of unemployment was 2.4 per cent in 2012 (Tajstat, 2013) while other estimates show much higher levels (11 per cent in 2013, World Bank 2015a). The discrepancy is related to the fact that in many CIS countries unemployment is measured by the number of unemployed registered at State unemployment offices (usually below 5 per cent). These rates usually understate unemployment when compared with the definition used by ILO and which is based on labour force survey data (Pavlova and Rohozynsky, 2005).

2 The National Bank of Tajikistan (NBT) estimates that the dollar value of remittances from individuals received for the first four months of 2015 declined by 34 per cent compared with the same period in 2014.

3 The project Sangtuda-1, worth $750 million, has been the biggest FDI project realized in Tajikistan since the country's independence.

subsoil resources, reinforced this trend.[4] As a result, the production of lead, zinc and copper concentrates increased twenty-fold in the period 2010–2014 (GIZ, 2015). Recent estimates of Tajikistan's potential in oil and gas production foresee a boom in the exploration of hydrocarbon deposits.[5] Beyond mining, fl ws to the ICT and construction sectors were also significant

Figure 1. Limited and volatile FDI infl ws (Net million dollars)



Source: National Bank of Tajikistan.
Note: Preliminary data for 2014.

Russian and Chinese companies are the key sources of FDI. Out of $2 billion FDI infl ws in 2006–2014, around 50 per cent and 20 per cent are from Russian and Chinese multinational enterprises (MNEs), respectively. While the bulk of FDI operations are in prospection and mining extraction, the companies with Russian participation are also involved in other activities, including hydropower, ICT, light and food industries, recycling of metal waste, construction and production of building materials, trade in petroleum products, agriculture and tourism. Chinese businesses are investing in financial and ICT services, exploration and extraction of mineral resources, construction and production of building materials, and assembly of technological equipment. Finally, other important sources of FDI include the United Kingdom of Great Britain and Northern Ireland, and the Islamic Republic of Iran, with FDI in the financial secto .

Higher and more diversified FDI can assist economic and social development. While recent data reveal positive prospects for mining activities and investors have noted significant potential for the exploitation of underdeveloped resources, Tajikistan has, for the time being, a limited number of proven deposits, compared with its neighbours. In addition, resources for extraction, including oil and gas, are not easily accessible because of the country's topography, which increases costs. Diversifying away from mining investments will also be necessary in the long run to sustain growth without degrading the environment and negatively affecting the needs of future generations. In addition, more diversified FDI infl ws can help address the country's social development challenges and achieve more inclusive development by way of contributing to job creation, poverty alleviation and value upgrading.

Attracting FDI through targeted promotion in a broader range of sectors would help address some of the key economic constraints and build absorptive capacities. FDI could help mitigate the dependency on remittances and commodities, and increase employment opportunities. It could also, given the limited development of the domestic private

4 See resolution 385 of 2012, Programme to improve the investment attractiveness of the sphere of subsoil use in the Republic of Tajikistan for 2012–2015.

5 According to Tethys Petroleum, Tajikistan has significant hydrocarbon deposits, notably in the Afghan Tajik basin west of the Pamir mountains (see tethyspetroleum.com/operations/bokhtar-psc-area). Oil resources are estimated at 117 million tons (Energy Charter, 2013).

Table 1. Tajikistan lags behind comparator countries in terms of infl ws of foreign direct investment

Country	Average inflows of foreign direct investmen								Foreign direct investment stock		
	Absolute figure		Relative figure								
	Million dollars		Per capita (dollars)		Per $ 1 000 gross domestic product		As percentage of gross fixed capital formation		Total million dollars	Per capita (dollars)	Percentage of gross domestic product
	2006–2010	2011–2014	2006–2010	2011–2014	2006–2010	2011–2014	2006–2010	2011–2014	2014		
Tajikistan	**248**	**189**	**34**	**23**	**60**	**24**	**34**	**14**	**1 885**	**224**	**20**
Bhutan	40	23	57	31	36	12	7	2	112	147	5
Bolivia, Plurinational State of	445	1 079	45	102	28	38	17	20	11 206	1 033	33
Botswana	370	662	192	331	34	44	12	13	4 367	2 142	28
Kyrgyzstan	279	456	53	83	65	68	31	28	3 520	626	48
Lao People's Democratic Republic	241	436	39	64	49	42	16	13	3 630	527	31
Mongolia	756	2 953	283	1 058	124	257	40	59	16 693	5 793	139
Republic of Moldova	385	232	106	66	78	31	26	13	3 647	1 054	46
Turkmenistan	2 210	3 190	445	613	103	87	29	17	26 203	4 937	55
Uzbekistan	814	909	30	32	27	18	9	6	9 002	307	14

Source: UNCTAD.

sector, promote entrepreneurship and SME development through supplier linkages and the transfers of skills and technology, as well as open new markets to domestic companies through their insertion in the international production chains of MNEs.

The potential for increasing investment, including FDI is high, particularly in agribusiness, tourism and textiles. Tajikistan has very good weather conditions for agriculture. In the past, it was a major regional producer of fruits and vegetables. It also has an established tradition in the production of cotton, grain and silk, and potential for textile production, in particular for export to CIS markets.[6] Most agricultural products, however, are not processed before they are consumed or exported, which leaves ample opportunities for investment promotion in processing, storage, and packaging (UNCTAD, 2014a). With respect to tourism, Tajikistan is a land of impressive landscapes, located in the old Silk Road region and is home to some of the world's highest mountain peaks (in the Pamir Mountains). This makes it possible to exploit cultural, adventure and ecotourism opportunities.

Major infrastructure developments and ongoing trade reforms could also raise the country's profile as a logistics hub for international commerce. Tajikistan is strategically located at the crossroads between China, other countries in Asia and the Middle East. This raises its profile as a potential logistics and transport hub in the context of major regional infrastructure initiatives such as the Central Asia Regional Economic Cooperation Programme (CAREC).[7] The high hydroelectric potential, estimated at 264 TWh per annum, less than 6 per cent of which is being used, could also be further exploited should regional

6 For instance, in 2011 Tajikistan opened a modern textile mill developed with the support of the EDB. The mill is expected to significantly widen the country's export potential for cotton yarn (Eurasian Development Bank, eabr.org/e/projects/edb/index.php?id_4=163, accessed 6 July 2015).

7 CAREC aims at promoting development through cooperation to accelerate growth and poverty reduction. The establishment of six transit corridors, four of them running through Tajikistan, is among the objectives of the programme. For more details see carecprogram.org.

cooperation deepen over the coming years (Energy Charter, 2013).[8] Furthermore, Tajikistan has recently liberalized its trade regime as part of negotiations to join the World Trade Organization (WTO) and obtained membership status in 2013.

The Government has made boosting local and foreign investment a priority. Private sector development and investment attraction were among the long-term priorities of the National Development Strategy (NDS) 2007–2015. In the new Strategy (2016–2030) under preparation, the role of private investment will be further emphasized as a tool to enhance competitiveness, foster economic diversific tion and increase productivity. The Concept of the State Policy on Investment Protection and Attraction, issued in 2012, further emphasizes the importance of attracting not only large, but also medium- and small-sized investors. The Concept also considers creating an enabling environment for FDI as a decisive factor for improving attractiveness and the development of partnerships. In line with those objectives, the authorities have carried out a number of reforms, including streamlining business registration, access to land, easing the burden of licensing and inspections, enabling online filing for taxes and setting up an anti-monopoly agency. These reforms contributed to increase the position of Tajikistan in international doing business rankings. For instance, Tajikistan ranked among the top 10 reformers in 2010, 2011 and 2015 in the World Bank's Doing Business report (World Bank, 2015).

However, regulatory gaps persist and the impact of reforms is limited by a lack of effective implementation. In the latest World Bank's Doing Business, Tajikistan was ranked 132 out of 189 countries for 2016. The bottlenecks include lack of clarity in the FDI-specific legislation, difficulties in accessing land and a taxation regime that can be burdensome, in particular for SMEs. Furthermore, gaps in the competition regime and governance challenges affect the judiciary and the public sector. These weaknesses associated with insufficient institutional c pacity have limited the impact of reforms.

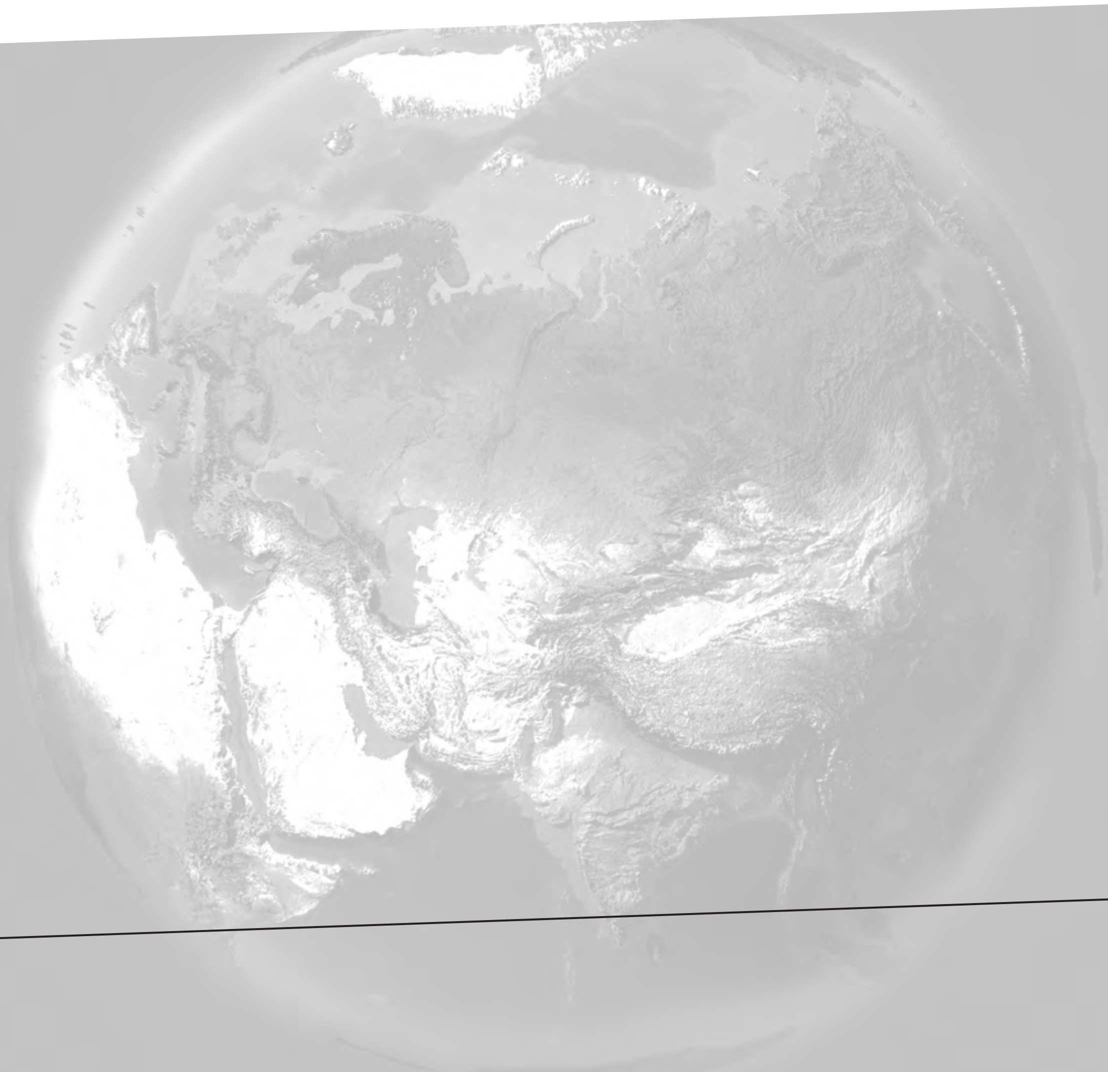
The institutional structure for investment promotion has been established and needs capacity-building to become fully effective. It consists of an investment policymaking body – the State Committee on Investment and State Property Management – and an investment promotion agency – TajInvest. In addition, the Ministry of Economic Development and Trade designs policies related to investment in the free economic zones. Also and in line with modern practice, Tajikistan has put in place a public–private dialogue (PPD) mechanism at the level of the President (the Consultative Council on Improvement of Investment Climate). The Council is tasked with discussing and preparing recommendations for submission to the President and the Government on issues related to private sector development and investment promotion. It has carried out considerable work on business facilitation and helped remove existing barriers (chapter 1). However, TajInvest is so far not fully equipped to carry out proactive and targeted investment promotion campaigns. Furthermore, coordination mechanisms between the agency and other stakeholders in investment promotion should be further developed in order to enhance the effectiveness of FDI promotion efforts.

The objective of the Investment Policy Review (IPR) of Tajikistan is to assist the Government in improving the investment environment and attracting FDI projects that can foster sustainable development. It focuses on the assessment of regulatory and institutional framework for investment and contains action-oriented policy recommendations. It is informed by guidance contained in the UNCTAD Investment Policy Framework for Sustainable Development (UNCTAD, 2015a). The report also suggests strategies to improve domestic capacity in order to increase attractiveness and benefits of FDI, with a focus on the institutional frameworks for investment promotion and enterprise development. It also addresses the potential for leveraging FDI to promote economic diversific tion through enterprise and skills development policies, as well as improving the conditions for transfer of technology and linkage development (chapter 2). All recommendations of the IPR are summarized in annex 1.

8 The CASA-1000 project, a cooperation project between four Central Asian countries – Afghanistan, Kyrgyzstan, Pakistan and Tajikistan – aims at making efficient use of hydroelectric generation capacity and improving access to electricity. For more details see casa-1000.org.

CHAPTER 1

The legal and operational framework for investment in Tajikistan



Overall, the Tajik investment regime is open. The laws and policy documents on investment created a regime which applies to both foreign and national investors, and welcomes all forms of investment.

Clearer objectives, definitions and guidance with regard to specific investors' rights and obligations are needed. Neither the core investment legislation, nor the policy documents on investment contain a clear reference to the country's national development objectives and the role of FDI therein. Other elements, typically found in an investment law and essential to define the regime, are missing. For instance, the current legislation does not describe the role of different Government institutions or the procedures applying to investors' entry and establishment, access to land, or eligibility to incentives.

Increased coherence between international investment agreements and sustainable development should also be encouraged. Tajikistan has accessed a wide network of international investment agreements (IIAs). Although most IIAs contain substantial provisions on investment treatment and protection, Tajikistan has so far not been part of the recent trend towards incorporating sustainable development considerations in treaty-making. As some IIAs concluded by Tajikistan have reached the end of their initial period of duration, there is an opportunity to encourage such coherence.

The general business climate could further benefit from reforms in several areas. Although progress has been made in recent years to simplify business regulations, implementation has lagged. The relative lack of competitiveness of the tax regime is also a problem, and the burden of tax administration is considerable, especially for SMEs. The lack of sufficient specialization in the judiciary is a key challenge. Also, in spite of recent reforms, governance remains an issue. In the context of frequent State intervention in private markets, the adoption of a modern law on competition was a significant reform. However, its impact could be strengthened if the power and capacity of the antimonopoly agency were increased. Finally, although extensive workers' protection is in place, minimum wages are low, and high unemployment and social issues remain a serious challenge. Encouragingly, the authorities are aware of these challenges and have engaged in reforms to address them, including legislative measures to grant more power to the antimonopoly agency and minimize government intervention in private business operations.

This chapter provides action-oriented recommendations to improve foreign investment-specific regulation as well as the general business climate. For each of the topics considered, the chapter provides a detailed analysis of key challenges, an assessment of existing legislation and the work of relevant government institutions, followed by a series of policy recommendations. The advice provided draws on the principles set out in the Policy Framework and the expertise accumulated by UNCTAD in the field of investment policy (UNCTAD, 2015a). The goal is to assist the Government in implementing national development strategies and programmes in order to contribute to poverty reduction and sustainable development outcomes.

A. Foreign investment-specific regul tion

Tajikistan has adopted an open FDI regime, but the legislation is not sufficiently detailed, which affects its clarity and predictability. The main law governing FDI is the Law on Investment (2007), which creates a uniform regime for both local and foreign companies grounded on the principle of non-discrimination. In addition, the Law on Investment Agreements (2013) regulates investment contracts concluded between the State and investors on projects identified as priorities. Finally, the Concept on State Policy for Attraction and Protection of Investment (2012) provides a strategic vision and context for investment attraction. Other laws containing FDI-related provisions include the Law on Public–Private Partnerships (2012), the Law on Production Sharing Agreements (2012) and the Law on Free Economic Zones (2011; see chapter 2, section A). As discussed in this section, while generally open, the existing legal framework could benefit from more specific definitions and transparency, which would in turn increase the attractiveness of Tajikistan as an investment destination. In this regard, the Bill on Investment, which is meant to replace the Law on Investment (2007), was submitted for parliamentary approval in January 2016. After its entry into force, the new law would increase the level of clarity and predictability of FDI legislation.

a. Entry and establishment

The regulation of investment could benefit from more precision and clarity. First, the definition of investment in the Law on Investment (2007) and in the Bill on Investment (2016) is very broad. For instance, it extends to portfolio investments, which are typically regulated by separate legislations due to the specific regulatory challenges that they pose. With regard to the Law on Investment Agreements (2013), no definition is offered as to which sectors qualify as priority ones, and there are no established eligibility criteria for special treatment (e.g. size of investments, impact on employment creation). In many countries, investment laws usually define which sectors are closed or restricted to FDI, including sectors that are sensitive in terms of national security or public interest (e.g. the production of arms and ammunition). However, in Tajikistan, legislation does not specify these issues; neither does it define what degree of foreign participation is required for an investment to qualify as FDI (e.g. in terms of percentage of shareholding, value of transactions or assets). The Bill on Investment addresses some of these concerns. For instance, it defines FDI through a minimum threshold of 10 per cent foreign ownership of firms

Tajikistan is in principle open to foreign investors, and no entry barriers are legally in place, although some activities are de facto closed to FDI. With the exception of the financial sector, where some requirements for foreign investors exist,[9] there are no formal ownership restrictions for foreigners. However, the lack of a fully operational single window system for registration and extensive licensing requirements may act as an informal restriction to foreign-owned firms (see section B).[10] Also, although the Government has already privatized a large number of SMEs, in some important sectors the biggest firms remain State-owned and operated, particularly in public services. As a result, some of these activities are de facto closed to foreign investment.[11] Whereas there are no comprehensive plans to abolish the majority of State monopolies in the near future, current plans envision attracting private investment, including FDI in the transportation and power sectors.

Foreign-owned companies face more limitations than domestic firms with regard to accessing agricultural land and land for other purposes. According to the Constitution, agricultural land cannot be privately owned (neither by foreigners nor by Tajik nationals), and the State is assigned to guarantee its efficient use in the interests of the people. The Land Code of 2012 distinguishes between primary and secondary land users. Primary land users (both legal and natural persons) can access land for either limited-term, perpetual-term or life-long inheritable use. Secondary land use is possible through leasing from primary users. Land use by foreigners is governed by a specific clause, which imposes a limit of 50 years for primary leasing and prevents them from engaging in any type of lease of land for agricultural use (see section B). This limitation hampers the attractiveness of Tajikistan for agro-processing investments.

b. Treatment and protection

National legislation

The investment framework grants post-establishment non-discriminatory treatment to foreign investors. The Law on Investment (2007) guarantees “equality of rights between foreign and domestic investors and non-discrimination on the basis of their nationality, ethnicity, language, gender, race, religion, place of economic activity, as well as the country of origin of the investor” (article 4).[12] To register companies, foreign investors until recently faced additional costs linked to translation and notarization requirements. To address this issue, in February 2015 Tajikistan acceded to the Hague Convention of 5 October 1961 on Abolishing the Requirement of Legalization for Foreign Public Documents (Apostille Convention).[13] The Bill on Investment (2016) specifies a project threshold of $5

9 For instance, with regard to insurance activity, Law 1079 on Insurance Activity (2014), article 8, provides for certain restrictions on foreign investors. In particular, it mandates that not less than half of the members of the collective management body (i.e. board) shall consist of citizens of the Republic of Tajikistan. In addition, the Director and Chief Accountant of insurance companies with foreign investments shall reside permanently in the Republic of Tajikistan.

10 The Bill of 2016 in article 23 calls for setting up a one-stop shop for investors as a tool to improve the investment climate.

11 According to Decree 705 of 2009, the enterprises not to be privatized include medical facilities, waste treatment, major hydropower and aluminium production facilities, air transport, postal services, television or radio broadcast centres, among others (WTO, 2012).

12 In fact, article 4 of Law of 2007 covers discrimination not only of foreign investors but also among investors within Tajikistan, as there is an explicit reference to a prohibition based on the “place of economic activity”. Such references are not common in clauses on non-discrimination, as they do not refer to the country of origin of investors.

13 Accession to the Hague Apostille Convention reduces registration costs for foreign-owned firms as it shortens lengthy legalization processes in registration for investors from signatory countries, which can be certified for legal purposes in all the other signatory States, see hcch.net/en/news-archive/details/?varevent=395, accessed 15 January 2016.

million for eligibility to "additional guarantees and protection measures" (article 9). To improve the transparency of the regime, additional details concerning priority sectors and application procedures will have to be specified in secondary legislation.

The free transfer of investment-related funds is guaranteed. Investors can repatriate profits invested capital and loans, provided they comply with all national fiscal obligations. Tajikistan accepted the obligations of article VIII of the IMF Articles of Agreement in 2004 and imposes no restrictions on payments and transfers for current account transactions. Currency is freely exchangeable and convertibility is guaranteed by the NBT. Also, the regulation of foreign currency transactions by Law on Investment (2007) allows the purchase of foreign currency for all types of payments with only one exception: transactions linked to income from illegal activities.

Guarantees against expropriation are in line with international standards, but other forms of interference raise investors' concerns. The Law on Investment (2007) authorizes expropriation when it is carried out in the public interest, according to due process and against due compensation at market value in freely convertible currency (article 11). The article on expropriation of the Bill on Investment (2016) also includes a reference to non-discrimination as a requirement for legitimate requisitions of property. However, although there have been no cases of direct expropriation of foreign investments, cases of random tax audit inspections or other procedures have been reported by investors. These actions may have significant detrimental effects if they are meant to target profitable companies in order to reduce their value and facilitating a transfer of assets. The Government has taken initiatives to address this challenge but results have yet to materialize (section B).

The conditions to access investment incentives are not fully specified in the legislation. The Law on Investment (2007) provides some information regarding the incentives available to investors, including three main types of benefits i.e. customs, tax and State grants. However, it does not provide details on the criteria regarding eligibility, duration or exceptions to allocate these incentives. For instance, State grants are available only for investors that enter into investment contracts with the Government, but neither a description of eligibility requirements nor the relevant application procedures are provided. Also, the Law on Investment Agreements (2013), which allows for more generous protection and incentives to be granted through investment contracts (e.g. tax stabilization and exemptions from price regulations and licensing, customs and anti-trust legislation), is not specific about the eligibility procedures and conditions (see section C of this chapter for more details on incentives).

Investment contracts are not a long-term solution. In the short run, contracts with stability clauses may continue being necessary to attract strategic investors and compensate for challenges in the investment climate, whereas in the long run, an increase in the number of contracts and clauses guaranteeing different conditions may create a regime that is difficult to administer. Also, the use of contracts with different treatment conditions applying to different types of investors opens the doors for claims of arbitrariness and discriminatory treatment. Thus, in the short run, the Government should aim, to the extent possible, to standardize special treatment conditions contained in contracts. In the long run, a general regime applying to all investors would be preferable, and the Government may reduce recourse to contract-based legislation.

Investor–State disputes are settled through domestic courts or international arbitration, and there is no requirement to exhaust local remedies. Tajikistan is a party to a number of investment agreements and conventions that include arbitration clauses (see below). In addition, the Law on Investment (2007) provides for resorting to domestic courts or international arbitration for investment disputes with the State, although it lacks clarity as to whether these means are accessible by all investors or only those covered by specific investment contracts. Also, the Law on Investment does not require prioritizing domestic solutions before resorting to arbitration procedures. If adopted, the Bill on Investment will circumscribe the definition of investment disputes to those covered by contracts. Tajikistan was a respondent in only one known ISDS case at the Stockholm Chamber of Commerce.[14]

[14] *Mohammad Ammar Al-Bahloul v. the Republic of Tajikistan* (SCC Case No. V 064/2008). The claimant, Mr. Al-Bahloul, invested in a joint venture for exploration and production of oil and gas in Tajikistan in 2000. The investor claimed for reimbursement of incurred costs given that licences to explore in four regions were never granted, despite repeated requests to the responsible authorities. As a result, no exploration was ever carried out. Tajikistan was found to have breached the Energy Charter Treaty. In addition to costs of arbitration, Tajikistan was ordered to pay Mr. Al-Bahloul EUR 300,000.

International investment agreements

Tajikistan is a party to 35 bilateral investment treaties (BITs) and to various regional investment treaties. Nineteen of the BITs have entered into force (see annex 2 for a list of all treaties).[15] The Government has reported that additional BITs are currently under negotiation (i.e. with Canada, Estonia, the Occupied Palestinian Territory, Saudi Arabia and Turkey). In addition, the country is a party to seven other investment treaties, including the Energy Charter Treaty.[16] Other relevant international affiliations include Tajikistan's membership in the WTO, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Multilateral Investment Guarantee Agency (MIGA). Tajikistan has not signed the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the International Centre for Settlement of Investment Disputes (ICSID) Convention). However, it has signed BITs providing for ICSID arbitration under its Additional Facility Rules.

The BITs concluded by Tajikistan could benefit from a **strengthened sustainable development dimension as well as further refinements and legal clarifications** The existing BITs typically include provisions on post-establishment most-favoured nation (MFN) and national treatment, fair and equitable treatment (FET), expropriation and transfer of funds. However, none of the BITs under review include provisions on issues such as the protection of the environment, health and labour standards, which is a growing trend in treaty making. With regard to content, the BIT network could benefit from refinements to specific clauses. For example, all of the BITs reviewed include broad definitions of investment and investors, which may create unexpected liabilities, as they grant protection to all types of assets.[17] Concerning investors, none of the BITs reviewed limited the definition of legal entities to be covered, for example, by defining ownership and control or by clarifying that the legal entities covered should be carrying substantial or real business activity. Most BITs include an unqualified commitment to treat foreign investors fairly and equitably, and include free transfer of funds provisions without reservations.[18] Finally, most of the BITs reviewed include clauses on direct and indirect expropriation (without clarific tion) as well as on compensation for losses. The BIT with Viet Nam does not include a national treatment obligation; most of the treaties include an MFN carve-out regarding membership in regional customs unions and taxation issues.

All of the BITs include an investor–State dispute settlement mechanism that permits international arbitration.[19] The BITs allow arbitration to be initiated under the ICSID or the UNCITRAL Rules. Most of the BITs reviewed do not include limitations on the scope of ISDS, such as limiting provisions subject to it or excluding public policy areas from ISDS. Only the BIT with Azerbaijan limits the scope of ISDS to cover disputes relating to expropriation, losses from armed conflict and transfer of funds (other disputes require additional consent of the host State before proceeding to international arbitration).

Furthermore, near half of the BITs reviewed include an umbrella clause, which effectively elevates other commitments by Tajikistan, such as those contained in investment contracts, to an international treaty obligation. This makes it even more important to have the technical capacity and expertise to understand investment contracts, given the potentially significant role of such

15 Most BIT treaties cannot be publicly accessed, and the authorities reported that a formal archive was only started in 2005, which does not allow for a comprehensive assessment of Tajikistan's IIA regime. The analysis below is based on information contained in 13 BITs for which the text is available.

16 The other six agreements are as follows: the Agreement on Promotion, Protection and Guarantee of Investments amongst the Member States of the Organization of the Islamic Conference (1981), the CIS Investor Rights Convention (1997), the Framework Agreement concerning the development of trade and investment relations with the United States of America (2004), the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Republic of Tajikistan, of the other part (2004), the Agreement on Promotion and Protection of Investment among Member States of the Economic Cooperation Organization (2005) and the Agreement on Promotion and Reciprocal Protection of Investments in the Member States of the Eurasian Economic Community (2008).

17 For instance, only the BIT signed with Austria (2010) clarifies that in order to be covered, an investment must fulfil certain characteristics (e.g. the commitment of capital, the expectation of gain or profit or the assumption of risk).

18 Only the BIT with France qualifies the FET standard by reference to international law. The BIT with France also includes an exception relating to balance of payment difficulties Other BITs containing such exceptions include Azerbaijan (relating to the fulfilment of tax obligations) and the BITs with Austria and Turkey (relating to the protection of creditors).

19 As indicated earlier, Tajikistan was a respondent to only one known ISDS case.

contracts. The latest IIA trends show that recent BITs tend to omit the inclusion of the umbrella clause (UNCTAD 2015d).

Enhanced capacity-building activities could improve the consistency and development dimension of international investment policies. Interviews with Government stakeholders highlighted the need for building capacity of staff involved in negotiation and signing of IIAs.

Recommendations

I.A.1. Work to further clarify the national legislation on investment as well as the national policies and strategies containing investment-related provisions. The UNCTAD Policy Framework provides guidance for the main direction of desirable legal reforms, whose goals should be as follows:

- Clarify the interaction of FDI with the country's overall development strategies, related goals and/or priority sectors to be promoted;
- Adopt a definition of FDI and ensure that all other legislations that have references to FDI be harmonized accordingly so that there is no room for multiple interpretations;
- Introduce clear and consistent provisions covering all aspects of the investment process. This includes entry and establishment restrictions and sectors closed fully or partially to investment, treatment and protection guarantees, conditions for incentives and dispute settlement procedures;
- Move forward with reforms to create a single window for foreign investors (see section 2A).

I.A.2. Continue legal and/or institutional reforms to improve access to land and real estate. At present, despite the presence of a few important foreign-owned projects in agriculture, the attractiveness of FDI is limited by unequal treatment with regard to land use rights and legal restrictions for investments in agriculture. In light of the Government's objectives to diversify FDI infl ws and the country's potential for developing agriculture, the authorities may consider the following suggestions:

- Review the limitations regarding the access to land by foreign investors, while taking properly into account the legitimate interests of domestic smallholders;
- Create a land bank to allocate specific plots to foreign investors for agriculture investments, if the general ban on accessing agricultural land cannot be lifted in the short run. Such a mechanism could build on recent experiences with Chinese investors in Khatlon and be expanded in parallel to progress made on land registration reforms (see section B).[20]

I.A.3. Adopt measures to enhance treatment and protection of foreign investors in line with international standards. Although in principle the legal regime enshrines non-discrimination, instances of arbitrariness have been reported. The following key priorities remain:

- Including explicit reference to non-discrimination as a condition for legal expropriation in the investment legislation;
- Enacting legal changes to strictly detail the conditions for any differential treatment with regard to taxation, performance requirements and incentives;
- Continuing legal and institutional reforms in State agencies to prevent the incidence of inappropriate interference by public authorities on business operations (see section B of this chapter).

I.A.4. Review and assess the use of investment contracts in the long term. This may help limit the number of contracts containing different treatment and varying conditions for investors.

I.A.5. Revise the international investment policy regime taking into account the broader national development strategies. In doing so, the Government could consider the guidance contained in the UNCTAD Policy Framework and in the Action Menu for IIA reform (UNCTAD, 2015a):

- Safeguard the country's right to regulate investment for public policy objectives and make sustainable development an explicit objective of treaties by promoting responsible investment;
- Strengthen the investment promotion dimension of IIAs;
- Clarify certain treaty provisions to avoid overly broad interpretations and ensure legal predictability;
- Enhance systemic consistency between bilateral and regional IIAs and other international law instruments, as well as between IIAs and domestic policies. Should Tajikistan envisage engaging in

[20] See news.tj/en/news/chinese-farmers-intend-rent-dry-farming-lands-khatlon, accessed 15 August 2015.

future IIA negotiations and develop a model BIT, UNCTAD could assist through technical cooperation activities, including training for relevant Government stakeholders.

B. Company operations

Since 2000, Tajikistan has undertaken significant reforms to improve the legal and regulatory framework for company operations. These reforms, which took into account suggestions and proposals of both the private sector and development partners, have aimed at addressing legislative shortcomings in the areas of business registration, business licences and inspections. Significant progress has been achieved, as described in this section, but challenges and implementation shortcomings persist that deserve continued attention.

Business registration requires few procedures, but the cost of the process remains high. Tajikistan has recently reduced the number of procedures necessary to start a business from 14 to 4. These include paying a registration fee; obtaining a statistics code and tax identification number (TIN) from the State Registry of Legal Entities and Individual Entrepreneurs; registering with the State Agency for Social Insurance and Pension; and obtaining a company seal.[21] However, the cost of registration (SM 1,150 or about 21.5 per cent of income per capita) remains the highest among comparator countries (table 1.1). This high cost may discourage company creation and the formalization of small Tajik entrepreneurs. Furthermore, closing a business has also been reported to be challenging and cumbersome.

Licensing and permitting requirements have been greatly simplified in the law, but implementation needs to be strengthened. Beyond registration, businesses need to obtain a number of authorizations before they may start operations. Only certain activities are subject to licensing requirements, but all businesses need some type of permit or authorization.[22] Tajikistan started streamlining licensing requirements as early as 2004, when the Law on Licensing of Separate Types of Activity reduced the number of activities requiring licences from about 1,000 to 115. Further amendments to this law in 2006 lowered the number to 65. Some progress in streamlining permitting has been made with the adoption of Law on Permits in 2011, which introduced the principles of transparency, predictability and efficien y. The goal was to simplify the business permitting process, standardize procedures and reduce the total number of permits.[23] Remaining licences are associated with standard activities that require administrative scrutiny for public interest and safety reasons. However, it was reported during the UNCTAD fact-finding mission that businesses receive requests to comply with requirements that have been eliminated by law.

Tajikistan has also modernized the regime for business inspections, but has yet to improve the coordination between inspectorates. In order to stem inordinate administrative interference in business operations, the Government in 2006 adopted Law 223 on Inspections of Business Entities aimed at improving the procedural transparency of inspections and the predictability of inspections rules. The law specified the areas in which inspections may be conducted as well as the government bodies involved, set the pre-conditions for any inspection and required prior notice to firms [24] It also forbid inspectors to issue sanctions arbitrarily, required the publication of officia lists of inspectors, provided for the re-training of inspectors and regulated the introduction of checklists and inspection registration books.

Implementation problems significantly hindered progress, leading the Government to issue several moratoria on inspections. Private sector representatives have reported that the practice of abusive inspections targeted by the 2006 reform persists. Acknowledging the urgency of the situation, the Government first opted for a

[21] World Bank Doing Business Database available at doingbusiness.org/data, accessed 1 August 2015.

[22] Unlike licensing legislation, permits and other types of certific tion are regulated by sector laws and by-laws, which give room to State agencies to establish their own permitting based on specific needs (orld Bank/IFC, 2009).

[23] Notably, the law establishes a single window for permitting that is meant to reduce the burden of administrative procedures (articles 15 and 16). The drafting of this law was supported by international partners, including the World Bank Group, as well as the Governments of Switzerland and of the United Kingdom (see wbginvestmentclimate.org/advisory-services/regulatory-simplific tion/business-regulation/business-operations/tajikistan-cuts-red-tape-for-permits.cfm, accessed 1 August 2015.)

[24] The Law on Business Inspections lists the areas where inspections are expected, which include activities that in general involve risks to public interests (e.g. environment, public health, natural resources, media and broadcasting, public infrastructure and national security).

Table 1.1. Starting a business in Tajikistan and selected countries in 2016

Country	Rank in 2016	Number of procedures*	Number of days	Cost (percentage of income per capita)
Kyrgyzstan	35	4 (9)	10 (21)	2.1 (10.4)
Republic of Moldova	26	4 (10)	4 (30)	4.3 (14.6)
Mongolia	36	5 (7)	6 (13)	1.5 (9.6)
Tajikistan	**57**	**4 (14)**	**11 (79)**	**21.5 (85.1)**
Uzbekistan	42	5 (11)	6.5 (28)	4 (11.5)

Source: World Bank Doing Business Database.
* The numbers in parenthesis refer to data for 2006.

two-year moratorium on inspections of SMEs in 2009 (Law 505 of 2009 on the Moratorium on Inspections of Small and Medium-sized Businesses). In addition, a sector-specific moratorium was introduced for manufacturing activities (Law 859 of 2012 on the Moratorium on Inspections of Business Entities Engaged in Manufacturing), which was recently extended (see Law 1192 of 2015).[25] As of 1 August 2015, 78 of 208 applied business entities have been awarded relevant certific tes and registered as manufacturing business entities.[26] These entities are engaged in the production of goods and products in various sectors such as construction, confectionery, pharmacy, food, beverages and apparel. Notwithstanding the potential impact that the moratoria may have on easing company operations, inspections serve a public interest purpose, and suspending them does not solve the problem of inadequate compliance and enforcement. Indeed, resorting to moratoria can create safety risks.

A new law on business inspections was enacted in December 2015, aiming to ensure more effective coordination of inspectorates and introducing risk-based inspections. Inspections should be initiated based on a technical appreciation of the risk of non-compliance, rather than on an individual inspector's subjective appreciation of the opportunity to conduct such an inspection. With regard to the efficien y of inspections, a greater centralization of inspectorate bodies would facilitate supervision, speed up capacity-building and foster greater collaboration and information sharing between inspectors. Improving these two aspects of inspections is envisioned in amendments to the current inspections law, incorporating advice from IFC and developed by a government working group. The reforms will introduce a risk-based approach to inspections allowing businesses with low risk to be inspected not more than once every five years. The amendments also provide for the setting up of an inspection coordination council.[27] The Law on Inspections of Business Entities was approved by Parliament and signed by the President of Tajikistan in December 2015.

25 The law, which applies to small, medium-sized and large business entities, defines manufacturing enterprise as a legal entity and/or individual entrepreneur engaged in the production of goods and equipment for public consumption. To qualify for the moratorium, companies need to have a certific te of production to be issued by the State commission on the implementation of moratoriums on the inspection of business entities engaged in manufacturing. This commission is an interministerial institution that also includes representatives of the private sector. Legal entities and individual entrepreneurs may apply and obtain a certific te of production within a maximum of two months from the date of application.

26 See ijozat.tj/index.php?option=com_content&view=article&id=251&Itemid=23&lang=en, accessed 15 August 2015.

27 The inspection coordination council would act as a consultative body of the Government and foster interaction and coordination of activities among inspection authorities. The council would have, among others, the following responsibilities: assisting in establishing and strengthening required administrative infrastructure for inspection authorities, ensuring compliance and enforcement of the provisions of the law, coordinating inspection plans to avoid duplication, approving criteria for evaluating the performance and effectiveness of inspection authorities, coordinating activities to set up a single inspection database, approving rules for data collection and the development of a unified inspection evaluation methodology, reviewing annual reports of inspection authorities and evaluating the effectiveness of inspections, determining the order of public disclosure and providing recommendations to the Government on reforms of the system of inspection authorities.

Land registrations and real estate procedures need further facilitation. Although there is no private ownership of rural or urban land in Tajikistan, private land use rights are recognized by the State, and the rights to use land under and around buildings are assumed to be transferable. However, title registration procedures are costly and excessively centralized. There are few local offices issuing land use rights certific tes, which results in important delays (USAID, 2014a). Statistics show that transferring the rights on buildings can take 37 days and costs 3.7 per cent of the property value in Tajikistan, while it takes 23 days and 2.7 per cent on average in the Eastern Europe and Central Asia Region.[28] In order to address these constraints, the Government has for several years attempted to establish a single window for property registration. Although the legal basis is in place, the authorities are still striving to effectively coordinate the work undertaken by the two main institutions involved: the State Unitary Enterprise “Markazi Zamin” (Land Centre) under the Committee on Land Management and Geodesy, which prepares documents for the registration of land use rights; and the Bureau of Inventory, which maintains a database with all plots of land records and is in charge of the inventory and valuation of buildings and structures (ECE, 2011; ADB, 2014). According to Decree 88 of 2013, the two institutions were merged under the State Unitary Enterprise “Real Estate Registration”, in a step towards introducing a unified registration system for immovable property and rights to it. Later, Decree 432 of 2015 tasked the new entity with developing and implementing pilot projects in selected districts and cities.[29] The process will be extended, and it is scheduled to take place throughout the country starting from 1 January 2016.

Reforms towards developing a land market have recently been adopted, but challenges remain. The latest reforms to the Land Code in 2012 have allowed for buying and selling as well as mortgaging of land use rights. The reform is a step in the right direction to enable the development of land markets in Tajikistan, although its provisions require further regulations to become effectual. Namely, according to the Land Code (article 5), the Government needs to issue regulations providing for land use “with and without alienation rights” and to establish rules “for the acquisition of land use rights in markets”. Although drafts of these documents have been prepared by an inter-agency working group on land reform (with the technical assistance of USAID through a land reform and farm-restructuring project), the official decrees have yet to be issued. Consultations with Government stakeholders revealed that consensus still needs to be reached with regard to the regulation providing land use “with and without alienation rights”. In particular, issues concerning whether land use right transactions will involve fees and the categories of individuals and entities to which they will apply are still being discussed. A recent expert review of the land regime highlighted that pending challenges also include the following: the existence of a State monopoly for notary services that increases the cost of land use rights transactions, a lack of model contracts for land transfers and mortgages, and insufficient legal protection against terminations or revocations of land use rights by the State (USAID, 2014a).[30]

Limitations on the alienability of land use rights affect the availability of land on the market and the capacity to raise credit through mortgages, particularly for SMEs. As mentioned above, with the exception of holders of land plots where houses are built, holders of any category of land use rights cannot in practice alienate land use rights to other private parties. Thus, the system also fails to provide a substantial basis for mortgage-based credit, which is particularly worrisome, given that access to finance is among the primary obstacles to enterprise development in Tajikistan (see chapter 2).

Recommendations

I.B.1. Increase the transparency and efficien y of administrative requirements related to business operations. The Government should consider introducing the following elements of the UNCTAD Business Facilitation Programme:

- eRegulations platform, an UNCTAD’s web-based tool, which maps out all necessary documents, can help identify ways to streamline business processes; the platform can also be used by the Government to publicize processes and regulations required for business registration, application for licences and access to land;

28 World Bank Doing Business Database available at doingbusiness.org/data, accessed 1 August 2015.

29 These include Khorog of the autonomous province of Kuhistoni-Badakhshon (also known as Gorno-Badakhshan), Khujand and Istaravshan of Sughd province, Kulyab and Bokhtar district of Khatlon province, Gissar district and Rasht district.

30 Lack of adequate compensation mechanisms, including valuation, for land use right expropriations has also resulted in time-consuming processes in Tajikistan’s dealing with the donor and investment community, particularly with regard to valuing compensation for needed resettlements of populations in infrastructure projects (i.e. roads and hydro-energy) (ADB, 2014).

- Ten principles to simplify administrative procedures.[31] Developed by UNCTAD, these principles generally enable Governments to reduce the number of steps and requirements by more than 50 per cent without changing the law.

UNCTAD, through its Business Facilitation Programme, stands ready to provide assistance in the implementation of these programmes.

I.B.2. Finalize the centralization of business registration procedures into a single window by taking the following action:

- Ensure that initiatives to streamline registration requirements are in line with the principles to simplify administrative procedures mentioned above;
- Lower the costs of procedures required for registering businesses to levels comparable to those of countries at a similar stage of development; and adopt measures to simplify procedures for the closing of businesses.

I.B.3. Move forward with reforms to improve land markets. This would require the following action:

- Move forward with the adoption of the secondary legislation required to implement the Land Code of 2012 to ensure the alienability of use rights;
- Continue implementing reforms to extend a unified registration system across the national territory;
- Reduce registration-related costs and consider abolishing the monopoly on notary services.

I.B.4. Implement a modern inspection regime by ensuring the prompt adoption of a revised law on inspections that includes provisions to adopt a risk-based approach and improved coordination among inspection bodies.

C. Taxation

Notwithstanding recent reforms, the corporate tax regime remains complex. A new tax code entered into force on 1 January 2013, which scheduled a progressive reduction of corporate taxes. As of 1 June 2015, the corporate income tax rate was set at 14 per cent for manufacturing companies and 24 per cent for all other activities. These rates will be lowered to 13 per cent and 23 per cent, respectively, by 1 January 2017. A gross revenue tax of 1 per cent applies whenever the corresponding value is higher than the relevant corporate income tax payment, including in case of companies incurring losses. Other taxes affecting companies are the value added tax (VAT), the sales tax, the social tax and the road tax (the latter is scheduled to be phased out in 2017). In addition, several transactions are subject to an excise tax (see below). Also, the accumulation of different taxes creates administrative challenges, including on the interpretation of the tax code, which are particularly burdensome for SMEs.

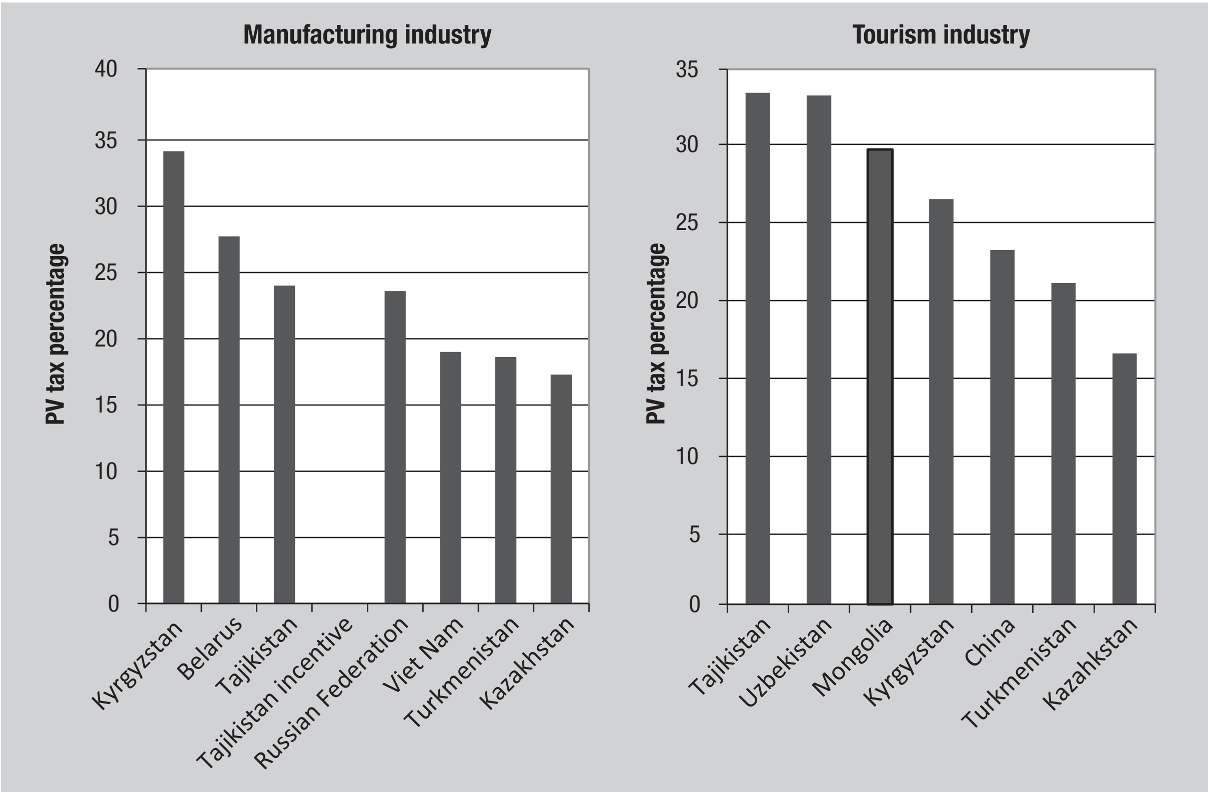
The Tajik tax regime is not competitive when compared with other regional locations. UNCTAD's tax methodology is a useful tool to compare countries' taxation regimes. It measures the amount paid in corporate taxes as a percentage of the total cash received from the project by a foreign investor, in net present value terms (see annex 3 for more details). When applied to the tourism sector, which is among the Government priorities for attracting investment, the model shows that the tax burden in Tajikistan is the highest among comparator countries (figure 1.1). In the case of the manufacturing sector, the burden for firms is not the highest, largely because the sector benefits from a special low corporate income tax rate (14 per cent) and enjoys generous tax holidays. However, unless a firm is set up in a zero rated free economic zone (FEZ) – the Tajikistan incentive scenario in figure 1.1 – the country is less advantageous than several regional and global competitors.[32] Among the reasons for the high tax burden in Tajikistan are dividend withholding tax rates (at 12 per cent) that are well above the regional average and low depreciation rates for physical capital investments, which make the regime specifically burdensome for MNEs

Mechanisms to reduce double taxation are insufficiently developed. For resident companies, which comprise foreign affili tes, gross income includes their worldwide income. While Tajikistan has signed double taxation treaties (DTTs) with over 25 countries, the procedures to claim the benefit of a DTT are reportedly subject to particularly strict deadlines. This affects the practical enforceability of DTTs in preventing double imposition.

[31] These principles are: 1) publicity of procedures; 2) lawfulness of controls; 3) relevance of requirements; 4) presumption of good faith; 5) non redundancy; 6) free forms; 7) original simple copies authenticated; 8) online requests; 9) online certific tes; 10) regroup steps of the same nature.

[32] And also when compared with Belarus and Kyrgyzstan, countries that have developed advantages in manufacturing, through non-fiscal State support that may compensate for higher general rates (UNCTAD, 2015b).

Figure 1.1. Comparison of tax regimes in selected countries and industries (Tax burden in percentage, present value terms)



Source: UNCTAD.

The VAT regime offers numerous exemptions, but it duplicates other indirect taxes and refund is time consuming. The main VAT rate is 18 per cent and applies to sales of goods and services. Reduced rates of 5 per cent apply under certain circumstances, and exports are zero rated. Numerous activities related to the production of goods and services, including imports, are exempted from VAT (box 1.1). A sales tax applying to cotton and aluminium overlaps with the VAT. Also, an excise tax is in place that applies to numerous products, beyond products that create health or other risks and are often subject to this tax in other countries.[33] With regard to tax filing and claiming refunds, private sector representatives consulted during the UNCTAD fact-finding mission reported that the process is slow and VAT refunds are particularly difficult to obtain, a situation that the authorities attribute to insufficient coordination between the Tax Committee and the Ministry of Finance and to a lack of available liquidities at the Tax Committee.[34]

Social security contributions are high compared with some countries in the region. The social tax corresponds to 25 per cent of gross remuneration paid by the employer and 1 per cent paid by the employee (1 per cent of gross revenue for individual entrepreneurs). While the social security rate in Tajikistan is at par with that of Uzbekistan, it is much higher than in Kyrgyzstan (where it

[33] The excise tax rates vary according to the excisable good (e.g. on communication transactions the rate is generally of 3 per cent). Article 198 of the Tax Code lists all products and activities. They include not only fuels, tobacco products, spirits and alcoholic beverages, passenger cars, pneumatic tyres and jewellery products, but also mobile phone services, telegraph and IP communication services, telematics services, and international and long-distance telecommunication services through mobile network.

[34] According to the Tax Code (article 191), VAT refunds are made upon application of taxpayer to Tax Committee and submission of all required documents, including VAT declarations and export transactions documentation, based on which the Tax Committee prepares its opinion and sends all papers to Ministry of Finance for review and clearance. Only after this occurs is the VAT refunded to taxpayer by the Tax Committee.

ranges between 15 and 18 per cent) or in Kazakhstan (11 per cent). The high rate of social security contributions acts as a disincentive to formalization and wage increases. It has also allegedly contributed to the rise of irregular salary payments as a form of tax evasion, notably in some SMEs.[35] Revenues obtained through this tax are allocated to a social fund that covers pensions, but not healthcare. However, the possibility to increase social security contributions in order to cover mandatory healthcare is being considered as part of reforms.[36]

A broad range of incentives is offered that may compensate for the lack of competitiveness. Tax holidays apply to new manufacturing companies, which can be exempt of corporate profit tax for selected periods. Beyond tax holidays, there are several incentives schemes (box 1.1), a significant number of which are granted on a discretionary basis (World Bank/IFC, 2014). Also, some incentives schemes, such as the list of equipment for agricultural purposes, industrial process equipment and components that are exempt from payment of value-added tax and customs duty, are not regularly updated and can become obsolete (see Resolution 93 of 2013 replacing Resolution 97 of 2007). The Government has yet to undertake a comprehensive cost–benefit analysis to assess the effectiveness of the incentives regime. Thus, it is unclear whether existing schemes have contributed to higher investment fl ws or to any measurable development outcome. Experience from other countries has shown that setting up numerous incentive schemes not supported by strategic planning and cost–benefit analysis is likely to reduce tax revenues, create serious administration and tax compliance challenges, and have a distortionary impact on the allocation of investments in the economy (UNCTAD, 2012).

35 A study of the Tax Code undertaken by the National Association of Small and Medium Enterprises with support of USAID in 2008 had proposed to replace the existing rates by a regressive scale that would allow for smaller percentage contributions for certain salary thresholds. According to the study, the potential impact on revenues would be more than compensated by the increase in employment levels. See USAID (2008) “Financial and economic analysis of the Tax Code of the Republic of Tajikistan” (Russian version). Dushanbe, October, namsb.tj/phocadownload/beilibrary/tjfea_on_tax_code.pdf, accessed 15 August 2015.

36 The national law approved in 2008 called for the introduction of mandatory health insurance in Tajikistan in 2014. The implementation has been postponed until 2017, euro.who.int/en/countries/tajikistan/news/news/2014/01/tajikistan-plans-introduction-of-mandatory-health-insurance, accessed 1 August 2015.

Progress has been made to promote online tax filing but the reform is incomplete and not sufficiently publicized among taxpayers. Electronic filing for corporate taxes, the VAT and the social tax was introduced in 2012. Private sector representatives acknowledge that e-filing is a substantial progress and that its full implementation would help improve the investment environment. However, the system has not been sufficiently publicized among the business community. A progress report undertaken by the World Bank Facility for Investment Climate Advisory Services (FIAS) noted that only 6,000 out of 85,000 potential users had opted for e-filing by June 2014.[37] Respondents also indicated that filing for the VAT tax still requires paper forms to be submitted in addition to online filing thus limiting the positive impact of the reform. Since 2014, only a marginal reduction has been recorded in the time required for businesses to comply with their tax obligations (from 224–209 hours per year), which compares poorly with 81 hours in Estonia, 148 hours in Mongolia and 168 hours in the Russian Federation.[38]

Tax collection targets are disconnected from the evolution of the Tajik economy, which opens the door to governance issues. A general tax collection target is set for the country by the Ministry of Finance in coordination with the presidency every year. This target does not necessarily reflect the evolution of economic activity, especially in times of crises. Because tax collection rates affect the performance evaluations of public officials on the Tax Committee, the system has allegedly opened doors to excessive tax inspections (including so-called off-site inspection), requests for advance tax payments and audits that may not be in line with tax legislation, which result in undue pressure on taxpayers. Indeed, tax collection targets have been significantly increased from year to year, including in times of recession, threatening the viability of many businesses.

Recommendations

The current fiscal regime makes up for a high level of tax rates and complexity by offering a large number of incentives. This arrangement results in high administrative costs for the Government and high compliance costs for business, particularly for local SMEs. In this regard, further reform of the tax regime would be required to reach the following objectives:

37 wbginvestmentclimate.org/results/tajikistan-impact-evaluation-of-e-filing-and-in-depth-study-of-risk-based-audits.cfm, accessed 1 August 2015.

38 World Bank Doing Business Database available at doingbusiness.org/data, accessed 1 August 2015.

I.C.1. Improve overall tax competitiveness and reduce complexity

- Consider adopting a unified corporate income tax rate. The scheduled rate for manufacturing at 13 per cent rate may be too low to be adopted across the board, but the 24 per cent rate is also regionally non-competitive and should be reviewed;
- Review dividend-withholding rates, depreciation rates and social contributions at levels that are regionally competitive.

I.C.2. Rationalize incentives and align them to focus on national development priorities

- Make an assessment of the current tax incentives with a view to reducing their number and align incentives and other allowances with strategic and sectoral objectives as defined in the investment legislation (see recommendation I.A.1);
- Carry out periodic reviews of the effectiveness and adequacy of existing incentives to achieve sustainable development outcomes, including enterprise development;
- Grant incentives on the basis of a set of predetermined, objective, clear and transparent criteria;
- Ensure that the granting and administration of incentives be the responsibility of a Government unit that does not have conflicting objectives or targets for investment promotion (see chapter 2, section A).

I.C.3. Reduce the incidence of indirect taxation and expedite VAT refunds

- Move forward with reforms to avoid overlaps between the VAT and sales tax;
- Ensure prompt VAT refunds and, should any transition period be needed, provide compensation of refund claims against other tax dues. Also, consider the establishment of fast-track procedures to accelerate the VAT refunds for companies that fulfil predetermined criteria set by the tax authorities (UNCTAD, 2015c).

I.C.4. Strengthen mechanisms to reduce double taxation

- Streamline the procedures to claim the benefit of double taxation treaties and introduce longer compliance deadlines;
- Consider expanding the network of double-taxation treaties.

I.C.5. Adopt active measures to improve tax collection

- Promote the neutrality of the tax administration and revise the performance evaluation methodology of tax collection officers
- Avoid duplication in inspections by city, regional and national inspectors;
- Adopt a client orientation attitude and provide training to the staff of the tax administration on improving tax collection on the basis of cooperative compliance;
- Move forward with the online tax-filing procedure currently being implemented and consider expanding it to tax payments. [39]

Box 1.1. Overview of company taxation and incentives in Tajikistan

The main taxes affecting companies are the corporate profit tax (14 per cent for companies involved in manufacturing and 24 per cent for other entities), the VAT (18 per cent with many exceptions), the sales tax (10 per cent on ginned cotton, 3 per cent on aluminium) and the road tax (between 0.25 and 1 per cent).

Withholding taxes on interests, royalties and dividends are rated at 12 per cent. Withholding rates of 5 and 6 per cent apply respectively to telecommunication and freight, respectively, and a withholding rate of 15 per cent applies to other types of income. Productive assets with a value superior than SM 800 (or about $162)[39] are divided into five groups each associated with a specific depreci tion rate as follows:

Automotive road-building machines, special equipment, computers and peripheral equipment, data-processing equipment	*20%*
Trucks, buses, special-purposes vehicles and trailers, machines and equipment for all industries, foundry engineering press-forging equipment construction equipment, agricultural machinery and equipment, cars, office furnitur	*15%*
Power equipment, turbine equipment, electric motors and diesel generator sets, electricity transmission means, pipelines	*8%*
Building, constructions, railway transport structures, river and lake passenger vessels	*7%*
Other depreciable assets not listed in other groups	*10%*

The tax code does not provide for accelerated depreciation.

Exports are zero rated for VAT, except for certain products such as precious metals and precious stones, jewellery made of precious metals and precious stones, primary aluminium, metal concentrates, ferrous and non-ferrous metals, goods produced in the free economic zones, cotton, cotton yarn and raw cotton. The following activities are exempted of VAT: the supply or lease of real estate (with some exceptions), the supply of financial services in accordance with specific tions approved by the Ministry of Finance and the National Bank (with some exceptions), the supply of national and/or foreign currencies as well as securities, the supply and export of precious metals and jewel stones and jewellery made of precious metals and stones, production of aluminium and ore concentrate, scrap of ferrous and nonferrous metals, ginned cotton, cotton yarn and raw cotton. Numerous imports and transport services are also exempted of VAT.

For small companies with turnover under SM 500,000 (or about $101,420), a unique tax – at a rate of 5 per cent (production of goods) and 6 per cent (other activities) of gross revenues – applies. The tax base for this simplified approach is equal to gross revenue reduced by the excise tax and sale tax and calculated based on cash method.

Special tax regimes

Manufacturing	- Tax holiday of two years for investments between $200,000 and $500,000; three years between $500,000 and $2 million; four years between $2 million and $5 million; and five years for investments exceeding $5 mil ion.
Processing of cotton fibre into finished product (from cotton yarn to cotton sewing products)	- Exemption from corporate profit tax VAT, as well as customs duty and tax on real estate for the importation of goods for a period up to 12 years starting from January 1st of the enterprise's State registration year.
Industrial processing of leather, wool, raw silk and other agricultural raw materials in finished product	- Exemption from corporate profit tax for up to five years an VAT exemptions on imports and exports.
Poultry farms and enterprises producing feed for poultry and cattle	- Exemption from the following taxes: corporate profit tax VAT, road, immovable property for a period of 12 years. They are also exempt from customs duties for importation of goods for own use in the same period.
Free economic zones	- Exemption from payment of corporate taxes, except for income tax and social tax in respect of employees. In addition, they are exempt of all customs duties, VAT and excise taxation for both foreign and domestic goods imported to the zones.
Production-sharing agreements	- Exemption from corporate profit tax as well as excise tax and VAT (including imports) for the duration period of the agreement.

Source: Tax Code and Customs Code of Tajikistan.

[39] Throughout the report refers to the average official nominal exchange rate for 2014, which was SM 4.93 per dollar (IMF, *International Financial Statistics*).

D. Commercial justice and governance

The judiciary needs to develop commercial specialization. The cost of litigation in Tajik courts is low, but obtaining enforcement is relatively time-consuming, and it is necessary to improve the skills and knowledge of the staff concerned.[40] The *Programme of Judicial and Legal Reform for 2015–2017* (Decree No. 327 of 2015) has acknowledged that tackling inefficient enforcement procedures is a priority of the Government, even if implementation measures remain to be defined There is also a need for improving post-curriculum commercial training for judges, particularly in regional economic courts. Private sector respondents interviewed by UNCTAD for this IPR also highlighted the need to strengthen the judiciary's capacity to solve commercial disputes, which would result in improvements in quality, speed and predictability.

Insufficient transparency and neutrality in litigation are also of concern. Reports by international organizations have highlighted the need to enhance transparency in the judiciary (UNDP, 2013a; OECD, 2014). Given the central role of the State in the Tajik economy and its significant regulatory and supervisory powers, it is crucial for investors to benefit from the guarantees of due process. In this regard, reports by the monitoring of the Istanbul Anti-corruption Action Plan (IAP) have highlighted that lack of independence of the judiciary persists (OECD, 2014). The fact that judicial decisions are not public is also of significant concern, as transparency could encourage judges to develop a reasoning to justify their decision, and increase legal predictability and confidence in the judicial system (Colman 2011).

Making the laws and regulations easily available to the public would also enhance their enforceability. Efforts were undertaken in this area with the Law on the Right to Access to Information (2008), which provides for the right for all to be informed about the existing laws and regulations. However, the Decree on the Approval of the Order of Reimbursement of Costs Related to Provision of Information (2010) allows for the setting of fees on all aspects of the communication of information, be it written or verbal, which may limit the impact of the Law of 2008 (EBRD, 2012).

Alternative dispute resolution (ADR) has yet to be developed in the commercial sphere. Although negotiation and mediation play an important role as traditional mechanisms of dispute resolution in Tajik culture, courts have traditionally been the only formal mechanism to handle commercial conflicts As a result, the Tajik business community is not familiar with these mechanisms. International partners have assisted in addressing this deficit with regard to the resolution of family conflicts but so far solutions have not been customized to meet the needs of business disputes. [41] Encouragingly, in 2015, the Government has adopted a national law on international commercial arbitration. However, no similar initiative exists to promote ADR domestically.

Tajikistan has signed onto international initiatives against corruption, which shows political will, but it has yet to align aspects of its national legislation with international standards. In 2006, it acceded to the United Nations Convention against Corruption (UNCAC). The country has also participated in the monitoring and peer-review exercises of the IAP under OECD auspices. After the third round of IAP monitoring in 2014, Tajikistan was praised for extending liability to corruption offences to foreign public officials and officials of international organizations and for enacting reforms to allow for the confisc tion of all assets and proceeds derived from corruption crimes. However, Tajikistan has yet to amend its criminal code to align definitions and criminalize types of behaviour with UNCAC requirements (e.g. define solicitation, offers and promises of bribes as modes of corruption and streamline the definition of public officials liable to corruption) and to amend its code to include liability of legal persons for corruption offences with proportionate and dissuasive sanctions (OECD, 2014).

The Government has acknowledged the need for further reforms. The second Strategy on Countering Corruption in the Republic of Tajikistan for 2013–2020, which builds on an earlier programme in place during 2008–2012, recognizes

[40] Tajikistan ranks fortieth in the world in the enforcing contracts indicator of the Doing Business report. The average time (430 days), cost (26 per cent of the claim amount) and number of procedures (35) necessary to obtain a court decision are similar to the regional average. Notably, however, the time it takes to enforce an award (270 days) is more than double the time needed for litigation (120 days). See World Bank Doing Business Database, doingbusiness.org/data, accessed 1 August 2015.

[41] For instance, the Third-Party Arbitration Courts (TPAC) Project was funded by DFID between 2005 and 2008 to establish an arbitration mechanism for the resolution of land and property disputes in support of Tajikistan's land reform programme (KasWag Agriconsulting, 2008).

that fighting corruption requires the highest political will and depends on the active participation of all branches of the Government and civil society. The Strategy aims to foster the role of Parliament, promote private sector development and competition, enhance professional codes of ethics for personnel of public institutions, increase transparency in public procurements and State financial control, and prevent corruption in education and health systems (see Decree 1504 of 2013 on the strategy on counteraction of corruption in Tajikistan for 2013–2020). However, these are very broad objectives and the relevant action plan is not sufficiently detailed. It also includes measures that are not directly related to the fight against corruption (e.g. money laundering, combating terrorism). Finally, the action plan is silent on the costs associated with each measure, which is likely to result in implementation and monitoring challenges (OECD, 2014).[42]

An anti-corruption agency was set up in 2005 but its capacities remain limited. The Agency on State Financial Control and Anti-corruption has about 500 staff members, of which approximately 150 work in its central office The Agency implements financial control and activities in all the branches of the Government, including State-owned enterprises and has prosecutorial functions. However, more resources and trained staff are required for the Agency to be more effective. According to the latest monitoring by the IAP, some positive changes have occurred with regard to fostering regular anti-corruption training (e.g. for civil servants, law enforcement officials and representatives of the prosecution services). However, more progress could be achieved if training activities were formalized and included into the regular training curriculum on anti-corruption. Also, with regard to investigation and prosecution, there is need to enhance capacities to focus on the detection, investigation and prosecution of complex cases. Specific sectors such as public procurement and licensing that are especially prone to corruption should be more carefully monitored.

[42] Since the adoption of the strategy progress has occurred, for instance, through the establishment of ethics commissions in all State institutions. But these commissions play a very limited role since their decisions can be unilaterally overruled by the head of the institution in question, and there is no integral coordination of work. In other areas, measures have yet to be undertaken, and intensive efforts on capacity-building will be needed to succeed (OECD, 2014).

Recommendations

I.D.1. Strengthen capacities of the commercial justice system

- Promote specific commercial training for first degree judges to improve the quality and neutrality of commercial decisions and to speed up procedures in complex commercial litigation;
- Promote the use of and build capacities regarding alternative dispute resolution mechanisms, including through mediation and arbitration (see the International Chamber of Commerce or the International Centre for Settlement of Investment Disputes for further information on such mechanisms).

I.D.2. Develop a regulatory framework to improve the statutory independence of the judiciary

- Guarantee that the principle of judicial independence is applied at the process of appointment and dismissal of judges as well as in the economic status of judges;
- Make judicial decisions accessible to the public and work to ensure any costs charged by public agencies to provide legal information are reasonable;

I.D.3. Strengthen the fight against corruptio

- Align definitions of the Criminal Code and other national legislation with international standards as recommended by UNCAC;
- Provide material and technical equipment to the Agency on State Financial Control and Anti-corruption and increase transparency regarding the activities undertaken. The Government could follow the common standards and best practices for anti-corruption agencies defined by the European Partners against Corruption;[43]
- Move forward with the implementation of the 2013–2020 Strategy on Fighting Corruption and consider setting more specific goals, expected accomplishments and monitoring, especially with regard to controlling and preventing conflict of interests in public administration;
- Consider increasing the involvement of civil society in combating corruption by increasing the powers and efficien y of the National Council and by increasing the number of non-governmental actors.

[43] See stt.lt/documents/tarptautinis_bendradarbiavimas/KNAB_elektroniskais_buklets.pdf, accessed 19 May 2016.

E. Competition regime

Tajikistan has adopted a comprehensive legal framework for competition. The Law on Competition and Restriction of Monopolistic Activities on Markets (2006) sets out the basic principles and procedures of the Tajik competition regime and applies both to the regulation of private markets and natural monopolies, including public utilities. It regulates abuses of monopolistic and dominant positions, as well as agreements to restrain competition. Amendments to the antimonopoly law were adopted in 2012. Among other changes, they lowered the threshold used for the definition of a dominant market position for a single company.

However, the antimonopoly agency lacks the required degree of independence. The 2006 law grants broad powers to the antimonopoly agency to annul any administrative decision or regulation that would contradict the competition law, to adjudicate corporate practices that may violate the law, to review concentrations and to advise the Government on potential improvements to the competition rules.[44] The agency is also in charge of the regulation of natural monopolies, including the setting of prices, and it is the coordinating agency for consumer protection. However, the agency does not benefit from a status that would guarantee its independence, and it is broadly perceived as a regulator of prices (see below). The agency has 37 employees at headquarters and 23 in local offices Under article 25 of the Law on Competition, the agency's decision and instructions may be appealed in court.

Important exceptions to antimonopoly rules are in place. The main aspects of their regulation are set forth in the Law on Natural Monopolies (2008; amended in 2013). Accordingly, a large number of activities in different sectors are listed as natural monopolies.[45] Investors operate under the supervision of the Tajik authorities and are therefore subject to specific constraints, particularly when they set prices for goods or services. The Law provides that the administration may set or cap prices and define the groups of consumers that should be serviced and the minimum level of service they should be entitled to. In this context, the antimonopoly agency has been imposing price caps to gas and telecommunications companies over recent years.

Private sector representatives consider that there is a need to reduce the level of intervention in the market and the Government has acknowledged the need for reform. During interviews with private sector representatives, the concern that direct and indirect support to the public sector was crowding out private sector investment was often raised. Unwritten restrictions to competition have also been discussed during Tajikistan's WTO accession process (WTO, 2012). When asked about the notion of "allowed" and "temporary" monopolies, the representative of Tajikistan said that they were not actually defined in the legislation: exceptions to free competition may thus exist in practice without a legislative framework to establish the necessary safeguards. Finally, instances of administrative interference in business operations affect profitability and private sector development.

Recommendations

The importance of so-called natural monopolies and the uncertainty introduced by other forms of State intervention that are not regulated by legislation narrow the scope of implementation of competition rules. It is recommended that the Government take the following action:

I.E.1. Review existing exceptions to the competition rules:

- Initiate a systemic review of all exceptions to the antimonopoly rules;
- Further ensure that the monopolistic companies do not compete unequally with other businesses. To this end, both the legislation and the scope of intervention of the Antimonopoly Agency should be amended;
- Design effective complaints and remedy mechanisms against administrative interference to business activities, including the creation of an ombudsman institution;
- Further facilitate access to information about existing price regulation to companies, particularly SMEs and disadvantaged groups.

---

[44] Article 13 of the Competition Law lists the competencies conferred on the agency.

[45] These are listed in article 5 of the Law and include the following: transportation of oil via pipelines; procurement and transmission of natural gas through main and (or) distribution pipelines, exploitation of gas distribution systems and related gas distribution pipelines; production, transmission, and (or) distribution of electricity (or) heat; rail transport services; services of transport terminals, airports and air navigations; postal services, telecommunications using the network of local lines; services of water supply and (or) sanitation systems; and local lines of air transportation services.

I.E.2. Focus the mandate of the antimonopoly agency on sanctioning anticompetitive practices and document its actions as follows:

- Review the efficien y of the agency in delivering on its wide mandate – in the areas of competition, natural monopolies and consumer protection – and consider refocusing the mandate on enforcing competition rules;
- Build capacity of the agency's staff and enhance its resources;
- Require the agency to document its action through the publication of its decisions and of annual reports describing the breadth and impact of its actions.

I.E.3. Consider UNCTAD assistance in the context of broader regional initiatives on competition and consumer protection matters:

- Tajikistan could benefit of the launching of a COMPAL Programme in CIS countries. As part of this initiative, training and technical cooperation opportunities will be hosted by the Federal Antimonopoly Service of the Russian Federation that will be addressed to Government representatives of CIS countries;[46]
- Experts from professional associations in law and economics could also benefit from upcoming peer reviews and technical assistance carried out by UNCTAD in the context of COMPAL.

F. Labour

Labour regulations are mostly in line with international standards but some aspects are not defined clearly. The main regulations governing labour relations are the Labour Code (1997), the Law 202 on Social Partnership and Collective Agreements (2006) and Law 757 on Trade Unions (2011).[47] The Labour Code foresees several types of employment contracts, including open-ended agreements (the default type), fixed-term agreements (up to five years renewable), and temporary agreements (i.e. applying to temporary replacements, specific or seasonal work). The current system grants hiring flexibilit , especially since there is no renewal limitation in the use of fixed-term contracts. However, some limitations are in place with regard to redundancies, which may have a discouraging effect on employment. Dismissal due to redundancy is allowed, but there is a requirement to consider prior re-assignment of workers and early notice to both employees and Government. Whereas notice is a common practice in other countries, prior re-assignment may be burdensome, depending on how it is to be implemented, but this is not spelled out in legislation.

Extensive workers' rights are provided for in the Labour Code. The law guarantees the rights to collective bargaining and the right to strike, as well as rights to training, assistance in job searches and protection from unemployment. Restrictions to night work are in place, as well as limitations on the possibility of increasing working hours in case of seasonal peaks of activity. The majority of workers are unionized; and tripartite negotiations have been institutionalized under the Tripartite Commission on the Regulation of Social and Labour Relations. Collective agreements signed between workers, employers and trade unions usually include wage setting and last for one-year periods. However, no consultations are mandated for determining the minimum wage, which is set by presidential decree (article 103 of the Labour Code). Social contributions are also relatively high (see chapter 1, section C), but the effectiveness of social insurance systems is limited, due to high evasion and informality.

Wages remain low, and the minimum wage is deemed to be below minimum subsistence level. Average wages amounted to SM 892 (about $181) for the first half of 2015, and the monthly minimum wage is SM 250 (about $51).[48] The approval of a decree to increase the current minimum wage, in effect since 1 September 2013, to SM 400 has been postponed.[49] The wages for women are lower on average, reflecting an important gender gap (see chapter 2). Although these rates have been steadily increasing during

[46] The UNCTAD COMPAL Programme has succeeded in significantly strengthening legal and institutional frameworks for competition and consumer protection in Latin America. Concrete achievements include the adoption or reform of legal frameworks and their subsequent enforcement as well as advice and training for the set-up of competition authorities. On the basis of the experience gained from the work under COMPAL for Latin America over the last 12 years, the Secretary-General of UNCTAD launched Global COMPAL in Lima on 5 May 2014. This new initiative is meant to cover competition and consumer protection policies for all regions of the world.

[47] See chapter 2, section B, for regulations on access to foreign labour.

[48] Figures provided by Tajstat from socioeconomic data for January–June 2015.

[49] See fergananews.com/news.php?id=23831.

recent years, the minimum wage is still deemed to be set below the minimum subsistence level. Indeed, International Labour Organization (ILO) statistics show that Tajikistan is one of the countries with the highest proportion of employees living under the poverty line (ILO, 2012).

Compliance with ILO Conventions has lagged and issues related to workers' rights have been acknowledged by the Government. Although Tajikistan has ratified all eight core ILO Conventions, the country has not fully implemented them and it lags behind on most of its reporting requirements to the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR). In particular, the violation of workers' rights is a recognized concern and the authorities have already adopted initiatives to improve the country's record. For instance, since 2010, the Government has been working with the International Organization for Migration (IOM) to address human rights concerns in the cotton industry, including child and forced labour (IOM, 2012).

A programme to promote decent work is in place, which has prioritized some of the most urgent social concerns. The Decent Work Country Programme (2015–2017) coordinated by ILO aims to increase opportunities to obtain productive jobs that provide decent income and social protection. The Programme, at its third iteration, builds on the success of previous initiatives (ILO, 2011).[50] It seeks to strengthen social dialogue by enhancing the roles of labour unions and business organizations in labour-related policymaking and the institutional capacity of the Tripartite Commission for the Regulation of Social and Labour Relations. Other areas of focus are the promotion of registered employment and formalization, the promotion of job opportunities for the youth, the strengthening of labour market information systems; and the alignment of the regimes for labour inspections, occupational safety and health systems with international labour standards. Finally, the Programme aims to enhance the coverage of social protection and assist in the implementation of the National Action Plan on Elimination of Worst Forms of Child Labour for 2015–2020, approved by Decree 690 of 2014 (ILO, 2015). The Ministry of Labour, Migration and Employment, jointly with ILO, has also developed a monitoring and implementation plan for the programme, which was under ILO consideration as of July 2015.

Recommendations

Employment creation is central to enhancing the benefits of FDI and promoting sustainable development. To this end, the following recommendations are suggested:

I.F.1. Consider revising the Labour Code to increase legal clarity, social dialogue and formalization, and to enact policies to align domestic legislation with international standards

- Extend tripartite consultations to the setting of the minimum wage;
- Clarify the conditions for contract termination due to redundancy;
- Undertake further measures to improve compliance with ILO conventions.

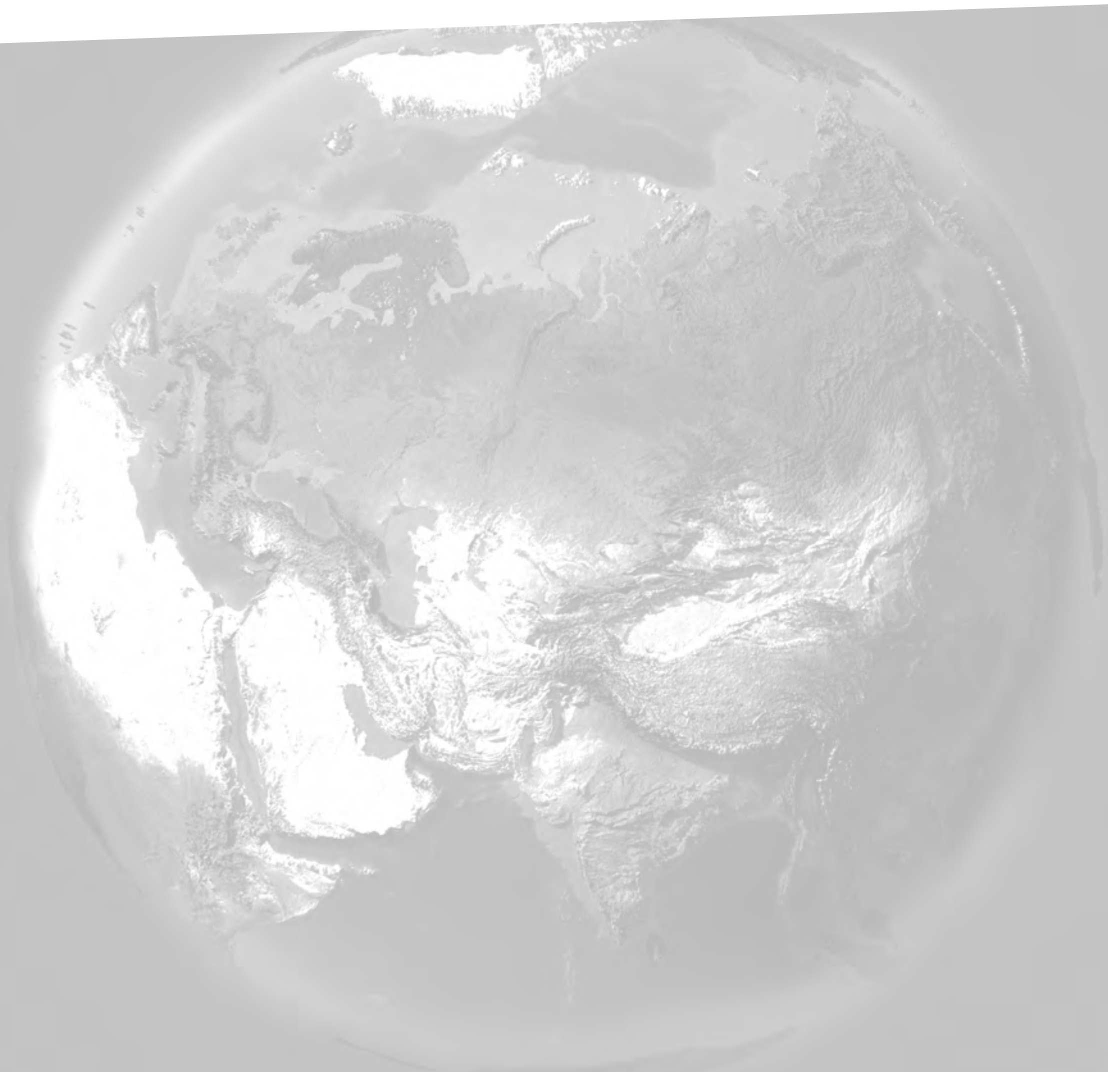
I.F.2. Move forward with reforms to implement the Decent Work Programme 2015–2017 aimed at the following objectives:

- Improving social indicators, with a focus on creating decent jobs and reducing the incidence of youth unemployment and child labour;
- Addressing the gender gap (see chapter 2);
- Building capacities to promote registered employment and enacting policies to promote formalization of the economy.

[50] An evaluation of the outcomes of DWCP for the period 2011–2013 acknowledged the following achievements: ratific tion of the ILO conventions on home work (2012) and tripartite consultation (2013), introduction of a programme on occupational safety and health for 2013–2016, adoption of a national strategy on the prevention of HIV/AIDS at the workplace, prohibition of hazardous work for children and development of capacity-building activities on a series of issues (e.g. service delivery by the State Agency for Labour and Employment, vocational education, tripartite consultations, studies on the wage system across sectors). See Decent Work Country Programme 2015–2017, section 3 as contained in Decree 103 of 2015.

CHAPTER 2

Attracting FDI and enhancing its impact for sustainable development



Reforms of the Tajik economy should be accelerated to improve its competitiveness and exploit its high potential. As discussed in the context section, Tajikistan has high potential for developing a number of economic activities, including agriculture and agribusiness, tourism, transport services as well as electricity production and export. However, the economy remains highly reliant on cotton and aluminium exports. Indeed, due to the post-transition loss of productive capacities, GDP declined by 66 per cent between 1991 and 1997 (CIS Statcommittee, 2011). Tajikistan lost most of its indigenous industrial base. Also, there is a high dependency on external sources of finance including remittances and official development assistance. For its future development, the Government would need to reconstruct competitive productive capacities that are large enough, adequately export focused, and with external business and market connections. At the same time, the country will need to build sufficient levels of knowledge and have the technology content to make a significant impact on social and economic development

Attracting more FDI is vital for Tajikistan to achieve sustainable development. FDI is a necessary complement to public and private investment from domestic sources and international development assistance in achieving economic diversific tion and competitiveness. It can contribute capital, employment, know-how and technology through individual projects and can assist in developing infrastructure. It can also play a central role in industries that are essential for development, such as agribusiness and tourism, where significant untapped potential exists (see context section at the beginning of this report). FDI could also provide a boost to the indigenous business sector, including SMEs, and to the development and upgrading of local business through its integration into value chains or supplier linkages and the possibility of spin-offs. Finally, as MNEs are usually larger and more export-oriented, FDI is likely to boost Tajikistan's export performance and thereby improve its trade balance. By offering the country better access to international business networks, it would help consolidate its position as a key regional market.

Despite the reform process that is under way, FDI attraction remains below potential. Tajikistan has recognized the need for FDI and is deploying significant policy efforts to increase its attractiveness. As discussed in the previous chapter, several reforms have been initiated, with the overall objective of improving the investment environment for both national and international investors. The direction of reform is clear but its implementation faces challenges. Tajikistan has also laid the building blocks of its investment promotion architecture, including establishing a public–private dialogue (PPD) mechanism, a number of FEZs as well as dedicated investment policymaking and investment promotion institutions, all of which are analysed in this chapter. Despite progress made, however, FDI infl ws remain limited and concentrated in specific activities and projects, mostly in the energy and mining sectors.

To realize Tajikistan's FDI potential, it would be necessary to address key regulatory bottlenecks and effectively implement a full-fledged national strategy for investment promotion. This would include clarifying FDI-specific legislation, providing secure access to land for investors, reforming the tax regime, as well as shifting the policy focus from regulation to implementation, as discussed in chapter 1. It would be important to formulate a full-fledge strategic plan and a strengthened investment promotion institution, as discussed in this chapter. In this regard, the Concept of State Policy for Attraction and Protection of Investment of the Republic of Tajikistan adopted in 2012 sets the overall context and objectives for stimulating investment in the country, including the need to attract large and small- and medium-sized investors. It also recognizes the need to create an enabling investment environment. However, In line with international good practice for investment attraction, this policy document should be complemented by a strategic, action-oriented plan providing guidance for the investment promotion effort with respect to the target sectors and activities, the key geographical markets, as well as the objectives for FDI promotion.

Tajikistan should also adopt policies and programmes to orient and maximize the sustainable development impact of FDI on the local economy. In Tajikistan, the private sector could play a more dynamic role in the economy. In the context of growing international competition for investments, building absorptive capacities can both influence a country's attractiveness and shape the potential benefits that can be obtained. It can also enhance the country's capacities to upgrade along global and regional value chains. The current status of SME development in Tajikistan makes it complicated to find appropriate local suppliers. For instance, in the retail sector, it is necessary to help local enterprises meet the quality, product safety, packaging and delivery requirements of many MNEs. More needs to be done to increase entrepreneurship and ensure the country's enterprises and workforce can build productive capacities that are up to the quality needs and technical standards of leading global firms At the same time, it is also important to steer the impact of FDI towards the fulfilment of the count y's development priorities.

In particular, policies to promote skills, entrepreneurship and knowledge transfer will be key to increasing the country's attractiveness to FDI and generate positive impact from investments. The type of foreign investment attracted by Tajikistan will depend greatly on the level and availability of domestic skills and on the development of local entrepreneurial activity. These same variables also determine a country's potential to reap the benefits of FDI fl ws in terms of increasing employment, promoting value chain integration of domestic suppliers and transferring technology. In this context, section B of this chapter assesses the potential to build domestic absorptive capacities in Tajikistan with a focus on increasing the positive contribution of FDI.

A. Institutional framework for investment policy and promotion in Tajikistan

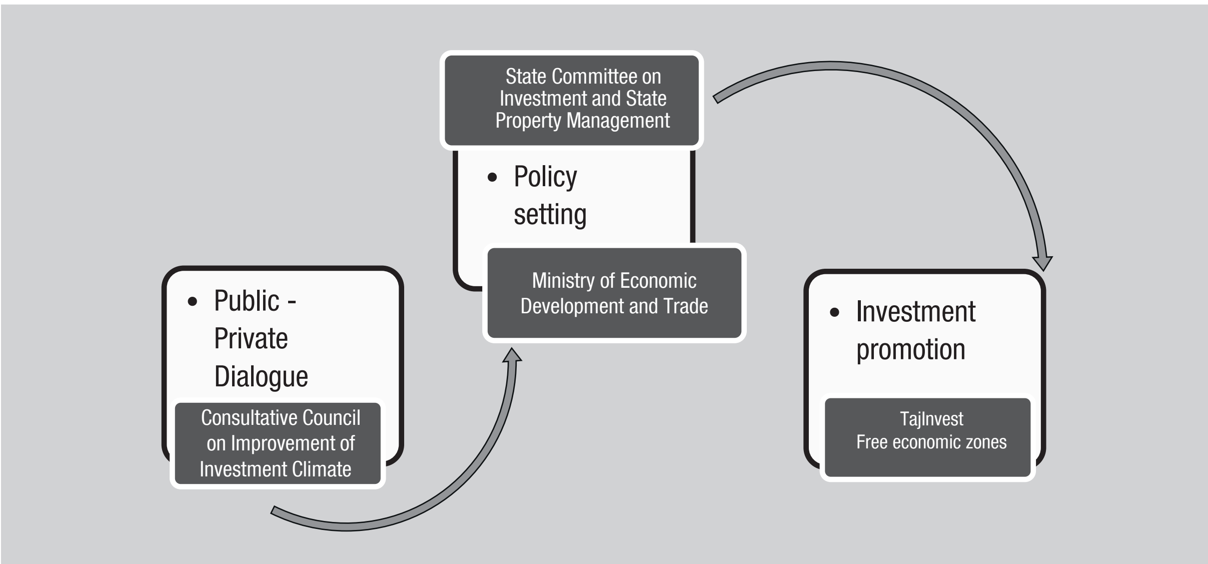
Tajikistan has put in place the key components of its investment policy and promotion architecture. Different institutions are tasked with complementary aspects of the investment process – from public–private dialogue and advocacy to investment policymaking and investment promotion (figure 2.1). The analysis below describes the mandate and functions of each entity, highlighting areas where institutional coordination could be improved and capacities enhanced to improve the efficien y and effectiveness of the overall investment promotion effort.

State Committee on Investment and State Property Management

The State Committee on Investment and State Property Management has overall the responsibility for designing investment policy. It is engaged in the formulation of national policies on investment, enterprise development, State property management, privatization and international development assistance. The State Committee's activities in the field of investment include supervising TajInvest, the investment promotion agency it created in 2010: granting concessions and PPPs; and playing a major role in the conclusion of investment contracts and in the negotiation of international investment agreements. In addition, it carries out FDI analysis and studies on international experience and best practices in FDI attraction, which provide background to policy formulation. The State Committee also develops and implements, jointly with the Consultative Council, measures to improve the investment climate.

The State Committee reports to the President and the Government of Tajikistan. Its Board is composed of a chairperson, appointed by the President of the Republic, a first deputy chairperson in charge of investment, including

Figure 2.1. Institutional architecture for investment in Tajikistan



Source: UNCTAD

investment from foreign States and aid management, as well as two deputy chairpersons in charge of State property and entrepreneurship. Other members of the Board include 10 heads of specific structural subdivisions of the State Committee and additional representatives appointed in consultation with the Government. The Government sets annual targets for the activities of the State Committee, especially in terms of events and contacts. These activities usually stem from strategic documents, such as the NDS and the Concept on State Policy for Protection and Attraction of Investment, and are reflected in the Committee's Action Plan. For instance, for 2014, these activities included the preparation of proposals on methodologies for statistical reports on investments (in particular FDI) under an ad hoc task force; actions to ensure the implementation of reforms in the mining sector; organization of an electronic database containing legislations for use of investors; preparation of proposals for capacity-building through technical cooperation with other countries and development partners; and contributions to the preparation of draft intergovernmental agreements on promotion and protection of investments, among others.

Consultative Council on the Improvement of the Investment Climate

The Consultative Council on the Improvement of the Investment Climate is a public–private dialogue mechanism chaired by the President of the Republic. Its members include three permanent representatives (the Prime Minister, the Chairperson of the State Committee on Investment and State Property Management – who acts as its Executive Secretary – and the Head of the Council Secretariat); two non-permanent representatives of the donor community (one multilateral and one bilateral donor organization); and six non-permanent private sector representatives (one international investor and five domestic private business persons). Non-permanent members sit on the Council on a rotational basis. The Secretariat of the Council has six permanent employees. The Council's structure is replicated at the subnational level, where local Councils exist (one per region and in major cities).

The Council meets between two and four times per year to discuss specific issues brought up by individual companies or groups of companies and to formulate action plans. Its main purpose is to improve the investment climate in specific sectors or activities, such as manufacturing, tourism, securities market or insurance. The Council also organizes round tables, forums and seminars both at the national and subnational levels, which constitute key advocacy channels through which it gathers inputs for the action plans. Given its proximity to the President of the Republic, the Council can draw policy attention to issues affecting the investment climate and suggest constructive solutions. In this regard, its action plans, once adopted, are generally promptly executed by the Government. The Council has initiated key reforms in several priority areas, where a number of legal acts were adopted with positive results, including the simplific tion of business registration procedures and inspections and support of entrepreneurship (see chapter 1). Through its Secretariat, the Council has also established follow-up mechanisms to monitor the plans' implementation. The Council is frequently approached by potential foreign investors and is an effective platform for public–private dialogue.

TajInvest

TajInvest is mandated to be the investment promotion agency (IPA) of Tajikistan and reports to the State Committee on Investment and State Property Management. It was established in 2010 by government decree (No. 284 of 2010). The Decree created the agency as a State unitary enterprise placed under the supervision of the State Committee on Investment and State Property Management. The functions of TajInvest have been further defined by the State Committee in internal regulations approved by the Chairperson of the State Committee (regulation No. 37 of 2010). These functions include, among others, promoting foreign and domestic investment, contributing to the preparation of IIAs, contributing to the preparation of business plans, proposing ways to improve the investment environment, analysing investment agreements (contracts) and assessing their implementation, and developing the export potential of the country.

TajInvest comprises three operational units: the International Relations Department, the Coordination of Investment Activities Department and the Marketing and Promotion Unit. Two supporting departments, the Legal and Staff Unit and the Administrative and Supply Unit, complete the agency's structure. Some functions are common to all substantive units, such as assisting in the search of prospective projects and partners and facilitating the organization of business forums and events, both inside and outside Tajikistan. The functions and role specific to each unit are as follows:

51 See the Council's website: investmentcouncil.tj/en/council/achievements.

International Relations Department

Comprising four staff, it is in charge of the following functions:

- Facilitating the visits of foreign delegations to Tajikistan;
- Providing consulting services on administrative and operational aspects of doing business in Tajikistan (including how to register and obtain the taxpayer identific tion number);
- Providing fee-based services to collect information related to legislation and investment opportunities of Tajikistan;
- Formulating proposals to improve the investment climate in Tajikistan, including proposals to streamline legislation;
- Establishing representative offices inside and outside of Tajikistan to promote domestic and foreign direct investments.

Coordination of Investment Activities Department

The department, which has five staff, is tasked with performing a large array of functions, some of which overlap with those of the other two departments. These include the following:

- Providing assistance in drafting investment projects and preparing business plans in compliance with international standards;
- Analysing the fulfilment of technical, economic, environmental, financial tax and other conditions for entering into investment agreements;
- Providing consulting services and assistance in addressing issues related to entrepreneurship and investment activities;
- Providing consulting services on the legislation and investment opportunities of Tajikistan;
- Facilitating investment and assisting investors to obtain permits and licences;
- Assisting government bodies in their cooperation with investors;
- Coordinating activities of trade/commercial bilateral and multilateral councils;
- Preparing and participating in meetings of bilateral and multilateral trade councils;
- Interacting with members of bilateral and multilateral trade councils to ensure effective activity on attraction of investments and implementation of investment projects

The principal activity of the Department is to review, analyse and prepare investment projects and business plans to be submitted for consideration of the Entrepreneur Support Fund and Joint Kazakh-Tajik Fund, which give access to guarantees and incentives for investors and entrepreneurs. The Department also collects and maintains a database with information on companies and individual entrepreneurs located across the country. However, no investment aftercare activities or policies are in place, or any regular contact with investors, other than those which require assistance in applying for investment funds. Also, several of the functions listed above are not performed due to a lack of funding and personnel, including those related to trade (i.e. the last three on the list). Others, such as the provision of consulting services, can overlap with the mandate of the International Relations Department.

Marketing and Promotion Unit

The Unit has a staffing complement of three posts that are responsible for the following tasks:

- Studying and analysing the investment climate, the local and international markets, as well as the activities of domestic and foreign customers;
- Establishing and maintaining a database of investment projects to be promoted as well as a registry of private sector companies and individual entrepreneurs;
- Marketing Tajikistan as an investment destination and preparing investment attraction briefs and documents on investment opportunities in Tajikistan;
- Organizing media campaigns to promote investment and entrepreneurship;
- Cooperating with international financial institutions, investment companies and labour unions to obtain access to and use relevant information (e.g. reports, news, information materials).

A qualified specialist, lacking at this time, would be necessary to bring forward and perform all functions of the Unit in an effective and timely manner. Two marketing specialists were employed in the past. However, due to the low level of salaries, both have left, and the current personnel have no marketing background. In this context, the main marketing tools are the agency's website and the country's investor guide, which contain general information about Tajikistan and its investment environment. Some generic presentations and other marketing materials on investment opportunities in Tajikistan are also available. These are mainly presented in business forums and other events.

Resource shortages limit the range of activities performed by the agency. TajInvest does not engage in export promotion and performs limited investment promotion activities. The agency can employ a statutory maximum of 25 staff. Many posts are not filled and it currently employs 18 people. Its statute as a State unitary enterprise means that the agency must finance itself on the basis of the services it provides. Paying services include primarily assisting enterprises in the preparation of business plans to access government finance and entrepreneurship support funds. Presumably due to financial constraints, no representative offices have been established either inside or outside of Tajikistan thus far.

Ministry of Economic Development and Trade and Free economic zones

The main responsibility of the Department of FEZs at the Ministry is to formulate general policies for the development of FEZs. Its mandate includes improving the conditions for investors in specific areas and designing policies to attract them. At the national level, it participates in the general administration of FEZs. It also participates in the appointment of the management staff of the individual zones, studies the attractiveness of FEZs and participates in the preparation of proposals for their strategic development. This activity requires coordination with other government institutions, especially the State Committee, regarding notably the overall efforts of investment promotion, and highlighting the advantages of the FEZs in the information provided to potential investors. There is cooperation between the Ministry of Economic Development and Trade and the State Committee in terms of distributing information materials about FEZs but efforts could be strengthened in joint promotional activities.

Four FEZs have been established. The first law on free economic zones in the Republic of Tajikistan was adopted in 2004 and replaced by a new one in 2011. The first two zones, Panj and Sughd, were created in 2008 and started operating in 2009. The other two zones, Dangara and Ishkoshim, established in 2009, started their operations in 2010. Three of the zones have been created for a period of 25 years; the fourth one (Ishkoshim) for 50 years (box 2.1).

The zones are at different levels of development. The uneven development of the zones reflects the uneven development of the regions of the country where they are located. The FEZ of Sughd – the most developed and diversified – is located in the most developed region

Box 2.1. Free economic zones in Tajikistan

There are four FEZs in Tajikistan, located in Sughd, Dangara, Panj and Ishkoshim. Each FEZ has its own regulation defined in a decree approved by Parliament. The decrees set out the main goals (mostly but not exclusively attracting foreign investors and related activities), the status and delimitations of FEZs. With the exception of Panj, the decrees outline the priority activities of the zones. They also list the activities prohibited, which are fairly similar in the four FEZs and include mining, tobacco, alcohol, metallurgy and retail sales.

Companies in the FEZs are exempt of taxation with the exception of personal income tax and social tax (contribution to the national pension fund). Labour relations are governed by national law. Inspections are allowed but only with the approval of the Ministry of Economic Development. There are three conditions for investors wishing to establish operations in FEZs: paying an accreditation fee of $5,000; having a founding capital of $50,000 minimum; and paying the fees for the buildings.

The FEZ of Sughd numbers 25 investors, mostly in manufacturing. Twelve are joint ventures with foreign partners: Chinese, Iranian, Russian and Polish. Priority activities for the FEZ of Sughd are textile and garments, wood and furniture, machinery, electronics and construction materials.

The FEZ of Dangara has attracted 23 investors, including local firms (70%) and some large foreign-owned projects. By decree, Dangara was established to attract investment in agribusiness, fertilizers, mechanical engineering and pharmaceuticals. Over time, the zone specialized on heavy industry: it hosts two cement joint ventures with Chinese and Pakistani partners, plus the fully foreign-owned CNPC affili te TK Oil refi ery. The high and increasing electricity demand of heavy industries is a challenge. To address this challenge, the Government has signed a build-operate-transfer contract with a Chinese company to build up electricity supply from Sangtuda 1 (located outside but adjacent to the zone).

The FEZ of Panj is host to eight investors in commerce and light manufacturing. It is located close to a bridge leading to Afghanistan and is adjacent to separate logistics centre development sites with a potential to link to the Vakhsh waterfalls for electricity supply.

The FEZ in Ishkoshim, located in the autonomous province of Kuhistoni-Badakhshon has attracted no investors so far. According to its regulations, the zone should attract investment in agribusiness, chemicals, light industry as well as tourist and health care services.

Source: Information provided by the Ministry of Economic Development and Trade.

of the country and close to the international airport. In turn, the FEZ of Ishkoshim, in one of the poorest areas (Kuhistoni-Badakhshon), has not succeeded in attracting any investment projects so far. The two other zones – FEZ Dangara and FEZ Panj – have had some limited success in attracting investors.

The investment promotion activity of each zone is independent and variable in intensity. Each zone promotes itself independently, and there is no common strategy or coordination mechanism in place, either among the zones, or with TajInvest. There are, however, examples of coordinated campaigns at the subnational level: e.g. the FEZ of Sughd coordinated with the local administration of the province of Sughd to promote itself as part of an overall strategy of the region (i.e. by preparing an investment guide). The quality and intensity of investment promotion activity and tools also varies across the zones. For instance, the FEZ of Sughd enjoys the most advanced promotional efforts, including a professional web page developed with international donor support. Conversely, the promotional tools of the FEZ of Panj are very basic, and its web page is non-operational.

Assessment

Tajikistan has put in place the foundation of a full institutional structure for investment promotion. This includes a good practice public–private dialogue mechanism, replicated at all levels of the country, a policymaking body on investment reporting to the highest level of Government, an IPA and a number of zones aimed at attracting investment to specific activities and regions

If significantly strengthened and adequately staffed, TajInvest, the national IPA, would be in a position to carry out proactive investment promotion in line with the State Committee's policies. The experience of IPAs worldwide has shown that general investment promotion efforts are not as effective as targeted, sector- or activity-specific and proactive investment promotion. A national strategy for investment promotion would provide the basis for professional location branding, investment marketing and investment targeting. But these tasks require specialist expertise and competences, as well as adequate financial backing (UNCTAD, 2014b). As discussed in this chapter, TajInvest does not currently have the resources and tools to perform investment promotion in an effective manner. This chapter provides a number of recommendations on the structure, functions, tools and capacities required to develop it into a best practice IPA and enable it to implement the national investment promotion strategy. A strengthened TajInvest would also become the fulcrum of a more coordinated investment promotion effort involving various institutions, including in particular FEZs.

An effective investment promotion strategy is needed to focus the marketing programme and optimize the use of resources for attracting investment in priority sectors and activities. The Concept of State Policy for Attraction and Protection of Investment of the Republic of Tajikistan, which is a public policy document, contains elements of an investment promotion strategy, but it does not address important areas of investment marketing, including branding and investor targeting. While there is some degree of clarity in the prioritization of infrastructure sectors (energy, transport and communications) and key business sectors (mining and agribusiness), there is no step-by-step investment promotion action plan, which can guide the proactive promotion of Tajikistan as an investment destination.

Moreover, TajInvest lacks sufficient financial resources. There is a critical lack of financial resources for investment promotion within TajInvest, which is due to a large extent to the self-funding nature of TajInvest. In most countries, investment promotion is considered a public good, and no IPA can be expected to run a full range of promotional functions based solely on the income generated through its services. This is not to say that an IPA should not generate revenues to cover part of its costs – e.g. by running business parks and leasing commercial property. However, where an IPA also generates some revenues, the danger is that this becomes an end in itself and the agency loses sight of the task it should fulfil – i.e. to attract and retain investment for sustainable development. In addition, external investors will expect an IPA to provide (often extensive) advisory and other services free of charge, as IPAs from different countries are often competing for the same investments. TajInvest, nonetheless, responds reactively to requests from investors and charges a fee for any enquiry it addresses.

This results in major challenges in attracting and retaining staff with the required level of skills. As described above, there is a notable scarcity of professionals with the level of specialist expertise required to undertake investor targeting or professional marketing functions. The low staff complement in TajInvest means that most departments are too small to effectively carry out their functions. Of greater concern, however, is the absence of specialist investment promotion expertise within the staff. In particular, there is a critical absence of English language skills, especially business English, at all levels of the organization. This is a serious handicap, as it makes it difficult for TajInvest to deal with key English-speaking sources of investment, such as the United States (a leading source of investment into Central Asia), the United Kingdom and Canada. English is also the common business language used in many neighbouring Asian countries and beyond. The difficulty in recruiting individuals with specialized skills (e.g. in marketing) is at least partly explained by relative low salary levels, while alternative means of acquiring such expertise (e.g. hiring local, expat or international staff on contract) have not been attempted.

In addition, the agency's structure is inadequate, and responsibilities and tasks often overlap. For example, the Coordination of Investment Activity Department also gathers information on companies by district and town – which is part of the responsibility of the Marketing and Promotion Unit, according to its job description. There are also tasks that are covered both by the Coordination of Investment Activity Department and the International Relations Department, e.g. finding partners for joint ventures, and all departments are involved in event organization. At the same time, the agency's structure does not follow global best practice; for example, there is no department responsible for relations with existing investors, no department responsible for dealing with prospective new investors, no overseas representation and only very limited marketing activity and no department that engages in proactive investor targeting. The absence of coordination functions in the promotion of FDI in FEZs also constitutes a noticeable gap.

As a result, a number of important investment promotion activities are forgone. The human resources and financial constraints discussed above make it very difficult for TajInvest to perform functions that are at the core of effective investment promotion. Only limited marketing activities take place; of a reactive nature, they focus solely on participating in or organizing investor forums. Indeed TajInvest does not proactively target investors, other than participating in inward business missions that offer only limited scope for one-to-one engagement with investors, or in one-off business forums with no strategic or sector approach. Neither does the agency rely on any form of database to identify and track potential/existing investors and investment projects. Moreover, there is no staff in a dedicated investor-facing role (e.g. with sector or account management responsibilities) either inside Tajikistan or overseas. In this context, no investor aftercare is carried out, thus potentially important re-investment opportunities are lost.

The current marketing and branding capability is weak, and is not built on Tajikistan's comparative strengths. Only limited marketing material is produced: mainly the website and the Investor Guide. The website has limited functionality and information, does not contain key marketing messages and is not investor focused. The Investor Guide contains little information on investment elements sought by investors (e.g. labour supply and real estate), does not contain key marketing messages and is not investor friendly. Further, TajInvest has not carried out any branding exercises.

The absence of specific targets makes it challenging to establish performance measurement indicators for the agency. TajInvest does not have any targets or measurement of results to demonstrate to funding ministries and other stakeholders as well as to the IPA management the effects and impact of its promotional activities.

Recommendations

This IPR proposes a number of recommendations to improve investment promotion and generation in Tajikistan, based on adopting modern promotional strategies and tools and strengthening the skills and capabilities of TajInvest, as well as its coordination with other institutions with an investment policy and promotion remit, such as FEZs. The recommendations are based on a benchmark of TajInvest against international best practice in investment promotion worldwide (UNCTAD Advisory Series A on investment promotion).[52] They are as follows:

II.A.1. Adopt an investment promotion action plan to implement the Concept of State Policy for Attraction and Protection of Investment of the Republic of Tajikistan. This includes the following:

- Selecting target sectors and activities based on their attributes, the locational and competitive advantages of Tajikistan, and Government priorities, and identifying measures to be taken to support investment in these sectors and activities;

[52] Availableatunctad.org/en/Pages/DIAE/DIAE%20Publications%20-%20Bibliographic%20Index/Investment-Advisory-Series-A---Investment-Promotion.aspx.

- Identifying target markets and key marketing and business development activities required to improve and develop an investment product and drawing up an action plan for the different investment promotion stakeholders, including the IPA, FEZs, ministries and private sector stakeholders.

II.A.2. Develop effective investment promotion functions. Revise the investment promotion structures with adequate resources (i.e. not depending on fee income) covering, in particular the following areas:

- Investor facilitation. The unit would focus on dealing effectively and actively with prospective investors and have clearly assigned account management responsibilities to secure announced investment projects. An important aspect of its work would also ensure maximum impact of foreign investment projects on the local economy with special attention to business linkages, particularly in target sectors identified in the investment promotion action plan
- Investment marketing and targeting. The unit would implement the development and marketing component of the investment promotion action plan to enhance and promote Tajikistan as an investment location. This would include performing image-building activities, addressing locational weaknesses and amplifying the country's strengths. The investor-targeting programme should carry out a proactive promotion of selected foreign investors in cooperation with local stakeholders, including the private sector and overseas representatives, in particular Tajikistan's diplomatic service;
- Research. The key objective of this unit is to identify a series of defined business opportunities to feed to the Investment Marketing and Targeting unit. Specificall , the work of the unit would include researching, analysing and benchmarking the local offering across the target sectors for FDI promotion, including key characteristics, competitive strengths and weaknesses. The resulting market opportunity briefings would support the identific tion of international companies that represent the best fit for the local supply.

In the long run, the Government should also aim at developing an investment aftercare service as part of its facilitation unit. This includes a range of activities from post-establishment facilitation services to developmental support aimed at retaining investment, encouraging reinvestment and achieving greater local economic impact.

The facilitation and aftercare functions are closely related to the policy advocacy role of IPAs due to the regular contacts that account managers have with new and existing investors. A focal point for policy advocacy issues in the Facilitation/Aftercare Unit should regularly report to the IPA management on recurrent issues that need to be addressed through reviews of policies, regulations or procedures.

II.A.3. Strengthen Tajikistan's marketing and branding. Based on the Investment Promotion Strategy recommended above, TajInvest should take the following steps:

- Produce a revised/new investor-friendly website and a range of sector-based marketing materials that provide hard comparative data on key information relevant to investment (e.g. labour supply, real estate cost and availability); contains clear key marketing messages and a clear route for investors to contact TajInvest and take the next steps to investment;
- Develop an investment product database to hold, analyse and produce key common information sought by investors and upon which the revised website and marketing materials are based;
- Develop brand awareness and adopt a brand for investment.

II.A.4. Launch professional investor-targeting activities. This involves implementing the key elements of professional investment generation, including the following actions:

- Developing and maintaining a tracking system to record and track existing/prospective investors and investment projects;
- In the short term, engaging in a pilot investor outreach campaign in at least one target market for at least one priority sector;
- In the medium term, developing a more structured approach based on the experience gathered from the pilot campaign, involving permanent foreign presence in a small number of priority markets for investment (one to three countries), participating in sector events at the regional level and engaging in direct marketing campaigns.

UNCTAD could provide technical assistance in providing capacity-building to the staff of TajInvest on investor-targeting techniques and strategies and in launching the pilot campaign.

II.A.5. Upgrade investor facilitation services. This requires the adoption of a more proactive investor facilitation attitude, and includes the following action:

- Adopting clear procedures for handling investor enquiries and dealing effectively with investor enquiries and visits, without charging fees;
- Adopting and publicizing a client charter detailing the services offered to investors, as well as the commitments regarding quality standards in the operation of the agency;
- Participating in the preparation of investor visits, managing the visit programme and organizing post-visit follow-up.

II.A.6. Introduce monitoring, evaluation and reporting mechanisms by taking the following steps:

- Setting input targets, including the number of investor meetings and visits, number of business plans developed and received, and so forth;
- Setting output targets, including the number of projects secured per sector, number of new jobs created and total amount of new investments generated;
- Publishing an annual report measuring the agency's performance against the targets and the key factors of success/failure in implementing the Investment Promotion Strategy.

II.A.7. Support FDI attraction to FEZs and adopt a coordinated approach

- TajInvest's remit should include assisting zones in their investment attraction effort, particularly those located in more remote areas. This should be reflected in TajInvest's marketing plan;
- As part of its facilitation role, TajInvest should be the entry point for all foreign investors to Tajikistan, and it should lead and coordinate visits to the FEZs and promote the establishment of supplier linkages with other companies located in and around FEZs;
- Once it has established its leadership in investment promotion, TajInvest should be able to offer its services to the line ministries in charge of mining, tourism, agriculture and other areas, to assist them in achieving their sectoral development objectives through FDI. The cooperation and coordination of promotional activities should be formalized through protocols of cooperation with TajInvest, in order to minimize the risk of duplication and mixed messages in investment promotion.

To achieve the objectives described above and transform TajInvest into an agency that is adequately equipped to perform efficientl , it should be able to hire staff with the relevant professional skills, including, when needed, from the private sector. In this respect, it will be key to ensure that TajInvest can pay competitive salaries and is not locked into the civil service pay structure. An institutional arrangement similar to that of the State Entrepreneurship Support Fund (SESF) discussed in the next section could be considered.

B. Building absorptive capacities for attracting and benefiting from FD

a. Skills development and access to foreign skills

A skilled labour force is important to attract foreign firms and contribute to technology spillovers. Education systems influence fundamentally the attractiveness of an investment location. Firstly, the knowledge base of the labour force affects its employability in foreign affili tes. It also indirectly affects the quality of domestic firms that supply MNEs through regional and global value chains (i.e. by influencing their preparedness to meet strict technical standards). Finally, the type of knowledge that could be transmitted and diffused across the national economy (i.e. though on-the-job training or licensing activities) is also conditional on local firms and the labour force having the capacity to assimilate such knowledge. Since the skills requirements of specific activities can vary, policies should be customized so that both academic-intensive as well as practical activities related to specific trades are developed, in line with a country's development priorities (UNCTAD, 2011).

In Tajikistan, most employment is precarious and concentrated in activities that are not technologically intensive. In both urban and rural areas, self-employment is by far the most common type of employment (41 per cent) followed by employment at State-owned enterprises (28 per cent) and private firms (17 per cent) (Ajwad et al., 2014). Most workers in the private sector are employed in farms, and the majority hold seasonal jobs. In urban areas, private sector jobs are increasingly in low-technology services industries, such as retail. Overall, the loss of productive capacities linked to the closure of old Soviet factories after independence led to a loss of knowledge in the labour force, which is compounded by a decline of the quality and infrastructure of educational institutions. Thus, setting up modern academic and vocational training institutions will be crucial to enhance domestic absorptive capacities.

A mismatch exists between the supply and demand of skills. The low skill level of workers is a common concern among firms A recent survey revealed that approximately one third of all firms in Tajikistan (34.2 per cent) identify an inadequately educated workforce as a major constraint. This share is higher than the average in Eastern Europe and Central Asia (22.8 per cent) (Ajwad et al., 2014). For instance, in agribusiness, there are limited business skills in marketing and financial planning, particularly for activities with high potential, such as horticultural production. Also, many skilled workers in the natural sciences, such as agronomists, have emigrated (Shaltovna, 2013; OECD, 2015b; USAID, 2014b). For IT specialists, although the level of training is satisfactory, there are not enough graduates to meet demand. The mismatch also applies to technical education. Indeed, very few skilled workers in technical professions, (e.g. metalworkers, turners, tinsmiths, carpenters and constructors) are available, as the generation of workers trained under the Soviet system was the first to emigrate (ILO, 2010). Challenges relate as well to pointing out problems in the allocation of jobs in labour markets. For instance, surveying enterprises to better match market needs is not a common practice by authorities, and the country lacks an official n tional skills survey.

Higher education is accessible but its quality has been declining, which harms the employability of graduates. Overall, university graduates make up approximately 13 per cent of the population, which means higher-education attainment levels in Tajikistan do not differ from those in countries with similar levels of development (Ajwad et al, 2014). However, studies have concluded that the quality of education has declined and that graduates have relatively poor employment and wage prospects. Most findings indicate a need to modernize curricula and education infrastructure, improve training of teaching and academic staff and strengthen the relevance of higher education degrees in the labour market (USAID, 2014b; Jonbekova, 2015; European Commission, 2012).

A gender gap in education affects the labour market. Statistics illustrate an important gender gap in education: the ratio of women in higher education is lower than 30 per cent (Ajwad, 2014). Women enrolment has been low, especially in subjects related to agriculture and manufacturing, and slightly higher in health care and the arts. This reflects on the job market, where women's employment has declined in spite of substantial migration of men during recent years.[53] In 2015, there were almost twice as many men as women in public administration. The imbalance was greater in the private sector (men represented for example 79 per cent of the workers in small enterprises). Also, wages of men were substantially higher than those of women, and the gap has increased over time (Tajstat, 2012).

Technical educational institutions are few and lack resources. Vocational education and training (VET) systems are vital to reduce poverty in a context of high informality. However, the VET system in Tajikistan is not properly oriented to meet local development needs. Historically, VET programmes have been under the responsibility of several ministries.[54] Only recently were the relevant responsibilities consolidated under the Ministry of Labour, Migration and Employment, which play a coordinating role (Order of 3 March 2014, section 2, appendix 1). Across the country, there are only about 50 VET institutions; their resources are scarce, and curricula are outdated or insufficient especially for schools in rural areas, where technical and business skills linked to post-harvest and food-processing activities are most needed (Wallenborn, 2009; OECD, 2013a; USAID, 2014b). As a result, the majority of school graduates enrol

53 Female employment was 39 per cent of the workforce in 2009, the last year for which the ILO survey of the labour force was conducted (Decree 103 of 2015 on the Decent Work Country Programme 2015–2017).

54 Historically, responsibilities for technical education were fragmented among different institutions and the Government's responsibilities were not clearly defined The Ministry of Education (MOE) and the Ministry of Labour and Social Security (MOLASS) were the two bodies responsible for the VET system at the national level. MOE was in charge of basic vocational education and MOLASS supervised vocational education and the training of adults. Other ministries were also involved, particularly with regard to developing sector-specific training

in shorter VET schemes of poorer quality.[55] Another area of concern is the lack of reliable information about the impact of VET centres, which in part is due to poor performance monitoring systems.[56]

Mechanisms for engaging employers and trade unions in the design of VET curricula are underdeveloped. Teacher training is currently undertaken with Government and donor funding, but the participation of employers and trade union associations is limited. For the design of curricula, the spontaneous involvement of employers is not common, and employers have not fully acknowledged that they have a role to play in instructing their employees (OECD, 2013a). Alternatives exist in the form of trilateral agreements between Government, trade unions and business associations, but so far they have had limited reach. The Government consults with stakeholders when preparing strategies and regulations on VET, but with marginal impact since not all organizations and institutions are represented in the association of employers. With regard to the trade unions, they also remain largely uninvolved in the delivery of VET (OECD, 2013a).[57]

Employers are not used to providing training to enhance the skills of the workforce. Few firms in Tajikistan offer formal training programmes to full-time employees. Indeed, it is estimated that less than 25 per cent offer any type of such programmes. This is well below figures prevalent in Eastern Europe and other countries in Eurasia as well. For example, almost 70 per cent of firms in the Czech Republic and 60 per cent in Poland offer formal training to their full-time employees (Ajwad et al., 2014). However, there have been some successful interactions with university institutions. These include the development of educational modules on small hydropower (SHP) construction and maintenance, which were introduced to the curricula of Tajik Technological University and Kurgnatyube Energy Institute. Also, Tajik Technical University was involved in vocational training for SHP technicians – in collaboration with the Croatian company Komperg – during the construction of four SHPs planned for 2015 and 2016 (ECE, 2016).[58]

The Government has recently adopted specific reforms, including through international initiatives, to improve the quality of education and placement of graduates. Some of the challenges mentioned above were the targets of amendments to the law on education passed in 2013 and 2014. The first series of reforms introduced a new format for higher education programmes based on the baccalaureate–masters structure and enshrined the recognition of foreign degrees and diplomas (*nostrific tion*). It also incorporated programme components for targeted groups (i.e. adult education, education for gifted children, home education for the disabled). The reforms introduced a centralized admission examination system for universities (Law on Education 1004 of 2013 and 1125 of 2014). With regard to improving the VET curricula, in 2014 the authorities established the Coordination Board for Vocational Education and Training (CBVET), which is responsible for improving its orientation towards labour market needs as well as effective interaction with concerned stakeholders – ministries, agencies, local authorities, employers and public entities – (Decree 640 of 2014). In addition, the National Strategy of Education Development of the Republic of Tajikistan 2012–2020 aims to address the key gaps in skills development and will be implemented by the Ministry of Education and Science, which has both policymaking and regulatory functions with regard to education, research and development. The strategy is based on the principles of improving quality and equity in access to education and to lower gender bias. With respect to international initiatives, in 2006, with the support of the European Union Education Training Foundation (ETF), Tajikistan established an inter-agency task force to develop a national qualific tions framework for the tourism sector. Occupational standards for other professions have also been developed as parts of other projects (OECD, 2013a).[59]

55 Short VET programmes are in relatively higher demand because they are better customized to the needs of migrants, as it enables them to obtain basic skills that facilitate their employment abroad in a short period of time. However, this occurs at the expense of meeting the country's long-term needs, for which other programmes will be needed (OECD, 2013, ETF, 2015b).

56 The need for training of qualified personal for statistical data collection and analysis among government ministries has been highlighted as a priority that remains to be addressed by the Government (OECD, 2013).

57 See giz.de/en/downloads/giz2013-en-vocational-education-training-reform.pdf, accessed 1 August 2015.

58 See also tj.undp.org/content/tajikistan/en/home/presscenter/pressreleases/2014/07/15/undp-improves-the-capacity-of-shp-specialist.html, accessed 15 August 2015.

59 With regard to quality improvements and monitoring, in 2012 the Government adopted a law on training specialists based on labour market needs, which contains provisions to promote collaboration between the Government and the private sector as well as with regard to the placement of young graduates. However, its results have yet to be assessed and there is concern that insufficien Government resources, both human and financial may hamper successful implementation (ETF, 2015b).

Table 2.1. Quotas and issuance of work permits in Tajikistan

Country of origin	2011		2012		2013	
	Quota	Issued	Quota	Issued	Quota	Issued
Afghanistan	1 500	620	800	868	600	874
Azerbaijan	0	11	0	14	0	13
China	2 500	2 408	2 500	2 692	2 500	3 861
India	100	42	100	73	150	103
Islamic Republic of Iran	200	201	300	267	300	330
Kazakhstan	100	9	100	23	50	21
Kyrgyzstan	100	67	100	66	100	79
Russian Federation	200	69	100	51	50	65
Pakistan	0	69	0	134	150	168
Turkey	150	197	300	244	250	354
Uzbekistan	100	141	200	204	200	144
Other countries	100	124	300	194	0	0
Total	5 050	3 958	4 800	4 830	4 350	6 012

Source: International Organization for Migration (2015).

Finally, in 2010 Tajikistan joined the Torino process on vocational education and training under the auspices of ETF, which has assisted in the introduction of quality assurance mechanisms.[60]

Notwithstanding the skills gap, there is no proactive programme aimed at attracting and diffusing foreign skills. Existing skills constraints mean that MNEs need to rely on foreign workers to be able to perform highly technical or specialized operations in Tajikistan. However, the visa and work permit system does not facilitate smooth access and transfer of scarce skills. Tajikistan also lacks a specific programme to attract highly skilled people in strategic sectors or activities.

With regard to hiring foreign workers, a quota system is in place, but neither companies nor unions are involved in determining their quantitative and sector relevance. The Law on Migration (1999) and the Law on the Legal Status of Foreign Nationals (1996) established the general policy framework for the hiring of foreign nationals. According to the Law on Migration, quotas are set annually by the President. The evolution of these quotas over the last few years is presented in table 2.1. Although the overall quota has decreased (in particular due to the reduction in the number of permits granted to Russian, Uzbek and Turkish workers), the actual number of permits granted has increased, which shows some flexibility in the system. Notably, neither labour unions nor business associations are consulted in the determination of quotas, nor does the allocation by country of origin or destination follow any market test.

There are some quota exemptions, but no fast-track regime for managers and key personnel. Certain exemptions absolve some investors from the need to apply for a permit. These include investors with an invested capital of over $500,000 as well as managers and employees of foreign companies that operate on the basis of inter-State or intergovernmental investment and concessional loan agreements (Order 529 of 2008 on rules of issuing work permits to foreigners). Beyond these general exemptions, other exceptions are made on

[60] According to a first assessment, between 2010 and 2012, Tajikistan is deemed to have successfully introduced quality assurance mechanisms through quality units in schools and the development of an education quality management centre (ETF, 2015a). In addition, the Government has plans to establish a national testing centre that will support comprehensive reforms of the VET system, as laid out in the National Strategy for Education Development (2012; OECD, 2013a).The Law on Education (2013) is also deemed to have reinforced a focus on quality assurance and management.

an ad hoc basis whenever the employer can claim that a foreign employee has skills that may not be found locally. Reportedly, these ad hoc exceptions are granted liberally, and employers need to present little evidence of the required special skills.

Residence and work permits are granted separately and follow different procedures, which increases the burden for firms. Upon signing a contract, foreign nationals need to request a work permit that authorizes employment in Tajikistan for a period of one year (they can be renewed, but there is no guarantee). In parallel, they need to apply for a temporary work visa through the Ministry of Foreign Affairs and, once in Tajikistan, for a visa extension to cover the whole period of their work permit. Requests for work permits and supporting documents are submitted to the Migration Service under the Ministry of Internal Affairs, which should review and decide upon applications within a period of 15 days.

Recommendations

II.B.1. Enhance education and skills development systems in order to improve employability. This includes the following action:

- Carrying out a periodical national skills gap survey. The major needs of companies – both local and foreign – should be identified in the main sectors, and private sector stakeholders should also be involved in survey design. These surveys could be the basis for the reform of the quota system (see below);
- Improving multi-stakeholder consultations in the design of curricula to keep them updated and responsive to market needs and working to ensure that training and re-training programmes are aimed at practical skills that meet market and local development needs;
- Considering incentives in the form of tax deductions of training expenses for firms to increase opportunities for on-the-job training. One option could be the introduction of a vocational training levy corresponding to a small percentage (0.5–1 per cent) of the employee's pay, which would contribute to a training fund administered by a task force comprised of the Ministries of Labour and Education, as well as representatives of the private sector.

II.B.2. Rationalize the work permit system and use it to attract foreign trained workers in the sectors where skills transfers to Tajik workers are most needed:

- Tajikistan's work permit system needs to be simplified and rationalized: Consider introducing a single application process so that applicants may obtain their work visa and work permit through a unique procedure and clarify the conditions for its renewal;
- Establish quotas based on the labour needs of the market by facilitating the entry of those scarce skills that could be easily transferred to the labour force. In this area, UNCTAD stands ready to provide technical assistance, drawing from past examples in Australia, Canada or Rwanda to design a skills transfer policy that fits the Tajik labour market skills gap;
- Revise the residence-through-investment scheme to adopt a full-fledged business talent scheme to attract talented business people. Such schemes focus on the business experience of applicants, rather than the invested amount. A minimum investment threshold can be retained to ensure the good faith of the proponents, but it should be lowered to about $200,000, in line with international practice.[61]

b. Entrepreneurship and SME development

Entrepreneurship is a core component of a country's development strategy. The capacity and willingness to undertake new productive ventures in the marketplace, which are embodied in the concept of entrepreneurship, is one of the key drivers of growth. In this regard, policies to foster entrepreneurship should be an integral component of a country's development strategy (UNCTAD, 2012b). In countries with economies in transition, entrepreneurship skills are scarce after decades of life under centrally planned economies. Therefore, policies to train and nurture entrepreneurs are necessary both to increase the employability of local workers and to upgrade the capabilities of local firms This should enable them to enter into supplier relationships with larger domestic and foreign companies. As discussed below, Tajikistan has acknowledged the relevance of entrepreneurship policies in development and adopted a dedicated strategy to foster the role of entrepreneurs in the economy. The following paragraphs

[61] The threshold is $200,000 in Australia and $270,000 in Canada.

provide an overview of the current challenges as well as the policy initiatives in support of entrepreneurial development. In particular, this section focuses on microenterprises as well as SMEs, which contribute a significant proportion of GDP regardless of a country's stage of development and are also the most important source job creation, frequently accounting for 60 per cent of total employment (UNCTAD, 2009a).

SMEs constitute the bulk of registered companies in Tajikistan. In 2014, 206,509 active business units were registered in Tajikistan (Tajstat, 2014). Of these, the majority (174,812) were individual entrepreneurs,[62] 31,353 were legal business entities (companies) and 344 were foreign-owned firms (or their branches). Most active businesses were registered in the provinces of Khatlon (32 per cent) and Sughd (30 per cent), followed by the capital city, Dushanbe and the surrounding region of Republican Subordination (17 per cent). Most of the legal business entities were registered in agriculture, trade and other communal, social and personal services (in that order), together accounting for 56 per cent of the total.

Most SMEs, including microenterprises and firms in the informal sector, are so-called "necessity entrepreneurs". These are usually young people, former State employees, or other vulnerable groups who have not had the opportunity to develop their entrepreneurial skills (UNCTAD, 2011; UNDP, 2013b). In practice, most business managers do not have the necessary capabilities to prepare business plans, carry out proper accounting, gather and use market information or learn and apply high quality standards necessary to source locally, let alone compete in foreign markets. As a consequence, the current level of enterprise development is insufficient to meet technical and quality standards of markets in an increasingly open global economy.

A bias in the taxation system slows down enterprise development. Because of a bias in the taxation system, businesses have more incentives to officially register as sole entrepreneurs, instead of legal business companies, which in turn limits their size and the incentive for growth. Out of a total of 31,353 companies in the country (Tajstat, 2014), there are about 5,000 potential taxpayers under the general tax regime; 1,000 of them are tax exempt under various incentive regimes. This contributes to lower tax revenues (see chapter 1, section C).[63]

Limited access to finance is a serious constraint to SME growth. Credit markets are underdeveloped in Tajikistan, where less than 5 per cent of the population holds a bank account. Lending to SMEs is, in addition, limited by high collateral requirements[64] and unofficia costs linked to corruption (OECD, 2015a). As a result, credit rates are high and well above what SMEs can afford.[65] According to a recent enterprise survey, only 13 per cent of firms had access to a bank loan or a credit line – as opposed to an average of 39 per cent in other countries with economies in transition – and only 5.5 per cent of their investment was financed by banks (OECD, 2013b). In addition, statistics show that the financial sector has performed poorly.[66]

Entrepreneurial education and skills development are also in a nascent stage. Mentoring and coaching are not offered by institutions providing general education and academic establishments do not invest in training, counselling, diagnostic and advisory services to early-stage entrepreneurs. However, these activities are necessary to make up for the lack of entrepreneurial culture in countries with economies in transition (UNCTAD, 2012c; UNDP, 2013b; Aidis, 2005). Also, with regard to the design of curricula at all levels of education, in Tajikistan Government ministries – not businesses – provide main inputs on the contents of programmes (see above). At present, the country has only one university that specializes on business education (Tajik University of Law, Business and Politics), but even this institution is not a proper business school. Policy documents recognize in principle the need for entrepreneurial education and skills development, but have not precisely linked it to actual reforms.

62 These enterprises, which are run by private individuals, can belong to each of the following categories: certific te, patents or dehkan farms (Tilekeyev, 2014).

63 Other firms in the formal sector pay lower taxes under two simplified regimes certific te and patent (see chapter 1).

64 The land regime does not allow for the use of land as collateral which, in turn, discourages the development of land markets (see chapter 1, section I.B).

65 NBT estimated the average lending rates to vary between 24 per cent and 29 per cent. See NBT Banking statistics, NBT, Dushanbe, nbt.tj/en/statistics/, accessed 6 August 2015. Field interviews found that actual rates can go up to 35 per cent (OECD, 2015c).

66 In early 2015, 27 per cent of loans extended by Tajik commercial banks were classified as substandard or non-performing. As a comparison, in microcredit, that rate was only 3.6 per cent (ECE, 2016).

Returning migrants could be an important source of entrepreneurship. According to an ILO survey, the educational level of migrants is well above average in Tajikistan (22 per cent have earned university degrees and 76 per cent have a secondary school education) (ILO, 2010). The large majority of the returnee migrants also reportedly acquired new skills while abroad (i.e. Russian language and professional on-the-job skills), although they lack supporting certific tes for their knowledge. Return migrants could be a source of business growth in the fields where they have core competencies, especially in catering enterprises (restaurants, cafés, and canteens), trade and the service sector, but they face a series of barriers. These include insufficient initial capital and difficulties accessing credit, high administrative burdens to run small enterprises, a shortage of financial literacy and investment skills, as well as high taxation (see also chapter 1).

The Law on State Protection and Business Support (2014) provides a legal basis for the promotion of entrepreneurship. Its goal is to protect citizens' constitutional right of freedom of enterprise as long as activities are not forbidden by explicit regulatory or legal acts. The law indicates the expected contribution of entrepreneurial activity to national development, taking into account a balance between private and public interests. Expected results include job creation, increases in the standard of living, respect for the environment and compliance with safety regulations and standards. The law also indicates that central authorities and local Government define the general principles, priorities and tools of protection and support to entrepreneurial activity, including improving regulations, providing incentives (both financial and non-financial) simplifying procedures (for taxation, business registration, licensing, among others), improving access to finance and promoting foreign trade. Support can also include State insurance and assistance on access to information. The latest amendments to this legislation included an explicit mandate for the Government to encourage the set up business-incubators (Decree 1194 of 2015).

Although Tajikistan has recently introduced a distinction between small and microenterprises, its legislation does not yet reflect that differentiation. Until recently, firms were considered small entrepreneurs if they fell within one of the following categories: private entrepreneurs or companies with limited State ownership (less than 25 per cent); limited turnover (not more than four times a certain threshold defined in the Tax Code); employment of less than 30 persons in non-agricultural sectors and up to 50 persons in agricultural sectors; and non-involvement in the production of either excise tax products, aluminium, mining, banking and insurance, and investment in the stock exchange (see Law 98 of 2005 on State protection and support of entrepreneurship and Law 259 of 2007). A recent reform has been made to align definitions with international trends, which increasingly distinguish between small and medium-sized enterprises (UNCTAD, 2009a; OECD, 2015c). Accordingly, small businesses are now defined as those with annual gross revenue of up to SM 500,000, medium businesses – from SM 500,000 to SM 15,000,000 and large businesses – over SM 15,000,000 (see Law on State Protection and Entrepreneurship Support of 2014). Microenterprises, however, are not included in the classific tion. This conceptual distinction can have policy implications with regard to the comparability of international statistics and the possibility to devise targeted policy recommendations. For example, in many countries this differentiation has led to the adoption of specific measures to assist microenterprises, especially during their start-up phase (UNCTAD, 2012c).

Relevant entrepreneurship promotion functions are carried out by various institutions under the coordination of the State Committee on Investment and State Property Management. Policy formulation on entrepreneurship development is the responsibility of the Committee, which participates in the elaboration of laws on the investment environment, including such issues as inspections, or licences (see chapter 1). The Committee also supports companies in the preparation of business plans for accessing preferential finance (see II.A). The Ministry of Agriculture, the Ministry of Economic Development and Trade, the Ministry of Energy and Water Resources, the Ministry of Industry and New Technologies, and the Ministry of Transport also play a role on enterprise development in their sectoral area of competence.

The Programme for State Support for Entrepreneurship 2012–2020 contains several elements of a comprehensive national entrepreneurship strategy. The thrust of the Programme is on optimizing the regulatory environment, enhancing entrepreneurial skills and improving access to finance Overall, the Programme addresses key areas of modern entrepreneurship policies, but its goals could be more focused. For instance, it includes multiple sectoral priorities (i.e. agriculture, processing and manufacturing, construction, recycling, housing, technical training, tourism, and innovative activities in general) but it does not have dedicated subprogrammes in specific activities. Also, although it calls for enhanced cooperation between the State and the private sector, the involvement of business associations has been limited to the design phase of the Programme, but not in its subsequent implementation and reassessment, as has been the case in successful experiences in other countries (e.g. Ecuador, Ghana) (UNCTAD, 2012c). Indeed, successful experiences have involved the sequenced development of strategies based on multi-stakeholder round tables and consultations.

The Programme contains targets and monitoring mechanisms, but implementation is challenging. The Programme defines measurable objectives, such as a 50 per cent increase in the number of businesses and 25 per cent in the number of jobs created by 2020. There are also other targets such as the creation of business incubators and business support centres as well as establishing monitoring mechanisms, which allow for some flexibility in the calibration of priorities. Implementation of the programme is entrusted to the State Committee on Investment and State Property Management. Lessons learned from the first period of the Programme – completed in 2014 – have indicated the need to devote more resources to the development of infrastructure serving the private sector, including business incubators. In principle, adjustments are to be approved through the discussion of annual progress reports that the Committee has to submit to the Government (and should be made publicly available on the Internet). However, no annual progress reports have been made publicly available so far.

A State fund has been set up to assist SMEs' access to finance In Tajikistan, limited Government resources are devoted to improving access to finance Partial support is provided by the State Entrepreneurship Support Fund (SESF), complemented by efforts by the donor community, mostly in the form of microfinance [67] The Fund, which was set up in 2013 by the Government to ensure access to concessional and long-term finance (it is assumed that until 2020 its budget will reach SM 1 billion), is a non-profit public entity engaged in providing finance for the development of SMEs in productive activities in remote areas of the country. Its primary responsibility is to provide preferential loans at rates below the market rate (12 per cent in local currency). It also has a subsidiary mandate to support the private sector by organizing training seminars for entrepreneurs, to help prepare business plans and organize conferences. Its 20 employees are not treated as civil servants, opening the possibility to offer competitive salaries to attract talented professionals from the private sector.[68] However, the Fund is not yet ready to offer finance on a large scale, in spite of growing demand.

As SESF increases its credit base, ensuring the quality and sustainability of loans will become a priority. By early 2015, the number of beneficiaries was more than 100, covering a broad range of areas, from construction materials to various agricultural and food products, pharmaceuticals and garments. According to information submitted by SESF, at the beginning of 2015, the outstanding credit portfolio stood at SM 63 million (about $12.8 million), and will likely grow further thanks to new budget allocations.[69] The growing portfolio will increasingly require expertise in the evaluation of funding requests. However, because the Fund does not have a separate credit committee with private sector experience to evaluate loan applications, the Board of Directors (consisting of civil servants) undertakes the selection of projects.[70] In the long term, the lack of private sector expertise may negatively affect the quality of the credit portfolio.

The donor community is also active in providing financial support to small entrepreneurs. Given the urgency of improving access to finance a number of programmes aimed at providing microfinance to SMEs have been developed with international partners. Indeed, most international development banks are present and active in Tajikistan. Direct loans are offered by EBRD, EDB, IFC and ADB at lower rates compared with private banks

67 The SESF was set up under the auspices of the State Committee on Investment and State Property Management, but since 2015 it has autonomy under the Government of Tajikistan (Decree 62 of 2015).

68 The SESF also has subsidiary mandates to support the private sector by organizing training seminars for entrepreneurs; helping them prepare business plans; and organizing conferences for entrepreneurs. A representative of the State Committee on Investment and State Property Management is a member of the Board, ensuring links between the two institutions.

69 The Fund's portfolio could rise to SM 140 million (about $28.4 million) by the end of the year if accounting for a new budget allocation and accruing of interests on its loan portfolio.

70 The Board is chaired by the Vice-Prime Minister, and consists of representatives of the State Committee on Investment and State Property Management (vice-chair), Ministry of Finance, Ministry of Justice, Ministry of Economic Development and Trade, Ministry of Industry and New Technologies, Antimonopoly Agency and the Bankers' Association.

Box 2.2. The PARE 1+1 programme of the Republic of Moldova

Reflecting the role that remittances can play in entrepreneurship development, the Ministry of Economy of the Republic of Moldova has developed and carried out the PARE 1+1 programme. Since 2010, the programme aims at mobilizing the human and financial resources of migrant workers. It provides information, training, and financing to eligible migrants or beneficiaries of remittances who seek to enhance their entrepreneurial skills, or establish and develop an SME in the Republic of Moldova. Business financing is based on a "1+1" rule (half of the costs covered by the candidate, the other half covered by the State). The maximum grant was set at MDL 200,000 (about $17,000). Except for a negative list of activities (financial intermediation, gambling, real estate, trade, catering in the major cities of Chişinău and Bălți), the programme is open to all economic sectors. It was expected to increase the volume of remittances invested in the national economy, resulting in new businesses and job creation, especially in rural areas. In the initial period from 2011 to 2014, the programme assisted 313 SMEs, 153 of which were completely new businesses.

Source: Based on UNCTAD (2013).

(ITC, 2015). On a smaller scale, UNDP also offers a business challenge fund through its Aid for Trade Programme and improves access of rural entrepreneurs by supporting the microfinance programme.[71] Other funds of development partners are channelled to final beneficiaries through the approximately 140 microfinance institutions of the country licensed by the National Bank and coordinated by the Association of Microfinance Organizations of Tajikistan, which provide loans to local small and microenterprises under concessional terms.

Other innovative mechanisms exist that can allow access to finance for SMEs through the use of various forms of factoring and leasing, but they have not been promoted in Tajikistan. These mechanisms have become more influential in the context of regional and global value chains. For example, a supplier can obtain a loan by providing a signed purchase order from its buyer as collateral. The buyer then pays the invoice for the goods directly to the lending institution, which remits the payment to the supplier net of the loan principal and interest (UNCTAD, 2012c). This mechanism effectively transfers credit risk from the lender to the buyer, which mitigates the risk of non-delivery of output by screening the suppliers it chooses to work with. In Tajikistan, this kind of supply chain financing could make up for existing constraints linked to the impossibility to use land as collateral, in addition to challenges linked to informality and poor access to financial inform tion.

There are also gains to be made by encouraging the use of remittances to finance enterprise development. In Tajikistan, studies have found that remittances are used to fund current expenditures or for short-term saving, but almost none are invested in new businesses (Brown and Olimova, 2008; ILO, 2010; UNDP, 2013b). Programmes to assist returning migrants have been set up since 2010 (See Concept on the Attraction of Foreign Compatriots as Partners Engaged in the Country Development; National Strategy on the International Labour Migration of the Citizens of the Republic of Tajikistan for the Period of 2011–2015), but do not consider the idea of promoting entrepreneurship (OECD, 2015a).[72] The authorities could build on experiences in other countries where there are initiatives to channel part of remittances income towards business financing For instance, in the Republic of Moldova, a pilot programme to match investment from remittances with Government funding has been put in place, which has led to higher financing of enterprise development (box 2.2)

Policy initiatives will also be needed to improve the financial literacy of entrepreneurs. Overall financial literacy is very limited due to an almost complete lack of training in this area (see above). Indeed, it has been found that even users of microfinance services lack basic training in terms of understanding the effects of infl tion and credit guarantees on their loans, and the savings culture of the country is underdeveloped (OECD, 2015a).

In the future, further efforts will be needed to formulate and implement an effective national entrepreneurship strategy. The Programme for State Support for Entrepreneurship 2012–2020 and a series of welcome policy initiatives in support of entrepreneurship are witnesses of the policy efforts deployed by the

71 See tj.undp.org/content/tajikistan/en/home/operations/projects/poverty_reduction/communities-programme/, accessed 15 August 2015.

72 The exception is the establishment through UNDP of the concept of the trust fund mechanism, which was introduced for channelling State and non-State funds for addressing local priorities. This mechanism was adopted in Sughd region and Rasht Valley, which resulted in mobilizing around $4.5 million dollars. See tj.undp.org/content/tajikistan/en/home/operations/projects/poverty_reduction/communities-programme/, accessed 15 August 2015.

Government to address one of the main obstacles to higher economic and social development in the country. Indeed, entrepreneurship is a transversal subject, involving many policy areas that have an impact on entrepreneurial activity. Because these are often managed through a variety of ministries (e.g. finance education, economy, innovation and science), effective coordination to maximize synergies and reduce duplication is crucial. In the future, ensuring that the national entrepreneurship strategy is inclusive and well-coordinated will be a prerequisite for policy effectiveness. The efficien y of policy formulation will depend to a large extent on the ability to set up a dedicated entity for entrepreneurship promotion, coordination and monitoring of national efforts.

Recommendations

To spur entrepreneurship and SME development in Tajikistan, the following recommendations are suggested:

II.B.3. Strengthen the legal and institutional frameworks for the support and development of entrepreneurship. In addition to improving laws and regulations as described in chapter 1, this includes the following action:

- Improving the Programme for State Support for Entrepreneurship 2012–2020 by identifying country-specific entrepreneurship opportunities and challenges, and ensuring coherence and interactions with other national policies and private sector development strategies. UNCTAD's Entrepreneurship Policy Framework (2012) provides useful guidance in this regard;
- Working to promote a more extensive involvement of international financial institutions and the donor community in the implementation of the Strategy;
- Ensuring that all aspects of enterprise development are well coordinated and that relevant ministries are consulted regularly in policymaking. Consultations with the private sector should also be part of the policymaking process. Experiences from Chile, Malaysia and Singapore could provide additional guidance with regard to strengthening the institutional framework for entrepreneurship (UNCTAD 2012c);
- Adjusting the classific tion of SMEs in legislation to better distinguish between micro and small enterprises;
- Operationalizing the programme of creating business incubators and technology parks. These could include mentoring services to be offered by successful entrepreneurs;
- Involving the private sector more actively in the process of entrepreneurship policy development and in the monitoring and evaluation of the current entrepreneurship programme, including by involving independent evaluators and the private sector, and publishing annual progress reports;
- Considering the development and implementation of specific subprogrammes for target groups, for example, by promoting the entrepreneurship of return migrants and women, as well as sector-specific enterprise subprogrammes or action plans in high potential sectors.

II.B.4. Foster the teaching and dissemination of entrepreneurial skills. This includes the following actions:

- Revising the national curriculum to include entrepreneurship and related subjects at all levels, including involving entrepreneurs in the classroom and setting up awareness-generating mechanisms (e.g. by encouraging entrepreneurship competitions);
- Promoting the establishment of a world-class business school with competitive entry conditions, in collaboration with an internationally renowned overseas partner. The Government would provide seed funding but the school would be run as a private venture. Potential foreign partners would include European business schools which are active globally, or a leading business school from an emerging economy;[73]
- Considering the promotion of training sessions on entrepreneurial attitudes through the UNCTAD Empretec Programme. The Programme is a comprehensive capacity-building initiative that is carried out in 36 countries by national training centres.[74] The Programme could improve assistance

[73] For more details on modes of entry into global markets by foreign universities and establishing collaborative modes see UNCTAD, 2009b.

[74] The Programme was established in 1988 and has successfully trained over 200,000 people, from sole entrepreneurs to SMEs and start-up companies. Empretec Centres are flexible and can be adjusted to national priorities. The goal is to train entrepreneurs in sector-specific programmes that are in

to and training of entrepreneurs in key areas such as access to regional and international quality standards, promotion of processing activities in priority sectors and training of entrepreneurs on the use of mobile communications for financial transactions in remote locations.

II.B.5. Improve access to finance for SMEs by taking the following action:

- Removing the main bottlenecks to collateralization, particularly by enacting reforms to allow for land use right transactions and mortgages (see chapter 1);
- Promoting alternative methods of financing through such mechanisms as factoring and leasing;
- Improving the professionalism of the Enterprise Support Fund (e.g. through the establishment of a professional credit committee); complemented with policies to improve the financial literacy of loan takers;
- Considering a pilot project to promote the transformation of remittances into entrepreneurship financing and/or support to return migrant potential entrepreneurs.

C. Policies for the transfer of technology, spillovers and business linkages

The benefits of FDI through direct transfer of technology and spillovers are affected by a country's national framework for innovation. Technology provides entrepreneurs with new tools to improve the efficien y and competitiveness of their firms In turn, entrepreneurs can fuel technological change by designing or improving goods, services or processes and ensuring their commercialization. MNEs are often a source of knowledge and technology that would be otherwise unavailable for developing and transition economies. But technology encompasses a range of hard and soft elements (e.g. intellectual property, capital equipment, organizational knowledge, engineering and others), the transfer of which does not occur automatically. It depends on key factors, such as the availability of human and physical infrastructure in the host economy as well as enabling legal and policy frameworks. In this regard, national innovation policies play a crucial role in improving technology absorption, including from FDI.

In Tajikistan, research activities are undertaken in laboratories that need more funding, more connectivity and improved infrastructure. The innovation process of a country is increasingly dependent on the fluidity of the interaction between the Government, academia (i.e. educational institutions, universities and research laboratories) and the private sector. In Tajikistan, this fluidity is hindered by several factors. Firstly, as in most former Soviet republics, research was largely detached from higher education and housed in a separate institution (i.e. the Academy of Sciences). Since independence, Tajikistan has enacted regulations on science and technology to improve academia–business links, and research was integrated as a core activity in universities. However, the level of scientific equipment and infrastructure in science laboratories is obsolete, and most modern equipment is available only as a result of donations. In addition, the seasonal shortages of electricity have also had a negative effect on the productivity of laboratories (Energy Charter, 2013). Finally, access to professional literature is also limited due to a lack of financial resources, limited knowledge of foreign languages and low Internet penetration (ECE, 2016).

Knowledge dissemination is restrained by the lack of structured initiatives to promote clustering and linkages. The experience of a range of developing economies suggests that efforts to promote technology start-ups should concentrate on well-connected regions with sufficien infrastructure and access to human skills. Competitive industrial clusters, in which firms reap the benefits of physical proximity to set up horizontal networks of collaboration, can help access new markets and resources and share costs to acquire new knowledge and enhance skills. Clusters can also be an important factor in attracting FDI or encourage non-equity modes of international production near urban centres (e.g. in garments or agribusinesses). On the other hand, linkages between a company and its suppliers can multiply the number of jobs created beyond the immediate impact of foreign affili tes. For instance, resource seeking projects in petrol and mining activities are not per se labour intensive, but their development creates demand for other goods and services (e.g. accommodation, catering, education and

line with a country's development strategy. They can build synergies with universities seeking to develop new managerial curricula as well as with vocational training institutions serving groups with low education levels (UNCTAD, 2015b).

health), which can have a significant impact on employment (UNCTAD, 2011). In Tajikistan, both clusters and linkages initiatives could foster job creation at local enterprises and result in new opportunities for disadvantaged sectors of the population with lower access to formal education and skills, especially in rural areas. However, at present there are no formal or informal arrangements in place between foreign investors and local firms for instance, to promote matchmaking, or to increase the capacities of local firm to meet MNEs' technical and quality requirements (OECD, 2015c). Also, the administration of incentives for research and development (RandD), which according to the Law on Innovation includes the transfer of property, grants, financin of staff training and consultancy, is imprecise about priority sectors and eligibility requirements for applicants (see chapter 1, section C), which could create unnecessary regional competition.

Weaknesses in intellectual property (IP) protection may also hamper innovation activities. Efficient legal frameworks for the protection of IP rights and their enforcement are among the determinants for the attraction of foreign investors as well as private sector development. In Tajikistan, protection of IP rights is weak and overall awareness is limited. There is a lack of expert capacity and poor enforcement of international and national norms, and the subject is largely absent from educational curricula. Although most laws on IP rights are increasingly becoming aligned with international standards,[75] the number of both international and national registered patents is considered low, which reveals a lack of awareness among businesses about the potential gains of protecting new knowledge.[76]

[75] During the preparatory phase of accession to WTO, Tajikistan accepted the Programme on capacity development and intellectual property rights until 2020 (approved by the Government in 2012, Order No. 687). After accession, the Government of Tajikistan adopted the *Programme of adjustment of the economy of the Republic of Tajikistan related to the membership in the World Trade Organization,* decree 691 (2014), which contains detailed implementation targets.

[76] In terms of patent applications per million citizens, Tajikistan ranks 124th of 144 countries, which is below the measurability threshold of the global competitiveness index. Data on licensing agreements also imply a significant imbalance. Between 1995 and 2013, only three registered licensing agreements concerned national applicants, with 70 for foreign applicants, while the number of registered agreements for the transfer of rights was 2,169, 54 of which were registered in the names of national applicants (ECE, 2016).

The Law on Technology Parks (2010) aimed to promote the commercialization of scientific results by offering access to grants for innovative projects, but with one notable exception (the Technology Park of the Khujand Polytechnical Institute),[77] Technology parks remain at an incipient stage, and their status as non-commercial entities creates difficulties for the commercialization of their products or inventions (ECE, 2016).

Government and academia participate in the development of innovation policies, but the private sector is not duly represented. At the highest level of Government, the National Expert Coordination Council on Innovative Development supervises innovation regulations, policies and the implementation of the Programme for Innovative Development 2011–2020.[78] The Council consists of representatives of several government ministries, the Academy of Sciences and universities, but the private sector is not represented. This is a key constraint, since the private sector, through its business associations, could play a key role feeding into the system and signalling priorities for the translation of new ideas into productive capacities, especially for those that could be commercially viable

Interactions between businesses and universities typically occur through relevant ministries in the Government. There are only a few examples of direct collaboration between universities and foreign firms to

[77] The Technology Park of the Khujand Polytechnical Institute was established in 2011 in Sughd, the most advanced region of the country, where infrastructure, skilled human capital and potential local partners are available. In the Park, activities are carried out with electronic boards, serving as the basis for the development of computer services, programmes and information tools, in cooperation with the mobile service provider Babilon.

[78] According to the Programme, the Ministry of Economic Development and Trade is in charge of administering incentives for research and design of new or improved products and technologies (World Bank and IFC, 2014). The Ministry of Education and Science supervises international cooperation agreements signed by higher educational institutions with foreign partners. More than 100 agreements of such a type have been signed so far, allowing for more than 3,000 Tajik students (data for 2014) to study abroad, the majority at Russian universities. Finally, the Academy plays a major role in supervising basic research by most national research institutes.

Box 2.3. Development of ICT exports in Armenia

Armenia has a flourishing export-oriented ICT services sector, bringing together foreign investors and local firms in the same cluster. The revenues of the ICT software and services sector amounted to 3.3 per cent of Armenia's GDP (around $320 million), employing more than 9,300 people. Exports amounted to $120 million, or 8 per cent of total Armenian exports, with the main destinations being the United States and Canada with 54 per cent of ICT exports, Europe with 31 per cent, the Russian Federation and CIS with 6 per cent and other countries accounting for 9 per cent. In 2012, there were 360 companies operating in the Armenian ICT sector, 58 per cent of which were local and 42 per cent were foreign owned. In the most knowledge-intensive activities, FDI from the United States and other developed countries (Canada, EU member countries), facilitated by members of the Armenian diaspora, played a pioneering role. Major MNEs, such as Microsoft or Synopsys, are present in the Armenian ICT sector with research labs and production units, and foreign investment has led to the creation of Armenian spin-offs and start-up companies. The ICT sector benefits from l w fixed costs and local skills

Source: Based on ECE (2014).

commercialize research products.[79] Recent examples include the Agrarian University's agreement with a shareholding company in China to test maize and cotton in Tajik regions with different climates. There are also examples of local firms collaborating with universities for product development and testing. For instance, the dairy firm Molochniy Kombinat has signed RandD contracts with local universities for the adaptation of new products. Such arrangements could be promoted in other sectors, especially in those with high exports potential, such as ICT services, where Tajikistan could emulate the experience of other land-locked countries in transition (e.g. Armenia) that have succeeded in developing those services through IT clusters (box 2.3). IT services could be provided to countries with which Tajikistan has historical links, such as the Russian Federation, but also with Afghanistan, the Islamic Republic of Iran and China.[80]

Recent policy initiatives aim to address some of the key constraints to innovation. The National Strategy of Education Development (NSED) of the Republic of Tajikistan 2012–2020 (Decree 334 of 2012) includes a series of measures to improve quality and financin of research activities. According to NSED, reforms to be undertaken include promoting multi-channel financing including public–private partnership, monitoring of quality improvements in educational institutions and the deepening of regional/international connectivity. It is also expected that the productivity of higher educational institutions (measured in terms of both publications and technical activities) will become a part of the general evaluation for further State accreditation procedures. The Strategy also emphasizes the encouragement of private sector participation in education at all levels, including through the provision of training or short-term courses. Finally, in order to address existing constraints with regard to IP, the authorities have adopted an ambitious programme to increase protection through the National Strategy for the Development of Intellectual Property of the Republic of Tajikistan for 2014–2020, which includes concrete objectives for the improvement of IP policy implementation, development of education and international, regional and bilateral cooperation with a view to improving national competitiveness (ECE, 2016).

In the future, the design and implementation of innovation policies and processes should better incorporate private sector perspectives at all stages. Modern approaches to innovation foster the cooperative arrangements between Government, academia and industry. Governments are promoters and provide venture capital; firms engage in RandD, training and knowledge sharing; and universities can combine different pieces of registered ideas and jointly exploit them (triple-helix approach).[81] Unlike most countries that have sought to develop a national system of innovation, Tajikistan has for long forgone the role of the private sector in promoting innovation. This is starting to change, as exemplified by the adoption of NSED in 2012, but more comprehensive reforms will be needed.

79 Also, in the case mentioned above (section II.B.1), as part of the agreement with the Tajik Technical University, local manufacturers receive tested and adapted solutions from a Croatian company. However, during this transfer process, none of the Tajik scientific organizations have roles in supporting adaptation through any research activity. All technical documentation and designs are provided directly to the Tajik technical institutes, which may then be provided to firms for replic ting the products (ECE, 2016).

80 At present, Tajikistan has no export promotion agency (TajInvest undertakes some export promotion functions (see section A). As a result, the Government is not in a position to offer fully fledged services to potential high-technology exporters.

81 The triple-helix concept is used to illustrate the shift from a dominating industry-government dyad in the industrial society to a triadic relationship of university–industry–Government in the knowledge society, (see triplehelix.stanford.edu/3helix_concept).

Recommendations

The promotion of innovation in Tajikistan should begin from the recognition of the potential for synergies that can be obtained by adopting a triple-helix approach. The following recommendations are suggested:

II.B.6. Promote a triple-helix approach in policy formulation and in the implementation of innovation policies

- Key business associations should become members of the National Expert Coordination Council on Innovative Development;
- Private sector representatives should be involved in the implementation and evaluation of NSED as well as the National Strategy for the Development of Intellectual Property, and in any reassessment of objectives;
- Measurable benchmarks to assess the effectiveness and impact of reforms on indicators of improvement of innovation systems should be adopted;
- The authorities could encourage the involvement of universities in technology transfer, providing incentives for collaborative projects or the development of government research labs. Public–private innovation centres as well as business incubators could be set up through a PPP to link local innovators with commercial investors;
- Adopt a coordinated strategy (involving national and regional authorities as well as FEZs) in the administration of State support for innovation activities to avoid an escalation of harmful competition in the context of regional clusters.

II.B.7. Introduce a business linkages support programme between foreign firms and local suppliers, as follows:

- House the programme under the joint responsibility of TajInvest and the proposed lead agencies on SMEs;
- Conduct a value-chain diagnostic study to select target sectors and map out opportunities. Candidates could be the mining, construction and agribusiness sectors;
- Select a pilot sector, identify target MNEs and domestic SMEs, and sensitize them on the importance and benefits of business link ges;
- Design and implement the necessary measures, incentives and strategies to promote linkages between multinational corporations and SMEs and transform them into sustainable business relationships that improve the performance, productivity and efficien y of all participants;
- Promote and share the experiences in business linkages with potential investors to attract additional FDI.

UNCTAD could be of assistance to develop such a programme, based on its experience in establishing business linkages programmes around the world, including in Argentina, Brazil, Mozambique, Peru, Uganda, the United Republic of Tanzania, Viet Nam and Zambia.

References

ADB (2014). *Mainstreaming Land Acquisition and Resettlement Safeguards in the Central and West Asia Region*. Technical Assistance: Tajikistan Country Assessment Consultant's Report. November. Asian Development Bank, Manila.

ADB (2010). *Country assistance partnership 2010-2014, Risk Management plan*. Asian Development Bank, Manila.

Aidis, Ruta (2005). "Entrepreneurship in Transition Countries: A Review". *Working Paper No. 61* Centre for the Study of Economic and Social Change. UCL School of Slavonic and East European Studies, London, December.

Ajwad, Mohamed Ihsan, Stefan Hut, Ilhom Abdulloev, Robin Audy, Joost de Laat, Sachiko Kataoka, Jennica Larrison, Zlatko Nikoloski and Federico Torracchi (2014). *The Skills Road: Skills for Employability in Tajikistan*, World Bank, Washington, D.C.

Brown, R., S. Olimova and M. Boboev (2008). *A Study on International Migrants' Remittances in Central Asia and Caucasus: Country Report on Remittances of International Migrants in Tajikistan.* Asian Development Bank, Manila.

CIS Statcommittee (2011). Main Economic Indicators. Interstate Statistical Committee of the CIS, Moscow.

Colman, Alan (2011). "*Court decisions in commercial matters: an EBRD assessment*", Law in transition 2011, p. 20. Available at ebrd.com/documents/legal-reform/court-decisions-in-commercial-matters-an-ebrd-assessment.pdf, (accessed 7 July 2015).

Deloitte (2014). *Tajikistan Investment and Tax guide,* available at deloitte.com/content/dam/Deloitte/kz/Documents/tajikistan/TJ_Tax-and-Investment-Guide_EN.pdf (accessed 18 June 2015).

EBRD (2012). "Commercial Laws of Tajikistan April 2012: An Assessment by the EBRD". Office of the General Council, London, April.

ECE (2016). *Innovation Performance Review of Tajikistan.* United Nations publication. New York and Geneva. Forthcoming.

ECE (2014). *Innovation Performance Review of Armenia*. United Nations publication. New York and Geneva.

ECE (2011). *Country Profile on the Housing Sector Tajikistan*. United Nations publication. Geneva.

Energy Charter (2013). *In-depth Energy Efficien y Review Tajikistan*. The Energy Charter Secretariat, Brussels.

ETF (2015a). *Torino process 2014, Central Asia*, European Training foundation. Available at etf.europa.eu/webatt.nsf/0/43663B6D6258F988C1257E58005D6FDF/$file/TRP%202014%20Central%20Asia_EN.pdf (accessed 7 July 2015)

ETF (2015b). *Torino process 2014, Tajikistan*. European Training foundation. Available at etf.europa.eu/webatt.nsf/0/8741316405997683C1257E420041D265/$file/TRP%202014%20 ajikistan_EN.pdf (accessed 7 July 2015).

ETF (2010). *Labour market review for Tajikistan (2010)*, European Training foundation. Available at etf.europa.eu/webatt.nsf/0/17405B3004DC50AAC12578DA003C0EE1/$file/Labour%20market%20review_ ajikistan.pdf (accessed 7 July 2015).

European Commission (2012). *Higher Education in Tajikistan.* Tempus programme of the Education, Audio–visual and Culture Executive Agency (EACEA). Dushanbe.

GIZ (2015). *Framework and Finance for Private Sector Development in Tajikistan,* Economic Review of Tajikistan, No. 2, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

ILO (2015). "New Decent Work Country Programme for Tajikistan: Making National Policies Work for Growth, Formal Employment and Development", ILO press note, 24 June 2015. Available at ilo.org/moscow/news/WCMS_378192/lang--en/index.htm (accessed 20 July 2015).

ILO (2012). *Global Wage Report 2012/13: Wages and Equitable Growth*. Geneva. December.

ILO (2011). "Decent Work Country Program for 2011-2013 of the Republic of Tajikistan". ILO and Government of Tajikistan. Available at ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/documents/project/wcms_359440.pdf (accessed 20 July 2015)

ILO (2010*). Migration and Development in Tajikistan: Emigration, Return and Diaspora.* ILO, Moscow.

IMF (2015). *Article IV Consultation with Tajikistan*. Press Release No. 15/268, 9 June, Washington, D.C.

IOM (2015). *Mapping on Irregular Migration in Central Asia 2014*. IOM, Astana.

IOM (2012). An assessment of the exploitation of children and students during the 2011 cotton harvest in Tajikistan, Monitoring Report. March. Available at iom.tj/pubs/cotton-eng2012.pdf (accessed 1 August 2015).

ITC (2015). *Access to Finance in Tajikistan's Textile and Clothing Sector*. ITC, Geneva, April.

Jonbekova, Dilrabo (2015). "University Graduates' Skills Mismatches in Central Asia: Employers' Perspectives from Post-Soviet Tajikistan" in *European Education Vol. 47 Issue 2*. Pp. 169–184.

KasWag Agriconsulting (2008). "Desk Study: Rural Sector Reform and Legal Aid in Tajikistan" *Project 7F-00351.06.14* available at eda.admin.ch/content/dam/countries/countries-content/uzbekistan/en/resource_en_168709.pdf, (accessed 1 August 2015).

Lerman, Zvi and David Sedik (2008). The Economic Effects of Land Reform in Tajikistan. FAO Regional Office for Europe and Central Asia: Policy Studies on Rural Transition No. 2008-1. FAO, Budapest.

OECD (2015a). *Private Sector Development Policy Handbook: Enhancing access to finance for SME development in Tajikistan.* OECD, Paris.

OECD (2015b). *Private Sector Development Policy Handbook: Increasing Exports in Tajikistan: the Case of Agribusiness*. OECD, Paris.

OECD (2015c). *Financing SMEs and Entrepreneurs 2015: An OECD Scoreboard.* OECD: Paris.

OECD (2014). *Anti-corruption Reforms in Tajikistan. Round 3 Monitoring of the Istanbul Anti-Corruption Action Plan*. OECD, Paris.

OECD (2013a). *Private Sector Development Policy Handbook: Developing Skills in Central Asia through Better Vocational Education and Training Systems.* OECD, Paris.

OECD (2013b). *Private Sector Development Policy Handbook: Improving Access to Finance for SMEs in Central Asia through Credit Guarantee Schemes.* OECD, Paris.

Pavlova, Olga and Oleksandr Rohozynsky (2005). "Labor Markets in CIS Countries" in *Studies and Analysis No. 311.* Centre for Social and Economic Research, Warsaw. September.

Shtaltovna, A. (2013). "Knowledge gaps and rural development in Tajikistan: Agricultural advisory services as a panacea" *Working Paper 117*. University of Bonn: Centre for Development Research (ZEF), Bonn.

Tajstat (2014). Statistical Yearbook for the Year 2014 (in Russian), Agency for Statistics under the President of the Republic of Tajikistan.

Tajstat (2013). Labour market in the Republic of Tajikistan (in Russian), Agency for Statistics under the President of the Republic of Tajikistan.

Tajstat (2012). Women and Men of the Republic of Tajikistan (in Russian), Agency for Statistics under the President of the Republic of Tajikistan.

Tajstat (2011). *Report on the Results of the Economic Census of the Republic of Tajikistan - 2010 (in the framework of the improvement of the national statistical system)* (in Russian), Agency for Statistics under the President of the Republic of Tajikistan.

Tilekeyev, Kanat (2014). "Micro-, Small and Medium Enterprises in Tajikistan: Drivers of and Barriers to Growth". *Working Paper No. 31*, Institute of Public Policy and Administration of the University of Central Asia. Bishkek.

Transparency International (2013). *Best practices for anti-corruption commissions*, available at transparency.org/files content/corruptionqas/Best_practices_for_anti-corruption_commissions_2.pdf, (accessed 7 July 2015).

UNCTAD (2015a). *Investment Policy Framework for Sustainable Development.* United Nations. July. UNCTAD/WEB/DIAE/PCB/2015/3.

UNCTAD (2015b). *Investment Policy Review of Kyrgyzstan*. United Nations. New York and Geneva.

UNCTAD (2015c). *Report on the implementation of the IPR of Morocco*. United Nations. September. UNCTAD/DIAE/PCB/2015/2.

UNCTAD (2015d). *World Investment Report: Reforming International Investment Governance*. New York and Geneva.

UNCTAD (2014a). *Investment Guide Silk Road Region*. United Nations publication. New York and Geneva.

UNCTAD (2014b). *World Investment Report: Investing in the SDGs: An Action Plan*: New York and Geneva.

UNCTAD (2013). *Investment Policy Review of the Republic of Moldova*. United Nations publication. New York and Geneva

UNCTAD (2012a). *World Investment Report 2012: Towards a New Generation of Investment Policies*. United Nations publication. New York and Geneva.

UNCTAD (2012b). *Investment Policy Reviews: Shaping Investment Policies around the World*. United Nations publication. New York and Geneva.

UNCTAD (2012c). *Entrepreneurship Policy Framework and Implementation Guidance*. United Nations publication. New York and Geneva.

UNCTAD (2011). *World Investment Report: Non-Equity Modes of International Production and Development* United Nations publication. New York and Geneva.

UNCTAD (2009a). *Investment Policy Review of Republic of Belarus.* United Nations publication. New York and Geneva.

UNCTAD (2009b). *Investment Policy Review of Republic of Nigeria.* United Nations publication. New York and Geneva.

UNDP (2013a). Access to Justice Project in Tajikistan, project document, 18 September, prepared by the UNDP in Tajikistan and HELVETAS Swiss Intercooperation. Available at tj.undp.org/content/dam/tajikistan/docs/projects/democratic_governance/UNDP%20-%20Helvetas%20A2J%20Project%20Document.pdf, (accessed 2 February 2016).

UNDP (2013b). Social Protection, Growth and Employment. Evidence from India, Kenya, Malawi, Mexico and Tajikistan. United Nations Development Programme: New York.

UNDP (2010). Corruption in Tajikistan: Public Opinion. Available at tj.undp.org/content/dam/tajikistan/docs/library/UNDP_TJK_Corruption_in_Tajikistan_Public_Opinion_Eng.pdf, (accessed 7 July 2015).

USAID (2014a). *Assessment of Current Legal Framework Governing Land Tenure and Land Administration as Related to Dehkan Farms*. Manuscript. 30 June.

USAID (2014b).Agricultural Technology Commercialization Assessment USAID Enabling Agricultural Trade (EAT) project. June. Available at eatproject.org/docs/EAT_AgTCA_Tajikistan_Report.pdf, (accessed 1 August 2015).

Wallenborn, M. (2009). "Skills development for poverty reduction (SDPR): The case of Tajikistan" in *International Journal of Educational Development:* 29(6). Pp. 550-557. November.

World Bank (2015a). *World Development Indicators* database (accessed 10 June 2015).

World Bank (2015b). Slowing Growth, Rising Opportunities. Tajikistan, Economic Update No. 1, Macroeconomics and Fiscal Management, Spring, Washington, D.C.

World Bank/ IFC (2014). *Analysis of investment incentives in the Republic of Tajikistan*. Unpublished manuscript.

World Bank/ IFC (2013). Tajikistan Enterprise Survey. Available at enterprisesurveys.org/~/media/GIAWB/EnterpriseSurveys/Documents/Profiles/English/tajikistan-2013.pdf (accessed 7 July 2015)

World Bank/ IFC (2010). Inspections Reforms: Do models exist? Washington D.C. December. Available at wbginvestmentclimate.org/uploads/inspection%20reforms%20paper.pdf.

World Bank/ IFC (2009). Business Environment in Tajikistan as Seen by Small and Medium Enterprises. Washington, D.C. December. Available at ifc.org/wps/wcm/connect/RegProjects_Ext_Content/IFC_External_Corporate_Site/TJBEE_Home/Overview/Survey, (accessed on 10 June 2015).

WTO (2012). Report of the Working Party on the Accession of the Republic of Tajikistan. WT/ACC/TJK/30, Geneva, November.

Annex 1. Summary of recommendations

What	Why	How
1. Improve foreign-investment-specific regulation	Tajikistan has adopted a modern FDI regime, but clearer objectives, definitions and details are required in legislation. Whereas in principle the country is open to foreign investors and no entry barriers are legally in place, some establishment restrictions apply. With regard to international policies, increased coherence and alignment of investment treaty provisions with existing development plans should be encouraged. In particular, the sustainable development dimension of BITs could be strengthened.	I.A.1. Amend the core legislation on investment to clarify objectives, definitions and investors' rights and obligations, particularly with regard to FDI, including to: i. Clarify the interaction of FDI with the country's overall development strategies, related goals and/or priority sectors; ii. Adopt a definition of FDI and harmonize all legisl tions accordingly.
		I.A.2. Explore options of legal and/or institutional reforms to improve access to land and real estate, including by improving land use rights for foreign investors and creating a land bank of specific plots for agriculture investment projects, including by foreign investors.
		I.A.3. Enhance treatment and protection of foreign investors by ensuring that core legislation includes non-discrimination as a condition for legal expropriation.
		I.A.4. Review and assess the use of investment contracts in the long term.
		I.A.5. Consider examining the international investment policy regime, taking into account national development strategies, and consider the guidance from UNCTAD Policy Framework and in the Action Menu for IIA Reform.
2. Facilitate company operations	Business facilitation has improved, but challenges remain due to insufficient institutional c pacity. The cost of business registration remains high, and enforcement of licensing and inspections is not adequate due to weak supervision and coordination. Reforms to develop a land market need to be accelerated.	I.B.1. Continue work to increase the transparency and efficien y of administrative requirements by using, for instance, elements of the UNCTAD Business Facilitation Programme (i.e. eRegulations platform and 10 principles to simplify administrative procedures).
		I.B.2. Finalize the centralization of business registration procedures into a single window; lower the costs of registering businesses; adopt measures to simplify procedures for the closing of businesses.
		I.B.3. Consider options to improve land markets, including regulations to ensure the alienability of use rights; continue reforms to extend the unified registr tion system; consider abolishing the monopoly for notary services.
		I.B.4. Implement a modern inspection regime to prevent the inappropriate interference by public authorities in business operations.
3. Simplify the tax regime and tax administration	The current fiscal regime makes up for a high level of tax rates and complexity by offering a large number of disparate incentives. It creates high administrative costs for the Government and high compliance costs for business, particularly SMEs. Overlapping and frequent inspections by tax inspectors is another difficult , which should also be addressed.	I.C.1. Improve overall tax competitiveness and reduce complexity, including by adopting a unified corporate income tax rate. The review of dividend withholding rates, depreciation rates and social contributions should take into account regional regimes.
		I.C.2. Rationalize incentives and align them to focus on national development priorities, including by granting incentives on the basis of a set of pre-determined, objective, clear and transparent criteria, administered by a government unit that does not also have investment promotion capacities; carry out periodic reviews of their effectiveness.
		I.C.3. Reduce the incidence of indirect taxation by avoiding overlaps between the VAT and sales tax and ensuring promptness in granting VAT refunds; consider setting up a fast-track system for companies that meet predetermined criteria.
		I.C.4. Strengthen mechanisms to avoid double taxation.
		I.C.5. Adopt active measures to improve tax collection.

What	Why	How
4. Improve commercial justice and governance	Further steps to provide greater transparency of the judiciary and anti-corruption measures are needed to improve the rule of law. Also, legal information is not easily accessible and the judiciary lacks commercial specialization. Finally, civil society has a limited role in anti-corruption initiatives.	I.D.1. Strengthen the commercial justice system by promoting specific commercial training for first degree judges as well as alternative dispute resolution mechanisms.
		I.D.2. Develop a regulatory framework to improve the statutory independence of the judiciary; consider making judicial decisions accessible to the public; make judicial decisions and other legal information accessible to the public at an affordable cost.
		I.D.3. Improve public sector governance by aligning definitions of th Criminal Code and other national legislation with international standards as recommended by UNCAC; take measures to further stimulate the work of staff of the anti-corruption agency, including by reviewing compensation for senior officials; increase the involvement of civil societ in fighting corruption
5. Review and refocus the competition regime	The antimonopoly agency lacks independence to deliver on its mandate. Also, important exceptions to antimonopoly rules are in place, and investors are subject to price-setting constraints.	I.E.1. Review existing exceptions to the competition rules; design effective complaints and remedy mechanisms (including an ombudsman); facilitate access to information about price regulation to firms
		I.E.2. Focus the antimonopoly agency's mandate on sanctioning anticompetitive practices and document its action; review the efficien y of the agency and consider refocusing its mandate on enforcing competition rules; build capacity of the agency and enhance its resources; introduce the practice of publishing decisions and annual reports.
		I.E.3. Consider UNCTAD assistance on competition and consumer protection matters, in particular in the context of the launching of the UNCTAD COMPAL Programme for CIS countries.
6. Reconsider labour regulations	Labour regulations are in line with international practices but some aspects of it are not regulated clearly, and compliance with ILO Conventions has lagged. In particular, youth unemployment and other social issues remain pressing.	I.F.1. Explore options for revising the Labour Code to extend tripartite consultations for the setting of the minimum wage and clarify the conditions for redundancy termination; improve compliance with ILO conventions.
		I.F.2. Move forward with reforms to implement the Decent Work Programme 2015–2017.
7. Modernize investment promotion efforts	Tajikistan has put in place the institutional structure for investment promotion, but the absence of an effective action plan to develop promotion functions hampers its effectiveness. TajInvest, the agency tasked with investment promotion, lacks sufficient resources In particular, marketing and branding capability is weak and is not built on Tajikistan's comparative strengths. The adoption of specific targets would facilit te the establishment of performance measurement indicators.	II.A.1. Adopt an investment promotion action plan to implement the concept on a State policy for attraction and protection of investment. This includes the following action: • Selecting target sectors and activities based on attributes, locational and competitive advantages; • Identifying target markets and working to develop an investment product.
		II.A.2. Develop effective investment promotion functions with adequate resources (i.e. facilitation, marketing and investor targeting, research); in the long run, TajInvest should also aim at developing investment aftercare.
		II.A.3. Strengthen marketing and branding activities by producing an investor-friendly website and a range of sector-based marketing materials; develop an investment product database to store, analyse and produce information; improve brand awareness.
		II.A.4. Launch professional investor-targeting activities, including a lead tracking database.

What	Why	How
		II.A.5. Upgrade investor facilitation services by adopting, within a single window system for investor relations, clear procedures for handling investor enquiries and visits at no cost for investors; adopt a client charter detailing the services available and commitments on quality standards; prepare investor visits and post-visit follow-up activities.
		II.A.6. Introduce monitoring, evaluation and reporting mechanisms, including by setting input targets (e.g. number of meetings, number of business plans received) and output targets (e.g. number of projects secured, new jobs created); publish annual reports assessing the agency's performance
		II.A.7. Support FDI attraction to FEZs; adopt a coordinated approach by making TajInvest the entry point for all foreign investors to Tajikistan; enable it to offer its services to line ministries (e.g. mining, tourism, agriculture).
8. Build absorptive capacities to improve attractiveness and increase the benefits of FDI	In the context of growing international competition for investments, building absorptive capacities could both influence Tajikistan's attractiveness and shape the potential benefits th t can be obtained from FDI. In particular, policies to promote skills, entrepreneurship and knowledge transfer are crucial to reap benefits in terms of increasing employment, promoting value chain integration of domestic suppliers and transferring technology.	II.B.1. Enhance education and skills development systems, by, for example, conducting a periodical national skills gap survey and improving multi-stakeholder consultations in the design of curricula; consider tax deductions for training expenses relating to on-the-job training.
		II.B.2. Rationalize the quota system for foreign skills, including by creating a single application process for work visa and work permit and revising the residence through investment scheme.
		II.B.3. Improve the 2012–2020 Programme for State Support for Entrepreneurship as follows: • Identify country-specific entrepreneurship opportunities and challenges • Promote a more extensive involvement of international financial institutions and the donor community in the implementation of the Programme; • Ensure that all aspects of enterprise development are well coordinated and that all relevant ministries are regularly consulted in policymaking; consultations with the private sector should also take place regularly; • Adjust SME classific tion to distinguish between micro and small enterprises; • Operationalize the programme of creating business incubators and technology parks.
		II.B.4. Foster the teaching and dissemination of entrepreneurial skills, for example, by adding entrepreneurship to the national curriculum and promoting the establishment of a world-class business school.
		II.B.5. Take further measures to ensure access to finance for SMEs including by removing bottlenecks to collateralization and promoting financing through mechanisms such as factori g and leasing; strengthen capacity of the Enterprise Support Fund staff; improve the financ al literacy of loan takers; set up a pilot project, including with the support of international financial institutions for promoting the transformation of remittances into entrepreneurship financing
		II.B.6. Promote a triple-helix approach in policy formulation and in the implementation of innovation policies, including by adopting a coordinated strategy for State support of innovation activities; involve universities in technology transfer; set up public–private innovation centres as well as business incubators through a dedicated PPP.
		II.B.7 Introduce a business linkages support programme between foreign firms and local suppliers

Annex 2. Bilateral investment treaties signed by Tajikistan as of June 2015

	Country	Date of signature	Date of entry into force
1	Austria[82]	15 December 2010	21 December 2012
2	Switzerland	11 June 2009	26 October 2011
3	Mongolia	20 March 2009	16 September 2009
4	Belgium–Luxembourg Economic Union	12 February 2009	
5	Lithuania	12 February 2009	15 December 2010
6	Algeria	1 March 2008	
7	Turkmenistan	7 November 2007	
8	Qatar	6 May 2007	
9	Azerbaijan	17 March 2007	26 February 2008
10	Syrian Arab Republic	10 February 2007	
11	Thailand	9 August 2005	
12	Pakistan	13 May 2004	
13	Indonesia	28 October 2003	
14	Germany	27 March 2003	25 May 2006
15	Republic of Moldova	5 November 2002	20 October 2003
16	Netherlands	24 July 2002	1 April 2004
17	Armenia	2 April 2002	
18	France	1 January 2002	24 August 2004
19	Ukraine	6 July 2001	
20	Kyrgyzstan	19 January 2000	
21	Kazakhstan	16 December 1999	
22	Viet Nam	19 January 1999	
23	Belarus	3 September 1998	25 August 1999
24	Russian Federation	16 April 1998	
25	Turkey	6 May 1996	24 July 1998
26	United Arab Emirates	17 December 1995	
27	India	13 December 1995	14 November 2003
28	Iran (Islamic Republic of)	18 July 1995	3 November 2004
29	Republic of Korea	14 July 1995	13 August 1995
30	Kuwait	18 April 1995	12 June 1998
31	Pakistan	31 March 1994	
32	Slovakia	14 February 1994	12 March 1996
33	Czech Republic	11 February 1994	6 December 1995
34	China	9 March 1993	20 January 1994
35	Spain	26 October 1990	28 November 1991

[82] Austria signed a first BIT on 8 ebruary 1990, which entered into force on 1 September 1991.

Annex 3. Methodology of international corporate tax comparisons

Taxation affects the cost of investment and its profitabilit , and thus the return on investment. This impact is not just a question of looking at the headline rate of tax on profits The tax burden on the investor depends on a number of factors and their interaction, including expenses allowed, rates of capital allowances (tax depreciation), availability of tax credits, investment allowances and tax holidays, loss-carry-forward provisions and taxation of dividends. Together, these make up the overall fiscal regime th t affects the cost of and return on investment.

The UNCTAD model uses hypothetical business plans in selected sectors and enables international comparisons on a comprehensive and objective basis, going well beyond simple comparisons of headline corporate income tax rates. The modelling is based on projects fully financed by a foreign investor, which means that withholding taxes on dividend payments abroad play an important role, in addition to income taxes paid at the company level.

Comparative tax modelling is a method of taking into account the most important of these variables in the fiscal regime in a manner that facilitates comparison between countries. The tax variables included in the analysis are as follows:

- Corporate income tax;
- Rate of tax including tax holidays, if any;
- Loss-carry-forward provisions;
- Capital allowances, investment allowances and investment credits;
- Tax on dividends.

VAT, sales tax and import duties are not considered in this analysis.

Financial models of project investment and financing revenues and expenses are utilized for a hypothetical business in each sector. These are based on typical costs and revenues experienced in such businesses in a developing economy. The business models cover a selected business within each sector.

The fiscal regime in Tajikistan and the chosen comparator countries for each sector is applied to the standard business model for each sector over 10 years, beginning with the initial investment. The financial models calculate net cash fl w to the investor, assuming that the company pays out all residual profits after tax (100 per cent dividend payout) and that the investor gains the residual value of the company, which is sold after 10 years for an amount equal to its balance sheet value.

The impact of the fiscal regime is presented as the present value of tax (PV tax percentage). PV tax percentage is the total of taxes collected by the Government over the 10 years as a percentage of the project cash fl w pre-tax and post-finance where both cash fl ws are discounted to a present value at a rate of 10 per cent per annum. PV tax percentage thus measures how much of an investor's potential project return is taken by the Government in taxes and duties. The higher the PV tax percentage, the more the fiscal regime burdens investors and reduces the incentive to invest

The Investment Policy Review of Tajikistan is the latest in a series of investment policy reviews undertaken by UNCTAD at the request of countries interested in improving their investment framework and climate. The countries included in this series are:

Egypt (1999)
Uzbekistan (1999)
Uganda (2000)
Peru (2000)
Mauritius (2001)
Ecuador (2001)
Ethiopia (2002)
United Republic of Tanzania (2002)
Botswana (2003)
Ghana (2003)
Lesotho (2003)
Nepal (2003)
Sri Lanka (2004)
Algeria (2004)
Benin (2005)
Kenya (2005)
Colombia (2006)
Rwanda (2006)
Zambia (2007)
Morocco (2008)
Viet Nam (2008)
Dominican Republic (2009)
Nigeria (2009)
Mauritania (2009)
Burkina Faso (2009)
Belarus (2009)
Burundi (2010)
Sierra Leone (2010)
El Salvador (2010)
Guatemala (2011)
The former Yugoslav Republic of Macedonia (2011)
Mozambique (2012)
Djibouti (2013)
Mongolia (2013)
Bangladesh (2013)
Republic of Moldova (2013)
Republic of the Congo (2015)
The Sudan (2015)
Bosnia and Herzegovina (2015)
Kyrgyzstan (2015)
Madagascar (2015)

Photo credit: Fotolia © byheaven

Visit the website on IPRs **http://unctad.org/ipr**

Printed at United Nations, Geneva – 1611260 **(E)** – June 2016 – 443 – **UNCTAD/DIAE/PCB/2016/1**