



INVESTMENT POLICY MONITOR



UNITED NATIONS
UNCTAD

H I G H L I G H T S

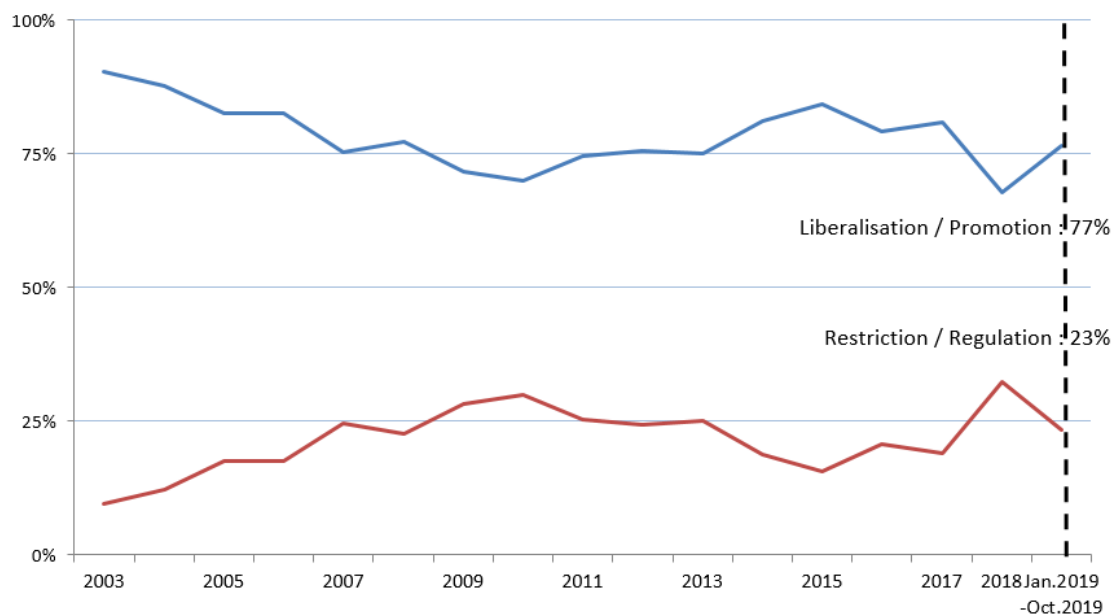
- Thirty countries took 48 investment policy measures in the review period (May 2019 - October 2019). Slightly more than 80 per cent of these measures were geared towards creating more favourable investment conditions. This ratio is higher than in the previous review period, but broadly in line with the longer-term policy trend.
- Numerous countries - Bahrain, China, Ethiopia, India, Malaysia, Oman, Philippines, Saudi Arabia, Thailand, United Arab Emirates, and Uzbekistan - adopted measures to further liberalise foreign investment in various industries. Among them are key industries, such as agriculture, oil and gas, mining, manufacturing, telecom, the financial sector and media.
- Efforts to facilitate and promote investment continued. Brazil, China and Oman simplified or streamlined administrative procedures. Argentina, Italy, Kyrgyzstan, Turkey and Uzbekistan expanded fiscal benefits. Myanmar and Qatar established new government bodies for promoting investment.
- Another prominent feature of investment policy in the review period were new measures related to the screening of foreign investment for national security reasons. France strengthened its mechanism for managing acquisition- and ownership-related risk to its essential security interests. Israel established an advisory committee to assess national security implications of foreign investment. Japan expanded the scope of its foreign investment screening mechanism.
- Countries signed at least seven international investment agreements (IIAs), bringing the total number of IIAs to 3,285. At least 20 terminations of bilateral investment treaties (BITs) became effective. New treaties continue to feature, to varying extents, a wide range of reform-oriented provisions in line with UNCTAD's Reform Package for the International Investment Regime. By the end of October 2019, 2,651 IIAs were in force.
- Other important developments relating to international investment policymaking took place in different fora and at national, regional, and multilateral levels. At the national level, some countries have embarked on the process of implementing their new and modern model BITs through renegotiation of their old existing BITs.
- At the regional/plurilateral level, notable developments include the agreement by EU member States on a plurilateral treaty to terminate intra-EU BITs. In addition, negotiations of mega-regional agreements continued such as the EU-China investment agreement or the Regional Comprehensive Economic Partnership, and there were developments concerning Phase II of the African Continental Free Trade Agreement process.
- At the multilateral level, discussions on ISDS reform continued in UNCITRAL and ICSID and UNCTAD held its annual High-level IIA Conference to take stock of Phase 2 of IIA Reform on modernizing old-generation treaties. Despite significant progress, the reform process needs to be scaled up and new methods and mechanisms may be needed to overcome existing barriers to reform.

A. National investment policies

During the review period (May 2019 - October 2019), 30 countries took 48 investment policy measures (table 1). Most of them aimed at creating more favourable investment conditions. Investment liberalisation, promotion and facilitation measures were adopted in numerous industries, including agriculture, fishery, energy, mining, manufacturing, retail trading, financial services, telecom, media and information technology. Most of these measures were taken by developing countries and transition economies.

The ratio of more restrictive or regulatory investment policy measures which were adopted or took effect during the review period decreased to 19 percent. For the larger period from January to October 2019, this ratio stood at 23 percent - which is broadly in line with the longer-term policy trend (figure 1). New investment restrictions or regulations for foreign investors continued to be mainly based on national security concerns about foreign ownership of critical infrastructures, core technologies, or other sensitive assets.¹ All such measures were adopted by advanced economies.

Figure 1: Changes in national investment policies, 2003 - October 2019*



Source: UNCTAD.

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

Table 1. Summary of national investment policy measures adopted between May 2019 and October 2019

	Entry and establishment (26)	Treatment (11)	Promotion and facilitation (13)	General business climate (5)
Argentina		1	1	
Bahrain	1			
Brazil			1	
Cayman Islands				1
China (*)	4	3	1	

¹ See also UNCTAD's recently published Investment Policy Monitor, Special Issue: National Security-Related Screening Mechanisms for Foreign Investment, <https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2582>

Egypt (*)	1		1	
Ethiopia	1			
France	1			
India	2			
Indonesia	1	1		
Iran, Islamic Republic of				1
Israel	1			
Italy	1		1	
Japan	1			
Kyrgyzstan			1	
Malaysia	1			
Mauritius				1
Myanmar		1	1	
Namibia		1		
Nepal	1			
Oman (*)	3		1	1
Philippines (*)	2	1		
Qatar			1	
Saudi Arabia	2			1
Thailand	1			
Turkey			1	
Ukraine		1		
United Arab Emirates	1			
Uzbekistan (*)	1		3	
Viet Nam		2		

Source: UNCTAD.

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

1. Entry/Establishment of investment

Eighteen countries – Bahrain, China, Egypt, Ethiopia, France, India, Indonesia, Israel, Italy, Japan, Malaysia, Nepal, Oman, Philippines, Saudi Arabia, Thailand, United Arab Emirates, and Uzbekistan – adopted new policy measures relating to the entry and establishment of foreign investors. The majority of them relaxed restrictions on foreign ownership or opened up new business opportunities.

Among the most noteworthy investment liberalisation measures are:

- *Bahrain* allowed full foreign ownership in companies involved in oil and gas drilling activities.
- *China* amended its “negative list”, relaxing or removing restrictions on foreign investments in several industries and further opening the financial sector to foreign capital.
- *Ethiopia* opened the telecom sector to both domestic and foreign investors.
- *India* abolished or adjusted the foreign ownership ceilings in several industries.
- *Malaysia* lowered the threshold for foreign property ownership.
- *Oman* promulgated a set of laws governing Public-Private Partnership, Privatisation and Foreign Capital Investment with the aim of creating a favourable regulatory environment for investment.
- *Philippines* allowed foreign higher education institutions to set up educational facilities and liberalized professional services.
- *Saudi Arabia* allowed foreign companies to list on the Saudi Stock Exchange and removed the ownership limits for foreign strategic investors.
- *Thailand* abolished three ministerial regulations on minimum capital for foreign companies.

- *The United Arab Emirates* adopted the “Positive List of Activities” identifying thirteen sectors that will be eligible for up to 100 per cent foreign ownership.
- *Uzbekistan* established a new legal framework to regulate public-private partnerships with fiscal benefits provided for selected private partners.

New regulatory or restrictive policies relate particularly to national security concerns:

- *France* revised the mechanism to manage acquisition- and ownership-related risk to its essential security interests by strengthening regulations related with mitigation agreements, amongst others. Israel established an advisory committee to assess national security implications of foreign investment.
- *Italy* temporarily strengthened its mechanisms to safeguard essential security interests.
- *Japan* expanded the scope of businesses subject to the country’s foreign investment screening mechanism.
- *Nepal* raised the minimum capital requirement for foreign investment.

2. Treatment of established investment

Eight countries – Argentina, China, Indonesia, Myanmar, Namibia, Philippines, Ukraine and Viet Nam – took measures with respect to the treatment of investors after establishment in the host country.

- *China* further liberalized and streamlined foreign exchange control over cross-border investment and trade.
- *Indonesia* amended guidelines and procedures for licensing and facilities under its foreign investment regime.
- *Myanmar* allowed foreign companies and joint ventures to purchase shares on the Yangon Stock Exchange.
- *Namibia* tightened its procurement regulations by banning all public entities from importing a wide range of goods and services.
- *Philippines* relaxed mandatory local employment requirement for foreign investors.
- *Ukraine* abolished the limit on the repatriation of proceeds from foreign investments.
- *Viet Nam* clarified the definition of foreign invested enterprises and abolished the mandatory remittance timeline for unused pre-establishment costs.

3. Promotion/Facilitation of investment

Eleven countries – Argentina, Brazil, China, Egypt, Italy, Kyrgyzstan, Myanmar, Oman, Qatar, Turkey, and Uzbekistan – adopted measures for the promotion and facilitation of investment. Most of these measures encourage investment through providing investment incentives or facilitating investment procedures. For instance,

- *Argentina* introduced a temporary regime for the promotion of economic activities in numerous industries.
- *Brazil* simplified the entry procedures for foreign financial institutions and foreign investors and abolished the different treatment of foreign and domestic investors in the licensing process.
- *Italy* established the Ionian special economic zone and Kyrgyzstan set a zero percent VAT rate for all goods and services supplied to its special economic zones.
- *Myanmar and Qatar* established new government bodies for promoting quality investment.

- *Oman* streamlined procedures for initiating foreign investment and provided foreign investors with incentives and guarantees.
- *Turkey* revised its investment incentive regimes so as to encourage investment in the targeted sectors.
- *Uzbekistan* began to provide subsidies for investors constructing hotels above certain levels.

4. General business climate

Five countries – *Cayman Islands, the Islamic Republic of Iran, Mauritius, Oman, and Saudi Arabia* – took measures affecting the general business climate.² Cayman Islands amended its Companies Law regarding the register of members and the deadline for notification. The Islamic Republic of Iran adopted a long-term residency system for certain foreign investors. Mauritius strengthened tax incentives for certain industries. Oman expanded the scope of job roles reserved for nationals. Saudi Arabia implemented a permanent residency mechanism for foreign skilled professionals.

B. International investment policies

1. International investment agreements signed, terminated and entered into force

During the reporting period, at least seven international investment agreements (IIAs) were signed, bringing the total number of IIAs to 3,285.³ Six of the seven treaties were bilateral ones, and one plurilateral/regional.

At least 20 terminations of bilateral investment treaties (BITs) took effect. The terminations include eleven BITs concluded by Poland,⁴ seven BITs concluded by India,⁵ one BIT between Argentina and Chile,⁶ and one BIT between Bolivia and Switzerland.⁷ By the end of October 2019, at least 2,651 IIAs were in force.

Table 2. List of IIAs signed between 1 May and 31 October 2019

	Name of the Agreement	Date of signature
1	Bilateral Investment Treaty between Brazil and Morocco ⁸	13 June 2019
2	Bilateral Investment Treaty between Hong Kong, China SAR and the United Arab Emirates	16 June 2019
3	Investment Protection Agreement between the European Union (EU) and Viet Nam	30 June 2019
4	Bilateral Investment Treaty between the Gambia and the United Arab Emirates	15 July 2019
5	Bilateral Investment Treaty between Myanmar and Singapore	24 September 2019
6	Bilateral Investment Treaty between Brazil and Ecuador ⁹	25 September 2019
7	Agreement on Trade in Services and Investment between Armenia and Singapore	1 October 2019

Source: UNCTAD, IIA Navigator.

² The following examples are a non-exhaustive overview.

³ The total number of IIAs is revised on an ongoing basis as a result of retroactive adjustment to UNCTAD's IIA Navigator.

⁴ The BITs are: BIT with Romania effectively terminated on 21 May 2019; BIT with France effectively terminated on 19 July 2019; BIT with Portugal effectively terminated on 3 August 2019; BIT with Czechia effectively terminated on 25 September 2019; BITs with Austria, Finland, Greece, Spain and Sweden effectively terminated on 16 October 2019; BITs with Croatia and Germany effectively terminated on 18 October 2019.

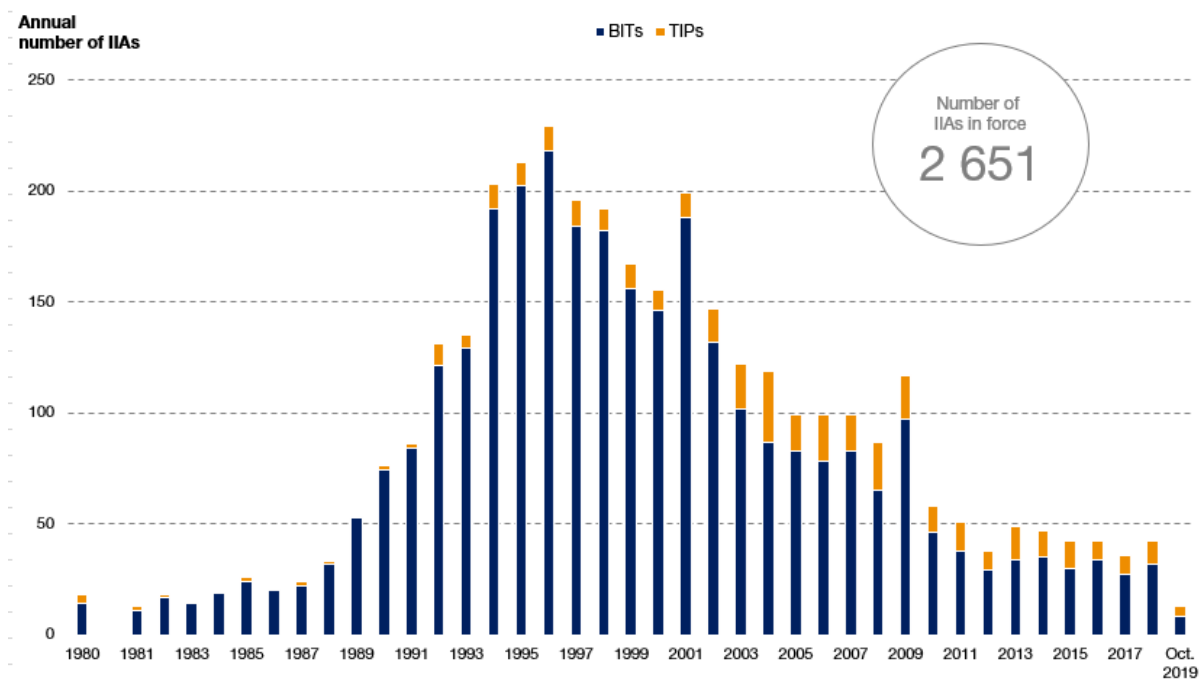
⁵ The BITs are: BIT with Turkey effectively terminated on 8 July 2019; BIT with Mexico effectively terminated on 30 July 2019; BITs with Bosnia and Herzegovina, Finland, Iceland, North Macedonia and Saudi Arabia effectively terminated on 31 July 2019.

⁶ Effectively terminated on 1 May 2019.

⁷ Effectively terminated on 17 May 2019.

⁸ This report counts the Cooperation and Facilitation Investment Agreement (CFIA) between Brazil and Morocco as a BIT.

⁹ This report counts the CFIA between Brazil and Ecuador as a BIT.

Figure 2. Trends in IIAs signed, 1980–2019


Source: UNCTAD, IIA Navigator.

A detailed analysis of IIAs signed in 2019, including their content and prevalence of sustainable development features, will be available in the World Investment Report (WIR) 2020 (Chapter III), to be launched in June 2020. The following discussion is based on IIAs for which texts are currently available.

During the reporting period, Brazil signed two BITs, one with Morocco on 13 June 2019 and another with Ecuador on 25 September 2019. Both agreements make references to sustainable development and reaffirm the parties' right to regulate in the public interest in their preambles. They include definitions of investment, applying to direct investments and explicitly excluding certain assets from the scope of protection (e.g. portfolio investment, debt securities).¹⁰ They contain National Treatment (NT) and Most Favoured Nation (MFN) clauses, qualified with a reference to like circumstances. While the BIT with Ecuador provides for pre- and post-establishment NT and MFN protection, the BIT with Morocco covers post-establishment protection only. Both agreements omit fair and equitable treatment (FET) and full protection and security (FPS). In this regard, the Brazil–Morocco BIT requires parties not to subject investors and investments to arbitrary or discriminatory measures, and the Brazil–Ecuador BIT requires parties to treat investors and investments of the other in accordance with due process of law. The agreements include a clause on expropriation or nationalizations, subject to four conditions for lawful expropriation. The BIT with Ecuador clarifies that only direct expropriation is covered.

Both BITs include provisions on corporate social responsibility (CSR), listing principles and standards for responsible business conduct. In addition, the Brazil–Ecuador BIT features provisions on measures to fight corruption and illegality as well as provisions concerning labour, environmental, human rights and health matters. Both agreements contain security exceptions (general exceptions are absent). No umbrella clause is featured any of the two agreements. They omit investor-State dispute settlement (ISDS), replacing it with dispute prevention and State-State dispute settlement mechanisms. In terms of institutional arrangements, the BITs provide for the establishment of joint committees and ombudspersons or national contact points to oversee investment cooperation and information exchange and to support investors by addressing requests and complaints.

¹⁰ The CFIA also requires that the investment allows the investor to "exert control or significant degree of influence over the management of the production of goods or provision of services" in the territory of the host State.

The *Hong Kong, China SAR–United Arab Emirates BIT*, signed on 16 June 2019, contains an asset-based definition of investment and excludes certain assets from its coverage. The BIT provides for circumscribed FET and FPS, equated to the minimum standard of treatment under customary international law. It grants post-establishment NT and MFN treatment (in like circumstances). The agreement does not provide for CSR, nor does it contain provisions on security or general exceptions. No umbrella clause is included in the BIT. Both direct and indirect expropriations are covered by the agreement subject to four conditions for lawful expropriation. The agreement provides for ISDS (with a 5-year limitation period to submit claims) and State-State dispute settlement. It includes a clause on denial of benefits.

The *EU–Viet Nam Investment Protection Agreement*, signed on 30 June 2019, contains references to sustainable development in the preamble. It contains an asset-based definition of investment specifying the characteristics a covered investment should have (such as commitment of capital or other resources, expectation of gain or profit, and the assumption of risk or a certain duration). It contains a clause reaffirming the parties' right to regulate. It provides for post-establishment NT and MFN treatment (in like situations), subject to certain reservations and exceptions. Dispute resolution procedures provided for in other agreements are excluded from the scope of MFN. The agreement contains an exhaustive list of State obligations under FET and a circumscribed FPS clause. The provision on direct and indirect expropriation is accompanied by an "understanding on expropriation" setting out the criteria for determining whether a measure constitutes an indirect expropriation and carving out non-discriminatory public interest regulation. The agreement does not include a clause on CSR but provides for general and security exceptions. No umbrella clause is included in the agreement. The refined ISDS mechanism provides for an investment tribunal system with a standing tribunal of first instance and appellate tribunal, instead of *ad hoc* arbitrations and party-appointed arbitrators. It includes clauses on third-party funding and a code of conduct for adjudicators. The parties also agree to enter into negotiations for the establishment of a multilateral investment tribunal to replace the aforementioned dispute settlement mechanism. Upon its entry into force, the agreement will replace 21 BITs in force between Viet Nam and EU member States.

The *Armenia–Singapore Trade in Services and Investment Agreement*, signed on 1 October 2019, includes an investment chapter with a definition of investment covering every kind of asset that has the characteristics of an investment (commitment of capital, expectation of gain or profit, or assumption of risk). The agreement provides for FET and FPS clauses prescribing the international minimum standard of treatment of aliens, not requiring treatment in addition or beyond that. Additionally, it clarifies that FET requires parties not to deny justice in criminal, civil or administrative adjudicatory proceedings in accordance with the principle of due process, while FPS requires parties to provide the level of police protection required under international law. Moreover, a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET or FPS. The agreement also provides for pre- and post-establishment NT and MFN treatment (in like circumstances). The MFN clause does not apply with respect to ISDS procedures contained in agreements other than this one. The agreement contains a clause on general exceptions but makes no provision for security exception or CSR. No umbrella clause is included. The agreement covers direct and indirect expropriation and states, in an annex, the criteria for a finding of indirect expropriation. It is clarified that non-discriminatory regulatory actions designed to protect legitimate public welfare objectives do not constitute an indirect expropriation. The ISDS mechanism contained in the agreement has a 3-year time limit for the submission of claims and excludes any measure adopted in respect of tobacco or tobacco-related products from the ISDS scope.

2. Other developments in international investment policymaking

Developments at the national level

Dutch new model BIT to serve as basis for renegotiations of old-generation BITs. Following the adoption of its new model BIT in October 2018, the government of the Netherlands announced that it intended to renegotiate its existing 78 BITs with non-EU countries in order to align them with the new

model BIT.¹¹ Prior authorisation from the European Commission is necessary to start the (re-)negotiation of BITs. The government has recently obtained this authorisation to start renegotiations with eight non-EU countries, namely Argentina, Burkina Faso, Ecuador, Nigeria, Tanzania, Turkey, Uganda, and the United Arab Emirates.¹² Authorisations were also obtained to conclude new BITs with Iraq and Qatar.¹³ These countries were selected for the first round of negotiations because their current BITs with the Netherlands have been terminated or will expire soon or they had shown interest in the new Dutch Model BIT.

Ratification of the United States–Mexico–Canada Agreement by Mexico. On 19 June 2019, the Mexican Senate approved the implementing legislation for the United States–Mexico–Canada Agreement (USMCA). The USMCA, which will replace the North American Free Trade Agreement (NAFTA) upon entry into force, was signed by the three countries in November 2018. Among the major changes brought about by the new agreement are the revised ISDS provisions which limit the application of ISDS exclusively to investor-State disputes between the United States and Mexico and narrow the claims that investors can bring under that provision.

Developments at the regional and plurilateral level

EU plurilateral treaty to end all intra-EU BITs. On 24 October 2019, EU member States reached agreement on a plurilateral treaty for the termination of intra-EU BITs. This agreement follows the Declarations of 15 and 16 January 2019 “on the legal consequences of the judgment of the European Court of Justice in Achmea and on investment protection in the European Union”, where EU member States had committed to terminate their intra-EU BITs in a coordinate manner by means of a plurilateral treaty, or bilaterally. A small minority of member States was not able to endorse the October 2019 text on a plurilateral treaty.¹⁴

African Continental Free Trade Agreement. On 30 May 2019, the Agreement Establishing the African Continental Free Trade Agreement (AfCFTA) entered into force for the 24 countries that had deposited their instruments of ratification.¹⁵ As of 8 October 2019, 28 countries had ratified the AfCFTA.¹⁶ The operational phase of the AfCFTA was launched during a high-level summit of the African Union in Niamey, Niger, on 7 July 2019.¹⁷ Phase I of the agreement which focuses primarily on areas such as trade in goods and services, as well as dispute settlement is in the process of being completed, although negotiations on key elements such as rules of origin and tariff concessions are ongoing. Trading under the AfCFTA is expected to begin on 1 July 2020. Negotiations on the protocols on investment, competition and intellectual property rights, which constitute Phase II of the process, are expected to be completed in December 2020. In terms of content, the protocol on investment is likely to draw on the Pan-African Investment Code (PAIC) which was finalized in 2015.¹⁸ The resulting draft legal texts are to be submitted to the January 2021 session of the African Union Assembly for adoption.¹⁹ The Investment protocol of the AfCFTA presents an opportunity to modernize and consolidate the intra-African investment regime by replacing the 47 intra-African BITs that are currently in force, most of which are old-generation treaties concluded nearly 20 years ago.

¹¹ http://knowledge.freshfields.com/en/Global/r/4033/the_netherlands_has_commenced_renegotiation_of_selected

¹² <https://ec.europa.eu/transparency/regdoc/index.cfm?fuseaction=list&n=10&adv=0&cotelid=&year=2019&number=3726&dateFrom=&dateTo=&serviceld=&documentType=&title=&titleLanguage=&titleSearch=EXACT&sortBy=NUMBER&sortOrder=DESC>

¹³ <https://ec.europa.eu/transparency/regdoc/index.cfm?fuseaction=list&n=10&adv=0&cotelid=&year=2019&number=3727&dateFrom=&dateTo=&serviceld=&documentType=&title=&titleLanguage=&titleSearch=EXACT&sortBy=NUMBER&sortOrder=DESC>

¹⁴ https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/191024-bilateral-investment-treaties_en.pdf

¹⁵ <https://www.tralac.org/resources/by-region/cfta.html#ratification>

¹⁶ <https://au.int/sites/default/files/treaties/36437-sl->

[AGREEMENT%20ESTABLISHING%20THE%20AFRICAN%20CONTINENTAL%20FREE%20TRADE%20AREA%20%282%29.pdf](https://au.int/sites/default/files/treaties/36437-sl-AGREEMENT%20ESTABLISHING%20THE%20AFRICAN%20CONTINENTAL%20FREE%20TRADE%20AREA%20%282%29.pdf) or <https://au.int>

¹⁷ <https://au.int/en/pressreleases/20190707/operational-phase-african-continental-free-trade-area-launched-niger-summit> or <https://au.int>

¹⁸ The PAIC is the first continent-wide legal instrument on investment. While its negotiation has been finalized since 2015, it is yet to be adopted by African Union member States. The PAIC’s main objective is to foster consistency with respect to the rules and principles on investment protection, promotion and facilitation on the African continent. It has been drafted from the perspective of African developing and least developed countries focusing on Sustainable Development Goals (SDGs). <https://au.int/en/documents/20161231/pan-african-investment-code-paic> or <https://au.int>

¹⁹ Report on The African Continental Free Trade Area (AfCFTA), Assembly/AU/4(XXXII).

EU–China investment negotiations. The 22nd round of the EU–China investment agreement negotiations took place in Brussels on 15–19 July 2019.²⁰ Negotiations focused on investment liberalization with discussions on market access; specific disciplines relating to the financial services and NT-related commitments; sustainable development with discussions on environmental and labour policy issues related to investment; and State-to-State dispute settlement. The parties plan on finalizing negotiations in 2020 and the resulting agreement is expected to replace the existing 26 BITs that EU member States have with China.²¹

Regional Comprehensive Economic Partnership. The negotiations of the Regional Comprehensive Economic Partnership (RCEP)²² continued. During the reporting period, two intersessional ministerial²³ meetings and one ministerial meeting²⁴ were held to review the developments in the RCEP negotiations. The proposed RCEP agreement is said to comprise 20 chapters, including one on investment. According to press reports, one notable development that has emerged from these meetings is the alleged decision to remove ISDS provisions from the agreement, with a clause to allow its re-introduction two years after the agreement's ratification.²⁵ While outside the reporting period, one additional development worthy of note is the last RCEP Summit of Leaders held in November 2019 where India announced its decision to withdraw from the agreement on account of "significant outstanding issues, which remain unresolved".²⁶ This notwithstanding, the agreement is set to be finalized for signature by the remaining participating countries in 2020.²⁷

Modernization of the Energy Charter Treaty. On 18 October 2019, members of the Energy Charter Treaty (ECT) were invited to approve the draft decision, procedural issues and timeline for negotiations for the modernization of the ECT. On 6 November 2019, the highest decision-making body of the International Energy Charter, the Energy Charter Conference (the Conference), approved the decision. Some of the previously approved topics that will be addressed by the negotiations for modernization include the definition of investment, the right to regulate, MFN clause, the definition of indirect expropriation, sustainable development and corporate social responsibility.²⁸ The negotiations will also take into account the policy options for modernization of the ECT that were approved by the Conference on 6 October 2019.²⁹ According to the provisional timetable, the first meeting of the Modernization Group is expected to take place on 12 December 2019 followed by subsequent meetings every three months and a stocktaking meeting by the Conference in December 2020 to look at the progress made.

Expansion of the membership of the Energy Charter Treaty to West African Countries. In the context of the implementation of its policy on consolidation, expansion and outreach (the CONEXO Policy),³⁰ the International Energy Charter met with stakeholders from Senegal³¹ and the Gambia³² as both countries are moving towards ECT accession. Senegal and the Gambia signed the International Energy Charter in 2016 and 2017 respectively, thus acquiring the status of observer countries to the Energy Charter Conference.

²⁰ http://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158274.pdf

²¹ The 26 BITs include a BIT between BLEU (Belgium-Luxembourg Economic Union) and China, i.e. they cover a total of 27 EU member States (out of 28).

²² RCEP negotiations are being held among ten member states of the Association of Southeast Asian Nations (ASEAN) (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Viet Nam) and the six Asia-Pacific States with which ASEAN has existing FTAs (Australia, China, India, Japan, New Zealand and South Korea).

²³ Intersessional ministerial meetings held on 2-3 August 2019 and 12 October 2019.

²⁴ Ministerial meeting held on 8 September 2019.

²⁵ <https://themalaysianreserve.com/2019/09/13/rcep-talks-to-proceed-without-isds/>

²⁶ Joint Leaders' Statement on The Regional Comprehensive Economic Partnership (RCEP), 4 November 2019.

²⁷ The text of the agreement is not publicly available.

²⁸ For the comprehensive list of topics for modernization of the ECT, see

https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/2018/CCDEC201818_-_STR_Modernisation_of_the_Energy_Charter_Treaty.pdf

²⁹ <https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/2019/CCDEC201908.pdf>

³⁰ The CONEXO Policy was adopted by ECT members in 2012. Its key objectives are the consolidation of the ECT among its original Signatories; attraction of key energy players, who already have Observer status, to eventually accede to the Treaty; and promotion of the ECT and Process on a broader geographical level. <https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/CCDEC201313.pdf>

³¹ ECT Secretariat officials attended on 29 April 2019 a roundtable on the Energy Charter process hosted by the Ministry of Petroleum and Energy of Senegal, the primary interlocutor for the Energy Charter process in Senegal. https://www.energycharter.org/media/news/article/senegal-hosts-a-roundtable-on-the-energy-charter-process/?tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=016b1a02eaa0035091bf7cc297845b8

³² On 23-25 April 2019, ECT Secretariat officials co-organized with the Ministry of Petroleum and Energy of The Gambia a workshop aimed to support the country's accession track to the Energy Charter Treaty. https://www.energycharter.org/media/news/article/energy-governance-in-the-republic-of-the-gambia/?tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Baction%5D=detail&cHash=13b42d5ec9d2be8843d22e47796e455

Both countries have embarked on the ECT accession track by each completing one of the three technical reports necessary for accession.

EU–Canada Comprehensive Economic and Trade Agreement. On 11 October 2019, the European Commission presented to the European Council four proposals for specific rules putting in place the Investment Court System (ICS) provisions in the EU–Canada Comprehensive Economic and Trade Agreement (CETA). The four proposals include rules setting out the functioning of the Appellate Tribunal, a code of conduct for members of the ICS, rules for mediation, and rules for binding interpretation to be adopted by the CETA Joint Committee. These proposals will be tabled for discussion and approval by the Council and EU member States. If approved, they will enter into force when the ratification of CETA is completed by EU member State parliaments.³³ CETA is currently applied on a provisional basis with ratification process still pending in some EU member States.³⁴ Canada has already completed its ratification process.

EU–Mercosur trade agreement. On 28 June 2019, the EU and Mercosur States reached a political agreement for a comprehensive trade agreement.³⁵ The trade agreement is part of a wider Association Agreement between the two regions. The agreement will contain a chapter on trade in services and establishment (including mode 3/commercial presence of services trade) but will not have a chapter on investment. Other notable provisions of the envisaged agreement include chapters on environmental protection and labour conditions; e-commerce; small and medium-sized enterprises; and involvement of civil society.³⁶

Developments at the multilateral level

UNCITRAL Working Group III on investor-State dispute settlement reform. The UNCITRAL Working Group III on investor-State dispute settlement reform held its 38th session in Vienna, Austria, from 14 to 18 October 2019.³⁷ The Working Group commenced its work regarding the preparation of instruments for a code of conduct for arbitrators and adjudicators, the regulation of third-party funding of investment disputes, and the establishment of an advisory centre for parties involved in ISDS cases.³⁸

With respect to the establishment of an advisory centre, the Working Group considered questions regarding the potential beneficiaries, the scope of services, and its financing. Regarding potential beneficiaries, suggestions made include: parties to the disputes, amicus curiae, non-disputing parties, small- and medium-sized enterprises (SMEs)³⁹, claimant investors⁴⁰ and, for certain support, also developed States. Regarding the scope of services, suggestions made include: assistance in organizing the defence, support during the proceedings (including in the selection and appointment of arbitrators), general advisory services and capacity-building (including training potential arbitrators and counsel) and functioning as a platform to share experiences and best practices among States. It was noted that a number of States, international and regional organizations, academic institutions and practitioners currently provided such support. Views differed which services should constitute the core function of a possible advisory centre. It was decided that the preparatory work should aim at preparing draft provisions governing the advisory centre and its operation. In this connection, it is worth recalling that UNCTAD,

³³ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2070&title=Commission-presents-procedural-proposals-for-the-Investment-Court-System-in-CETA>

³⁴ The provisional application does not cover all provisions of CETA's investment chapter, e.g. it does not apply to the agreement's ISDS mechanism. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22017X0916\(02\)&from=LV](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22017X0916(02)&from=LV)

³⁵ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2039&title=EU-and-Mercosur-reach-agreement-on-trade>

³⁶ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2040&title=Key-elements-of-the-EU-Mercosur-trade-agreement>

³⁷ For a discussion of the potential contributions of the WG III work to Phase 2 IIA Reform outcomes, see the video submitted by the UNCITRAL Secretariat to UNCTAD's November 2019 High-level IIA Conference and the co-rapporteurs' summary of the respective break-out session.

<https://investmentpolicy.unctad.org/pages/1056/high-level-ia-conference-2019-speakers-and-co-chairs> and

<https://investmentpolicy.unctad.org/pages/1047/high-level-ia-conference-2019>

³⁸ https://uncitral.un.org/sites/uncitral.un.org/files/draft_report_for_website.pdf

³⁹ It was noted that setting objective criteria on which enterprises would be given access could prove difficult.

⁴⁰ Concerns were expressed, among others, about granting access to claimant investors and it was decided that preparatory work should examine potential conflicts of interest and the burden on the advisory centre, noting that certain services might not create any conflicts or burden (for instance, providing access to data repositories).

together with other organizations, had proposed the establishment of an Advisory Facility on International Investment Law and ISDS as early as 2009.⁴¹ However, such facility was not eventually established due to a number of difficulties, including longer term financial viability.

With regard to the code of conduct, the discussions addressed the potential scope of application of such code, its content, and the necessity of an enforcement mechanism to ensure compliance with the code. The Working Group suggested collaborating with ICSID, as well as other interested delegations and institutions, in preparing the draft code of conduct.

With respect to third-party funding, discussions focused, inter alia, on the need to regulate it, the need to develop a clear definition of third-party funding, disclosure of third-party funding and the impact of third-party funding on cost allocation. The Working Group requested the preparation of draft provisions on third-party funding which, once finalized, could be deployed by States in their treaties or incorporated in arbitration rules or in a multilateral convention.

The Working Group also discussed the issue of damages and there was the suggestion that the Secretariat could be tasked with conducting research on damages, the methodologies for calculating such damages and underlying legal principles.

Attention was drawn to States' obligations to take action under the SDGs and the Paris Agreement and the need to ensure that ISDS would not undermine such actions and deter States from pursuing those goals. It was also highlighted that current ISDS reform efforts had to be aligned with the SDGs and the fight against climate change.

The Working Group also agreed to consider an outline of a multilateral instrument on procedural reforms, showing how such instrument could be structured to incorporate a number of different reform options that would be developed by UNCITRAL, including any structural reform.

The next session of the Working Group is scheduled for January 2020 and will consider, among other things, mechanisms for a stand-alone review or appellate mechanism, a standing multilateral investment court with a standing cadre of judges and selection and appointment of arbitrators and adjudicators.⁴²

ICSID rules and regulations amendment proposals. As part of the process of amending the rules and regulations governing arbitration and conciliation under the ICSID Convention and the ICSID Additional Facility that started in October 2016, the ICSID Secretariat published on 16 August 2019 its third working paper on proposals for rules amendments (Working Paper No. 3). The paper builds on the proposals that were originally published in August 2018 (Working Paper No. 1) and March 2019 (Working Paper No. 2) and follows extensive consultations with ICSID member States and the public. Some of the topics addressed in the Working Paper No. 3 include the incorporation of appropriate disclosure requirements for third-party funding, further enhancing transparency through the publication of awards, decisions and orders, introduction of a new provision on security for costs and elaborating on the declaration of impartiality and independence that is required by ICSID arbitrators and conciliators. A consultation meeting focusing on the amendments proposed in the Working Paper No. 3 was held from 11–15 November 2019. It was decided that the Secretariat would prepare a fourth working paper, after which the amendments shall be submitted for approval at the next meeting of the ICSID Administrative Council scheduled for October 2020.⁴³

⁴¹ UNCTAD, 'World Investment Report 2013, Global value chains: Investment and trade for development'. UNCTAD's earlier work on a possible advisory law centre included a series of meetings that addressed technical issues, including what type of services such a facility should offer (e.g. capacity-building for IIA negotiations and implementation, management or prevention of ISDS cases, provision of legal opinions, and legal representation in ISDS cases), what would be the scope of its membership (open to all countries and organizations or only a limited number of countries) and how it should be financed. Involved organizations included the Academia de Centroamerica, the Organization of American States and the Inter-American Development Bank, all of which continued pursuing the matter in the Latin American context.

⁴² <http://www.unis.unvienna.org/unis/en/pressrels/2019/unis1285.html>

⁴³ For a discussion of the potential contributions of the ICSID rules revision to Phase 2 IIA Reform outcomes, see the video submitted by the ICSID Secretariat to UNCTAD's November 2019 High-level IIA Conference and the co-rapporteurs' summary of the respective break-out session. <https://investmentpolicy.unctad.org/pages/1056/high-level-ia-conference-2019-speakers-and-co-chairs>

Structured Discussions on Investment Facilitation for Development in the World Trade Organization (WTO). During this IPM's reporting period, an open-ended meeting on the the Structured Discussions on Investment Facilitation for Development was held on 18 July 2019 in the WTO.⁴⁴ The purpose was to take stock of the work done in the first part of the year and to discuss the next steps of the structured discussions. In terms of stocktaking of the work done, it was noted that the past discussions had addressed the elements initially identified by interested WTO Members for developing a framework on investment facilitation for development, i.e. transparency and predictability of investment measures; streamlining and speeding up administrative procedures and requirements; enhancing international cooperation, information sharing, and the exchange of best practices; and a development dimension. These discussions had been conducted on the basis of text-based examples and suggestions submitted by members.

As requested by participating Members in the 18 July 2019 "stock-taking and next steps" meeting, a working document was prepared, aimed at helping Members to further develop the elements of the multilateral framework on investment facilitation for development.⁴⁵ The 30-page document reflects areas of common ground and of common interest, and is intended to be a tool to continue facilitating open, transparent and inclusive discussions. The document was intended to provide the starting point for the next phase of the structured discussions towards a multilateral framework on investment facilitation for development.⁴⁶

Outside the reporting period, but of great relevance is the WTO Mini-Ministerial Conference held in Shanghai, China, in November 2019 where 92 WTO Members committed, in a joint ministerial statement, to intensify work to further develop the framework for facilitating foreign direct investments, and work towards a concrete outcome on Investment Facilitation for Development at the Twelfth WTO Ministerial Conference in June 2020.⁴⁷

International legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (OEIGWG) held its fifth session from 14 to 18 October 2019.⁴⁸ The session considered a revised draft of the legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.⁴⁹ The revised draft includes several changes vis-à-vis the zero draft: it includes a broadened scope as the revised draft clarifies that the proposed treaty will cover all business enterprises and all their activities, rather than just limiting itself to regulating the transnational activities of business enterprises;⁵⁰ it includes provisions giving State Parties the choice as to what type of liability (criminal, civil, or administrative) to impose on legal persons for serious offences such as war crimes, crimes against humanity, genocide, or torture;⁵¹ and changes were introduced with regard to the relationship of the treaty with other international treaties, notably those related to international trade and investment.⁵²

The revised draft served as the basis for substantive discussions and negotiations which addressed several issues such as the need for the instrument to avoid duplication of, and be consistent with, existing relevant standards and initiatives, such as those emanating from the Human Rights Council and regional organizations, human rights treaties, or the SDGs. The discussions also addressed the relationship between the instrument and development, recognizing that transnational corporations play an important

⁴⁴ https://www.wto.org/english/news_e/news19_e/infac_18jul19_e.htm

⁴⁵ The working document (INF/IFD/RD/39) is not publicly available.

⁴⁶ For a discussion of the potential contributions of the WTO structured discussions to Phase 2 IIA Reform outcomes, see the co-rapporteurs' summary of the respective break-out session at UNCTAD's November 2019 High-level IIA Conference. <https://investmentpolicy.unctad.org/pages/1047/high-level-ia-conference-2019>

⁴⁷ Joint Ministerial Statement on Investment Facilitation for Development, WT/L/1072.

⁴⁸ <https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session5/Pages/Session5.aspx>

⁴⁹ https://www.ohchr.org/Documents/HRBodies/HRCouncil/WGTransCorp/OEIGWG_RevisedDraft_LBI.pdf

⁵⁰ Revised draft of the LBI, Article 3(1).

⁵¹ Revised draft of the LBI, Article 6(7).

⁵² Revised draft of the LBI, Article 12(6).

role in promoting development and attaining the SDGs. Another issue was the necessity to have an effective mechanism to ensure implementation of the instrument. A second revised draft is to be prepared on the basis of the discussions held during the session and presented no later than the end of June 2020.⁵³

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises. On 19 July 2019, the Working Group on the issue of human rights and transnational corporations and other business enterprises submitted its report⁵⁴ to the UN General Assembly. The report examines what policy coherence on business and human rights means in practice under the Guiding Principles on Business and Human Rights. The report identifies numerous challenges that exist with regard to achieving policy coherence in implementing the Guiding Principles. It is noteworthy that the negotiation of trade and investment agreements is among the selected key areas where policy coherence on business and human rights is considered critical. The report urges States to keep in mind their international human rights obligations when negotiating bilateral or regional trade and investment agreements, and particularly, to ensure that the dispute settlement processes under these agreements are compatible with international human rights law and do not widen the asymmetry of power in favour of investors.

UNCTAD High-Level IIA Conference 2019. The 2019 edition of UNCTAD's High-level IIA Conference, which was held on 13 November in Geneva, Switzerland, took stock of IIA reform actions and charted the way forward towards further inclusive, transparent and synchronized IIA reform processes in the pursuit of sustainable development. The lead topic of the Conference was the reform of the large stock of old-generation treaties.

The Conference brought together over 80 speakers from governments, inter-governmental organizations, business, civil society and academia, as well as a large audience. Discussions were organized around the key areas of reform identified by UNCTAD, as well as regional IIA reform processes in developing countries (Africa, Asia), in countries with economies in transition and in developed countries.⁵⁵ There was broad consensus that reform is a must and not an option and that IIA reform is on course, involving countries at all levels of development and from all geographical regions. Despite significant progress on IIA reform, addressing the stock of 3,000 old-generation treaties remains a challenge for countries and regions. To scale up and accelerate Phase 2 of IIA Reform, new methods and mechanisms – to be identified through policy research and discussions – may be needed to overcome existing barriers to reform.

In his closing remarks, the Director of UNCTAD's Division on Investment and Enterprise announced that UNCTAD will expand its existing databases through a Navigator for IIA reform actions per country and region (IIA Reform Navigator), a pilot project based on research outputs from UNCTAD's World Investment Reports. The IIA Reform Navigator could facilitate peer learning among policymakers and offer a platform for identifying matching reform partners.

Further work will be undertaken, as a joint project with others, on lessons learned for IIA reform from global tax treaty reform (which may involve not only "do's" but also "don'ts"). A deeper look into the multilateral instrument developed in the context of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project to update international tax rules may provide insights for the reform of old-generation IIAs.

UNCTAD Commission on Investment, Enterprise and Development. The eleventh session of the UNCTAD Commission on Investment, Enterprise and Development took place from 11-15 November 2019, featuring the second Geneva Ambassadors Roundtable for Investing in the Sustainable Development Goals, as well as the Investment Policy Reviews for Armenia and Chad. The Roundtable brought together permanent representatives of member States from all regions, as well as the Ambassador of the

⁵³ Draft report on the fifth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, <https://www.ohchr.org/EN/HRBodies/HRC/WGTransCorp/Session5/Pages/Session5.aspx>

⁵⁴ Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, A/74/198.

⁵⁵ The programme, list of speakers, statements, audio recordings and background documents are available at <https://investmentpolicy.unctad.org/pages/1047/high-level-ia-conference-2019>

Permanent Delegation of the International Chamber of Commerce to the United Nations and the Chief Executive Officer of Nestlé, to discuss the role of domestic and foreign private sectors and various forms of public–private cooperation in investing in the Goals. The meeting stressed the importance of continued dialogue between all stakeholders, including private sector representatives, to consolidate the Geneva ecosystem as a global implementation hub for the SDGs and to provide inputs for preparations for the fifteenth session of the United Nations Conference on Trade and Development and the World Investment Forum in 2020. Ambassadors agreed to continue to hold future Roundtables for investing in the Goals at least annually. The Investment Policy Reviews for Armenia and Chad concluded with the intergovernmental peer review process that also involved private sector representatives. The Reviews confirmed the relevance of UNCTAD's policy recommendations for both countries and discussed next steps for implementing them.

15th UNCTAD quadrennial conference and the World Investment Forum 2020. On 25 June 2019 it was announced that Barbados would host the 15th UNCTAD quadrennial conference in Bridgetown in 2020 and the United Arab Emirates would host the World Investment Forum 2020 in Abu Dhabi.

ANNEX. Investment policy measures taken between May 2019 and October 2019

	Description of Measure	Date	Source
Argentina			
Promotion and facilitation	<p>On 6 June 2019, the Regime for the Promotion of the Knowledge Economy (Law No. 27506) was enacted. Its aim is to promote economic activities including, inter alia: computer and digital software and services; audiovisual production and post-production; biotechnology, neurotechnology, genetic engineering, geoengineering; geological and prospecting services and services related to electronics and communications; exported professional services; nanotechnology and nanoscience; aerospace and satellite industry; engineering for the nuclear industry; manufacturing of automation solutions; and research and development in engineering activities, exact and natural sciences, agricultural sciences and medical sciences.</p> <p>The regime establishes a reduced income tax rate of 15%, exemption from value-added tax, deduction of a fixed amount of employer contributions, and a tax credit for the payment of income tax and value-added tax, if certain conditions are satisfied.</p> <p>The Regime for the Promotion of the Knowledge Economy will be available for investors from 1 January 2020 until 31 December 2029.</p>	6 June 2019	<p>Official Gazette, "RÉGIMEN DE PROMOCIÓN DE LA ECONOMÍA DEL CONOCIMIENTO" (in Spanish), 10 June 2019</p> <p>MNE Tax, "Argentina offers new tax incentives for high tech businesses", 17 July 2019</p>
Treatment	<p>On 1 September 2019, the Central Bank of Argentina published its Communication A6770 to regulate the inflow and outflow of foreign exchange. Inter alia, the new regulation compels exporters of goods and services to exchange their foreign currency earnings in the domestic market. Since 2 September 2019, export earnings in dollars must be exchanged within 15 business days for commodities or 180 days following the date of the shipping permit. As for exports (including advance payments and pre-financing) prior to 2 September 2019, dollars must be exchanged within 5 business days.</p>	1 September 2019	<p>BANCO CENTRAL DE LA REPÚBLICA ARGENTINA, "Measures to Safeguard Exchange Rate Stability and Savers", 1 September 2019</p>
Bahrain			
Entry	<p>According to Edict 10 of 2019, which was issued on 2 June 2019, foreign capital companies are now allowed to own up to 100 percent of the shares in firms engaged in oil and gas drilling activities in the Kingdom of Bahrain, provided that the parent company has signed or is in the process of sealing an agreement on the exploration and production of oil or natural gas with the government.</p>	2 June 2019	<p>Bahrain News Agency, "HRH Prime Minister issues Edict 10/ 2019", 2 June 2019</p>
Brazil			

Promotion and facilitation	On 27 September 2019, Presidential Decree No. 10,029 entered into force. It simplifies the entry procedures for foreign financial institutions willing to open branches in Brazil or foreign investors wanting to invest in the financial sector. Furthermore, foreign and domestic investors are to be treated equally in the licensing process that is the responsibility of the Central Bank of Brazil.	27 September 2019	Presidency of the Republic, "DECRETO Nº 10.029, DE 26 DE SETEMBRO DE 2019" (in Portuguese), 27 September 2019
Cayman Islands			
General business climate	The Companies (Amendment) Law, 2019 came into effect on 8 August 2019. The changes relate, inter alia, to additional information requirements for the register of members and to the deadline for notification of any changes to the register of directors and officers of a Cayman company.	8 August 2019	Higgs & Johnson, "Cayman Islands: The Companies (Amendment) Law, 2019", 4 October 2019
China			
Entry / Treatment	On 20 July 2019, the People's Bank of China announced measures to further open China's financial sector to foreign capital. Foreign-funded institutions are henceforth allowed: to conduct credit-rating businesses for the bond market; to establish foreign-controlled asset-management companies jointly with subsidiaries of Chinese banks and insurers; to invest in pension management companies; to wholly own currency brokerage companies; to invest beyond 25% equity in insurance asset management companies held by domestic insurers; and to obtain certain underwriting licences in the inter-bank bond market, among other measures.	20 July 2019	The People's Bank of China, "Measures for Further Opening Up the Financial Sector", 22 July 2019
Entry	<p>On 30 July 2019, the Special Administrative Measures on Access to Foreign Investment (2019 edition), the Free Trade Zone Special Administrative Measures on Access to Foreign Investment (2019 edition), and the Catalogue of Encouraged Industries for Foreign Investment 2019 came into effect. The catalogues define which market access rules apply for different sectors in the overall territory and in the free-trade zones.</p> <p>The revised Special Administrative Measures on Access to Foreign Investment now contain 40 restricted and prohibited items, 8 items fewer than in the 2018 version. The changes lift foreign investment restrictions in specific segments of the agricultural, infrastructure, manufacturing, mining and service sectors.</p> <p>The Free Trade Zone Special Administrative Measures on Access to Foreign Investment now cover 37 industry items, 8 items fewer than the 2018 version. It particularly opens fishery and the printing of publications to foreign investors, thereby going beyond the degree of liberalisation at the national level.</p> <p>The number of items in the Catalogue of Encouraged Industries for Foreign Investment has been increased to 415, with 67 new items and 45 updated items compared with the 2017 version. More than 80% of the changes are in manufacturing industry categories.</p>	30 July 2019	Ministry of Commerce, Decree No. 25 ~ No. 27 of the National Development and Reform Commission and the Ministry of Commerce, 1 July 2019

Entry / Treatment / Promotion and facilitation	<p>On 18 September 2019, the municipal government of Shanghai released Several Opinions of the Shanghai Municipal People's Government on further promoting foreign investment in this Municipality. The Opinions provide details regarding policies established by the Foreign Investment Law 2019 for the municipality of Shanghai and cover market access, investment attraction and investor protection.</p>	18 September 2019	Dezan Shira & Associates, "Shanghai Releases Implementation Regulation for Foreign Investment Law", 30 September 2019.
Entry	<p>The State Council amended the Regulations of the People's Republic of China on the Administration of Foreign-funded Insurance Companies and the Regulations of the People's Republic of China on the Administration of Foreign-funded Banks in a bid to step up the opening-up in the financial sector. The amended regulations became effective on 15 October 2019.</p> <p>The newly added article 40 states that foreign insurance group companies are allowed to establish foreign-invested insurance companies in China. The newly added article 41 stipulates that overseas financial institutions are allowed to become shareholders of foreign insurance companies. Article 25 has also been revised. Foreign banks are allowed to set up foreign-owned banks and foreign bank branches in China, and they are also entitled to establish joint-venture banks and foreign bank branches.</p>	15 October 2019	The State Council, "Amendments to regulations in finance sector", 15 October 2019.
Treatment	<p>On 23 October 2019, the State Administration of Foreign Exchange of China issued the Circular on Further Promoting the Facilitation of Cross-border Trade and Investment (Hui Fa [2019] No. 28). This Circular aims to further liberalize and streamline the foreign exchange control over cross-border investment and trade. Measures are introduced to:</p> <ul style="list-style-type: none"> - simplify the foreign exchange control requirements under both current account and capital account items, and more importantly; and - relax the long-standing domestic equity investment restriction imposed on foreign-invested enterprises. 	23 October 2019	Baker McKenzie, "SAFE Issues New Circular to Further Liberalize Cross-border Investment and Trade", 18 November 2019
Egypt			
Entry / Promotion and facilitation	<p>On 6 July 2019, the Parliament approved three amendments to the 2017 Investment Law (No. 72), including a revision to the way in which FDI inflows are accounted for. A change in the FDI accounting system entails shifting responsibility for recording these flows to the General Authority for Investment and broadening the definition of FDI to reflect international practices. One such change will entail allowing foreign acquisitions of stakes of less than 10% in Egyptian entities to be recorded as FDI.</p> <p>The other changes, which had been approved by the cabinet in March 2019, permit existing investors to benefit from incentives under the new law when they expand their projects, and clarify the fee structure for certifying contracts of association.</p>	6 July 2019	EIU, "New foreign investment rules could boost FDI inflows", 25 July 2019
Ethiopia			

Entry	<p>On 13 June 2019, the Ethiopian parliament approved the Communication Service Proclamation, which for the first time liberalizes the telecom sector in the country. Article 54 of the Proclamation declares that “telecommunications services, including ownership of a Telecommunications Operator or a Telecommunications Network, shall be open without limitation to private investors including both domestic and foreign investors.” The Proclamation further introduces the establishment of an independent, transparent, and accountable institution that will regulate all players in the sector.</p>	13 June 2019	Africa Legal Network, “Liberalisation of Telecommunication Services”, 14 June 2019
France			
Entry	<p>On 22 May 2019, changes to France’s mechanisms to manage acquisition- and ownership-related risk to its essential security interests came into effect. The reform, incorporated in the law commonly referred to as loi PACTE, brings enhanced follow-up on mitigation agreements; stronger injunctions and sanctions in case of non-respect of rules and mitigation agreements; stronger transparency of the mechanism by the implementation of a parliamentary control and an obligation for the French Government to publish an annual report including aggregate statistics about the procedure.</p>	22 May 2019	Legifrance, “LOI n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises” (in French), 23 May 2019
India			
Entry	<p>On 2 September 2019, the Ministry of Finance notified the Indian Insurance Companies (Foreign Investment) Amendment Rules 2019, which effectively abolished the existing ownership ceilings for FDI in insurance intermediaries.</p>	2 September 2019	Ministry of Finance, Indian Insurance Companies (Foreign Investment) Amendment Rules, 2019, 2 September 2019; Tuli & Co, “100% FDI in insurance intermediaries: a welcome change”, 8 October 2019
Entry	<p>Several changes to India’s foreign direct investment policy were brought by Press Note No. 4, dated 18 September 2019. These changes abolish foreign equity caps in coal and lignite mining activities, contract manufacturing, single brand retail trading, and allowed foreign capital of up to 26% in digital media under the government route.</p>	18 September 2019	Ministry of Commerce and Industry, Press Note No. 4 (2019 Series), 18 September 2019.
Indonesia			
Entry	<p>Indonesia’s Construction Law No. 2 of 2017 required foreign investors to establish either a representative office in cooperation with an Indonesian construction company or incorporate a legal entity in a joint venture (JV) with an Indonesian construction company in order to perform construction services in Indonesia.</p> <p>On 13 June 2019, the Minister of Public Works and Public Housing implemented the 2019 Regulation, providing further guidance to foreign investors providing construction services.</p> <p>Regardless of whether a foreign investor has established a representative office or a JV, the 2019 Regulation requires the relevant entity to register an</p>	13 June 2019	Lexology, “Indonesia’s 2019 Regulation for construction businesses: Important news for foreign investors”, 24 October 2019

Treatment	<p>“Online Single Submission” and obtain a “Single Business Number”. Thereafter, it will be granted an interim construction licence valid for 30 working days. An interim construction licence will be converted into an effective construction licence after 30 working days if the representative office or JV fulfills certain commitments. An effective construction licence will last for three years for representative offices. There is no limit on the construction licence for JVs provided they carry out at least one project every three years.</p> <p>Indonesia's Investment Coordinating Board (“BKPM”) has issued a new regulation amending BKPM Regulation 6/2018, which sets out guidelines and procedures for licensing and facilities under Indonesia's foreign direct investment (“FDI”) regime. BKPM Regulation 5/2019 came into effect on 29 July 2019.</p> <p>Changes introduced by Regulation 5/2019 include:</p> <ul style="list-style-type: none"> - the reaffirmation that certain FDI companies must comply with divestment obligations; - the incorporation of provisions on the fulfillment of FDI companies' divestment obligations; and - the confirmation that shareholding foreign directors and commissioners are exempt from the general expatriate employment rules (subject to a minimum shareholding threshold). 	29 July 2019	Lexology, “New BKPM regulation clarifies guidelines and procedures for licensing and facilities under FDI regime”, 11 September 2019
Iran, Islamic Republic of			
General business climate	<p>On 30 June 2019, the Iranian Government adopted a by-law that grants five-year residency to foreign investors in line with the strategy to encourage foreign investment. According to the law, the minimum amount required to grant investment residency permit for nationals of foreign countries who have been recognized by the Islamic Republic of Iran is 250.000 euros, or its equivalent in other currencies accepted by the Central Bank of Iran. The new law authorizes foreign investment to take shape in the form of opening accounts in Iranian banks, buying investment bonds and securities as well as investment in the housing sector.</p>	30 June 2019	Islamic Republic News Agency, “Iran to give 5-year residency to foreign investors”, 1 July 2019
Israel			
Entry	<p>On 30 October 2019, the Security Cabinet of Israel established an advisory committee that will assess national security implications of foreign investment in finance, communications, infrastructures, transportation and the energy sector. It is composed of senior representatives from the Finance Ministry, the Defense Ministry and the National Security Council and observers from the Foreign Ministry, the Economy and Industry Ministry, and the National Economic Council.</p> <p>The committee will assist competent regulators in their regular licensing procedures by giving opinions on national security aspects concerning the above-mentioned sectors. The relevant guidelines will be prepared shortly as the committee will start its operations on 1 January 2020.</p>	30 October 2019	Prime Minister's Office, Security Cabinet Statement, 30 October 2019

Italy			
Entry	On 12 July 2019, a change to Italy's acquisition and ownership related mechanisms to safeguard Italy's essential security interests came into effect, albeit only temporarily: The changes, brought by the now defunct Decree Law No. 64/2019 of 11 July 2019, among others, extended the review period for the exercise of the special powers, specifies what constitutes non-EU acquirers and the consequences of shareholder coordination, and broadens powers to prohibit a transaction. As this Decree Law was not converted into law, its provisions have lapsed on 10 September 2019.	12 July 2019	Gazzetta Ufficiale, DECRETO-LEGGE 11 luglio 2019, n. 64, 11 July 2019
Promotion and facilitation	On 23 July 2019, the process of establishing the Ionian Special Economic Zone has been completed. It covers the Basilicata Region, the Port of Taranto and Grottaglie Airport, as well as the productive areas of Taranto, Grottaglie, Melfi, Ferrandina, and Galdo di Lauria.	23 July 2019	Minister for Southern Italy and Territorial Cohesion, "The Ionian Special Economic Zone has now been established - An opportunity for Apulia and Basilicata Regions", 23 July 2019
Japan			
Entry	On 27 May 2019, revisions of Japan's inward investment screening processes were published in the official gazette. The changes, contained in two public notices, subject additional businesses or expand the scope of already listed businesses, such as manufacturing of integrated circuits, software and telecommunications, to the coverage of the review mechanism. The changes came into effect on 1 August 2019 and apply to transactions as of 31 August 2019.	31 August 2019	Ministry of Economy, Trade and Industry, "Addition of Businesses Required to Submit Prior Notification Concerning Inward Direct Investment, etc.", 27 May 2019
Kyrgyzstan			
Promotion and facilitation	On 11 May 2019, Law No. 59 entered into force. It established a special tax regime in special economic zones ("SEZs") in Kyrgyzstan by setting a zero percent VAT rate for all goods, works and services supplied to SEZs from the territory of the Kyrgyz Republic.	11 May 2019	GRATA International, "Amendments were introduced to the tax regime in free economic zones in the Kyrgyz Republic", 23 May 2019
Malaysia			
Entry	As part of the Budget 2020, the Finance Minister announced the lowering of the RM 1 million threshold on foreign property ownership to address the country's property overhang. In particular, <ul style="list-style-type: none"> - The foreign ownership threshold has been lowered from RM1 million to RM600,000. - The change is applicable to high-rise properties in urban areas. - It is limited to a one-year period (2020). 	11 October 2019	Ministry of Finance, "2020 Budget Speech", 11 October 2019
Mauritius			
General business climate	The Prime Minister and Minister of Finance and Economic Development presented the 2019-20 budget speech on 10 June 2019.	10 June 2019	KPMG, "Mauritius: Budget and tax highlights 2019-2020", 11 June 2019

With regard to corporate taxation they propose to extend and expand the partial exemption regime. This regime would be expanded to apply to leasing and the provision of international fibre capacity; reinsurance and brokering of reinsurance services; and sales, financing arrangements, and asset management of aircraft and spare parts, including aviation-related advisory services.

Other tax-related measures in the budget provide for, inter alia:

- A tax holiday of eight years with regard to an innovation box regime for newly established and certain existing companies
- An eight-year tax holiday to promote marina developments and an exemption from value added tax on marina construction costs
- The development of real estate investment trusts and e-commerce headquartering activities.

Myanmar

Promotion and facilitation	On 26 June 2019, the Ministry of Investment and Foreign Economic Relations formally launched the Investment Promotion Committee as part of the government's efforts to promote a responsible investment environment.	26 June 2019	Directorate of Investment and Company Administration, "Investment Promotion Committee launched", 26 June 2019
Treatment	On 12 July 2019, the Securities and Exchange Commission of Myanmar ("SECM") issued an announcement, allowing both foreign and local/foreign entities to purchase stock shares on the Yangon Stock Exchange. The listed companies are only allowed to sell shares submitted and approved by the SECM to foreigners, and the Yangon Stock Exchange will set the date for listed companies to sell the shares. There are currently five companies listed on the Yangon Stock Exchange: First Myanmar Investment, Myanmar Thilawa SEZ Holdings Public, Myanmar Citizens Bank, First Private Bank, and TMH Telecom Public Company.	12 July 2019	Myanmar Business Today, "Foreign Investors to be Allowed to Purchase Stocks on the YSX", 23 July 2019

Namibia

Treatment	<p>On 23 May 2019, the Finance Minister issued a Procurement Directive on the reservation of procurement of goods, services and works to local suppliers in terms of Section 73 of the Public Procurement Act. The Directive bans all public entities from importing a wide range of goods and services. In particular, it extends procurement reservation to:</p> <ul style="list-style-type: none"> - 100 percent Namibian-owned SMEs and entities which are 51% or more equity owned by Namibian citizens. In case of joint ventures, each entity of the partnership must be at least 51% or more equity owned by Namibian citizens, and - goods, services and works to be reserved must have at least 65 percent local content, with categories such as professional services and labour works to have 100 percent local content. <p>The list of goods that must now be sourced domestically ranges from foodstuffs to jewelry. Services now to be supplied by local firms cover areas such as catering, cleaning, security, printing, event</p>	23 May 2019	Ministry of Finance, "Briefing on Public Debt Management and Public Procurement", 23 May 2019
-----------	--	-------------	---

	management services, advertising and branding, transport, freight and logistics, environmental rehabilitation and waste management. Local suppliers must also have a Namibian bank account.		
Nepal			
Entry	The recently enacted Foreign Investment and Technology Transfer Bill includes a provision, stating that the government will set a minimum threshold for foreign investment and publish it in the Nepal Gazette. On the basis of this law, the government raised the minimum foreign investment threshold to Rs 50 million from the existing Rs 5 million on 23 May 2019.	23 May 2019	The Himalayan Times, "Government sets minimum threshold for foreign direct investment at Rs 50m", 23 May 2019
Oman			
General business climate	On 7 May 2019, the Ministry of Manpower issued Ministerial Decision 221/2019 ("MD"), implementing a ban on both issuing and renewing work permits for non-Omani individuals in nine job roles in the private sector. The nine positions which must only be held by Omanis include: assistant general manager, administrative director, human resources director, personnel director, training director, follow-up director, public relations director, assistant director and all administrative and clerical positions. The MD came into force on 13 May 2019.	13 May 2019	Dentons, "Ban on hiring expats in the Omani private sector", 3 June 2019
Entry / Promotion and facilitation	On 1 July 2019, Oman's Ministry of Legal Affairs has published Royal Decree No. 50/2019, which promulgated the country's new Foreign Capital Investment Law. The Foreign Capital Investment Law shall enter into force six months after publication thereof. Key features are: - The Law streamlines procedures and permits necessary to start foreign investment within the Sultanate through the Investment Services Centre of the Ministry of Commerce and Industry. - It expands the sectors open to foreign investors to include strategic projects that contribute to development. - It offers advantages, guarantees and incentives to attract foreign investment and grants the foreign investor the necessary guarantees for its investment project.	1 July 2019	Oman Daily Observer, "Creating a favourable investment environment for Oman", 2 July 2019
Entry	On 1 July 2019, Oman's Ministry of Legal Affairs has published Royal Decree No. 52/2019, which promulgated the Public-Private Partnership Law. The law defines the concept of partnership as a business or public service of economic or social importance in line with the Sultanate's strategy. Alternatively, it could be designed to develop, improve or raise the efficiency of an existing public service. The newly proposed Public Authority for Privatisation and Partnership is the focal point for the implementation of the provisions of the Law. Key features are: - The law sets out procedures for launching and awarding public-private partnership projects.	1 July 2019	Oman Daily Observer, "Creating a favourable investment environment for Oman", 2 July 2019

Entry	<ul style="list-style-type: none"> - It spells out the requirements for studying and evaluating public-private partnership projects. - It outlines the conditions for the establishment of public-private partnerships to manage partnership projects. - It identifies the basic elements and conditions relating to public-private partnership contracts. - It includes general provisions relating to regulation, supervision and grievance. <p>On 1 July 2019, Oman's Ministry of Legal Affairs has published Royal Decree No. 50/2019, which promulgated the Privatisation Law. The newly proposed Public Authority for Privatisation and Partnership will oversee the implementation of this Law.</p> <p>Key features are:</p> <ul style="list-style-type: none"> - The law sets out procedures for the launch and award of privatisation projects, as well as guidelines for the privatisation of government facilities. - It spells out the methodology for the disposal of revenues from privatisation. - Procedures for settling the status of Omani public servants working in projects affected by privatisation or restructuring are outlined as well. 	1 July 2019	Oman Daily Observer, "Creating a favourable investment environment for Oman", 2 July 2019
Philippines			
Entry	<p>On 28 August 2019, President Rodrigo Duterte has signed the "Transnational Higher Education Act" or Republic Act No. 11448 that allows foreign higher education institutions to set up facilities in the country for the first time.</p> <p>A foreign higher education institution may incorporate a Philippine company to operate its branch with a 60 per cent share of its voting stocks reserved for Filipino citizens as long as it has the approval of the Securities and Exchange Commission. Foreign citizens may constitute up to 80 percent of the faculty and academic personnel and up to 40 percent of the administrative personnel and staff members in any of the local branches. However, foreign students may not comprise more than one-third of enrollment.</p>	28 August 2019	Philippine News Agency, "Duterte signs Transnational Higher Education Act into law", 25 September 2019
Entry / Treatment	<p>On 9 September 2019, lawmakers approved House Bill 300, which amended two provisions of the Foreign Investments Act of 1991, to attract more foreign investment into the country.</p> <p>The two amended provisions pertain to the removal of the 'practice of professions' from the Foreign Investment Negative List, as well as to a reduction in the number of mandatory direct local hires by foreign investors from 50 to 15.</p>	9 September 2019	Asean Briefing, "The Philippines' Foreign Investment Act: Amendments May Attract FDI from SMEs", 1 November 2019
Qatar			
Promotion and facilitation	<p>On 7 July 2019, the Investment Promotion Agency was launched with the aim of further attracting foreign direct investment in line with the objectives set out in the Qatar National Vision 2030.</p>	7 July 2019	Gulf Times, "Qatar launches Investment Promotion Agency", 17 July 2019

Saudi Arabia			
Entry	<p>On 7 October 2019, the Saudi Stock Exchange (Tadawul) announced allowing foreign companies to list on Tadawul upon the approval by the Capital Market Authority of amended Listing Rules, including provisions related to foreign listing. Foreign companies will be subject to the same listing, disclosure and governance requirements as Saudi listed companies, and foreign shares will be traded on the Saudi Exchange in Saudi Riyals.</p>	7 October 2019	Capital Market Authority, "Adoption of the amended Rules on the Offer of Securities and Continuing Obligations, Instructions for Companies Announcements, the amended Instructions for Book Building Process and Allocation Method", 6 October 2019
Entry	<p>On 26 June 2019, the "Instructions for Foreign Strategic Investors' Ownership in Listed Companies" ("FSI Instructions") became effective. The FSI Instructions removed the existing limit on foreign ownership of a Saudi-listed company to foreign strategic investors.</p> <p>Under the new regulations, foreign ownership of stocks will no longer be limited to qualified foreign investors (i.e. financial firms with at least US\$500 million in assets under management). Also, the previous minimum or maximum ownership limits for strategic investors have been abolished. Holding periods of 24 months continue to apply.</p>	26 June 2019	Capital Market Authority, "The CMA Approves the Instructions for the Foreign Strategic Investors' Ownership in Listed Companies", 26 June 2019
General business climate	<p>On 8 May 2019, Saudi Arabia's Shoura Council approved plans to attract entrepreneurs and investors from overseas with a 'green card'-style residency scheme. Under the new Privileged Iqama system, highly skilled expatriates and owners of capital funds will no longer need a Saudi sponsor or employer. Eligible expatriates must have a valid passport with a credit report, a health report and no criminal record.</p>	8 May 2019	The World News, "Saudi Arabia offers 'green card' residency to foreign skilled professionals, investors", 9 May 2019
Thailand			
Entry	<p>Thailand's Ministry of Commerce, to fulfill various treaty obligations and for ease of enforcement, has abolished the previous three ministerial regulations on minimum capital for foreign companies, and issued a single new Ministerial Regulation re: "Minimum Capital and the Period to Bring or Remit the Minimum Capital to Thailand B.E. 2562 (2019)".</p> <p>The new regulation took effect on 28 August 2019, and sets the timeline for bringing in, or remitting, the minimum capital to Thailand for foreign businesses using privileges under treaties and trade agreements. These currently include the following:</p> <ul style="list-style-type: none"> - U.S.-Thailand Treaty of Amity and Economic Relations; - Australia-Thailand Free Trade Agreement; - Japan-Thailand Economic Partnership Agreement; - ASEAN Framework Agreement on Services; - ASEAN Comprehensive Investment Agreement. <p>Foreign-owned companies established under privileges granted by any of the above treaties or trade agreements must bring or remit the required minimum capital to Thailand by no later than 29 August 2019. This remittance period requirement also applies to those companies established before 28 August 2019,</p>	28 August 2019	Tilleke & Gibbins, "Updated Minimum Capital Provisions for Foreign Companies in Thailand", 25 September 2019

that have not yet brought or remitted the minimum capital to Thailand.

Turkey

Promotion and facilitation	On 7 August 2019, two Presidential Decrees Nos. 1402 and 1403 changed the existing investment incentive regimes in Turkey. Firstly, the large-scale investment incentive scheme was abolished. Secondly, a new "Technology Focused Industry Move Program" was introduced. This program aims at encouraging investment concerning products from the Priority Products List determined by the Ministry of Industry and Technology. Thirdly, for supporting investments on a project basis, the minimum investment requirements were set at the level of TRY 50 million for investments falling within the scope of the Technology Focused Industry Move Program, and TRY 500 million for other investment projects.	7 August 2019	Esin Attorney Partnership, "New Amendments to the Investment Incentive Legislation", 9 August 2019
----------------------------	---	---------------	--

Ukraine

Treatment	The National Bank of Ukraine decided to abolish a EUR 5 million limit per calendar month on the repatriation of proceeds from foreign investments with the effect on 10 September 2019. The limit used to apply to proceeds from securities and equity rights sales as well as to funds from the capital reduction or a foreign investor's withdrawal from a Ukrainian company or partnership.	10 September 2019	National Bank of Ukraine, "NBU Cancels Limit on Foreign Investors' Repatriation of Proceeds from Selling Securities and Equity Rights", 9 September 2019
-----------	--	-------------------	--

United Arab Emirates

Entry	Following the enactment of the UAE Federal Law No. 19 of 2018 on Foreign Direct Investment, the UAE Cabinet has adopted a "positive list of activities" covered by Article 7-3 of the Law, on 2 July 2019. It includes 122 economic activities across thirteen sectors that will be eligible for up to 100% foreign ownership. These sectors include: transport and storage, agriculture, space, manufacturing, renewable energy, hospitality and food services, information and communication, professional, scientific and technical activities, administrative and support services, educational activities, healthcare, art and entertainment, and construction.	2 July 2019	Baker McKenzie, "UAE Approves Foreign Ownership over 122 Business Activities", 8 July 2019
-------	---	-------------	--

Uzbekistan

Promotion and facilitation	On 13 September 2019, a Presidential Decree established the Chirokchi Special Economic Zone in the Kashkadarya region for 30 years with the aim to promoting modern production facilities for the production of high value-added products and increasing agricultural production and exports. Investors in the new zone will be subject to special tax, customs and currency regimes. In addition, on 1 August 2019, the Cabinet of the Ministers of Uzbekistan decided to extend the Jizzakh Special Economic Zone for additional 182,1 ha.	13 September 2019	GRATA International, "A new Free Economic Zone Chirokchi", 23 September 2019
----------------------------	---	-------------------	--

Promotion and facilitation	<p>On 27 May 2019, the Government of Uzbekistan approved new regulations relating to subsidies to compensate part of investors' expenses for the construction and equipping of new hotels. The amount of subsidy depends on the size and category of the hotel.</p>	27 May 2019	GRATA International, "The provision on the procedure for granting subsidies for the construction of new hotels approved", 24 June 2019
Entry / Promotion and facilitation	<p>On 12 June 2019, the Law "On Public-Private Partnership" No. ZRU-573 entered into force. It is the first statutory act in Uzbekistan to regulate public-private partnerships ("PPP").</p> <p>The law indicates that PPP projects shall concern the design, construction, supply, financing, reconstruction, upgrading, operation and maintenance of property, property complexes, or public infrastructure. Production sharing agreements and public procurement are excluded from the scope of the law.</p> <p>The new law specifies the principles of PPPs in Uzbekistan. They include: equality of the public and the private partner; transparency of rules and procedures in implementing public-private partnerships; competitiveness and objectivity in the selection of a private partner; non-discrimination; and prohibition of corruption.</p> <p>Private partners, once selected in a tender, may be granted a variety of benefits such as subsidies, state guarantees, and tax incentives.</p> <p>Finally, the law creates the Agency for the Development of Public-Private Partnerships under the Ministry of Finance responsible for the overall coordination of PPP policies of Uzbekistan.</p>	12 June 2019	PPP Development Agency, "The LAW of the Republic of Uzbekistan On Public-Private Partnership", 10 May 2019
Viet Nam			
Treatment	<p>The State Bank of Viet Nam issued Circular No. 03/2019/TT-NHNN. This Circular took effect from 13 May 2019.</p> <p>Foreign investors are allowed to pay deposit and provide collateral in foreign currency when they participate in auctions in the following cases:</p> <ul style="list-style-type: none"> - To purchase shares in state-owned enterprises which are entitled to equitization as approved by the Prime Minister. - To purchase the state's shares and capital contributions in state-owned enterprises and enterprises with state capital to be divested as approved by the Prime Minister. - To purchase shares and capital contributions of state-owned enterprises invested in other enterprises which conduct the withdrawal of state capital as approved by the Prime Minister. 	13 May 2019	Online Newspaper of the Government of the Socialist Republic of Viet Nam, "New regulations on use of foreign currencies in Viet Nam", 10 April 2019
Treatment	<p>On 26 June 2019, the State Bank of Vietnam issued Circular 06/2019/TT-NHNN on foreign exchange control of foreign direct investment activities in Vietnam. It took effect on 6 September 2019. It clarifies the definition of foreign invested enterprises as follows:</p> <ul style="list-style-type: none"> - Enterprises newly established by foreign investors and required by Vietnamese law to obtain an investment registration certificate; 	6 September 2019	Vietnam Briefing, "Foreign Exchange Management in Vietnam: New Circular Takes Effect", 18 September 2019

- Enterprises having 51% or more foreign ownership; and,

- Project companies established by foreign investors to implement public-private partnership projects.

In addition to an FIE, Circular 06 requires the following investors to open a direct investment capital account:

- Foreign investors entering into business co-operation contracts; and

- Foreign investors directly entering into public-private partnership projects without setting up a project company.

Also, the previous Circular required unused pre-establishment costs to be remitted within 30 days from the date that these costs were converted from the domestic currency to a foreign currency. This timeline has been abolished under new Circular.



INVESTMENT POLICY MONITOR

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

 unctad.org/diae

 investmentpolicy.unctad.org

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


For further information, please contact

Mr. James X. Zhan

Director

Investment and Enterprise Division UNCTAD

 diaeinfo@unctad.org

 +41 22 917 57 60



UNCTAD/DIAE/PCB/INF/2019/8



UNITED NATIONS
UNCTAD