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HIGHLIGHTS

Twenty five countries or economies took 41 investment policy measures in the review period (October 2015 – February 2016). The share of liberalisation and promotion measures reached 85 per cent - broadly in line with the recent years' average. These policy measures show a continued move towards improving entry conditions, reducing restrictions and facilitating foreign investment. Geographically, countries from Asia and the Commonwealth of Independent States (CIS) - such as Myanmar, Indonesia, Viet Nam and Kazakhstan - took the lead on these policies. In terms of type of policies, measures related to "entry/establishment" were predominant.

Among the most important policy measures are the adoption of new investment laws in Myanmar, the Republic of Serbia and South Africa, the adoption of a comprehensive plan for full investment liberalisation in selected sectors in Indonesia, the partial removal by India of foreign direct investment (FDI) restrictions in 15 major sectors, and the expansion by Kazakhstan of the "One-Stop Shop" approach to all investors. On the other hand, there was a reversal in privatisation in Portugal and Azerbaijan imposed a levy on outward foreign investment.

The universe of international investment agreements (IIAs) continues to expand, with intensified efforts at the regional and megaregional levels. During the reporting period, countries concluded ten IIAs, including five bilateral investment treaties (BITs) and five "other IIAs", bringing the total number of IIAs to over 3,280.

New treaties continue to include clauses to safeguard the right to regulate while maintaining protection, such as those mentioned in UNCTAD's Roadmap for IIA Reform and in UNCTAD's updated Investment Policy Framework for Sustainable Development. For example, recent treaties include general exceptions, clarify certain IIA standards (e.g. fair and equitable treatment (FET) and indirect expropriation), or subject IIA standards to specific exceptions (e.g. clauses on most-favoured-nation (MFN) treatment and on free-transfer-of-funds).

Countries continue to negotiate new IIAs, including megaregional ones. During the reporting period, one megaregional, the Trans-Pacific Partnership Agreement (TPP), was signed and for another one, the Comprehensive Economic and Trade Agreement (CETA), the legal review was completed. At least six treaties entered into force.

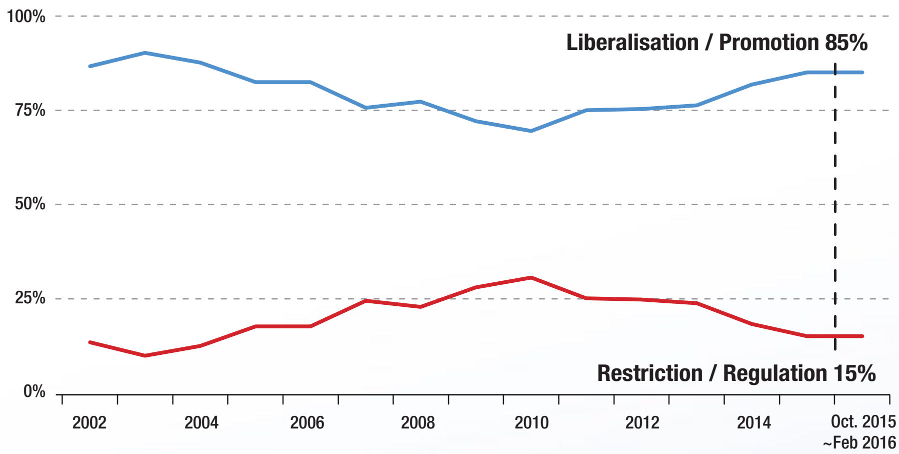
Work of relevance to the international investment regime is undertaken in numerous forums, including the G20, the Forum on Business and Human Rights and the 21st UN Conference on Climate Change.

A. National investment policies

In total, 41 measures were taken by 25 countries or economies (table 1). As in previous review periods, the vast majority of new investment policy measures aimed at creating more favourable investment conditions (figure 1). Investment liberalisation, promotion and facilitation measures were adopted in various industries, including real estate, telecommunication and transportation. New investment restrictions or regulations for foreign investors were mainly due to a reversal in privatisation or to imposing a levy on outward foreign investment.

The share of investment liberalisation, promotion and facilitation measures during the reporting period (October 2015 – February 2016) attained 85 per cent. For the entire year 2015, this share stands at 85 per cent as well.

Figure 1: Changes in national investment policies, 2002–February 2016[1]



Source: UNCTAD.

Table 1. Summary table of national investment policy measures adopted between 1 October 2015 and 29 February 2016

	Entry (30)	Operational treatment (4)	Promotion and facilitation (6)	General business climate (4)
Australia	1			
Azerbaijan	2			
China	1			
European Union	1			
Greece	1			
Hungary	1			
India	2			
Indonesia (*)	3		1	
Italy	1			1
Japan	1			
Kazakhstan	1		2	1
Kenya			1	
Korea, Republic of				1
Malawi	1			
Myanmar (*)	4	2	1	
Nicaragua	1			

1 The measures in figure 1 do not include policy measures related to the general business climate, such as corporate taxation, environmental or labour legislation.

Portugal	1			
Russian Federation	1			
Saudi Arabia				1
Republic of Serbia		1		
South Africa		1		
United States of America (*)	2		1	
Viet Nam	3			
Zambia	1			
Zimbabwe	1			

Source: UNCTAD

* Measures are double-counted because they related to both types

1. Entry/Establishment of investment

Twenty countries or economies - *Australia, Azerbaijan, China, European Union, Greece, Hungary, India, Indonesia, Italy, Japan, Kazakhstan, Malawi, Myanmar, Nicaragua, Portugal, Russian Federation, United States of America, Viet Nam, Zambia* and *Zimbabwe* - adopted new policy measures relating to the entry and establishment of foreign investors.[2] In their majority, they relaxed restrictions on foreign ownership or opened up new business opportunities.

Among the most noteworthy investment liberalisation measures are:

- *China* simplified the capital registration system for foreign-invested enterprises. Amongst others, it abolished minimum registered capital requirements in certain industries and for "companies limited by shares".
- *India* introduced a comprehensive foreign direct investment (FDI) liberalisation strategy and relaxed FDI rules in 15 major sectors, including inter alia, agriculture, civil aviation, construction, defence, manufacturing and mining.
- *Indonesia* introduced a comprehensive plan for a liberalisation policy on foreign investment in 35 industries, including tourism and film industry. At the same time it introduced investment restrictions in 19 business lines. It also allowed foreigners to own houses in Indonesia for up to 80 years, up from the previous 50 years.
- *Malawi's* President lifted a ban on oil and gas exploration on Lake Malawi.
- *Myanmar* adopted a new investment law, which replaces and consolidates previous legislation, and paves the way for speedier investment approvals. The country also passed a new Mines law which provides a more favourable environment for foreign investment. It also allowed foreigners to set up joint ventures for trading in farming and medical products.
- *Viet Nam* allowed foreign investors to purchase rights to manage airports and provide some ground services to a certain degree. It also eased investment registration procedures.
- Following an announcement by the Governor of the Reserve Bank of *Zimbabwe*, foreign investors will be allowed to own up to 49 per cent of companies listed on the Zimbabwe Stock Exchange.

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[2] In addition to these measures, India has raised investment ceiling through the primary market and stock exchanges in several individual companies. Foreign investors can now raise their stake up to a certain degree, ranging from 2 per cent to 100 per cent, in M/s Panyam Cements & Mineral Industries Limited, M/s Ponni Sugars Erode Limited, M/s Vertex Securities Limited, M/s PC Jeweller Limited, M/s Transwarranty Finance Limited, M/s SITI Cable Network Limited, M/s V-Mart Retail Limited, M/s Jubilant Life Science Limited, M/s Titan Company Limited, M/s Shilpa Medicare Limited, M/s TV Today Networks Ltd, M/s Pipavav Defence, Offshore Engineering Limited, The Prestige Estate Projects Limited, M/s Petronet LNG Limited, M/s DEN Networks Limited, M/s Shriram Transport Finance Co. Ltd. (Source from the Reserve Bank of India, Press Release No. 2015-2016/973, 996, 1067, 1115, 1170, 1284, 1298, 1375, 1376, 1451, 1496, 1569, 1588, 1775, 1812, 2005, 2028)

On the other hand,

- *Azerbaijan* imposed a 20 per cent tax rate on foreign-currency outflows linked to direct investment abroad and the purchase of real estate or securities abroad.
- The new Government of *Portugal* canceled the concession agreement signed by the previous government with a foreign investor regarding the operation of Lisbon's and Porto's public transportation system.

2. Treatment of established investment

Three countries - *Myanmar, Republic of Serbia* and *South Africa* - took measures with respect to the treatment of investors after establishment in the host country.

- *Myanmar* enacted a new arbitration law providing a comprehensive legal framework for the conduct of domestic and international arbitration.
- The *Republic of Serbia* introduced a new investment law, which inter alia, provides for equal treatment of foreign and domestic investors, and differentiates[3] between investments of special importance and those of local importance.
- *South Africa's* Promotion and Protection of Investment Act was passed by the National Assembly in November 2015. The new Act includes, among others, commitments on national treatment, security of investments, and transfer of funds while preserving the government's right to pursue legitimate public policy objectives. *South Africa*'s new approach is the result of several years' work. The country initiated a review of its international investment policy in 2008. The review led to a decision by the South African cabinet in 2010 to develop a new investment act to codify investment protection provisions into domestic law, to terminate BITs and offer partners the possibility of renegotiating their IIAs and, to refrain from entering into BITs in the future, unless there are compelling economic and political reasons for doing so.

3. Promotion/Facilitation of investment

Five countries - *Indonesia, Kazakhstan, Kenya, Myanmar* and the *United States of America* - adopted measures for the promotion and facilitation of investment. Most of these measures facilitated investment admission procedures or encouraged investment through the establishment of special economic zones.

- *Indonesia* introduced a 3-hour licensing process for certain categories of investors planning to open businesses.
- *Myanmar* passed a motion to commence the development of the Kyaukphyu Special Economic Zone (SEZ) which will serve as a "trade corridor" between China and Myanmar.
- *Kazakhstan* adopted a Law on the Astana International Financial Center, offering tax incentives and work permits, amongst other benefits. It also introduced a 'One-Stop Shop', allowing investors to apply for more than 360 different permits and licences without having to visit various ministries or government agencies.
- *Kenya* enacted a Law on Special Economic Zones, providing investment incentives such as tax benefits and granting additional work permits for skilled foreign employees.
- The *United States of America* passed a law easing tax on foreign investment in United States real estate. Foreign pension funds receive the same tax treatment as their United States counterparts for real estate investment under the new law.

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[3] Differentiation is irrespective of whether the investment is foreign or domestic.

4. General business climate

Four countries – *Italy, Kazakhstan, Republic of Korea* and *Saudi Arabia* - took measures affecting the general business climate.

- As part of the ongoing tax reform, *Italy* introduced a decree simplifying tax rules for cross-border business and clarifying tax regulations.
- *Kazakhstan* adopted new Labour and Entrepreneurial Codes. The new Labour Code grants employers greater discretion in relation to dismissals and redundancies. The new Entrepreneurial Code is intended to improve co-ordination between the government and business.
- The *Republic of Korea* amended the Commercial Code to permit some new M&A structures, such as "the use of the reverse triangular merger" (an acquisition structure where one company acquires another company using a subsidiary of the acquiring company).
- *Saudi Arabia* introduced a new Companies Law. Inter alia, it reduced the required minimum number of shareholders in Joint Stock Companies and Limited Liability Companies. It also eased the minimum capital requirement in Joint Stock Companies.

B. International investment policies

1. IIAs signed

During the reporting period, five bilateral investment treaties (BITs) and five other international investment agreements (IIAs) were signed,[4] bringing the total number of IIAs to over 3,280 (close to 2,930 BITs and over 350 "other IIAs"[5]) by the end of February 2016.[6]

The five BITs are between *Cambodia* and *Hungary, Canada* and *Hong Kong, China SAR*, *Ethiopia* and the *United Arab Emirates*, *Japan* and *the Islamic Republic of Iran*, and *the Islamic Republic of Iran* and *Singapore.* The BITs between *Cambodia* and *Hungary*, *Canada* and *Hong Kong, China SAR*, *Ethiopia* and the *United Arab Emirates*, and *the Islamic Republic of Iran* and *Singapore* are expected to include all the typical investment protection provisions.[7]

The *Japan-Iran* BIT includes national treatment (NT) and most-favoured-nation (MFN) treatment, protections in case of expropriation, fair and equitable treatment (FET), an "umbrella" clause, a free-transfer-of-funds clause subject to detailed exceptions, as well as an investor-State dispute settlement (ISDS) mechanism. The agreement also contains detailed general exceptions related to the protection of the environment, health and cultural heritage. Other elements that aim at preserving regulatory space for public policies of the host country and/or at minimizing exposure to investment arbitration include a denial of benefits clause, provisions related to double taxation treaties, carve-outs for temporary safeguard and prudential measures, and various refinements of the ISDS mechanism (e.g. to avoid parallel proceedings in domestic courts and international arbitration).

In addition to the five BITs, five "other IIAs" were signed during the reporting period: the Trans-Pacific Partnership (TPP) Agreement (between *Australia*, *Brunei Darussalam*, *Canada*, *Chile*, *Japan*, *Malaysia*, *Mexico*, *New Zealand*, *Peru*, *Singapore*, *United States* and *Viet Nam*); the free trade agreement (FTA) between *Singapore* and *Turkey;* two Cooperation and Facilitation Investment Agreements (CFIAs) (respectively between *Brazil* and *Chile* and *Brazil* and *Colombia*) and one agreement on enhanced partnership and cooperation (EPCA) (between the *European Union* and *Kazakhstan*).

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4 See annex 2 for a list of IIAs with their date of signature.

5 "Other IIAs" refer to economic agreements other than BITs that include investment-related provisions (e.g. investment chapters in economic partnership agreements (EPAs) and free trade agreements (FTAs), regional investment agreements and framework agreements on economic cooperation).

6 More information is available at the UNCTAD IIA Navigator (http://investmentpolicyhub.unctad.org/IIA), which is the world's most comprehensive collection of IIAs, covering texts of 74 per cent of all BITs and 93 per cent of all "other IIAs" signed until today.

7 The treaty texts are currently not available.

The TPP Investment Chapter includes pre- and post-establishment NT and MFN treatment, a clarification that MFN does not encompass international dispute resolution procedures or mechanisms such as ISDS, FET in accordance with the minimum standard of treatment under customary international law, expropriation provisions (with an annex clarifying the scope of direct and indirect expropriation), a prohibition of certain performance requirements, a free-transfer-of-funds clause (subject to exceptions), as well as ISDS (including a special denial of benefits clause for tobacco-related disputes). Several contracting parties use side letters to clarify, "reserve" or carve out issues from the agreement's scope of application, including with respect to ISDS (through Annex 9-H, *Australia*, *Canada*, *Mexico* and *New Zealand* opt-out of being subject to ISDS with regard to certain investment-related measures).

The CFIAs between *Brazil* and *Chile*, and *Brazil* and *Colombia*, are based on *Brazil*'s new model investment agreement. They contain NT and protections in case of expropriation, both subject to the applicable domestic law, as well as MFN treatment and a free-transfer-of-funds clause (subject to exceptions). The agreements include sustainable development provisions such as references to the promotion of sustainable development, the States' regulatory autonomy and the right to regulate in the preamble, and non-lowering of standards and corporate social responsibility (CSR) provisions. They further include provisions aimed at preserving the States' right to regulate in the public interest such as general exceptions and a carve-out for prudential measures in the financial sector. The CFIAs contain provisions on the improvement of institutional governance, with the establishment of focal points and a Joint Committee, the identification of ongoing agendas for investment cooperation and facilitation, and the creation of mechanisms for risk mitigation and dispute prevention, including State-State arbitration. The two agreements do not include FET, an "umbrella" clause or ISDS.

2. IIAs that entered into force

At least six IIAs entered into force during the reporting period.[8] The BIT concluded between *Germany* and *Madagascar,* and the FTAs between *Australia* and *China, Chile* and *Thailand, China* and the *Republic of Korea,* the *Republic of Korea* and *New Zealand,* and the *Republic of Korea* and *Viet Nam.* In addition, the deep and comprehensive free trade area, part of the Association Agreement between the *European Union* and *Ukraine,* became effective.[9]

3. Concluded IIA negotiations

In addition, the reporting period marked the conclusion of negotiations for certain "other IIAs". Examples include the FTAs between the *European Union* and *Viet Nam*, and between *Israel* and *Panama.*[10]

The *European Union-Viet Nam* FTA negotiations were concluded on 2 December 2015. The draft text contains both pre- and post-establishment NT and MFN, a clarification that MFN is not applicable to other IIAs' ISDS provisions, a refined FET clause with a closed list of obligations, an expropriation provision, a prohibition of certain performance requirements and a free-transfer-of-funds clause. The *European Union-Viet Nam* FTA is also the first agreement to incorporate the *European Union*'s new approach to investment protection, including an express right to regulate provision. A key feature of the agreement is the establishment of a new investment tribunal system, which would consist of a first instance tribunal and an appeal tribunal. In both cases, it is upon the contracting parties to appoint the tribunal members.[11]

Following the legal review of the Comprehensive Economic and Trade Agreement (CETA) between the *European Union* and *Canada* in February 2016, the agreement now also incorporates the *European Union*'s new approach to investment protection emphasizing the right to regulate and providing for a

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8 See annex 4 for a list of IIAs with their date of entry into force.

9 http://trade.ec.europa.eu/doclib/press/index.cfm?id=1425.

10 Negotiations were concluded on 26 November 2015.

11 http://trade.ec.europa.eu/doclib/press/index.cfm?id=1409, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1437.

new dispute settlement mechanism.[12] Negotiations for CETA were concluded in 2014.

4. Ongoing IIA negotiations

Several IIA negotiations are ongoing. Particularly active economies are, for example, *Brazil,*[13] *Canada,*[14] *China,*[15] the *European Union*[16] and *Japan.*[17] Examples of ongoing negotiations include:

- *Chile*: with *China* (meeting on renegotiation and incorporation of investment protection in current FTA in December),[18] the *European Free Trade Association* (EFTA) (exchange to modernize FTA in January),[19] the *European Union* (exchange to modernize FTA in January),[20] *Hong Kong, China SAR* (launch of investment agreement negotiations in February[21]), the *Philippines* (talks on negotiating FTA in November);[22]
- *China*: with the *European Union* (last meeting in February),[23] *Georgia* (launch of FTA negotiations in December),[24] *Japan* and the *Republic of Korea* (9th round in January),[25] *Singapore* (launch of FTA upgrade in November);[26]
- the *European Union*: with *Australia* (talks on possible new FTA in November),[27] *MERCOSUR* (renewed talks in October),[28] *New Zealand* (first talks on possible new FTA in February),[29] the *Philippines* (launched in December);[30]
- *Turkey*: with *Ukraine* (instructions given by relevant Ministers to renew FTA negotiations in February).[31]

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12 http://europa.eu/rapid/press-release_IP-16-399_en.htm.

13 Brazil is currently negotiating an agreement with Peru. In September 2015, Brazil presented its new model presented to the members of the Common Market of the South (MERCOSUR) – Argentina, Paraguay, Uruguay and Venezuela – that agreed to initiate discussions on a common agreement. See http://sice.oas.org/whatsnew_pending/CHL_BRZ_to_negotiate_Accord_on_Coop_ Investment_s.pdf.

14 Canada is negotiating BITs with, among others, Ghana, Indonesia, Kazakhstan, Kenya, the former Yugoslav Republic of Macedonia, Mongolia, Pakistan, Tunisia, the United Arab Emirates and Viet Nam. Canada is also negotiating several FTAs, among others with the Caribbean Community (CARICOM); the Dominican Republic; El Salvador, Guatemala and Nicaragua; India; Japan; Morocco; Philippines; Singapore. Canada is in the process of modernizing its existing FTA with Costa Rica. See http://www.international.gc.ca/trade-agreementsaccords-commerciaux/agr-acc/fipa-apie/index.aspx?lang=eng; http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fta-ale.aspx?lang=eng.

15 China is negotiating BITs with the European Union and the United States. It is also negotiating several FTAs/EPAs and upgrades of existing agreements (with the Gulf Cooperation Council (GCC), Chile, Georgia, Japan and the Republic of Korea, Norway, Sri Lanka, Singapore, the Maldives). http://fta.mofcom.gov.cn/list/enrelease/1/encateinfo.html.

16 The European Union is negotiating a BIT with China. It is also negotiating several FTAs/EPAs and upgrades of existing agreements (with Ecuador, Association of Southeast Asian Nations (ASEAN) countries, Chile, Egypt, India, Japan, Malaysia, MERCOSUR members, Morocco, Myanmar, Philippines, Singapore, Thailand and the United States). The European Union and New Zealand are in discussions about the conclusion of an upgraded FTA. The European Union is also a negotiating party in two megaregional agreements.

17 Japan is negotiating FTAs/EPAs with Canada, China and the Republic of Korea, Colombia, the European Union, the GCC and Turkey. http://www.mofa.go.jp/policy/economy/fta/related_information.html.

18 http://www.direcon.gob.cl/2015/12/chile-y-china-avanzan-en-negociacion-para-profundizar-el-tlc/.

19 http://www.sice.oas.org/TPD/CHL_EU/Modernization/Progress_EU-CHL_modernization_s.pdf.

20 http://www.sice.oas.org/TPD/CHL_EU/Modernization/Progress_EU-CHL_modernization_s.pdf.

21 http://www.ciechile.gob.cl/en/espanol-chile-y-hong-kong-inician-negociaciones-para-acuerdo-sobre-inversiones/.

22 http://www.sice.oas.org/whatsnew_pending/Progress_CHL_PHI_to_negotiate_FTA_s.pdf.

23 http://trade.ec.europa.eu/doclib/press/index.cfm?id=1435.

24 http://www.finchannel.com/index.php/world/georgian-news/item/53009-negotiations-on-signing-free-trade-agreement-between-georgia-and-china-launched.

25 http://www.meti.go.jp/english/press/2016/0115_01.html; http://english.motie.go.kr/?p=6257.

26 http://www.chinadaily.com.cn/bizchina/2015-11/07/content_22396812.htm.

27 http://ec.europa.eu/trade/policy/countries-and-regions/countries/australia/.

28 http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf.

29 https://www.tvnz.co.nz/one-news/new-zealand/nz-eu-trade-deal-talks-progressing.

30 http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf.

31 http://en.interfax.com.ua/news/economic/324778.html.

During the reporting period, negotiations on megaregional initiatives continued.[32] These include the launch of negotiations for the African Continental Free Trade Area (CFTA)[33], negotiations of the Regional Comprehensive Economic Partnership (RCEP) involving 16 countries[34] and the *European Union-United States* Transatlantic Trade and Investment Partnership (TTIP). More specifically:

- CFTA: The African Union launched the negotiations for CFTA on 22-26 February 2016 in Addis Ababa, Ethiopia.[35] The agreement is expected to cover investment.
- TTIP: During the 11th round of TTIP talks (20-23 October 2015, Miami, United States) negotiators discussed all three pillars of the agreement, namely market access, regulatory cooperation and trade rules.[36] A 12th round of talks took place in Brussels, Belgium on 22-26 February 2016, which focusEd on regulatory cooperation and rules of trade.[37]
- RCEP: The 10th round of negotiations of RCEP (12-16 October 2015 in Pusan, South Korea) included meetings of the Trade Negotiating Committee and of working groups on trade in goods, trade in services, investment, economic and technical cooperation, intellectual property, competition, legal and institutional issues.[38] A subsequent, 11th round of negotiations took place from 15-19 February 2016 in Brunei, resulting in announcements of the probable conclusion of RCEP negotiations in 2016.[39]

5. Other IIA-related developments

In addition to the conclusion, entry into force and negotiation of IIAs, there were a number of other important developments related to international investment policies at the national, regional, plurilateral and multilateral levels. The following is a non-exhaustive overview.

National level

India's new model BIT adopted [40]

India's new model BIT was approved by the Union Cabinet (the Prime Minister and the Cabinet Ministers) in mid-December 2015. Notable are the absence of an MFN clause as well as the inclusion of carve-outs, safeguards and clarifications covering a different issues and a variety of policy areas (e.g. exclusion of portfolio investment from the definition of investment, exclusions of government procurement, taxation, subsidies, and compulsory licenses from the treaty scope, replacement of the FET standard with a list of State obligations under customary international law and a clarification of indirect

32 Megaregionals are broad economic agreements among a group of countries that have a significant combined economic weight and in which investment is one of the key subject areas covered. Taking seven of these negotiations together, they involve a total of 88 developed and developing countries. If concluded, they are likely to have important implications for the current multi-layered international investment regime and global investment patterns. See UNCTAD, World Investment Report (WIR) 2014, p. 119. http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf.

33 An initiative of the African Union, aiming at the consolidation of regional economic agreements in Africa.

34 This includes the 10 members of ASEAN and the six countries with which ASEAN has existing FTAs – Australia, China, India, Japan, the Republic of Korea and New Zealand.

35 http://www.voanews.com/content/african-union-launches-continental-free-trade-zone-negotiations/2823357.html.

36 http://trade.ec.europa.eu/doclib/press/index.cfm?id=1389&title=11th-round-of-TTIP-talks-brought-progress-in-most-areas-of-the-negotiations.

37 http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154325.pdf.

38 http://www.meti.go.jp/english/press/2015/1008_01.html.

39 https://en.wikipedia.org/wiki/Regional_Comprehensive_Economic_Partnership#Round_10:_October_2015_in_South_Korea; http://dfat.gov.au/trade/agreements/rcep/Pages/regional-comprehensive-economic-partnership.aspx; http://world.kbs.co.kr/english/news/news_Ec_detail.htm?No=116886; http://www.bt.com.bn/news-national/2016/02/16/negotiators-optimistic-over-rcep-final-deal.

40 http://www.thehindubusinessline.com/news/cabinet-approves-new-bilateral-investment-treaty-model/article7996934.ece; The model text is available on UNCTAD's Investment Policy Hub: http://investmentpolicyhub.unctad.org/Download/TreatyFile/3560.

expropriation). The model includes provisions on investor compliance with the State parties' laws and on CSR. It requires the exhaustion of domestic remedies before ISDS may be commenced and mentions the possibility of establishing an appellate body to review awards rendered by investment tribunals.

Six Indonesian IIA terminations came into effect

Since 2014, *Indonesia* has unilaterally discontinued over 20 of its BITs. During the reporting period, the termination of six BITs came into effect. These are Indonesia's BITs with *Cambodia* (terminated on 7 January 2016), *Hungary* (terminated on 12 February 2016), *Lao People's Democratic Republic* (terminated on 13 October 2015), *Romania* (terminated on 7 January 2016), *Turkey* (terminated on 7 January 2016) and *Viet Nam* (terminated on 7 January 2016). In respect of investments made prior to the date of termination, the provisions of the agreements will remain in force for different "survival" periods.

Regional and plurilateral levels

The European Union's new approach to IIA substantive provisions and dispute settlement [41]

In November 2015, the European Commission proposed a new approach to substantive IIA clauses and ISDS. Some of these documents are part of the negotiating proposals for the TTIP and future IIAs. Key features of the new approach include the protection of the right to regulate and the establishment of a new investment tribunal system, which would consist of a first instance tribunal and an appeal tribunal, both composed of members appointed by the contracting parties and subject to strict ethical standards.

Southern African Development Community (SADC) Member States review the SADC Model BIT

SADC Member States are currently engaged in a review of the 2012 model BIT. A first meeting discussing the review was held on 15-16 February 2016 in Johannesburg, South Africa. The current model, as it stands, includes innovative provisions that aim to balance the rights and obligations of foreign investors and reflect some of the key developments in international investment policymaking, especially with regard to increasing regulatory flexibility for public policy objectives, and improving investment dispute settlement. The objectives of the review are to assess and improve the model BIT's role as a guidance document in view of recent developments in investment treaty law, the ongoing developments at the inter-regional and continental level in Africa, and the directions taken at the national level regarding investment policies.

Pan-African Investment Code negotiations continued [42]

The African Union is currently developing a Pan African Investment Code (PAIC), expected to include innovative provisions aimed at balancing the rights and obligations of African host States and investors. An expert meeting on its review and consideration was held on 30 November – 2 December 2015 in Kampala, Uganda.

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41 European Commission, Investment in TTIP and beyond- the path for reform, Concept Paper (12 May 2015) available at http://trade.ec.europa.eu/doclib/docs/2015/may/tradoc_153408.PDF, European Commission, Official proposal for Investment Protection and Resolution of Investment Disputes under the Transatlantic Trade and Investment Partnership (TTIP) (12 November 2015) available at http://trade.ec.europa.eu/doclib/docs/2015/november/tradoc_153955.pdf, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1396, http://europa.eu/rapid/press-release_MEMO-15-6060_en.htm.

42 http://www.au.int/en/pressreleases/19402/uganda-hosts-continental-consultative-meeting-review-pan-african-investment-code.

The Trade in Services Agreement (TISA) negotiations continued [43]

Negotiations for TISA are currently conducted by 24 members of the World Trade Organization (WTO). The 15th round of talks for TISA took place on 29 November – 4 December 2015 in Geneva, Switzerland. It brought together 24 parties. Following substantial inter-sessional work, negotiators aimed at stabilizing some of the most important chapters: domestic regulation, transparency in legislative processes, and financial services.[44] The 16th round of negotiations took place on 31 January – 5 February 2016 in Geneva, Switzerland. The negotiating parties aim at having the agreement's text finalized by September 2016.[45] The next round of negotiations is scheduled for the second week of April 2016.[46]

New G20 Work Stream on Trade and Investment [47]

In January 2016, the G20 launched a new work stream on trade and investment. The G20 requested the Organisation for Economic Co-operation and Development (OECD), UNCTAD, the World Bank and the WTO to support this new work stream, with UNCTAD coordinating the inter-agency working group on the investment issues. The G20 is an important player in international investment matters. Today it accounts for over half of global inward FDI and more than two-thirds of global outward FDI in terms of both flows and stocks. G20 members also play a key role in international investment policymaking, being party to almost half of the global IIAs. UNCTAD has a long-standing role in supporting the G20's work on investment in the context of its contributions to the Development Working Group (food security, private investment and job creation) and the work stream on investment and infrastructure, as well as green investment. UNCTAD has also been called upon by the G20 to regularly monitor G20 investment policymaking developments (together with the OECD).

Multilateral level

Accession of Iraq to the ICSID Convention [48]

On 17 November 2015, Iraq signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention).

Forum on Business and Human Rights (16-18 November 2015, Geneva, Switzerland) [49]

In November 2015, the fourth edition of the Annual Forum on Business and Human Rights held in Geneva gathered some 2,300 stakeholders to discuss the theme of "Tracking Progress and Ensuring Coherence" in the implementation of the United Nations Guiding Principles on Business and Human Rights.[50] Among others, participants explored ways in which the current trend in investment policy reform could serve as an opportunity to implement the Guiding Principles and integrate human rights into investment policymaking.

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43 The 24 WTO members that are taking part in the TISA talks are Australia, Canada, Chile, Taiwan Province of China, Colombia, Costa Rica, the European Union, Hong Kong China SAR, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Turkey and the United States.

44 http://trade.ec.europa.eu/doclib/press/index.cfm?id=1406&title=EU-to-use-its-chairmanship-of-TiSA-talks-on-services-to-push-for-major-progress.

45 http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154306.doc.pdf.

46 http://trade.ec.europa.eu/doclib/docs/2016/february/tradoc_154306.doc.pdf.

47 For further information see the Investment Policy Hub, UNCTAD's IIA Navigator: and UNCTAD's G20 Investment Fact Sheet http://investmentpolicyhub.unctad.org/IIA , http://investmentpolicyhub.unctad.org/News/Hub/Archive/453.

48 https://icsid.worldbank.org/apps/ICSIDWEB/Pages/News.aspx?CID=172&ListID=74f1e8b5-96d0-4f0a-8f0c-2f3a92d84773&variation=en_us.

49 https://icsid.worldbank.org/apps/ICSIDWEB/Pages/News.aspx?CID=172&ListID=74f1e8b5-96d0-4f0a-8f0c-2f3a92d84773&variation=en_us.

50 http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2015ForumBHR.aspx.

21st UN Conference on Climate Change and Paris Agreement (30 November – 12 December 2015, Paris, France)[51]

The 21st UN Conference on Climate Change took place in Paris, France, at the end of 2015. As a result the Paris Agreement was adopted on 11 December and is expected to be formally signed in 2016. The agreement sets a number of objectives for mitigating climate change, limiting the amount of greenhouse gases and establishing a country-by-country review mechanism. While the Paris Agreement encourages richer countries to provide "climate finance" for poorer ones to meet the set objectives, achieving these goals will require substantial private sector investment. UNCTAD's 2014 World Investment Report and its 2015 Investment Policy Framework for Sustainable Development both include an action menu for mobilizing investment and channelling it to sustainable development related priority sectors.

UNCTAD's Investment Facilitation Action Menu (26 January 2016)[52]

In January, UNCTAD launched its Action Menu on Investment Facilitation. The Action Menu aims to help countries address ground-level obstacles to investment such as a lack of transparency on legal or administrative requirements faced by investors, lack of efficiency in the operating environment, and other factors causing high costs of doing business. The UNCTAD Action Menu consists of ten action lines with a series of options for investment policymakers to adapt and adopt for national and international policy needs: the package includes actions that countries can choose to implement unilaterally, and options that can guide international collaboration or that can be incorporated in international investment agreements. The draft Action Menu is based on UNCTAD's Investment Policy Framework – which proposed action on Investment Facilitation in its first edition in 2012 – and rich experiences and practices of investment promotion and facilitation efforts worldwide over the past decades. The draft Action Menu is available for comments on the Investment Policy Hub; revisions are being made to take into account these comments.

51 http://www.cop21.gouv.fr/.

52 The UNCTAD Facilitation Action Menu, available at: http://investmentpolicyhub.unctad.org/Blog/Index/51.

ANNEX 1. Investment policy measures taken between 1 October 2015 and 29 February 2016

	Description of Measure	Date	Source
Australia			
Entry	Australia's revised foreign investment regime came into force on 1 December 2015, following the passage of the Government's "Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015". According to the Government, it provides a stronger enforcement and a better-resourced system with clearer rules for foreign investors. The major changes are: (1) The Australian Taxation Office (ATO) receives greater compliance powers in real estate purchases and new penalties are introduced for those breaking the rules. (2) Introduction of fees for foreign investment applications. (3) Establishment of an agricultural land foreign ownership registration. (4) Reduction of the screening threshold for proposed foreign purchases of agricultural land by private investors to $ 15 million.	1 December 2015	Media Release, The Treasury of Australia, 1 December 2015
Azerbaijan			
Entry	On 18 January 2016, the President of the Republic of Azerbaijan signed a Decree approving the rules for the issuance of an "Investment Promotion Document" ("IPD") which will serve as a basis for granting tax and customs benefits. The issuance of an IPD will be dependent on the industry sectors where investments will be made, the minimum capital amount of investment and the geographic location of the proposed project. The tax and customs benefits associated with an IPD may include: exemption from income (profits) tax of 50%, exemption from VAT on imported hardware, technological equipment and structures, exemption from assets tax and land tax, exemption from customs duties of hardware, technological equipment and structures imported by persons involved in investment activities. All of the above benefits will be restricted to 7 years of the date of the issuance of the IPD.	18 January 2016	Dentons Law Firm Article, "New rules on Investment Promotion in Azerbaijan", 21 January 2016
Entry	On 19 January 2016, the government imposed a 20% tax rate on foreign-currency outflows linked to direct investment abroad and the purchase of real estate or securities abroad.	19 January 2016	Economist Intelligence Unit, "Government imposes currency controls", 20 January 2016
China			
Entry	On 28 October 2015, the Chinese Ministry of Commerce issued Order No. 2 of 2015 on Revising Certain Regulations and Regulated Documents. The Order modified 29 circulars related to foreign investments with the aim of simplifying the capital registration system for companies in China. The main areas of reform are the following; (1) Minimum registered capital requirements on foreign investment in certain industries and for companies limited by shares have been abolished. (2) Certain rules governing foreign invested holding companies have been changed. (3) Capital verification reports issued by Chinese certified public accountants will generally no longer be required. (4) In some cases, a mere filing certificate replaces the traditional Foreign Investment Approval Certificate. (5) The "foreign-invested enterprise joint annual inspection" is confirmed as abolished.	28 October 2015	Policies Announcement, Ministry of Commerce, 5 November 2015

European Union			
Entry	Further to the United Nations Security Council Resolution 2231 (2015) and EU Council Decision (CFSP) 2015/1863 amending EU Council Decision 2010/413 concerning restrictive measures against Iran, the Council of the European Union has decided, as of 16 January 2016, to terminate the implementation of the EU nuclear-related economic and financial sanctions against Iran. In particular, in the oil and gas sectors, EU companies will be able to create joint ventures with Iranian enterprises, as well as acquire and extend their participation in Iranian enterprises engaged in oil and gas refining, exploration and production. Iranian banks will be allowed to open branches, take interest and establish joint ventures in EU Member States, while financial institutions within the territories of Member States will be allowed to open representative offices, subsidiaries and banking accounts in Iran.	16 January 2016	Official Journal of the European Union, Council Decision (CFSP) 2016/37, 16 January 2016 UN Security Council resolution 2231, 20 July 2015
Greece			
Entry	On 31 December 2015, the Hellenic Republic Asset Development Fund signed a final agreement with the Arab-Turk investment fund, Jermyn Street Real Estate, for the sale of Astir Palace, a seaside resort. The whole privatization process is expected to be completed within the first half of 2016.	31 December 2015	Press Release, Hellenic Republic Asset Development Fund, 3 January 2016
Hungary			
Entry	The Government has started auctioning state-owned farmland as part of its plan to privatize around two-thirds (378,000ha) of the agricultural land that is currently publicly owned with the expectation to collect up to US$1.06 billion in proceeds by mid-2016. The privatization process will place similar restrictions on potential buyers to those currently limiting land ownership in Hungary. In particular, buyers must be Hungarian citizens who have lived, for at least the past three years, within 20km of the land offered for sale; they must have farming experience or formal farming education, and they would not be authorized to resell land bought in the privatization process for a period of 20 years.	2 November 2015	Economist Intelligence Unit, “Government launches farmland privatization”, 2 November 2015
India			
Entry	On 30 October 2015, the Reserve Bank of India issued a notification to amend the Foreign Exchange Management Regulations (Tenth Amendment) to provide clarifications for computing total foreign investment. According to this amendment, when computing total foreign investments in an Indian company, all types of foreign investments, direct or indirect, made under various schedules in the Regulations (other than on non-repatriation basis) shall be included. However, Foreign Currency Convertible Bonds and Depository Receipts, having underlying instruments which can be issued under the Regulations, being in the nature of debt, will be treated as direct or indirect foreign investment only on conversion of debt into equity holding by a person resident outside India.	30 October 2015	G.S.R.No.823(E), Official Gazette of Government of India, 30 October 2015
Entry	On 10 November 2015, the Government has relaxed Foreign Direct Investment rules in 15 major sectors, which among others included agriculture, civil aviation, construction, defence, manufacturing and mining. Changes introduced in the policy include increase in sectoral caps, bringing more activities under automatic route and easing of conditionalities for foreign investment. (e.g. manufacturing, construction, broadcasting, defence) Further, new industries have also been opened to foreign investments. (e.g. some plantation sector)	10 November 2015	Press Note No. 12 (2015 Series), Department of Industrial Policy & Promotion, 24 November 2015

Indonesia			
Promotion/ Entry	On 26 October 2015, Indonesia introduced a 3-hour licensing process for certain categories of investors planning to open businesses. This service will allow prospective investors to have their preliminary permits, including a permit for land use processed at BKPM (Indonesia Investment Coordinating Board)'s one-stop integrated service within three hours. After obtaining these permits, investors whose projects are located within industrial estates designated by the BKPM could start project construction immediately, even before the issuance of a construction permit from the local government. To be able to enjoy the quick licensing program, investors must invest at least Rp 100 billion and employ at least 1,000 workers.	26 October 2015	Website from the Investment Coordinating Board (BKPM), 16 October 2015
Entry	The President of Indonesia signed a new government regulation (No. 103/2015 on House Ownership of Foreigners Residing in Indonesia) on 22 December 2015. It allows foreigners to own houses in Indonesia for up to 80 years. Effective from 28 December 2015, the regulation states that foreigners can buy a house under the right-of-use category initially for up to 30 years. After this period, the ownership may be extended twice, once by 20 years and then by a further 30 years. Under previous rules, foreigners could buy houses for 25 years, and extend for a further 25 years. Foreigners eligible to own houses in Indonesia are still required to live or work in Indonesia or in other ways bring advantage to the country.	22 December 2015	Website from Secretary Cabinet, 12 January 2016
Entry	On 11 February 2016, Indonesia introduced a comprehensive liberalisation plan for foreign investment in various sectors. The government will allow foreign investors to hold 100 per cent stakes in 35 business lines, including tourism, film and cold storage by removing those business lines from the "negative investment list". Also, the maximum foreign-investment limit in golf courses, health support services and airport support will be raised to 67 per cent. However the government will add 19 business lines, including low-tech construction and coral reef harvesting for construction materials, to the list of industries with foreign investment restrictions.	11 February 2016	Reuters, "Indonesia unveils 'big bang' for foreign investment, boldest move in 10 years", 11 February 2016
Italy			
General Business Climate	On 22 September 2015, Legislative Decree n.147 of 2015, with measures for the growth and the internationalization of enterprises (the Internationalization Decree) was published in the Official Gazette. As part of the ongoing Italian tax reform, the Decree aims at simplifying tax rules for cross-border business in both inbound and outbound scenarios as well as providing certainty and stability of tax rules to attract foreign investment. The Decree revises and expands, inter alia, the scope of the specific type of tax agreement (formerly addressed as "International Ruling") available for companies with international operations; it introduces a new type of ruling, available to both resident and nonresident companies, for investments of at least €30 million and with a significant and durable impact on employment in relation to the specific business activity; and it also clarifies that transfer pricing rules set forth by the Italian Income Tax Code do not apply to transactions occurred between resident entities. The Internationalization Decree is effective as of 7 October 2015.	7 October 2015	EY Global Tax Alert, "Italy issues major changes to international tax rules", 28 September 2015

Entry	Between 12 and 23 October 2015, the Italian Ministry of Economy and Finance - the sole shareholder of the mail-based conglomerate Poste Italiane - initiated a partial privatization of 38.2 per cent of the share capital in the company. The privatization process was carried out through an offering comprising a public offering to retail investors in Italy and employees of the company and its subsidiaries (30 per cent of the global offering), and an international offering to institutional investors in Italy and abroad representing 70 per cent of the global offering.	27 October 2015	The Newspaper of Public Administration, 26 October 2015
Japan			
Entry	The Japanese government succeeded with the initial public offering (IPO) of 'Japan Post' on 4 November 2015. Three Japan Post units - Japan Post Bank, Japan Post Insurance and the parent Holdings company - listed 11 per cent of their shares in each of the firms on the Tokyo Stock Exchange.	4 November 2015	Reuters, "Japan Post firms make bumper debut after $12 bln triple IPO", 4 November 2015
Kazakhstan			
Entry	On 30 December 2015, the government lifted the monopoly under which previously only the Altel company - a subsidiary of the state-owned telecoms provider, Kazakhtelecom - had the right to provide 4G services. The government will henceforth grant licences on existing and new frequencies for 4G services to all of Kazakhstan's four mobile telephone providers.	30 December 2015	Economist Intelligence Unit, " Government lifts monopoly on 4G services", 14 January 2016
Promotion	On 5 November 2015, the Parliament of Kazakhstan approved the Law on the Astana International Financial Center (AIFC). The AIFC will be a Special Economic Zone, offering tax incentives to attract investors. These will include a 50-year exemption from corporate tax on revenue earned at the centre, on income tax on salaries and dividends for staff working there, and an exemption on value-added tax (VAT) on goods purchased at the centre for non-resident participants. There will also be exemptions for employers from the requirement of acquiring work permits for foreign employees; foreign staff, investors and their families will receive automatic five-year visas, which will exempt them from the process of reapplying for work visas each year.	5 November 2015	Economist Intelligence Unit, "Plans for new Astana financial centre approved", 26 November 2015
Promotion	The "One Stop Shop" approach was piloted in 2015 to provide assistance for investors implementing priority investment projects. Starting from 1 January 2016, all investors have the possibility to interact with authorities on the basis of the "One Stop Shop" approach and apply for more than 360 different permits and licenses. The "One Stop Shop" service aims to facilitate investment activities and reduce administrative barriers.	1 January 2016	Note from Ministry of National Economy, 3 January 2016
General Business Climate	In November 2015, the President signed into law a new Labour Code and a new Entrepreneurial Code. These have come into force on 1 January 2016. The new Labour Code grants employers greater discretion in relation to dismissals and redundancies, and removes some protections that workers previously enjoyed. The new Entrepreneurial Code is intended to improve co-ordination between the government and business, and to allow business to participate more actively in the legislative process.	1 January 2016	Economist Intelligence Unit, "Government amends labour laws", 18 December 2015

Kenya			
Promotion	The Law on Special Economic Zones (SEZs) entered into force on 15 December 2015. Unlike the existing Export Processing Zones, which have a narrow range of permitted activities, the SEZs have a broader scope. Licensed firms will benefit from a range of tax concessions, and a reduced corporate tax rate: instead of the standard 30 per cent rate, SEZ firms will pay 10 per cent for ten years, rising to 15 per cent for the next ten years. SEZ firms, which must be incorporated in Kenya, will also enjoy concessions on work permits for skilled expatriates. Some SEZs will offer specific benefits, such as cut-priced electricity at Naivasha, owing to the proximity of geothermal power sources. Similarly, an agro-processing SEZ may be established near a major irrigation project. Key decisions, including the award of licences, will be taken by a special SEZ authority.	15 December 2015	Economist Intelligence Unit, "Kenya economy: Quick View - Special Economic Zones to launch", 23 December 2015
Korea, Republic of			
General Business Climate	On 12 November 2015, the National Assembly passed a bill to amend the Commercial Code, permitting certain M&A structures that were previously not allowed in Korea. The amendments additionally permit (1) the use of the reverse triangular merger, and (2) the use of the triangular merger for the acquisition of a spun-off business, in addition to the existing triangular merger. The amendments also include other measures intended to facilitate corporate restructuring and investment activities. The new code will become effective in March 2016.	12 November 2015	The Korea Herald, "Restructuring boon for M&A market", 31 December 2015
Malawi			
Entry	The Minister of Foreign Affairs of Malawi disclosed in February 2016 at a news conference in Lilongwe, that the President of the country has lifted the ban on the oil and gas exploration exercise on Lake Malawi which has been in place since 2015. The lifting of the ban will now allow oil and gas firms to start prospecting for hydro-carbons.	12 February 2016	The Nyasa Times, "Malawi's President lifts ban on oil exploration", 12 February 2016
Myanmar			
Entry	On 11 November 2015, Myanmar's Commerce Ministry issued Notification No. 96/2015 which allows the import and trade of specific products, namely fertilizers, insemination seeds, insecticides and hospital equipment. However, foreign investors engaging in such activities are required to operate as joint ventures with local firms.	11 November 2015	Deal Street Asia, "Myanmar allows foreign players to set up JVs for trading in farm, medical products", 27 November 2015
Entry	On 17 December 2015, the Parliament approved the new Investment Law, consolidating and replacing the 2012 Foreign Investment Law and the 2013 Myanmar Citizens Investment Law. According to the new law, the Myanmar Investment Commission (MIC) is now authorized to delegate some investment approval decisions to state and regional authorities, aiming to pave the way for speedier investment approvals. The new law also added some human rights protections to future foreign investment projects.	17 December 2015	The IRRAWADDY, "After Much Deliberation, Investment Law Approved by Parliament", 18 December 2015

Entry Treatment	On 24 December 2015, the Union parliament adopted a new Mines Law (Law No. 72/2015) to amend the Mines Law of 1994. This law introduced several major reforms favourable to foreign investors, including: (1) changing the practice of mandatory production sharing agreements, which used to guarantee the government about 30 per cent of the mineral, by introducing a new mechanism allowing the state to opt for equity interest in projects; (2) capping royalties at 5 per cent for gold, platinum and uranium (and less for silver, copper, nickel, coal and other industrial minerals); (3) extending the maximum production permit period for large scale extraction/production to 50 years; (4) allowing foreign investors to enter into joint ventures with domestic miners to expand small- and medium-scale projects into large-scale operations.	24 December 2015	Asian Journal of Mining, "2015 Mines Law: A step in the right direction for Myanmar's mining industry ", 15 February 2016
Promotion	On 29 December 2015, the Parliament of Myanmar passed a motion to commence the development of the Kyaukphyu Special Economic Zone (SEZ). Kyaukphyu SEZ is a 1,600 hectares area in Rakhine State and is planned to be developed as a "trade corridor" between China and Myanmar.	29 December 2015	Economist Intelligence Unit, "Parliament hands festive gifts to businesses", 7 January 2016
Treatment	On 5 January 2016, the Union Parliament of Myanmar passed a new Arbitration Law (Law No. 5/2016). The new law provides a comprehensive legal framework for the conduct of domestic and international arbitration arising in Myanmar. This law gives effect to Myanmar's ratification (in April 2013) of the "Convention on the Recognition and Enforcement of Foreign Arbitral Awards" (also known as the New York Convention).	5 January 2016	Allen & Overy, "Reform of the arbitration law in Myanmar - the wait is over", 2 February 2016
Entry	On 22 January 2016, Myanmar's Union Parliament passed the Condominium Law that will permit foreigners to own up to 40 per cent of a condo building. The Condominium Law applies to high-rise residential buildings having at least six floors which should be built on an area larger than 20,000 square feet. While foreigners are allowed to own a condo up to 40 per cent, the law stipulates that foreigners are not permitted to 'manage' condos.	22 January 2016	Economist Intelligence Unit , "Door now ajar for foreign property buyers", 27 January 2016
Nicaragua			
Entry	The Government of Nicaragua has denied a permit to a unit of Canada's B2Gold for a gold-mining project due to environmental concerns. Environmental experts concluded that the project, which the company has been exploring for three years, is not viable because it would negatively impact nearby communities and water sources.	10 December 2015	Ministry of Environment and Natural Resources, 12 October 2015
Portugal			
Entry	The new Government of Portugal has decided to cancel the concession agreement signed between the previous Portuguese government and the Spanish group Avanza granting it the right to operate Lisbon's and Porto's public transportation system.	7 January 2016	Le Soir news, "Portugal: le gouvernement annule la privatisation des transports urbains", 7 January 2016

Russian Federation			
Entry	On 14 October 2014, the President of the Russian Federation signed the law which prohibits ownership or control over 20 per cent in the share capital of media companies by the following persons: foreign States, international organisations, Russian nationals who have a nationality of another State, foreign natural and legal persons, as well as Russian legal persons that are more than 20 per cent foreign-owned. Exceptions to this rule can only be set out by an international treaty to which the Russian Federation is a party. The law has entered into force on 1 January 2016.	1 January 2016	Federal Law No 305-FZ, 14 October 2014
Saudi Arabia			
General Business Climate	On 9 November 2015, the Council of Ministers approved the new Companies Law (1437H/2015G) to enhance the regulatory environment for business. The new law will come into force on 2 May 2016 - 150 days after its publication in the Official Gazette. The key changes include: 1) The minimum number of shareholders for Limited Liability Companies (LLC) is reduced from two to one, with some restrictions applying (e.g. a natural person may not establish more than one single-shareholder LLC). 2) For LLCs, the minimum total statutory reserve is reduced from 50 per cent to 30 per cent of the company's share capital. 3) Two partners can establish a Joint Stock Company (JSC) instead of a minimum of five partners. However, the government, juridical public entities, companies wholly owned by the government, and companies with a capital of more than 5 million Saudi Riyals will be able to establish a JSC with just a single shareholder. 4) The minimum capital for setting up a joint stock company has been reduced from 2 million Saudi Riyals to 500,000 Saudi Riyals.	9 November 2015	Shearman & Sterling LLP, "New Saudi Companies Law Approved", 16 December 2015
Republic of Serbia			
Treatment	On 23 October 2015, the General Assembly of the Republic of Serbia passed a new Investment Law ("Official Gazette of the Republic of Serbia", no.89/2015) which has come into force on 4 November 2015. The main elements of the new law include: 1) Equal treatment for foreign and domestic investors. 2) Differentiation between investments of special importance and those of local importance. 3) Right to investment incentives, such as state aid, tax incentives, customs incentives, as well as incentives covering compulsory social security obligations. 4) Duty free import of equipment that a foreign investor contributes (subject to a few exceptions). 5) In cases of expropriation, investors will be entitled to compensation not only for the seized real property but also for any devaluation of business caused by such expropriation. 6) Disputes may be settled before domestic courts and arbitral tribunals. 7) The Serbian Investment and Export Agency (SIEPA) will be abolished and replaced by a Serbian Development Agency and a Council for Economic Development.	23 October 2015	Wolf Theiss Client Alert, "SERBIA: NEW LAW ON INVESTMENT", 20 November 2015

South Africa			
Treatment	The "Protection of Investment Act" was approved by the President on 13 December 2015. It replaces lapsed bilateral investment treaties. Further, it provides that "Existing investments that were made under such treaties will continue to be protected for the period and terms stipulated in the treaties. Any investments made after the termination of a treaty, but before promulgation of this Act, will be governed by the general South African law." It also provides that "the government may consent to international arbitration in respect of investments covered by the Act, subject to the exhaustion of domestic remedies." However, such "arbitration will be conducted between the Republic and the home state of the applicable investor."	13 December 2015	Government Gazette No. 39514, 15 December 2015
United States of America			
Promotion/ Entry	On 18 December 2015, President Barack Obama signed a law easing tax on foreign investment in U.S. real estate and abolished the provision, known as 1980 Foreign Investment in Real Property Tax Act (FIRPTA). Foreign pension funds are treated as their U.S. counterparts for real estate investment under the new law. In addition, it allows foreign pension funds to acquire as much as 10 per cent of a U.S. publicly traded real estate investment trust - up from 5 per cent previously.	18 December 2015	Bloomberg, "U.S. Eases 35-Year-Old Real Estate Tax on Foreign Investors", 18 December 2015
Entry	On 16 January 2016, the United States Department of the Treasury's Office of Foreign Assets Control (OFAC) issued several documents, formally lifted nuclear-related sanctions, including banking, steel, shipping and other sanctions on Iran, under the implementation of the JCPOA (Joint Comprehensive Plan of Action). As a result, non-U.S. individuals or entities are no longer subject to sanctions for investing in Iran's oil, gas, or petrochemical sectors (including through participation in joint ventures), provided that transactions do not involve persons on the Specially Designated Nationals list or certain conduct.	16 January 2016	Website from U.S. Department of the Treasury, 16 January 2016
Viet Nam			
Entry	The government recently passed a new decree (No. 102/2015/ND-CP), which has come into effect on 12 December 2015. According to this decree, private investors will be allowed to purchase rights to manage Vietnamese airports and provide some ground services such as fuel supply, flight information, and airfield operation. Only Vietnamese businesses are eligible, but foreign investors can join them, with the maximum stake capped at 30 per cent. Meanwhile, the government will hold at least a 65 per cent stake in service providing companies that it deems important or strategic. Air traffic control, research and rescue services will be strictly off-limits to private and foreign investors.	26 October 2015	The Voice of Vietnam, "Government issues decree on airport management", 28 October 2015

Entry	On 12 November 2015, the government issued Decree No 118/2015/ND-CP providing guidelines for the Investment Law 2014. According to this decree, which is effective from 27 November 2015, foreign investors who buy shares in or contribute capital to economic organisations are not subject to investment registration procedures. However, foreign investors still need to register with the planning and investment departments in localities where the economic organisations are headquartered, in the following cases: 1) The economic institutions engage in business areas where certain conditions for foreign investment stipulated by the authorities exist. 2) The stake acquisition or capital contribution increases the share of foreign investors in the economic institutions from below 51 per cent to 51 per cent or more; or from 51 per cent to higher levels.	12 November 2015	Viet Nam News, "Decree eases foreign investment red tape", 25 November 2015
Entry	On 25 January 2016, the government issued Decree 07/2016/ND-CP, guiding the implementation of the Commercial Law 2005 on the establishment of Viet Nam-based foreign representative offices and branches. Under the new decree, foreign traders are allowed to establish their representative offices and branches in accordance with Viet Nam's commitments to international treaties. A foreign trader is prohibited from forming more than one foreign representative office and branch with a similar name in a province or a city. The old decree (Decree No. 72/2006/ND-CP) dated 25 July 2006 shall expire as of 10 March 2016 and be replaced by the new decree.	25 January 2016	Online Newspaper of the Viet Nam Government, 1 February 2016
Zambia			
Entry	The Zambian government has lifted a ban on the issuance of new mineral exploration licences and introduced a new mineral royalty tax (MRT), which replaces the fixed rates of 6 per cent for underground mines and 9 per cent tax for open cast mines. The MRT will now vary between 4 per cent and 6 per cent, depending on prevailing world copper prices. Zambia also suspended the 10 per cent export duty on ores and concentrates and removed the variable profit tax for mining operations, but retained the 30 per cent corporate tax rate.	29 February 2016	Economist Intelligence Unit, "Government amends mining legislation and taxes", 26 February 2016
Zimbabwe			
Entry	Following an announcement by the Governor of the Reserve Bank of Zimbabwe, foreign investors will be allowed to own up to 49 per cent of companies listed on the Zimbabwe Stock Exchange. The Bank's Governor said the limit on foreign ownership would be increased from the current threshold of 40 per cent, while other measures would be introduced to stem the flow of foreign currency out of the country, improve the production of natural resources and tackle illicit activity. According to the monetary policy statement, the 40 per cent mark was reviewed and increased to 49 per cent "in order to align the Exchange Control threshold of 40% to the indigenisation policy framework".	4 February 2016	African Law and Business, "Foreigners allowed to own up to 49% of Zimbabwean companies", 5 February 2016

ANNEX 2. List of IIAs signed between 1 October 2015 and 29 February 2016

	Name of Agreement	Date of Signature
1	Cooperation and Facilitation Investment Agreement between Brazil and Colombia	9 October 2015
2	Free Trade Agreement between Singapore and Turkey	14 November 2015
3	Cooperation and Facilitation Investment Agreement between Brazil and Chile	24 November 2015
4	Agreement on Enhanced Partnership and Cooperation between the European Union and Kazakhstan	21 December 2015
5	Bilateral Investment Treaty between Cambodia and Hungary	14 January 2016
6	Trans-Pacific Partnership Agreement between Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States and Viet Nam	4 February 2016
7	Bilateral Investment Treaty between Japan and the Islamic Republic of Iran	5 February 2016
8	Bilateral Investment Treaty between Canada and Hong Kong, China SAR	10 February 2016
9	Bilateral Investment Treaty between Ethiopia and the United Arab Emirates	23 February 2016
10	Bilateral Investment Treaty between the Islamic Republic of Iran and Singapore	26 February 2016

ANNEX 3. Summary table of IIAs by type of agreement and country/economy, between 1 October 2015 and 29 February 2016

Country/Economy	BITs	"Other IIAs"
Australia		1
Brazil		2
Brunei Darussalam		1
Cambodia	1	
Canada	1	1
Chile		2
Colombia		1
Ethiopia	1	
European Union		1
Hong Kong, China SAR	1	
Hungary	1	
Iran, Islamic Republic of	2	
Japan	1	1
Kazakhstan		1
Malaysia		1
Mexico		1
New Zealand		1
Peru		1
Singapore	1	2
Turkey		1
United Arab Emirates	1	
United States		1
Viet Nam		1

ANNEX 4. List of IIAs that entered into force between 1 October 2015 and 29 February 2016

	Name of Agreement	Date of Signature	Date of Entry into Force
1	Bilateral Investment Treaty between Germany and Madagascar	1 August 2006	17 October 2015
2	Free Trade Agreement between Chile and Thailand	4 September 2013	5 November 2015
3	Free Trade Agreement between Australia and China	17 June 2015	20 December 2015
4	Free Trade Agreement between China and the Republic of Korea	1 June 2015	20 December 2015
5	Free Trade Agreement between the Republic of Korea and Viet Nam	5 May 2015	20 December 2015
6	Free Trade Agreement between New Zealand and the Republic of Korea	15 March 2015	20 December 2015

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