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HIGHLIGHTS

Thirty-six countries took 53 investment policy measures in the review period (May – October 2016). The large majority of measures related to the entry of foreign investment, with most of them liberalising in nature. Investment promotion and facilitation measures also played a significant role. Most measures were taken by developing countries and transition countries. New investment restrictions for foreign investors were mainly based on concerns about the local producers' competitiveness or other national interests, confirming a trend already observed in previous IPMs.

Among the most important policy measures are the adoption of new investment laws in Algeria, Myanmar, Namibia and Tunisia. Other important developments during the reporting period are the adoption of a comprehensive investment liberalisation strategy in India, a partial abolition of the approval system for the establishment of foreign enterprises in China and opening-up policies in various industries in Bahrain, Indonesia, Philippines and Saudi Arabia. Brazil reversed its decision to allow full foreign ownership for domestic airlines.

The universe of international investment agreements (IIAs) continues to expand. During the reporting period, countries concluded six IIAs, including four bilateral investment treaties (BITs) and two treaties with investment provisions (TIPs), bringing the total number of IIAs to over 3,320. At least four treaties entered into force, and a number of important negotiations are ongoing. An important IIA-related development occurred - the Comprehensive Economic and Trade Agreement (CETA) was signed by the European Union and Canada on 30 October 2016.

The reporting period was characterized by a landmark event, as G20 countries adopted Guiding Principles for Investment Policymaking. It is the first time in more than several decades of international investment policymaking that consensus has been reached between such a varied group of developed, developing and transition economies – representing over two thirds of global foreign direct investment.

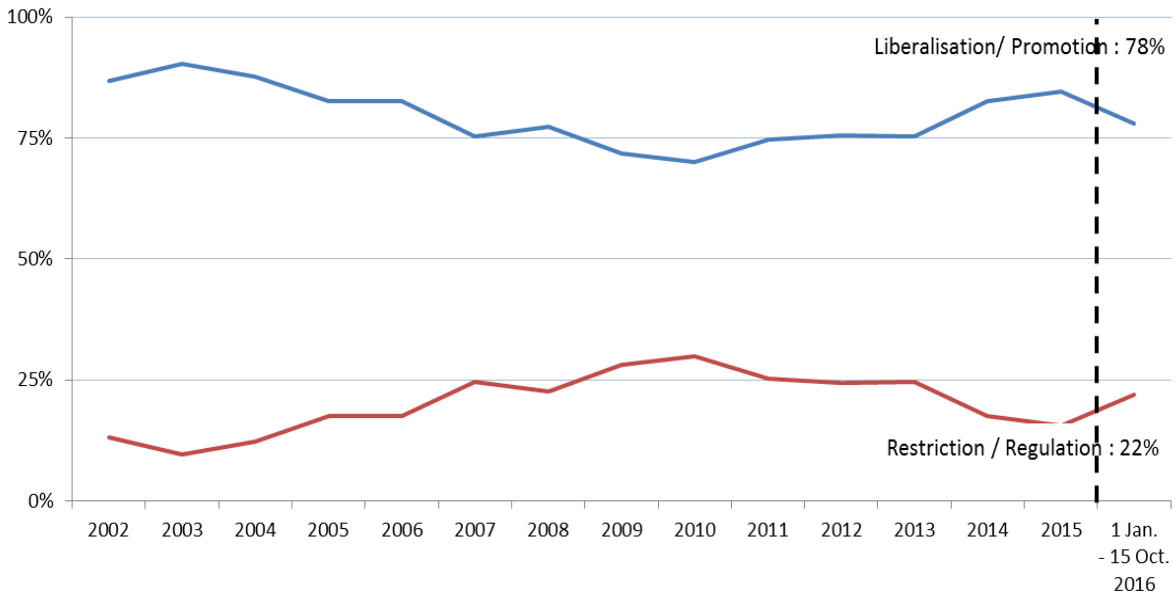
Sustainable development-oriented IIA reform remained high on the agenda. Among others it was discussed at UNCTAD's sixth World Investment Forum (WIF) and has informed treaty-making and treaty-revision processes at regional and bilateral levels.

A. National investment policies

As in previous review periods, the majority of new investment policy measures aimed at creating more favourable investment conditions (figure 1). In total, 53 measures were taken by 36 countries (table 1). Investment liberalization, promotion and facilitation measures were adopted in numerous industries, including aviation, finance, and wholesale and retail trade. New investment restrictions or regulations for foreign investors were mainly based on considerations of national interest.

The share of investment liberalisation, promotion and facilitation measures during the reporting period (1 May 2016 – 15 October 2016) attained 74 per cent, which is lower than the average in recent years. From 1 January to 15 October 2016, this share stands at 78 per cent.

Figure 1: Changes in national investment policies, 2002–15 October 2016[1]



Source: ©UNCTAD.

Table 1. Summary of national investment policy measures adopted between 1 May 2016 and 15 October 2016

	Entry (37)	Operational treatment (10)	Promotion and facilitation (9)	General business climate (3)
Algeria (*)		1	1	
Argentina	1			
Australia	4			
Bahrain	1			
Brazil	1			
Bulgaria	1			
Canada	1			
China	1			
Egypt			1	
Finland	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.

Germany		1		
Greece	1			
India	4			
Indonesia	1			
Jordan (*)	1		1	
Kenya	2		1	
Korea, Republic of			1	
Kuwait	1			
Lithuania				1
Mauritius			1	
Mexico	2			
Myanmar (*)	2	1		
Namibia (*)	1	1		
Niger		1		
Philippines	1			
Romania		1		
Russian Federation	2			1
Saudi Arabia	1			
Sudan	1			
Switzerland			1	
Tunisia (*)		1	1	
Ukraine (*)	4	1	1	1
United States of America	1			
Venezuela, Bolivarian Republic of		1		
Viet Nam		1		
Zimbabwe	1			

Source: ©UNCTAD.
* Measures are double-counted because they related to more than one type.

1. Entry/Establishment of investment

Twenty-four countries – *Argentina, Australia, Bahrain, Brazil, Bulgaria, Canada, China, Finland, Greece, India, Indonesia, Jordan, Kenya, Kuwait, Mexico, Myanmar, Namibia, Philippines, Russian Federation, Saudi Arabia, Sudan, Ukraine, the United States of America* and *Zimbabwe* – adopted new policy measures relating to the entry and establishment of foreign investors. In their majority, they relaxed restrictions on foreign ownership or opened up new business opportunities.

Among the most noteworthy investment liberalisation measures are:

- *Argentina* eased certain restrictions on the acquisition and leasing of rural lands by foreign individuals and legal entities.
- *Australia* permitted a 50-year lease of the Port of Melbourne to investors including foreign companies.
- *Bahrain* amended the Commercial Companies Law, allowing 100 per cent foreign ownership in health and social work, information and communications, mining and quarrying, real estate activities, amongst others.
- *China* replaced to a large extent the requirement to obtain approval for the establishment of and changes to foreign invested enterprises by a nation-wide filing system. Approval from the Ministry of Commerce (MOFCOM) or its local branches is still required, only for business proposals that fall under the scope of the Special Administrative Measures of Market Entry for Foreign Investment.
- *India* introduced another comprehensive FDI liberalization strategy, following the one implemented in November 2015. It increased sectoral caps in different industries, brought more activities under the automatic route, and eased conditions under which foreign investment can be made.

- *Indonesia* introduced its new "Negative List" for Investment. It generally permits foreign investment or increases the allowed ceiling in various industries, including e-commerce, tourism, film and airport services. The list also adds restrictions to foreign investment in a number of industries.
- *Kenya* adopted the new Finance Act. It repeals a 30 per cent domestic ownership requirement for newly registering foreign companies that had become effective on 15 June 2016, as part of the Companies Act 2015. The new Finance Act will become effective on 1 January 2017.
- *Kuwait* passed a new Public Tenders Law, which allows for the first time foreign companies to take part in public investment projects without a local agent.
- *Myanmar* adopted a new Investment Law which simplifies investment approval and authorization procedures for both foreign and domestic investors, while reserving some special treatment for local SMEs in the areas of market access, land lease and technical support. The country also allowed foreign investors to trade in construction materials, provided that they engage in such activities in joint ventures with local firms.
- *Philippines* allowed 100 per cent foreign ownership in insurance "adjustment" companies, lending companies, financing companies and investment houses.
- *Saudi Arabia* increased the ceiling for foreign investment in wholesale and retail trade from 75 per cent to 100 per cent.
- *Ukraine* abolished the mandatory state registration of foreign investment. It also adopted a law providing for the possibility of Ukrainian state enterprises in the aviation sector to set up joint ventures with foreign partners.

On the other hand, regulatory or restrictive measures included:

- *Australia* prohibited the 99-year lease of Ausgrid, the New South Wales electricity distribution network, to foreign bidders as this would be contrary to the national interest.
- *Brazil* reversed a decision from March 2016 that would have increased the foreign ownership cap in domestic airlines from 20 to 49 per cent and would have repealed the requirement that directors be exclusively Brazilian nationals.
- *Bulgaria* amended the "Privatisation and Post-Privatisation Control Act" to include three defence suppliers (Kintex, VMZ Sopot and NITI) in the list of State-owned enterprises not subject to privatisation.
- *Namibia* adopted a new Investment Law, reserving certain business activities, such as hairdressing, street vending and retail, for Namibians. This law also allows the Minister of Industrialization, Trade and SME Development to reserve specific sectors for certain categories of investors in the interest of national security and public interest.

2. Treatment of established investment

Ten countries – *Algeria, Germany, Myanmar, Niger, Namibia, Romania, Tunisia, Ukraine, Bolivarian Republic of Venezuela* and *Viet Nam* – took measures with respect to the treatment of investors after establishment in the host country. For example:

- *Germany* made legislative changes which will grant foreign investors the same tax status as domestic investors.
- *Niger* ended a sales monopoly of the State petroleum company. Accordingly, it permitted a joint venture oil refinery between the Government and a foreign corporation to sell petroleum products.
- *Ukraine's* Central Bank lifted the requirement that three-quarters of all capital coming into the country as foreign investment be converted into the local currency.
- *The Bolivarian Republic of Venezuela* took control over a factory of a foreign investor after the company had declared that it was no longer possible to manufacture due to economic conditions.

3. Promotion/Facilitation of investment

Nine countries – *Algeria, Egypt, Jordan, Kenya, Republic of Korea, Mauritius, Switzerland, Tunisia,* and *Ukraine* – adopted measures for the promotion and facilitation of investment. Most of these measures encouraged investment through granting tax incentives or facilitated investment procedures. For instance:

- *Algeria* introduced a new investment law offering tax incentives and infrastructure needed for investment projects.
- *Kenya* ratified the Special Economic Zones Regulations. They stipulate that the Special Economic Zones Authority must maintain an open investment environment to facilitate and encourage business via the establishment of "simple, flexible and transparent procedures for registration of investor".
- *The Republic of Korea* established a "Special Act on Revitalizing Companies", aimed at facilitating voluntary corporate restructuring and M&As.
- *Mauritius* introduced various kinds of tax incentives to both global and non-global businesses. For example, companies holding a "Global Headquarters Administration License" issued by the Financial Services Commission will be eligible for an 8-year tax holiday.
- *Switzerland* revised regulations on the federal tax holiday scheme to improve the attractiveness of specific regional economic development areas.
- *Tunisia* introduced a new Investment Law. Amongst others, the law removes profit taxes on major investment projects for 10 years and gives foreign investors more flexibility to transfer funds out of the country.

4. General business climate

Three countries – *Lithuania, Russian Federation* and *Ukraine* – took measures affecting the general business climate.[2]

- *Lithuania* adopted a new labour code. Among other changes, the code introduces new types of contracts, such as "zero-hour" contracts, apprenticeships and job-sharing to bring greater flexibility to its labour market.
- *The Russian Federation* adopted a federal law on "Amending the Money Laundering Law and the Russian Code of Administrative Offences". Under the amendment, all Russian joint stock companies and limited liability companies are required to collect and annually update the information on their beneficial owners and store this information for at least 5 years.
- *Ukraine* carried out a judicial reform to improve the justice administration system.

[2] The following examples are a non-exhaustive overview.

B. International investment policies

1. International Investment Agreements (IIAs) signed

During the reporting period, four bilateral investment treaties (BITs)[3] and two treaties with investment provisions (TIPs)[4] were signed, bringing the total number of IIAs to 3,321 (2,958 BITs and 363 TIPs) by mid-October 2016.[5]

Table 2. List of IIAs signed between 1 May 2016 and 15 October 2016

	Name of Agreement	Date of Signature
1	BIT between Somalia and Turkey	1 June 2016
2	EPA between the European Union and the Southern African Development Community States (SADC)	10 June 2016
3	FTA between the European Free Trade Association and Georgia	27 June 2016
4	BIT between Georgia and Turkey	19 July 2016
5	BIT between Japan and Kenya	28 August 2016
6	BIT between Canada and Mongolia	8 September 2016

The Economic Partnership Agreement (EPA) between the *EU* and *SADC States*[6] contains limited investment provisions including a commitment to cooperation on investment; provisions relating to capital movement subject to safeguards for monetary policy operations and balance of payments difficulties; a recognition that it is inappropriate to encourage investment by weakening or reducing domestic levels of labour and environmental protection; and a provision stating that parties may, in the future, consider negotiating an agreement on investment in economic sectors other than services.

The Free Trade Agreement (FTA) between the *EFTA States* and *Georgia*[7] also contains limited investment provisions that include a national treatment commitment with respect to commercial presence and subject to reservations; a payments and transfers provision subject to balance of payments exceptions; a prohibition to derogate from environmental and labour laws regulations in order to encourage investment; and an investment promotion and facilitation provision.

2. IIAs that entered into force

At least four IIAs entered into force during the reporting period, the BITs concluded by *Canada* with *Hong Kong, China*,[8] *Mali*,[9] and *Senegal*[10] respectively and the FTA concluded between *Colombia* and the *Republic of Korea*.[11]

[3] The treaty texts are currently not available.

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

[5] More information is available at the UNCTAD IIA Navigator (http://investmentpolicyhub.unctad.org/IIA). The IIA Navigator contains over 3,000 texts of BITs and TIPs as well as close to 70 model agreements, making it the world's most comprehensive collection of IIA texts. Information in the "Navigator" is continuously adjusted as a result of verification and comments from Member States. A treaty is included in UNCTAD's IIA data once it is formally entered into by the parties (i.e. once the IIA is "concluded"). Treaties whose negotiations have been concluded, but which have not been signed, are not counted. A treaty is excluded from IIA statistics once its termination becomes effective. The impact of the "survival clause" on existing investments is disregarded for the counting of treaties. In cases of renegotiations, where countries conclude a new IIA that replaces an earlier IIA between them, only one - and not both - of the treaties between the same parties is counted. Depending on the situation, the counted treaty can be the "old" one, if this one remains in force pending the ratification of the newly concluded IIA.

[6] http://investmentpolicyhub.unctad.org/Download/TreatyFile/5326.

[7] http://investmentpolicyhub.unctad.org/Download/TreatyFile/4854.

[8] Entered into force on 6 September 2016, available at http://investmentpolicyhub.unctad.org/IIA/country/35/treaty/3626.

[9] Entered into force on 8 June 2016, available at http://investmentpolicyhub.unctad.org/IIA/country/35/treaty/3540.

[10] Entered into force on 5 August 2016, available at http://investmentpolicyhub.unctad.org/IIA/country/35/treaty/3541.

3. Concluded IIA negotiations

Comprehensive Economic and Trade Agreement (CETA)

On 5 July 2016, the European Commission qualified CETA (an agreement between Canada and the EU) as a "mixed agreement", which requires the approval and ratification of the Agreement by both the EU[12] and all EU Member States. The Commission also proposed a Decision to the Council of the EU (the Council) on the provisional application of the Agreement from the moment of its signature and pending its entry into force.[13]

The final draft of a Canada-EU Joint Interpretative Declaration on CETA was released on 5 October 2016.[14] It addresses, in particular, the impact of CETA on the ability of governments to regulate in the public interest, as well as the provisions on investment protection and dispute resolution, and on sustainable development, labour rights and environmental protection.

In addition, there are some important recent developments relating to the approval and provisional application of CETA. Among these are: the decision by the German Federal Constitutional Court declining the request for a preliminary injunction against the approval by Germany of CETA in the Council (13 October 2016);[15] and the rejection of its approval of CETA by one of Belgium's five regional parliaments (12 October 2016).[16] CETA was signed by the EU and Canada on 30 October 2016.[17] Once the European Parliament will have given its consent, the Agreement will be provisionally applicable, except for the provisions on investment protection (which remain inapplicable until ratification of CETA by every Member State).[18]

4. Ongoing IIA negotiations

During the reporting period, negotiations on megaregional initiatives[19] continued. These include the negotiations for the African Continental Free Trade Area (CFTA), negotiations of the Regional Comprehensive Economic Partnership (RCEP)[20] and the EU-United States Transatlantic Trade and Investment Partnership (TTIP). More specifically:

Continental Free Trade Agreement

Work is also under way to prepare for the second phase of negotiations for CFTA which, according to the decision launching CFTA negotiations, is expected to also cover investment.

Regional Comprehensive Economic Partnership

On 5 August 2016, ministers from the 16 RCEP participating countries attended the 4th RCEP Ministerial Meeting held in Vientiane, Lao PDR.[21] The 14th round of RCEP negotiations was held from 11 to 19 August in Ho Chi Minh City, Viet Nam. Delegations from the 10 Association of Southeast Asian Nations (ASEAN) countries and Australia,

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[11] Entered into force on 15 July 2016, available at http://investmentpolicyhub.unctad.org/Download/TreatyFile/2744.

[12] According to the procedures set out in the Treaty on the Functioning of the EU (authorisation by the Council to sign the agreement, formal signature, approval by the European Parliament and final decision by the Council to conclude the agreement).

[13] https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-470-EN-F1-1.PDF.

[14] https://www.parlament.gv.at/PAKT/EU/XXV/EU/11/77/EU_117713/index.shtml.

[15] http://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/EN/2016/bvg16-071.html. According to the afore-mentioned press release, the Court expressed reservations as to the scope of the provisional application of the Agreement. Among others, the German Federal Constitutional Court stated that the German Government must ensure: ""that a Council decision on provisional application only applies within the indisputable competences of the European Union, that until the Federal Constitutional Court renders a decision in the principal proceedings, sufficient democratic legitimacy with regard to the decisions of the CETA Joint Committee is ensured, and that the interpretation of Art. 30.7 sec. 3 lit. c of CETA allows Germany to unilaterally terminate the provisional application." The Court also pointed out that the German Government submitted that "it will not approve the provisional application for areas that remain subject to the competence of the Federal Republic of Germany", affecting "in particular the provisions on investment protection, including the dispute settlement system (Chapters 8 and 13 CETA) [and] on portfolio investments (Chapters 8 and 13 CETA) (…)".

[16] http://www.politico.eu/article/belgian-regional-government-set-to-block-eu-canada-trade-deal/.

[17] http://trade.ec.europa.eu/doclib/press/index.cfm?id=1569.

[18] Ibid.

[19] 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. See UNCTAD, World Investment Report 2014, p. 119, http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf.

[20] 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.

[21] http://dfat.gov.au/trade/agreements/rcep/news/Pages/fourth-rcep-ministerial-meeting-5-august-2016-vientiane-lao-pdr.aspx.

China, India, Japan, Republic of Korea, New Zealand and the Secretary of ASEAN attended the meeting and discussed investment and services, as well as other aspects of the agreement.[22]

Transatlantic Trade and Investment Partnership

The 14th round of negotiations of TTIP, which took place from 11 to 15 July 2016 in Brussels, Belgium, discussed investment, as well as key parts such as market access, regulatory cooperation and rules.[23] Also, the 15th round of negotiations took place from 3 to 7 October 2016 in New York, United States.[24] During this latter round of negotiations, discussions took place, among others, on investment, regulatory issues, including regulatory coherence, technical barriers to trade, plants and animals health (SPS) and the nine specific sectors identified for cooperation before the negotiations began (the nine sectors are: cars, pharmaceuticals, chemicals, cosmetics, ICT, pesticide, engineering, medical devices and textiles).

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. The following is a non-exhaustive overview.

Bilateral level

Singapore-Australia Free Trade Agreement (SAFTA)

On 13 October, Australia and Singapore signed an agreement to amend their 2003 FTA.[25] Notable amendments include a provision carving out tobacco control measures from the scope of investor-State dispute settlement (ISDS). The Agreement is part of the Comprehensive Strategic Partnership (CSP) adopted by Australia and Singapore in June 2015.

Regional and plurilateral levels

Caribbean Community Market (CARICOM)

The CARICOM Secretariat is currently reviewing their draft Template for Investment Chapters to be used in external free trade agreements.

Common Market for Eastern and Southern Africa (COMESA)

COMESA countries are currently engaged in reviewing their 2007 Investment Treaty (CCIA). Modern IIA elements are expected to be included in this version.[26] In this regard, COMESA member countries met from 23 to 25 August 2016 in Lusaka, Zambia, and considered and approved the draft Revised CCIA Agreement. The draft Revised CCIA Agreement was also considered by the Committee of Legal Affairs, who endorsed the draft with some amendments. The Legal Drafting Committee will edit the draft formally once more before it goes to the Council for adoption.

European Union

On 29 September 2016, the European Commission sent reasoned opinions to Austria, the Netherlands, Romania, Slovakia and Sweden formally requesting them to terminate certain intra-EU BITs.[27] This follows the initiation of infringement proceedings in June 2015.[28]

In May 2016, Denmark, which has 10 intra-EU BITs in force,[29] proposed to the other EU member States the mutual termination of their existing treaties.[30] It has been reported that the responses to the Danish termination proposal

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[22] http://english.mofcom.gov.cn/article/newsrelease/significantnews/201608/20160801383647.shtml. An additional 15th round of negotiations outside of this reporting period took place in Tianjin, China (17 to 21 October 2016): http://www.mofa.go.jp/press/release/press4e_001302.html.

[23] http://trade.ec.europa.eu/doclib/press/index.cfm?id=1519.

[24] http://trade.ec.europa.eu/doclib/events/index.cfm?id=1544; http://trade.ec.europa.eu/doclib/press/index.cfm?id=1553.

[25] http://dfat.gov.au/trade/agreements/safta/Documents/agreement-to-amend-the-singapore-australia-free-trade-agreement.pdf.

[26] UNCTAD, World Investment Report 2016, p. 112, available at http://unctad.org/en/PublicationsLibrary/wir2016_en.pdf.

[27] http://europa.eu/rapid/press-release_MEMO-16-3125_EN.htm.

[28] http://europa.eu/rapid/press-release_IP-15-5198_en.htm.

[29] BITs with Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

have been "broadly favourable", and that two countries, Estonia and Slovenia, have confirmed that there is agreement in principle for mutual termination.[31] In September 2016, Romania announced its intention to terminate the 22 BITs[32] it has with other EU member States.[33] This follows the steps Poland[34] had taken toward termination of its BITs with other EU member States earlier in 2016 (and outside of this reporting period).[35]

G20 Guiding Principles for Global Investment Policymaking

The non-binding Guiding Principles were agreed on during the G20 Ministerial Meeting from 9 to 10 July 2016 in Shanghai, China and endorsed by G20 leaders at the Hangzhou Summit on 4 September 2016.[36] The G20 Guiding Principles aim to provide general guidance for investment policymaking in order to (i) foster an open, transparent and conducive global policy environment for investment, (ii) promote coherence in national and international investment policymaking in the absence of a global governance regime, and (iii) promote investment for inclusive economic growth and sustainable development. The Guiding Principles cover nine areas, namely: (I) anti-protectionism, (II) non-discrimination, (III) investment protection, (IV) transparency, (V) sustainable development, (VI) the right to regulate, (VII) investment promotion and facilitation, (VIII) responsible business conduct, and (IX) international cooperation. UNCTAD played a key role as facilitator for the discussions on the Guiding Principles and provided an initial draft based on its Investment Policy Framework for Sustainable Development.

Pan-African Investment Code (PAIC)

The African Union (AU) is working on the development of PAIC which is expected to include innovative provisions aimed at balancing the rights and obligations of African host States and investors.

Trade in Services Agreement (TISA)

Negotiations for TISA are being conducted by 23 members of the WTO.[37] Several negotiating rounds took place in 2015 and 2016, accompanied by substantial intersession work. The 20th round of negotiations for TISA took place from 19 to 25 September, organized and chaired by the United States. Discussions were held on key annexes of TISA as well as on institutional arrangements, such as dispute settlement. During this round, negotiators agreed to aim for a possible conclusion of negotiations on TISA by the end of the year 2016.[38]

ILO Declaration of principles concerning multinational enterprises and social policy (MNE Declaration)

The International Labour Organization has started the review of the Tripartite Declaration of principles concerning multinational enterprises and social policy (MNE Declaration). A tripartite ad hoc Working Group of the ILO Governing Body is currently reviewing the MNE Declaration text, annex and addenda as well as its interpretation procedure to examine disputes, taking into account developments inside and outside of the ILO since the last update of the instrument in 2006. The tripartite ad hoc Working Group is expected to submit its recommendations to the ILO Governing Body for possible adoption in its March 2017 session. 2017 marks the 40th anniversary of the MNE Declaration.

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[30] For more information, see https://www.iareporter.com/.

[31] J. Dahlquist and L.E. Peterson, "Denmark proposes mutual termination of its nine BITs with fellow EU member-states, against spectre of infringement cases", Investment Arbitration Reporter, 2 May 2016, available at http://tinyurl.com/z9ccdzb (subscription required).

[32] BITs with Austria, BLEU (Belgium-Luxembourg Economic Union), Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Latvia, Lithuania, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

[33] http://www.lexology.com/library/detail.aspx?g=00ca7288-468a-4344-8f53-0e03181f14e6.

[34] http://www.bloomberg.com/news/articles/2016-02-25/poland-seeks-to-end-bilateral-investment-deals-with-eu-members.

[35] This is subsequent to the European Commission's initiation of infringement proceedings against five EU member States (in June 2015) and its initiation of dialogue with all other EU member State which still have intra-EU BITs, http://europa.eu/rapid/press-release_IP-15-5198_en.htm.

[36] http://investmentpolicyhub.unctad.org/News/Hub/Archive/508.

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

[38] http://trade.ec.europa.eu/doclib/docs/2016/october/tradoc_154990.doc.pdf. The chief negotiators met again on 17 and 18 October 2016 in Washington D.C United States. This meeting is to be followed by a full negotiation round to be held from 2 to 10 November 2016.

Multilateral level

UNCTAD's Global Action Menu on Investment Facilitation

On 16 September 2016, UNCTAD launched an update of its Global Action Menu on Investment Facilitation.[39] The Action Menu aims to assist countries in closing the systemic gap that arises from the absence of concrete facilitation measures in investment policies.

Originally launched in January 2016, and subsequently included in UNCTAD's June 2016 World Investment Report, the updated Action Menu is the result of an extensive process of field testing, peer reviewing and intergovernmental consensus building. This process benefited from UNCTAD's 14th Ministerial Conference (UNCTAD 14) as well as the 5th World Investment Forum (WIF) held in Nairobi, Kenya, from 17 to 21 July 2016,[40] and involved high-level policymakers from developing, developed and transition economies, the private sector and intergovernmental organizations.

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, a lack of efficiency in the operating environment and other factors causing high costs of doing business. It consists of 10 action lines that provide 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 IIAs.

UNCTAD 14 and the 5th World Investment Forum

UNCTAD member States met in Nairobi, Kenya, from 17 to 22 July 2016 for UNCTAD 14 and reached consensus on UNCTAD's work programme for the next four years. The outcome documents—the Nairobi Nairobi "Azimio" (Swahili for "the Resolution") and the "Maafikiano" (Swahili for "the Outcome")—give a central role to UNCTAD in delivering the sustainable development goals and cover a broad range of activities in the trade, investment and development areas. The "Azimio" paragraph 17 calls on UNCTAD "to further develop its activities for promoting and facilitating investment and entrepreneurship for sustainable development", while the "Maafikiano" touches upon the whole gamut of UNCTAD's investment and enterprise activities, emphasizing the added new importance of responsible investment and the SDGs.

The Nairobi "Maafikiano" also reaffirms UNCTAD's role with regard to IIAs, stating that UNCTAD should "continue its existing programme of meetings and consultations with member States on investment agreements in accordance with the Addis Ababa Action Agenda, maintaining its role as a forum for international discussion on investment agreements, and assist member States in their efforts to strengthen the development dimension, as appropriate" (paragraph 38(l)). UNCTAD should also continue to "promote a better understanding of issues related to [IIAs] and their development dimension" (paragraph 55(hh)). This provides a solid framework for UNCTAD's work on IIA reform in the years to come.

In parallel to UNCTAD 14, the 5th World Investment Forum was organized from 17 to 21 July 2016. It was a high-level, biennial, multi-stakeholder gathering designed to facilitate dialogue and action on the world's key emerging investment-related challenges.

2016 High-Level International Investment Agreements Conference: Carrying IIA Reform to the Next Level

As part of the 5th WIF, negotiators of IIAs and numerous stakeholders convened at the High-Level IIA Conference[41] on 19 July 2016 in Nairobi, Kenya.[42] Some 50 country delegates, parliamentarians, officials of international organizations and civil society representatives discussed the first phase of IIA reform and how to carry IIA reform to the next level.

[39] http://investmentpolicyhub.unctad.org/Upload/Documents/UNCTAD.GlobalActionMenuForInvestmentFacilitation.v4.16.09.2016.pdf.

[40] http://unctad-worldinvestmentforum.org/programme2016/.

[41] http://unctad-worldinvestmentforum.org/programme2016/international-investment-agreements-conference-2016/.

[42] The High-Level IIA Conference was held in response to the Addis Ababa Action Agenda on Financing for Development, agreed in 2015, which mandated UNCTAD to continue its consultations with member States on IIAs. Implementing this mandate, the Conference backstopped the international dialogue on IIA reform and addressed how to carry reform to the next level.

Participants shared their experience with the first phase of IIA reform, when countries built consensus on the need for reform, identified reform areas and approaches, reviewed their IIA networks, developed new model treaties and started to negotiate new, more modern IIAs. Participants noted that despite significant progress, much remains to be done. Phase two of IIA reform will require countries to focus more on the existing stock of treaties. Unlike the first phase of IIA reform, where most activities took place at the national level, phase two of IIA reform will require enhanced collaboration and coordination between treaty partners to address the systemic risks and incoherence of the large body of old treaties.

Participants supported IIA reform, and concluded that it should promote sustainable development objectives, safeguard the right to regulate and pursue a balanced approach, while protecting and promoting foreign investment. Many speakers considered that investment facilitation was among the most pressing issues on the reform agenda and endorsed UNCTAD's new Global Action Menu for Investment Facilitation.

Delegations noted that UNCTAD's Roadmap for IIA Reform and its Investment Policy Framework for Sustainable Development had provided helpful guidance for reform-oriented actions at national and international levels. In light of the variety of reform approaches, the Conference emphasized the need for intensified international coordination on IIA reform. It called upon UNCTAD to support the next phase of reform by providing a platform for exchange, developing further policy tools, such as a checklist of actions for "phase two" of reform, and providing technical assistance.

ANNEX. Investment policy measures taken between 1 May 2016 and 15 October 2016

	Description of Measure	Date	Source
Algeria			
Promotion and facilitation / Treatment	Algeria introduced a new investment law. The law stipulates tax cuts and steps to reduce redundancy. It states that all imported goods and services intended for investment projects will be exempted from customs duties and value-added tax (VAT). Also, businesses will get a 10-year exemption from tax on property needed for a project, as well as a 3-year tax exemption on company profits once the project starts. Furthermore, infrastructure needed for any investment project will be partially or totally financed by the government. The law was approved by Parliament on 17 July 2016, and is expected to take effect by end of 2016.	17 July 2016	Reuters, “Algerian parliament passes new investment law to improve business climate”, 18 July 2016
Argentina			
Entry	On 29 June 2016, Argentina enacted Decree 820/2016, easing certain restrictions imposed under existing laws on the acquisition and leasing of rural lands by foreign individuals and legal entities (Law No. 26,737 of 2011). The new decree aims at facilitating and enabling foreign investments in Argentine rural lands by clarifying certain unregulated issues and removing certain problems in real estate practices that arose since the enactment of the Rural Land Law in 2011. The most significant changes relate to determining when the Rural Land Law applies. Further, the New Decree defines a “Foreign Legal Entity”. Finally, the New Decree modifies certain reporting requirements and the consequences for failing to comply with such requirements.	29 June 2016	Decree 820/2016, Official Gazette, 1 July 2016
Australia			
Entry	Three territorial subdivisions of Australia – New South Wales, Queensland and Victoria – introduced, increased or announced additional stamp duties applicable to foreign acquirers of residential real estate. The conditions under which the “additional foreign acquirer duties” apply vary among the States; in Victoria, acquisitions by New Zealanders are exempted; in New South Wales, New Zealanders who are ordinarily resident in Australia are not subject to the surcharge purchaser duty, either. In addition, Victoria and New South Wales have introduced land tax surcharges of foreign owners of real estate.	21 June 2016; 30 June 2016; 1 July 2016	Clayton Utz, “New duty and land tax surcharges for foreign buyers of land in Australia”, 23 June 2016
Entry	On 19 August 2016, Australia’s Treasurer prohibited the proposed acquisition (the 99-year lease) by foreign investors for the lease of 50.4 per cent of Ausgrid, the New South Wales electricity distribution network, under the Foreign Acquisitions and Takeovers Act 1975. The Australian government blocked the acquisition as this would be contrary to the national interest.	19 August 2016	Media Release, The Treasury of Australia, “Statement on decision to prohibit the 99-year lease of 50.4 per cent of Ausgrid under current proposed structure”, 19 August 2016

Entry	On 19 September 2016, the Government of the State of Victoria announced the Lonsdale Consortium as the leaseholder for the Port of Melbourne. This port is the biggest container and cargo port in the country and the lease is valid 50 years worth for A$ 9.7 billion. The Lonsdale Consortium is a consortium of domestic and global funds, backed by investors including Australia's sovereign wealth fund, Canada's Ontario Municipal Employees Retirement System and China Investment Corp.	19 September 2016	The Victorian State Government, "Leasing the Port of Melbourne", 19 September 2016
Entry	On 19 September 2016, Australia's Treasurer has ordered the divestment of a further 16 Australian residential properties that have been held by foreign nationals in breach of the foreign investment framework, taking the total purchase price of Australian residential real estate divested to over A$92 million.	19 September 2016	Treasurer media release, "Turnbull government orders further 16 forced sales of properties illegally held by foreign nationals", 19 September 2016
Bahrain			
Entry	On 19 July 2016, the Cabinet approved an amendment to the Commercial Companies Law. The new law will allow 100 per cent foreign ownership in residency, food, administrative services, arts, health and social work, information and communications, mining and quarrying, water supplying, real estate and technical activities, and manufacturing, amongst others.	19 July 2016	Economist Intelligence Unit, "Government permits full foreign ownership of companies", 25 July 2016
Brazil			
Entry	On 25 June 2016, Brazil's President vetoed a law that would have abolished foreign ownership restrictions of domestic airlines. The veto also led to an unwinding of a lesser liberalization that had been passed through Provisional Measure No. 714, issued on 1 March 2016 and effective 2 March 2016. That measure had increased the foreign ownership cap in domestic airlines to 49 per cent, up from 20 per cent, and repealed the requirement that directors be exclusively Brazilian nationals. With the veto, the ownership limit that existed prior to March 2016 is anew effective. However, the issue remains under discussion in the government and a new proposal of air services liberalization is expected to be submitted to Congress.	25 June 2016	Presidência da República Casa Civil, Mensagem Nº 421, 25 July 2016
Bulgaria			
Entry	On 20 July 2016, the Parliament amended the "Privatization and Post-Privatization Control Act" to include three defense suppliers (Kintex, VMZ Sopot and NITI) on the list of state-owned enterprises not subject to privatization. The Government has written in its reasoning for the bill that defense product exporter Kintex and ordnance manufacturer VMZ Sopot are of structural significance for the national defense industry and constitute an important element of the nation's security, economy and presence in strategic markets.	20 July 2016	Bulgarian State News Agency, "Parliament Puts Defence Suppliers on 'No Privatization' List", 20 July 2016

Canada			
Entry	Effective 2 August 2016, British Colombia, a province of Canada, imposed an additional property transfer tax on residential property transfers to foreign natural and legal persons in the Greater Vancouver Regional District. The tax, which stands at 15 per cent of the fair market value of the acquired property, applies in addition to the general property transfer tax. The tax does not apply to non-residential property, or to trusts that are mutual fund trusts, real estate investment trusts or specified investment flow-through trusts.	2 August 2016	Tax Information Sheet from Ministry of Finance, "Additional Property Transfer Tax on Residential Property Transfers to Foreign Entities in the Greater Vancouver Regional District", 27 July 2016
China			
Entry	On 3 September 2016, the National People's Congress decided to modify four laws, including the Law on Foreign-funded Enterprises. Subsequently, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly issued one announcement specifying the scope of the Special Administrative Measures of Market Entry for Foreign Investment. The policy change seeks to facilitate investment and increase transparency of the investment environment. Among others, the change replaces to a large extent the requirement to obtain approval for the establishment and changes of foreign invested enterprises by a nation-wide filing system. Only for business proposals that fall under the scope of the Special Administrative Measures of Market Entry for Foreign Investment, approval from MOFCOM or its local branches is still required.	3 September 2016; 8 October 2016	MOFCOM media release, "National Development and Reform Commission and Ministry of Commerce Announces to Promote the Reform of Foreign-invested Enterprises to Set up Filing Management", 10 October 2016
Egypt			
Promotion and facilitation	Egyptian President Abdel Fattah al-Sisi issued a decree to establish a Supreme Council for Investment. According to the decree of 3 July 2016, the Council will specialize in supervising the state's investment policies in all sectors and provinces and will be under the direct supervision of his presidency.	3 July 2016	Ahram news, "Egypt to establish Higher Council for Investment chaired by President Sisi", 3 July 2016
Finland			
Entry	In June 2016, the Government finalized the sale of a 49.9 per cent share, worth EUR 272 million, in the state defense company, Patria Oy, to Norway's Kongsberg Group.	1 June 2016	Economist Intelligence Unit, "Country Report of Finland", 4 August 2016
Germany			
Treatment	On 8 June 2016, the Parliament approved legislative changes which will grant foreign investors the same tax status as domestic investors. Previously, domestic funds were exempt from paying corporate income tax on revenue related to dividends and real estate, while foreign funds were required to pay a 15 per cent tax rate on such gains. Under the new rules, shareholders will be eligible for tax rebates only if the stocks are held 45 days before and after the dividend payout date. The new regulation is expected to be in place by January 2018.	8 June 2016	Reuters, "German parliament approves reform of investment tax rules", 9 June 2016

Greece			
Entry	On 14 July 2016, the Hellenic Republic Asset Development Fund (HRADF) accepted the privatization offer of EUR 45 million for the sale of a 100 per cent stake in TRAINOSE SA (Greek railway operator), submitted by Ferrovie Dello Stato Italiane S.p.A. The HRADF completes a process that began three years ago. The completion of the transaction is subject to the competent authorities' approvals.	14 July 2016	Press release of Hellenic Republic Asset Development Fund, "45 million euros the offer for TRAINOSE SA", 14 July 2016
India			
Entry	On 6 May 2016, India permitted 100 per cent foreign direct investment (FDI) in the capital of Assets Reconstructions Companies registered with the Reserve Bank of India, under the automatic route. Previously, FDI up to 49 per cent was allowed under the automatic route, and beyond that through the government approval route.	6 May 2016	Press note 4 (2016), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, 6 May 2016
Entry	On 24 June 2016, India introduced another comprehensive FDI liberalization policy, taking effect immediately. Changes introduced in the policy include increases in sectoral caps, bringing more activities under the automatic route and easing of conditionalities for foreign investment. The policy relates to several sectors, including in civil aviation, defence, pharmaceuticals, food product retail trading, broadcasting, private security agencies, single brand retail trading, and animal husbandry. For example, the government permitted 100 per cent FDI under the government approval route for trading, including through e-commerce, in respect of food products manufactured or produced in India. It allowed 100 per cent FDI through the automatic route in broadcasting carriage services (such as teleports, direct to home and mobile TV) and in brownfield airport projects. It also increased the FDI limit in air transport services to 100 per cent, with FDI up to 49 per cent permitted under the automatic route and FDI beyond 49 per cent through government approval. In the defence sector, it abolished the condition of "state-of-art" technology to acquire government approval for FDI.	24 June 2016	Press note 5 (2016), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, 24 June 2016
Entry	On 27 July 2016, the Union Cabinet approved the proposal to raise the foreign shareholding limit from 5 per cent to 15 per cent in Indian Stock Exchanges for a stock exchange, a depository, a banking company, an insurance company and a commodity derivative exchange. The approval is in pursuance of the implementation of the Budget Announcement made by the Finance Minister while presenting the Union Budget 2016-17 regarding reforms in FDI Policy with respect to the enhancement of investment limits for foreign entities in Indian stock exchanges from 5 per cent to 15 per cent on par with domestic institutions.	27 July 2016	Press release, Press Information Bureau, "Cabinet increases the limit for foreign investment in Stock Exchanges from 5% to 15%", 27 July 2016

Entry	On 10 August 2016, the Union Cabinet approved the amendment of regulations for foreign investment in Non-Banking Finance Companies (NBFCs). Under the new regulation, FDI is allowed under the automatic route for all "Other Financial Services", provided that such services are regulated by any regulators (such as the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) or Pension Fund Regulatory and Development Authority (PFRDA)). The previous regulations on "Non-Banking Finance Companies" stipulated that FDI would be allowed under the automatic route for only 18 specified NBFC activities after fulfilling prescribed minimum capitalisation norms mentioned therein. Further, minimum capitalisation norms as mandated under the FDI policy have been eliminated as most of the regulators have already fixed minimum capitalisation norms.	10 August 2016	Press release, Press Information Bureau, "Cabinet approves foreign investment in other Financial Services sector", 10 August 2016
Indonesia			
Entry	On 12 May 2016, the President of Indonesia signed the new Negative List of Investment. It sets out which sectors are open and closed for foreign investment and which conditions apply. The new list permits or increases the allowed ceiling for foreign investment in a number of sectors, including tourism, film and cold storage as well as e-commerce, golf courses, health support services and airport support. The list also adds restrictions to foreign investment in a number of sectors. The revised Negative Investment List is part of a wider effort to simplify investment licenses, facilitate investment projects and boost needed investment.	12 May 2016	Presidential Decree Number 44 (2016), 18 May 2016
Jordan			
Entry / Promotion and facilitation	Jordan enacted the Investment Fund Law (Law No. 16 of 2016) to establish a fund (the Fund) as a legal entity endowed with administrative and financial independence and authorized to own movable and immovable properties. According to the law, sovereign funds and Arab and foreign investment institutions are invited to establish a shareholding company or more to invest in development rights and in projects listed in the law. The law stipulates that the Fund has the right to possess, invest and develop certain projects such as the national railway network, the electricity interconnectivity project with Saudi Arabia, the pipeline to transfer crude oil and fuel derivatives to the Jordan Petroleum Refinery Company and consumption and storage points.	26 May 2016	Jordan News Agency (Petra), "Senate endorses Jordan Investment Fund Law for 2016", 24 May 2016
Kenya			
Entry	Kenya's Attorney-General appointed 15 June 2016 as the date to enforce in full the Companies Act 2015. This new law requires that foreign companies registering in Kenya cede at least 30 per cent of their shareholding to persons who are Kenyan citizens by birth. Investors who fail to comply with this rule will	15 June 2016,	Legal notice No. 109, The Companies Act 2015, 16 June 2016

	be fined Sh 5 million. However, the new law does not apply to existing companies already registered in Kenya. The law also empowers the Treasury Cabinet secretary to issue regulations on how foreign companies will operate in Kenya.		
Entry	On 20 September 2016, the new Finance Act (Act No. 38 of 2016) was adopted, repealing the 30 per cent domestic ownership requirement for foreign companies established in the Companies Act 2015. (see the measure above) The abolition of the ownership requirement will become effective on 1 January 2017.	20 September 2016	Kenya Gazette Supplement No. 159 (Act No. 38), 20 September 2016
Promotion and facilitation	The Government has adopted new rules allowing foreign direct investment (FDI) in special economic zones (SEZ) where products will be manufactured for the export market. These state that the Special Economic Zones Authority must maintain an open investment environment to facilitate and encourage business via establishment of "simple, flexible and transparent procedures for registration of the investor". They also seek to enable foreign investors put up plants within the shortest time possible. They empower county governments to set aside public land for the establishment of Special Economic Zones and to collect levies on behalf of the government from operators, developers and factory owners. The new regulations are a departure from past practice where the government, which owns the land, funds construction of necessary infrastructure before allowing investors to put up factories.	12 August 2016	The Nation, "New rules to allow more foreign direct investment in Kenya", 16 August 2016
Korea, Republic of			
Promotion and facilitation	On 13 August 2016, the newly established "Special Act on Revitalizing Companies" (so called "One-shot Act") took effect, aimed at facilitating voluntary corporate restructuring and M&As. The new law facilitates business reform by applying simplified procedures, including exemptions from the strict antitrust laws and financial market regulations. The government also provides tax benefits and subsidies for research and development on corporate restructuring. Businesses seeking to benefit from this program can apply to the government. This law will remain effective for a limited period of 3 years after its promulgation.	13 August 2016	The Korea Times, "One-shot act to take effect", 11 August 2016
Kuwait			
Entry	On 14 June 2016, Kuwait's National Assembly passed the new Public Tenders Law which governs the awarding of public investment projects. This law allows for the first time foreign companies to take part in public investment projects without a local agent as the case has been for over a half century.	14 June 2016	Kuwait Times, "Assembly passes key public tenders law – MPs approve budgets of five bodies", 14 June 2016

Lithuania			
General business climate	On 14 September 2016, the Parliament adopted a new labour code. It will come into force on 1 January 2017. The new code brings greater flexibility to the country's labour market. Among other changes, the law introduces new types of contracts, including "zero-hour" contracts, apprenticeships and job-sharing; raises the legally permitted number of working hours to 12 hours per day, or 60 hours per week (from 48 hours previously); and sharply reduces statutory notice periods and severance payments in cases of dismissal. The legislation also introduces obligatory works councils for businesses with more than 20 employees.	14 September 2016	Economist Intelligence Unit, "Parliament adopts divisive new labour code", 29 September 2016
Mauritius			
Promotion and facilitation	The Budget, delivered on 29 July 2016, introduces various kinds of tax incentives to both global and non-global businesses. In particular, companies holding a "Global Headquarters Administration License" issued by the Financial Services Commission will be eligible for an 8-year tax holiday. A 5-year tax holiday will be granted to companies holding the following licenses: Treasury Management Centre License; Asset and Fund Managers License; "Investment Banking and Corporate Advisory License"; and an "Overseas Family Corporation License".	29 July 2016	eNewsletter from Mauritius Board of Investment, "Budget Highlights 2016", 29 July 2016
Mexico			
Entry	On 12 May 2016, the amount of the aggregate assets' value referred to in the article 9 of the Foreign Investment Law was amended. This article states that a favorable resolution from the National Commission of Foreign Investments is required for foreign investors to hold, directly or indirectly, a percentage higher than 49% of the capital stock of Mexican companies when the aggregate assets' value of such companies at the date of acquisition exceeds the annually determined amount by such Commission. In 2015, the amount determined was MXN 3,810,816,212.47, now it was set to MXN 4,005,167,839.31.	12 May 2016	Federal Official Gazette, General Resolution No. 17, 12 May 2016
Entry	On 2 September 2016, three resolutions that clarify the application of Mexico's rules on foreign investment came into effect. The clarifications relate to the definition of the term "control" and to the registration procedure for foreign investment.	2 September 2016	Federal Official Gazette, Resolución General por la que se determina la actualización del supuesto jurídico para la inscripción, presentación de avisos y cancelación de inscripción ante el Registro Nacional de Inversiones Extranjeras, Resolución General por la que se establece el periodo máximo de información que deberá presentarse para la actualización ante el Registro Nacional de Inversiones Extranjeras, and Resolución General por la que se establece el criterio del término control, para efectos de la inversión neutra, 2 September 2016

Myanmar			
Entry	On 7 July 2016, Myanmar's Commerce Ministry issued Notification No. 56/2016 which allows trade in construction materials, provided that foreign investors engage in such activities in joint ventures with local firms.	7 July 2016	Ministry of Commerce, "Permit to Trade (56-2016) Construction", 7 July 2016
Entry / Treatment	On 7 October 2016, Myanmar's Upper House of Parliament approved the new Investment Law, which consolidates the Myanmar Citizens Investment Law and the Foreign Investment Law. Compared to the old legislation which required all investment proposals to obtain the permission of the Myanmar Investment Commission, the new law subjects only selected investment proposals to screening and authorization. The law also includes a list of activities which are reserved for the State, as well as a list of activities where foreigners will need to set up joint-ventures with Myanmar citizens. In certain areas, such as market access, land lease and technical support, local businesses and SMEs would benefit from some special treatment compared to foreign investors. Investment incentives in the form of corporate tax holidays will be granted only to "promoted economic sectors" which will be specified in future legislation.	7 October 2016	Myanmar Investment Commission, "Upper House approves investment bill", 7 October 2016
Namibia			
Entry / Treatment	The new Investment Act was signed by the President on 16 August 2016. The Act provides for the reservation of certain business activities such as hairdressing, street vending, retail, take-away businesses and beauty salons for Namibians. It also introduces the concept of performance agreements if deemed appropriate, where the minister may sign an agreement with an investor. Further, it gives the Minister of Industrialisation, Trade and SME Development the option, for national security reasons and other public interests, to reserve specific sectors for certain categories of investors, for the state or Namibians. This act also provides for the promotion of sustainable economic development and growth through the mobilization and attraction of foreign and domestic investments to enhance economic development.	16 August 2016	The Namibian, "New investment law expected to bring relief to locals", 17 August 2016
Niger			
Treatment	In May 2016, Niger permitted Soraz, a joint venture oil refinery between the Government and China National Petroleum Corp, which owns 60 per cent of the shares, to sell petroleum products, thereby ending a monopoly held by Sonidep, a state oil products company, since 2011. Soraz and Sonidep are thus authorized to jointly export refined products.	28 May 2016	Reuters, "Niger ends sales monopoly of state petroleum products company", 28 May 2016

Philippines			
Entry	On 16 August 2016, the Republic Act No. 10881 titled "An Act Amending Investment Restrictions in Specific Laws Governing Adjustment Companies, Lending Companies, Financing Companies and Investment Houses Cited in the Foreign Investment Negative List and For Other Purposes" took effect. The new law allows 100 per cent foreign ownership in adjustment companies, lending companies, financing companies and investment houses. Previously, foreign investors were allowed up to 60 per cent ownership in financing companies and investment houses, 69 per cent in lending companies as well as 40 per cent in adjustment companies.	16 August 2016	Presidential Legislative Liaison Office, "Recently Enacted Laws- Republic Acts (RA) / Joint Resolutions (JR) - RA No. 10881: Foreign Ownership Restrictions", 1 August 2016
Romania			
Treatment	On 8 June 2016, the Parliament amended Law 321/2009 "On the sale of food products". The amendments provide, inter alia, that retailers having an annual net turnover or owning assets representing more than EUR 2 million shall be under the obligation to purchase 51 per cent of the products belonging to the category of meat, eggs, vegetables, fruits, honey, dairy and bakery products, from the short supply chain. In addition, retailers shall have the obligation to (1) ensure distinct exhibition and selling spaces for the Romanian products and (2) organize events for the promotion of Romanian food products, according to a schedule to be established by the local authorities. The Law was promulgated by the President on 11 July 2016.	8 June 2016	Zamfirescu Racoti & Partners Attorneys at Law, "51% Local Products- New Romanian Law on Food Sale, In-between Encouraging National Production and the EU Legal Order?", 2 August 2016
Russian Federation			
Entry	On 16 May 2016, in accordance with Federal Law No. 178-FZ of 21 December 2001 "On privatization of State and Municipal property", the President signed Decree No. 228 "On modifying the list of strategic shareholding enterprises established by Decree No. 1009 of 4 August 2004". The oil producing company "Bashneft", with 50 per cent + 1 share of State participation, was removed from this list. The decree paves the way for future privatization of the company.	16 May 2016	State internet portal for legal information, Decree No. 228 "On modifying the list of strategic shareholding enterprises established by Decree No. 1009 of 4 August 2004", 16 May 2016
General business climate	On 23 June 2016, the Parliament adopted Federal Law No. 215-FZ "On Amending the Money Laundering Law and the Russian Code of Administrative Offences". Under the amendments, all Russian Joint Stock Companies and Limited Liability Companies are required to collect and annually update the information on their beneficial owners and store this information for at least 5 years. If requested by the tax or other competent authorities, the legal entities must submit their beneficial ownership information and other related documents. Legal entities' failure to identify, submit, update and keep their beneficial ownership information will lead to administrative liability and payment of a fine. The Law will come into effect on 21 December 2016.	23 June 2016	CMS Legal news article, "The amendments to the corporate law", 8 August 2016

Entry	On 6 July 2016, the Russian government offered for privatization through the Moscow stock exchange a 10.9 per cent stake in the diamond mining company Alrosa (the world's largest).	6 July 2016	Wall Street Journal, "Russia Sells Stake in Diamond Company Alrosa to Cut Budget Deficit", 11 July 2016
Saudi Arabia			
Entry	On 14 June 2016, Saudi Arabia increased the ceiling for foreign investment in wholesale and retail trade sector from 75 per cent to 100 per cent. However, some terms and conditions will apply. For example, foreign firms will have to invest at least SAR 200 million in the first five years after obtaining a licence.	14 June 2016	News release, Saudi Arabian General Investment Authority, "Council of Ministers Approves 100 Percent Ownership in the Trading Sector", 14 June 2016
Sudan			
Entry	On 18 July 2016, Sudan's National Assembly approved a bill granting Saudi Arabia the right to cultivate 1 million feddans of agricultural land in eastern Sudan. Already in June 2016, the National Assembly approved an agreement that leased 1 million feddans of this land to Saudi Arabia for 99 years.	18 July 2016	Economist Intelligence Unit, "Sudan's parliament approves Saudi investment in agriculture", 27 July 2016
Switzerland			
Promotion and facilitation	On 3 June 2016, the Federal Council adopted revised regulations on the Swiss federal tax holiday scheme. The purpose of the reform is to improve the attractiveness of specific regional economic development areas. The revised legislation provides for relief from federal corporate income tax for a maximum period of 10 years for industrial enterprises and production-related service providers. The federal tax incentives are linked to the number of newly created or maintained jobs by an enterprise domiciled in selected regional areas in Switzerland. The revised rules have come into force on 1 July 2016.	3 June 2016	Ernst & Young tax alert, "Switzerland adopts federal tax holiday reform effective 1 July 2016", 8 June 2016
Tunisia			
Promotion and facilitation / Treatment	The new Investment Law was approved by the Parliament on 17 September 2016. It gives foreign investors more flexibility to transfer funds, including profits, out of the country, and removes tax on profits of major projects for 10 years. It also establishes a fund for investment which will help finance infrastructure projects and funding to spur investors to launch big projects in marginalized areas of the country. Further, it creates a High Investment Authority which will be the only party authorized to deal with foreign investors and facilitate the administrative procedures in an effort to reduce the bureaucracy which faced projects in the past.	17 September 2016	Reuters, "Tunisian parliament approves investment law", 17 September 2016

Ukraine			
Treatment	On 5 May 2016, Ukraine's Central Bank lifted the requirement that three-quarters of all capital coming into the country as foreign investment be converted into the local currency Hryvnia. The decision has entered into force on 11 May 2016.	5 May 2016	Reuters, "Ukraine axes mandatory conversion of foreign investments into hryvnia", 5 May 2016
Entry	On 2 June 2016, the Parliament adopted Bill No. 4594 on amendments to the Law of Ukraine "On the list of objects of state property not subject to privatization". The joint-stock company "Ukrzaliznytsia" (Ukrainian Railways) has been placed on this list, thereby precluding any future privatization.	2 June 2016	Interfax news, "Ukrainian parliament bans privatization of Ukrzaliznytsia", 2 June 2016
General business climate	On 2 June 2016, the Parliament adopted a number of laws giving start to Ukraine's judicial reform. i) The Law "On the Judicial System and the Status of Judges, No. 4734" is aimed at the improvement of the administration of justice in Ukraine. It significantly transforms the structure of the judicial system and aims to increase the professional standards for judges and their compensation. ii) The Law "On bodies and individuals that carry out enforcement of judgments and decisions of other bodies, No. 2506a" provides that, apart from the State Enforcement Service of Ukraine, the decisions of the courts and other authorities may also be enforced by private individuals.	2 June 2016	Vasil Kisil & Partners, "Overview of the Judicial Reform Launched in Ukraine", 2 June 2016
Entry	On 22 June 2016, the President signed into law Bill No. 1390-VIII "On amendments to some legislative acts of Ukraine concerning the abolition of mandatory state registration of foreign investment". The Bill abolishes the mandatory state registration of foreign investment.	22 June 2016	Website from the President Office, "President signs law on abolition of mandatory state registration of foreign investment", 22 June 2016
Entry / Promotion and facilitation	On 14 July 2016, the Parliament adopted law No. 4809 "On amendments to certain legislative acts of Ukraine regarding the establishment of conditions for international cooperation between aircraft entities and the development of the national aircraft industry". It will enter into force once signed by the President. The law provides for the possibility of Ukrainian state enterprises in the aviation sector to set up joint ventures with foreign partners. The act also provides for the extension until 2025 of state financial support to the system of sales of domestic aircraft.	14 July 2016	Interfax Ukraine, "RADA allows aviation industry setting up JV with foreign partners", 19 July 2016
Entry	On 13 September 2016, Resolution No. 271 of 31 August 2016 of the Cabinet of Ministers of Ukraine entered into effect. It introduces a new list of more than 130 state entities subject to privatization. Newly added companies include, inter alia: Ukrainian Polymetals (mining industry); Bilshovyk, Radiorele, Avtolyvmash, Kharkiv Electromechanical Plant, Hidromash (machine building and instrument engineering); Agrarian Fund, State Food and Grain Corporation (agro-industrial complex); Ukrzink (non-ferrous metal production); Odessa Airlines (transport	13 September 2016	Vasil Kisil & Partners, "Privatisation in Ukraine", 14 September 2016

	industry); Ukrpapirprom; and Joint Ukrainian-Kazakh-Russian nuclear fuel production enterprise JV UKRTVS PrJSC. In parallel, nearly 100 enterprises were removed from the list (mainly companies operating in the agro-industrial sector).		
United States of America			
Entry	On 30 September 2016, the Federal Communications Commission released a report and order that simplifies the foreign ownership filing and review process for broadcast licensees. While the rule under which direct ownership of a broadcast station is restricted to U.S. citizens or to entities in which non-U.S.-citizens own no more than 20%, did not change, rules on indirect ownership were adjusted by extending the rules developed for foreign ownership reviews for common carrier and certain aeronautical licensees to the broadcast context. The change also provides a reformed framework for a publicly traded broadcast or common carrier licensee or controlling U.S. parent to ascertain its foreign ownership.	30 September 2016	Federal Communication Commission, FCC 16-128, 30 September 2016
Venezuela, Bolivarian Republic of			
Treatment	The Government of the Bolivarian Republic of Venezuela has taken control over a factory for personal care products belonging to Kimberly-Clark Corp (United States) after the company declared that it was no longer possible to manufacture due to the country's economic crisis.	11 July 2016	Wall Street Journal, "Venezuela Takes Over Kimberly-Clark Plant After Company Halts Operations", 11 July 2016
Viet Nam			
Treatment	On 30 June 2016, the Ministry of Planning and Investment issued Circular 09/2016/TT-BKHDT, to ensure that foreign firms observe relevant regulations and that violations will be discovered quickly. According to the regulation, examinations will be made on foreign companies in relation to capital contributions, project construction, the implementation processes, realization of investment targets, technology transfers, and fulfillment of investment requirements. The monitoring of companies will be conducted via routine as well as snap inspections.	30 June 2016	Ministry of Planning and Investment, Circular No. 09/2016 / TT-BKH, 30 June 2016
Zimbabwe			
Entry	The Banking Amendment Act (in force as of 13 May 2016), provides, inter alia, that without the permission of the Registrar, no domestic or foreign natural or legal persons, other than a financial institution, a registered controlling company, or a corporate body approved in terms of section 15F(l) of the Act, may hold shares in a banking institution or a controlling company if they exceed 25 per cent of the total nominal value or the total voting rights of all the issued shares of the banking institution or controlling company.	13 May 2016	Official Gazette, "Banking Amendment", 13 May 2016

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