



INVESTMENT POLICY MONITOR



UNITED NATIONS
UNCTAD

H I G H L I G H T S

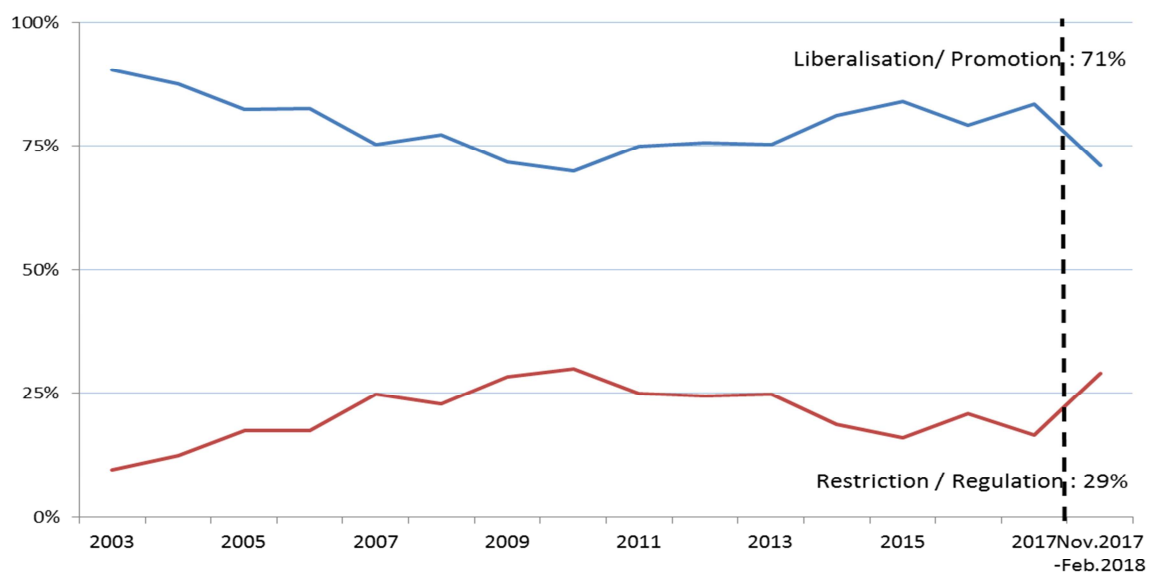
- Twenty-two countries took 32 national investment policy measures in the review period (November 2017 - February 2018). The share of liberalisation, promotion and facilitation measures decreased to 71 per cent. Compared with the annual figures in recent years, this records the lowest ratio since 2010.
- Some countries liberalised foreign investment. Among the noteworthy measures are liberalisation in a couple of industries in India, the removal of an indigenisation threshold in Zimbabwe, and new privatisation measures in Ukraine and Viet Nam.
- Efforts continued to facilitate and promote investment. Some countries (e.g. Argentina, Indonesia, the Philippines and Tanzania) simplified or streamlined administrative procedures. The United States introduced a tax reform; amongst other measures it reduced the corporate income tax rate to 21 per cent.
- The reporting period saw a remarkable increase in investment restrictions or regulations. Australia and New Zealand tightened investment screening procedures in some sectors. Lithuania made a legislative change to protect national security in certain sector or with respect to investment in certain zones. New Zealand and the United States declined takeover attempts of foreign companies because of doubts about the ownership structure. Nigeria ordered to give preference to domestic firms in public procurement. Tanzania adopted local content requirements in the mining sector. Venezuela introduced a law prohibiting foreign investors to interfere with domestic politics.
- During the reporting period, countries concluded two bilateral investment treaties (BITs) and six treaties with investment provisions (TIPs), bringing the total number of international investment agreements (IIAs) to over 3320.
- Contributing to the consolidation of the first phase of IIA reform, all new IIAs contain several reform features, in line with UNCTAD's Roadmap for IIA Reform. Among the five reform areas identified by UNCTAD, new treaties give particular attention to the preservation of the right to regulate (by clarifying of key protection standards) and the refinement of investor-State dispute settlement (ISDS).
- Countries are also starting to move towards modernizing the existing stock of old-generation treaties. Initial reform actions, typically corresponding to UNCTAD's 10 Options for the second phase of IIA reform, include the renegotiation of existing treaties, the termination of selected old-generation treaties, and the referencing of global standards in new IIAs.
- Negotiations for mega-regional agreements continue. Depending on how future mega-regional treaties will interact with overlapping pre-existing ones, this can help modernize today's stock of old-generation treaties. Multilateral discussions tackled the reform of investor-State dispute settlement, in UNCITRAL, among others.
- A number of countries are working towards structured discussions in the WTO, aimed at developing a multilateral framework on investment facilitation.

A. National investment policies

During the review period (November 2017 - February 2018), 22 countries took 32 investment policy measures (table 1). The majority of new investment policy measures continue to be geared towards creating more favourable investment conditions. Investment liberalisation, promotion and facilitation measures were adopted in numerous industries, including retail trade, energy and transportation with developing and transition economies taking the lead.

However, the overall share of more restrictive or regulatory investment policy measures increased during the reporting period significantly to 29 per cent (figure 1). Compared with annual figures in recent years, this is the highest ratio since 2010 (30 per cent). New investment restrictions or regulations for foreign investors were mainly based on concerns about foreign ownership of critical infrastructure and land, or about local producers' competitiveness.

Figure 1: Changes in national investment policies, 2003 - February 2018*



Source: ©UNCTAD.

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

Table 1. Summary of national investment policy measures adopted between November 2017 and February 2018

	Entry /Establishment (20)	Treatment (4)	Promotion and facilitation (17)	General business climate (2)
Argentina (*)	1		1	
Australia	2			
China (*)	2		3	
Gambia				1
India (*)	1	1	1	
Indonesia (*)	1		1	
Lao People's Democratic Republic	1			
Lithuania	1			
Myanmar (*)	1		1	
New Zealand	2			
Nigeria		1		

Peru			1	
Philippines			1	
Qatar			1	
Saudi Arabia			1	
Thailand			2	
Ukraine	2			
United Republic of Tanzania (*)	1	1	1	
United States of America (*)	1		1	1
Venezuela, Bolivarian Republic of (*)	1	1	1	
Viet Nam (*)	2		1	
Zimbabwe	1			

Source: ©UNCTAD.

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

1. Entry/Establishment of investment

Fifteen countries - *Argentina, Australia, China, India, Indonesia, Lao People's Democratic Republic, Lithuania, Myanmar, New Zealand, Ukraine, the United Republic of Tanzania, the United States of America, Bolivarian Republic of Venezuela, Viet Nam and Zimbabwe* - adopted new policy measures relating to the entry and establishment of foreign investors. The majority of them relaxed restrictions on foreign ownership or opened up new business opportunities.

Among the most noteworthy investment liberalisation measures are:

- *India* liberalised rules on inward investment in several sectors, including single brand retail trading, airline and power exchanges.
- *Indonesia* replaced the license requirement for business establishment by an investment registration procedure.
- The *Lao People's Democratic Republic* abolished the minimum registered capital requirement for certain foreign investors.
- *Myanmar* adopted its new Companies Act, which allows foreign investors to hold up to 35 per cent of shares in a domestic company without the company losing its categorisation as 'local company'.
- *Ukraine* adopted the 'Bill on the Privatization of Public Property', which aims to make the privatization process more transparent and faster for investors.
- *Viet Nam* privatised a 54 per cent stake in its largest brewer (Sabeco). It also issued a Decree to facilitate the privatisation of State-Owned Enterprises, for instance, by shortening the lock-in period of strategic partners.
- *Zimbabwe* removed the majority indigenisation threshold, except for diamonds and platinum.

New regulatory or restrictive investment-related policy measures include:

- *Australia* announced that all future applications for the sale of electricity transmission and distribution assets, and some generation assets, will attract ownership restrictions or conditions for foreign buyers. The country will also strengthen regulations for the purchase of agricultural land by foreign investors.
- *Lithuania* amended a law, mainly seeking to safeguard national security in certain economic sectors or with regard to investment in certain zones.
- *New Zealand* tightened screening procedures for foreign acquisitions of sensitive land. The Government also declined to consent to the acquisition of UDC Finance by the HNA Group as it was not possible to determine the ownership structure of the Chinese group.
- The Securities and Exchange Commission (SEC) of the *United States* rejected a takeover of the Chicago Stock Exchange by a group led by Chinese-based investors, as it was sceptical about whether the proposed ownership structure will allow SEC to exercise sufficient oversight of the Exchange.

2. Treatment of established investment

Four countries - *India, Nigeria, the United Republic of Tanzania* and *Bolivarian Republic of Venezuela* - took measures with respect to the treatment of investors after establishment in the host country.

- *India* amended the Model Concession Agreement (MCA) on public-private partnerships (PPP) in the port sector. Among other things, the new MCA provides easier exit routes for developers and lowers standard rents for land.
- *Nigeria* adopted a Presidential Executive Order, requiring that all public procuring authorities shall give preference to local companies in the award of contracts. It also prohibits the Ministry of Interior from giving visas to foreign workers whose skills are readily available in Nigeria.
- The *Bolivarian Republic of Venezuela* published the new Constitutional Law on Foreign Productive Investment. Among others, the law sets a number of conditions for foreign investment, including that foreign investors may not participate directly or indirectly in the national political debate or contribute directly or indirectly to the formation of opinion on topics of public interest in the media.
- The *United Republic of Tanzania* adopted 'Mining Regulations on Local Content' to promote the use of local expertise, goods and services, businesses and financing in the mining value chain. It also requires 'indigenous Tanzanian company' to hold an equity participation of at least 20 per cent in a mandatory joint venture arrangement for the supply of goods and services.

3. Promotion/Facilitation of investment

Fourteen countries - *Argentina, China, India, Indonesia, Myanmar, Peru, the Philippines, Qatar, Saudi Arabia, Thailand, the United Republic of Tanzania, the United States of America, Bolivarian Republic of Venezuela* and *Viet Nam* - adopted measures for the promotion and facilitation of investment. Most of these measures encouraged investment through providing investment incentives or facilitating investment procedures. For instance,

- *Argentina* published a decree with 170 measures that will eliminate rules and regulations considered to reduce the country's competitiveness.
- The *Philippines* launched a digital platform called the 'Philippine Business Data Bank', aiming to shorten the time needed for applying for and renewing permits.
- *Qatar* amended the Law on Investment in Free Zones, providing investors with a number of incentives including exemption of export and import duties.
- *Saudi Arabia* extended the licensing period for foreign investors to five years - up from the current one year.
- *Thailand* introduced a new visa system ('Smart Visa') to attract foreign highly skilled talents. It also enacted the Eastern Economic Corridor (EEC) Act, which provides incentives for investors in the ECC, such as tax grants, the right to land ownership and the issue of visas.
- The *United Republic of Tanzania* established an online registration system¹, which simplifies investment registration processes by significantly reducing time and costs.

4. General business climate

Two countries – *The Gambia* and *the United States of America* - took measures affecting the general business climate.² *Gambia* reduced the corporate income tax rate on profits and on turnover as of 1 January 2018. The *United States* introduced the 'Tax Cuts and Jobs Act'. Amongst other measures, the Act reduces the corporate income tax rate to 21 per cent.³

¹ UNCTAD provided technical assistance for this project.

² The following examples are a non-exhaustive overview.

³ UNCTAD has analyzed the implications of the U.S. tax reform for investment in its 'Investment Trend Monitor, Issue 29' in February 2018. (http://unctad.org/en/PublicationsLibrary/diaeia2018d2_en.pdf)

B. International investment policies

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

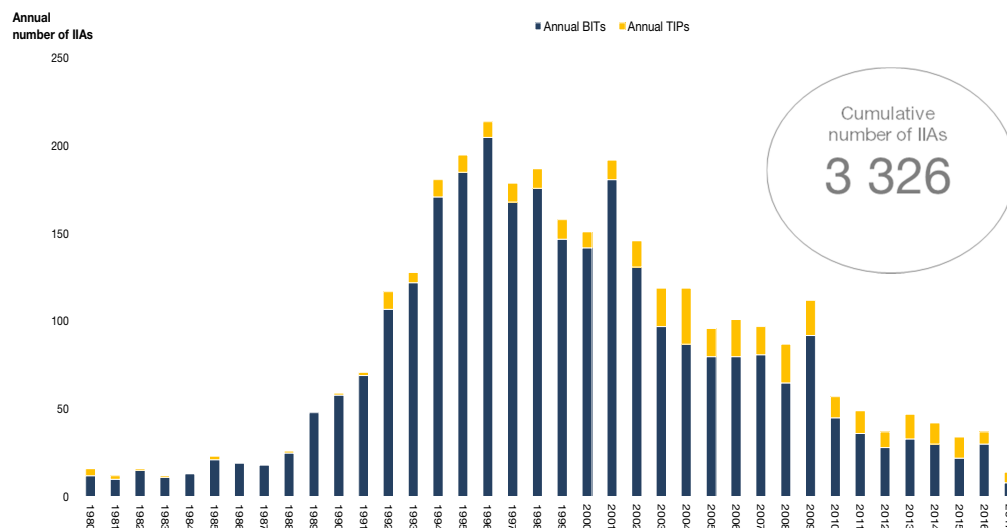
During the reporting period, two bilateral investment treaties (BITs) and six treaties with investment provisions (TIPs)⁴ were signed, bringing the total number of IIAs to over 3,320 by end-February 2018. At least two IIAs entered into force (the BIT between Slovakia and United Arab Emirates, effective 5 February 2018 and the BIT between Mexico and Turkey, effective 17 December 2017). Furthermore, during the reporting period, at least two terminations of BITs took effect (the termination of the BIT between Bahrain and India, effective 4 December 2017 and the BIT between Ecuador and Peru, effective 19 November 2017).

Table 2. List of IIAs signed between 1 November 2017 and 28 February 2018

	Name of the Agreement	Date of signature
1	Bilateral Investment Treaty (BIT) between Rwanda and the United Arab Emirates	01 November 2017
2	Free Trade Agreement (FTA) between Argentina and Chile	02 November 2017
3	Hong Kong, China Special Administrative Region (SAR) - ASEAN (Association of South-East Asian Nations)	12 November 2017
4	Bilateral Investment Treaty (BIT) between Colombia and the United Arab Emirates	13 November 2017
5	Comprehensive and Enhanced Partnership Agreement (CEPA) between the EU and Armenia	24 November 2017
6	Comprehensive Economic Partnership Agreement (CEPA) between Chile and Indonesia	15 December 2017
7	Free Trade Agreement (FTA) between Australia and Peru	12 February 2018
8	Free Trade Agreement (FTA) between Republic of Korea and Republics of Central America ⁵	21 February 2018

Source: ©UNCTAD, IIA Navigator.

Figure 2: Trends in IIAs signed, 1980-2017



Source: ©UNCTAD, IIA Navigator.

Note: Preliminary data for 2017

⁴ Treaties with investment provisions encompass 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). Four main types of TIPs can be distinguished: (i) TIPs that include obligations commonly found in BITs, including substantive standards of investment protection and investor-State dispute settlement (ISDS); (ii) TIPs that include limited investment provisions (e.g. national treatment (NT) and most favoured nation (MFN) treatment with regard to the right of establishment of companies, or provisions on free movement of capital relating to direct investments); (iii) TIPs with investment provisions emphasizing investment promotion and facilitation whilst also containing a number of investment protection provisions, although no ISDS clause; and (iv) TIPs that establish an institutional framework between the Parties to promote and cooperate on investment.

⁵ Comprising Costa Rica, El Salvador, Honduras, Nicaragua and Panama.

A detailed analysis of all IIAs signed in 2017, including their content and use of sustainable development features, will be available in the World Investment Report 2018 (Chapter III) to be launched in June 2018.⁶

The ***BIT between Rwanda and the United Arab Emirates***, signed on 1 November 2017 contains a broad, asset-based definition of investment and specifies the characteristics an investment should have (certain duration; commitment of capital or other resources; expectation of gain or profit; and the assumption of risk) and excludes from the investment definition claims to money arising solely from commercial contracts. The preamble specifies that the agreement applies only to the post-establishment phase of investments made in accordance with host State laws. The provision on national treatment (NT) applies (under conditions of "like circumstances") with respect to the expansion, management, conduct, operation and sale or other disposition of the investment. The most favoured nation (MFN) provision applies (under conditions of "like circumstances") with respect to the establishment, expansion, management, conduct, operation and sale or disposition of the investment (specifying that MFN does not apply to the settlement of investment disputes). For the United Arab Emirates, the BIT specifically excludes natural resources. The BIT includes a list of measures which would constitute a breach of the fair and equitable treatment (FET) obligation (denial of justice in criminal, civil or administrative proceedings; fundamental breach of due process in juridical proceedings; targeted discrimination on manifestly wrongful grounds; abusive treatment; or a breach of further elements of the FET obligation). The provision further specifies that a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET. The expropriation provision establishes criteria that need to be met in order for an indirect expropriation to be found (the economic impact of the government action; the extent to which the government action breaches its prior, binding written commitments to the investor; and the character of the government action) and excludes sovereign assets and sovereign wealth funds from the ambit of the expropriation provision. The BIT contains a separate provision on the right to regulate. The free transfer of funds obligation is subject to a balance-of-payment exception and to the right of the government to apply its laws to, *inter alia*, protect the rights of creditors. The BIT includes a separate mediation and conciliation provision in addition to the ISDS provision, the latter including a requirement that a submission of a dispute to arbitration shall take place within three years of date on which the disputing investor first acquired or should have acquired knowledge of the alleged breach of an obligation. It also provides a procedure for summary dismissal of a claim in the event it is found to be manifestly outside the jurisdiction of the arbitral tribunal, or is manifestly inadmissible or without legal merit. There is also provision for joint interpretation by the parties of any provision of the agreement and a separate provision setting out the ethical duties of members of the arbitral tribunal.

The ***FTA between Hong Kong China SAR and ASEAN (Association of South-East Asian Nations)***, signed on 12 November 2017, includes a chapter on investment. The chapter contains a broad, asset-based definition of investment and specifies the characteristics an investment should have (certain duration; commitment of capital or other resources; expectation of gain or profit; and the assumption of risk). The NT and MFN provisions apply (under conditions of "like circumstances") to post-establishment and the treaty specifies that MFN does not extend to dispute settlement procedures beyond the agreement, nor does it automatically apply to more favourable treatment accorded in future IIAs. It also contains a provision on FET and FPS, circumscribing the treatment thereunder to the minimum standard of treatment under customary international law, and not creating additional substantive rights. The provision further clarifies that a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET and FPS. The agreement covers direct and indirect expropriation (unclarified, but defining a carve-out for compulsory licensing) and its free transfer of funds obligation is subject to a balance-of-payment exception. The agreement includes separate articles on investment promotion and facilitation, such as simplifying procedures for investment approvals and establishing host-State one-stop investment centres to provide business assistance and advisory services. It also includes a provision recognizing the importance of providing special and differential treatment for newer ASEAN member States, including technical assistance with regard to investment policy and promotion, and recognising that commitments by each newer ASEAN Member State may be made in accordance with its stage of development. With regard to ISDS, this is to be agreed between the parties under future negotiations, to be concluded one year after entry into force of this agreement.

The ***BIT between Colombia and the United Arab Emirates (UAE)*** was signed on 13 November 2017. The BIT contains a broad, asset-based definition of investment, also covering reinvestments, requiring that investments have certain characteristics (commitment of capital or other resources; the expectation of gain or profit; and the

⁶ The following discussion is based on IIAs for which text was available.

assumption of risks) and excluding money claims arising solely from commercial contracts. For the United Arab Emirates, the BIT specifically excludes natural resources. The NT and MFN provisions apply (under conditions of "like circumstances") with respect to the post-establishment phase. The MFN clause specifies that it does not apply to settlement of investment disputes. The FET and FPS obligations are circumscribed, being equated to the minimum standard of treatment of customary international law. The FET provision sets out a list of measures which would constitute a violation and clarifies that a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET. The free transfer of funds obligation is subject to enforcement of national laws and measures to safeguard monetary or exchange rate policy difficulties, in accordance with IMF rules. The expropriation provision establishes criteria to be met in order for an indirect expropriation to be found (scope of the measure; economic impact of the measure; level of interference on reasonable investor expectations). There is a self-standing exception for the protection of environmental and labour concerns and an explicit recognition that parties shall not relax environmental or labour laws to attract investment, as well as a separate provision containing general exceptions (relating to ensuring compliance with laws or regulations; protecting human, animal, or plant life, health or the environment; conserving living or non-living exhaustible natural resources; and preserving public order). The ISDS provision includes a requirement that a submission of a dispute to arbitration shall take place within three years of the date on which the disputing investor first acquired or should have acquired knowledge of the alleged breach of an obligation. The BIT also provides for ad hoc or institutional mediation or conciliation before or during the arbitral proceeding, as well as for consolidation of claims. In addition, this BIT contains a provision which expressly permits counter-claims, and establishes a mechanism for obtaining a claimant investor's consent.

The ***Comprehensive and Enhanced Partnership Agreement (CEPA) between the EU and Armenia*** was signed on 24 November 2017. It contains limited investment provisions, namely provisions on free movement of capital relating to direct investments, qualified by safeguards for actual or threatened serious balance-of-payments or external financing difficulties. The agreement also includes NT and MFN in respect of the right of establishment of companies. The agreement does not include key protection provisions including procedural protections such as ISDS and excludes MFN treatment from extending to ISDS procedures in other agreements. There is also provision for regular review of the legal framework for investment no later than three years after entry into force of the agreement.

The ***FTA between Australia and Peru***, signed on 12 February 2018, contains an investment chapter that adopts a broad asset-based definition of investment, requiring that investments have certain characteristics (commitment of capital or other resources; the expectation of gain or profit; and the assumption of risks). The chapter includes pre-establishment NT and MFN provisions (applying under conditions of "like circumstances") specifying that MFN does not apply to the settlement of investment disputes. It also circumscribes the protections under FET and FPS to the minimum standard of treatment under customary international law, not creating additional substantive rights. The provision further clarifies that a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET and FPS. The agreement covers direct and indirect expropriation, defining, in an Annex to the agreement, criteria to be met for an indirect expropriation to be found (the economic impact of the government action; the extent to which the government action breaches its prior, binding written commitments to the investor; and the character of the government action) and excludes regulatory measures designed to protect legitimate public welfare objectives from being characterized as an indirect expropriation. The transfer of funds provision envisages that a party may prevent or delay transfer to, inter alia, apply its laws to protect the rights of creditors. A separate article provides for measures to ensure that investment activity in its territory is undertaken in a manner sensitive to environmental, health or other regulatory objectives and there is a separate, general exception provision for measures to protect human, animal or plant life or health, and environmental measures relating to the conservation of living or non-living exhaustible natural resources, amongst other public objectives. The chapter further encourages investors to comply with internationally recognised corporate social responsibility standards. The chapter contains an ISDS provision, which limits the time period to submit claims to arbitration to no more than three years and six months from the date of knowledge of the alleged breach. A Joint Commission is empowered to implement the agreement, including issuing interpretations on any provisions in the agreement, which are binding on arbitral tribunals. There is also a detailed provision for transparency of arbitral proceedings.

The ***FTA between the Republic of Korea and Republics of Central America*** (comprising Costa Rica, El Salvador, Honduras, Nicaragua and Panama) was signed on 21 February 2018. The BIT contains a broad, asset-based definition of investment, requiring that investments have certain characteristics (commitment of capital or

other resources; the expectation of gain or profit; and the assumption of risk). The NT and MFN provisions apply (under conditions of "like circumstances") with respect to the pre- and post-establishment phases. The MFN clause does not apply with respect to settlement of investment disputes. The FET and FPS obligations are equated to the minimum standard of treatment of customary international law, not creating additional substantive rights and clarifying that a breach of another provision of the agreement or of a separate international agreement does not establish a breach of FET or FPS. The agreement covers direct and indirect expropriation, defining, in an Annex to the agreement, criteria to be met for an indirect expropriation to be found (economic impact of the government action; extent of interference with reasonable investor expectations; and the character of the government action) and excluding non-discriminatory regulatory actions designed to protect legitimate public welfare objectives from being characterized as an indirect expropriation. The transfer of funds provision envisages that a party may prevent transfer in order to apply its laws to protect the rights of creditors and in the event of serious balance-of-payment difficulties. A separate article provides for measures to ensure that investment activity in parties' territory is undertaken in a manner sensitive to environmental concerns. The chapter contains an ISDS provision, which limits the time period to submit claims to arbitration to not more than three years from the date of knowledge of the alleged breach. A Joint Commission is empowered to issue binding interpretations and there is a detailed provision for transparency of arbitral proceedings, as well as for consolidation of claims.

2. Ongoing IIA Negotiations

During the reporting period, negotiations on mega-regional initiatives continued. These included the negotiations of mega-regional agreements under RCEP (ASEAN plus six other countries from the region), the African Continental Free Trade Area Agreement (CFTA), the COMESA-EAC-SADC Tripartite Free Trade Area Agreement (TFTA) and the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) (which was signed on 8 March 2018, outside the reporting period). The EU continued its negotiations on investment and trade agreements with China, Japan and Mexico, while the renegotiation of NAFTA, including the investment chapter, also continued.

African Continental Free Trade Area Agreement (CFTA)

The African Union Commission (AUC) held both a three-week meeting in late 2017 for the Technical Working Groups (TWG) and the 8th Negotiating Forum in Abuja, Nigeria, from 6-25 November 2017, which arrived at three outcomes on the Framework Agreement on the CFTA: the Protocol on Goods; the Protocol on Services; and an in-built agenda. This was followed by the 4th meeting of senior trade officials and African Ministers of Trade in Niamey, Niger from 27 November-2 December 2017, where Ministers approved the broad structure of the CFTA (Framework Agreement) as well as the protocols and built-in agenda. African Heads of State are set to consider and sign the Agreement establishing the CFTA at an extraordinary summit of the African Union in Kigali, Rwanda on 21 March 2018.⁷ A two-week meeting at the technical and senior trade officials' level was held in Addis Ababa, Ethiopia during February 2018 to conclude the text the agreement before the Summit. The second phase of negotiations will focus on the protocols on competition, intellectual property rights and investment.⁸

Australia and Hong Kong, China SAR Free Trade Agreement

The fourth round of negotiations on the Australia-Hong Kong Free Trade Agreement (A-HKFTA) was held in Canberra, Australia from 7-9 February 2018. The fourth round built upon a meeting of services, investment and legal working groups which took place in Singapore from 29 November – 1 December 2017, held between the third and fourth rounds to progress the negotiations. Chapters under negotiation at the fourth round included services, investment, competition, and legal and institutional chapters of the agreement. Negotiators have now finalised the text of nine chapters, with the remaining chapters close to finalization, but expect to hold a further round in May this year.⁹ The investment working group has made solid progress on the investment commitments of the agreement. Australia has previously emphasized its requirement to modernise the investment rules currently in force with Hong Kong as contained in the 1993 Agreement between Australia and Hong Kong for the Promotion and Protection of Investments.¹⁰

⁷ <http://allafrica.com/stories/201712080210.html>; SUNS #8618 dated 9 February 2018.

⁸ <https://au.int/en/pressreleases/20171208/statement-chairperson-commission-african-union-continental-free-trade-area>.

⁹ <https://www.acpet.edu.au/article/12115/update-on-the-australia-hong-kong-free-trade-agreement-a-hkfta-negotiations/>.

¹⁰ <http://dfat.gov.au/trade/agreements/a-hkfta/Pages/news.aspx>.

COMESA-EAC-SADC Tripartite Free Trade Area Agreement (TFTA)

On 30 January 2018, Botswana became the 22nd country to sign the TFTA.¹¹ Egypt and Uganda have thus far ratified the TFTA. The Agreement requires 14 ratifications to enter into force. The 15th meeting of the Tripartite Committee of Senior Officials was held in Addis Ababa, Ethiopia on 3 February 2018. The purpose of the meeting was to consider the report of the Tripartite Trade Negotiation Forum (TTNF) held on 2 February 2018 in Kampala, Uganda. Negotiations continued on Phase II of the Tripartite FTA, which incorporates investment, along with trade in services, intellectual property rights and competition. Negotiating parties are considering possible approaches to the investment chapter in the Tripartite FTA (full investment chapter, or a more limited approach focusing on investment cooperation).

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

On 11 November 2017, in Da Nang, Viet Nam, the remaining parties to the TPP (without the United States) agreed to pursue discussions with regard to the CPTPP, ultimately settling the core elements.¹² This agreement will be a new treaty between 11 members that incorporates much of the Trans-Pacific Partnership (TPP). In the November meeting, parties agreed to implement the original TPP provisions, with the exception of twenty provisions, which they agreed would be suspended.¹³ CPTPP senior officials meeting in Tokyo, Japan, from 22-23 January 2018, concluded discussions and finalized the text of the Agreement.¹⁴ In the investment chapter, the traditional ISDS model remains in force, except that United States-supported provisions relating to "investment agreement" and "investment authorisation" are amongst the twenty provisions that have been suspended.¹⁵ There is therefore a narrower scope for challenging CPTPP signatory governments, since claims by private companies in relation to investment contracts and approvals are now excluded.¹⁶ Additionally, safeguard provisions contained in the TPP have been retained to protect the Government's right to regulate in the public interest (particularly vis-a-vis measures related to public education, health and other social services).¹⁷ The agreement was signed by Ministers on 8 March in Chile (outside the reporting period). The CPTPP will enter into force 60 days after six of the 11 countries ratify the deal.¹⁸ Additionally, on 8 March, a number of side agreements were signed related to ISDS: ISDS is excluded between New Zealand and Peru;¹⁹ a respondent host State must provide specific consent for an investor claim to proceed to arbitration (side agreements between Brunei-New Zealand, Malaysia-Viet Nam).²⁰ Under a further set of side agreements, Canada agreed with the ten other CPTPP parties that it may adopt certain discriminatory requirements on service suppliers or investors relating to its cultural industries.²¹

Economic Partnership Agreement (EPA) between the EU and Japan

On 8 December 2017, the EU announced that the negotiations between the EU and Japan on the EPA had been finalised.²² After the legal verification and translation processes, the European Commission will submit the agreement for the approval of the European Parliament and EU Member States, aiming for its entry into force before the end of the current mandate of the European Commission in 2019.²³ However, for the investment chapter, many aspects remain subject to further negotiations, including investment protection standards and dispute settlement.²⁴ The current text explicitly reaffirms the right of each party to regulate to pursue legitimate policy objectives, highlighted in a non-exhaustive list. The NT and MFN provisions apply (under conditions of "like circumstances") and the BIT excludes from the MFN provision ISDS procedures provided for in other IIAs. The

¹¹ <https://asokoinsight.com/news/botswana-becomes-22nd-country-to-sign-comesa-eac-sadc-tripartite-fta-agreement>.

¹² The parties are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, Peru, New Zealand, Singapore and Viet Nam.

¹³ Most of the provisions suspended are IP-related. <http://dfat.gov.au/trade/agreements/tpp/news/Documents/TPP-11-Outcomes-at-a-glance.pdf>.

¹⁴ http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/timeline_negociations-chronologie_negociations.aspx?lang=eng.

¹⁵ <http://dfat.gov.au/trade/agreements/tpp/official-documents/Documents/tpp-11-treaty-text.pdf>.

¹⁶ <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/cptpp/tpp-and-cptpp-the-differences-explained/#sue>.

¹⁷ <http://dfat.gov.au/trade/agreements/tpp/news/Documents/TPP-11-Outcomes-at-a-glance.pdf>.

¹⁸ <https://www.canada.ca/en/global-affairs/news/2018/03/statement-by-minister-champagne-on-signing-of-comprehensive-and-progressive-agreement-for-trans-pacific-partnership.html>; <https://www.crowell.com/NewsEvents/AlertsNewsletters/all/The-Month-in-International-Trade-February-2018#ITB05>.

¹⁹ When publishing the CPTPP text, New Zealand confirmed that it maintained its existing exclusion of ISDS with Australia.

²⁰ In the case of Brunei, New Zealand also agreed that if the respondent State does not provide consent, the investor's home State may request consultations with the host State under a New Zealand-Brunei agreement on bilateral consultation. <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership-text/#chapters>.

²¹ Specifically, Canada may adopt or maintain discriminatory requirements on service suppliers or investors to make financial contributions for Canadian content development and may adopt or maintain measures that restrict access to on-line foreign audio-visual content. <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptp/text-texte/letters-lettres.aspx?lang=eng>.

²² <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>.

²³ <http://ec.europa.eu/trade/policy/in-focus/eu-japan-economic-partnership-agreement/>.

²⁴ http://trade.ec.europa.eu/doclib/docs/2017/july/tradoc_155710.pdf; <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1767>.

draft text does not contain provisions on dispute settlement. The EU has tabled its proposal on the Investment Court System.²⁵

The EU and China Bilateral Investment Agreement

The 16th round of the EU-China investment agreement negotiations took place in Brussels, Belgium from 12-15 December 2017. On expropriation and transparency, discussions are quite advanced, and text-based discussions continue. The parties also discussed the scope and function of the non-discrimination obligations. By contrast, discussions on sustainable development, financial services and the umbrella clause are still in an initial stage.

The EU and Mexico Free Trade Agreement

The trade negotiations to modernise the 1997 Economic Partnership, Political Coordination and Cooperation Agreement between the EU and Mexico commenced in June 2016. Negotiations continued throughout 2017, with further talks being held throughout the relevant period (in Brussels, Belgium between 12 and 21 December 2017, followed by discussions in Mexico City, Mexico from 8-17 January 2018). The EU indicated in a statement, published January 15, 2018, that "investment protection" remained among issues needing "further work" before a new trade agreement is reached.²⁶ The European Commission published textual proposals of the investment chapter in April 2017, including the proposed establishment of an Investment Court System (replicating the court system contained in the Canada-EU CETA).²⁷ The latest round took place from 12-16 February 2018, in Mexico City, Mexico.²⁸

North American Free Trade Agreement (NAFTA)

Since the launch of renegotiation of the NAFTA in August 2017, seven rounds of negotiations have taken place. 2017 ended with a negotiating round held in Mexico City, Mexico from the 17-21 November 2017. The sixth negotiating round took place from 23-28 January 2018 in Montreal, Canada, followed by a meeting of parties' respective trade ministers on 29 January 2018, followed by the seventh round at the end of February 2018.²⁹ Regarding the investment chapter, the United States voiced concerns that foreign investors should not enjoy better treatment than national investors.³⁰ The United States wants ISDS to become an "opt-in" or, a voluntary system. Canada and Mexico have stated their intention to reform the ISDS system.³¹ Negotiations are continuing.

Regional Comprehensive Economic Partnership (RCEP)³²

Twenty rounds of negotiations concluded thus far have covered topics such as goods, services, trade remedies, customs clearance, investment, government procurement, competition policy, e-commerce, and dispute settlement.³³ A high level RCEP Ministerial meeting and the RCEP Summit were held on 12-14 November 2017 in the Philippines. At the end of the meeting, a statement by Heads of State was issued, reaffirming their commitment to achieving a modern, comprehensive, high-quality and mutually beneficial economic partnership agreement, negotiated as a single undertaking, that would support an open and enabling trade and investment environment in the region. Heads of State urged negotiators to bring the deal to conclusion in 2018. Little is known regarding the content of the investment chapter; however, it is reported that the chapter will seek to create an enabling investment environment in the region covering the four pillars of investments – protection, liberalisation, promotion, and facilitation.³⁴

3. Other IIA-related developments

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

²⁵ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1687>.

²⁶ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1778>.

²⁷ http://trade.ec.europa.eu/doclib/docs/2017/may/tradoc_155521.pdf.

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

²⁹ The 7th round of NAFTA negotiations took place in Mexico City from 25 February-5 March 2018.

³⁰ <https://ustr.gov/sites/default/files/files/Press/Releases/NAFTAObjectives.pdf>.

³¹ https://www.canada.ca/en/global-affairs/news/2017/08/address_by_foreignaffairsministeronthemodernizationofthenorthame.html.

³² RCEP (ASEAN+six) is a proposed FTA between the ten member States of the Association of Southeast Asian Nations (ASEAN) (Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand, Viet Nam) and Australia, China, India, Japan, Republic of Korea and New Zealand.

³³ <https://www.ictsd.org/bridges-news/bridges/news/rcep-negotiators-conclude-nineteenth-round-push-for-accelerated-progress>.

³⁴ <http://dfat.gov.au/trade/agreements/rcep/Pages/regional-comprehensive-economic-partnership.aspx>.

Developments Regarding European Investment Policymaking

European Court of Justice (ECJ) Decision on the Slovak Republic v Achmea B.V. decision

Outside of the reporting period, but of potential significance, is the decision rendered by the ECJ on 6 March 2018, which found that arbitration clauses giving consent to ISDS contained in intra-EU BITs were incompatible with EU law.³⁵ The case concerned a long-running investment arbitration claim brought under UNCITRAL rules by a Dutch claimant against the Slovak Republic under the Czech and Slovak Federal Republic-Netherlands BIT (1991), which Slovakia sought to set aside before German courts. The German Federal Court of Justice (Bundesgerichtshof) submitted the request for a preliminary ruling to the ECJ. The ruling is contrary to the (non-binding) Opinion by the Advocate-General (19 September 2017), which had found arbitration clauses contained in intra-EU BITs to be compatible with EU law.³⁶

European Commission Initiative on Strengthening Trade and Sustainable Development

On 27 February 2018, the European Commission publicized a 15-point plan to make EU trade and sustainable development (TSD) chapters in FTAs more effective. The plan will provide a roadmap for future work in this area. The aim of the work is to improve the implementation of FTAs as a way of leveraging increased trade and investment on issues such as decent work, environmental protection or the fight against climate change. The 15 action points include, among others, taking action regarding ensuring responsible business conduct, and enforcing specific provisions promoting Corporate Social Responsibility.³⁷

Other Developments

ICSID Membership

On 11 January 2018, Mexico signed the ICSID Convention. Following ratification by the Mexican Senate, the Convention will enter into force 30 days after Mexico deposits its instrument of ratification, acceptance or approval.³⁸

UNCITRAL Discussions on Possible Reform of Investor-State Dispute Settlement

Following UNCITRAL members' agreement in July 2017 to pursue a work program on the multilateral reform of investment dispute settlement, including the possible establishment of a multilateral investment court, Working Group III held its first meeting from 27 November-1 December 2017 in Vienna, Austria. Delegates discussed a range of concerns in relation to ISDS, based on a background paper prepared by the UNCITRAL Secretariat, such as the costs and duration of proceedings; frivolous claims and claims without merit; counterclaims; and predictability and consistency of awards. The next meeting of the working group will take place from 23-27 April 2018 in New York.

Organisation of Islamic Cooperation (OIC) Guiding Principles for Investment Policymaking

The 57 OIC countries are developing, in cooperation with UNCTAD, Guiding Principles for Investment Policymaking for OIC countries to use in the development of national and international investment policies. Based on a Joint OIC-UNCTAD Proposal, the draft 10 non-binding investment principles cover areas such as policy coherence; balanced rights and obligations; right to regulate; openness to investment; investment protection; and intra-OIC cooperation. The Principles, which are in line with the OIC Action programme (OIC-2025), have been endorsed at the expert level, and will be submitted to Member States for formal adoption in the course of 2018.

G20 Trade and Investment Working Group (TIWG)

Argentina took over the presidency of the G20 on 1 December 2017. For the TIWG, the Argentine Presidency outlined its two priority areas for the year. The first is Trade and Investment Aspects of Food and Agricultural Global Value Chains, with the focus on small and medium-sized enterprises (SMEs). The second is Trade and Investment Aspects of the New Industrial Revolution.³⁹ Argentina's G20 presidency in 2018 follows the German presidency in

³⁵ ECJ, *Slovak Republic v Achmea BV*, Case C-284/16 (6 March 2018),

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=199968&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=674988>.

³⁶ <http://curia.europa.eu/juris/document/document.jsf?text=&docid=194583&doclang=EN>.

³⁷ <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1803>.

³⁸ <https://icsid.worldbank.org/en/Pages/about/Database-of-Member-States.aspx>.

³⁹ <https://www.g20.org/en/g20-argentina/work-streams/trade-and-investment>.

2017. In 2016, under China's presidency, the Principles for Global Investment Policymaking were adopted in July 2016.⁴⁰

Multilateral Discussions on Investment Facilitation in the World Trade Organisation (WTO)

Following meetings spearheaded by the Friends of Investment Facilitation for Development (FIFD) at the WTO in the run up to the WTO 11th Ministerial Conference in Buenos Aires in December 2017, some 70 WTO Members at MC11, highlighting the links between investment, trade and development, announced plans to pursue structured discussions with the aim of developing a multilateral framework on investment facilitation.⁴¹ On 1 February 2018, Brazil circulated a submission in the WTO's General Council, detailing a concrete illustration of a possible WTO multilateral framework for investment facilitation.⁴² The submission shares the objectives of the Joint Ministerial statement, namely to provide investors with a transparent, predictable and efficient regulatory and administrative framework, in order to facilitate sustainable investment flows to promote economic growth, while at the same time increasing the participation of developing countries in investment flows. Similar to the MC11 statement, the proposal specifically excludes investment protection rules, dispute resolution procedures other than the WTO's Dispute Settlement Understanding (DSU), market access and government procurement, from its remit. It includes general principles relating to MFN, the right to regulate and transparency; sections on institutional governance; procedures to process applications; on the regulatory environment (providing for publication of and comment on domestic laws and regulations). The proposal also contains a sub-section on special and differential treatment, setting out schedules of implementation for developing and least developed Members, as well as technical assistance. It refers to voluntary principles of corporate social responsibility that investors should strive to achieve and provides for the establishment of a WTO Committee on Investment Facilitation to implement the Agreement or further its objectives.

European Union (EU)-African Caribbean Pacific (ACP) Post 2020 Cotonou Negotiations

Since 2000, the Cotonou Partnership Agreement has been the legal framework for the relations between EU and the countries of the ACP Group. With the current ACP-EU agreement expiring in 2020, negotiations for a follow-up partnership are set to launch no later than August 2018. On 12 December 2017, the European Commission presented a recommendation to the European Council, including a proposal for negotiating directives. The recommendation focuses on obtaining results in key areas such as democracy and human rights, economic growth and investment, climate change, poverty eradication, peace and security and migration.

⁴⁰ See <http://investmentpolicyhub.unctad.org/News/Hub/Archive/508>; and UNCTAD's Investment Monitor (November 2016) available at: http://unctad.org/en/PublicationsLibrary/webdiaepcb2016d2_en.pdf.

⁴¹ WT/MIN(17)/59 dated 13 December 2017. The proponents are Argentina; Australia; Benin; Brazil; Cambodia; Canada; Chile; China; Colombia; Costa Rica; El Salvador; European Union; Guatemala; Guinea; Honduras; Hong Kong, China; Japan; Kazakhstan; Korea, Republic of; Kuwait, the State of; Kyrgyz Republic; Lao People's Democratic Republic; Liberia; Macao, China; Malaysia; Mexico; Moldova, Republic of; Montenegro; Myanmar; New Zealand; Nicaragua; Nigeria; Pakistan; Panama; Paraguay; Qatar; Russian Federation; Singapore; Switzerland; Tajikistan; Togo; and Uruguay. Discussions in the WTO are controversial, as some members are concerned that there is no existing mandate for these discussions.

⁴² Job/GC/169 dated 1 February 2018.

ANNEX. Investment policy measures taken between November 2017 and February 2018

	Description of Measure	Date	Source
Argentina			
Entry/Promotion and facilitation	The Government published a decree with 170 measures that will eliminate rules and regulations that are considered to reduce the country's competitiveness to attract private investment. Among others, the decree will eliminate the Industrial Registry of the Nation (RIN), created in 1972 and that requires the registration of all companies, a process that demanded eight months. Other bureaucratic obstacles will also be reduced, such as the need for the president to authorize the installation of new automotive terminals.	11 January 2018	Official Gazette, "Decreto 27/2018", 11 January 2018
Australia			
Entry	The Government announced that all future applications for the sale of electricity transmission and distribution assets, and some generation assets will attract ownership restrictions or conditions for foreign buyers. This approach will allow the Government to actively manage the level of ownership and control from investors in a single asset or within a sector. Each case will be assessed on a case-by-case basis, taking into account a range of factors such as the cumulative level of ownership within a sector, the need for diversity of ownership and the asset's critical importance. In its media release, the Government also made it clear that it is committed to an open foreign investment regime that strikes the right balance in managing national security risks, while promoting job opportunities and enabling economic growth.	1 February 2018	The Treasury (Media Release), "New conditions on the sale of Australian electricity assets to foreign investors", 1 February 2018
Entry	The Government also announced its policy on purchase of agricultural land by foreign investors. Subject to exceptional circumstances, foreign investors will need to demonstrate that agricultural land they intend to acquire has been part of a public sales process and marketed widely to potential Australian bidders for a minimum of 30 days, ensuring that Australian bidders have had an opportunity to participate in the sale process. All acquisitions of agricultural land by foreign investors for residential development will also be subject to standard development conditions requiring development to commence within a five year period to prevent land banking. This condition already applies to acquisitions of vacant land.	1 February 2018	The Treasury (Media Release), "Ensuring Australians can purchase agricultural land while foreign investment is geared toward jobs and growth", 1 February 2018
China			
Entry/Promotion and facilitation	The Government of Guangdong province issued a series of 10 policies to attract foreign investment, particularly in high-end manufacturing industries. For instance, several measures relax foreign ownership restrictions in the manufacturing of automotive	1 December 2017	Department of Commerce of Guangdong Province, "Policies and Measures of Guangdong Province on Further Expanding Opening-up and Actively Attracting Foreign

	(special vehicle manufacturing and new energy vehicle manufacturing), ship design, aircraft maintenance, as well as in the financial services sectors, such as fund management, future goods, and insurance industries. The policies also include the use of financial incentives, and support innovation and R&D.		Direct Investment by People's Government of Guangdong Province", 4 December 2017
Promotion and facilitation	Four Chinese ministries jointly issued a notice, Circular 88, on the temporary exemption from withholding tax (WHT) on profits of foreign companies that they re-invest in China. Foreign companies must meet a string of conditions to be eligible for the exemption, including direct investment into sectors encouraged by the Government, and investment returns must be transferred directly to invested companies. The exemption is valid as of the beginning of 2017, which means that taxes already paid will be refunded.	28 December 2017	Xinhua news, "China unveils tax exemption to attract foreign investment", 28 December 2017
Entry/Promotion and facilitation	The State Council issued a notice saying that the Government has decided to ease regulations for enterprises investing in free trade zones (FTZs) to promote reform and opening up. According to the decision, China will allow wholly foreign-owned entertainment venues to provide services in FTZs and permit foreign investors to invest in internet access businesses. The country will remove the restriction that at least 70 per cent of equipment in foreign-funded urban-rail traffic projects should be made in China. Wholly foreign-owned companies are allowed to open gas stations and to design, produce and repair aircraft with a maximum takeoff weight of 6 tons. Investment proportions limitations on helicopters with a takeoff weight of at least 3 tons are also lifted. Foreign investors are also allowed to be controlling shareholders in International shipping agencies.	9 January 2018	The State Council, "China relaxes regulations for investors in free trade zones", 9 January 2018
Gambia			
General business climate	In his 2018 budget speech, delivered on 15 December 2017, the Minister of Finance and Economic Affairs stated that the corporate income tax rate on profits will be reduced from 30 to 27 per cent and the rate on turnover will be reduced from 1.5 to 1 per cent for audited accounts and from 2.5 to 2 per cent for unaudited accounts. The new rates will apply as of 1 January 2018.	15 December 2017	AllAfrica, "Gambia: Finance Minister Delivers 2018 Budget Speech", 18 December 2017
India			
Treatment/Promotion and facilitation	The Union Cabinet approved amendments to the Model Concession Agreement (MCA) on public-private partnerships (PPP) in the port sector in an effort to make port projects more investor-friendly. Among other things, the new MCA provides easier exit route for developers, as they can now divest their equity up to 100 per cent after completion of just 2 years from the Commercial Operation Date (COD). The new MCA also lowers standard rents for land to reduce the cost involved in any expansion of port facilities.	3 January 2018	Press Information Bureau, "Cabinet approves revised Model Concession Agreement for PPP Projects in Major Ports", 3 January 2018

Entry	The Union Cabinet approved a number of amendments in the Foreign Direct Investment Policy, mainly intended to liberalise and simplify the policies related to FDI. Among other things, the major changes are: (1) 100% FDI under automatic route is allowed for Single Brand Retail Trading and the Government approval is no longer required. (2) Foreign airlines are allowed to invest up to 49% under the approval route in Air India subject to certain conditions. (3) Foreign Institutional Investors (FIIs) / Foreign Portfolio Investors (FPIs) are allowed to invest in power exchanges through primary market. (4) It is clarified that real-estate broker services do not amount to real estate business and are therefore eligible for 100% FDI under the automatic route.	10 January 2018	Press Information Bureau, "FDI policy further liberalized in key sectors", 10 January 2018
Indonesia			
Entry/Promotion and facilitation	The Indonesian Investment Coordination Board (BKPM) issued a regulation (Reg. 13/2017) that sets out, among other things, new rules governing how to obtain investment approvals. It mainly simplifies the process of obtaining investment licenses and facilities. For example, it replaces the Principle License (in Indonesian: Izin Prinsip), which was required to start a new business, by the Investment Registration (Pendaftaran Investasi). The new regulation will take effect on (1) 2 January 2018 for the one-stop service at the central BKPM and (2) at the latest 2 July 2018, for the one-stop service at a provincial/regency/city level.	13 December 2017	ALLEN & OVERY, "New Guidelines for Obtaining Investment Licenses and Facilities: BKPM Reg. 13/2017", 8 January 2018
Lao People's Democratic Republic			
Entry	The Ministry of Industry and Commerce issued a notification, which removes the minimum registered capital requirements for certain foreign investors. This does not apply to business activities that are governed by other existing laws or regulations, which still require a minimum registered capital.	7 November 2017	Lao Services Portal, "Notification No.2633/cabinet/MOIC", 7 November 2017
Lithuania			
Entry	The parliament adopted an updated version of the Law on Enterprises and Facilities of Strategic Importance to National Security and Other Enterprises of Importance to Ensuring National Security. The Law mainly seeks to safeguard national security in certain economic sectors or with regard to investment in certain zones. Economic sectors covered by the law are military equipment, energy, transport, information technologies and telecommunications, other high technologies, and finance and credit. The lists of enterprises and facilities of considerable importance to national security are outlined in the annexes to the Law and are subject to review.	12 January 2018	Office of the Seimas of the Republic of Lithuania, "Seimas adopted the Law on Enterprises and Facilities of Strategic Importance to National Security and Other Enterprises of Importance to Ensuring National Security",

Myanmar			
Entry/Promotion and facilitation	<p>The President approved the Myanmar's new Companies Act, replacing the country's old Companies Act of 1914. The new Act aims to adopt international best practices related to company formation, business registration processes and corporate governance in Myanmar. Under the new Act, foreign investors will be allowed to hold up to 35 per cent of shares in a domestic company without the company losing its categorisation as 'local company'. Also, foreign investors will now be able to own up to 35 per cent of the shares in companies listed on the Yangon Stock Exchange. The new Act will come into force on 1 August 2018.</p>	6 December 2017	Myanmar Times, "Myanmar Companies Act approved", 7 December 2017
New Zealand			
Entry	<p>The Government issued a Ministerial directive letter tightening the screening procedures for sensitive land acquisitions by foreign investors. For examples, when assessing the overseas investment in the 'rural land', the Overseas Investment Office is required to consider the following factors; (1) jobs, (2) new technology or business skills, (3) increased exports receipts, (4) increased processing of primary products, (5) oversight and participation by New Zealanders. 'Rural land' is defined as non-urban land that exceeds five hectares other than 'forest land'. The new directive entered into force on 15 December 2017 and applies to all new and existing applications.</p>	15 December 2017	Land Information New Zealand, "Legislation, Ministers & Delegated Powers", 28 November 2017
Entry	<p>The Overseas Investment Office (OIO) has declined TIP-HNA New Zealand Holdings Limited's application under the Overseas Investment Act to acquire 100 per cent of the shares in UDC Finance Limited (a subsidiary of ANZ Bank). The OIO emphasized that the information provided about ownership and control interests was not sufficient. HNA Group is a Chinese firm from southern China, which operates in the aviation business.</p>	21 December 2017	The Overseas Investment Office, "Overseas Investment Office declines consent to TIP-HNA", 21 December 2017
Nigeria			
Treatment	<p>The President signed an executive order in February 2018 ordering that all procuring authorities shall give preference to Nigerian companies and firms in the award of contracts, in line with the Public Procurement Act 2007. The order covers the planning and execution of projects related to science, engineering and technology, as well as national security. The executive order also prohibits the Ministry of Interior from giving visas to foreign workers whose skills are readily available in Nigeria. Further, it states that consideration will only be given to a foreign professional "where it is certified by the appropriate authority that such expertise is not available in Nigeria".</p>	2 February 2018	The State House, "Presidential Executive Order 5 for Planning and Execution of Projects, Promotion of Nigerian Content in Contracts and Science, Engineering and Technology", 5 February 2018

Peru				
Promotion and facilitation	and	By Supreme Decree 011-2018-PCM of 25 January 2018, the Government of Peru declared private investment in mining activities of public necessity and authorized a mining company with foreign and Peruvian investors ("Sociedad Minera San Miguelito S.A.C") to acquire mining rights within fifty kilometers of the border area. By doing so it exempted the company from restrictions set out by the Constitution, which establishes that within the fifty kilometers of the border, foreigners cannot acquire or possess by any title, mines, lands, forests, waters, fuel or energy sources.	25 January 2018	Official Gazette, "Supreme Decree 011-2018-PCM", 25 January 2018
Philippines				
Promotion and facilitation	and	The Government launched the 'Philippine Business Data Bank' that will let businesses apply for and renew permits in a shorter period of time. It is a digital platform that will streamline the business permit application process through online sharing of information by government agencies involved in the process.	4 December 2017	The Manila Times, "Govt launches PH business databank", 5 December 2017
Qatar				
Promotion and facilitation	and	Qatar issued Decree Law No 21 of 2017, amending some provisions of the Law No 34 of 2005 on Investment Free Zones. The amendments enhance and encourage economic development and investment by providing investors with a number of incentives, including, for example, exemption of export and import duties, waiver of restrictions on the origin of capital, and the freedom to set product prices and profits. The amendments also incorporate special allowances to projects that give priority to the use of local components and those that invest in logistics and communications sectors.	6 November 2017	Gulf Times, "New law offers big incentives to investors", 7 November 2017
Saudi Arabia				
Promotion and facilitation	and	The General Investment Authority of Saudi Arabia extended the licensing period for foreign investors to five years - up from the current one year. The licensing period can also be renewed upon expiry of the five-year period, and foreign investors still have the option of holding a one-year licence.	26 February 2018	ZAWYA, "Saudi extends licences for foreign investors for up to five years", 27 February 2018
Thailand				
Promotion and facilitation	and	The Cabinet approved a new visa system ('Smart Visa') to attract foreign highly skilled talents. The Smart Visa applies to foreign entrepreneurs, high-level executives, start-up business owners or highly-skilled professionals in 10 target industries, including next-generation automotives, smart electronics, agriculture and biotechnology, automation and robotics, digital businesses. Some benefits of this program include; (1) visa validity of 4 years instead of the current one year, (2) no requirement of a work	16 January 2018	International Investment, "Thailand unveils 'Smart Visa' to attract skilled expats", 17 January 2018

		<p>permit, (3) an extension of the reporting period, (4) allowing dependents to live and work in Thailand. Applications for the Smart Visa can be made as of 1 February 2018.</p>		
Promotion and facilitation		<p>The National Legislative Assembly passed the Eastern Economic Corridor (EEC) Act. The new act provides incentives such as tax grants, the right to land ownership and the issue of visas. It also sets out the rules to expedite various approval processes for investors in the ECC. The Thai government aims to attract investment through development of the EEC, which is a special economic zone located in 3 provinces; Chachoengsao, Chonburi and Rayong.</p>	8 February 2018	Reuters, "Thailand approves law for \$45 billion Eastern Economic Corridor", 8 February 2018
Ukraine				
Entry		<p>Ukraine's State Property Fund (SPF) approved a list of almost 100 enterprises eligible for privatization in 2018. The list includes heat and power plants (such as the Mykolaiv, Dniprovsk, Kherson and Kryvy Rih combined heat and power plants), as well as enterprises in the chemical sector (such as the PJSC Odesa Port-Side Plant, Sumykhimprom, Zaporizhia Titanium and Magnesium Combine and Zaporizhia Aluminum Combine).</p>	8 December 2017	Interfax news, Ukraine's SPF approves list of companies for privatization in 2018, 8 December 2017
Entry		<p>The Parliament adopted the Bill on the Privatization of Public Property. The law aims to make the privatization process more transparent and faster for investors. For example, the law establishes a time period of 12 months for the privatization of large facilities and 5 months for small ones. If an enterprise's assets in the previous year exceeded UAH 250 million, it falls in the category of 'large privatization' and will be sold with the assistance of an adviser, everything that is less is considered as a 'small privatization', which will take place exclusively on electronic platforms.</p>	18 January 2018	Interfax news, "Rada passes privatization bill with amendment on protection of investors' interests under English law", 19 January 2018
United Republic of Tanzania				
Promotion and facilitation		<p>The Business Registration and Licensing Agency set up an Online Registration System in February 2018. The new online platform simplifies investment registration processes in Tanzania by significantly reducing the time and costs associated with registering a business.</p>	1 February 2018	Africa Legal Network, "Business Registration and Licensing Agency cuts red tape", 17 January 2018
Entry/Treatment		<p>Tanzania adopted Mining Regulations on Local Content (2018). The Regulations require 'indigenous Tanzanian company' to hold an equity participation of at least 20 per cent in a mandatory joint venture arrangement for supply of goods and services. An 'indigenous Tanzanian company' is defined as a company incorporated under the Companies Act with at least 51 per cent of its equity owned by Tanzanian citizens, and at least 80 per cent of the executive and senior management positions held by Tanzanian citizens with 100 per cent of non-managerial and other positions are held by Tanzanians. The Regulations also require indigenous Tanzanian</p>	10 January 2018	Tanzania Chamber of Minerals and Energy, "Mining (Local Content) Regulations, 2018", 10 January 2018

companies given first preference in the granting of a mining license. They require indigenous Tanzanian companies to have at least 5 per cent equity participation in a mining company. Further, they give preference to local service providers and locally manufactured goods. They require the use of local insurance and financial services and stipulate that legal services to be provided only by local legal practitioners or local law firms. They set the time frame for local content levels to be attained in the mining sector. Finally, they give priority to qualified Tanzanians in employment and on-job training. They require companies to employ only Tanzanians in junior level or middle level positions.

United States of America

Promotion and facilitation/ General Business Climate	<p>The President signed the 'Tax Cuts and Jobs Act' into law, aiming to boost investment in the United States and to create jobs. To that end, the bill contains measures that directly affect the investment climate in the United States, and measures aimed at Multinational enterprises (MNEs) to encourage them to bring overseas funds back home and to reduce the incentive for them to locate certain assets and activities abroad.</p> <p>Measures that will directly affect the investment climate in the United States include; (1) A reduction of the statutory corporate income tax rate from 35 per cent to 21 per cent effective from 2018, (2) Immediate full expensing of investment cost, (3) The capping of deductible interest to 30 per cent of taxable income. Measures directed at the international tax regime for MNEs include; (1) A switch to a territorial tax system through a 100 per cent deductibility of dividends of foreign affiliates, (2) A transitional measure for existing overseas retained earnings in the form of a mandatory deemed repatriation subject to a one-off tax payment, (3) A set of anti-tax avoidance measures.</p>	22 December 2017	Congress.Gov, "All Information (Except Text) for H.R.1 - An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018", 22 December 2017
Entry	<p>The Securities and Exchange Commission (SEC) rejected a takeover of the Chicago Stock Exchange by a group led by Chinese-based investors. SEC said in a statement that the review process had raised questions over "whether the proposed ownership structure will allow the Commission to exercise sufficient oversight of the Exchange" after the deal. The deal had been approved in December 2016 by the Committee on Foreign Investment in the United States, which scrutinizes deals for potential national security concerns, but also needed SEC approval.</p>	15 February 2018	Securities and Exchange Commission, "Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and No. 2, Regarding the Acquisition of CHX Holdings, Inc. by North America C", 15 February 2018

Venezuela, Bolivarian Republic of

Entry /Promotion and facilitation /Treatment	<p>The Bolivarian Republic of Venezuela published the new Constitutional Law on Foreign Productive Investment in the Official Gazette N° 41.310. It aims to establish the principles, policies and procedures that regulate foreign investment in goods and services and to promote productive and diverse foreign contribution to existing productive capacity in</p>	29 December 2017	Venezuela al Dia, "Rojito" regime prohibits foreign investors from revealing Venezuela's situation, 6 January 2018
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the country. The law also sets a number of conditions for foreign investment, including that foreign investors may not participate directly or indirectly in the national political debate or contribute directly or indirectly to the formation of opinion on topics of public interest in the media, nor make any kind of contributions to public or private institutions, non-governmental organizations, civil associations or natural persons, without the consent of the competent body in the area.

Viet Nam

Entry /Promotion and facilitation	The Government issued Decree No. 126/2017/ND-CP to step up the privatisation process of State-Owned Enterprises. Some important changes include allowing the 'book building' as an initial public offering (IPO) method. The Decree also shortened the lock-in period of strategic partners (from 5 to 3 years) and eased restrictions on the profitability of strategic partners (from 3 to 2 years). The new decree has come into effect on 1 January 2018.	16 November 2017	Reuters, "Vietnam to allow book building to try to speed up SOE privatisations", 22 November 2017
Entry	On 18 December 2017, Thai Beverage, through its local subsidiary, purchased a 54 per cent stake in Sabeco, Viet Nam's largest brewer and a State-Owned Enterprise. It is reported that this has been Viet Nam's largest privatisation sale in an auction (USD 4.8 billion).	18 December 2017	Economist Intelligence Unit, "Thai Bev purchases majority stake in Vietnam state brewer", 19 December 2017

Zimbabwe

Entry	The Government amended the Indigenisation and Economic Empowerment Act (2008) to remove the majority indigenisation threshold, except for diamonds and platinum. The proposed amendments will confine the 51/49% indigenisation threshold to only two minerals, namely diamonds and platinum. The changes are expected to come into effect in April 2018.	7 December 2017	Zimbabwe Investment Authority, "Zimbabwe scraps indigenisation policy, except for diamonds and platinum", 7 December 2017
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