

Short courses for Permanent Missions in Geneva

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National Investment Policies: trends and issues (Session 1)

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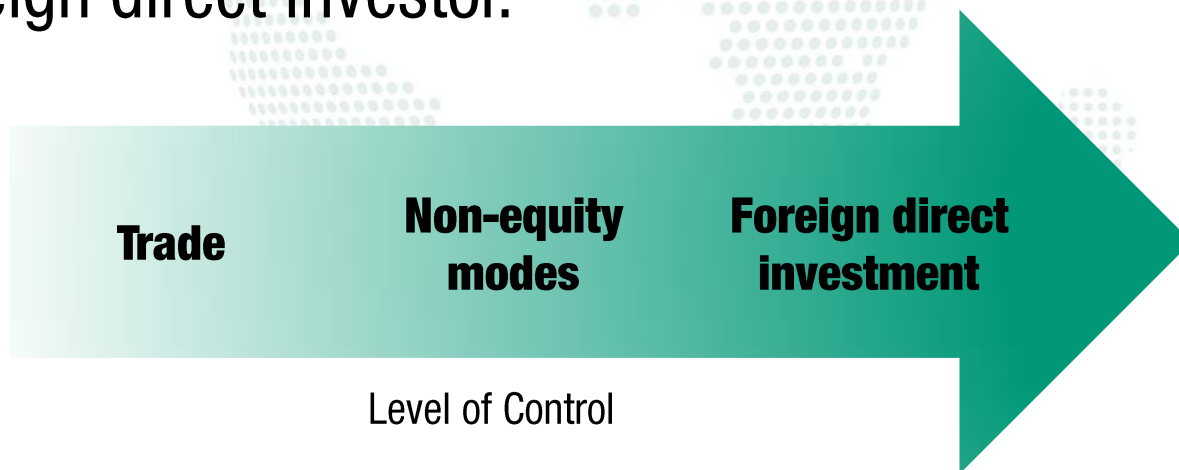
Session 1

- Introduction
- UNCTAD's Investment Policy Framework for Sustainable Development (IPFSD): national investment policies
- Recent trends in national investment policies and regulations

Foreign direct investment

Long term interest and control

Foreign direct investment (FDI) is an investment involving a long-term relationship and reflecting a lasting interest and control by a resident entity in one economy in an enterprise resident in an economy other than that of the foreign direct investor.



FDI determinants

Connecting home and host

Company motivations
(drivers)

Market seeking

Resource seeking

Efficiency seeking

Economic determinants

- Market size
- Labour cost
- Resources
- Infrastructure

Policy framework

- Economic, social and political stability
- FDI rules and regulation
- Standards of treatment
- International agreements
- Related policies (e.g. tax, trade, IP)

Business facilitation

- Investment promotion
- Cost of doing business

FDI impact

Both pros and cons

Potential positive impacts:

- Employment creation
- Capital formation
- Technology transfers
- Human resource development
- Tax payments
- International trade
- Clean technologies
- Modern environmental management systems

Potential negative impacts:

- Environmental issues
- Worker exploitation
- Economy
- Local firms
- Employment

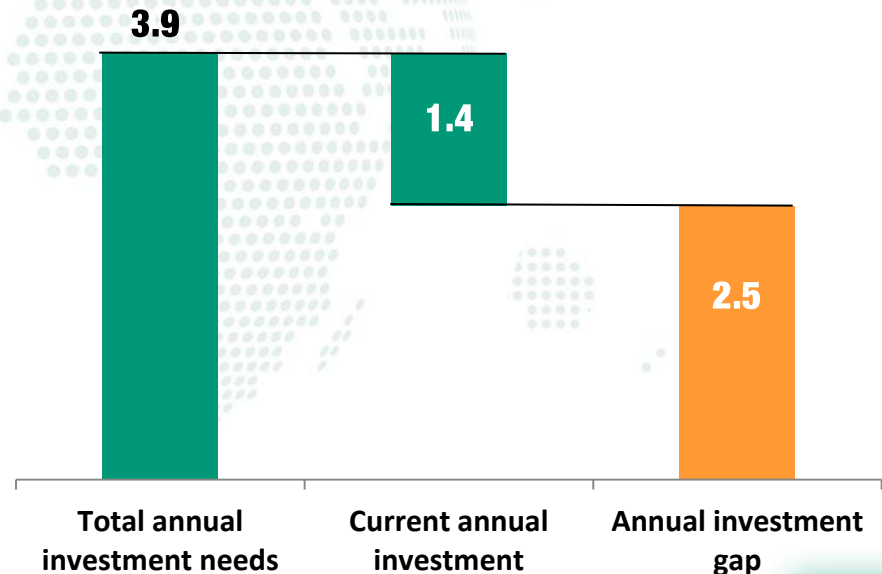
FDI and the SDGs

Public sector fundamental, private sector indispensable

Contributions to the sustainable development goals

- Economic infrastructure
- Food security and agriculture
- Social infrastructure
- Environmental sustainability

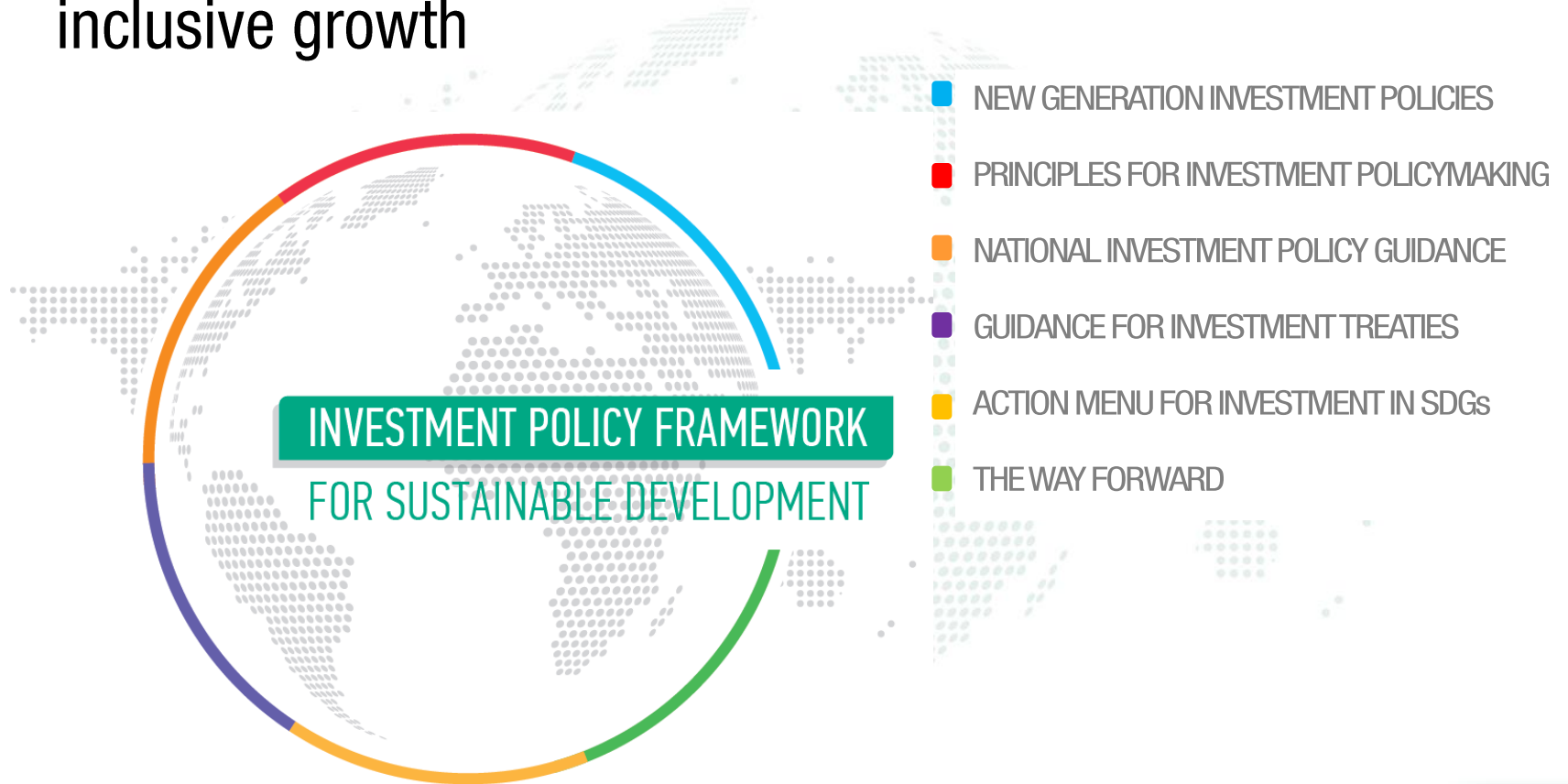
Estimated annual investment needs in key SDG sectors, 2015–2030
(Trillions of dollars, annual average)



Source: UNCTAD.

UNCTAD's Investment Policy Framework

Making investment work for sustainable development and inclusive growth



National investment policies

The challenges

1

Integrating investment policy in development strategy

- Channeling investment to areas key for the building-up of productive capacity and international competitiveness
- Ensuring coherence with the host of policy areas geared towards overall development objectives

2

Incorporating sustainable development objectives in investment policy

- Maximizing positive and minimizing negative impacts of investment
- Fostering responsible investor behaviour

3

Ensuring investment policy relevance and effectiveness

- Building stronger institutions to implement investment policy
- Measuring the sustainable development impact of investment

Promoting investment in SDG-related sectors

Policy challenges

- 1 Resolving policy tensions associated with private sector engagement**
 - Balancing public and private investment and mitigating the risks involved with greater private sector participation in sensitive sectors
 - Alleviating regulatory barriers to investment while maintaining appropriate safeguards
- 2 Finding mechanisms to overcome inadequate risk-return ratios**
 - Dealing with high risk perceptions
 - Helping investors mitigate risks and designing attractive risk-return profiles and risk-sharing models
- 3 Gearing up for far more demanding investment promotion and facilitations**
 - Overcoming a lack of investor expertise and attention
 - Prioritizing, preparing and packaging concrete sustainable-development investment projects

The national investment policy guidelines

1 Investment and sustainable development strategy

- Integrating investment policy in sustainable development strategy
- Maximizing the contribution of investment to productive capacity building and international competitiveness

2 Investment regulation and promotion

- Designing investment-specific policies regarding:
 - Establishment and operations
 - Treatment and protection of investment
 - Investor responsibilities
 - Investment promotion and facilitation

3 Investment-related policy areas

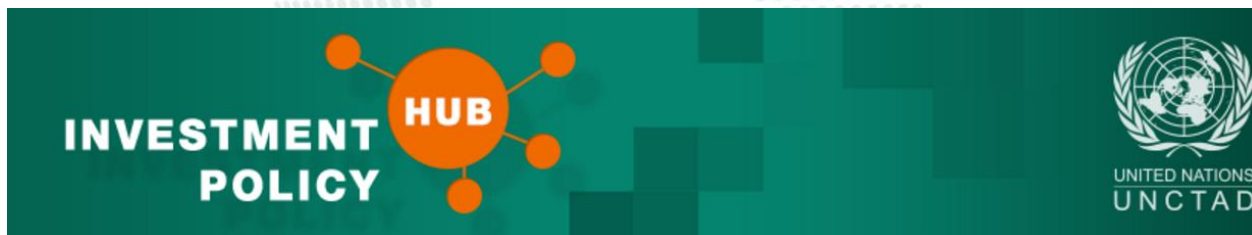
- Ensuring coherence with other policy areas, including: trade, taxation, intellectual property, competition, labour market regulation, access to land, corporate responsibility and governance, environmental protection, infrastructure and PPPs

4 Investment policy effectiveness

- Building effective public institutions to implement investment policy
- Measuring investment policy effectiveness and feeding back lessons learned into new rounds of policymaking

Trends in national investment policies and regulations

- Investment Policy Monitor
- National Investment Laws database

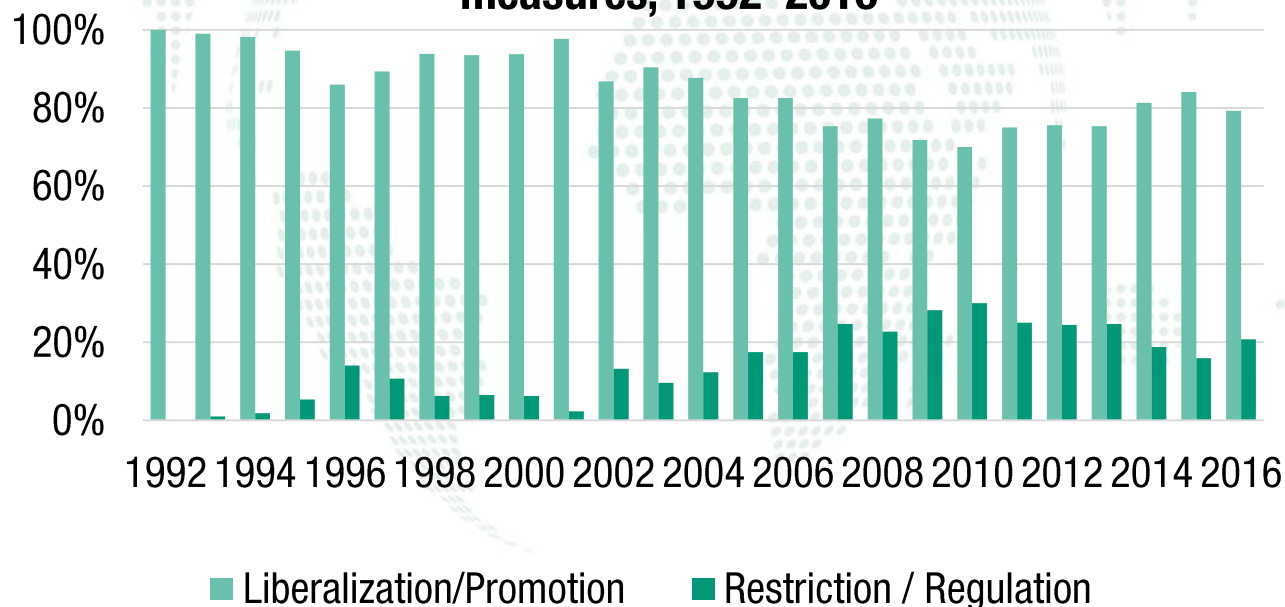


<http://investmentpolicyhub.unctad.org>

Trends in national investment policies

Overall policy climate geared towards investment liberalization

Share investment liberalization/promotion and restriction/regulation measures, 1992–2016

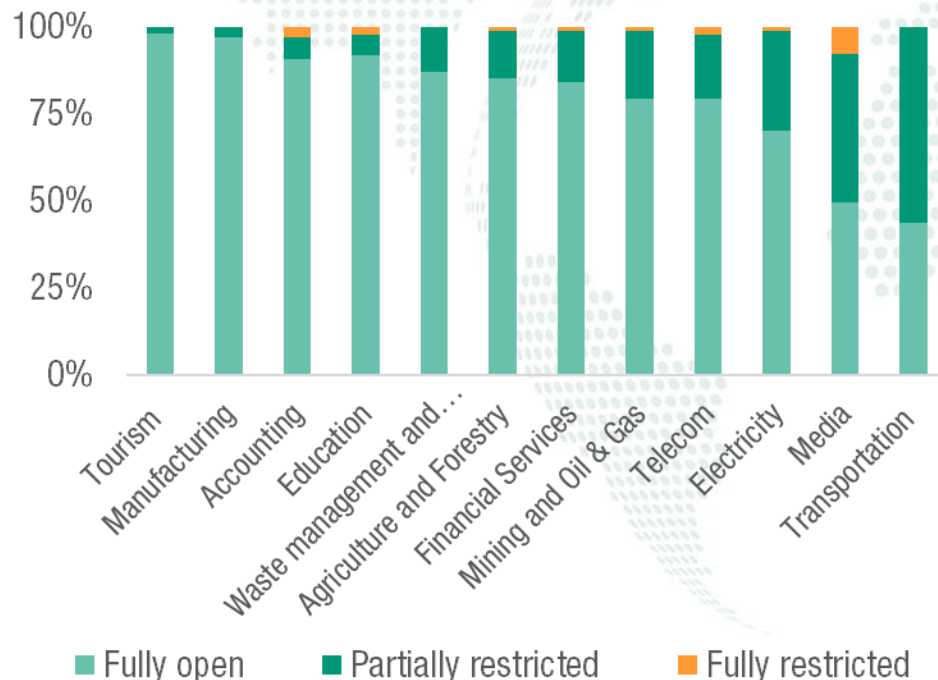


Source: UNCTAD, Investment Policy Monitor.

Entry and establishment

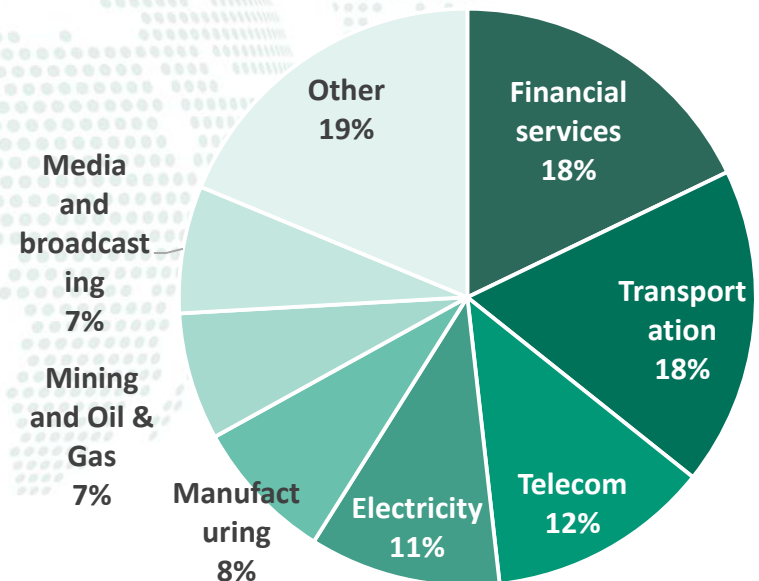
Openness to FDI depends on industry

Entry restrictions by industry



Source: WB, Investing Across Borders.

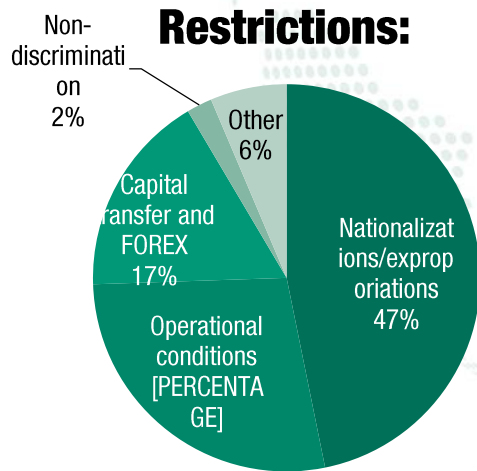
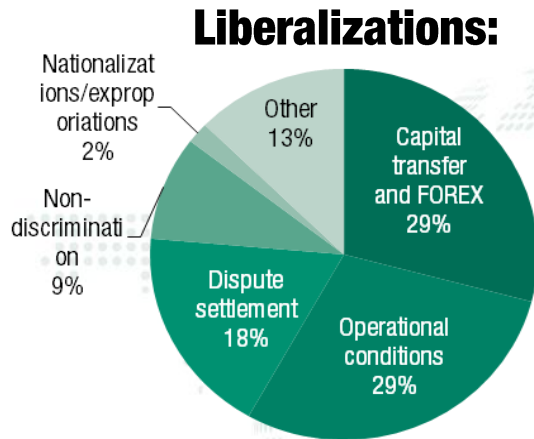
Entry liberalization by industry, 2006–2015



Source: UNCTAD, Investment Policy Monitor.

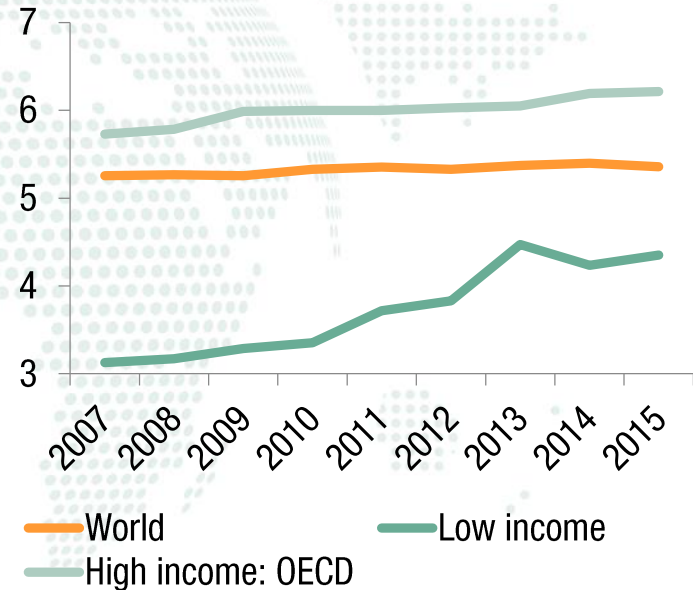
Treatment and operation

Investor protection key area for improvement



Source: UNCTAD, Investment Policy Monitor.

Strength of investor protection 0–10 (=best)

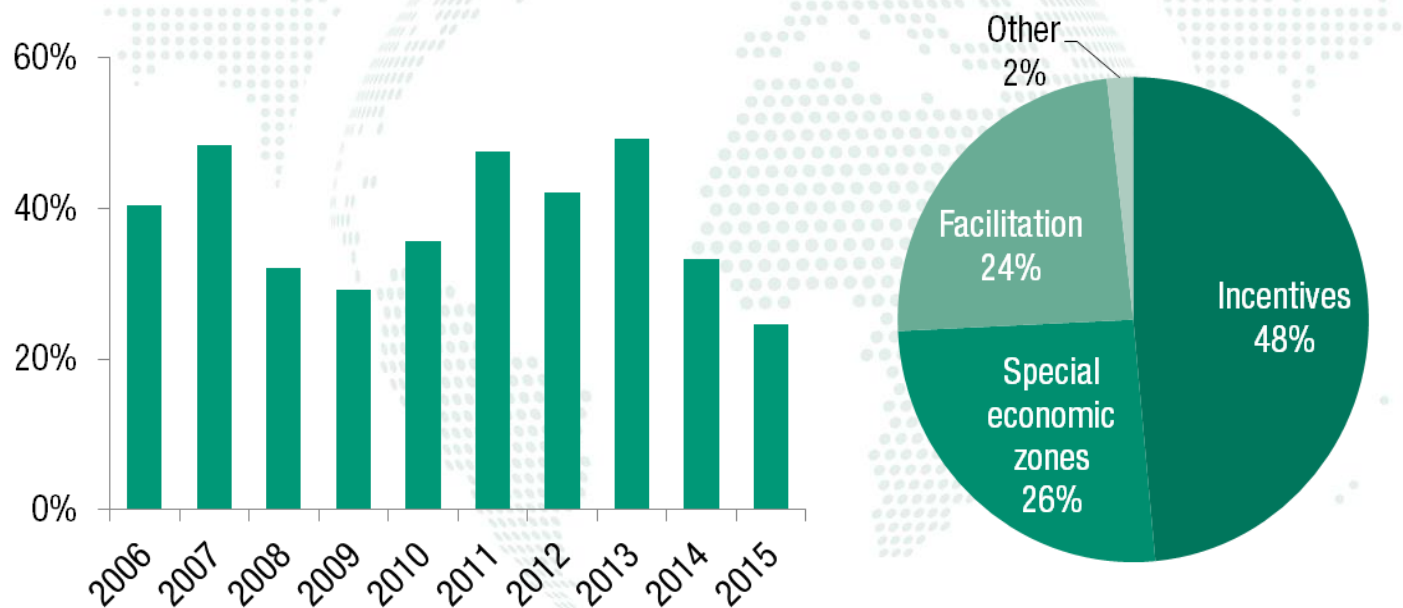


Source: World Economic Forum, Global Competitiveness Index.

Promotion and facilitation

Incentives common instrument to attract FDI

Incentives and facilitation measures as share of total liberalization and promotion measures

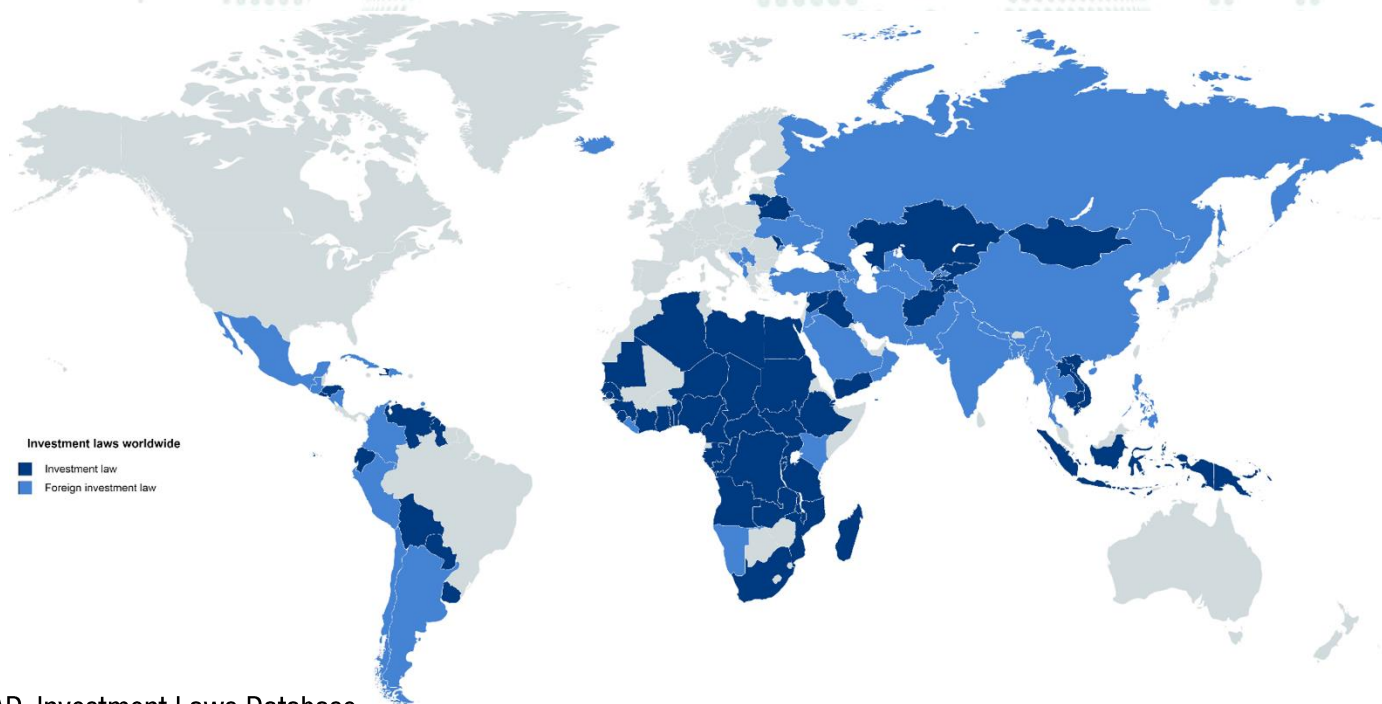


Source: UNCTAD, Investment Policy Monitor.

Investment laws

Mostly a developing and transition economy instrument

- Developing economies: **90**
- Transition economies: **17**
- Developed economies: **2**
- Domestic & foreign investment: **64**
- Foreign investment specific: **47**

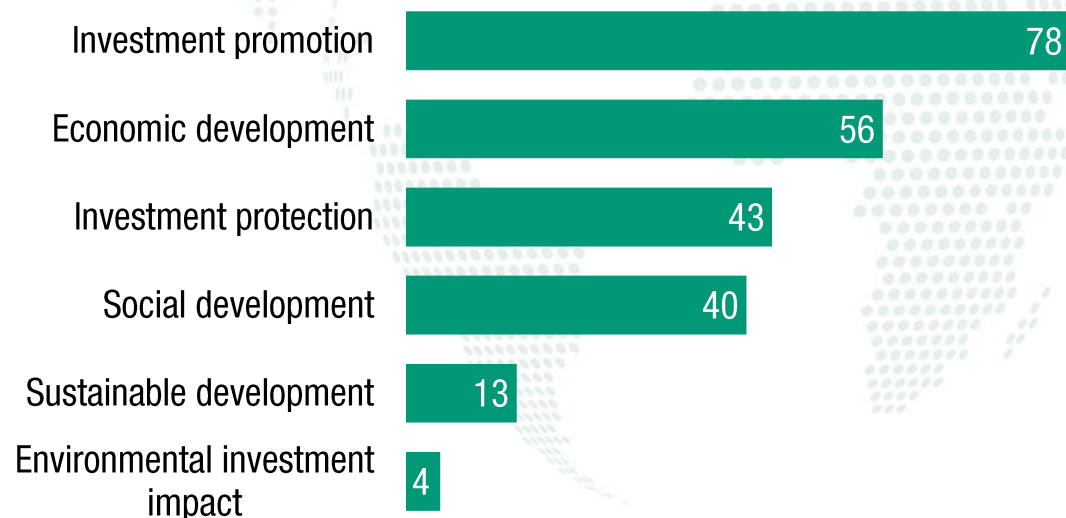


Source: UNCTAD, Investment Laws Database.

Main objectives

Investment promotion driving regulation

Objectives mentioned in investment laws, by category
(Number of laws)



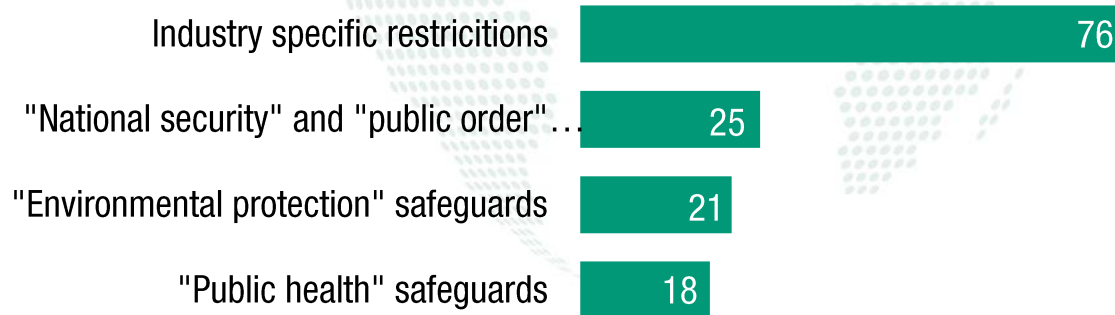
Source: UNCTAD, Investment Laws Database.

Entry and establishment

Most investment laws include industry-specific restrictions

- Negative list approach: **67**
- Positive list approach: **9**

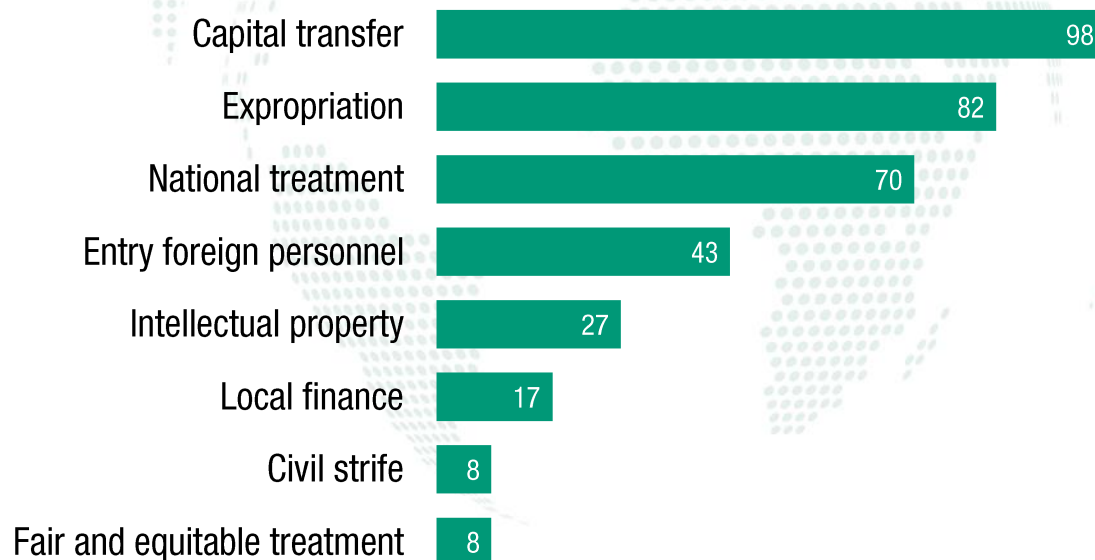
Entry restrictions in investment laws (Number of laws)



Source: UNCTAD, Investment Laws Database.

Investor rights and guarantees

Investor rights and guarantees in investment laws (Number of laws)



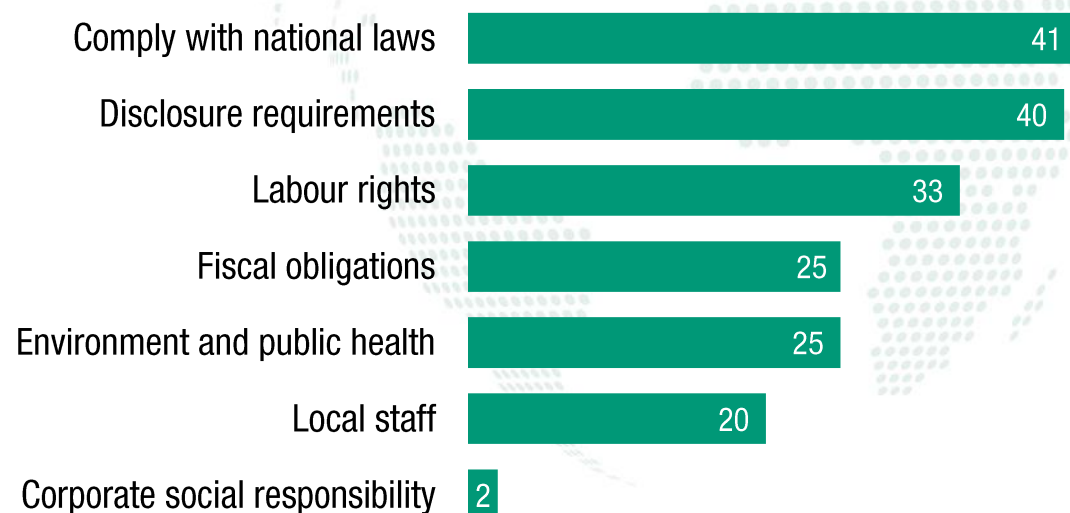
Source: UNCTAD, Investment Laws Database.

Investor obligations

Not so common

77 laws of the laws include some reference to investor obligations

Investor obligations in investment laws (Number of laws)

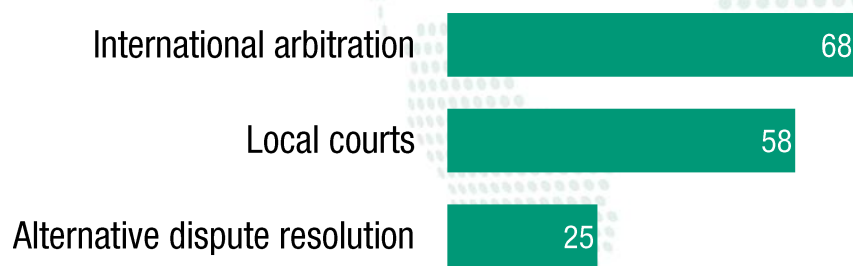


Source: UNCTAD, Investment Laws Database.

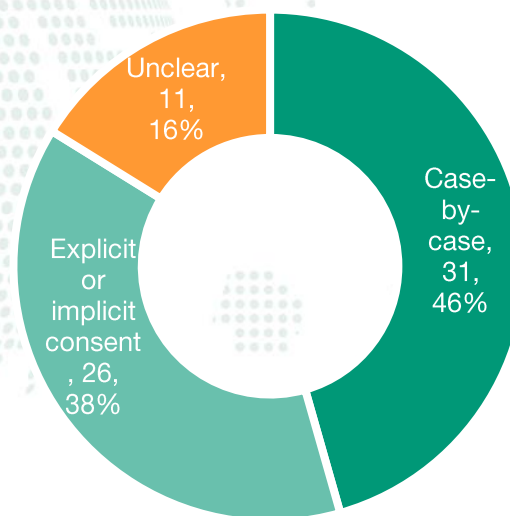
Investor-State dispute settlement

- ISDS provisions: **82 (75%)**

Investor-State dispute resolution mechanisms in investment laws (number of laws)



Type of consent to international arbitration



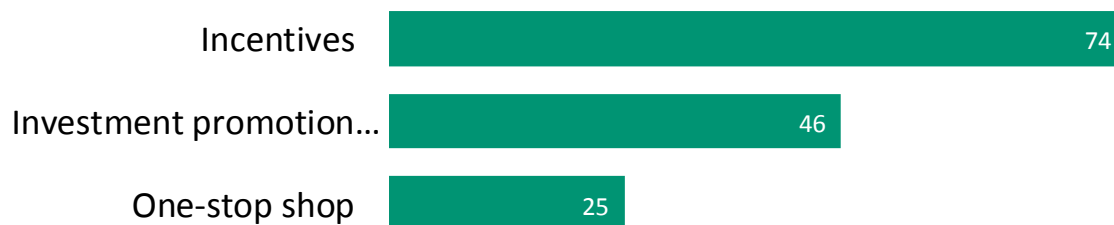
Source: UNCTAD, Investment Laws Database.

- Access to domestic courts *and* international arbitration: **44 (53%)**

Investment promotion and facilitation

- Incentives (**74**): African laws are most detailed
- Establishment of IPAs (**46**)
 - By the law itself: mostly African laws
 - Reference to future establishment
- One-stop shop (**25**): tasks rarely specified

Frequency of investment promotion elements (Number of laws)



Source: UNCTAD, Investment Laws Database.

THANK YOU

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