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INVESTMENT POLICY MONITOR

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INVESTMENT POLICIES RELATED TO SDG SECTORS

RECENT DEVELOPMENTS

HIGHLIGHTS

- From January to November 2020, 27 countries and the European Union took 36 policy measures directed at foreign investment in various SDG sectors. Almost all those measures address several SDG sectors and activities simultaneously. De facto, they therefore have the same effect as if 116 separate measures had been adopted for each individual SDG sector. The main target sectors were health, transportation, food and agriculture. Not included in the counting are investment policy measures of a general nature that are not limited to SDG sectors.

- 58 percent of these policy measures were regulatory or restrictive in nature, reflecting national security-related concerns about foreign investment in individual SDG sectors. These measures were primarily adopted in response to the COVID-19 pandemic and focus on the establishment of new or the extension of existing screening mechanisms for foreign investment in various SDG sectors, particularly the health sector.

- Six countries liberalized foreign investment in some SDG sectors, including transportation, telecommunication, water and sanitation, food and agriculture, health and education. These measures constitute 17 percent of all measures taken.

- Eight countries adopted new policies for promoting or facilitating investment in a variety of SDG sectors, including energy, transportation, telecommunication, agriculture, water supply, health, science and education. These measures account for 25 percent of the total.

- In view of the drastic decline in international private investment in SDG sectors since the outbreak of the pandemic (see UNCTAD's SDG Investment Trends Monitor, December 2020), more needs to be done to encourage investment in this area, while addressing security concerns and ensuring that goods and services remain affordable and accessible for the poor and vulnerable.

A. Investment policy tools for SDG sectors[1]

Host countries may encourage and promote investment in SDG sectors through a variety of policy instruments. These include measures aimed at liberalising, incentivising and facilitating investment in these sectors. Vice versa, host countries may also regulate or restrict investment in SDG sectors.[2]

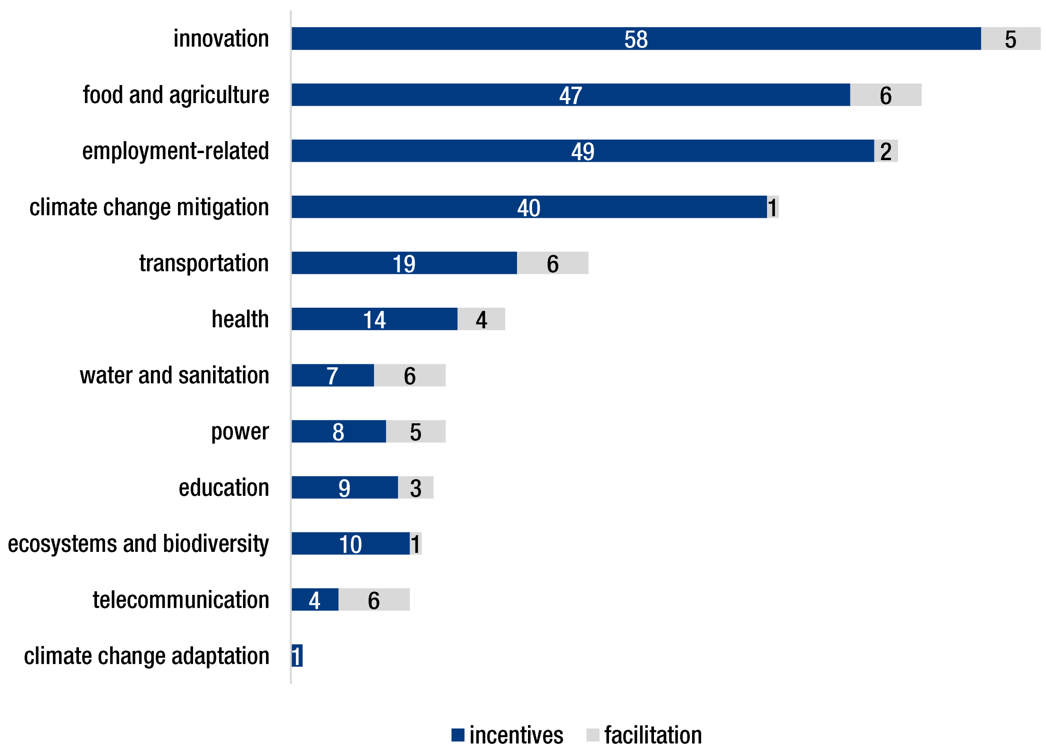
1. Less than half of UN Member States have established promotion schemes for inward investment in SDG sectors

Existing investment promotion instruments applicable to the SDGs are limited in number and follow a piecemeal approach. UNCTAD's global review of national investment policy regimes shows that less than half of UN Member States maintain specific promotion tools for investment in areas that are relevant to the SDGs (UNCTAD, WIR 2020, chapter V.D). In addition, most countries maintain some general promotion schemes of a broad nature that extend to investment in SDG sectors (not covered by this Monitor).

Overall, at least 311 investment policy instruments targeting the SDGs are in place in 97 economies. Among them, specific SDG incentives – either fiscal or financial in nature – amount to 268 instances in 90 economies. Investment facilitation in SDG sectors is less common, with only 45 examples recorded in 11 countries.

Investment promotion and facilitation measures cover a broad variety of SDG sectors (figure 1).

Figure 1: Specific investment promotion programmes in SDG sectors (by sectors)



Source: UNCTAD.

[1] To identify SDG sectors and activities, this Monitor follows the methodology of UNCTAD's publication – *SDG Investment Trends Monitor*, UNCTAD 2019, which specifies the following 10 SDG investment sectors: power, transport Infrastructure, telecommunication, water and sanitation, food and agriculture, climate change mitigation, climate change adaptation, ecosystems and biodiversity, health and education. Additionally, this Monitor covers two important cross-sectoral SDG-related investment policy areas - innovation and employment-related investment promotion programs. They are directly relevant for the SDGs No. 8 (Decent work and economic growth) and No. 9 (Industry, Innovation and Infrastructure).

[2] Part A of this Investment Policy Monitor is an abbreviated version of the section V.D. of the *World Investment Report 2020*.

The highest number of investment promotion schemes – more than 20% - is directed towards innovation activities linked to SDG 9, which promotes inclusive industrialization, technological update, research and development together with industrial diversification. This is followed by programmes in food and agriculture (17%) and employment-related promotion schemes (16%). A significant number of promotion schemes also applies to climate change mitigation (13%).

Nevertheless, other important sectors from a sustainable development perspective – including health, water and sanitation, education, ecosystems and biodiversity as well as climate change adaptation – do not seem to receive much attention for investment promotion, amounting to less than 18% of all investment promotion regimes in SDG sectors. This is reflected in the relative FDI attraction performance of those sectors, as highlighted in UNCTAD's World Investment Report 2020. In the health sector, however, investment promotion has intensified in some countries recently (see below).

Most investment incentives for SDG purposes take the form of fiscal incentives. They are either granted for investments in specific SDG sectors or require certain SDG-related performances in the operation of the investment, independent of the sector where it was made.

2. Many countries regulate the entry of investment in SDG sectors

Numerous countries fully or partially exclude foreign companies from investing in certain SDG sectors. These limitations typically manifest themselves in "negative lists" in investment laws or in national security-related foreign investment screening mechanisms.

At least 17 countries worldwide maintain 47 investment restrictions in SDG sectors. Most of them exist in developing economies (44 restrictions in 15 countries), including LDCs (3 countries with 6 restrictions). These restrictions take the form of a ban on foreign investment in specified sectors or foreign ownership caps, including joint venture requirements.

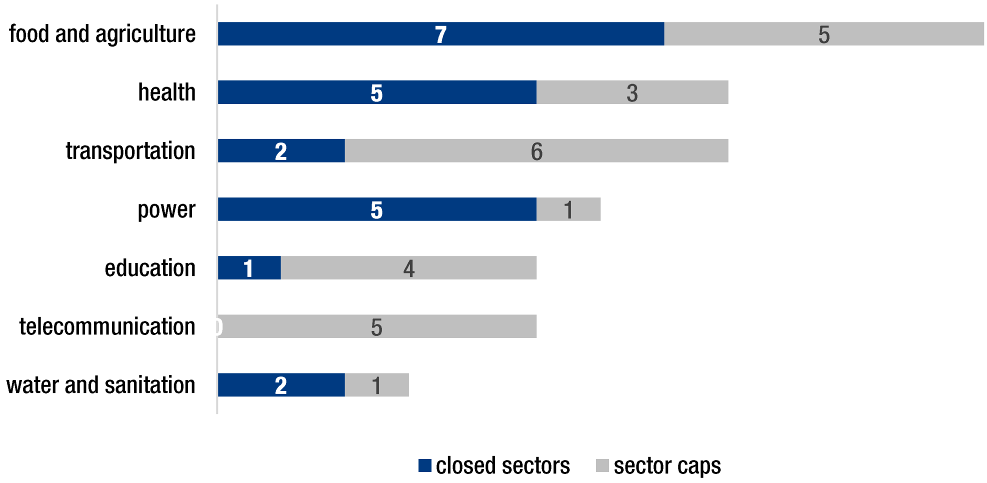
A few economies close certain SDG sectors completely to foreign investors. UNCTAD has identified 22 instances of SDG sectoral prohibitions in 14 economies. This policy approach is most frequent in Asia (10 examples from 5 different economies), followed by Latin America (7 examples from 5 different economies).

Some countries apply foreign ownership ceilings in specific SDG sectors (figure 2). UNCTAD counts a total of 25 such restrictions in 8 countries. They exist exclusively in developing economies, with Asian countries recording the most (20 instances in 6 economies). In some economies, SDG-related sectors – particularly those relating to the provision of basic utilities like water, electricity or heating – are designed as public monopolies. In these cases, neither domestic nor foreign private investment is possible.

Rather than restricting all investments in specific SDG sectors, several countries have opted for examining individual foreign investment projects in the framework of their national security-related screening procedures.

Investment restrictions affect numerous SDG sectors, above all food and agriculture, health and transportation. By contrast, no restrictions have been found in climate change mitigation and adaptation and in ecosystems and biodiversity (figure 2).

Figure 2: Specific investment restrictions in SDG sectors (by sectors)



Source: UNCTAD.

B. Recent investment policy developments in SDG sectors

In its WIR 2020, UNCTAD has provided an overview of investment policy trends concerning investment in the SDG sectors since the adoption of the SDGs in September 2015. The following gives an update on latest developments from January to November 2020.

1. Overview

According to UNCTAD's count, between 1 January and 30 November 2020, 27 countries and the European Union adopted 36 investment-related measures affecting 9 SDG sectors or activities (table 1). Almost all those measures address several SDG sectors and activities simultaneously. *De facto*, they therefore have the same effect as if 116 separate measures had been adopted for each individual SDG sector.

Table 1. Summary of national investment policy measures related to SDG sectors (January – November 2020)

	food and agriculture	power	transportation	telecommunications	water and sanitation	climate change mitigation	health	education	innovation
Algeria		1	1				1		
Argentina	1						1		1
Austria	1	1	1	1	1		1		1
Canada							1		
China	1		1		1		1	1	1
Colombia									1
Ethiopia			1				1	1	
France	1						1		1
Germany							1		
Hungary	1	1	1	1			1		

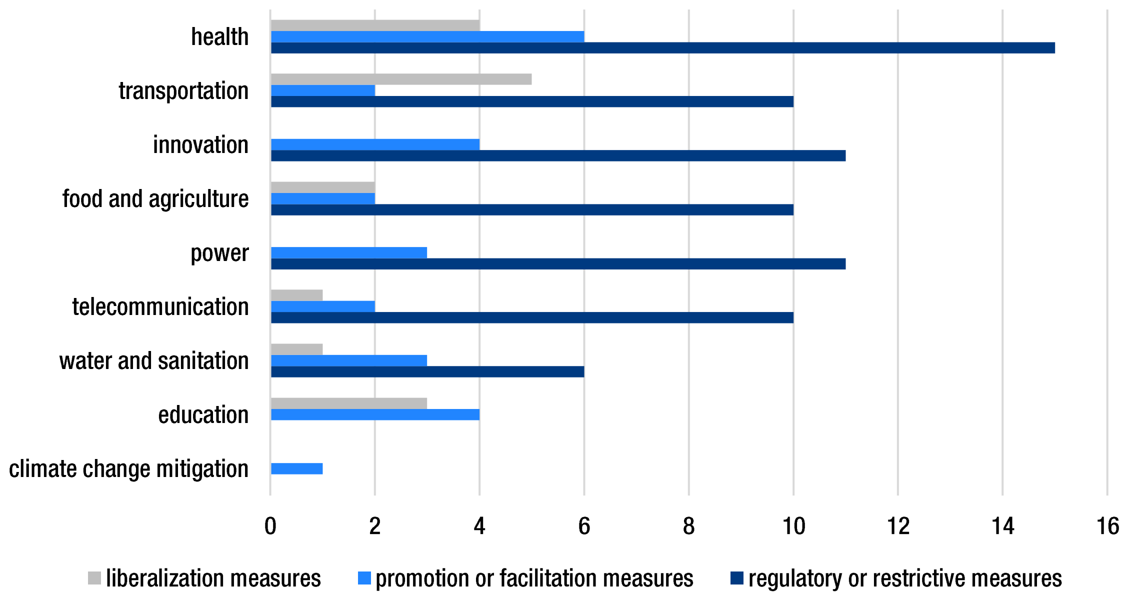
India			1						
Italy	1	1	1		1		1		1
Japan		1	1	1	1		1		1
Malta	1	1	1	1	1		1		1
North Macedonia	1	1	1	1	1		1	1	1
Poland	1	1	1	1			1		
Republic of Korea									1
Russian Federation	1						1	1	
Saudi Arabia							1		
Slovenia	1	1	1	1	1		1		1
Spain	2	2	1	2	1		1		2
Sri Lanka							1		
United Arab Emirates	1		1	1			1	1	
United Kingdom							1		1
United States		1	1	2					1
Uzbekistan					1		1		
Viet Nam		2	2	1	1	1	2	2	
European Union							1		
Total	14	14	17	13	10	1	25	7	15

Source: UNCTAD.
Note: The above list includes multiple counting in case that a measure applies to more than one SDG sector.

58 percent of the measures aimed at regulating or restricting investment in one or several SDG sectors. This category of measures was dominant in all SDG sectors except education and climate change mitigation. In total, UNCTAD identified 6 liberalization measures, 9 investment promotion or facilitation policies and 21 instances when existing investment regimes were tightened in respect of individual SDG sectors through restrictive or regulatory measures.

Most policy changes affected the health sector (25), the transportation sector (17), as well as innovation (15) (figure 3).

Figure 3: Investment policy measures in SDG sectors and activities (January – November 2020)



Source: UNCTAD.

New regulations or restrictions concerning investment in the SDGs were adopted primarily in the health sector and are a response to the COVID-19 pandemic. Almost all newly adopted regulatory or restrictive measures reflect national security-related concerns of host countries (see below).

Investment was liberalised primarily in the transportation sector and health industries, but the share of these measures was far below the respective share of new regulatory or restrictive policies (29% and 16% respectively). Investment promotion or facilitation policies were adopted mostly in health, education and innovation. No measures in the reporting period relate to climate change adaptation or ecosystems and biodiversity.

2. Investment policy developments related to national security

Policy measures aimed at strengthening national security-related screening mechanisms for foreign investment in SDG sectors have been dominant during the reporting period (56%). 14 countries and the European Union adopted 20 such measures in the review period, affecting 7 SDG sectors. Almost all those measures address several SDG sectors and activities simultaneously. *De facto*, they therefore have the same effect as if 68 separate measures had been adopted for each individual SDG sector (table 2).

In the context of the current COVID-19 pandemic, numerous countries introduced foreign investment screening regulations particularly covering the health sector. From January until November 2020, at least 13 such measures expanding FDI screening regimes to include health services, medical equipment and pharmaceuticals manufacturing were implemented. However, several other SDG sectors (innovation, power, telecommunication) were also strongly affected by reinforced investment screening policies.

Table 2. National security-related investment policy measures affecting SDG sectors (January – November 2020)

	food and agriculture	power	transportation	telecommunications	water and sanitation	health	innovation
Austria	1	1	1	1	1	1	1
Canada						1	
France	1					1	1
Germany						1	
Hungary	1	1	1	1		1	
Italy	1	1	1		1	1	1
Japan		1	1	1	1	1	1
Malta	1	1	1	1	1	1	1
Poland	1	1	1	1		1	
Republic of Korea							1
Slovenia	1	1	1	1	1	1	1
Spain	2	2	1	2	1	1	2
United Kingdom						1	1
United States		1	1	2			1
European Union						1	
Total	9	10	9	10	6	13	11

Source: UNCTAD.
Note: The above list includes multiple counting in case that a measure applies to more than one SDG sector.

The following measures have been taken:

- On 25 July 2020, ***Austria*** passed the ***Investment Control Act***, which implemented the EU Regulation on FDI screening and expanded the foreign investment review in comparison to the previous regime under the Foreign Trade Act. The law applies only to sectors and activities enumerated in the annex and covers various SDG sectors (e.g. critical infrastructure for food, power and water supply, transportation, telecommunication, health and innovation).
- On 18 April 2020, ***Canada*** published its Policy Statement on Foreign Investment Review and COVID-19 that announced an ***"enhanced scrutiny" of "foreign direct investments*** of any value, controlling or non-controlling, in Canadian businesses that are related to public health or involved in the supply of critical goods and services to Canadians or to the Government".
- On 25 March 2020, the ***European Commission*** issued ***Guidelines*** calling upon Member States to implement rigid foreign investment screening "in a time of public health crisis and related economic vulnerability", aimed at safeguarding EU critical companies and assets from foreign acquisitions. This applies particularly to the public health, pharmaceutical, medical research, infrastructure and the biotechnology sectors.
- On 20 May 2020, ***Germany*** amended the ***Foreign Trade and Payments Ordinance***, focusing on critical public health services. It stipulates that foreign acquisitions of at least 10 per cent of the share capital in German companies developing, manufacturing or producing vaccines, medicines, protective medical equipment and other medical goods for the treatment of highly infectious diseases require prior governmental authorization.
- On 1 April 2020, the Decree No. 2019-1590 entered into force in ***France***. It ***broadens the sectoral scope of the FDI review mechanism*** by adding, inter alia, food safety, and critical technologies (e.g. cybersecurity, artificial intelligence, robotics, additive manufacturing, semiconductors, quantum technologies, and energy storage) to the sectors and activities subject to review.
- On 29 April 2020, ***France*** announced an ***amendment to its foreign investment screening regime*** as a response to the COVID-19 pandemic. By decree of 27 April 2020, the list of sectors and critical technologies subject to review has been extended to include biotechnology.
- On 26 May 2020, ***Hungary*** implemented Governmental Decree no. 227/2020, which introduced a ***temporary foreign investment screening mechanism*** applicable to investors from both inside and outside the EU. Prior governmental approval is needed in 21 industries, including health care, pharmaceutical, medical device manufacturing, telecommunications, power generation and distribution, processing of food, agriculture, transportation and storage, among others.
- On 6 April 2020, ***Italy*** expanded the ***special power regime for investment in strategic sectors*** requiring prior approval. The scope of the FDI screening now also covers, inter alia, critical infrastructure (health, water, energy, transportation), food security sectors, and high-tech (e.g. artificial intelligence, robotics, biotechnologies, nanotechnologies and cybersecurity), as well as banking and insurance. The regime applies to acquisitions exceeding 10% of the share capital and a threshold of EUR 1 million.
- On 7 May 2020, an ***amendment of the Foreign Exchange and Foreign Trade Act*** entered into force in ***Japan***. It requires overseas investors to seek prior notification before obtaining at least 1% (previously 10%) stake in Japanese listed companies in specified 'core' sectors due to national security reasons. SDG sectors among them include telecommunication, electricity, water supply, railway transportation and technologies. In addition, the Government of Japan published a list of 518 companies (e.g., Toyota, Sony, Mitsubishi Heavy Industries, Hitachi, Tokyo Electric, Central Japan Railway, SoftBank) that fall under new regulations.

- On 15 June 2020, ***Japan added the manufacturing of pharmaceuticals for specific infectious diseases*** and of “specially-controlled” medical devices to the core designated business sectors, which are subject to a prior-notification requirement under the Foreign Exchange and Foreign Trade Act.
- On 5 August 2020, amendments to the Enforcement Decree of the Foreign Investment Promotion Act entered into force in the ***Republic of Korea***. Among other things, the changes seek to extend the ***scope of review of foreign investments*** to any operation where there is a “high” possibility of leakage for core national technologies, as defined by the Act on the Prevention of Divulgence and Protection of Industrial Technology.
- On 12 July 2020, ***Malta*** announced the ***establishment of a National Office for Foreign Direct Investment Screening*** as implementing entity for the EU Regulations on FDI screening. The Office shall review foreign investment when a potential owner, title holder or ultimate beneficial owner comes from a non-EU country. It applies to the supply of critical inputs and covers, inter alia, food, water and power supply, transportation, telecommunication, health and innovation.
- On 24 June 2020, ***Poland*** brought into force a ***new legislation extending significantly the FDI screening mechanism*** in the country for 24 months. A foreign acquisition from non-EEA countries requires prior clearance from the President of the Polish Competition Authority, if it targets a company generating turnover exceeding EUR 10 million that, inter alia, develops or maintains software crucial for vital processes or conducts business in one of 21 specific industries. These include, inter alia, food and power supply, transportation, telecommunication and health.
- On 31 May 2020, ***Slovenia*** implemented the Law on intervention measures to mitigate and eliminate the consequences of the COVID-19 pandemic. It ***introduces a foreign investment screening mechanism***. Foreign investment in specified sectors or activities is subject to review whether it poses a threat to public order or security. The mechanism applies, amongst others, to food, water and power supply, transportation, telecommunication, health and innovation.
- On 18 March 2020, ***Spain*** implemented the Royal Decree-Law No. 8/2020, ***suspending the investment liberalization regime regulated in Law 19/2003***. All foreign investors from outside the EU now require prior governmental authorization for acquiring 10% or more of the share capital or effective control of a Spanish company engaged in sectors or activities that "affect public order, safety and health". This includes food, water and power supply, transportation, telecommunication, health and innovation.
- On 19 November 2020, the Royal Decree-Law 34/2020 relating to urgent measures against the COVID-19 pandemic entered into force in ***Spain***. Inter alia, it ***prolongs the regime of suspension of liberalization of certain foreign direct investments*** until 30 June 2021. Furthermore, it ***specifies sectors*** in which foreign investment is subject to advance screening. New additions