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# Starting a Foreign Investment across Sectors

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# Abstract

The ease of starting a foreign investment in various sectors is a relevant consideration for investors seeking to establish an investment project abroad. Two thematic areas will be analyzed in this paper to answer the following questions: Which economies impose equity ownership restrictions on foreign investors and which procedural barriers do foreign companies face when establishing foreign-owned subsidiaries in these economies? The analysis is based on findings from the Foreign Direct Investment Regulations indicators, which measure 103 economies, on whether they restrict foreign ownership across economic sectors and on the establishment process they impose on foreign-owned companies. Nearly 80 percent of the economies covered in the Foreign Direct Investment Regulations database restrict foreign companies from entering in some sectors of their economies. In addition, establishing a foreign-owned company takes longer and requires more steps than starting a domestically-owned company in 94 percent of the economies observed. Overall, economies in Eastern Europe and Central Asia and high-income OECD economies have fewer equity restrictions on foreign ownership than economies in the other regions and require the least number of additional procedures of foreign companies to establish a subsidiary. The findings are significantly correlated with inflows of foreign direct investment on a per-capita basis.

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Produced by the Research Support Team

# Starting a Foreign Investment Across Sectors

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The first is the group of lawyers, accountants and business regulations experts in each of the 103 economies covered by the report who responded to the *Investing Across Sectors* and *Starting a Foreign Investment* legal questionnaires. Their input was the fundamental source of data for the analysis. Grateful acknowledgment of these contributors is made in the Contributors section at the end of this report. Additional details about the contributors across all topics of the FDI Regulation database are provided at http://iab.worldbank.org/Local-Partners/2012.

The second is the expert consultative group formed to provide technical input to the development of both topics. This group of global experts provided input on the focus of the legal questionnaires and on the methodology to develop the indicators as well as on the analysis of the data. Members of the expert consultative group include:

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# I. *Introduction*

## *a. Drivers of Foreign Direct Investment*

In Rwanda, a foreign company can freely invest in any of the 32 sectors covered in the *Foreign Direct Investment (FDI) Regulations* database with no limitations on foreign ownership. The foreign company can then establish its subsidiary in Kigali in a mere 5 days.[2] By contrast, an investor trying to enter the South African market will face equity restrictions in 11 of the 32 sectors covered by the database. Moreover, the process of establishing a foreign-owned company in South Africa is one of the longest in the region and it takes on average 57 days to complete (39 of which pertain to procedures imposed exclusively on foreign companies).

Anywhere in the world, a company deciding on where to establish its next subsidiary may be attracted by large markets, natural resources, or low input prices. Beyond these factors, however, an economy's regulatory framework can also greatly affect the investment process. There is little a government can do about its economy's size or natural resource endowment. It can, however, create a legal and regulatory environment that makes the economy more attractive to FDI.

The openness of sectors to foreign equity ownership is one of the relevant conditions for attracting foreign direct investment. In fact, those economies with greater degrees of liberalization currently show higher levels of foreign investment (World Bank Group, 2010). The benefits of opening up sectors include increased foreign presence, access to international markets, transfer of technology and know-how, access to finance and increased competition between foreign and domestic providers alike (Duggan, et al 2013; Javorcik and Mattoo, 2011 and Paunov, 2012). There are still a number of reasons why economies wish to protect certain industries, including national security concerns and protecting infant and domestic industries from foreign competitors, among others. However, these goals can be reached through other regulatory initiatives that do not involve closing sectors off to foreign equity participation, particularly when such restrictions are extended indefinitely and unnecessarily. The point should also be made that liberalization of FDI (that is, the elimination of discriminatory treatment between nationals and foreigners) should not be confused with de-regulation of FDI. States can always retain their regulatory powers to pursue key public policy objectives, such as protecting the environment, health, and safety, preventing fraudulent practices or protecting the stability of the financial system. In order to achieve those goals, it is not necessary (or convenient) to discriminate between domestic and foreign investors. All investors should be subject to more transparent and simpler controls and regulations in order to increase efficiency and consumers' rights.

A large body of research has addressed the question of what determines FDI flows. One framework views FDI as being market-driven (by economy size or location), efficiency-seeking (driven by human capital or infrastructure quality and costs), strategic-advantage seeking (acquisition of distribution channels or technology) or resource-seeking (driven by natural resources or other strategic assets). Numerous empirical studies have confirmed the importance of these factors (Blonigen and Piger 2011 and Hornberger et al 2011). The absence of foreign ownership restrictions as measured by the indicators is an important but insufficient condition for attracting FDI. Aside from openness to foreign ownership, other determinants of FDI include market size, infrastructure quality, cost factors, political stability, and economic growth, actual and potential. Other factors ranging from physical security to historic cultural ties have also been found to influence FDI, reflecting the wide range of FDI determinants. Restrictions on

2 The establishment process referred to in this example is based on a case study that sets out assumptions that the investment is done in the light manufacturing sector. Please refer to the complete set of assumptions in Box 1 below.

foreign ownership limit and in some cases prohibit FDI in certain sectors. But abolishing foreign ownership restrictions and having a completely open economy do not guarantee success in attracting more FDI. Traditional factors such as market size and growth potential will continue to be the main drivers of global FDI flows. But previous waves of economic reforms did succeed in attracting large inflows of FDI, however, and further reforms – in areas such as trade liberalization, infrastructure deepening, and human capital strengthening – will help overcome existing weaknesses in the economies and enable them to attract more and better benefit from foreign capital inflows. Moreover, poor investment climates (such as ones imposing entry restrictions) put their economies in a sub-optimum position not only to attract, but, as importantly, to reap fully the benefits of FDI, such as transfer of technology and know-how through spillovers and linkages as well as access to international markets. Lacking such reforms and improvements in the investment climate, economies find it difficult to attract their share of FDI and more generally, to reach their economic potential.

One important component of such reform efforts to attract FDI must be for economies to continue to offer an attractive investment climate. Many economies in the world have largely succeeded in removing the most significant regulatory barriers to foreign investment, but further reforms targeting more nuanced regulatory areas may be a key step to stay at the forefront of attracting global FDI. Other economies still have a way to go to offer a conducive environment for FDI flows.

Once investors are informed as to whether the sector of activity is open to foreign equity ownership in the host economy, they need to assess the process for establishing a foreign investment in this sector. Easing business start-up is another important area where the government can implement positive changes. Over the years, research has shown that companies seek to avoid administrative hurdles when setting up business in foreign economies. A study measuring restrictions on FDI in the service sector finds that the difficulty of navigating the various requirements for starting a foreign investment can have an important impact on companies' investment decisions (Golub and Ling, 2006). Research also shows that stricter regulation of entry is associated with higher levels of corruption, and a greater relative size of the unofficial economy (Djankov et al., 2002).

As part of the *FDI Regulations* project, two surveys were used to gather the data outlined here: *Investing Across Sectors* and *Starting a Foreign Investment*. They answer the following questions: Which economies impose equity ownership restrictions to foreign investors and which procedural barriers do foreign companies face when establishing foreign-owned subsidiaries in these economies? The *FDI Regulations* indicators analyze laws, regulations, and practices affecting foreign investment in 103[3] economies. The indicators focus on five thematic areas to measure how foreign companies invest across sectors, start a foreign-owned business, arbitrate commercial disputes, convert and transfer currency, and employ skilled expatriates. The indicators compare economies to identify good practices, stimulate reforms, and provide cross-country data for research and analysis. The project's methodology is based on the World Bank Group's *Doing Business* initiative.[4]

### *b. What is measured by the indicators*

The *Investing Across Sectors* indicators focus on identifying whether there are legal restrictions on equity ownership for new foreign investment projects. The indicators measure ownership restrictions across 32 sectors grouped into 12 sector groups for presentation and analysis purposes and report on a scale of 0 to 100 the degree of openness to foreign direct investment (new greenfield investment) in the

[3] The analysis is based on data across 103 economies for the topic covering foreign equity ownership restrictions and 102 economies for the topic covering establishment processes

[4] World Bank Group. Various Years. *Doing Business*. Washington, D.C. http://www.doingbusiness.org.

respective sectors (100 being completely open). The sectors are listed below in twelve groups:

1. Agriculture and forestry;
2. Mining and Oil & Gas;
3. Manufacturing (food processing, manufacturing of basic chemicals and light manufacturing);
4. Electricity (electric power generation (biomass, solar, wind) transmission and distribution);
5. Waste management and water supply (waste management and recycling and water distribution);
6. Transport (freight rail transport, freight transport by road, internal waterways freight transportation, international passenger air transport, port operation and courier activities);
7. Telecom (fixed-line telecommunications infrastructure and services and wireless/mobile telecommunications infrastructure and services);
8. Media (newspaper publishing and television broadcasting);
9. Financial services (banking, life insurance and health insurance);
10. Education (higher education);
11. Accounting (accounting, bookkeeping and auditing services; tax consultancy);
12. Tourism (accommodation services).

While the coverage of the indicators is not exhaustive, it captures most of the major economic sectors, which in aggregate account for over 80% of GDP and FDI flows[5]. The indicators place particular emphasis on providing detailed measures of the service sectors, given the relative prevalence of FDI restrictions in services in relation to other economic sectors, as well as the growing importance of services in the global economic output and FDI flows. FDI in services sector rose by 15% in 2011, reaching $570 billion, after falling sharply in 2009 and 2010 (World Investment Reports 2012, 2004 and 2009). Coverage of the primary and manufacturing sectors is relatively limited given that past studies have shown - and this report confirms - that most economies do not restrict foreign ownership in these sectors. The coverage of the service sectors, though more extensive, is also not exhaustive. For example, the indicators do not include certain public utilities (such as natural gas distribution) or professional services (such as legal and consulting services). These and other service sectors were not included in the survey questionnaire for one or more of the following reasons: FDI plays a small role in the sector, FDI restrictions (if present) often do not take the form of equity limits, views in the development literature diverge on the appropriate role of foreign capital in the sector, and methodological constraints limited the length of the questionnaire and potential quality of responses. Finally, sectors where economies may have legitimate security, cultural, or religious reasons for prohibiting FDI are omitted from the indicators' coverage. These include weapons, nuclear power, and manufacturing of tobacco products and alcoholic beverages.

As mentioned above, some restrictions to FDI are not restrictions on equity participation. A recent database created by the Development Research Group at the World Bank provides information on services trade policies and shows their importance for investment flows and access to services which offers complementary information to the data presented in this paper. In particular, it shows that "restrictions on foreign acquisitions, discrimination in licensing, restrictions on the repatriation of earnings and lack of legal recourse all have a significant and sizable negative effect" (Borchert et al., 2012).

The *Starting a Foreign Investment* indicators look specifically at the process of establishing a wholly foreign-owned business. It partially builds on the *Doing Business* data on Starting a Business which

[5] FDI database of UNCTAD (www.unctad.org) and World Development Indicators database of the World Bank Group (data.worldbank.org).

measures the establishment process for domestic small and medium enterprises. The process of establishing a foreign-owned company requires two types of procedural steps: those required of both foreign and domestic companies and those required only of foreign companies. Both are covered in this analysis as both matter to foreign companies seeking a new location for their investment. In fact, foreign companies are equally concerned not only about onerous and unpredictable entry barriers, but also about differences in the way they are treated in comparison with domestic companies. Policy reforms which improve the business startup process for domestic investors benefit foreign companies equally by reducing entry barriers. The distinguishing value of the *FDI Regulations* data is that it highlights findings that are specific to foreign investors. The indicators also evaluate the characteristics of the regulatory and administrative regimes for business start-up, including foreign investment approval requirements (nature of investment approval requirement, possibility of appeal, minimum required amount of investment, period of validity, etc.), the availability of online services (online laws, regulations, documents, and registration), among others. The topic presents indicators on economies' laws, regulations (*de jure*) but also practices (*de facto*) in the measured economies.

**Box 1: The startup case study**

In order to gather comparable data across economies, the *Starting a Foreign Investment* questionnaire is based on case study of a hypothetical foreign company planning a capital investment of US$ 10 million in order to establish a wholly foreign-owned subsidiary in the form of an LLC in the host country. The company will be established in the country's most populous city, will produce consumer products and will be involved in international trade. The firm will not benefit from any special incentives granted through multilateral treaties between economies.

In order to ensure consistency and comparability of data across all economies measured, the indicators are based on a case study that sets out assumptions about a foreign company hoping to establish a local subsidiary. The most critical elements of this case study are provided in Box 1, with more details in Annex 2.

## *II. Results*

Specific country-level data and indicators are presented in Annexes 1 and 2. The following section highlights the main findings related to sectoral restrictions as well as procedural implications for setting up a greenfield foreign investment.

### *a. Investing Across Sectors: FDI equity restrictions across sectors and regions*

#### *i. Restrictions by industry sectors*

Restrictions on inward foreign direct investment vary significantly across economic sectors. While the *FDI Regulations* project measures such restrictions in 32 different sectors, those have been grouped into 12 sector groups. A score of 0 denotes that a sector or industry cluster is completely closed for foreign investment whereas a score of 100 indicates a fully open sector or industry cluster (calculated as the unweighted average of each sub-sector).

As a general trend, the manufacturing sector (represented in this database by food processing, light manufacturing and manufacturing of basic chemicals) is almost universally open, whereas FDI in the service sectors tends to be more restricted. This reflects the fact that FDI in manufacturing has been a more common occurrence for a longer period of time with evidence of productivity gains and training of labor force (Duggan et al., 2013). Services, in contrast, have become more tradable only in recent years, and economies are less certain about the optimal balance between openness and regulation. In

addition, a number of sectors, such as media, transport, electricity and telecom tend to be viewed as strategic assets, which are less likely to be open for foreign investment. Thus, within the broader category of services, tourism is globally most open, followed by waste management, recycling and healthcare insurance. Overall, tourism (accommodation services) and manufacturing are the most open sectors. Algeria and Thailand are the only economies from the 103 economies covered by *FDI Regulations* database that imposes restrictions in the accommodation services sector.

The most restricted sector among the 32 covered is media with 49 economies imposing some kind of restriction on television broadcasting, and 32 in the newspaper-publishing sector. The second most restricted sector is international passenger air transport. Other sectors that are often restricted are telecom and electricity. Economies tend to close or allow only a minority foreign equity ownership position in the sectors mentioned above due to political (including the commercial reasons of maintaining revenues generated by state-owned monopolies) and national identity reasons, among others.

While many economies restrict foreign investment in strategic sectors outright by law, other economies seem to have *de facto* restrictions in place. These restrictions can come in the form of difficulties in obtaining operating licenses or uncompetitive markets. For instance, Bangladesh, the most open economy to foreign ownership in South Asia region (of the 32 sectors for which the data was collected, only forestry exhibits full ownership restriction), has categorized other sectors as "controlled industries".[6] These are industries which may require an approval from the government, and for which the government may restrict foreign ownership. In addition, several strategic sectors are dominated by state-owned enterprises operating as monopolies (i.e., electric transmission and distribution, freight rail transport, port operations, and fixed-line telecommunications infrastructure and services). Colombia, Nigeria and Georgia, which are also considered to be some of the most open economies worldwide, do not have foreign firms currently operating in all their sectors.

**Table 1. Restrictions on foreign equity ownership across sectors and regions**

| Sector Group | Eastern Europe & Central Asia (21*) | High-income OECD (17) | Sub-Saharan Africa (24) | Latin America & Caribbean (15) | South Asia (6) | East Asia & Pacific (11) | Middle East & North Africa (9) | Global average (103) |
|---|---|---|---|---|---|---|---|---|
| **Agriculture and Forestry** | 98% | 100% | 98% | 96% | 78% | 80% | 81% | 90% |
| **Mining and Oil & Gas** | 99% | 100% | 98% | 92% | 95% | 87% | 71% | 92% |
| **Manufacturing** | 100% | 100% | 100% | 100% | 95% | 100% | 94% | 98% |
| **Electricity** | 96% | 93% | 95% | 80% | 80% | 83% | 80% | 87% |
| **Waste management and water supply** | 98% | 97% | 98% | 93% | 92% | 85% | 78% | 92% |
| **Transport** | 93% | 89% | 93% | 95% | 80% | 75% | 64% | 84% |
| **Telecom** | 99% | 95% | 86% | 98% | 94% | 76% | 80% | 90% |
| **Media** | 77% | 85% | 75% | 77% | 57% | 52% | 53% | 68% |
| **Financial Services** | 98% | 100% | 91% | 98% | 89% | 89% | 85% | 93% |

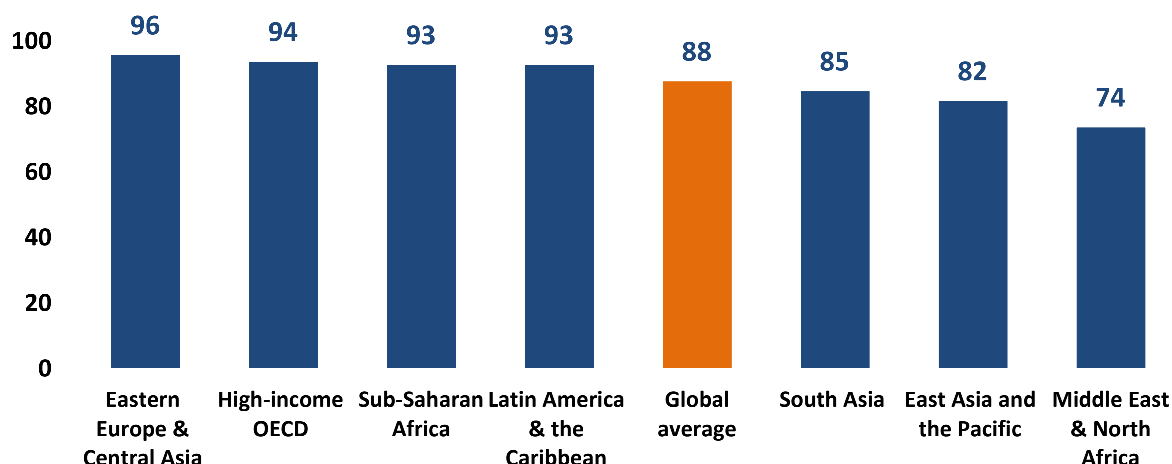
[6] The National Industrial Policy 2010 (NIP 2010) states that the "government will fix the equity rate of local-foreign investors for any joint venture project in the controlled sector".

| Education | 100% | 94% | 100% | 100% | 100% | 87% | 69% | 93% |
|---|---|---|---|---|---|---|---|---|
| Accounting | 100% | 92% | 100% | 100% | 92% | 87% | 69% | 91% |
| Tourism | 100% | 100% | 100% | 100% | 100% | 96% | 94% | 99% |

*Source: FDI Regulations* database 2012
*Note*: 100 = full foreign ownership allowed
*: number of economies included in each region

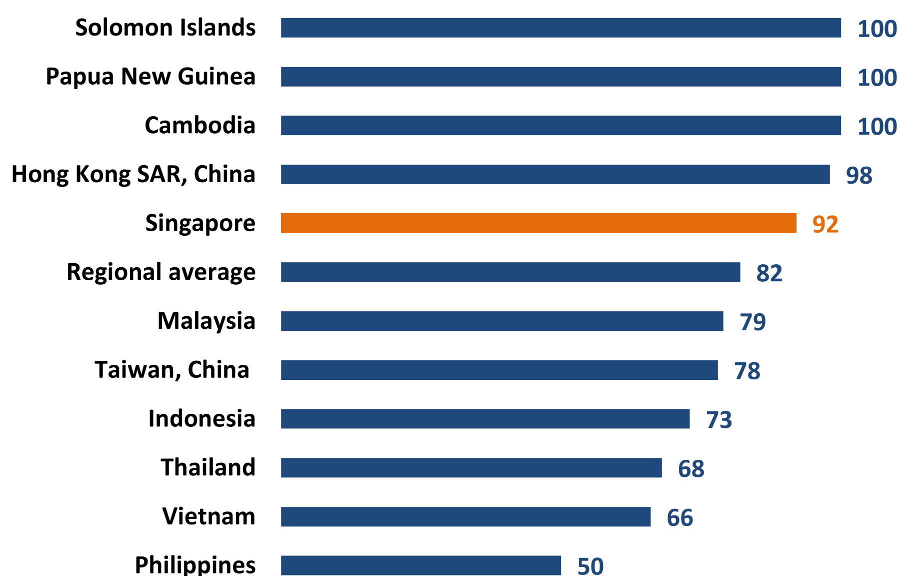
**ii.** *Restrictions per region*

**Figure 1. Average equity restrictions on FDI ownership by region**




*Source*: *FDI Regulations* database 2012
*Note:* 100 = full foreign ownership allowed

**Figure 2. Foreign equity ownership index in East Asia and the Pacific**



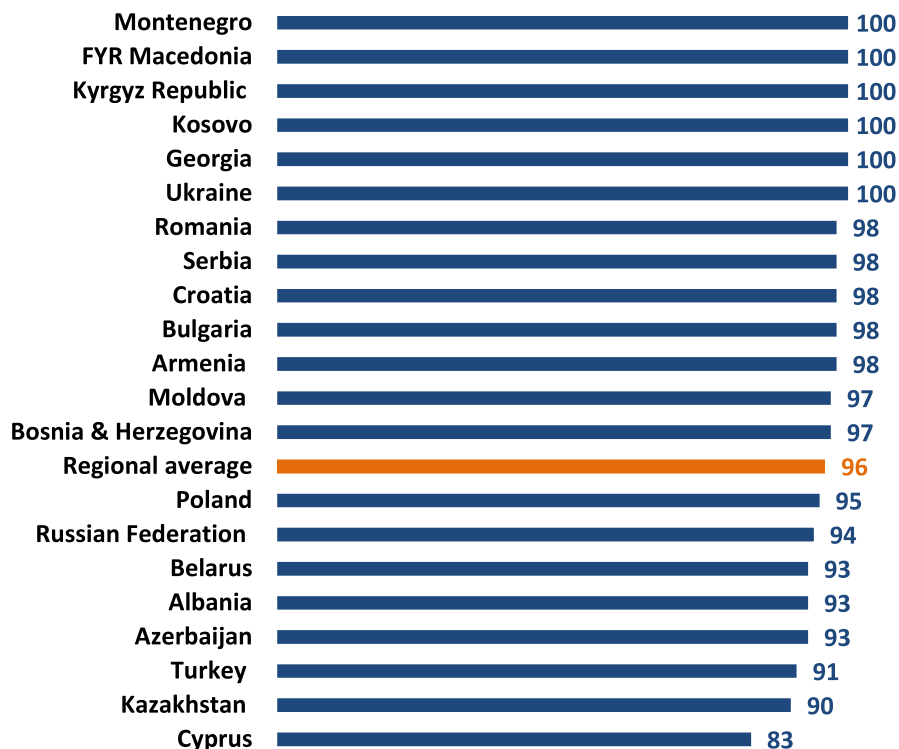

*Source:* FDI Regulations database 2012

Looking at the data from a global perspective, there are marked differences between the different regions. Eastern Europe and Central Asia (ECA), the high-income OECD economies (OECD), Sub-Saharan Africa (SSA) as well as Latin America and the Caribbean (LAC) emerge as the most open to foreign investment. On the other hand, South Asia (SAR), East Asia and the Pacific (EAP) as well as the Middle East and North Africa (MENA) tend to have more restrictions to foreign equity (Figure 1).

Taking a closer look at the respective regions, significant intra-regional differences begin to emerge. The strongest

variation can be observed in East Asia and the Pacific, where smaller economies (Solomon Islands, Cambodia and Papua New Guinea) are the most open, while Indonesia, the Philippines, Thailand and Vietnam impose foreign equity limits in many of the sectors covered. The region as a whole is fairly restrictive on foreign equity ownership in many sectors. Thus the spread of openness within the EAP region extends from a score of 50 in the case of the least open to a score of 100 in the case of the most open economies. For instance, the Philippines impose foreign equity ownership restrictions in 25 sectors, more than most other economies (Figure 2).

**Figure 3. Foreign equity ownership index in Eastern Europe and Central Asia**

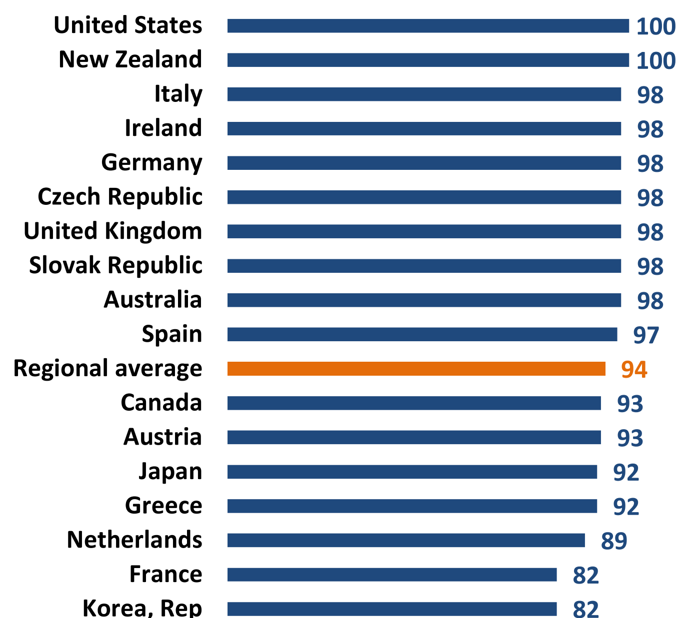



*Source:* FDI Regulations database 2012

The Eastern Europe and Central Asia (ECA) region on the other hand displays a very low variance with all economies of the region being highly open to foreign investment (Figure 3). The region overall is the most open to foreign equity ownership. Montenegro, the former Yugoslav Republic of Macedonia, the Kyrgyz Republic, Kosovo Georgia and Ukraine have no restrictions on foreign ownership of companies in any of the sectors covered by the project. Every economy in the region allows full foreign ownership of companies in banking; higher education; courier activities; accommodation services; agriculture; mining; manufacturing; electric power generation (biomass, solar and wind); freight transport by road; freight rail transport; internal waterways freight transportation and waste management and recycling. In contrast, media and international passenger air transport are more restricted. Azerbaijan, Kazakhstan and Belarus impose more restrictions than most other economies in the region (maximum allowed 17%, 20% and 30%, respectively) in the media sector (television broadcasting and newspaper publishing).

In high-income OECD economies, restricted industries are those that are sensitive to national security or national sovereignty considerations: television broadcasting, electricity, transport and telecommunications. On the other hand, agriculture, forestry, mining, oil & gas,

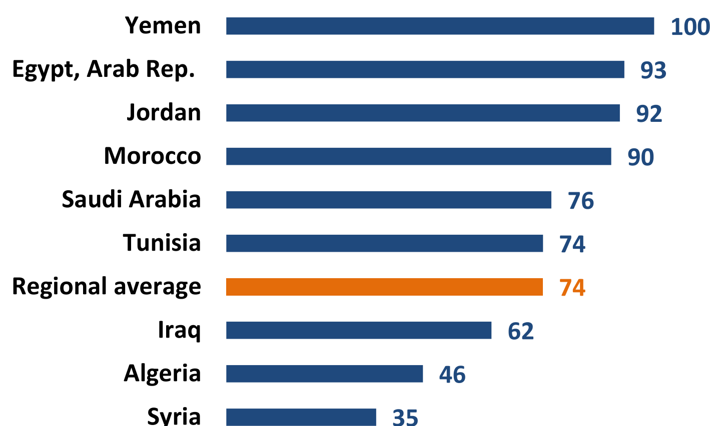
**Figure 4. Foreign equity ownership index in High-Income OECD economies**




*Source:* FDI Regulations database 2012

manufacturing, financial services and tourism are fully open in all the economies of the region. Almost all high-income OECD economies are more open than the global average (88%) (Figure 4). Italy, Ireland, Germany, Czech Republic, New Zealand and the United States are among the most open to foreign investment. EU economies covered by the indicators impose restrictions on the international passenger air transportation sector, in which foreign ownership is limited to 49%. This equity restriction, however, only applies to investors from economies outside of the European Economic Area (EEA). In 2012, Italy passed a notable and favorable reform [7] replacing the "golden shares" regime.[8]

**Figure 5. Foreign equity ownership index in Middle East and**

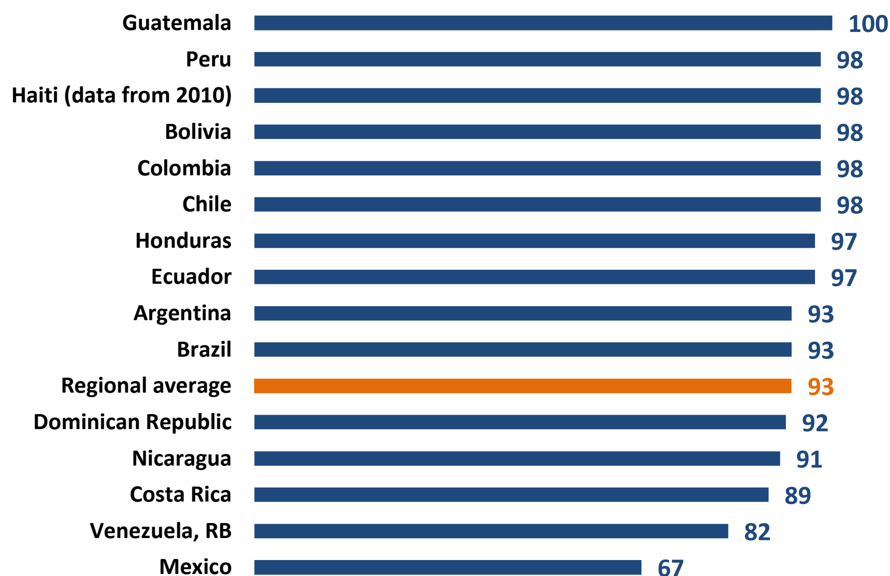



*Source:* FDI Regulations database 2012

The MENA region is the most restrictive (Figure 5). Economies in the region have more restrictions on foreign equity ownership in transport, education, accounting, financial services, mining and oil & gas, and waste management and water supply industries than any other region. An exception is the Republic of Yemen, which has no limits on foreign ownership in any of the sectors measured by the project. In several economies across the region, the extractive industries (mining and oil & gas) are much less open to foreign capital participation than in other regions. In MENA, Syria imposes the most restrictions and Algeria caps at 49% almost all the 32 sectors covered by the project.

In LAC, most economies covered by the data impose few restrictions to foreign ownership (Figure 6). Chile, Guatemala, Honduras, Colombia and Peru are among the world's most open economies, with almost no restrictions on foreign ownership in any of the sectors covered by the project. However, Mexico, Costa Rica and The República Bolivariana de Venezuela impose several restrictions in strategic sectors such as oil & gas, electricity and media. The manufacturing, accounting, education and tourism sectors are fully open in all the

**Figure 6. Foreign equity ownership index in Latin America and the Caribbean**




*Source:* FDI Regulations database 2012

[7] Italian Law Decree No. 21 dated 15 March

[8] "Golden shares" means that the Italian Gov

shareholdings, following the process of privatization of certain public companies in the sectors of defense, energy, public services, and telecommunications. These exceptional powers included the ability of the government to intervene in a number of different ways (e.g. objection to ownership changes or even vetoing certain types of corporate resolutions).

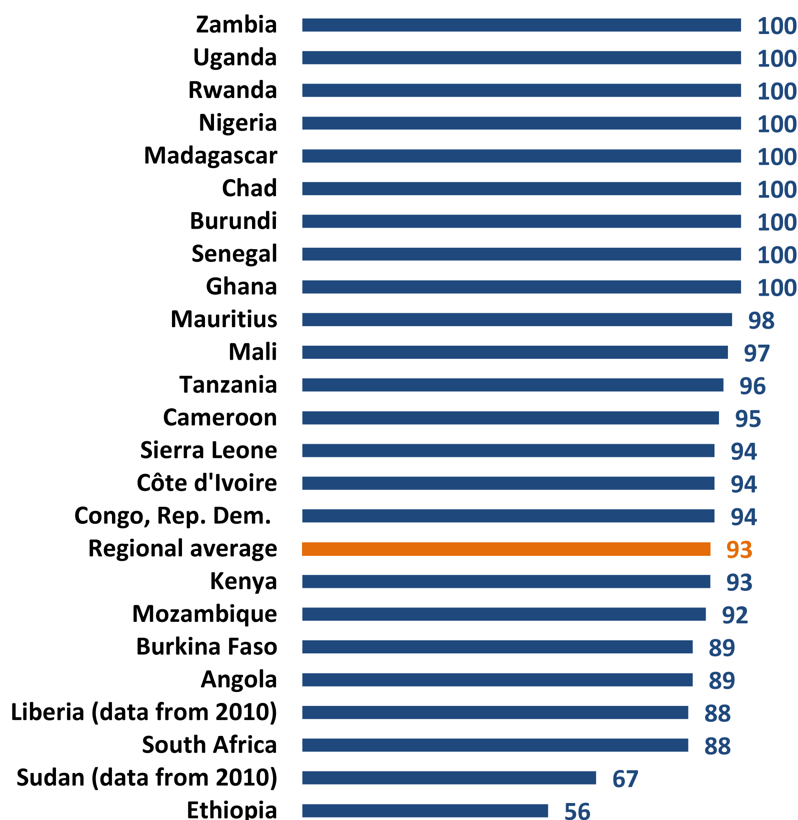
economies. On the other hand, the sectors that are more restricted to foreign investment include electric power transmission and distribution, newspaper publishing and television broadcasting. The electricity sector is more restricted than in other regions, with foreign equity ownership of companies limited to less than a 50% stake in Costa Rica and The República Bolivariana de Venezuela and fully closed in Mexico. Some economies in the region are revisiting their policies. For instance, Brazil recently revoked the restriction established by Law No. 8977/1995 with respect to foreign participation in cable television companies and currently is discussing opening up other sectors, including civil aviation (where an increase of the limit for foreign investment from 20% to 49% is in discussion). In addition, Peru had been opening its only restricted sector (the international air passenger sector) by gradually raising the maximum allowed foreign ownership from 49% of voting shares at the time of incorporation to 70% of voting shares after six months of incorporation.

**Figure 7. Foreign equity ownership index in South Asia**

*Source: FDI Regulations* database 2012

Economies in South Asia restrict foreign ownership in agriculture, forestry and the media industries more than most other regions (Figure 7). In Sri Lanka, foreign equity ownership is capped at 40% and in India and Bangladesh forestry is closed to foreign investors. Bangladesh, in 2010, allowed 100% of foreign equity ownership of companies in the forestry sector but now the sector has become a "reserved industry" under the 2010 National Industrial Policy (which defines a reserved industry as one which is kept reserved for public investment due to national security or other reasons). In general, Sri Lanka, Nepal and India have the region's most restrictions on foreign equity ownership. However, it is worth mentioning that India is progressively liberalizing its FDI regime, even though the reforms are taking place in sectors that are for the most part not covered by this analysis. For instance, in the transport sector, foreign airlines are now permitted to own up to 49% in scheduled and non-scheduled air transport services; in the energy sector, FDI is now allowed up to 49% in power trading exchanges; the country also liberalized FDI in broadcasting, including cable networks and mobile TV, up to a 74% ownership ceiling and in the retail sector, the country allowed foreign investment in single-brand retail trading - from a previous 51% foreign ownership limit to now 100% and it also allowed FDI in multi-brand retail trading up to 51% under the government approval route, among others. Most SAR economies impose foreign equity restrictions in the media industries. Electricity transmission and distribution, freight rail transportation and, to a lesser extent, water distribution are sectors that tend to be dominated by state-owned monopolies in the region. In contrast, sectors with the least foreign ownership restrictions include oil and gas, manufacturing, electricity generation from renewable sources, wireless telecommunications, higher education, courier services, accommodation, waste management and agriculture. Meanwhile, Pakistan has opened the insurance sector from 49% in 2010 to 100% in 2012.

**Figure 8. Foreign equity ownership index in Sub-Saharan Africa**




*Source:* FDI Regulations database 2012

In Sub-Saharan Africa, the region's largest recipient of FDI both in absolute and per capita terms, Nigeria, is also one of the most open to foreign investment (Figure 8). On the other hand, the second most populous economy in the region and one of the economies with the lowest income per capita in the world, Ethiopia, is the most restricted economy in the region and it receives one of the lowest amounts of FDI. All its major services sectors are closed to foreign investment. Of the 24 Sub-Saharan African economies covered by the project, almost half are completely open or have very few restrictions. The transport and media sectors exhibits fewer restrictions than in other regions and agriculture, forestry, manufacturing, education, accounting and tourism are fully open in all the economies.

### **iii.** *Trends*

In terms of country size, our data show that smaller economies tend to be more open: Guatemala, Honduras, Solomon Islands, Georgia, Kosovo, Montenegro, the Kyrgyz Republic are all fully open to foreign investments in the thirty-two sectors covered by the project. On the other hand, larger economies such as South Africa, Mexico, Turkey, Korea, the Philippines and Indonesia impose more restrictions in strategic sectors such as media, transport, electricity and telecom, presumably because they will remain a principal destination for foreign investments due to their size and growth potential.

However, our analysis and past research shows that there is no correlation between the size of the economy (measured by GDP) and the degree of openness as measured by the *Investing Across Sectors* indicators. There is a modest positive correlation between GDP per capital and sectoral openness, suggesting that higher-income economies tend to be more open to foreign investment across sectors, although this correlation is not statistically significant (Waglé, 2011).

**Box 2: Some examples of reforms captured between 2010 and 2012:**

- **Pakistan** has opened the insurance sector from 49% in 2010 to 100% in 2012.
- In 2012, **Italy** passed a notable and favorable reform replacing the "golden shares" regime.
- **Bangladesh** in 2010 allowed 100% of foreign equity ownership of companies in the forestry sector but now the sector has become a "reserved industry" under the 2010 National Industrial Policy.
- **Brazil** recently revoked the restriction with respect to foreign participation in cable television companies and currently is discussing opening up other sectors, including civil aviation.
- In **Rwanda,** the electricity sectors (generation, distribution and transmission) are in an ongoing process of liberalization. A 7-year electricity development plan (started in 2011) will see an emphasis on investment in renewable energy and an expansion of existing distribution and transmission networks. The television broadcasting sector has also very recently been the subject of a successful liberalization.
- In **Greece,** the freight rail transport sector has recently seen some new entrants and is presently tabled for liberalization.
- In accordance with WTO Commitments **Vietnam** started to open it to foreign investment in different sectors, such as mining, as follows: upon accession in 2007, joint ventures were permitted with foreign capital contribution not exceeding 49%. After 3 years from the date of accession that limitation was increased up to 51% and two years thereon 100% foreign-invested enterprises started to be permitted.
- In **Ukraine**, a new restriction prohibits the ownership of any TV or radio broadcasting companies by a foreign owner (or co-owner), regardless of the size of the share of this foreign owner (Article 12 of the Law on TV and Radio Broadcasting, July 2013).

The comparison between the *de jure* and *de facto* restrictions then reveals a different picture. Most differences occur in the electricity, transport and telecom sectors and in terms of regions, MENA, EAP and LAC are the regions where we capture most discrepancy between de jure and de facto restrictions. Within the 103 covered by the project, even when almost half of those economies impose few or no restrictions on foreign ownership across the 32 sectors, foreign firms are still not currently operating or have little participation in several industries. For instance, Nigeria, the Solomon Islands, Montenegro, Georgia, Yemen, the Czech Republic and Guatemala, considered to be among the most open economies worldwide, do not have foreign firms presently operating in some of their open sectors. This may reflect the fact that a large number of industries are dominated by government or private sector monopolies. Moreover, often the obstacles facing investors are not equity restrictions or the presence of monopolies (private or public), but those related to obtaining licenses, concessions or authorizations necessary to operate in particular sectors, in addition with anticompetitive regulation, restriction on the number of firms and discriminatory treatment of certain firms (Kitmuller and Martinez Licetti, 2012).

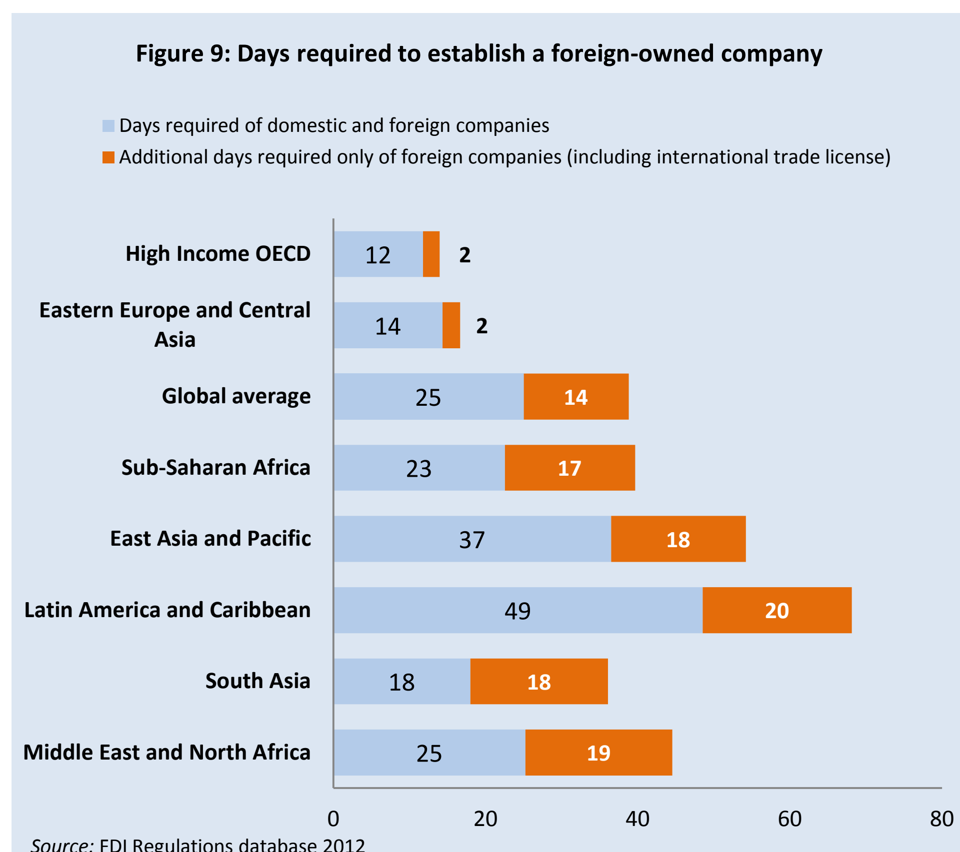
Many economies are in the process of letting go of restrictions in some sectors. In Rwanda, for example, even though there are no *de jure* restrictions on foreign equity ownership across the 32 sectors covered, water distribution and the transmission and distribution of electricity are sectors dominated by the state-owned Energy, Water and Sanitation Authority (EWSA). However, the electricity sectors (generation, distribution and transmission) are in an ongoing process of liberalization. A 7-year electricity development plan (started in 2011) will see an emphasis on investment in renewable energy and an expansion of existing distribution and transmission networks. Television broadcasting, another sector previously dominated by a monopoly, has also very recently been the subject of a successful liberalization. Another example of this trend is Greece, where the freight rail transport sector, previously dominated by the state-owned Hellenic Railways Organization, has recently seen some new entrants and is presently tabled for liberalization.

In accordance with its WTO Commitments, Vietnam started to open it to foreign investment as follows: upon accession in January, 2007, joint ventures were permitted with foreign capital contribution not exceeding 49%. Three years from the date of accession, that limitation was eased to 51% and two years later, 100% foreign-invested enterprises were allowed. Agriculture, water distribution, freight rail transport and freight transport by road are other examples of sectors that are going to start opening up in the following years due to the WTO Commitments.

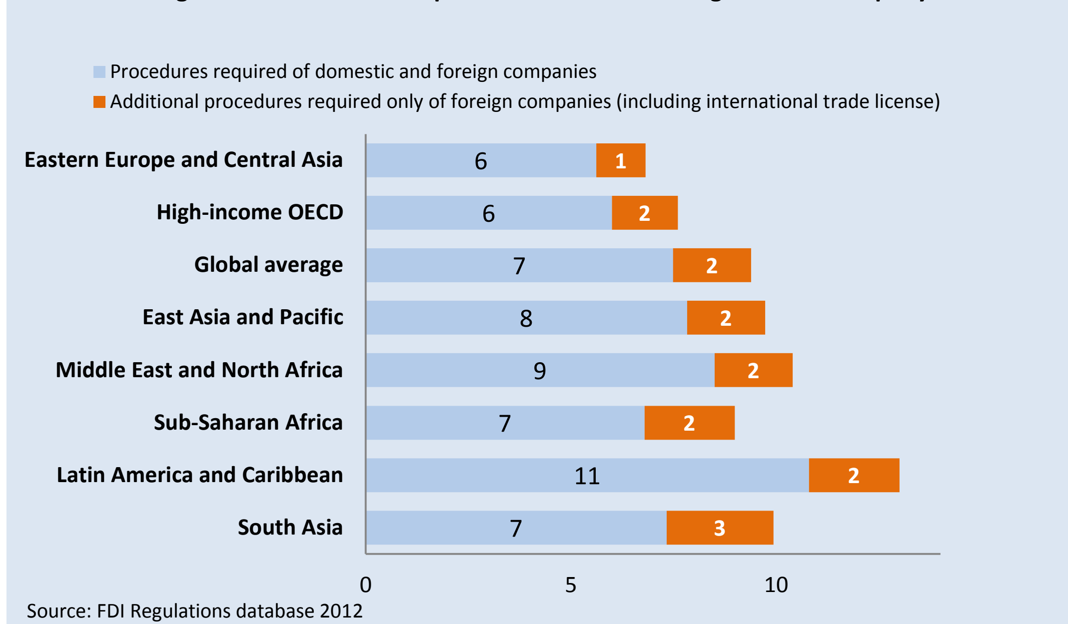
***b. Starting a Foreign Investment: The startup process for companies establishing subsidiaries abroad***

*i. Regional overview*

A recent study published by the World Bank's Development Research Group found that one of the main reasons why firms choose to operate in the informal sector, even when granted financial incentives to formalize their business, is a burdensome registration process (De Mel et al., 2012). Our data finds that in almost every economy observed, establishing a local subsidiary of a foreign company takes longer and requires more steps than establishing a domestic enterprise. The only exceptions to this are Madagascar, Hong Kong SAR, China, Cyprus, Iraq[9], Australia, Ireland, and the Netherlands. In these economies, we noticed no difference in treatment between domestic and foreign companies with regards to establishing local subsidiaries of foreign firms. For the remaining economies surveyed, it takes a foreign business on average an additional 13 days and 2 more procedures than a domestic enterprise in the same economy (Figures 9 and 10).




[9] Although Iraq does not impose additional procedures on foreign investors, the establishment process still takes 74 days to complete, longer than the average for the Middle East and North Africa region.




In high-income OECD and ECA economies, the time needed for incorporation does not vary much between domestic and foreign-owned companies (only an additional 2 days on average). In Sub-Saharan Africa, on the other hand, there can be up to two additional procedures on average, adding an additional average of 17 days to the process.

The MENA region shows the biggest discrepancy between domestic and foreign processes. Notwithstanding the above, the regional averages hide a great variation in scope and stringency among the different players in each of these regions. In fact, when looking more closely at an economy-level, in SAR for example, we notice that while Afghanistan offers the fastest start-up process in the region with 9 days and 6 procedures, in Nepal, the process takes as long as three months to complete. The same can be said of Latin American and the Caribbean with three of the world's worst performers and one of the best. The República Bolivariana de Venezuela (325 days), Brazil (152 days) and Haiti (120 days) bring the regional average time up while Chile, with 10 days, offers one of the fastest processes (Figure 11). If the regional average for LAC is measured without counting the three outlier countries listed above, the total number of days needed to establish a foreign-owned firm drops from 69 to 34 days.

In EAP, the same variation can be observed where a foreign company establishing a subsidiary in Hong Kong SAR, China and Singapore will only need to account for 3 and 4 days respectively whereas in Brunei Darussalam, Papua New Guinea and Vietnam the same company will need 101, 112 and 110 days respectively.

### *ii. Additional procedures and other requirements relevant for foreign-owned companies*

The additional procedures required of foreign companies are summarized in Table 2. The four most common types of additional procedures required exclusively of foreign companies are:

- The legalization of the foreign parent's incorporation document abroad. This process has been made easier with the 1961 Hague Convention Abolishing the Requirement of Legalization for

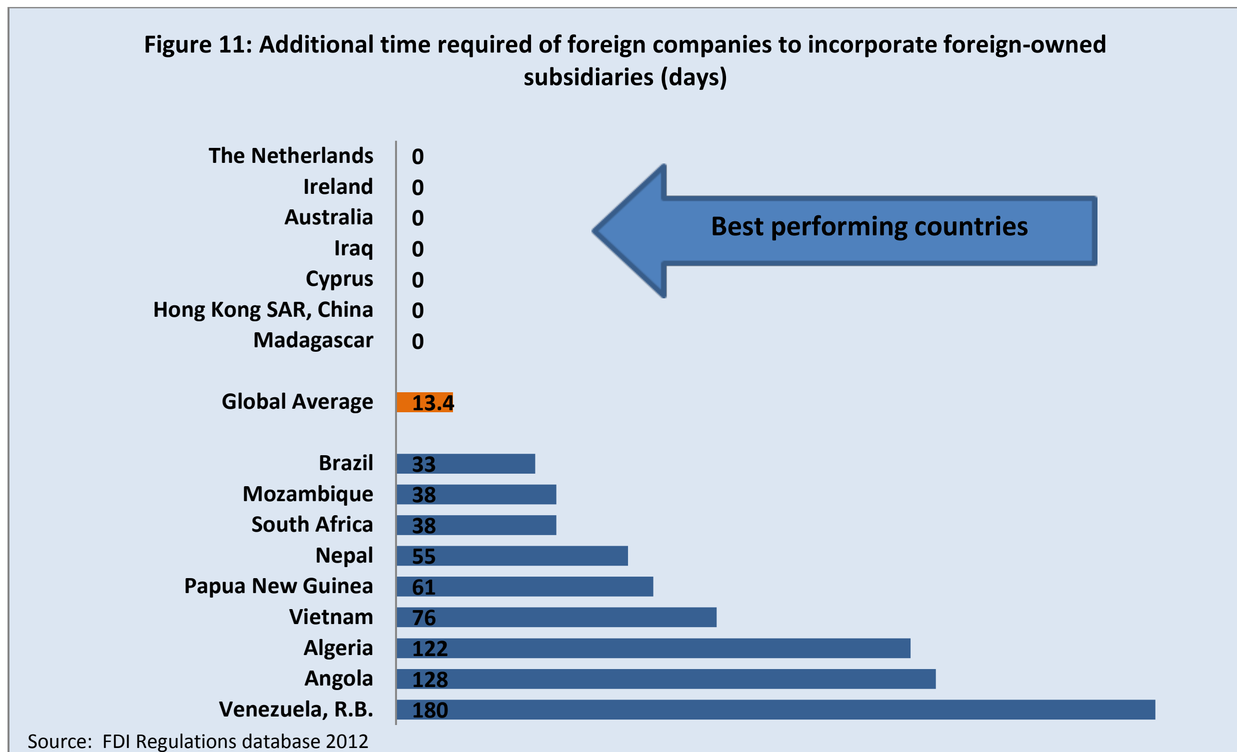
Foreign Public Documents (the "Apostille" Convention). Half of the economies surveyed are party to the convention two thirds of which did so after 2000.

- The approval of the investment project as a whole.
- The declaration of incoming foreign capital. This step is generally a mere declaration or registration with a public authority or central bank, not an actual prior authorization.
- The requirement of an international trade license. Trade licenses generally require a registration rather than an authorization. It is the second most common procedure requested by economies for foreign-owned companies wanting to engage in trade.

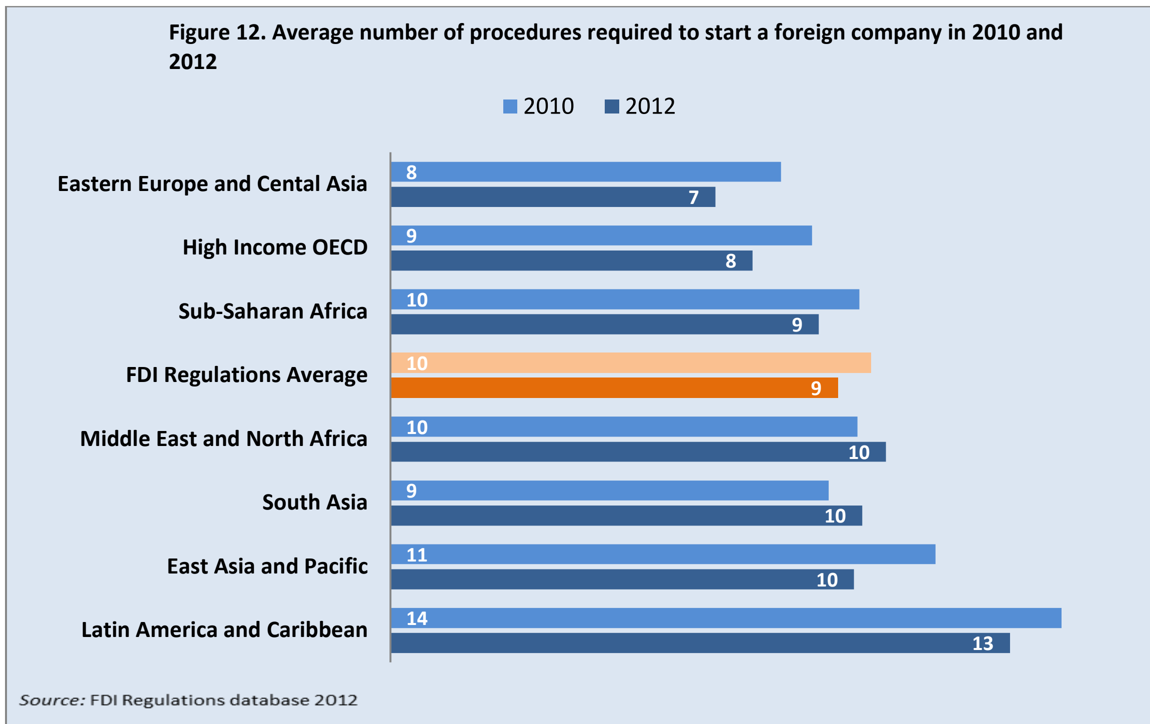
| Table 2. Additional procedures required globally of foreign companies in 2012 | | | | |
|---|---|---|---|---|
| **83/102** economies require authentication of documentation overseas | **34/102** economies require either a formal foreign investment approval or an investment registration | **38/102** economies require a trade license | **34/102** economies require an authorization or registration of imported foreign capital | **10/102** economies require other types of procedures (often tax related) |

*Source:* FDI Regulations database 2012

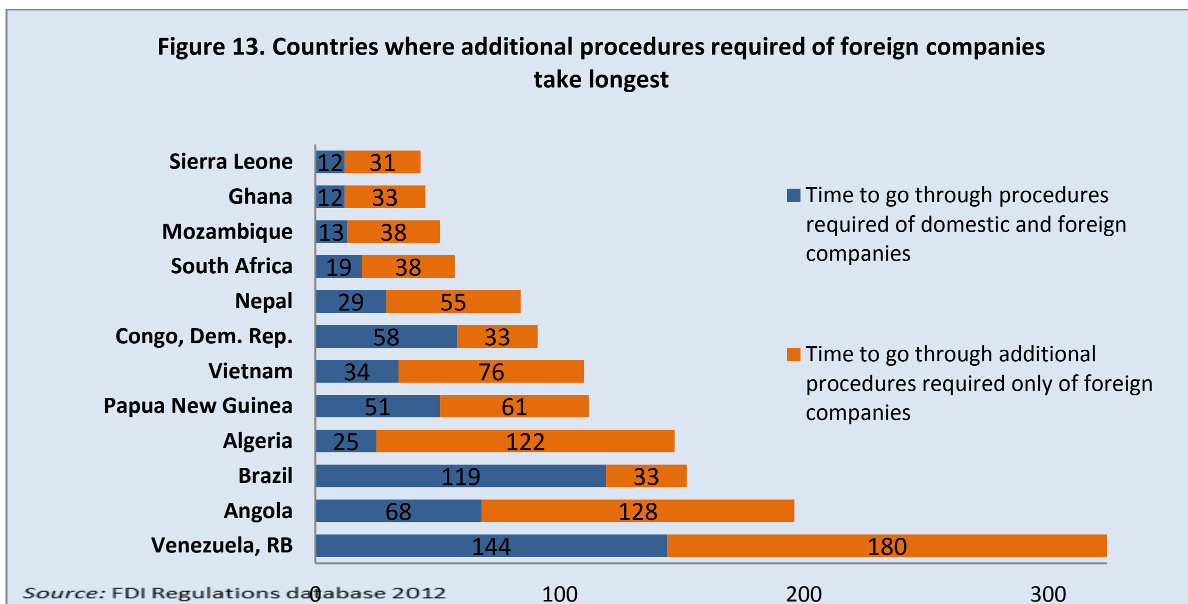
Although there has been a genuine effort made by economies towards providing national treatment to foreign companies (e.g. Australia, Iraq and the Netherlands), we still notice the need to further streamline and simplify startup requirements. That is the case in Iraq for example, where although there are no additional procedures imposed exclusively on foreign investors, the establishment process is still time-consuming and takes 74 days to complete.



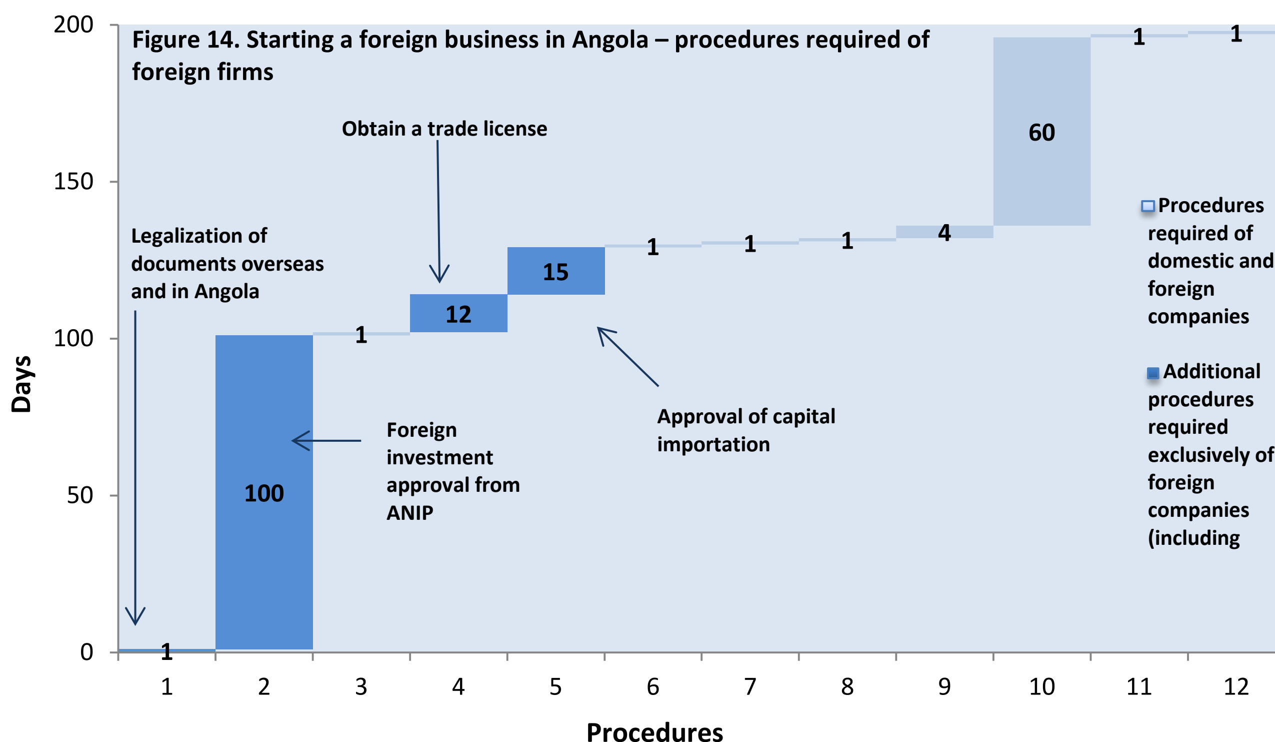

Between 2010 and 2012, with the exception of MENA and SAR, the trend across regions has been to reduce the total number of procedures required to establish a foreign-owned business (including procedures required of both foreign and domestic companies) (Figure 12).




However, these numbers should be considered with caution as the regional averages often hide a great variation within economies in one region. Furthermore, shorter processes do not always indicate good practices, especially when looking at the difference in treatment between domestic and foreign companies. A good illustration is shown in Figure 13 below between Algeria and Brazil. In fact, although both economies present comparable startup timeframes, the time required to complete additional procedures in these economies varies greatly (respectively 122 and 33 days); moreover, the time allocated to the additional procedures varies greatly between the various additional procedures.



Angola is an example of an economy requiring most of these procedures and where the number of days needed to fulfill them adds considerably to the overall time necessary to start a foreign business (Figure 14). While examining the burden imposed on foreign companies in the country compared to domestic companies, we notice that the amount of procedures more than doubles.



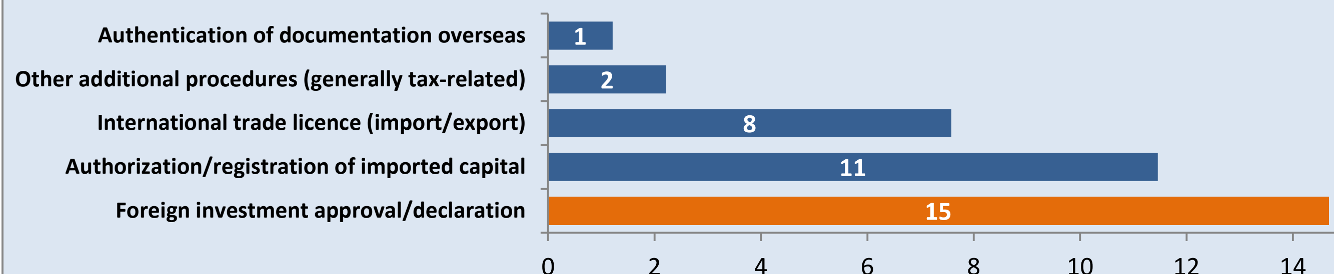

*Source*: FDI Regulations database 2012

*Authentication of parent company documentation overseas*

The most common procedure required exclusively of foreign companies is the legalization of the foreign parent's incorporation document abroad. Eighty-four percent of the 102 surveyed economies require some sort of authentication of the parent company documentation overseas. The process consists of a multi-step authentication before various authorities[10]. Only 52 economies are party to the 1961 Hague Apostille Convention[11], 12 of which have adopted one of the components of the electronic Apostille Pilot Program (e-App). One of the concerns faced by foreign investors is the uncertainty surrounding the time needed to complete said authentication. The Apostille Convention facilitates and expedites the legalization requirements of foreign public documents between states which are party to the Convention. The legalization process is meant to satisfy a foreign court or person that the document is indeed what it declares itself to be. The convention has replaced the cumbersome formalities of this lengthy process with the issuance by a single government entity of an apostille certificate that authenticates the origin of the public document.

[10] For methodological purposes, the *FDI Regulations* indicators quantify this step as adding only one day to the overall establishment process since the time involved mainly depends on the authorities in the country of origin of the parent company which differs from one country to another.
[11] Full text of the Hague "Convention Abolishing the Requirement of Legalization for Foreign Public Documents," of October 5, 1961, as well as additional details, can be found at http://www.hcch.net/index_en.php?act=conventions.pdf&cid=41

**Figure 15. Average time required to comply with additional procedures worldwide (in days)**




*Source:* FDI Regulations database 2012
*Note*: for methodological purposes, the time required to complete the *authentication of documentation overseas* procedural step is counted as 1 day, although the process in practice can be much longer depending on the originating country.

Those economies that are not party to the Apostille Convention impose a burdensome and lengthy process for the recognition of foreign public documentation in their territory (from civil registry to Ministry of Justice, to ministry of foreign affairs and then to the relevant consulate at the state of production, etc.). In addition, when there is no diplomatic representation in the country of origin, the party interested in authenticating the public documents must identify the nearest consulate that has jurisdiction over the country where the documents are intended to be used. In Saudi Arabia for example, a parent company (and parent company nominee shareholder) wishing to invest in Riyadh must do the following: translate its incorporation documentation into Arabic, authenticate and legalize said documentation at the Saudi consulate in its country of incorporation and then at the Ministry of Foreign Affairs and Ministry of Justice in the Kingdom of Saudi Arabia, before being able to submit the documentation and start the incorporation process.

*Foreign investment approval/declaration requirement*

The lengthiest additional procedure required of foreign companies is the foreign investment approval (Figure 15). When applicable, the foreign investment screening requirement can either take the form of an a priori approval and can take up to 180 days to complete, or can consist of a mere declaration/notification to the appropriate authority (i.e. approval is automatic, consists of only one step; usually takes only one day to complete). The notification requirement is usually for statistical purposes, and does not hinder the establishment process or operation as is the case for example, in Croatia and France where the declaration of the initial foreign investment must be submitted for statistical purposes within 30 days of incorporation.

The rationale for screening is that governments need to decide whether a specific foreign investment is desirable. In general, the screening process involves an assessment of the investment's potential economic benefits for the host country (World Bank Group, 2010).

In EAP, 40% of the economies impose an a priori approval requirement, meaning foreign companies will not be able to move forward with their investment project without said approval. In other regions, like ECA and LAC, the requirement mostly takes the form of a registration with a government agency. In MENA, when required, this procedural step can range from a mere declaration/notification to a procedure that takes as long as 6 months. In Morocco and Tunisia, only a declaration is needed, whereas in Algeria for example, an approval is required from the "Conseil National de l'Investissement" and takes somewhere between 90 and 180 days.

| Table 3: Foreign Investment approval requirement - Example of MENA | | | |
|---|---|---|---|
| **Country** | **Requirement** | **Time (days)** | **Comment** |
| **Algeria** | Foreign investment approval | 90-180 | Approval required from the "Conseil National de l'Investissement (CNI)", according to ordinance 01-03 of August 20, 2001 related to the promotion and development of investments. |
| **Egypt, Arab Rep.** | No requirement | N/A | Approval is granted in the form of a notification of incorporation issued upon the company's establishment (not as a separate procedural step) |
| **Iraq** | No requirement | N/A | N/A |
| **Jordan** | No requirement | N/A | N/A |
| **Morocco** | Foreign investment declaration | 1 day | Mere declaration a posteriori |
| **Saudi Arabia** | Foreign investment approval | 20 | A "license" needs to be issued by the Saudi Arabian General Investment Authority (SAGIA) |
| **Tunisia** | Foreign investment declaration | 1 day | A declaration form has to be submitted through CPEX (Centre de Promotion des Exportations). It enables the company to benefit from incentives such as: whole exemption from corporate income tax regarding profits derived from export sales (during the first 10 years); VAT exemption on specific purchases; Exemption from registration duties. |

*Source*: *FDI Regulations* database 2012

A number of economies have a foreign investment approval requirement only in the case where the investor wishes to benefit from investment incentives (in Bangladesh, the foreign investment approval is a mandatory prerequisite for the sole purpose of benefiting from investment incentives such as tax holidays). Another trend has been noticed, particularly in developed economies which have enacted laws and policies regulating foreign investment and imposed a screening requirement, often to address national security concerns (or maintenance of public order), for the protection of strategic sectors or sometimes for economic security. Although this review is generally justified by governments, strategic sectors need to be clearly specified in the laws/regulations for transparency purposes. In Japan, for example, submission of prior notification is required only for limited sectors explicitly listed in the regulation. We have also seen some protection of infant industries (in Bangladesh's ready-made garment industry) by imposing a pre-registration foreign investment approval requirement for these sectors only. Finally, in certain economies, the foreign investment approval requirement is subject to government review only once said investment reaches a certain threshold amount. That is the case for example in Korea where a foreign investor is required to make a foreign investment report prior to its investment pursuant to the Foreign Investment Promotion Act, unless the investment amount is less than KRW 50 million (approx. US$ 45,300). On the other end of the spectrum, economies like Nepal impose a minimum threshold amount below which no foreign investment is allowed in the country. Currently, the minimum threshold for FDI in Nepal is equivalent to US$ 50,000. This restriction is limiting the volume of inward FDI flows, especially from neighboring economies interested in expanding regionally. Similarly, Kenya is in the process of reviewing their Investment Act to waive the minimum investment capital requirement of US$ 100,000 in order to accommodate foreign investors, particularly East African ones.

India presents an interesting hybrid foreign investment approval system. In fact, the FDI Policy distinguishes between three different types of foreign investments:

1) Investments that fall under the “automatic route”. This consists of a mere declaration/notification of the foreign investment to the regional office of the Reserve Bank of India within 30 days of receipt of inward remittances and filing of the required documents with that office within 30 days of issue of shares to the foreign investors.
2) Investments that undergo a process of review and approval by the Foreign Investment Promotion Board (FIPB)[12]. FIPB is a government body that offers a single window clearance for the FDI projects that are not allowed access through the automatic route. FIPB is comprised of the Secretaries from different ministries. The Secretary of the Ministry of Finance’s Department of Economic Affairs chairs the Board. This inter-ministerial body examines and discusses proposals for foreign investments in the country for sectors with caps, sources and instruments that require approval under the FDI Policy. Who approves the investment depends on the amount of said investment: the Minister of Finance considers the recommendations of the FIPB on proposals for foreign investment up to a certain threshold amount. Proposals involving foreign investment greater than this threshold require the approval of the Cabinet Committee on Economic Affairs (CCEA). These include foreign investments made in the telecommunications, aviation, broadcasting sectors among others). Such approval is required solely because of the foreign nature of the company making the investment.
3) Investments completely prohibited to foreign investors. These are usually made in certain sectors such as retail trading (except single brand product retailing), lottery business, gambling and betting, chit Funds, and tobacco and tobacco products, among others.

*Minimum capital requirements*

The minimum capital requirement is defined as the amount of minimum capital required to be paid in before a company registration is granted. Between 2009 and 2012, 31 economies abolished their minimum capital requirement, simplifying the ease of establishment of companies (domestic and foreign alike).

Today, it is widely admitted that the minimum capital requirement provides no guarantee or protection for creditor or investor rights, regardless of the legal form of incorporation of the company or the form of legal system (civil or common law). In fact, no creditor or investor relies on the initial capital invested in the company for protection. They look instead for a variety of other more efficient legal instruments (available in the laws and regulations or in contractual agreements) that are much more sophisticated and adapted to today’s business reality. As a result, the minimum capital requirement is viewed as imposing unnecessary regulatory costs, which act as a deterrent to new business formation. The ineffectiveness of the minimum capital requirement is largely attributed to the following:
• The minimum paid-in capital requirement has no relationship to the specific economic activities or risks undertaken by the firm;
• Operational developments from the moment of incorporation leading to losses are not affected by the minimum capital requirement;
• The minimum capital requirement does not protect against mismanagement and bad faith of opportunistic shareholders and management who may divert firm assets.

Although, in general, minimum paid-in capital requirements constitute a larger obstacle for small and medium enterprises than they do for large foreign investors, high paid-in capital requirements may still discourage companies from investing in the host economy. Fifty-five percent of economies impose minimum capital requirements for foreign-owned limited liability companies (LLC), 16% of which (or 9%

[12] http://www.fipbindia.com/

globally) impose different requirements on foreign and domestic companies. The economies that distinguish between the two usually generally impose higher requirements for foreign-owned companies. In some economies such as Ghana, Papua New Guinea and Thailand, foreign companies are subject to minimum capital requirements while domestic ones are not. Table 4 illustrates some examples.

| Table 4. Examples of minimum paid-in capital requirements | |
|---|---|
| Ethiopia | The minimum capital requirement for a foreign investor is US$ 100,000 unless it invests with a domestic partner, in which case the minimum capital requirement is US$ 60,000. |
| Ghana | Under the Ghana Investment Promotion Center Act (GIPC), minimum capital requirements are set as follows: (a) US$ 10,000 for ventures involving foreign and Ghanaian partners, (b) US$ 50,000 for wholly foreign-owned companies, and (c) US$ 300,000 for trading companies involving a foreign partner. |
| Papua New Guinea | The minimum capital requirement for a foreign-owned company is US$ 50,000. |
| Thailand | According to Section 14 of the Foreign Business Act, the minimum capital is calculated from the company's estimated expenditure as submitted to the Ministry of Commerce. In any case, the minimum capital requirement shall be at least US$ 100,000 for foreign-owned companies. A domestic company held by Thai nationals can be set up with the minimal capital of US$ 0.5. |

*Source: FDI Regulations* database 2012

*Online services*

The convenience and efficiency of access to online information is important to all businesses, but in particular to foreign investors who are not physically present in the country. For this reason, it is helpful if information on laws and regulations are available online. Better yet is the availability of registration forms and other related documents for download, and the possibility for e-registration and monitoring. Only 3 of the 87 economies measured in 2010 did not have their commercial laws and regulations publicly available online, namely Ethiopia Ghana and Liberia. Today, Ethiopia has improved and now offers this online service to foreign companies, leaving Ghana and Liberia lagging behind. In addition, across all economies measured in 2012, Italy is the only country that offers an e-filing option for all establishment procedures, including company registration with the commercial registry, registration with the tax authorities, registration for social security, and obtaining international trade license. For the remaining economies, the procedure that is most often available online is the company registration with the commercial registry. The high-income OECD region leads the way with 94% economies making company registration documentation downloadable online (Table 5). Singapore and Rwanda are the top performing economies as the whole registration can be achieved online.

| Table 5. Examples of economies offering complete online registration services (includes downloading and submitting documentation, receiving confirmation of registration) | |
|---|---|
| **Sub-Saharan Africa** | Rwanda |
| **East Asia and Pacific** | Brunei Darussalam; Malaysia; Singapore; Taiwan, China; Thailand |
| **Eastern Europe and Central Asia** | Armenia; Bulgaria; Macedonia,FYR |
| **Latin America and Caribbean** | None |
| **Middle East and North Africa** | None |
| **High-Income OECD** | Australia; Canada; Italy; Japan; Korea, Rep.; New Zealand; Slovak Republic |
| **South Asia** | Bangladesh; India; Pakistan |

*Source: FDI Regulations* database 2012

### *iii. Trends*

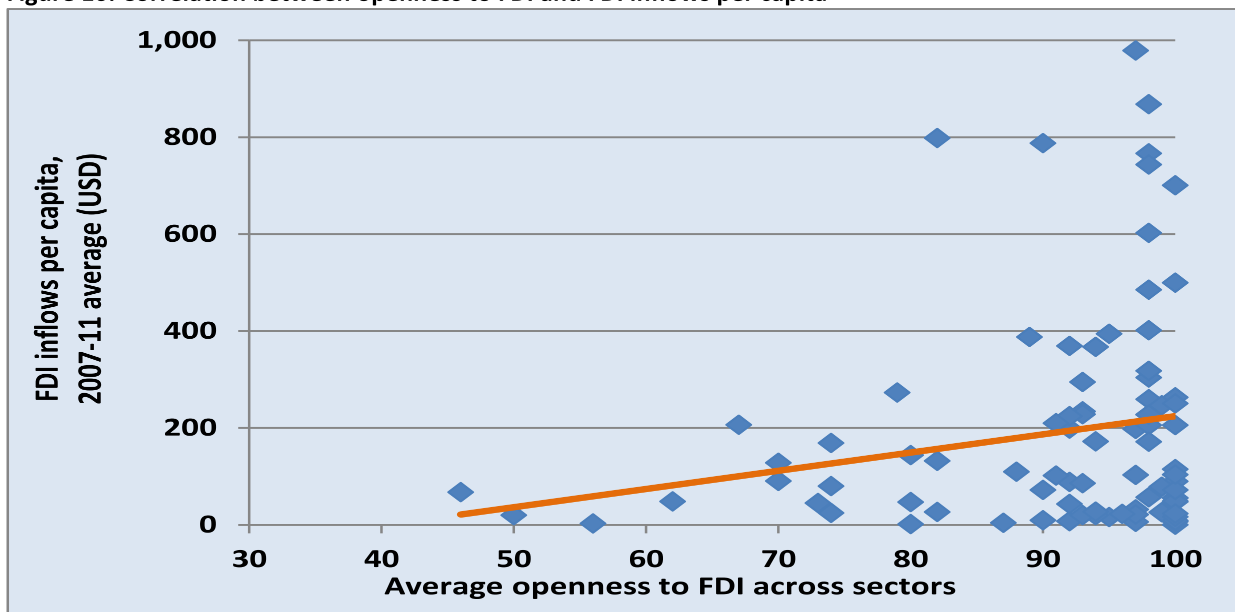
Between 2010 and 2012, several economies have improved their business environments for domestic and foreign investors. These reforms can consist of either passing a new law or improving an outdated one, adopting new policies in line with best practice within a particular country context (*de jure* reform), or even changing how a business regulation is implemented (*de facto*). The following are the most notable reforms that took place recently in the economies measured:

- 31 economies globally abolished their minimum capital requirement, hence simplifying the ease of establishment of companies (domestic and foreign alike).
- Costa Rica, Kyrgyz Republic, Nicaragua, Peru ratified the Hague Apostille Convention of 1961, simplifying the startup process for foreign companies.
- Armenia, Belarus, Cameroon, Chad and Vietnam are among the economies that launched a one-stop shop that facilitates company registration. In Vietnam for example the newly created one-stop shop combines the processes for obtaining a business license and tax license and by eliminating the need for a seal for company licensing.
- Bangladesh, Belarus, Poland and Vietnam allowed electronic registration of companies. In Belarus, according to the Decree on the Registration of Business, electronic registration is to be made possible for all business. In practice though, as of September 2012, electronic registration is available only for organizations to be incorporated in the form of a unitary enterprise (i.e. with the sole owner) and for sole entrepreneurs and only in Minsk. Electronic registration of companies of other corporate forms and in other locations is anticipated in future.

## ***III. Data analysis***

The average openness to foreign equity investment across sectors is positively correlated with inflows of FDI on a per-capita basis (see Figure 16). Economies that are more open to FDI tend to receive higher inflows per capita on average. This significant correlation does not imply that increased openness will necessarily attract more FDI, however; as noted above, there are many factors driving FDI flows beyond openness to equity investment. For instance, Indonesia is still able to attract large amounts of FDI, despite being a relatively closed economy that restricts or prohibits FDI in certain sectors. On the other hand, having an economy completely open to foreign investment (as Solomon Islands, Papua New Guinea and Cambodia) does not guarantee success in attracting more FDI.

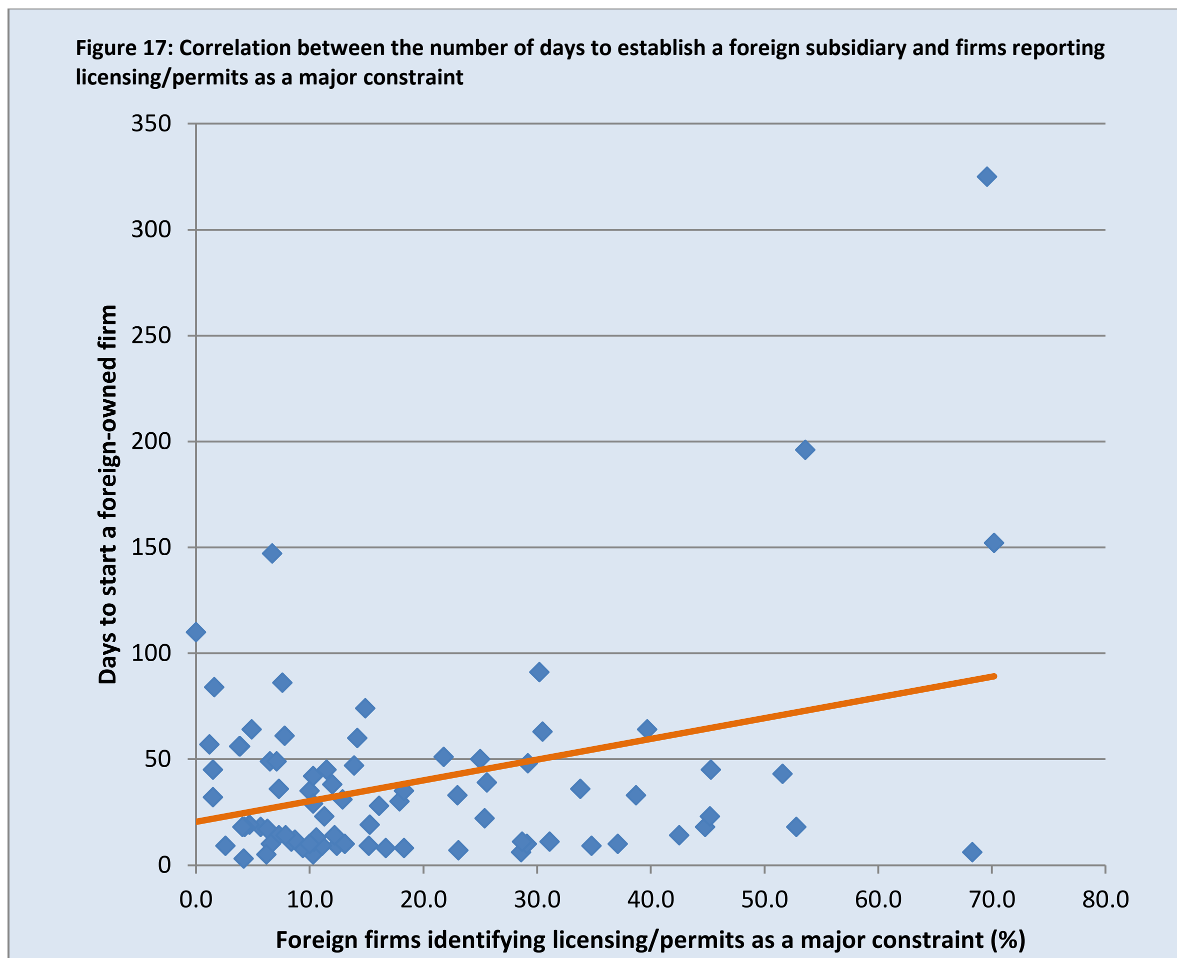
**Figure 16: Correlation between openness to FDI and FDI inflows per capita**




*Note*: Economies with FDI inflows per capita above US$ 1,000 are dropped as outliers. The Pearson correlation coefficient is 0.193, and this correlation is statistically significant at the 10% level. If all economies are included, the correlation remains positive, but is no longer statistically significant.
*Source*: UNCTADstat, *FDI Regulations* database 2012

Furthermore, simple correlation analysis shows a positive (0.348) and statistically significant association between the number of days to establish a foreign firm and data collected by Enterprise Surveys measuring the percentage of firms identifying business licensing and permits as a major constraint. Economies in which the process of starting a foreign business is longer as per our findings are also the economies in which investors report business licensing as a major constraint. In Armenia for example, where it only takes 9 days to complete the startup process, only 2.6% of foreign firms identified business licensing and permits as major constraint.

In the República Bolivariana de Venezuela, which is on the other extreme and where the establishment process takes on average 325 days to complete, the percentage of firms identifying licensing as a major constraint spikes to 69.6%.




The Pearson correlation coefficient is 0.348, highly significant beyond the 1% level

*Source*: *FDI Regulations* database 2012; Enterprise Surveys 2012

The *FDI Regulations* database covers 17 fragile and conflict situations (FCS) economies worldwide. Sustainable FDI normally requires political stability among other factors. Other things being equal, improved economic and political conditions will contribute to attracting strong and diversified FDI inflows. Box 3 highlights the main findings related to sectoral restrictions as well as procedural implications for setting up a greenfield foreign investment in FCS economies.

**Box 3: *Starting a Foreign Investment Across Sectors in* Fragile and Conflict Situations (FCS) economies**

Attracting investment is crucial for the development of an economy; this is particularly true in countries where conflict may have discouraged investment. Several challenges continue to impede FCS economies from fully leveraging their potential and attaining better, if not optimal, private sector development.

Seventeen FCS economies are covered by the *FDI Regulations* analysis namely: Afghanistan, Angola, Bosnia and Herzegovina, Burundi, Chad, Côte d'Ivoire, the Democratic Republic of Congo, Haiti, Iraq, Kosovo, Liberia, Nepal, Sierra Leone, Solomon Islands, Sudan, Syria and Yemen.

When looking at foreign equity ownership restrictions, save for few exceptions, notably in Sub-Saharan Africa, the FCS economies covered tend to be among the world's most open economies to foreign ownership, Côte d'Ivoire, Sierra Leone, Burundi, Chad, Afghanistan, Bosnia and Herzegovina, Haiti, Kosovo, the Republic of Yemen and

Solomon Islands have opened up most, if not all the 32 sectors measured by the *FDI Regulations* project.

Although our findings show that *de jure* most of these countries are open to foreign investment, the problem often lies beyond the laws and regulations. *De facto* restrictions – such as burdensome licensing requirements or government or private monopolies – exist and may hinder foreign participation in a wider number of sectors, especially in services. In addition, no foreign firms are currently operating or have little participation in several sectors. In Côte d'Ivoire, for instance, key sectors such as electric power transmission and distribution, water distribution, freight rail transport, port operation, courier activities, fixed-line telecommunications infrastructure and services and television broadcasting are often monopolies. Although known factors such as high political risk, poor personal safety, devastated institutional as well as physical infrastructure deter foreign investors from considering these economies as a destination for their next investment, however this, together with a high-perceived difficulty of obtaining required operating licenses, makes it difficult for foreign companies to invest. On the other hand, the findings related to the startup burden imposed on foreign investors were not as striking as those related to equity restrictions. Legal and administrative requirements for establishing foreign-owned subsidiaries in FCS economies vary greatly in scope and stringency. While Afghanistan, with 9 days, is among the fastest country in the world in terms of establishing a foreign-owned limited liability company, the process takes more than half a year to complete in Haiti (212 days) and Angola (196 days). These numbers also demonstrate difference in treatment between domestic and foreign investors, where the time required in order to establish a foreign company can more than double in some instances. In Angola and Sierra Leone for example, according to *Doing Business*, the time required to set up a domestic LLC is on average 68 and 12 days respectively, whereas according to *FDI Regulations*, this time increases to 196 and 43 days if the company is foreign-owned.

FCS economies need strong and efficient institutions, which can help foster FDI. In all these countries, institutions were severely damaged as a result of the conflicts. Even before the conflicts began, the quality of the institutions and the number of people with institutional memory varied greatly. Despite the fact that some countries like Afghanistan and Kosovo are enacting new laws, strengthening their institutions and streamlining their processes, a lot of work still remains to be done.

## *IV. Conclusions and implications*

Europe and Central Asia as well as high-income OECD are the most open regions to FDI, whereas East Asia and the Pacific and the Middle East and North Africa as regions are less open, as measured by the *FDI Regulations* data. Overall, there is a statistically significant and positive association between openness to FDI as measured by the project, and FDI inflows.

Globally, the *FDI Regulations* data show there are hardly any restrictions on FDI ownership in manufacturing and tourism. In contrast, many economies still restrict FDI in services industries such as media, transport, electricity, and telecommunications. Economies that restrict FDI across-the-board tend to attract less FDI. As a notable exception, East Asia and the Pacific economies tend to be less open to FDI but attract significant FDI per capita.

In 2010 and again 2012, ECA and high-income OECD economies offered the fastest establishment processes for foreign companies. In virtually every region worldwide, the average number of procedures as well as the average number of days required to complete them has decreased. Only a few economies have gone the other way. Latin America and the Caribbean is the region where it takes the longest to set up a foreign investment. However, this result is mainly driven by Brazil and the República Bolivariana de

Venezuela, the two economies where establishing a foreign-owned business takes the longest time in the world.

At times, economies that are open to FDI are also the economies where it is easiest to set up a foreign subsidiary. We have observed economies such as Madagascar and Rwanda that are at the top of all indicators measured; as are FYR Macedonia and Georgia in ECA, Chile in LAC, Hong Kong SAR, China and Singapore in EAP, and New Zealand in high-income OECD economies. On the other end of the spectrum, we have economies such as the República Bolivariana de Venezuela and Algeria that are very restrictive both when it comes to the allowed share of foreign equity participation as well as the ease of establishment of foreign companies.

However, when comparing sectoral openness and startup requirements, we also observe that best performing economies in one of the indicators are not always the same in the other. In many instances, when economies have opened up their sectors to foreign equity participation, they have imposed stringent establishment rules. In Malaysia and Mexico, sectors are more restricted than elsewhere in their region. However, once an investment is approved, there are few procedures required for establishment and the process is one of the fastest in their respective regions. The opposite occurs in Bosnia and Herzegovina, Kosovo, as well as in Papua New Guinea and Cambodia. In fact, full foreign equity ownership is possible in almost 100% of these economies' sectors but the procedures required for establishing a foreign-owned company are difficult and lengthy. For instance, Papua New Guinea is more open to foreign investment than many other economies in EAP; however, opening a foreign-owned business takes 112 days, 30 of which relate to obtaining an approval of the foreign investment from the investment promotion agency. The discretionary power of the government agency to approve or reject the investment adds uncertainty to the lengthy process. In contrast, Mexico which is the most restricted economy in the LAC region (prohibiting full foreign ownership in 8 sectors) is one of the fastest economies with 18 days to establish a foreign-owned business and an automatic declaration of the investment before the Foreign Investment National Registry.

The legal and regulatory frameworks and their implementation can sometimes be a deal breaker for foreign investors when deciding on the location of their next investment. Below are some of the main concrete considerations that a government can implement in order to improve its investment climate in the areas measured:

- Liberalize restrictions in sectors especially petrochemicals, telecommunications, electricity, media and transport;
- Promote investment in sectors where there is no actual foreign participation by engaging in proactive investor targeting and by offering incentives;
- Rationalize and reduce the number of unnecessary procedures in order to obtain licenses, concessions and authorizations to operate in some industries;
- Remove anticompetitive regulation, such as, statutory monopolies, restriction on the number of firms and discriminatory treatment of certain firms;
- Consolidate the establishment procedures and abolish unnecessary ones for foreign companies creating a subsidiary;
- Provide for fast-track alternative to traditional registration, even if it entails higher fees. Create a one-stop-shop in order to simplify the establishment process and optimize its duration;
- Eliminate foreign investment approval requirements or limit them to investments done in strategic/sensitive sectors or above a certain threshold amount.
- Ratify the 1961 Hague Apostille Convention in order to expedite the authentication of parent company documentation;

- Allow online registration: Make as many establishment-related services available online as possible;
- Repeal minimum paid-in capital requirements for start-ups.

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## ANNEX 1: Methodology and data of the *Investing Across Sectors* indicators

### *Methodology*

The *Investing Across Sectors* indicators measure statutory restrictions on foreign ownership of equity in new investment projects. The indicators are based on the text of investment codes, commercial laws, merger and acquisition laws, and other related statutes.

The indicators focus on 32 sectors, aggregated into 12 broader sector groups in order to facilitate data presentation and analysis (shown in Table 6 below).

**Table 6. Investing Across Sectors – sector definition**

| | Sector Group | Sector | Details |
|---|---|---|---|
| **Primary Sectors** | **Mining, Oil & Gas** | **Mining** | A foreign company seeking to develop and exploit a medium-sized deposit of metal ore (for example iron, copper, nickel, gold and silver). Note: The following types of mining activities are excluded from the definition: (1) oil and gas extraction, (2) diamond mining, (3) coal / lignite mining, and (4) exploration of a deposit. |
| | | **Oil & Gas** | A foreign company seeking to develop and exploit a medium-sized gas or oilfield. |
| | **Agriculture, Forestry** | **Agriculture** | A foreign company seeking to own a commercial farm. Note: It is assumed that the foreign company is able to acquire a long-term lease on the land, and that the raising and hunting of animals is excluded from the definition. |
| | | **Forestry** | A foreign company seeking to own a commercial forestry or logging operation. |
| **Manufacturing Sectors** | **Manufacturing** | **Food processing** | A foreign company seeking to own a manufacturing plant for processing the primary products of agriculture, forestry, and fishing into food (for example, meat, fish, fruits and vegetables, oils, milk products, grain mill products). |

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|  |  | **Manufacture of basic chemicals** | A foreign company seeking to own a factory for the production of basic chemicals for industrial use employing basic chemical processes. This includes for example the manufacture of liquefied or compressed inorganic gases, such as elemental gases, refrigerant gases and mixed industrial gases, the manufacture of dyes and pigments, chemical elements, inorganic acids, alkalis, alcohols, and other organic and inorganic compounds. Note: The manufacture of fuel gases such as ethane, propane and butane as well as the enrichment of uranium and thorium ores and production of fuel elements for nuclear reactors is excluded. |
|  |  | **Light Manufacturing** | A foreign company seeking to own a factory for manufacturing a variety of consumer products (for example, electric household appliances). |
| **Service Sectors** | **Telecommunications** | **Fixed-line infrastructure** | A foreign company seeking to own and operate a wired telecommunications infrastructure for the transmission of voice, data, text, sound, and video (switching and transmission facilities to provide point-to-point communications via landlines or cable distributions systems). |
|  |  | **Fixed-line services** | A foreign company seeking to provide fixed-line telecommunication services using available infrastructure, which the foreign company does not own or operate. |
|  |  | **Wireless/mobile infrastructure** | A foreign company seeking to own and operate a wireless telecommunications infrastructure for the transmission of voice, data, text, sound, and video (cellular or other wireless telecommunication networks). Note: Provision of satellite telecommunications services is excluded from the definition. |
|  |  | **Wireless/mobile services** | A foreign company seeking to provide wireless/mobile telecommunication services using available infrastructure, which it does not own or operate. |

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|---|---|---|---|
| | **Electricity** | **Electric power generation biomass** | A foreign company seeking to own a biomass-fueled power plant (for example using plants, trees, but not coal or petroleum). |
| | | **Electric power generation solar** | A foreign company seeking to own a solar power plant. |
| | | **Electric power generation wind** | A foreign company seeking to own a wind power plant. |
| | | **Electric power transmission** | A foreign company seeking to own transmission systems that transmit electricity from the generating facility to the distribution centers/substations. |
| | | **Electric power distribution** | A foreign company seeking to own distribution systems that convey electricity from the distribution centers/substations to the final consumer. |
| | **Financial Services** | **Banking** | A foreign company seeking to provide retail banking services to public and commercial clients through establishing a subsidiary or investing in a local bank. Note: Excluded from the definition are (1) equity restrictions on opening foreign bank branches (as opposed to subsidiaries), (2) investment banking, and (3) other specific types of financial services. |
| | | **Life Insurance** | A foreign company seeking to own a provider of life insurance services. This includes underwriting annuities and life insurance policies, disability income insurance policies and accidental death and dismemberment insurance policies. Note: Excluded from the definition are (1) reinsurance, (2) non-life insurance, (3) social security/pension insurance, and (4) other forms of insurance. |
| | | **Health Insurance** | A foreign company seeking to own a provider of health insurance services. Note: Excluded from the definition are (1) reinsurance, (2) life insurance, (3) social security/pension insurance, and (4) other forms of insurance. |

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| | Transportation | **Freight rail transport** | A foreign company seeking to provide railway freight transport using its own rolling stock (wagons and locomotives). Excluded from the definition are (1) passenger transport, (2) ownership and/or operation of railroad infrastructure, and (3) ownership and/or operation of terminals. |
| | | **Freight transport by road** | A foreign company seeking to own a provider of freight transportation services via roads on domestic routes, including logging haulage, stock haulage, refrigerated haulage, heavy haulage, bulk haulage (including in tanker trucks), haulage of automobile and transport of waste and waste materials (excluding waste collection and disposal). Note: Excluded from this definition are post and courier activities as well as waste transport as an integrated part of waste collection activities. |
| | | **Internal waterways freight transportation** | A foreign company seeking to own a provider of inland freight water transportation services. This includes the transportation of freight on inland waters, such as rivers, canals, lakes and other inland waterways, including inside harbors and ports, on vessels that are not suitable for sea transport. |
| | | **International passenger air transport** | A foreign company seeking to own an airline providing international passenger transportation. Excluded from the definition is cargo transport. |
| | | **Port operation** | A foreign company seeking to own and operate container terminals at the country’s main commercial port(s). Note: Excluded from the definition are maritime auxiliary services (for example cargo handling services, storage and warehousing, customs clearance services, freight forwarding services). |

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| | | **Courier activities** | A foreign company seeking to own a provider of courier services not operating under a universal service obligation including the pickup, sorting, transport and delivery (domestic and international) of letter post and (mail-type) parcels and packages, whereby one or more modes of transport might be involved and the activity may be carried out with either self-owned (private) or public transport. Note: The provision of postal services under a universal service obligation, the collection of letter-mail and parcels from public letter-boxes or post offices and postal giro, savings activities and money order activities are excluded. |
| | **Media** | **Newspaper publishing** | A foreign company seeking to own a daily or weekly newspaper. Note: Excluded from the definition is publication of issue-specific magazines, monthlies. |
| | | **Television broadcasting** | A foreign company seeking to program and broadcast a complete television channel on a countrywide scale. Note: Excluded from the definition are production of mere television program elements and radio broadcasting. |
| | **Tourism** | **Accommodation services** | A foreign company seeking to own a large high-end resort or business hotels (as applicable to your country) to provide short-term accommodation. Note: Excluded from the definition is ownership of restaurants, bars and travel agencies. |
| | **Waste management and water supply** | **Waste management and recycling** | A foreign company seeking to own a provider of solid waste collection, disposal, and recycling services. Note: Toxic waste is excluded from the definition. |

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|---|---|---|---|
| | | **Water distribution** | A foreign company seeking to own and operate water distribution systems for water for domestic and industrial purposes. This includes distribution of water through mains, trucks, or other means, and the operation of irrigation canals. Note: Excluded from this definition is the collection, purification and treatment of water, the operation of irrigation equipment for agricultural purposes and the long-distance transport of water through pipelines. |
| | **Accounting** | **Accounting, bookkeeping and auditing services; tax consultancy** | A foreign company seeking to own a provider of accounting, bookkeeping and auditing services, including tax consultancy. Note: Excluded from this definition is the provision of management consultancy services, such as design of accounting systems, cost accounting programs, budgetary control procedures, and bill collection services. |
| | **Education** | **Higher education** | A foreign company seeking to own a provider of tertiary education services, including granting of degrees at baccalaureate, graduate or post-graduate level. Education can be provided in classrooms or through radio, television broadcast, internet or correspondence. |

*Source: FDI Regulations database 2012.*

Foreign equity ownership indexes are constructed for each of the 32 sectors, aggregated into 12 sector groups. The indexes take values from 0 to 100, where 100 denotes the absence of statutory ownership restrictions to FDI, and 0 means that foreign companies are not allowed to own equity in a sector or sector group. The equity restrictions expressed in percentages are converted to index scores linearly. For example, a score of 49 denotes that a foreign company can own up to 49% of shares in a business in a particular sector in a particular economy, meaning that it can only be a minority shareholder.
The 32 sector scores are aggregated to 12 sector group scores using equal weights. Each sector group (with the exception of tourism, accounting and education) comprises several sectors (Table 6).

To ensure that the data collected from each of the 103 economies is comparable, respondents were provided with clear definitions of each of the subsectors covered. In addition, the following assumptions were made about the foreign investor and its home country:

- The host country does not enjoy any special economic, trade, or investment relationship with the home country of the foreign investor that would affect the investor's ownership rights (that is, the home country is not part of an economic union or a cooperation block with the home country, such as the EU, GCC, SADC, ASEAN, etc.).
- The host country enjoys normal political relations with the home country of the investor.
- The foreign investor is a private multinational company with no equity interest or management control by the government of its home country.

- The foreign company will not be investing in an export processing zone (EPZ), special economic zone (SEZ), or any other zone governed by a special FDI regime in the host country. The survey examines the host country's general FDI regime.
- The foreign company is not yet incorporated or otherwise established in the host country, and it is interested in undertaking a medium- to large-scale investment project in each of the sectors defined.
- The respective investment project in the host country is not subject to any national security restrictions and has no political affiliations.

***Limitations***

- The absence of foreign ownership restrictions as measured by the *Investing Across Sectors* indicators is an important but insufficient condition for attracting FDI. Aside from openness to foreign ownership, other determinants of FDI include market size, infrastructure quality, cost factors, political stability, and economic growth, actual and potential. Restrictions on foreign ownership limit and in some cases prohibit FDI in certain sectors. But abolishing foreign ownership restrictions and having a completely open economy do not guarantee success in attracting more FDI.
- The indicators cover a large share of economic sectors but are not all-encompassing. Coverage of the primary and manufacturing sectors is relatively limited given that past studies have shown -- and this report confirms -- that most economies do not restrict foreign ownership in these sectors. The coverage of the service sectors, though more extensive than in past studies, is also not exhaustive. For example, the indicators do not include certain public utilities (such as natural gas distribution), professional services (such as legal and consulting services). These and other service sectors were not included in the survey for one or more of the following reasons: FDI plays a small role in the sector, FDI restrictions (if present) often do not take the form of equity limits, views in the development literature diverge on the appropriate role of foreign capital in the sector, and methodological constraints limited the length of the questionnaire and potential quality of responses. Finally, sectors where economies may have legitimate security, cultural, or religious reasons for prohibiting FDI are omitted from the indicators' coverage. These include weapons, nuclear power, and manufacturing of tobacco products and alcoholic beverages.
- The indicators focus on restrictions captured in economies' statutes, and not on commitments to open sectors to FDI captured in international investment agreements (such as bilateral investment treaties or free trade agreements) or WTO commitments.

**Table 7 - Country-level foreign equity ownership index (12 sector groups and 103 economies)**

*Note*: **Denotes maximum foreign equity ownership allowed. 0%** indicates that foreign ownership of a company is not allowed; and **100%** indicates that full foreign ownership of companies is allowed.

| | Agriculture and Forestry | Mining and Oil & Gas | Manufacturing | Electricity | Waste management and water supply | Transportation | Tourism | Media | Telecom | Financial Services | Accounting | Education |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Angola** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 30% | 49% | 100% | 100% | 100% |
| **Afghanistan** | 100% | 100% | 100% | 80% | 100% | 92% | 100% | 0% | 87% | 100% | 100% | 100% |
| **Albania** | 100% | 100% | 100% | 80% | 100% | 75% | 100% | 70% | 100% | 100% | 100% | 100% |
| **Algeria** | 49% | 49% | 49% | 39% | 49% | 49% | 49% | 25% | 49% | 49% | 49% | 49% |
| **Argentina** | 85% | 100% | 100% | 100% | 100% | 92% | 100% | 30% | 100% | 100% | 100% | 100% |
| **Armenia** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 75% | 100% | 100% | 100% | 100% |
| **Australia** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Austria** | 100% | 100% | 100% | 100% | 100% | 83% | 100% | 75% | 100% | 100% | 25% | 100% |
| **Azerbaijan** | 100% | 75% | 100% | 100% | 100% | 100% | 100% | 17% | 100% | 100% | 100% | 100% |
| **Bangladesh** | 50% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Belarus** | 100% | 100% | 100% | 100% | 100% | 83% | 100% | 30% | 100% | 100% | 100% | 100% |
| **Bolivia** | 100% | 75% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Bosnia and Herzegovina** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 49% | 100% | 100% | 100% | 100% |
| **Brazil** | 100% | 100% | 100% | 100% | 100% | 87% | 100% | 30% | 100% | 100% | 100% | 100% |
| **Bulgaria** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Burkina Faso** | 100% | 95% | 100% | 100% | 100% | 100% | 100% | 50% | 50% | 100% | 100% | N/A |
| **Burundi** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Cambodia** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Cameroon** | 100% | 95% | 100% | 100% | 100% | 83% | 100% | 75% | 100% | 100% | 100% | 100% |
| **Canada** | 100% | 100% | 100% | 100% | 100% | 88% | 100% | 73% | 73% | 100% | 100% | 100% |
| **Chad** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Chile** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Colombia** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 70% | 100% | 100% | 100% | 100% |
| **Congo, Dem. Rep.** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 33% | 100% | 100% |
| **Costa Rica** | 100% | 100% | 100% | 39% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Côte d'Ivoire** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 50% | 100% | 100% | 100% |
| **Croatia** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Cyprus** | 100% | 100% | 100% | 60% | 50% | 70% | 100% | 63% | 100% | 100% | 100% | 100% |
| **Czech Republic** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Ecuador** | 100% | 100% | 100% | 80% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Egypt, Arab Rep.** | 100% | 100% | 100% | 100% | 100% | 90% | 100% | 50% | 100% | 100% | 100% | 49% |
| **Ethiopia** | 100% | 100% | 100% | 60% | 100% | 50% | 100% | 0% | 0% | 0% | 100% | 100% |
| **France** | 100% | 100% | 100% | 60% | 100% | 75% | 100% | 20% | 100% | 100% | 33% | 100% |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Georgia** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Germany** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Ghana** | 100% | 93% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Greece** | 100% | 100% | 100% | 80% | 100% | 75% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Guatemala** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Haiti (2010 data)** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 75% | N/A | N/A |
| **Honduras** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Hong Kong SAR, China** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 75% | 100% | 100% | 100% | 100% |
| **India** | 50% | 100% | 100% | 100% | 100% | 75% | 100% | 63% | 74% | 51% | 100% | 100% |
| **Indonesia** | 98% | 98% | 98% | 95% | 100% | 49% | 100% | 0% | 57% | 86% | 100% | 0% |
| **Iraq** | 0% | 0% | 100% | 80% | 25% | 17% | 100% | 100% | 100% | 100% | 100% | 49% |
| **Ireland** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Italy** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Japan** | 100% | 100% | 100% | 100% | 100% | 72% | 100% | 60% | 100% | 100% | 100% | 100% |
| **Jordan** | 100% | 100% | 100% | 100% | 100% | 75% | 100% | 50% | 100% | 100% | 100% | 100% |
| **Kazakhstan** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 20% | 75% | 100% | 100% | 100% |
| **Kenya** | 100% | 100% | 100% | 100% | 100% | 97% | 100% | 75% | 80% | 78% | 100% | 100% |
| **Kosovo** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Liberia (2010 data)** | 100% | 100% | 100% | 60% | 100% | 67% | 100% | 100% | 100% | 100% | N/A | N/A |
| **Macedonia, FYR** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Madagascar** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Malaysia** | 50% | 60% | 100% | 39% | 100% | 83% | 100% | 100% | 100% | 70% | 100% | 100% |
| **Mali** | 100% | 95% | 100% | 100% | 100% | 100% | 100% | 49% | 100% | 100% | 100% | 100% |
| **Mauritius** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 60% | 100% | 100% | 100% | 100% |
| **Mexico** | 49% | 50% | 100% | 0% | 100% | 83% | 100% | 25% | 75% | 100% | 100% | 100% |
| **Moldova** | 50% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Montenegro** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Morocco** | 100% | 88% | 100% | 60% | 100% | 83% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Mozambique** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 20% | 75% | 100% | 100% | 100% |
| **Nepal** | 100% | 100% | 67% | 60% | 50% | 67% | 100% | 100% | 100% | 100% | 51% | 100% |
| **Netherlands** | 100% | 100% | 100% | 60% | 50% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **New Zealand** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Nicaragua** | 100% | 100% | 100% | 80% | 50% | 83% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Nigeria** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Pakistan** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 37% | 100% | 83% | 100% | 100% |
| **Papua New Guinea** | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Peru** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Philippines** | 40% | 40% | 100% | 40% | 40% | 50% | 100% | 0% | 40% | 87% | 0% | 40% |
| **Poland** | 100% | 100% | 100% | 100% | 100% | 83% | 100% | 75% | 100% | 100% | 100% | 100% |
| **Romania** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| **Russia Federation** | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 75% | 100% | 66% | 100% | 100% |

| Rwanda | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Saudi Arabia | 100% | 50% | 100% | 100% | 100% | 67% | 100% | 0% | 70% | 60% | 75% | 100% |
| Senegal | 100% | 95% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Serbia | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 75% | 100% | 100% | 100% | 100% |
| Sierra Leone | 100% | 100% | 100% | 80% | 50% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Singapore | 100% | 100% | 100% | 100% | 100% | 83% | 100% | 31% | 100% | 100% | 100% | 100% |
| Slovak Republic | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| Solomon Islands | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| South Africa | 100% | 74% | 100% | 93% | 100% | 83% | 100% | 60% | 70% | 100% | 100% | 100% |
| Spain | 100% | 100% | 100% | 98% | 100% | 92% | 100% | 75% | 100% | 100% | 100% | 100% |
| Sri Lanka | 70% | 70% | 100% | 39% | 100% | 52% | 100% | 40% | 100% | 100% | 100% | 100% |
| Sudan (2010 data) | 50% | 100% | 100% | N/A | 100% | 50% | 100% | 0% | N/A | N/A | N/A | N/A |
| Syria | 100% | 50% | N/A | N/A | N/A | 33% | 100% | 0% | 0% | 53% | 0% | 20% |
| Taiwan, China | 50% | 100% | 100% | 80% | 50% | 67% | 100% | 80% | 60% | 100% | 100% | 100% |
| Tanzania | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 70% | 100% | 77% | 100% | 100% |
| Thailand | 49% | 75% | 100% | 100% | 75% | 49% | 49% | 35% | 49% | 75% | 49% | 100% |
| The Dominican Republic | 100% | 100% | 100% | 80% | 50% | 100% | 100% | 75% | 100% | 100% | 100% | 100% |
| Kyrgyz Republic | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Korea, Rep. | 100% | 100% | 100% | 80% | 100% | 92% | 100% | 40% | 49% | 100% | 100% | 0% |
| The Republic of Yemen | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Tunisia | 83% | 100% | 100% | 60% | 50% | 58% | 100% | 50% | 100% | 100% | 0% | 50% |
| Turkey | 100% | 100% | 100% | 80% | 100% | 75% | 100% | 75% | 100% | 100% | 100% | 100% |
| Uganda | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Ukraine | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| United Kingdom | 100% | 100% | 100% | 100% | 100% | 92% | 100% | 100% | 100% | 100% | 100% | 100% |
| United States | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |
| Venezuela, RB | 100% | 49% | 100% | 24% | 100% | 100% | 100% | 20% | 100% | 100% | 100% | 100% |
| Vietnam | 76% | 76% | 100% | 60% | 76% | 49% | 100% | 0% | 53% | 83% | 100% | 100% |
| Zambia | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% | 100% |

## ANNEX 2: Methodology and data of the *Starting a Foreign Investment* indicators

### *Methodology*

*The Starting a Foreign Investment* indicators quantify several aspects of business establishment regimes important to foreign companies when establishing a subsidiary in a foreign economy. The indicators focus both on the economies' commercial legal framework as well as its implementation in practice in the areas measured.

Case study: The data used in the development of the indicators was collected through a standard questionnaire distributed to law and accounting firms, chambers of commerce as well as investment promotion agencies. In order to gather comparable data across economies, the *Starting a Foreign Investment* questionnaire is based on a case study of a hypothetical foreign company planning a capital investment of US$ 10 million in order to establish a wholly foreign-owned subsidiary in the form of an LLC in the host country. The company will be established in the country's most populous city, will operate in the manufacturing of basic consumer products sector and will be involved in international trade. The firm will not benefit from any special incentives granted through multilateral treaties between economies. In addition, the host country does not enjoy any special economic, trade or investment relationship with the parent company's home country. Finally, the investment does not take place in any zone covered by a special FDI regime.

The indicators measure the time and procedures required to establish a wholly foreign-owned subsidiary in an economy. In addition, the indicators also evaluate the characteristics of the regulatory and administrative regimes for business start-up.

The number of procedural steps involved in establishing a wholly foreign-owned subsidiary includes both pre- and post-incorporation procedures that are officially required for a foreign investor to formally operate a business are recorded. A procedure is defined as any interaction of the parent company or its legal representatives with external parties (for example, government agencies or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building, but in different offices, are counted as separate procedures. If the same office has to be visited several times for different sequential procedures, each is counted separately.

The indicators partially builds on the Doing Business *Starting a Business* data which measures the process of establishing a locally owned SME and highlights areas that are of specific interest to foreign investors. The survey respondents are asked to identify whether each of the procedures required of domestic companies also apply to foreign-owned ones, and if so, whether the time needed in practice to complete the procedures is the same for both types of companies. In addition, typical common procedures for a foreign company engaged in international trade are identified and respondents are asked to note whether said procedures are required in their country as well as recognize any additional procedures.

Below are the areas measured by the legal indicators:

- Requirements forcing the use of a local third party (counsel, notary, investment promotion agency) during the establishment process;
- Ratification of the 1961 Hague Apostille Convention;
- Possibility of expediting establishment procedures through an official channel (availability of fast-track procedures);

- Requirement of an investment approval (nature of investment approval requirement, possibility of appeal, minimum required amount of investment, period of validity);
- Business registration process;
- Minimum capital requirements (for LLCs but also other legal forms such as corporations, limited partnerships etc.);
- Availability of electronic services (online laws, regulations, documents, and registration).

***Limitations***

The *Staring a Foreign Business* indicators' limitations:

- The *Starting a Foreign Investment* indicators assume that the establishment process occurs in the country's most populous city and do not explore possible variations in other parts of the country (no sub-national comparison either);
- The indicators do not measure the number of procedures required to establish different types of a business (such as corporation or partnership) or other types of foreign investment projects (such as joint ventures, licensing agreements, or establishment of branch offices);
- The case study also stipulates that the foreign subsidiary will engage in international trade, thus the indicators consider obtaining a trade license a required procedure for the start-up process;
- The indicators do not cover specific types of licenses such as sector-specific licenses, permits for health, food safety, and product regulations;
- The indicators do not cover government reviews of foreign acquisitions.

**Table 8 - Country-level indicators reflecting the additional procedures required exclusively of foreign companies in 102 economies**

| Economies | Total number of additional procedures | Additional days required to establish for foreign-owned companies | Total days required to establish for foreign-owned companies | Authentication of parent documentation overseas | Foreign investment approval | | | International trade license | Authorization of imported foreign capital |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | Actual approval | Mere declaration | Required only for incentives | | |
| Albania | 1 | 1 | 5 | X | | | | | |
| Algeria | 3 | 122 | 147 | X | X | | | | X |
| Angola | 4 | 128 | 196 | X | X | | | X | X |
| Argentina | 3 | 24 | 48 | X | | | | X | X |
| Armenia | 1 | 1 | 9 | X | | | | | |
| Australia | 0 | 0 | 2 | | | | | | |
| Austria | 2 | 2 | 27 | X | | | | | X |
| Azerbaijan | 1 | 1 | 9 | X | | | | | |
| Bangladesh | 3 | 26 | 45 | X | | | | X | X |
| Belarus | 1 | 1 | 6 | X | | | | | |
| Bolivia | 2 | 11 | 61 | X | | | | X | |
| Bosnia and Herzegovina | 2 | 13 | 50 | X | | | | X | |
| Brazil | 3 | 33 | 152 | X | | | | X | X |
| Brunei Darussalam | | | 101 | X | | | | | |
| Bulgaria | 1 | 1 | 19 | X | | | | | |
| Burkina Faso | 1 | 1 | 14 | | X | | | | |
| Burundi | 1 | 1 | 9 | X | | | | | |
| Cambodia | 1 | 1 | 86 | X | | | | | |
| Cameroon | 4 | 10 | 39 | X | | X | | X | X |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Canada | 1 | 1 | 6 | | | X | | | |
| Chad | 2 | 2 | 64 | X | | | | | X |
| Chile | 2 | 2 | 10 | X | | | | | X |
| Colombia | 3 | 5 | 18 | X | | | | X | X |
| Congo, Dem. Rep. | 3 | 33 | 91 | | | X | X | X | X |
| Costa Rica | 2 | 3 | 63 | X | | | | X | |
| Côte d'Ivoire | 2 | 4 | 36 | | | | | X | X |
| Croatia | 2 | 2 | 11 | X | | | | | X |
| Cyprus | 0 | 0 | 8 | | | | | | |
| Czech Republic | 2 | 2 | 22 | X | | X | | | |
| Ecuador | 3 | 4 | 60 | X | | | | X | X |
| Egypt, Arab Rep. | 2 | 4 | 11 | X | | | | X | |
| Ethiopia | 4 | 17 | 32 | X | X | | | X | X |
| France | 3 | 4 | 11 | | | X | | | X |
| Georgia | 1 | 1 | 3 | X | | | | | |
| Germany | 2 | 2 | 17 | X | | | | | X |
| Ghana | 3 | 33 | 45 | | X | | | X | X |
| Greece | 3 | 3 | 14 | X | | | | X | |
| Guatemala | 2 | 9 | 49 | X | | | | | |
| Haiti (DB 2013; FDI Regs 2010) | 2 | 15 | 120 | X | | | | | |
| Honduras | 2 | 4 | 18 | X | | | | X | |
| Hong Kong SAR, China | 0 | 0 | 3 | | | | | | |
| India | 3 | 8 | 35 | X | | X | | X | |
| Indonesia | 3 | 11 | 56 | X | X | | | X | |
| Iraq | 0 | 0 | 74 | | | | | | |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Ireland | 0 | 0 | 10 | | | | | | |
| Italy | 1 | 1 | 7 | X | | | | | |
| Japan | 2 | 2 | 25 | X | | | | | X |
| Jordan | 2 | 2 | 14 | X | | | | X | |
| Kazakhstan | 2 | 11 | 30 | X | | | | | X |
| Kenya | 1 | 1 | 33 | X | | | | | |
| Korea, Rep. | 3 | 3 | 10 | X | | X | | | X |
| Kosovo | 2 | 2 | 54 | X | | | | X | |
| Kyrgyz Republic | 1 | 1 | 8 | X | | | | | |
| Liberia (DB 2013; FDI Regs 2010) | 3 | 5 | 11 | X | | X | | X | |
| Macedonia, FYR | 2 | 4 | 6 | X | | X | | | |
| Madagascar | 0 | 0 | 8 | | | | | | |
| Malaysia | 2 | 3 | 9 | X | | | | | |
| Mali | 1 | 15 | 23 | | X | | | | |
| Mauritius | 2 | 4 | 10 | X | | X | X | | |
| Mexico | 3 | 9 | 18 | X | | X | | X | |
| Moldova | 1 | 1 | 10 | X | | | | | |
| Montenegro | 2 | 3 | 12 | X | | | | X | |
| Morocco | 2 | 2 | 14 | X | | X | | | |
| Mozambique | 3 | 38 | 51 | X | | | | X | X |
| Nepal | 3 | 55 | 84 | X | X | | | | X |
| New Zealand | 1 | 2 | 3 | | | | | | |
| Nicaragua | 2 | 6 | 45 | X | | | | X | |
| Nigeria | 3 | 15 | 49 | | | X | | X | X |
| Pakistan | 3 | 15 | 36 | X | | | | X | X |
| Papua New Guinea | 3 | 61 | 112 | X | X | | | | X |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Peru | 2 | 2 | 28 | X | | X | | | |
| Philippines | 3 | 29 | 64 | X | | | | X | X |
| Poland | 1 | 1 | 33 | X | | | | | |
| Romania | 1 | 1 | 11 | X | | | | | |
| Russian Federation | 1 | 1 | 19 | X | | | | | |
| Rwanda | 2 | 2 | 5 | X | | X | | | |
| Saudi Arabia | 2 | 21 | 42 | X | X | | | | |
| Senegal | 2 | 2 | 7 | X | | X | X | | |
| Serbia | 1 | 1 | 13 | X | | | | | |
| Sierra Leone | 2 | 31 | 43 | X | | | | X | |
| Singapore | 1 | 1 | 4 | | | | | X | |
| Slovak Republic | 2 | 2 | 18 | X | | | | | X |
| South Africa | 3 | 38 | 57 | X | | | | X | X |
| Spain | 4 | 13 | 42 | X | | X | | X | |
| Sri Lanka | 3 | 18 | 47 | X | X | | | | X |
| Sudan (DB 2013; FDI Regs 2010) | 3 | 19 | 55 | X | X | | | | |
| Taiwan, China | 4 | 11 | 21 | X | X | | | X | X |
| Tanzania | 2 | 9 | 35 | X | | | | X | |
| Thailand | 2 | 2 | 31 | X | | | | X | |
| The Dominican Republic | 2 | 7 | 29 | X | | | | X | |
| The Netherlands | 0 | 0 | 5 | | | | | | |
| The Republic of Yemen | 2 | 16 | 56 | X | | X | | | |
| Tunisia | 4 | 7 | 19 | X | | X | X | X | X |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Turkey | 2 | 2 | 8 | X | | | | | X |
| Uganda | 2 | 5 | 38 | X | | X | X | | |
| Ukraine | 1 | 1 | 23 | X | | | | | |
| United Kingdom | 1 | 1 | 14 | | | | | | |
| United States | 2 | 2 | 8 | | | | | | |
| Venezuela, RB | 2 | 180 | 325 | X | | | | | X |
| Vietnam | 2 | 76 | 110 | X | X | | | | |
| Zambia | 1 | 15 | 18 | X | | | | | |
| Albania | 1 | 1 | 5 | X | | | | | |