10 November 2016

Sixteenth Report on G20 Investment Measures[1]

When the global financial crisis broke out in 2008, G20 Leaders committed to resisting protectionism in all its forms at their 2008 Summit in Washington. At their subsequent summits in London, Pittsburgh, Toronto, Seoul, Cannes, Los Cabos, St Petersburg, Brisbane, Antalya and Hangzhou, they reaffirmed their pledge and called on WTO, OECD, and UNCTAD to monitor and publicly report on their trade and investment policy measures.

The present document is the sixteenth report on investment and investment-related measures made in response to this call.[2] It has been prepared jointly by the OECD and UNCTAD Secretariats and covers investment policy and investment-related measures taken in the five months between 16 May 2016 and 14 October 2016.

I. Development of FDI flows

After an increase of global foreign direct investment (FDI) flows in 2015, flows are expected to fall again in 2016. In the first half of 2016, global FDI flows dropped by 5% as compared to the second half of 2015 but remain above half-year levels observed in 2013 and 2014.[3]

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[1] This report is issued under the responsibility of the Secretary-General of the OECD and the Secretary-General of UNCTAD. It has no legal effect on the rights and obligations of member states of the WTO, OECD, or UNCTAD. Nothing in this report implies any judgment, either direct or indirect, as to the consistency of any measure referred to in the report with the provisions of any WTO, OECD, or UNCTAD agreement or any provisions thereof. As its previous report, this document distinguishes between measures related to foreign direct investment (prepared jointly by OECD and UNCTAD) and measures related to other international capital flows (prepared solely by OECD).

[2] Earlier reports by WTO, OECD and UNCTAD to G20 Leaders are available on the websites of the OECD and UNCTAD. A summary table of all investment measures taken since 2008 is also available on those websites.

[3] The most recent figures and analysis are available in OECD, FDI in Figures, 2 November 2016 and UNCTAD's Global Investment Prospects Assessment 2016-2018. For further information and analysis on trends on FDI inflows, see

II. Investment policy measures

1. *Foreign direct investment-specific measures*

Nine G20 Members have introduced investment policy measures specific to foreign direct investment (FDI). Three countries (Argentina, India, Saudi Arabia) took liberalisation measures in a variety of sectors, two countries (China, United States) eased approval or review requirements for foreign investors, and one country (Mexico) clarified the meaning of certain rules on foreign investment. On the other hand, territorial sub-divisions in two countries (Australia, Canada) introduced new fees and taxes relating to the acquisition of residential real estate in areas with overheated housing markets and Brazil reversed a liberalisation measure that it had taken just prior to the current reporting period. A description of the measures is available in Annex 1 below.

2. *Investment measures related to national security*

None of the G20 Members took new investment measures related to national security in the reporting period.

3. *Investment policy measures not specific to FDI*[4]

Four G20 Members took investment policy measures in the reporting period. Changes in this area affect the degree to which economies are integrated in global financial markets.

All countries that have taken measures in this category in the reporting period – Argentina, P.R. China, India and the Republic of Korea – constitute relaxations of the rules for international capital flows to or from these countries. A description of these measures is available in Annex 2 of this report.

G20 Members have expressed interest in better understanding and articulating the linkages between capital account openness, growth and resilience and to ensure open and orderly capital movements that is needed to support inclusive growth and sustainable development through appropriate disciplines and policy instruments. A standing invitation has been issued to all G20 members to participate actively in this work.[5]

4. *International Investment Agreements*

During the reporting period, G20 Members continued to negotiate or conclude new international investment agreements (IIAs).[6] Between 16 May 2016 and 14 October 2016, G20 Members concluded four new bilateral investment treaties (BITs)[7] and one new "other IIA".[8]

UNCTAD, World Investment Report 2016: Investor Nationality: Policy Challenges, June 2016 and OECD Foreign Direct Investment (FDI) Statistics – OECD Data, Analysis and Forecasts.

4 This section on "Investment policy measures not specific to FDI" has been prepared by the OECD under the responsibility of the Secretary-General of the OECD. Annex 2 provides information on the coverage, definitions and sources of the information contained in this section.

5 A Seminar on open and orderly capital movements co-organised by the OECD and Germany as the incoming G20 Presidency took place on 25 October 2016 at the OECD with broad participation form G20 Members.

6 "Other IIAs" encompass a variety of international agreements with investment protection, promotion and/or cooperation provisions – other than BITs. They include free trade agreements (FTAs), regional trade and investment agreements (RTIAs), economic partnership agreements (EPAs), cooperation agreements, association agreements, economic complementation agreements, closer economic partnership arrangements, agreements establishing free trade areas, and trade and investment framework agreements (TIFAs). Unlike BITs, "other IIAs" may also cover plurilateral agreements.

During the reporting period, the termination of one BIT entered into effect.[9] As of 14 October 2016, there were 2,958 BITs and 363 “other IIAs”.[10]

A breakdown of the changes and totals by G20 Members is available in Annex 3.

III. Overall policy implications

The overall direction of investment policy measures – both specific to FDI and not specific to FDI – taken by G20 Members remains solidly oriented towards further liberalisation and easing of conditions for international capital flows. G20 Members have maintained this stance since their commitment taken first at the Washington Summit in November 2008 as documented in this series of public monitoring reports mandated by G20 Leaders and in the Guiding Principles for Global Investment Policymaking, adopted by the G20 Ministerial Meeting in Shanghai in July 2016. Especially the recent Guiding Principles call for an open, transparent and conducive global policy environment for investment as one of the objectives.[11]

The continued move towards greater openness for international capital flows and facilitating investment takes place in an environment of persistent low growth in most G20 economies and weak recovery as measured by a broad set of economic indicators. G20 Members are commended for their stance and commitment to openness as documented by both their action and words in the recent G20 Leaders' Communique of the Hangzhou Summit.

Although the findings of the incremental inventories established by OECD and UNCTAD are encouraging, multiple restrictions to international investment remain in many sectors in G20 Members, explicitly in rules or less explicitly in the application of discretionary policies. Reviewing whether the stock of restrictions to foreign investment can be further reduced remains a priority task for G20 governments to put their pledge to build an open world economy, reject protectionism, and promote global investment into action.

Also, investment policies with discretionary elements – especially those related to national security concerns – as well as concerns about unequal competition among companies that dispose of different degrees of government backing or funding require attention and dialogue to reconcile views and approaches resulting from different economic models and traditions in the common interest of openness and fairness in the area of international investment.

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7 These are the BITs between: Turkey and Somalia (signed on 1 June 2016), Turkey and Georgia (signed on 19 July 2016), Japan and Kenya (signed on 28 August 2016), and Canada and Mongolia (signed on 8 September 2016).

8 The Economic Partnership Agreement (EPA) between the European Union and its Member States, and the SADC EPA States (Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland).

9 The BIT between Indonesia and Singapore (terminated on 20 June 2016).

10 This number does not include the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union, signed on 30 October 2016.

11 The G20 Guiding Principles for Investment Policymaking cover nine areas: (I) Anti-protectionism, (II) Non-discrimination, (III) Investment protection, (IV) Transparency, (V) Sustainable development, (VI) the Right to regulate, (VII) Investment promotion and facilitation, (VIII) Responsible business conduct, and (IX) International cooperation.

Annex 1: Recent investment policy measures related to FDI (16 May 2016 to 14 October 2016) – Reports on individual economies

	Description of Measure	Date	Source
Argentina			
Investment policy measures	Effective 2 July 2016, Argentina lifted certain restrictions on the acquisition and leasing of rural land by foreigners.	2 July 2016	Decree 820/2016, Official Gazette of 1 July 2016.
Investment measures relating to national security	None during reporting period.		
Australia			
Investment policy measures	In the reporting period, three territorial subdivisions of Australia – New South Wales, Queensland and Victoria – introduced, increased or announced additional stamp duties applicable to foreign acquirers of residential real estate. Such additional foreign acquirer duties were first introduced by Victoria in May 2015 at a 3% rate, calculated on the purchase price, for purchases on or after 1 July 2016, Victoria increased the rate of the additional foreign acquirer duty ("AFAD") to 7%. New South Wales introduced a similar "surcharge purchaser duty" of 4% for purchases by foreigners on or after 21 June 2016. In Queensland, an AFAD of 3% will come into effect on 1 October 2016 for residential real estate. The conditions under which AFADs apply vary among the States; in Victoria, acquisitions by New Zealanders are exempted; in New South Wales, New Zealanders who are ordinarily resident in Australia are not subject to the surcharge purchaser duty, either. In addition, Victoria and New South Wales have introduced land tax surcharges of foreign owners of real estate. In Victoria, the land tax surcharge on foreigners was set at 0.5% effective from 1 January 2016, and was increased threefold to 1.5% effective from 1 January 2017; it is levied only on absentee foreign owners, but excludes Australian and New Zealand nationals. New South Wales introduced a 1.5% land tax surcharge for absentees –foreign owners of real estate under specific conditions – in 2016; the additional tax becomes effective from 2017.	21 June 2016; 1 July 2016; 1 October 2016	For New South Wales: NSW Budget Statement 2016-17; "Surcharge purchaser duty", NSW Office of State Revenue website; For Queensland: Duties and Other Legislation Amendment Act *(no. 37 of 2016)*, assented 27 Jun 2016; "Additional foreign acquirer duty – FAQ", Queensland Government, 30 June 2016; For Victoria: Duties Act 2005, Victoria Government Gazette No. G 33 Thursday 20 August 2015. For Victoria: Guidelines Issued under Section 3b of the Land Tax Act 2005, Victoria Government Gazette No. G 33 Thursday 20 August 2015; For New South Wales: Land Tax Act 2005 (No. 88 of 2005) as amended as at 29 June 2016.
Investment measures relating to national security	None during reporting period.		
Brazil			
Investment policy measures	On 25 June 2016, Brazil's president vetoed a law that would have abolished foreign ownership restrictions of domestic airlines. The veto also led to an unwinding of a lesser liberalisation that had been passed through Provisional Measure No. 714, issued on 1 March 2016 and effective 2 March 2016. That measure had increased the foreign ownership cap in domestic airlines to 49%, up from 20%, and repealed the requirement that directors be exclusively Brazilian nationals. With the veto, the ownership limit that existed prior to March 2016 is anew effective. However, the issue remains under discussion in the government and a new proposal of air services liberalisation is expected to be submitted to Congress.	25 June 2016; 2 March 2016	MPV 714/2016 (medida provisória) 03/01/2016, Diario oficial, 2 March 2016. Mensagem Nº 421 of 25 July 2016.
Investment measures relating to national security	None during reporting period.		

	Description of Measure	Date	Source
Canada			
Investment policy measures	Effective 2 August 2016, British Colombia, a province of Canada, imposed an additional property transfer tax on residential property transfers to foreign entities – natural and legal persons – in the Greater Vancouver Regional District. The tax, at 15% of the fair market value of the acquired property, applies in addition to the general property transfer tax. The tax does not apply to non-residential property, or to trusts that are mutual fund trusts, real estate investment trusts or specified investment flow-through trusts.	2 August 2016	Property Transfer Tax Act [RSBC 1996] CHAPTER 378, Section 2.01-2.04; "Additional Property Transfer Tax on Residential Property Transfers to Foreign Entities", Ministry of Finance Tax Information Sheet 2016-006, 27 July 2016.
Investment measures relating to national security	None during reporting period.		
P.R. China			
Investment policy measures	On 3 September 2016, the National People's Congress decided to modify four laws, including the Law on Foreign-funded Enterprises. Subsequently, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly issued one announcement specifying the scope of the Special Administrative Measures of Market Entry for Foreign Investment. The policy change seeks to facilitate investment and increase transparency of the investment environment. Among others, the change replaces to a large extent the requirement to obtain approval for the establishment and changes of foreign invested enterprises by a nation-wide filing system. Only for business proposals that fall under the scope of the Special Administrative Measures of Market Entry for Foreign Investment, approval from MOFCOM or its local branches is still required.	3 September 2016; 8 October 2016	"*National Development and Reform Commission and Ministry of Commerce Announces to Promote the Reform of Foreign-invested Enterprises to Set up Filing Management*", MOFCOM media release, 10 October 2016.
Investment measures relating to national security	None during reporting period.		
France			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Germany			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
India			
Investment policy measures	Following a Government decision on 20 June 2016, a Press Note issued on 24 June 2016 announced a number of changes to the framework for inward FDI in India that had last been issued in a comprehensive Consolidated FDI Policy Circular on 7 June 2016. The note announced liberalisations in several sectors, including in civil aviation,	24 June 2016	Press note 5 (2016), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.

	Description of Measure	Date	Source
	defence, pharmaceuticals, food product retail trading, broadcasting, private security agencies, single brand retail trading, and animal husbandry.		
	On 27 July 2016, the Cabinet approved the raising of the foreign shareholding limit from 5% to 15% in Indian Stock Exchanges, depositories, banking and insurance companies, and commodity derivative exchanges. The measure had been announced in the Union Budget 2016-17.	27 July 2016	"Cabinet increases the limit for foreign investment in Stock Exchanges from 5% to 15%", Government of India press release 147855, 27 July 2016.
	On 10 August 2016, the Cabinet approved the liberalization of rules governing foreign investment for non-banking finance companies. Foreigners are henceforth allowed to invest in NBFCs without government approval, provided that the institutions are regulated by any of the financial sector regulators.	10 August 2016	"Cabinet approves foreign investment in other Financial Services sector", Government of India press release 148700, 10 August 2016.
Investment measures relating to national security	None during reporting period.		
Indonesia			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Italy			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Japan			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Republic of Korea			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Mexico			
Investment policy measures	On 2 September 2016, three resolutions that clarify the application of Mexico's rules on foreign investment came into effect. The *Resolución General por la que se determina la actualización del supuesto jurídico para la inscripción, presentación de avisos y cancelación de inscripción ante el Registro Nacional de Inversiones Extranjeras* clarifies the earliest date when the mandatory registration and notices of cancellation of registration in the National Foreign Investment Registry can be submitted. The *Resolución*	2 September 2016	*Resolución General por la que se determina la actualización del supuesto jurídico para la inscripción, presentación de avisos y cancelación de inscripción ante el Registro Nacional de Inversiones Extranjeras*, Federal Official Gazette 2 September 2016;

	Description of Measure	Date	Source
	General por la que se establece el periodo máximo de información que deberá presentarse para la actualización ante el Registro Nacional de Inversiones Extranjeras specifies the length of the period over which notices to the National Foreign Investment Registry can be required. Finally, the *Resolución General por la que se establece el criterio del término control, para efectos de la inversión neutra* defines the term "control" for the purpose of determining "neutral investments", i.e. foreign investments in Mexican companies that are not taken into account when the percentage of foreign capital in the capital stock of Mexican companies is assessed.		*Resolución General por la que se establece el periodo máximo de información que deberá presentarse para la actualización ante el Registro Nacional de Inversiones Extranjeras* Federal Official Gazette, 2 September 2016; *Resolución General por la que se establece el criterio del término control, para efectos de la inversión neutra*, Federal Official Gazette, 2 September 2016.
Investment measures relating to national security	None during reporting period.		
Russian Federation			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Saudi Arabia			
Investment policy measures	On 14 June 2016, Saudi Arabia announced the decision to increase the ceiling for foreign investment in wholesale and retail trade sector from 75% to 100%, under certain conditions. For example, foreign firms will have to invest at least SAR 200 million in the first five years after obtaining a licence.	14 June 2016	"Council of Ministers Approves 100 Percent Ownership in the Trading Sector", Saudi Arabian General Investment Authority news release, 14 June 2016
Investment measures relating to national security	None during reporting period.		
South Africa			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Turkey			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
United Kingdom			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		

	Description of Measure	Date	Source
United States			
Investment policy measures	On 30 September 2016, the Federal Communications Commission released a report and order that simplifies the foreign ownership filing and review process for broadcast licensees. While the rule under which *direct* ownership of a broadcast station is restricted to U.S. citizens or to entities in which non-U.S.-citizens own no more than 20%, did not change, rules on indirect ownership were adjusted by extending the rules developed for foreign ownership reviews for common carrier and certain aeronautical licensees to the broadcast context. The change also provides a reformed framework for a publicly traded broadcast or common carrier licensee or controlling U.S. parent to ascertain its foreign ownership.	30 September 2016	FCC 16-128, Federal Communications Commission
Investment measures relating to national security	None during reporting period.		
European Union			
Investment policy measures	None during reporting period.		

Methodology for the inventory presented in Annex 1 — Coverage, Definitions and Sources

Reporting period. The reporting period of the present document is from 16 May 2016 to 14 October 2016. An investment measure is counted as falling within the reporting period if new policies were prepared, announced, adopted, entered into force or applied during the period.

Definition of investment. For the purpose of the inventory presented in Annex 1, international investment is understood to include only foreign direct investment. Investment policy measures not specific to FDI are not included in this inventory but shown in Annex 2 of this report.

Definition of investment measure. For the purposes of this annex, investment measures consist of any action that either: imposes or removes differential treatment of foreign or non-resident investors compared to the treatment of domestic investors in like situations. Reporting on such policy measures has no legal effect on the rights and obligations of member states of the WTO, OECD, or UNCTAD.

National security. International investment law, including the OECD investment instruments, recognises that governments may need to take investment measures to safeguard essential security interests and public order. The investment policy community at the OECD and UNCTAD monitors these measures to help governments adopt policies that are effective in safeguarding security and to ensure that they are not disguised protectionism.

Sources of information and verification. The sources of the information presented in this report are:

- official notifications made by governments to various OECD processes (e.g. the Freedom of Investment Roundtable or as required under the OECD investment instruments);
- information contained in other international organisations' reports or otherwise made available to the OECD and UNCTAD Secretariats;
- other publicly available sources: specialised web sites, press clippings etc.

Investment measures included in this report have been verified by the respective G20 members.

Annex 2: Recent investment policy measures not specific to FDI (16 May 2016 to 14 October 2016) – Reports on individual economies[12]

Description of Measure	Date	Source
Argentina		
On 16 May 2016, the Central Bank announced the launch of peso-denominated government bonds offered to residents and non-residents. In an auction following the announcements, foreign investors were offered only bonds with relatively longer maturities, while domestic investors could also acquire bonds with shorter maturities.	16 May 2016	Comunicación "A" 5974, Banco Central de la República Argentina, 1 July 2016.
Effective from 1 July 2016, the conversion requirement for foreign exchange earnings of exporters was relaxed; henceforth, the conversion needs to be carried out within 365 days rather than in 120 days as previously. Effective 30 August 2016, the conversion requirement for foreign currency earnings of exporters was further relaxed; the conversion now has to take place within 1,825 days.	1 July 2016; 30 August 2016	Resolución 91/2016, Secretaría de Comercio, Ministerio de Producción; Communicación "A" 6003, Banco Central de la República Argentina, 1 July 2016; Resolución 242/2016, Secretaría de Comercio, Ministerio de Producción.
Effective 9 August 2016, the cap on foreign currency acquisitions by Argentinean residents – which stood at USD 5 million per month – was abolished. Requirements to justify the foreign exchange operations were also relaxed.	8 August 2016	Communicación "A" 6037, Banco Central de la República Argentina, 8 August 2016.
Australia		
None during reporting period.		
Brazil		
None during reporting period.		
Canada		
None during reporting period.		
P.R. China		
On 5 September 2016, China's State Administration of Foreign Exchange and the People's Bank of China issued rules that relax requirements applicable under the *Renminbi Qualified Foreign Institutional Investors* (RQFII) scheme. This scheme, established in 2011, allows foreign institutional investors to acquire domestic securities using offshore yuan. The new rules, set out in the *Circular on Matters related to Domestic Securities Investment by RMB Qualified Foreign Institutional Investors*, ease the process to obtain quota, and shortened the holding-period for the principal.	5 September 2016	Circular on Matters related to Domestic Securities Investment by RMB Qualified Foreign Institutional Investors, SAFE website
France		
None during reporting period.		
Germany		
None during reporting period.		

12 This inventory has been established by the OECD Secretariat under the responsibility of the Secretary-General of the OECD.

Description of Measure	Date	Source
India		
On 27 July 2016, the Cabinet decided that foreign portfolio investors are henceforth allowed to acquire shares through initial allotment. Hitherto, foreign investors were limited to acquire shares in the secondary market only.	27 July 2016	"Cabinet increases the limit for foreign investment in Stock Exchanges from 5% to 15%", Government of India press release 147855, 27 July 2016.
Indonesia		
None during reporting period.		
Italy		
None during reporting period.		
Japan		
None during reporting period.		
Republic of Korea		
On 16 June 2016, the Korean Ministry of Finance announced changes to caps on foreign exchange derivatives positions effective July 2016; domestic banks will be allowed to hold positions up to 40% of their capital, up from 30% previously, and foreign bank subsidiaries in Korea are allowed to hold positions of 200% of their capital, up from 150%. The Ministry also announced measures on foreign exchange derivative positions as of 2017.	July 2016	Ministry of Finance press release, 16 June 2016.
Mexico		
None during reporting period.		
Russian Federation		
None during reporting period.		
Saudi Arabia		
None during reporting period.		
South Africa		
None during reporting period.		
Turkey		
None during reporting period.		
United Kingdom		
None during reporting period.		
United States		
None during reporting period.		

Description of Measure	Date	Source
European Union		
None during reporting period.		

Methodology for the inventory presented in Annex 2 — Coverage, Definitions and Sources

Reporting period. The reporting period of the present document is from 16 May 2016 to 14 October 2016. An investment measure is counted as falling within the reporting period if new policies were prepared, announced, adopted, entered into force or applied during the period.

Definition of investment. For the purpose of the inventory presented in Annex 2, international investment is understood to include all international capital movements, except measures specifically concerning foreign direct investment; those measures are reported in Annex 1 of the present document.

Definition of investment measure. For the purposes of this Annex 2, investment measures consist of any action that either: imposes or removes differential treatment of foreign or non-resident investors compared to the treatment of domestic investors in like situations; or: that imposes or removes restrictions on international capital movements. Reporting on international capital movements has no legal effect on the rights and obligations of member states of the WTO, OECD, or UNCTAD.

Sources of information and verification. The sources of the information presented in this report are:

- official notifications made by governments to various OECD processes (e.g. the Freedom of Investment Roundtable or as required under the OECD investment instruments);
- information contained in other international organisations' reports or otherwise made available to the OECD Secretariat;
- other publicly available sources: specialised web sites, press clippings etc.

Investment measures included in this report have been verified by the respective G20 members.

Annex 3: G20 Members' International Investment Agreements[13]

	BITs			Other IIAs			Total IIAs as of 14 October 2016
	Concluded between 16 May 2016 and 14 October 2016	Denounced between 16 May 2016 and 14 October 2016	As of 14 October 2016	Concluded between 16 May 2016 and 14 October 2016	Denounced between 16 May 2016 and 14 October 2016	As of 14 October 2016	
Argentina			55			16	71
Australia			21			18	39
Brazil			20			17	37
Canada	1		39			19	58
China			129			19	148
France			104	1		65	169
Germany			135	1		65	200
India			82			13	95
Indonesia		1	46			16	62
Italy			88	1		64	152
Japan	1		28			20	48
Republic of Korea			93			19	112
Mexico			33			17	50
Russian Federation			78			6	84
Saudi Arabia			23			13	36
South Africa			40	1		11	52
Turkey	2		97			21	118
United Kingdom			106	1		65	171
United States			46			67	113
European Union				1		64	64

Source: UNCTAD’s IIA Navigator (http://investmentpolicyhub.unctad.org/IIA).

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[13] The total number of IIAs has been revised as a result of retroactive adjustments to UNCTAD’s IIA Navigator (http://investmentpolicyhub.unctad.org).