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## Book

### Facilitating investment in APEC : improving the investment climate through good governance

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**Asia-Pacific  
Economic Cooperation**

**Advancing** Free Trade  
for Asia-Pacific **Prosperity**

# **Facilitating Investment in APEC: Improving the Investment Climate through Good Governance**

**APEC Policy Support Unit**

November 2019

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## Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>iv</b>
<b>1 INTRODUCTION .....</b>	<b>1</b>
<b>2 INVESTMENT TRENDS IN THE APEC REGION .....</b>	<b>1</b>
2.1 FDI inflows .....	1
2.2 FDI outflows .....	3
2.3 Cross-border M&As and greenfield projects .....	4
<b>3 DETERMINANTS OF FDI: CONCISE LITERATURE REVIEW .....</b>	<b>6</b>
<b>4 INVESTMENT FACILITATION IN APEC .....</b>	<b>9</b>
4.1 Background .....	9
4.2 Recent developments in investment measures .....	11
4.3 Investment facilitation in IIAs .....	12
4.4 Progress and review of IFAP implementation .....	13
4.4.1 Enhance stability of investment environments, security of property and protection of investors .....	13
4.4.2 Enhance predictability and consistency in investment-related policies .....	17
4.4.3 Build constructive stakeholder relationships .....	19
4.4.4 Good governance as a nexus of the three principles .....	24
<b>5 CONCLUSION .....</b>	<b>25</b>
<b>6 REFERENCES .....</b>	<b>29</b>
APPENDIX A: Summary of IFAP Submissions from Member Economies .....	32
APPENDIX B: FDI Quantitative Analysis Using Gravity Model .....	45
APPENDIX C: International Investment Agreements with Explicit Provisions on Investment Facilitation .....	49

## Figures

Figure 1. FDI inflows to APEC (in USD billion) and share in world (in %, rhs) .....	2
Figure 2. FDI outflows from APEC (in USD billion) and share in world (in %, rhs) .....	3
Figure 3. Cross-border M&As in APEC (in USD billion) and share in world (in %, rhs) .....	5
Figure 4. Greenfield FDI projects (in USD billion) and share in world (in %, rhs) .....	5
Figure 5. Factors that affect investors' FDI decisions, 2019 .....	7
Figure 6. Selected investment measures implemented by APEC economies, as percent of total .....	11
Figure 7. Factors to measure open communication, 2019 .....	21
Figure 8. Willingness to delegate authority (0-7), 2017 .....	23

## Tables

Table 1. FDI inflows as % share in APEC total (3-years cumulative figures) .....	2
Table 2. FDI outflows as % share in APEC total (3-years cumulative figures) .....	4
Table 3. Characteristics of economies and OLI-specific advantages .....	6
Table 4. Determinants of exports to and FDI in foreign economies.....	8
Table 5. Qualitative variables' impact on FDI inflows .....	9
Table 6. Breakdown of investment facilitating and restricting measures for mid-October 2018 and mid-May 2019.....	11
Table 7. Factors to evaluate stability of the investment environment .....	16
Table 8. Average FDI inflows and stocks, by rank of economies based on their 'regulatory quality' score, 2017.....	18
Table 9. Public consultation and transparency mechanisms.....	24
Table 10. APEC and OECD averages: World Governance Indicators, 2000 - 2017.....	25
Table 11: Data and Model 1 specification .....	45
Table 12: Determinants of FDI inflows (Model 1).....	46
Table 13: Data and Model 2 specification .....	47
Table 14: Impact of BIT clauses on FDI inflows (Model 2) .....	48

## EXECUTIVE SUMMARY

This report provides a review of APEC's progress in investment facilitation under principles two, three and five of the Investment Facilitation Action Plan (IFAP). The principles are reviewed using information from APEC economies' responses to the questionnaires and then complemented with secondary data. For each of the three principles, economies are to describe the work they had done over the course of the period (2017-2018) and the lessons learnt. A summary of the economies' responses can be found in Appendix A. Twelve APEC economies have submitted responses at the time of writing this report.

The following investment facilitation actions can be identified from economies' responses to the questionnaires:

### 1. Principle 2

Enhance stability of investment environments, security of property and protection of investors: Economies have implemented measures to improve the establishment of dispute resolution mechanisms and their facilitation. These include to financially support the development of an online dispute resolution platform, and developing a special procedure to provide technical and legal support to reduce the time and costs involved in arbitration.

### 2. Principle 3

Enhance predictability and consistency in investment-related policies: The measures within this principle focus on the simplification of legislations by improving clarity and reducing inconsistency. These include reforming business license regulations to be quicker, cheaper and more accurate; simplifying processes by allowing fulfillment of legal procedures over the internet; and enabling standard interpretation of investment regulations to allow for non-discriminatory bureaucratic discretion.

### 3. Principle 5

Build constructive stakeholder relationships: Some economies have implemented measures to ensure high standards of corporate governance. They achieve this by providing a uniform and corruption free business environment, especially in the issuance of business permits, and by disseminating information and facilitating dialogues between international enterprises and civil society representatives to ensure mutual understanding.

In general, there is an overlap between all three principles in the area of governance. While good governance ensures adherence to laws and quality of contract enforcement hence contributing to principles 2 and 3, it is also dependent on clear communication, transparency and responsiveness to market and stakeholders' needs, hence mirroring principle 5.

Investment facilitation actions implemented by APEC economies are expected to improve the investment climate in several key policy areas, which will complement and strengthen existing Foreign Direct Investment (FDI) determining factors. Such actions would help to stabilise FDI flows and ensure sustainability in the long-run by strengthening investors' confidence in the region.

# 1 INTRODUCTION

In 2009, APEC established eight Investment Facilitation Action Plan (IFAP) principles as a means to improve the region's investment climate under the following key policy areas:

1. Promote accessibility and transparency in the formulation and administration of investment-related policies
2. Enhance stability of investment environments, security of property and protection of investments
3. Enhance predictability and consistency in investment-related policies
4. Improve the efficiency and effectiveness of investment procedures
5. Build constructive stakeholder relationships
6. Utilise new technology to improve investment environments
7. Establish monitoring and review mechanisms for investment policies
8. Enhance international cooperation

This report provides a review of APEC's progress in investment facilitation under **principles 2, 3 and 5**. The principles are reviewed using responses provided by APEC economies to the questionnaires and then complemented with secondary data on relevant indicators. For each of the three principles, economies are to describe the work they had done over the course of the period (2017-2018) and the lessons learnt.

The next chapter, Chapter 2, discusses the recent investment trends in the APEC region, covering foreign direct investment (FDI) inflows and outflows. Chapter 3 provides an overview of FDI determinants based on current literature and how it relates to trade. Chapter 4 analyses the submissions from members of the Investment Experts' Group on the three IFAP principles, including an analysis of relevant secondary data. Chapter 5 concludes and provides the way forward.

## 2 INVESTMENT TRENDS IN THE APEC REGION

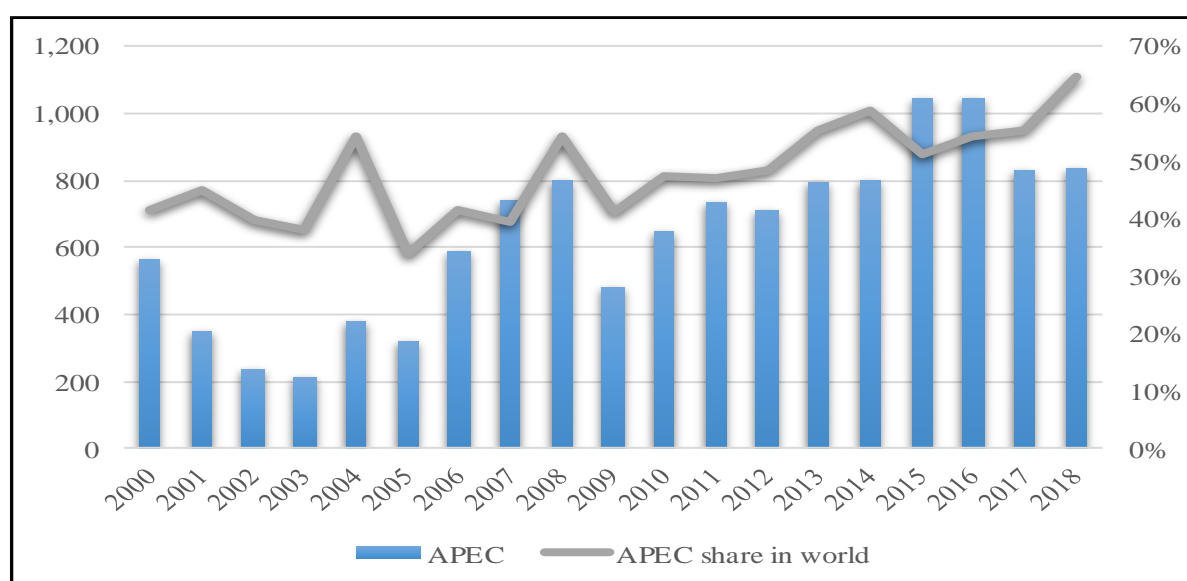
### 2.1 FDI inflows

In 2018, global FDI inflows continued to decline, registering a negative 13 percent growth since 2017. Most of this decline was observed in developed economies due to the repatriation of foreign profits by multinational enterprises during the first two quarters of 2018, and the recent 2017 tax reform (UNCTAD, 2019a). FDI inflows to developing economies, on the other hand, continued to increase, registering a 3 percent growth rate to attain inflows worth USD 694 billion in 2018 (UNCTAD, 2019a). The overall slowing trend is expected to continue in 2019 though there is a possibility of a rebound.

The APEC region reflected the global trend in FDI inflows as it experienced an anemic growth rate of 1 percent between 2017 and 2018. This is significantly better than the world average wherein a negative 13 percent growth rate prevailed (Figure 1). While growth trends on the value of FDI flows appeared gloomy for the past three years, the APEC region experienced an upward trajectory in terms of its share in world FDI inflows, therefore signaling greater resilience in flows. On average between 2017 and 2018, APEC accounted for 60 percent of world FDI inflows. This was above the shares accounted for by the Organisation for Economic Co-operation and Development (OECD), Regional Comprehensive Economic Partnership

(RCEP), and Transatlantic Trade and Investment Partnership (TTIP), which were 50 percent, 29 percent and 41 percent, respectively.

**Figure 1. FDI inflows to APEC (in USD billion) and share in world (in %, rhs)**



Source: Data from UNCTAD, APEC PSU calculations. (rhs=right-hand side)

Among the APEC economies, the United States (USD 252 billion) registered the highest value of FDI inflows in 2018, followed by China (USD 139 billion); Hong Kong, China (USD 116 billion); and Singapore (USD 78 billion). While the United States was the largest recipient of FDI in the world, FDI inflows to the economy had declined from USD 277 billion in 2017 to USD 252 billion in 2018. The reduction was mainly attributed to the contraction in intra-company loans<sup>1</sup>. For China, FDI inflows were driven by a 70 percent increase in the number of established companies in the economy. For Hong Kong, China; and Singapore, the main driver of FDI inflows was the robust investment in services.

Table 1 presents the list of eleven economies with the highest FDI inflows in APEC for 2016 to 2018 (cumulative). It can be observed that Indonesia and Viet Nam had significantly improved their standing. On average, both economies increased their share of FDI inflows in APEC to 1.7 percent and 1.6 percent, respectively. This is significantly higher than their shares in 2001 to 2003, which were less than 1 percent (Table 1).

**Table 1. FDI inflows as % share in APEC total (3-years cumulative figures)**

	2001-03	2004-06	2007-09	2010-12	2013-15	2016-18
United States	36.3%	37.3%	32.9%	29.9%	33.0%	36.9%
China	19.4%	16.1%	14.2%	17.2%	14.7%	15.0%
Hong Kong, China	6.4%	8.2%	8.5%	11.3%	13.7%	12.7%
Singapore	4.9%	6.1%	3.6%	7.5%	7.2%	8.4%
Australia	3.6%	2.9%	5.9%	7.4%	5.4%	5.5%
Canada	7.2%	6.7%	9.9%	5.3%	6.5%	3.7%
Mexico	9.1%	5.6%	4.0%	3.6%	4.3%	3.5%

<sup>1</sup> <https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2114> [last accessed: 14 October 2019]



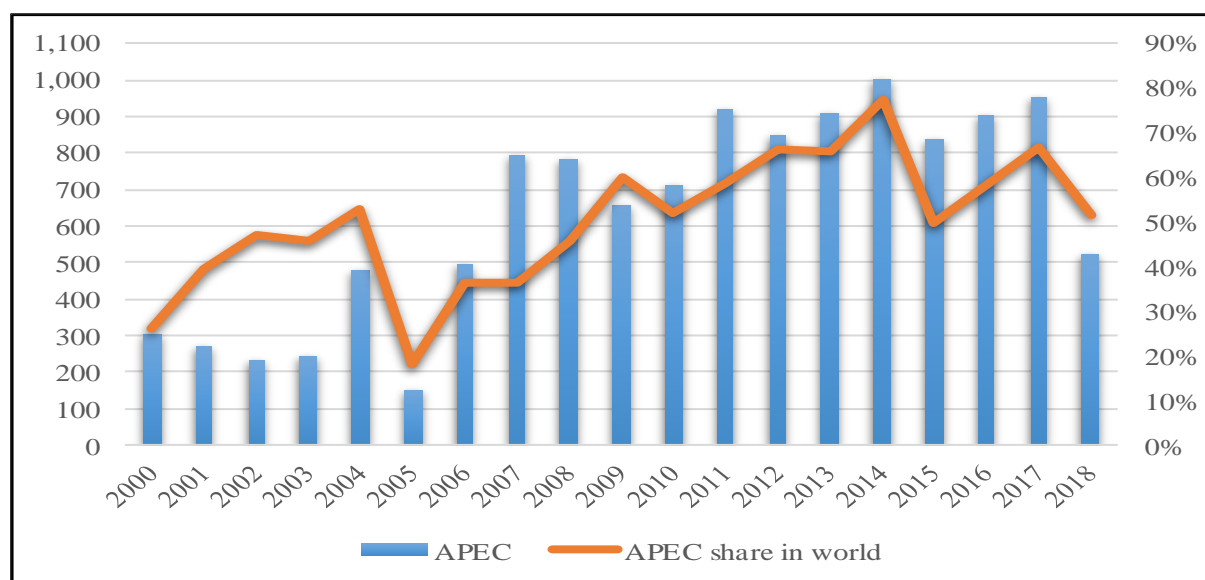
Russian Federation	1.8%	5.2%	7.8%	4.7%	3.6%	2.8%
Indonesia	-0.4%	1.2%	1.0%	2.5%	2.2%	1.7%
Korea	2.4%	2.8%	1.4%	1.4%	1.0%	1.6%
Viet Nam	0.5%	0.5%	1.2%	1.1%	1.1%	1.6%
Total FDI inflows (11 economies, USD million)	721,489	1,185,583	1,832,293	1,926,170	2,447,485	2,531,547

Source: Data from UNCTAD, APEC PSU calculations.

## 2.2 FDI outflows

Mirroring the global trend in FDI inflows, global FDI outflows noted a decrease of 29 percent in its value from 2017. APEC FDI outflows declined significantly more, by 45 percent (Figure 2). As a result, APEC's share in the world total of FDI outflows decreased from 67 percent in 2017 to 51 percent in 2018. Among all APEC economies, the United States experienced the sharpest decline, as its FDI outflows cascaded to USD – 64 billion (net divestment) in 2018 from USD 300 billion in 2017. It is important to note, however, that the negative outflow in the first half of 2018 was due to the large-scale repatriation of foreign profits by multinational enterprises. The United States was consequently able to regain its standing as a major source of FDI outflows in the second half as transaction activity increased (UNCTAD, 2019a). However, over one-third of APEC economies managed to raise their FDI outflows during this period. In fact, Indonesia had a four-fold increase, from USD 2 billion in 2017 to USD 8 billion in 2018.

**Figure 2. FDI outflows from APEC (in USD billion) and share in world (in %, rhs)**



Source: Data from UNCTAD, APEC PSU calculations. (rhs=right-hand side)

Table 2 shows the top economies in terms of their average shares in total APEC FDI outflows for 2016 to 2018. As reflected, China significantly increased its percentage share in FDI outflows in APEC from less than an average of 2 percent in 2001 to 2003 to more than 20 percent in 2016 to 2018. Thailand's share also improved considerably, from 0.2 percent in 2001 to 2003 to 2 percent in 2016 to 2018.

**Table 2. FDI outflows as % share in APEC total (3-years cumulative figures)**

	<b>2001-03</b>	<b>2004-06</b>	<b>2007-09</b>	<b>2010-12</b>	<b>2013-15</b>	<b>2016-18</b>
United States	52.1%	47.7%	44.3%	40.0%	32.8%	22.2%
China	1.6%	3.2%	6.2%	9.3%	13.7%	20.4%
Japan	13.3%	11.3%	12.4%	11.6%	14.7%	19.2%
Hong Kong, China	5.8%	10.3%	7.7%	10.7%	10.1%	9.8%
Canada	11.5%	10.4%	8.2%	5.8%	6.7%	8.4%
Singapore	3.6%	4.1%	3.6%	3.5%	5.2%	5.1%
Korea	1.5%	2.5%	2.6%	3.6%	2.9%	4.3%
Russian Federation	2.1%	5.4%	6.0%	4.8%	5.9%	4.1%
Chinese Taipei	2.1%	1.8%	1.2%	1.5%	1.5%	2.0%
Thailand	0.2%	0.1%	0.4%	1.0%	0.7%	2.0%
Total FDI outflows (10 economies, USD million)	700,607	1,084,452	2,071,023	2,275,373	2,587,572	2,312,778

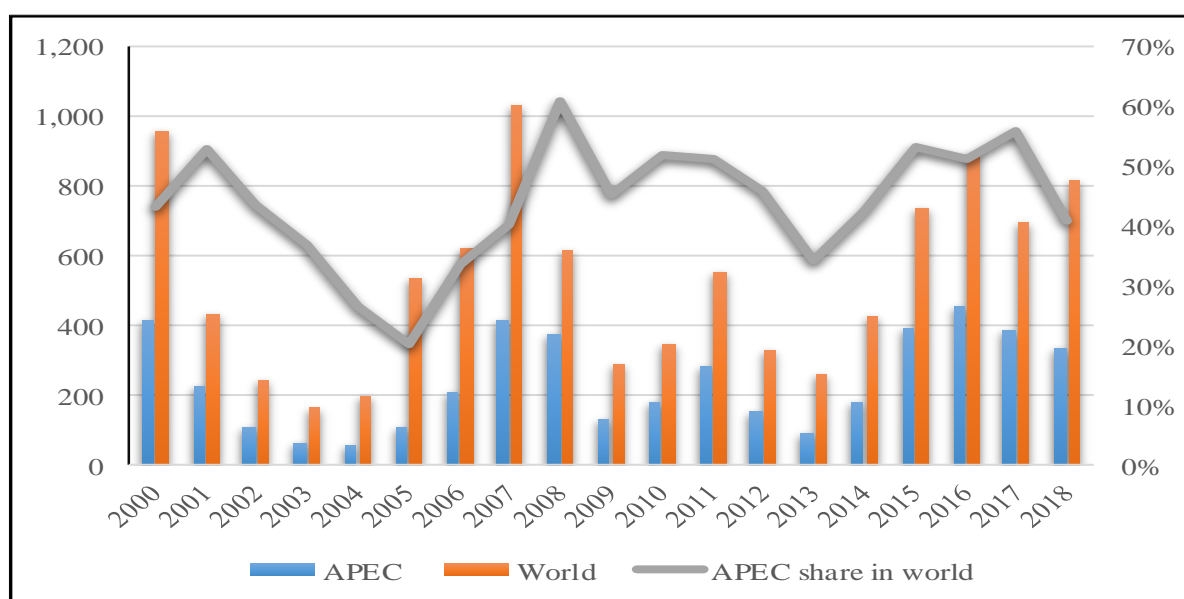
Source: Data from UNCTAD, APEC PSU calculations.

### **2.3 Cross-border M&As and greenfield projects**

Global cross-border mergers and acquisitions (M&As) experienced a growth of 18 percent in 2018, a recovery from the 22 percent slump in the previous year. On the other hand, the APEC region experienced a decline in cross-border M&As in terms of value and share in the world total (Figure 3). For one, net M&A sales in APEC dropped by 13.5 percent. This was due to the contraction of M&A activities in the United States to USD 199 billion, which was 36 percent lower than the value in the previous year. Despite the decrease, the United States still constituted the largest share (60 percent) in net M&A sales in the APEC region. Concomitantly, Australia posted a notable hike as net M&A sales, especially from financial and insurance activities, grew threefold (UNCTAD, 2019b).

Greenfield investments, defined as a form of FDI involved in the creation of a subsidiary in a foreign economy from the ground up, rose by as much as 41 percent globally in 2018. The APEC region reflected the same trend and experienced a 49 percent growth. On average, from 2003 to 2018, the APEC region was able to attract around 46 percent of total greenfield investments worldwide (Figure 4). China (USD 111 billion), followed by the United States (USD 75 billion); Canada (USD 47 billion); Indonesia (USD 39 billion); and Viet Nam (USD 29 billion) were among the top economies in 2018.

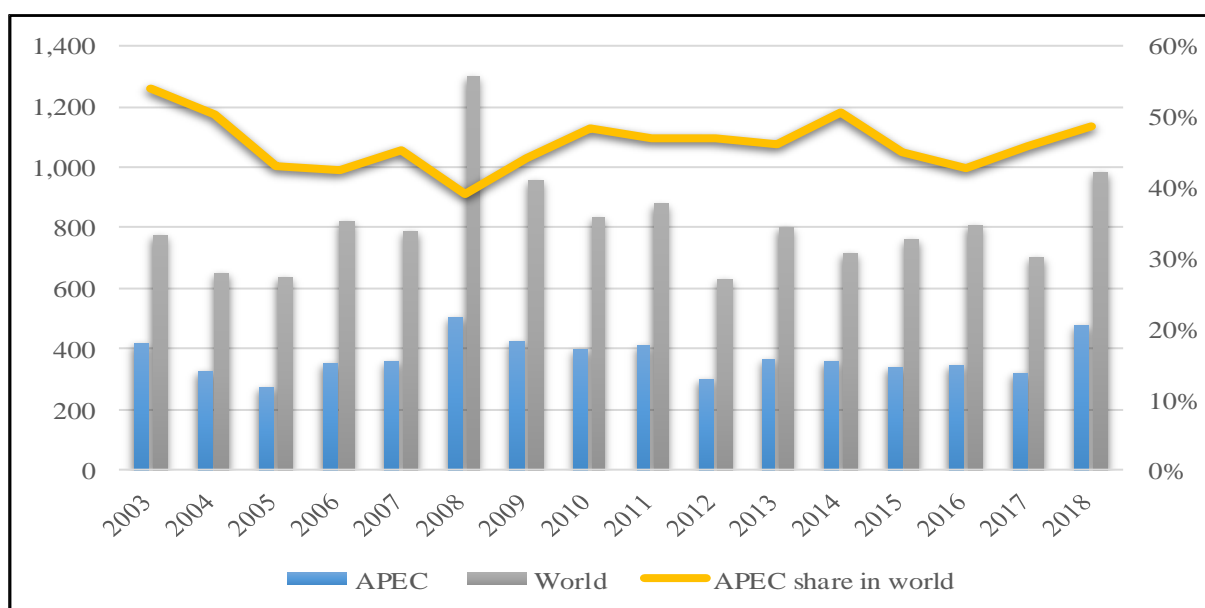
**Figure 3. Cross-border M&As in APEC (in USD billion) and share in world (in %, rhs)**



Source: Data from UNCTAD, APEC PSU calculations. (rhs=right-hand side)

While the value of FDI inflows and net M&A sales in APEC dropped in 2017 and 2018, the increase in announced greenfield projects hint at continued investor confidence in the region. For some economies, a massive increase in announced greenfield projects was experienced in 2018, enabling an over 100 percent increase in the value of greenfield projects compared to 2017. Relative to 2017 levels, Papua New Guinea noted an increase in greenfield projects by 17 times, the Philippines by 5 times, Indonesia by 4 times, and Canada and Chinese Taipei by 3 times. Moreover, UNCTAD's World Investment Report 2019 expects a modest rebound in developed economies as the impact of tax reforms in the United States eases, particularly on the earnings of its M&As, hence positing a more optimistic outlook for investment.

**Figure 4. Greenfield FDI projects (in USD billion) and share in world (in %, rhs)**



Source: Data from UNCTAD, APEC PSU calculations. (rhs=right-hand side)

### 3 DETERMINANTS OF FDI: CONCISE LITERATURE REVIEW

There are many factors affecting changes in FDI flows as described in the previous section. Some are financial, and others represent economic fundamentals and regulatory factors. Additionally, there are several main theories that try to explain the existence of multinational enterprises or international business and investments. Castro (2000) argued that until the 1950s, international direct investment was usually explained using the theory of international capital movements where capital would flow to investments that offer the highest rate of returns such that ‘differences in return on investments are said to determine capital flows across borders’. Hymer (1960) concluded that international business operations are determined by the desire to remove competition and to exploit their advantages in foreign markets (see also Buckley, 2010).

Dunning and Lundan (2008) and Pedersen (2003) explained, using the OLI eclectic FDI paradigm, that firms will only operate in a foreign land if the following three conditions are satisfied:

1. Whether the firm has obtained ‘unique and sustainable ownership-specific (O) advantages’ that could take the form of possession of certain intangible assets.
2. Whether there are locational (L) advantages in certain geographical areas for their business operations, such as low factor prices and appropriate technology.
3. The possession of market internalisation (I) advantages in the form of superior organisational efficiency in productively managing their assets, such as control of the distribution channel.

Further examples of the OLI specific advantages and certain economy characteristics that support those advantages are listed in Table 3.

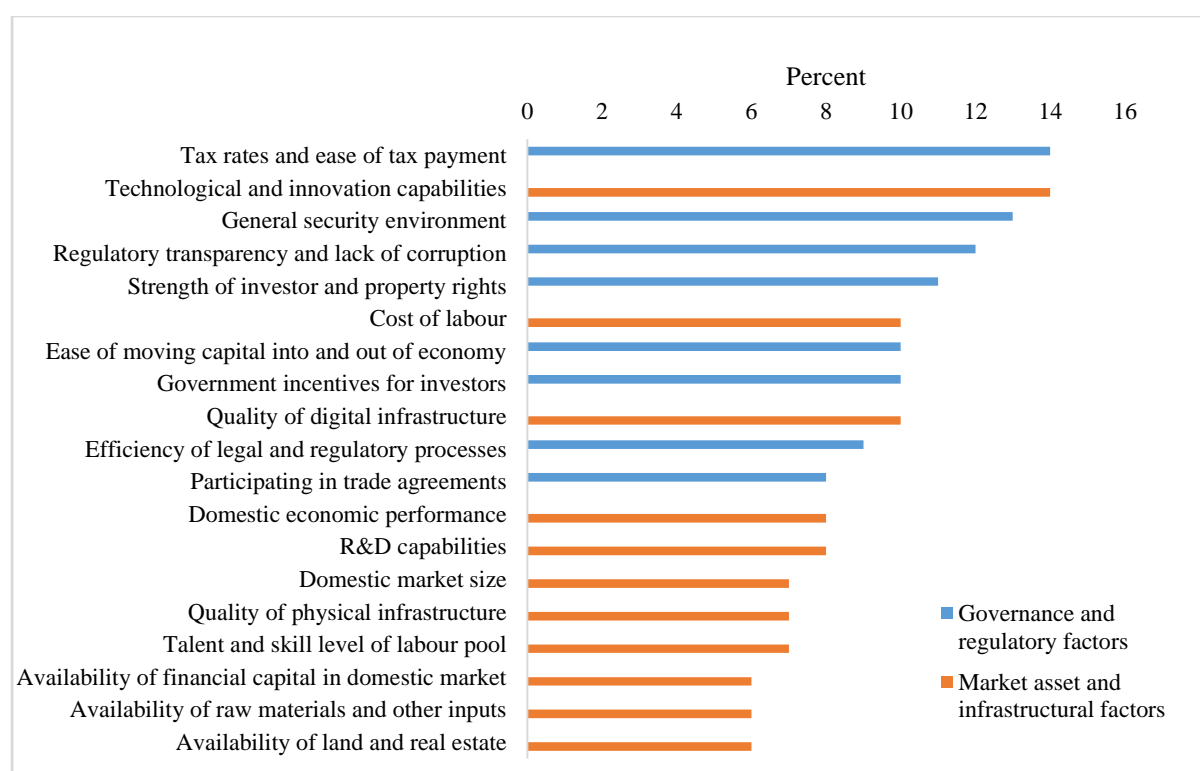
**Table 3. Characteristics of economies and OLI-specific advantages**

<b>Ownership-specific advantages</b>	<b>Economy characteristics</b>
<ul style="list-style-type: none"> <li>• Size of firm.</li> <li>• Technology and trademarks</li> <li>• Management and organisational systems</li> <li>• Product differentiation</li> </ul>	<ul style="list-style-type: none"> <li>• High income</li> <li>• Large markets</li> <li>• Liberal attitudes to mergers</li> <li>• Government support of innovation</li> <li>• Skilled workforce</li> <li>• Supply of trained managers</li> <li>• Educational facilities</li> <li>• Levels of advertising and marketing</li> </ul>
<b>Location-specific advantages</b>	<b>Economy characteristics</b>
<ul style="list-style-type: none"> <li>• Costs of labour and materials</li> <li>• Transport costs</li> <li>• Government intervention and policies</li> <li>• Distance</li> <li>• Economies of scale</li> </ul>	<ul style="list-style-type: none"> <li>• Developed or developing economy</li> <li>• Size of markets</li> <li>• Similarities of languages and cultures</li> </ul>
<b>Internalisation-specific advantages</b>	<b>Economy characteristics</b>
<ul style="list-style-type: none"> <li>• Searching, negotiating, monitoring costs</li> <li>• Avoid costs of enforcing property rights</li> <li>• Protection of products</li> </ul>	<ul style="list-style-type: none"> <li>• Higher levels of education</li> <li>• Larger markets</li> </ul>

Source: Dunning (1981) in Jones and Wren (2006).

While many factors are considered in determining investment decisions, some play a larger role than others. Taxation, security, corruption, investor rights and technological capabilities are among the highest-rated factors that determine investors' decisions in 2019 (Figure 5). Four of the top five factors that affect investors' FDI (location) decisions are governance and regulatory factors. Technological and innovation capabilities on the other hand, is the only market asset and infrastructure factor. Given the increasingly digitalising global economy, this factor accurately mirrors the changing focus of foreign investors. The two factors that have maintained their position in the top five since 2016, are namely, regulatory transparency and lack of corruption, and general security environment (Laudicina, Peterson, & McCaffrey, 2019). This highlights the importance of a secure and generally predictable environment, which is addressed by IFAP principles 2 (enhancing stability of investment environments, security of property and protection of investors) and 3 (enhancing predictability and consistency in investment-related policies).

**Figure 5. Factors that affect investors' FDI decisions, 2019**



Source: Data from A.T. Kearney FDI Confidence Index (2019).

FDI is also often considered to be closely linked with trade, either as a complement or a substitute. Indeed, both FDI and trade are affected by similar economic and non-economic factors. Based on literature, Marchant et al (2002) summarised the determinants of FDI and exports and their respective impact on FDI and exports (Table 4). In general, higher market size and degree of development will attract more FDI and exports. Common language, membership of regional groupings such as the OECD, and higher level of protection will also attract more FDI.

While Table 4 is meant to provide some form of generalisation, actual FDI flows are far from homogenous. Some FDIs may be horizontal wherein firms duplicate similar activities in

multiple economies, while others may be vertical which entails firms setting up different stages of production in different economies. The type of FDI common to an economy is also determined by the degree of openness. For example, while a low degree of openness (or high trade barriers) might be associated with more (horizontal) FDI flows, a more export-oriented host economy might be able to attract more (vertical) FDI flows<sup>2</sup>. Fukao and Wei (2008) showed some of the differences in FDI determinants for horizontal FDI (HFDI) and vertical FDI (VFDI): (i) a large market is the most important determinant of the location decision for HFDI, whereas low labour costs is the most important factor for VFDI location decision; (ii) longer distance between the home and host economy encourages HFDI and discourages VFDI; and (iii) the level of local skills have an important positive impact on firms' location choice for HFDI, but not for VFDI.

**Table 4. Determinants of exports to and FDI in foreign economies**

Indicator	Direction of Impact	
	FDI	Exports
<i>Economic Advantage</i>		
Market Size (GDP)	+	+
Degree of Development (GDP per capita)	+	+
Economic Growth (growth rate of GDP)	+	n/a
Exchange Rates	+	—
Exchange Rate Volatility	—	n/a
Wages	—	+
Interest Rate	—	—
<i>Social and Cultural Advantages</i>		
Language	+	n/a
Membership of EEC or OECD	+	n/a
Stage of Development (developing vs. developed)	+/-	n/a
Distance	—	n/a
<i>Political Advantages</i>		
Foreign Income Tax	—	n/a
Protection (or degree of openness)	+	—
<i>Export Prices</i>	n/a	—

Note: 'n/a' indicates not used in empirical studies; '+' indicates positive impacts; '-' indicates negative impacts.  
Source: Marchant et al (2002).

Moreover, while economies with higher GDP per capita may in general be able to attract more FDI flows, higher levels of income may also be associated with lower average (manufacturing) FDI flows – if higher levels of income also imply higher unit labour costs (Walsh and Yu, 2000). Walsh and Yu (2010) asserted that the degree of market openness, exchange rates and GDP growth are important factors for attracting FDI in the services sector, while flexible labour markets and infrastructure quality are seen to be more important in attracting FDI in the manufacturing sector (Table 5). There are, however, differences in the factors that play a role in attracting FDI based on the developmental status of the economies. For instance, judiciary independence and financial depth are particularly important to attract FDI to the services sector

<sup>2</sup> In this regard, vertical FDI could be seen as having a complementary relation with trade.

in advanced economies, while it is the complete opposite for attracting FDI to the manufacturing sector.

**Table 5. Qualitative variables' impact on FDI inflows**

	<b>Secondary (Manufacturing) FDI</b>	<b>Tertiary (Services) FDI</b>
<b>Macroeconomic</b>		
Openness	...	+
Real Exchange Rate	–	+
GDP Growth	...	+
FDI Stock	+	+
Average Inflation	...	...
GDP per capita	...	–
<b>Qualitative/Institutional</b>		
Labour Market Flexibility	+(dev); +(adv)	–(adv)
Judiciary Independence	– (adv)	+(adv)
Legal System Efficiency	...	...
Financial Depth	+(dev); – (adv)	+(adv)
Infrastructure Quality	+(dev); +(adv)	+(dev)
Primary Enrollment	...	...
Secondary Enrollment	– (adv)	...
Tertiary Enrollment	...	...

Note: (+) represents significantly positive, (–) represents significantly negative, 'dev' represents developing economies, and 'adv' represents advanced economies.

Source: Walsh and Yu (2010).

The discussion in this section highlights the multi-dimensional and multi-faceted nature of FDI determinants and flows, which makes it difficult to get a clear and conclusive picture regarding the key factors that could attract and facilitate foreign investments.

## **4 INVESTMENT FACILITATION IN APEC**

### **4.1 Background**

The Investment Experts' Group has identified three IFAP principles as the focus of review for 2017-2018. They are: principles 2 (enhancing stability of investment environments, security of property and protection of investors); 3 (enhancing predictability and consistency in investment-related policies); and 5 (building constructive stakeholder relationships). A summary of actions undertaken by APEC economies in each principle is listed in Appendix A.

FDI brings large economic gains to recipient economies (Borensztein, Gregorio, & Lee, 1998). These may not only be in the form of capital goods, but also in the form of new technologies and knowledge. All these aspects of FDI contribute towards raising total factor productivity (also referred to as the efficiency in the use of resources in recipient economies) and income growth (OECD, 2002). To further make full use of the new technologies, Borensztein, Gregorio & Lee (1998) noted the importance of a minimum threshold stock of human capital.

Given the vast benefits of FDI, its phenomenal growth over the past three decades is unsurprising. World FDI inflows rose from USD 204.9 billion in 1990 to USD 1.3 trillion in

2018. Similarly, world FDI outflows increased from USD 243.9 billion to USD 1 trillion over the same time period based on data from UNCTAD. The three IFAP principles identify a few factors that are key in further boosting FDI flows.

The first principle (principle 2) relates to the sense of security which notably affects foreign investors' decisions to invest. There are significant external risks associated with any FDI. Shifts in exchange rate or inflation rate, high corruption and red tape, and weak laws and regulations may – through no fault of the investor – turn a once-profitable investment into a significant loss. As such, better legal protection of foreign investors can positively impact FDI decisions. For example, Maskus (2000) found that strengthening intellectual property rights creates an incentive for FDI inflows. Similarly, Bilateral Investment Treaties (BITs) provide certain standards of treatment and dispute settlement procedures to protect foreign investors from political and other risks. Neumayer and Spess (2005) found that one extra BIT in developing economies can lead to a 1.6 percent increase in FDI flows; they also found evidence indicating that BITs may function as a substitute for good institutional quality. Hence, stronger legal certainty and regulations improve the stability and security of FDI which then lead to greater FDI inflows. This can be achieved by improving investor protection through clear dispute resolution laws and comprehensive BITs.

The second principle (principle 3) is interlinked with the first one as it also attempts to boost investors' sense of security by improving the predictability and transparency of investment environments through investment-friendly policies. Walsh and Yu (2010) noted that political and macroeconomic instability are prime deterrents for foreign investors. Similarly, poor institutional quality encourages corruption, and lack of transparency further inhibits investors' confidence in an investment. Gelos and Wei (2002) contributed towards this finding by analysing a micro dataset on international portfolio holdings, where they found clear evidence of less FDI inflows to less transparent economies. According to the OECD (2018), transparency and predictability are key principles in regulatory frameworks for investment facilitation. Policies based on these principles provide investors certainty by reducing the scope of corrupt practices and discretionary decisions. Since potential investors make their initial investment assessments from a distance, policies highlighting the stability and predictability of an economy can have a positive impact on its desirability. Some investment-friendly policies that could help in this context include those that enhance clarity of regulations and streamline procedures to reduce risks of inefficiencies caused by red tape and corruption.

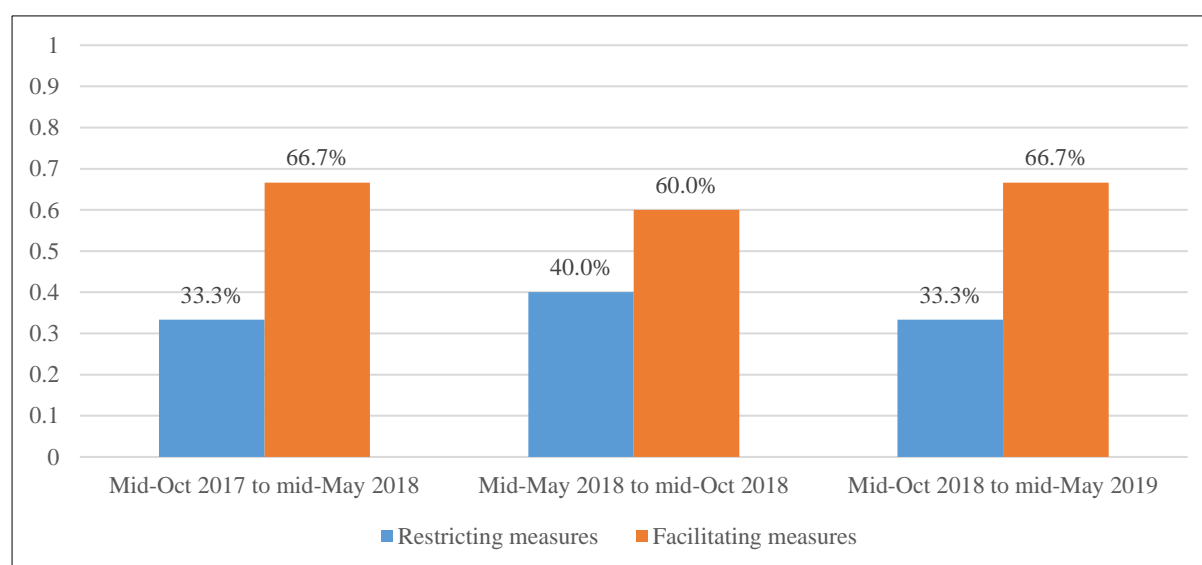
The last principle (principle 5) addresses efforts towards building constructive stakeholder relationships. Open communication between policymakers, businesses and consumers reduces the risk of sudden policy changes and allows for valuable feedback. UNCTAD (2017) listed building constructive stakeholder relationships as one of the 10 action lines in its 'Global Action Menu for Investment Facilitation'. Furthermore, it noted that a location's offerings can be significantly improved by partnerships in investment facilitation. This can be seen from the success of several investment projects, especially those for Sustainable Development Goals, where strong partnerships with the private and public stakeholders were key. At the same time, knowledge spillovers from multinational enterprises are most likely to occur when they have close contact with the domestic economy, rather than being treated as enclave sectors (Gorg and Strobl 2005). Blomstrom and Kokko (1998) also conjectured that forward and backward linkages with multinational enterprises could enhance productivity of local firms. This is premised on the condition that local firms have sufficient absorptive capacity.



## 4.2 Recent developments in investment measures

APEC economies that are also G20 members, implemented six investment facilitating measures and three restricting measures between mid-October 2018 and mid-May 2019. This is the same fraction of facilitating and restricting measures implemented between mid-October 2017 and mid-May 2018. However, compared to implementations between mid-May 2018 and mid-October 2018, the number of restricting measures have decreased and the number of facilitating measures have increased (Figure 6). A breakdown of the specific investment facilitating and restricting measures implemented between mid-October 2018 and mid-May 2019 is provided in Table 6.

**Figure 6. Selected investment measures implemented by APEC economies, as percent of total**



Note: Covers nine APEC economies who are also G20 members, namely: Australia; Canada; China; Indonesia; Japan; Korea; Mexico; Russian Federation; and the United States.

Source: OECD–UNCTAD 19th Report on G20 Measures, 4 July 2018; OECD–UNCTAD 20th Report on G20 Measures, 22 November 2018; OECD–UNCTAD 21st Report on G20 Measures, 24 June 2019.

**Table 6. Breakdown of investment facilitating and restricting measures for mid-October 2018 and mid-May 2019**

	Number of measures
<b>Facilitating foreign investment</b>	
Increasing transparency in the investment environment	1
Clarifying and simplifying concept, rules and processes	0
Relaxing rules on foreign exchange quota and settlement	2
Increasing threshold/lifting caps for foreign investments/ownership	3
<b>Restricting foreign investments</b>	
Imposing additional requirements/prohibitions	2
Increasing/imposing taxes/fees/surcharges	1
Introducing foreign ownership ceiling	0
Lowering caps on foreign exchange use and overseas financing	0

Source: OECD–UNCTAD 21st Report on G20 Measures, 24 June 2019.

Most of the investment facilitating measures were focused on increasing thresholds or opening up sectors that were initially restrictive. Some of these facilitating measures were introduced as part of the enforcement of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). One APEC economy also issued a ‘Negative List of Market Access’ which introduced opening-up measures for several sectors including manufacturing and services<sup>3</sup>. As for restrictive measures, more requirements, limitations and reviews were introduced for foreign investments and transfer of technologies abroad. These included introducing or increasing surcharges or taxes on foreign owners and acquirers of residential real estate.

### 4.3 Investment facilitation in IIAs

A paper by Lazo (2018) noted that, in general, International Investment Agreements (IIAs) or BITs do not include provisions on investment facilitation; only 35 treaties had concluded IIAs with explicit provisions on investment facilitation (in comparison to the total of 3000 IIAs that have been concluded). Among these 35 IIAs, 18 involved at least one APEC economy. The mapping of these IIAs is provided in Appendix C.

In the 18 IIAs involving an APEC economy, the following categories of investment facilitation are recorded (Lazo, 2018):

- i. Transparency (12 provisions): include transparency commitments and the publication or dissemination of investment laws, regulations, policies, and procedures.
- ii. Improving investment climate (7 provisions): involve measures such as periodic review of the treaty to create a more open investment environment and strengthen databases on investment policy formulations.
- iii. Joint cooperation and treaty bodies on investment facilitation (6 and 5 provisions, respectively): examples include assigning investment facility tasks to treaty bodies created in the agreement and implementing investment facilitation activities through direct consultation or cooperation.
- iv. Removal of bureaucratic impediments (5 provisions): include provisions to streamline, simplify and harmonise procedures for investment applications and approvals, and to keep administrative costs low.
- v. Facilitation of permits for entry and sojourn of personnel (5 provisions): often involve best efforts commitment to grant the permits required for consultants or experts.
- vi. Pre-establishment investor servicing (4 provisions): include clauses to provide advisory services to the business community (may take the form of a one-stop investment centre).
- vii. Relations with investors and private sector (4 provisions): include arranging consultations with the business community on investment matters, among others.
- viii. Facilitation of investment permits (3 provisions): involve facilitation of granting business permits (where appropriate and necessary in accordance with domestic legislation).
- ix. Post-establishment investor facilitation (3 provisions): include aftercare measures such as consultations to solve problems related to investment.

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<sup>3</sup> <https://www.telegraph.co.uk/china-watch/business/negative-list-improves-foreign-investment/>

- x. Capacity building on investment issues (2 provisions): may involve general capacity building on investment.

Most of the facilitation measures included in the above IIAs involve improving transparency and the investment climate, and streamlining bureaucracy and facilitation of personnel. Lazo (2018) argued that improving the investment climate could be seen as the core element of convergence among the different variety of IIAs. Hence, having some form of regulatory convergence or coherence could be beneficial for global investors as it reduces regulatory incompatibilities between economies.

## 4.4 Progress and review of IFAP implementation

### 4.4.1 Enhance stability of investment environments, security of property and protection of investors

IFAP principle 2 addresses issues of stability, security and protection. A stable and secure investment environment allows for long-term benefits to foreign investors and local firms. It serves as a safety net and risk-reduction mechanism, which is especially useful once foreign firms have established their businesses in a particular economy. Considering that disagreements may arise between foreign firms and the host economy, it is important that adequate dispute resolution measures are put in place. In this case, measures such as BITs are useful in safeguarding a foreign firm that could otherwise be unfamiliar with the domestic judicial processes and in giving assurance of adequate investment protection. This principle has nine related actions as listed in Box 1.

Box 1: Menu of actions and measures for Principle 2

- |    |   |
|----|---|
| 1. | Establish timely, secure and effective systems of ownership registration and / or property use rights for land and other forms of property.   |
| 2. | Create and maintain an effective register of public or state owned property.  |
| 3. | Ensure costs associated with land transactions are kept to a minimum including by fostering competition.  |
| 4. | Foster the dissemination of accurate market reputation information including creditworthiness and reliability.  |
| 5. | Explore the possibility of using the World Bank Doing Business indicator “Enforcing Contracts” as the basis for peer dialogue and benchmarking and measuring progress across APEC.                                  |
| 6. | Encourage or establish effective formal mechanisms for resolving disputes between investors and host authorities and for enforcing solutions, such as judicial, arbitral or administrative tribunals or procedures. |
| 7. | Encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties.                                  |
| 8. | Facilitate commercial dispute resolution for foreign investors by providing reasonable cost complaint-handling facilities, such as complaint service centres, and effective problem-solving mechanisms.             |
| 9. | Take steps to accede to an arbitral convention.   |

Eight economies reported work under this principle with majority in Actions 6, 7 and 8, which aim to improve dispute resolution mechanisms and their facilitation. **Hong Kong, China** implemented a mediation mechanism in December 2018 to resolve disputes arising from the

Investment Agreement with China under the Closer Economic Partnership Arrangement. The available solutions include monetary compensation, restitution of property and other legitimate means of compensation. Hong Kong, China also amended an arbitration and mediation legislation by clarifying that third-party funding of arbitration and mediation is not prohibited. Moreover, the government is financially supporting the development of an online dispute resolution platform called ‘eBRAM’.

**Japan** has signed five new BITs within the year and set up a Liaison Council for relevant ministries to strengthen international arbitration. Japan stressed that in order to be chosen as an investment destination by international companies in the midst of global location competition, the ‘ease of doing business’ such as strengthening of legal basis is very important. Both Japan and **Mexico** have also ratified the CPTPP which includes a comprehensive investment chapter.

**Peru** enacted a Public-Private Partnership (PPP) law in mid-2018 with the aim of strengthening the PPP legal and institutional framework and providing more predictability to the procedures. One of the highlights of this law is the development of a special procedure to provide technical and legal support to reduce the chances of ending up in costly and lengthy arbitration cases.

**Thailand** aims to be a regional hub for alternative dispute resolution and has introduced a Smart Visa programme to attract foreign experts to specific sectors, including the alternative dispute resolution sector.

**Papua New Guinea** is developing a new arbitration law that is now in its consultation stage with stakeholders and expected to be completed by September 2019. Papua New Guinea’s Foreign Affairs and Trade Minister has also signed formal instruments for the economy’s accession to the New York Convention. The initiative is expected to improve investor confidence and FDIs by addressing issues which limit foreign investments, namely: 1) reducing the reliance on domestic courts by foreign investors and decreasing the potential for corruption; 2) supporting the enforcement of foreign court judgements; and 3) mitigating the adverse effect of a small legal market.

There were relatively fewer new measures taken to improve management of property registration systems (Action 1). **Indonesia** digitalised building construction and property use permits to provide investors with a simpler, faster and more efficient process for their permits. The application of an online system reduces the need for forms and other complicated paper-based documents. Indonesia also highlighted the importance of having a formal mechanism on investor-state dispute settlement, to provide confidence on security and protection for FDI and to ensure the enforcement of judicial and arbitral solutions. **Japan** established a certification system of information about statutory inheritance. It also developed a guideline for private roads with unknown owners and an act on special measures for use of land with unknown owners.

**Malaysia** and **Chinese Taipei** worked on improving dissemination of market information (Action 4). Malaysia disseminates information in the form of frequent updates on the investment environment and newsletters on several sectors. The Malaysian Investment Development Authority (MIDA) also established a dedicated Post-Investment and Infrastructure Support Division (Post-invest) to assist and handhold companies until the successful implementation of their projects. Post implementation concerns are acted upon swiftly by MIDA together with the relevant ministries and institutions. Chinese Taipei set up a market observation post system to provide a single window for public companies. Since May

2018, companies can post their non-mandatory documents onto the website on a voluntary basis.

Table 7 presents some indicators from the World Bank's Doing Business dataset to provide a general quantitative assessment for IFAP principle 2. The indicators attempt to measure APEC's progress in reducing insolvency, enforcing contracts and protecting minority investors. The same indicators for the OECD are presented for the purpose of comparison. As reflected, the APEC region lags behind the OECD in the overall scores representing 'resolving insolvency' and 'enforcing contracts'. The sub-indicators also show that costs for resolving insolvency and enforcing contracts were both higher in the APEC region; a more substantial difference was observed for costs in enforcing contracts wherein an approximately 10 percentage point difference was noted between APEC and the OECD for 2016 and 2019. The World Bank has identified several good practices under this category<sup>4</sup>:

- i. Maintaining a specialised commercial court, division or judge: This could reduce the number of cases pending leading to shorter resolution times, promote consistency and predictability in the application of the law, and allow judges to develop expertise in their field.
- ii. Introducing or expanding case management system: This could be done by introducing electronic case management systems by automating individual components such as automatic generation of a hearing schedule; management of electronic notifications; tracking of the status of a case; electronic filing of briefs and motions; and access to court orders and decisions.
- iii. Court automation: The World Bank's Doing Business recorded 23 reforms that cover the introduction of electronic filing system for commercial cases and allow attorneys to submit the initial complaint online. Moreover, electronic payment of court fees is now allowed in 59 economies.
- iv. Computerisation and court efficiency: Korea and Singapore received full points on the court automation index in Doing Business. Korea launched an electronic case filing system that permits electronic document submission, registration, service notification and access to court documents, while Singapore introduced an electronic litigation system.
- v. Using alternative means to resolve disputes: Alternative dispute resolution mechanisms reduce delays from case backlogs and bottlenecks caused by complex procedures, high filing fees and limited court resources.

From 2016 to 2019, a 4.2 percent increase in the overall score for 'protecting minority investors' was observed. APEC surpassed the OECD's score in this indicator by 2.1 points by 2019. Among the sub-indicators in the aforementioned category, APEC's performance was notably better than OECD's for the 'extent of disclosure' index. On average, APEC's scores were at least 13 points higher than the scores for the OECD for both 2016 and 2019.

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<sup>4</sup> <https://www.doingbusiness.org/en/data/exploretopics/enforcing-contracts/good-practices#Introducing%20or> [accessed 29 July 2019]

**Table 7. Factors to evaluate stability of the investment environment**

Indicator	2016		2019	
	APEC	OECD	APEC	OECD
<b>Resolving insolvency</b>				
Score	65.1	73.9	66.5	74.1
Cost (% of estate)	11.5	9.7	11.5	9.7
Recovery rate (cents per dollar)	62	69.0	62.7	68.8
Time (years)	1.8	1.8	1.8	1.8
<b>Enforcing contracts</b>				
Score	65.2	66.8	66.3	67.7
Cost (% of claim)	31.7	22.0	31.7	21.7
Enforcement fees (% of claim)	3.6	3.5	3.6	3.3
Filing and service (days)	35.2	34.5	36.7	34.5
Quality of judicial administration index (0 - 18)	10.3	11.1	10.9	11.6
Time (days)	452.6	575.0	451.3	576.4
<b>Protecting Minority Investors</b>				
Score	63.6	64.0	66.3	64.2
Ease of shareholder suits index	70	71.7	71.4	71.9
Extent of corporate transparency index	66.4	74.6	70.2	75.4
Extent of director liability index	57	52.9	58.9	53.2
Extent of disclosure index	79.2	65.7	79.2	65.7
Extent of ownership and control index	46.9	54.3	51.6	54.3
Extent of shareholder rights index	62.4	65.0	66.7	65.0

Source: World Bank's Doing Business Dataset and APEC PSU calculations.

APEC economies have signed a total of 858 BITs, of which 761 (89 percent) are currently enforced<sup>5</sup>. Among the APEC economies, China (109); Korea (89); and Russian Federation (64) have the most number of BITs implemented. However, the number of BITs implemented in recent years decreased since many economies have been unilaterally terminating existing treaties to renegotiate positions and update traditional treaties (Zhan, 2016). Moreover, there has been a recent trend to rethink BITs and consider multilateral investment treaties instead (Forere, 2017; Zhan, 2016).

It is important to note that while several studies pointed out the positive effects of BITs on FDI (Bhasin and Manocha, 2016; Neumayer and Spess, 2005; Busse, Koniger and Nunnenkamp, 2010), their impact remains contingent on other aspects. Eger and Pfaffermayr (2004) asserted that investment treaties only have a significant effect on outward FDI when they have actually been implemented. Moreover, an analysis conducted by Hallward-Driemeier (2009) explained that the role of BITs is better taken as a complement rather than a substitute for domestic reform. Alternately, this means that the effect of BITs is less pronounced and insignificant among economies with weaker domestic institutions.

<sup>5</sup> <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>. Retrieved on 8 October 2019.

Using the non-exhaustive BITs database constructed by Chaisse and Bellak (2011) and FDI dataset provided by Pédussel et. al. (2017), preliminary calculations by the APEC Policy Support Unit (PSU) indicated that having a specific ISDS mechanism in a BIT may not necessarily lead to higher FDI inflows (please refer to Appendix B). This seems to concur with the conclusion in a recent paper by Jones (2019) which argued that stronger enforcement provisions in BITs do not lead to more investment.

#### 4.4.2 Enhance predictability and consistency in investment-related policies

IFAP principle 3 on predictability and consistency is closely related to the earlier principle on ensuring a stable environment and investor protection since these aspects also promote predictability and consistency. Predictability and consistency in investment-related policies are important as they reduce the risks of encountering unforeseen circumstances as foreign firms develop and even expand their businesses based on their initial business plans. According to the responses to the questionnaire, fewer economies focused efforts on this principle compared to principle 2 on enhancing stability and protection. The list of actions within this principle aim to improve clarity of laws, legislations and responsibilities, and reduce avenues for discrimination and inconsistency (Box 2).

Box 2: Menu of actions and measures for Principle 3

- |    |   |
|----|---|
| 1. | Increase use of legislative simplification and restatement of laws to enhance clarity and identify and eliminate inconsistency.   |
| 2. | Provide equal treatment for all investors in the operation and application of domestic laws and principles on investment.   |
| 3. | Reduce the scope for discriminatory bureaucratic discretion in interpreting investment-related regulations.   |
| 4. | Maintain clear demarcation of agency responsibilities where an economy has more than one agency screening or authorising investment proposals or where an agency has regulatory and commercial functions. |
| 5. | Establish and disseminate widely clear definitions of criteria for the assessment of investment proposals.  |
| 6. | Establish accessible and effective administrative decision appeal mechanisms including where appropriate impartial “fast-track” review procedures.  |

The measures submitted by economies within this principle focused on Action 1, which relates to the simplification of legislations by improving clarity and reducing inconsistency. **Australia** has implemented numerous streamlining measures to reduce the number of approvals needed for low risk transactions and ensure equitable fee outcomes across different categories of transactions. This is expected to assist investors in navigating regulations and improving clarity through transparency. In addition, the Australian Treasury has implemented the following: (i) enhanced compliance arrangements which will establish clearer enforcement processes; and (ii) a redesigned Foreign Investment Review Board application portal for non-residential applications to expedite foreign investment applications.

**Indonesia**, through the One Single Submission system that is already in place, aims to reduce the discretionary interpretation of laws by regional governments. This will enable all sectoral investment-related regulations to be interpreted in the same way. The Directorate of Deregulation, which has the function to issue a Letter of Intent to settle any gaps in existing regulations (‘vacuum of law’) and multi interpretation issues, was also established. The

certainty arising from this initiative will be a significant incentive for investors. **Chinese Taipei** also periodically simplifies laws and regulations to enhance clarity. For example, it is conducting a draft amendment to the ‘Statue for Investment by Foreign Nationals’ to simplify the executive procedure and identify standards and executive processing times.

In early 2017, a **Mexican** decree aimed at setting up a system of legal affairs for foreign investment was published. The system will simplify processes by allowing fulfillment of legal procedures over the internet. Mexico also published a handbook on procedures for investing in the economy which will improve access to timely information. **Papua New Guinea** conducted a legislative review on their Investment Promotion Act which will help improve clarity. Many economies tend to have general guidelines and criteria published on their websites, along with updated information on the local investment climate, to keep investors abreast on local policies. These measures improve transparency and legitimacy of regulations, and ensure wider awareness to improve enforcement of rules and minimise risk of misunderstandings.

The **Russian Federation** is also currently exploring several measures to improve the general business climate of the economy to enhance predictability and consistency: i) tax reforms which include special tax treatments for individual entrepreneurs and an automatic tax information exchange procedure with foreign authorities; and ii) reduction of regulatory burden through systematic review of all regulations and cancellation of inefficient requirements.

Several efforts have also been made to improve clarity of functions and responsibilities among agencies (Action 4). **Peru’s** new PPP law sets out clear distinctions between the functions of the ministries involved. It has also created specialised bodies to reduce time and costs involved in coordination.

Some economies have reported measures to reduce the scope for discrimination (Action 3). **Indonesia** expects its integrated One Single Submission system will enable a standard interpretation of investment regulations and allow for non-discriminatory bureaucratic discretion. **Chinese Taipei** ensures fair bureaucratic discretion by publicly announcing required documents and relevant reviewing procedures. **Malaysia** notes that by providing investment-related domestic guidelines and legislations online, equal treatment of all investors can be ensured. Inconsistent laws and forms of corruption serve as a disincentive for investors to expand their businesses. Consequently, this could adversely affect the perceptions of potential investors, hence hampering future investments to the economy. As seen in Table 8, economies which have lower regulatory scores tend to have lower FDI inflows and stocks, and vice versa. Economies with high (Top 20) regulatory quality scores benefit from 72 times more FDI stocks, compared to economies with poor (Lowest 20) regulatory quality.

**Table 8. Average FDI inflows and stocks, by rank of economies based on their ‘regulatory quality’ score, 2017**

<b>Economies grouped by regulatory quality</b>	<b>Average FDI inflows (USD million)</b>	<b>Average FDI stocks (USD million)</b>	<b>Average regulatory quality</b>
Lowest 20	171	13,178	19
Middle 20	13,206	184,377	48
Top 20	38,463	944, 544	92

Note: Regulatory score was normalised from 0 to 100.

Source: World Bank World Governance Indicators Database; UNCTAD World Investment Report Tables; and APEC PSU calculations.



### 4.4.3 Build constructive stakeholder relationships

Host economy governments play an important role in shaping clear and comprehensive investment policies. Foreign firms select prospects for investments based on how their ownership-specific and internalisation advantages can match the incentives offered by the host economies (Li & Resnick, 2003). Foreign firms have been found to invest in alliance formation and collaborative arrangements (Yamin & Sinkovics, 2009) in order to reduce transaction costs and improve competitive advantage (Dunning & Narula, 2005). Alliance formation and collaborative arrangements are a means for foreign firms to obtain strategic and knowledge-based assets externally (Yamin & Sinkovics, 2009). In cognisance of these arrangements, policymakers are increasingly aware that considering business responses to regulatory changes is imperative for policy to be effective (Luo, 2002). Hence, close collaborative relationships between stakeholders can be of vital importance for the creation of a sound investment environment.

Moreover, open communication with stakeholders on investment policies serves as an avenue for the government to generate feedback from the business community. Providing a platform for investors to voice out their concerns can be viewed as a commitment to transparency. Consequently, inputs and feedback provided by investors can be helpful in developing future investment priorities and plans.

Measures to encourage building of constructive stakeholder relationships involve providing platforms for two-way communication, promoting backward investment linkages, and sharing of experiences and cooperation among economies (Box 3).

Box 3: Menu of actions and measures for Principle 5

- |   |
|---|
| <ol style="list-style-type: none"><li>1. To the extent possible, establish a mechanism to provide interested parties (including business community) with opportunity to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation.</li><li>2. Continue to share APEC member economies' experiences of successful stakeholder consultative mechanisms.</li><li>3. Promote the role of policy advocacy within Investment Promotion Agencies (IPAs) as a means of addressing the specific investment problems raised by investors including those faced by SMEs.</li><li>4. Continue to share APEC member economies' experiences of successful public private dialogue to take advantage of the information on successes and problems encountered by established investors.</li><li>5. Promote backward investment linkages between businesses, especially between foreign affiliates and local enterprises including through the promotion of industry clusters.</li><li>6. Encourage high standards of corporate governance through cooperation aimed at promoting international concepts and principles for business conduct, such as APEC's programmes on corporate governance and anti-corruption.</li><li>7. Examine and share APEC member economies' experience with responsible business conduct instruments.</li></ol> |
|---|

Responses from APEC economies show that most measures involved Action 1, which encourages providing interested parties the opportunity to comment on laws, regulations and policies. **Australia** has hosted numerous stakeholder meetings in the past year to provide an opportunity for stakeholders to give input on proposed legislative amendments. The Australian

Treasury also hosts an annual Foreign Investments Insights Day to provide a platform for consultation partners for proposed foreign investments to discuss emerging issues affecting the operation of the framework. **Malaysia** carries out roundtable meetings, public consultations, and discussions with business and industry associations when formulating regulations, policies and initiatives. Similarly, **Thailand** hosts an annual forum with 37 Foreign Chambers of Commerce to clarify and explain new investment regulations and policies.

**Peru**'s new National Policy on Competitiveness and Productivity provides a framework for dialogue and consensus among the business community, public sector, and civil society. It recently published a National Infrastructure Plan for Competitiveness consisting of 52 projects across the economy, which was the result of 163 meetings participated by diverse public entities and members of the private sector. **Chinese Taipei** has established a mechanism to provide interested parties (including business communities) the opportunity to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation. These measures improve transparency and legitimacy of regulations, and ensure wider awareness and stakeholder participation to improve enforcement of rules and minimise risk of misunderstandings.

The **Russian Federation** launched a large-scale project called Transformation of Business Climate which looks at 12 key areas including customs, corporate governance, construction and human capital through maximum engagement with the business community in the development of the reform agenda.

To improve the feedback process, **Chinese Taipei** introduced a new regulation that requires all agencies to make a formal response to draft law provisions within 10 working days after entering into the legislation process. Draft regulations should include comprehensive responses to opinions expressed by the public, and reasons as to why specific decisions and approaches were taken. Notices on draft laws and regulations are further required to be announced on the 'Public Policy Online Participation Platform' as of early 2017.

Some economies have implemented measures to ensure high standards of corporate governance (Action 6). **Indonesia**'s Corruption Eradication Commission works with the Investment Coordinating Board to provide a uniform and corruption free business environment, especially in the issuance of business permits. **Chinese Taipei** amended their Company Act to now require company operations to comply with laws and ethical norms, and fulfill their corporate social responsibilities for public interest.

**Japan**'s Corporate Governance Code and Stewardship Code were recently revised to disclose more information for the purposes of cross-shareholding, improving clarity on responsibilities for selection and removal of top executives, and succession planning (Usami, Mitchell, Hansen, Cho, & Nishimura, 2018). The Investment Promotion Agency of **Peru** promotes and implements the OECD's guidelines for international investments and multinational enterprises, by disseminating information and facilitating dialogues between international enterprises and civil society representatives to ensure mutual understanding.

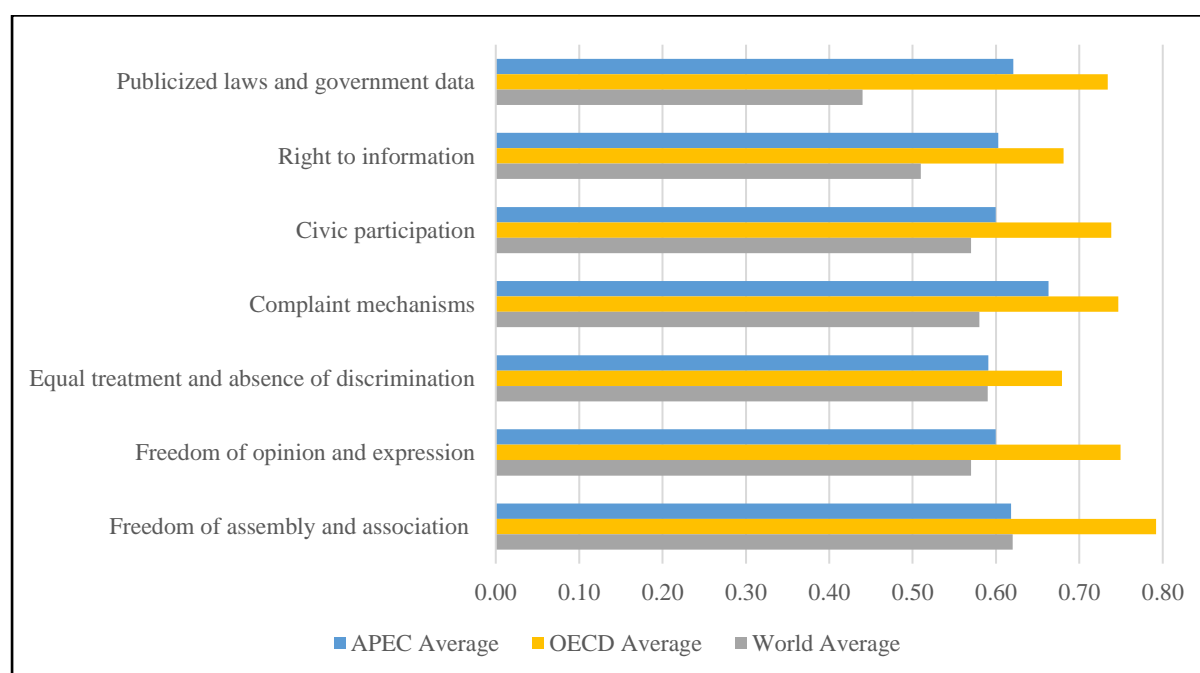
There were fewer economies working to promote backward investment linkages between businesses, especially between foreign affiliates and local enterprises (Action 5). Invest in **Canada**, a federal organisation, was established in 2018 to attract and facilitate high-impact FDI and related jobs. As part of its mandate, it is developing a cohesive FDI strategy that includes working with partners to establish an investor support network and developing quality

investment aftercare, retention and reinvestment services. The organisation also highlights five pan-Canadian superclusters as part of Canada’s value proposition for global investors. **Malaysia** conducts regular industry linkage programmes, identifies gaps in the supply chain, and targets companies to be part of the supply chain. The initiatives aim to create a complete supply chain or an industry cluster which includes foreign MNCs and domestic companies.

**Canada** and **Japan** have made efforts to promote the role of policy advocacy within Investment Promotion Agencies (IPA) as a means to address specific investment problems raised by investors including those faced by SMEs (Action 3). Global Affairs Canada’s Investment and Innovation Bureau and the Invest in Canada agency have proactively engaged with government stakeholders and investors to consult and advocate mitigation of business restrictions to improve the foreign investment climate and support SMEs. Japan External Trade Organization (JETRO) established a Personal Advisors System for Foreign Companies in 2017 which communicates company requests for regulatory and administrative reforms to the government.

There were relatively fewer efforts to share experiences of successful public-private dialogues and stakeholder consultation mechanisms among APEC economies (Action 7). **Indonesia** and **Peru** have sent representatives to participate in several related dialogues to share challenges and best practices. **Chinese Taipei** hosts annual corporate social responsibility seminars to expand awareness of international guidelines and principles.

**Figure 7. Factors to measure open communication, 2019**



Note: No available data for the following economies – Brunei Darussalam; Chinese Taipei; Papua New Guinea; Cyprus; Ireland; Latvia; Lithuania; Luxembourg; Malta; Israel; Slovak Republic; and Switzerland.

Source: World Justice Project and APEC PSU calculations.

There is a dearth of research assessing the impact of stakeholder relationships on FDIs. However, the overall climate for open communication could be assessed on the basis of provision of freedom to exercise rights. Figure 7 presents some of the factors that underscore open communication using indicators from the World Justice Project

(<https://worldjusticeproject.org/>). APEC's average scores are compared to the OECD and world average scores on each of the factors for better understanding of gaps.

Based on the assessment, APEC's performance is better than the world's average on all factors except 'equal treatment and absence of discrimination' and 'freedom of assembly and association', where both the average scores were equal. However, when compared to the OECD, APEC's performance in open communication seems lackluster. For all factors, APEC's scores were lower, most strikingly in 'freedom of assembly and association' and 'freedom of opinion and expression'. Additionally, only 43 percent of APEC economies had used social media tools to notify stakeholders of regulatory activities or to consult in 2016. The US-ATAARI (2016) report<sup>6</sup> noted that the 'use of social media has broad implications for how governments communicate and listen to stakeholders, and much more development in this area would be useful in the regulatory area'. (p.58).

While the willingness to delegate authority does not directly indicate open communication with stakeholders, it does reflect the mindset towards collaborating, engaging and consulting with others in the decision making process. Figure 8 shows APEC's scores in the aforementioned aspect, juxtaposed with the OECD and the world average scores. As reflected, APEC's average score (4.4) was higher than the world average (3.9) for 2017. However, it was marginally lower than the OECD's score (4.5). Among APEC economies, New Zealand (5.5), the United States (5.2) and Malaysia (5.2) were the top performers.

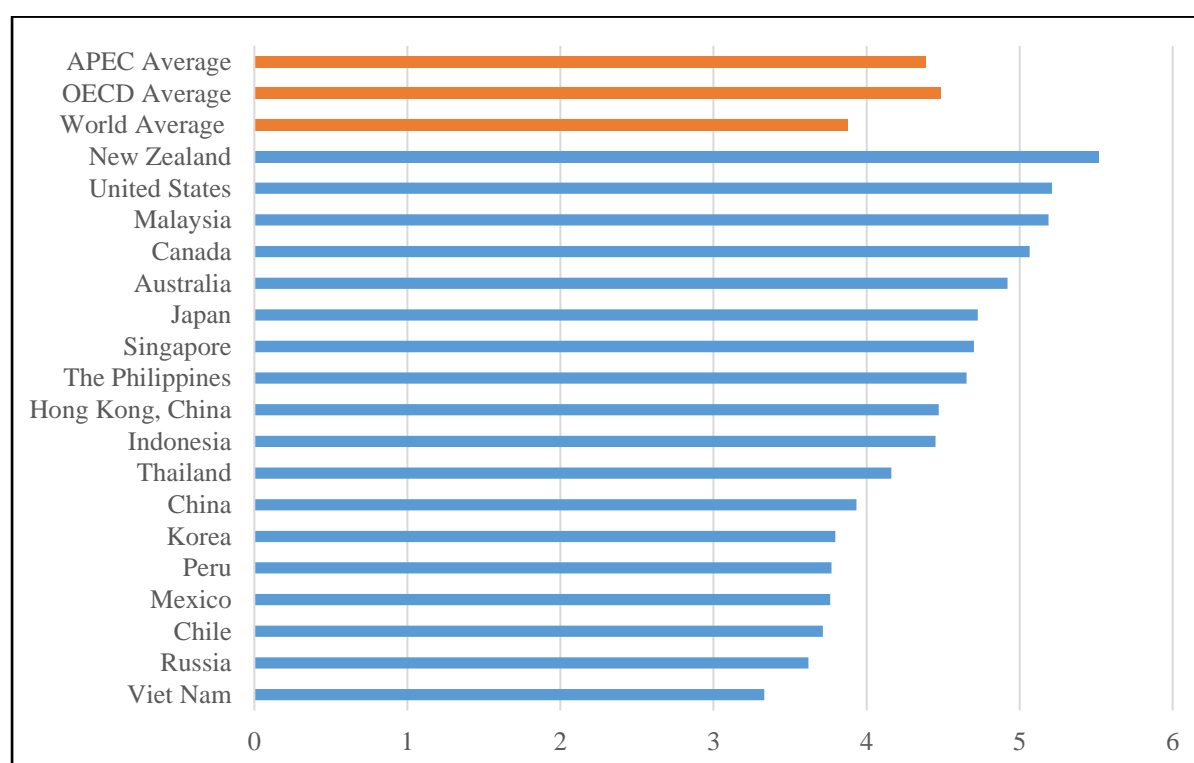
Stakeholder relationships could be harnessed through the creation of industry clusters. Firms within specialised clusters tend to become tightly intertwined through social relationships and production transactions (De Propriis, 2006). Consequently, this boosts innovation and knowledge sharing. An APEC PSU's (2017) research on 'Supporting Industry Promotion Policies in APEC'<sup>7</sup> highlighted the importance of engaging with multiple stakeholders to bring diverse perspectives to shape better and inclusive policies.

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<sup>6</sup> <https://www.apec.org/Publications/2017/08/2016-Final-Report-on-Good-Regulatory-Practices-in-APEC-Economies> [accessed 29 July 2019].

<sup>7</sup> <https://www.apec.org/Publications/2017/06/Supporting-Industry-Promotion-Policies-in-APEC---Synthesis-Report> [accessed 13 August 2019].

**Figure 8. Willingness to delegate authority (0-7), 2017**



Note: No available data for Brunei Darussalam; Chinese Taipei; and Papua New Guinea.

Source: World Economic Forum.

The importance of communication and consultation is also highlighted as a good regulatory practice in an APEC 2016 report on ‘Good Regulatory Practices in APEC Economies’<sup>8</sup>. The report presented the progress of good regulatory practices’ adoption across APEC member economies from 2011 to 2016, with some findings as follows:

- ‘Publication is required for all draft legal documents’ has increased from 8 to 12 economies. APEC governments have increasingly used publication for comment on the internet as a minimum standard for consultation as this form of consultation provides the widest access to business stakeholders and cost effectiveness. Application of this good regulatory practice continues to be weak as only 12 economies conducted such practices in 2016 (adopted by less than 60 percent of APEC economies).
- ‘Consultation requirement is a legal requirement established by law or high level decree’ has improved the frequency and certainty of consultation with 16 economies now having some legal framework for consultation (moderate progress with adoption by 60-80 percent of APEC economies).
- ‘Routine publication on the internet’ has reached the strong category with 17 economies having implemented this measure (adopted by at least 80 percent of APEC economies).

Additional assessments from the report are provided in the table below, in particular those relating to good regulatory practices in the ‘weak’ and ‘moderate’ categories.

<sup>8</sup> <https://www.apec.org/Publications/2017/08/2016-Final-Report-on-Good-Regulatory-Practices-in-APEC-Economies> [accessed 29 July 2019].

**Table 9. Public consultation and transparency mechanisms**

<b>Good Regulatory Practice (GRP)</b>	<b>% change 2011-2016</b>	<b>% of APEC economies adopting this GRP in 2011</b>	<b>% of APEC economies adopting this GRP by 2016</b>
Are draft legal documents and regulatory impact assessments (RIAs) published for comment before adoption?	50%	38%	57%
Publication is done on a central web portal rather than on individual ministry websites	75%	38%	67%
Does the government use social media tools to notify stakeholders of regulatory activities or to consult?	NA*	NA*	43%
Is feedback given to stakeholders after consultation is completed?	20%	48%	57%
Is there a single online location for regulatory information across the whole of government, such as a legal code or online registry of regulations?	NA*	NA*	62%

Source: APEC (2017), Table 1. 2016 Final Report on Good Regulatory Practices in APEC Economies.

#### **4.4.4 Good governance as a nexus of the three principles**

One particular aspect that affects all three principles is good governance. Good governance is highly relevant to principles 2 and 3 as it ensures adherence to laws and quality of contract enforcement. It can also depict the quality of policy formulation and implementation, and assess the government's ability to implement sound regulations that promote private sector development. Meanwhile, good governance is contingent to clear communications, transparency, and responsiveness to market needs – aspects which are relevant to principle 5.

Table 8 presents the average score of the APEC region based on selected indicators from the World Bank's Worldwide Governance Indicators database. The metric used are scores in the range of -2.5 to 2.5. Higher values correspond to better governance. Notable improvements were observed for APEC in the scores of the following indicators: 1) government effectiveness, 2) regulatory quality, and 3) rule of law. Scores in these indicators rose by an average of 0.13 points from 2000 to 2017.

In the same period, the 'control of corruption' scores ranged between 0.50 and 0.54 for APEC, recording a low of 0.51 in 2017. Scores for 'political stability and absence of violence' improved between 2015 and 2017, recovering from relatively unstable years in 2005 and 2010. There was however a significant drop in the 'voice and accountability' indicator between the year 2005 (0.28) and 2010 (0.19). The score dropped further in 2015 (0.17) where it remained unchanged for the next two years.

In comparison, while the OECD average scores are higher, APEC shows relatively better progress in all governance indicators except 'voice and accountability'. APEC managed to increase its scores in 'government effectiveness' and 'political stability' while the OECD's scores fell.

**Table 10. APEC and OECD averages: World Governance Indicators, 2000 - 2017**

<b>Indicator</b>		<b>2000</b>	<b>2005</b>	<b>2010</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Change (2000- 2017)</b>
Control of corruption	APEC	0.54	0.50	0.54	0.51	0.52	0.51	-0.03
	OECD	1.33	1.27	1.24	1.21	1.22	1.17	-0.15
Government effectiveness	APEC	0.70	0.68	0.79	0.85	0.84	0.83	+0.13
	OECD	1.32	1.32	1.30	1.30	1.27	1.25	-0.07
Political stability and absence of violence/terrorism	APEC	0.26	0.14	0.09	0.25	0.24	0.27	+0.01
	OECD	0.91	0.74	0.67	0.65	0.61	0.62	-0.29
Regulatory quality	APEC	0.72	0.66	0.71	0.80	0.82	0.83	+0.11
	OECD	1.23	1.26	1.26	1.28	1.29	1.30	+0.07
Rule of law	APEC	0.46	0.50	0.52	0.60	0.62	0.62	+0.15
	OECD	1.24	1.25	1.28	1.30	1.26	1.24	+0.00
Voice and accountability	APEC	0.27	0.28	0.19	0.17	0.17	0.17	-0.09
	OECD	1.15	1.23	1.14	1.12	1.09	1.10	-0.06

Source: World Bank's Worldwide Governance Indicators.

## 5 CONCLUSION

FDI inflows to and outflows from APEC mirror the declining global trends experienced between 2017 and 2018. The decline in FDI inflows into APEC however, were less severe – while the world recorded a 13 percent drop in FDI inflows from 2017 to 2018, APEC's FDI inflows grew by 1 percent during the same period. On the other hand, APEC's FDI outflows declined much more than the world, by 45 percent and 29 percent, respectively between 2017 and 2018.

The decline of FDI inflows in APEC was caused by a 13.5 percent decrease in net M&A sales. This partly occurred due to the contraction of M&A values in the United States, which accounted for 60 percent of M&A sales in APEC. However, a 49 percent growth was observed in greenfield investments in the APEC region in 2018, which helped to reduce the overall impact of reduced M&A sales. In the case of FDI outflows from APEC, the significant decline reflected the large net divestment experienced by the United States. This was attributed to the repatriation of foreign profits by multinational enterprises in the first half of 2018.

APEC economies have implemented investment facilitation actions to improve the investment climate in several key policy areas, which will complement and strengthen existing FDI determining factors. Such actions would help to stabilise FDI flows and sustainability in the long-run. This report has discussed three out of eight IFAP principles and highlighted key facilitation measures implemented by APEC member economies. Some of those measures are summarised below.

## **1. Enhance stability of investment environments, security of property and protection of investors (Principle 2)**

A stable investment environment, secure property laws and good investor protection provisions serve as safety nets and risk-reducing mechanisms for foreign investors. Bilateral investment treaties with strong dispute resolution measures play a significant role in encouraging investment.

Under this principle, APEC economies have put in place several measures to improve the establishment of dispute resolution mechanisms and their facilitation. Hong Kong, China amended an arbitration and mediation legislation to provide provisions for third party funding and is financially supporting the development of an online dispute resolution platform. Japan set up a Liaison Council for relevant ministries to strengthen international arbitration. Peru enacted a PPP law in mid-2018, which involves the development of a special procedure to provide technical and legal support to reduce time and costs involved in arbitration. Thailand introduced a Smart Visa programme to help attract foreign talent to specific sectors, including the alternative dispute resolution sector.

APEC's performance in the World Bank's Doing Business indicators linked to this principle has been mixed. While APEC scored relatively lower in resolving insolvency and enforcing contracts compared to the OECD, it surpassed the OECD's score with regard to protecting minority investors. A substantial difference was seen in APEC's average for the cost of enforcing contracts, which accounted for almost 32 percent of the cost of claim. This was much higher than the OECD average of 22 percent of the cost of claim. As for the score in protecting minority investors, the OECD performed better than APEC in 2016; however, APEC has made significant improvements in this area and reported a relatively higher score of 66.3 points in 2019 as compared to the OECD's 64.2 points.

## **2. Enhance predictability and consistency in investment-related policies (Principle 3)**

Predictability in investment policies reduces the risk of encountering unforeseen circumstances which may disrupt the business environment. Measures taken by APEC economies within this principle focus on the simplification of legislations by improving clarity and reducing inconsistency. The Australian Foreign Investment Review Board introduced streamlining measures within its agencies to simplify processes and enhance clarity of regulations. A recent Indonesian regulation aims to reform business license regulations to be quicker, cheaper and more accurate. Mexico set up a system of legal affairs for foreign investment to simplify processes by allowing fulfillment of legal procedures over the internet. Papua New Guinea conducted a legislative review on their Investment Promotion Act to help improve clarity. The Russian Federation has established an automatic tax information exchange procedure with foreign authorities, and plans to reduce regulatory burden through systematic review of all regulations and cancellation of inefficient requirements.

In addition, some economies have implemented measures to provide clear demarcation of agency responsibility and reduce scope for discriminatory behaviour. Peru's new PPP law sets out clear distinctions between the functions of the ministries involved, and creates specialised project management offices to reduce time and costs involved in coordination. Indonesia expects its integrated One Single Submission system to enable a standard interpretation of investment regulations, thus allowing for non-discriminatory bureaucratic discretion.



Consistent laws, transparency and lack of corruption are some factors that can positively impact investment relocation or expansion decisions. Using FDI and regulatory scores data, it has been shown that economies with lower regulatory scores tend to have lower FDI inflows and stocks, and vice versa.

### **3. Build constructive stakeholder relationships (Principle 5)**

Open and constructive stakeholder relationships provide a feeling of certainty among investors and an enabling investment environment. Majority of economies have established mechanisms for interested parties to comment on new laws and regulations. Australia; Malaysia; and Thailand have hosted stakeholder meetings and public consultations in the past year or do so on a yearly basis to provide an avenue for stakeholders to voice out concerns, discuss issues or clarify understanding.

Some economies have implemented measures to ensure high standards of corporate governance. Indonesia's Corruption Eradication Commission works with the Investment Coordinating Board to provide a uniform and corruption free business environment, especially in the issuance of business permits. Japan's Corporate Governance Code and Stewardship Code were recently revised to disclose more information for the purposes of cross-shareholding, improving clarity on responsibilities for selection and removal of top executives, and succession planning. The Investment Promotion Agency of Peru is promoting and implementing the OECD's guidelines for international investments and multinational enterprises, by disseminating information and facilitating dialogues between international enterprises and civil society representatives to ensure mutual understanding.

There has been some work going on to encourage backward investment linkages between businesses through promotion of industry clusters. Invest in Canada is working with partners to establish an investor support network and highlight pan-Canadian superclusters as part of Canada's value proposition for global investors. Malaysia conducts regular industry linkage programmes, identifies gaps in the supply chain, and targets companies to be part of the supply chain. These initiatives aim to create a complete supply chain or an industry cluster.

Efforts in promoting the role of policy advocacy within the investment promotion agencies have been made to address specific investment problems raised by investors including those faced by SMEs. Canadian investment agencies are proactively working with stakeholders to consult and advocate mitigation of business restrictions to improve foreign investment climate and support SMEs. Japan External Trade Organization has established a Personal Advisors System for Foreign Companies to communicate company requests for regulatory and administrative reforms to the government.

APEC's performance in open communication based on indicators from the World Justice Project is in general better than the world's average. This is true for all related factors except for 'equal treatment and absence of discrimination'. However, when compared to the OECD, APEC's performance in open communication seems lackluster. For all factors, APEC's scores were lower, thus showing there is room for improvement.

Moreover, willingness to delegate authority reflects a mindset of willing to engage others in decision making processes. Similar to the findings above, APEC's score of 4.4 in this case was higher than the world's score but remains marginally lower than the OECD's score of 4.5. In pursuing open communication as a good regulatory practice, more APEC economies had

adopted good regulatory practices related to public consultation and transparency between 2011 and 2016. Among other indicators, the number of APEC economies adopting the good regulatory practice to provide feedback to stakeholders after consultation had increased by 20 percent.

In general, there is an overlap among all three principles in the area of governance. While good governance ensures adherence to laws and quality of contract enforcement, hence contributing to principles 2 and 3, it also depends on clear communication, transparency and responsiveness to market needs, hence mirroring principle 5.

In assessing governance quality, based on the World Bank's World Governance Indicators covering 2000 to 2017, APEC made significant improvements in almost all indicators measuring the quality of governance. Improvements were seen in government effectiveness (+0.13), political stability and absence of violence (+0.01), regulatory quality (+0.11), and rule of law (+0.15). However, APEC average score fell for indicators measuring control of corruption (-0.03) and voice and accountability (-0.09). In comparison, the OECD noted improvements in only one indicator, namely, regulatory quality. However, APEC scores were on the whole lower than the OECD's. There is thus room for further improvement in this area.

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## APPENDIX A: Summary of IFAP Submissions from Member Economies

### IFAP Principle 2: Enhance stability of investment environments, security of property and protection of investment

#### Hong Kong, China

- **Action 6:** Hong Kong, China has implemented a mediation mechanism in December 2018 for investment disputes arising under the Investment Agreement signed between Government of HKC and the Ministry of Commerce of China on 28 June 2017 under the framework of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA). The available solutions include monetary compensation, restitution of property and other legitimate means of compensation. Investors can apply for enforcement of a mediation settlement agreement in accordance with the laws of the side where the investment is made. The mechanism is expected to be an efficient and effective means of dispute resolution at lower costs and in confidence, boosting investors' confidence and enhancing protection of investment. If the mediation mechanism is shown to be effective in dispute resolution, similar dispute resolution mechanism for investor-state disputes may be adopted in the future.
- **Action 6 and 8:** HKC has created the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017. This amends the Arbitration Ordinance (Cap. 609) and the Mediation Ordinance (Cap. 620) to clarify that third-party funding of arbitration and mediation is not prohibited by the common law doctrines of maintenance and champerty and provides for related measures and safeguards. The relevant provisions relating to third party funding of arbitration came into operation on 1 February 2019.

The Arbitration (Amendment) Ordinance 2017 seeks to clarify that disputes over intellectual property rights ("IPRs") are capable of resolution by arbitration, and it would not be contrary to public policy to enforce an award solely because the award involves an IPR dispute. The amendments relating to intellectual property arbitration came into operation on 1 January 2018 (except for the new section 103J which will come into operation on the day on which section 123 of the Patents (Amendment) Ordinance 2016 comes into operation).

- **Action 6:** HKC also organised international conferences for capacity building purpose. For example, the Department of Justice of HKC and the Asian Academy of International Law co-organised an Investor-State Dispute Settlement (ISDS) Reform Conference as a means to facilitate discussions amongst Asian economies on formulating reform policies. Organising international conferences and training programmes with international and local bodies could raise one's reputation and profile in the international dispute resolution arena.
- **Action 7:** The Department of Justice of HKC supports development of an online dispute resolution platform, "eBRAM" (which stands for Electronic Business Related

Arbitration and Mediation), initiated by private sector for resolution of primarily cross-border commercial and investment disputes involving Belt and Road economies and beyond. The Government of HKC proposes to provide HK\$150 million one-off funding support for development and initial operation of the eBRAM platform.

- **Other voluntary actions (Capacity building work):** In October 2018, the Department of Justice of the Government of HKC co-organized with the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank and the Asian Academy of International Law an Investment Law and Investor-State Mediator Training Course (the “Training Course”). The Training Course is the first investment law-cum-investment mediation training course in Asia. About 50 delegates comprising dispute resolution and legal practitioners, government officials and post-graduate students from 18 jurisdictions worldwide attended the Training Course. The initiative is expected to build up a team of investment mediators in Asia to handle international investment disputes.

#### Indonesia

- **Action 1:** Indonesia has issued Government Regulation No. 24/2018 on Electronically Integrated Business Licensing Services and Minister of Public Works and Public Housing Regulation No. 19/2018 on Management of Building Construction Permit and Property Use Permit through Electronically Integrated Business Licensing Services. By these regulations, Building Construction Permit and Property Use Permit processes have been developed electronically through a system called SIMBG (Building Management Information System). The integration of licensing through an online system is aimed to simplify the administration processes and enable investors to access a simpler, faster and more efficient process for their permits. The application of an online system reduces the need for forms and other complicated paper-based documents.
- **Action 6:** Indonesia also highlighted the importance of having a formal mechanism on Investor-State Dispute Settlement to provide confidence on security and protection for Foreign Direct Investment (FDI). This would encourage prospective foreign investors to do business in Indonesia by giving assurance that the government of Indonesia already has a regulation in place to ensure and enforce judicial and arbitral solutions. Economies (who do not have any Investor-State Dispute Settlement regulation) need to be aware that this type of regulation gives prospective investors a sense of security.

#### Japan

- **Action 1:** The Ministry of Justice (MOJ) established the certification system of information about statutory inheritance. The system was enforced on May 29, 2017. It also developed the guideline for private roads with unknown owners in January 2018. Meanwhile, an Act on special measures concerning use facilitation of land with unknown owners was partly enforced on November 15, 2018.
- **Action 6:** Japan signed five bilateral investment treaties with Israel, Armenia, United Arab Emirates, Jordan and Argentina between 2017 and 2018. Japan signed

Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which includes a chapter on investment. Japan has an ongoing discussion with EU on system for resolving disputes between investors and host authorities since signature of Japan-EU EPA, 2018. As of May 2018, Japan has 44 investment-related agreements in force.

- **Action 7:** The government of Japan set up the Liaison Council for relevant ministries to vitalize international arbitration in Japan in September 2017. As the result of the council, the possible policy measures towards vitalization of international arbitration were developed and publicized in April 2018. In order to be chosen as an investment destination by international companies in the midst of global location competition, “ease of doing business” such as strengthening of legal basis is very important.

#### Malaysia

- **Action 4:** Malaysia has implemented the following: 1) frequent updates on information on the investment environment; and 2) publishing of newsletter on the manufacturing, services sectors and other information. Both of the aforementioned information could be likewise found in the Malaysian Investment Development Authority (MIDA)’s website. The actions are expected to disseminate information on situational report and inform investors and public on investment information and opportunities.
- **Action 8:** MIDA established a dedicated Post-Investment & Infrastructure Support Division (Post-invest) to assist and handhold the companies until the successful implementation of their projects. Post implementation concerns are also acted upon swiftly by MIDA together with the relevant Ministries and institutions.

#### Mexico

- **Action 6, 7, and 8:** On March 8, 2018 the Decree which enacts the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was published in the Official Gazette. The expected outcomes include the following: 1) attract new investment or expand the existing ones; 2) reduce trade and investment barriers; and 3) increase trade and investment opportunities. The lesson learned is that FTAs lessen or eliminate the obstacles to open or expand business in Mexico.

#### Papua New Guinea

- **Action 6:** Papua New Guinea (PNG) deposited its instrument of accession with the United Nations Secretary-General to accede to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) on 17 July 2019. This accession is expected to improve investor confidence and FDI by addressing issues identified as limiting investments: 1) reducing the reliance on domestic courts by foreign investors and decreasing the potential for corruption; 2) supporting the enforcement of foreign court judgements; and 3) mitigating the adverse effect of a small legal market.

#### Peru

- **Action 6, 7 and 8:** In 2018, the Peruvian government enacted a new Public Private Partnership (PPP) law, through the Legislative Decree 1362 (published on July 23,



2018), and its regulation, through Supreme Decree 240-2018-EF (published on October 30, 2018), with the aim of strengthening the PPP legal and institutional framework and providing more predictability to the procedures. One of the innovations of the PPP legislation is the creation of a special procedure to provide technical and legal support to public entities in highly complex situations, thus reducing the chances of ending up in costly and lengthy arbitration cases. The following are the expected outcomes: 1) attraction of new investment or expansion of existing ones; 2) openness of FDI; and 3) reduction of investment barriers. The creation of specialized bodies to manage projects (inspired by Project Management Offices – PMO) has the aim of reducing coordination costs and time within Ministries.

### Chinese Taipei

- **Action 1:** To save time and travel cost of people shuttling from different land registration offices to apply for land registration, Chinese Taipei is implementing citizen services of cross-county/city collecting and transferring of the land registration cases, advance review services of applications for land registration made by people from remote areas, and acceptance of cross-office applications for land registration in the same cities/counties from 2015. As of April 2016, land registration offices had accepted 30 categories of cross-office registration, including sale and purchase, gift, creation of mortgage, and inheritance. As of 2018, a total of 1,694,141 cross-office registration cases had been accepted.
- **Action 2:** Chinese Taipei has ruled the registration of state-owned properties should be completed according to relevant laws and regulations. At the end of 2018, there were approximately 2.97 million parcels of state-owned lands with an area of around 2.22 million hectares. The benefits of the completion of state-owned property registration include a convenient acquisition of information on the quantity and value of the property, supporting the creation of a friendly investment environment.
- **Action 3:** Regarding transparency of real estate transaction information, the website of Real Estate Transaction Price Inquiry Service (<http://lvr.land.moi.gov.tw/>) has been created to provide transaction information on real estate sales, leasing and pre-sale housing. The data begins on August 1, 2010. As of August 1, 2019, the number of inquiries to the system had reached 2.48 million, while the number of site visitors had reached 135 million. The number of OPEN DATA downloads was 760,000. In 2018, Chinese Taipei was ranked at #26 on the Global Real Estate Transparency Index.
- **Action 4:** Regarding information transparency of public companies, a market observation post system has been set up to provide a single window for the public companies.

Effective from May 11, 2018, companies can post their non-mandatory documents on a voluntary basis for public, under the "Company Disclosure" area of the company registration query website (<http://findbiz.nat.gov.tw>), which is set up by the MOEA. Documents suitable for this include the company's articles of association, business report, public welfare report, corporate social responsibility report, balance sheet,

consolidated income statement, cash flow statement, statement of changes in equity, etc.

- **Action 8:** Chinese Taipei provided a single-window service platform that assists investors. It works together with a wide range of public and private stakeholders to provide customized services for investors. It also assists in investment dispute and complaint resolution. A 3-level administrative coordination mechanism also has been created to deal with ad hoc investment issues in order to ensure prompt and efficient implementation of investment projects. Providing investors with a single-window platform and full-service capabilities can effectively resolve investment problems and accelerate the implementation of investment cases.

#### Thailand

- **Action 7:** In February 2018, Thailand Board of Investment (BOI) has introduced a Smart Visa programme to facilitate and attract foreign experts in targeted sectors, including alternative dispute resolution. Smart Visa is applicable for highly-skilled experts (talents), investors, senior executives, start-up entrepreneurs and spouse and children of smart visa holders. Foreign experts, who would like to enter the Kingdom of Thailand in order to deliver alternative dispute resolution services issued by arbitration institution such as Thailand Arbitration Center and Thailand Arbitration Institute by which employment in Thailand is required, can apply for Smart Visa. The initiative was implemented in cognizance of Thailand's aim to be a hub for alternative dispute resolution in the region (long-term plan).

### **IFAP Principle 3: Enhance predictability and consistency in investment-related policies**

#### Australia

- **Action 1:** In 2017-18, the Foreign Investment Review Board (FIRB) agencies (which include the Treasury and the Australian Taxation Office) implemented a range of reforms announced by the Government in the previous reporting period, including a number of streamlining measures that came into effect on 1 July 2017. These streamlining measures have reduced the requirement for investors to seek multiple approvals for similar low risk transactions by:
  - allowing developers to re-sell to foreign persons 'as new' off-the-plan dwellings that failed to settle, and therefore may be considered 'established';
  - introducing an exemption certificate so that only one approval is required for individuals considering a number of residential properties with the intention to purchase only one;
  - changing fees to improve equitable fee outcomes across different categories of transactions; and
  - introducing a new business exemption certificate for interests in assets and securities to enable broad pre-approval for routine transactions.

Treasury has implemented enhanced compliance arrangements, including a framework to bring together compliance activities undertaken by FIRB agencies. As part of this

project, FIRB has undertaken compliance risk analysis work and established clearer enforcement processes. This work has guided the development of a compliance assurance program, which includes compliance audits.

### Indonesia

- **Action 1:** Indonesia, through the OSS (One Single Submission) system that is already in place, aims to reduce the discretionary interpretation of the law by regional governments. As such, all sectoral investment-related regulation shall leave just one interpretation through this system. The government of Indonesia plans to remedy this matter by issuing Presidential Regulation No. 91 Year 2017 on Acceleration of Doing Business. This regulation mandated a reform of business licenses regulations, making them simpler, faster, cheaper and more accurate. The issuance of regulations for simplification is expected to give clear guidance for investors. The consistency of regulation is a point in favour of the host economy and it can attract the interest of prospective investors who are interested in less hassle and bureaucracy of applying for a permit.
- **Action 3:** Indonesia, by creating the integrated system through the OSS, is expecting to create a standard interpretation on investment-related regulation. Additionally, BPKM has also established a directorate which has a function on observing the progress of investment commitments to investment realisations. The Directorate of Deregulation, which has the function to issue Letter of Intent in order to settle vacuum of law and multi interpretation issues, was also established. The certainty arising from this initiative should provide a big incentive for investors.

### Malaysia

- **Action 2:** It was noted that all domestic, legislation, guidelines and information related to investment are available to all investors in MIDA's website. This is expected to provide equal treatment to all investors.
- **Action 5:** Criteria and guidelines on investment are available in MIDA's website. Information on investing in Malaysia as well as write-ups on the investment environment in the economy is also updated frequently. This intends to keep investors abreast on rules, regulations and industrial policy.

### Mexico

- **Action 1 and 3:** On March 27, 2017 the Decree which sets-up the System of Legal Affairs for Foreign Investment (SAJIE, in Spanish) was published in the Official Gazette. This Decree allows foreign investors to carry out legal procedures stated in the Mexican Foreign Investment Law through the website <https://sajie.economia.gob.mx>. The following are the expected outcomes: 1) increase the number of legal procedures carried out through an electronic system, 24 hours a day, 7 days a week, by only using an electronic signature, which will have the same legal effect as a handwritten signature of the issuer; 2) reduce the response time in the submission and resolution of procedures; and 3) users can browse anytime the electronic file of each procedure submitted and monitor its progress.

- **Action 1 and 3:** On June 26, 2017 the Decree which adds the subparagraph y) in section III of article 7, and repeals section II of article 7 of the Foreign Investment Law was published in the Official Gazette. The expected outcomes are the following: 1) increase FDI participation from 25% up to 49% in scheduled and nonscheduled domestic air transportation service, nonscheduled international air transportation service in air taxi modality, and specialized air transportation service; 2) bring benefits for the customers, the airlines, and economic growth for the economy; and 3) allow airlines to operate fully on commercial basis, allowing them to efficiently allocate their capital to respond to market changes in demand and to improve productivity.
- **Action 4:** On June 7, 2018 the “Handbook of Procedures for Investing in Mexico” was published in the website of the General Directorate of Foreign Investment. This document facilitates the establishment of investments in the economy and is available at [https://www.gob.mx/cms/uploads/attachment/file/375172/Investors\\_Manual\\_2018.pdf](https://www.gob.mx/cms/uploads/attachment/file/375172/Investors_Manual_2018.pdf). The initiative intends to provide clear and timely information on the regulatory regime applicable to foreign investments and, specifically, on the procedures and formalities that must be fulfilled to perform economic activities in Mexico.

#### Papua New Guinea

- **Action 2:** PNG Investment Promotion Authority has conducted a legislative review on the PNG investment promotion act 1992 in March to April 2019. The review was noted as completed and submitted for Parliament endorsement and to be in force by end of 2019. In the PNG investment promotion act review being undertaken currently, the following key changes are being pursued: 1) minimum investment for business/investor resident visas; 2) reserved activities for PNG citizens; 3) promotion of local-foreign partnerships; 4) grandfathering existing businesses; 5) improved compliance and enforcement systems. For this initiative, the expected outcomes are: 1) to make it easier for responsible foreign investment while addressing some shortcomings in the system that were being exploited by a small number of foreign investors; 2) better protect MSMEs from competition in business activities that tend to be smaller-scale, onshore and where PNG citizens have already demonstrated capability.

#### Peru

- **Action 1 and 4:** In 2018, the Peruvian government enacted a new Public Private Partnership (PPP) law, through the Legislative Decree 1362 (published on July 23, 2018), and its regulation, through Supreme Decree 240-2018-EF (published on October 30, 2018), with the aim of strengthening the PPP legal and institutional framework and providing more predictability to the procedures. The following are the expected outcomes: 1) attraction of new investment or expansion of existing ones; 2) openness of FDI; and 3) reduction of investment barriers.

#### Russian Federation

- **Action 1:** In order to simplify the regulatory framework and reduce the regulatory burden, it is planned to launch the mechanism of "regulatory guillotine", which will allow for a systematic review of all regulations, and cancel the mandatory requirements

and inspections imposed on business entities for those control and supervision activities that have not been able to confirm their effectiveness.

- **Action 1 and 3:** In order to create a mechanism to prevent the use of low-tax jurisdictions to obtain an unjustified tax benefit, the Russian tax legislation introduced the institute of taxation of controlled foreign companies (CFC). The tax authorities are also provided with the opportunity to transmit and receive information on the income of beneficiaries and persons controlling them to the competent authorities of foreign economies, with whom an automatic exchange of financial information is established for further use in tax control measures. The procedure for the exchange of such financial information is defined by Resolution of the Government of the Russian Federation No. 428 of April 9, 2018.

#### Chinese Taipei

- **Action 1:** Chinese Taipei periodically simplifies laws and regulations and enhances clarity. Take investment-related regulation for example, Chinese Taipei is conducting the draft amendment to “Statue for Investment by Foreign Nationals” with an aim of simplifying executive procedure and identifying standards and executive processing time.
- **Action 3:** In interpreting investment-related regulations, Chinese Taipei publicly announced required documents and relevant reviewing procedures to reduce discriminatory bureaucratic discretion.
- **Action 4:** Chinese Taipei has a one-stop window for reviewing FDI projects, which is Investment Commission, MOEA, and also has maintained clear demarcation of agency responsibilities for each industry items. Therefore, a decision-making process of foreign investment application fully includes the opinions of competent authorities, such as Financial Supervisory Commission if foreigners plan to invest in financial services industry.
- **Action 5:** Chinese Taipei holds 5-10 seminars north to south every year to elaborate on its assessment mechanism for investment proposals, including clear definitions of screening criteria.

### **IFAP Principle 5: Build constructive stakeholder relationships**

#### Australia

- **Action 1:** Treasury released a redesigned Foreign Investment Review Board (FIRB) application portal for non-residential applications. This went live on 2 July 2018. The redesigned process involved significant input from stakeholders during the design and testing phases.

Treasury enhanced its public and stakeholder engagement by holding more than 400 stakeholder meetings in 2017-18. These meetings facilitated dialogue on the

framework, and gave FIRB agencies (The Treasury and Australian Tax Office) the opportunity to seek stakeholders' input on proposed legislative amendments and the redesign of the FIRB Application Portal (Portal).

On 10 April 2018, Treasury hosted a Foreign Investments Insights Day at which consultation partners for proposed foreign investments discussed emerging issues affecting the framework and opportunities to improve the administration and operation of the framework. This event has become an annual occurrence.

### Canada

- **Action 3:** Global Affairs Canada's Investment and Innovation Bureau and the Invest in Canada Agency proactively engaged with government stakeholders and investors to consult and advocate to mitigate business restrictions and challenges and to improve Canada's foreign investment climate. The government aims to also ensure investment policy decisions take into account the needs of SMEs through this action.
- **Action 5:** Invest in Canada was launched in 2018 to increase Canada's ability to attract and facilitate high-impact foreign direct investment and the jobs that come with it. In addition, in 2017 and 2018, Global Affairs Canada created 20 new fully dedicated investment officer positions in Canada's missions abroad to enhance service to foreign investors.

As part of its mandate, Invest in Canada is developing a cohesive foreign direct investment strategy that aligns with the economy's overall economic growth strategy that includes working with partners to establish an investor support network and developing world-class investment aftercare, retention and reinvestment services.

The organization works with all levels of government to promote Canada as a premier investment destination and accelerate global investment into Canada, offering tailored and confidential services that make it easier for global companies to choose Canada for their next business expansion. Together with Global Affairs Canada's Investment and Innovation Bureau, Invest in Canada has consulted with local government stakeholders and the private sector to identify key industry sectors for investment attraction. It also highlights the five pan-Canadian superclusters as part of Canada's value proposition for global investors.

### Indonesia

- **Action 6:** Indonesia, through KPK (Indonesia's Corruption Eradication Commission), promotes anti-corruption principles for business-conduct. To create uniformity in the provision of public service in the issuance of business permits, related ministries (in this case BKPM with its investment permits) have worked alongside KPK as their strategic partner to ensure the highest standard of conduct. The inclusion of KPK as the inspector in central government business permit processes is expected to make regional governments to become more eager and receptive towards implementing this 'corruption watch' system. As corruption has always been an issue in business processes, reducing that risk and ensuring a transparent and clean business process will raise investors' goodwill and also their willingness to invest.

- **Action 7:** Indonesia has sent their representatives to APEC workshops and have learnt a lot from the discussion and the experiences shared by member economies' representatives in the workshops. Such practice is expected to build learning on practical processes and good practices that member economies can conduct. APEC member economies could learn from the experience and maybe one day there can be one functional guideline in business conduct at the fundamental (at least) and member-economy (tailor-made) specific level.

#### Japan

- **Action 3:** In FY 2017, JETRO established the Personal Advisors System for Foreign Companies. JETRO communicates company needs to the government in response to requests from foreign and foreign-affiliated companies for regulatory and administrative reforms. In order to be chosen as an investment destination by international companies in the midst of global location competition, "ease of doing business" such as enhancement of Public Private Partnership is key.
- **Action 4:** The Future Investment Council has been held since 2016 with the participation of relevant ministers and private sector in order to promote active investments for fields which contribute to future growth.
- **Action 6:** Japan's Stewardship Code was revised in May 2017 and Japan's Corporate Governance Code was revised in June 2018.

#### Malaysia

- **Action 1:** The Government of Malaysia constantly involves the business sector in the formulation of regulation and policies initiatives/measures through public consultancy, round table meeting, discussion with business associations/chambers and industries associations. The aim is to create a win-win situation for all parties (government and investors).
- **Action 5:** Malaysia promotes industry linkages between foreign MNCs and domestic companies to create supply chain. Moreover, it conducts regular industry linkages programmes and identifies gaps in the supply chain and targeted companies to be part of the supply chain. The initiatives aim to create a complete supply chain or an industry cluster which includes foreign MNCs and domestic companies.

#### Papua New Guinea

- **Action 1:** A regional stakeholders' consultation workshop was undertaken gauging public stakeholder's comments/inputs on proposed changes in the PNG investment promotion act review of 2019. PNG's Investment Promotion Authority (IPA) also utilises its website and newsletters in providing stakeholder's access to information and updates on the legislative review. The initiatives aim to do the following: 1) improve transparency and legitimacy of the regulation; 2) ensure wider stakeholder's awareness and participation to improve poor compliance and enforcement of rules; and 3) minimize barriers to investment caused by misunderstanding of regulatory procedures.

- **Action 3:** The Investment Promotion Authority is progressing a comprehensive investment policy reform agenda based on continuing expert technical advice. PNG needs a concise government investment policy that addresses key investment issues, and also signals how welcoming the government is to doing business or investing in PNG.

## Peru

- **Action 1:** Through Supreme Decree No. 345-2018-EF, published in December 2018, the Government of Peru approved the National Policy on Competitiveness and Productivity, which will be in force until the year 2030. The Ministry of Economy and Finance of Peru through the National Council of Competitiveness and Formalization conducts the economy-wide policy of competitiveness and productivity.

The National Policy on Competitiveness and Productivity establishes 9 priority objectives. The Objective is aimed at generating conditions to develop a productive business environment. In the context of this policy, during 2019, the National Competitiveness and Productivity Plan will be preparing within the framework of a process of dialogue and consensus among the public sector, business community, international cooperation and civil society.

In addition, through Supreme Decree No. 238-2019-EF, published in July 2019, the Government of Peru approved the National Infrastructure Plan for Competitiveness, which includes 52 projects across the economy, with an investment worth nearly S/100 billion (around US\$29.41 billion). This plan was the result of 163 meetings, in which diverse public entities and members of the private sector participated.

- **Action 2:** Peru's representatives have participated in APEC public-private dialogues such as: APEC Public-Private Dialogue on Green Investment Policy, held in Viet Nam on 27 July 2018 (CTI-15-2017) and the Public Private Dialogue held during session 3 of APEC Tokyo Conference on Quality Infrastructure (CTI 02 2018T). APEC Public-Private Dialogue on Green Investment Policy included discussions on the current state-of-play, opportunities and challenges on green investment policies. In addition, speakers presented case studies with good practices on green investment policies in APEC member economies.
- **Action 6:** Peru has adhered to OECD Declaration on International Investments and Multinational Enterprises since 2008, when it became a participant to the OECD Investment Committee. In this context, the Investment Promotion Agency of Peru is the National Contact Point (NCP) responsible to promoting and implementing the OECD Guidelines for Multinational Enterprises. The activities that the NCP carries out with stakeholders to encourage the compliance with the OECD Guidelines, include the following: 1) disseminates and promotes the OECD Guidelines for Multinational enterprises and 2) facilitates dialogue between multinational companies and various civil society representatives promoting mutual understanding. Promoting business conduct through the recommendations from APEC and OECD can help improve the investment climate in several APEC developing economies.



## Russian Federation

- **Action 1:** In 2018, Russia launched a new large-scale project: ‘Transformation of Business Climate’. It is a continuation of the roadmaps of the Domestic Entrepreneurship Initiative to be implemented until 2024 covering the following issues: maximum engagement with the business community in the development of the reform agenda; and monitoring and evaluation of the implementation of reform by the business community – among others. The project includes 12 key components of business climate (customs, corporate governance, construction, human capital, inspections, etc.) and involves more than 140 activities. Routine updates are provided every six months as a practical mechanism of rapid response of the federal authorities to business community demands for elimination of regulatory constraints.

## Chinese Taipei

- **Action 1:** In order to implement an open government and integrate with international norms, Chinese Taipei over recent years has been committed to strengthening the transparency of laws and public consultation procedures. Relevant efforts include the following:
  - 1) In 2015, the “Public Policy Online Participation Platform” was established to facilitate public consultation with the government before policies and regulations are formed.
  - 2) A regulation issued in October 2016 requires that all draft laws and regulations requiring involvement of more than one agency must have a public review period of at least 60 days, and beginning in 2017 it was required that this announcement include a posting on the “Public Policy Online Participation Platform”.
  - 3) A new regulation that took effect in August 2018 requires that all agencies make a formal response to draft law provisions within 10 working days after entering into legislation process. Draft regulations should include comprehensive responses to opinions expressed by the public, and reasons provided as to why specific decisions and approaches were taken.

Notices on draft laws and regulations have been announced on the “Public Policy Online Participation Platform” since January 1, 2107. From that time through August 5, 2019, a total of 121 draft laws and regulations have been posted on this platform. These postings have subsequently generated a total of 3,052 open discussions.

Chinese Taipei has established a mechanism to provide interested parties (including business communities) with opportunities to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation.

- **Action 2:** Many entities play important roles in the investment promotion efforts of Chinese Taipei, including its overseas offices, industry associations, foreign chambers of commerce in Chinese Taipei, intermediation service providers (such as banks, lawyers' associations, accounting associations, and investment consultants), local departments of land administration, local governments, and Chinese Taipei's power and water companies. Depending on the specific nature of each investment case, Chinese

Taipei invites relevant entities involved to work collaboratively to assist investing companies in resolving investment obstacles.

- **Action 6:** In 2018, Chinese Taipei added a second paragraph to Article 1 of its Company Act, requiring company operations to comply with laws and ethical norms, and introducing the concept that companies should fulfill their corporate social responsibilities (CSR) for the public interest.

Chinese Taipei's authority of ethics every year organizes 2-3 seminars on themes of promoting corporate integrity, legal compliance, and business ethics. It also conducts special project research, and uses the international standard ISO37001 anti-bribery management system as a base for sharing feasible strategies and specific measures for corporate anti-corruption efforts.

- **Action 7:** In order to promote sustainable investment and strengthen energy security, Chinese Taipei has promoted green energy infrastructure and water resource enhancement since 2016, attracting large-scale domestic and foreign investment.

In addition, in order to promote CSR efforts and achieve sustainable development, the Department of Investment Services of the MOEA holds annual CSR seminars to expand awareness of international guidelines and principles, such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

Since 2018, Chinese Taipei NGOs, such as its Institute for Sustainable Energy, jointly with cross-disciplinary stakeholders such as corporations, government agencies, academic institutions and non-governmental organizations, have held annual Global Corporate Sustainability Forum (GCSF). In 2018, about 100 international guests and 1,500 citizens participated to share CSR implementing experiences. The attendees included experts and scholars from the United Kingdom, the United States, Australia, Sweden, Japan, Thailand, Indonesia, the Philippines, Laos, and Hong Kong, China.

#### Thailand

- **Action 1:** Thailand Board of Investment convenes a meeting with 37 Foreign Chambers of Commerce in Thailand annually. This serves as a forum to explain and clarify new investment laws, regulations and policies for a better understanding. It is also a forum to receive feedback and comments from foreign companies operating in Thailand in order to assess the economy's investment policies as well as to explore new ways to facilitate foreign investors effectively. Views and direct experiences from foreign companies are valuable inputs for the Investment Promotion Agency.

## APPENDIX B: FDI Quantitative Analysis Using Gravity Model

The gravity model is one of the most used quantitative models to analyse global trade. It has a long history originating from papers developed by Tinbergen (1962), Anderson (1979) and Anderson and van Wincoop (2003), among others. The dependent variable of the model usually involves some form of (bilateral) trade values, while the explanatory variables include factors such as the size of the economy (gross domestic product), distance, cultural affinities and population. The basic idea of the gravity model is analogous with Newton's law of gravity whereby cross-border trade flows are proportional to the size of the economies and inversely proportional to the distance. In this section, we explore the application of this model to investment flows in order to better understand the factors contributing towards FDI flows between economies. The estimations and calculations provided in this appendix are preliminary.

The first model specification uses data from Pédussel Wu, et al. (2017) and is detailed in Table 11.

**Table 11: Data and Model 1 specification**

	<b>Variable</b>	<b>Definition</b>
	<u>Dependent variable</u>	
<b>1</b>	FDI inflows	Gross bilateral FDI inflows based on OECD FDI database. OECD reports FDI from the perspective of member economies.
	<u>Independent variables</u>	
<b>2</b>	com_lang_ethno	Coded as a dummy variable where 1 indicates the presence of a language spoken by at least 9% of the population in both economies.
<b>3</b>	ln_gdp 1	Log of the economy 1's GDP in millions of constant 2000 dollars, World Development Indicators.
<b>4</b>	ln_gdp2	Log of economy 2's GDP in millions of constant 2000 dollars, World Development Indicators.
<b>5</b>	ln_dist	Log of the population weighted distance (pop-wt, km).
<b>6</b>	comcur	Coded as a dummy variable where 1 indicates the presence of a common currency.
<b>7</b>	ec	Coded as a dummy variable where 1 indicates both economies are part of the European Commission/European Union.
<b>8</b>	rta	Coded as a dummy variable where 1 indicates that both economies have a regional trade agreement of any kind.
<b>9</b>	fta	Coded as a dummy variable where 1 indicates if both economies have a free trade agreement.

For the regression analysis, fixed effect estimation is considered to be more appropriate for panel data as compared to OLS (Ordinary Least Squares) estimation. Despite its advantages, there are several drawbacks to the use of the fixed effect estimation including the need to drop variables that are collinear with fixed effects.

Using data from Pédussel Wu, et al. (2017), the estimated regression coefficients for the GDPs of both origin and destination economies have been positive and significant across all variations of the equation ranging from 0.56% to 1.43% (Table 12). The high positive coefficient estimates indicate that FDI flows and the size of economies involved are positively correlated,

wherein large economies often enjoy high bilateral FDI flows. Additionally, the coefficients estimated are mostly consistent with those of other papers that have predicted values between 0.7 and 1.1 (Folfas, P., 2011).

In terms of geographical factors, a 1% increase in distance between bilateral economy pairs is estimated to reduce FDI inflows by between 0.59% and 0.84%. All three regressions find a strong positive and significant relationship between having a common currency and FDI inflows (at the 1% level). The same is found to be true for common language.

The presence of the European Union has a positive and significant impact on FDI trade flows among EU members given that capital is able to move freely with limited barriers. The presence of a Free Trade Agreement (FTA) between economies is also estimated to have a positive and significant impact on FDI flows. However, Regional Trade Agreement's (RTAs) are shown to have a negative impact. This is likely due to the complement and substitution effect between trade and FDI: horizontal FDI and (final) goods trade are substitutes while intermediate goods trade are complements to vertical FDI<sup>9</sup>.

**Table 12: Determinants of FDI inflows (Model 1)**

VARIABLES	(1)	(2) <sup>a</sup>	(3) <sup>b</sup>
comlang_ethno	1.336*** (0.0507)	0.808*** (0.0548)	1.382*** (0.0505)
ln_gdp1	0.556*** (0.0139)	1.430*** (0.0693)	0.567*** (0.0139)
ln_gdp2	0.781*** (0.0102)	1.270*** (0.0604)	0.800*** (0.0102)
ln_dist	-0.587*** (0.0274)	-0.843*** (0.0296)	-0.627*** (0.0274)
comcur	1.285*** (0.0851)	0.529*** (0.0693)	1.141*** (0.0866)
ec	2.653*** (0.107)	0.317*** (0.111)	2.680*** (0.107)
rta	-1.692*** (0.0947)	-0.203** (0.0951)	-1.818*** (0.0951)
fta	1.982*** (0.102)	0.212** (0.106)	2.035*** (0.102)
Constant	-9.328*** (0.313)	-26.02*** (0.876)	-9.962*** (0.327)
Observations	16,512	16,512	16,512
R-squared	0.435	0.687	0.441

Standard errors in parentheses

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

<sup>a</sup> Origin and destination are used as a fixed effect in this regression

<sup>b</sup> Year are used as fixed effects in this regression

Note: (1): OLS; (2) and (3): OLS with Fixed Effect. To correct for heteroscedasticity we use the 'robust' OLS option in Stata in order to get the robust standards errors.

The second model specification is as detailed below in table 13 using data from Pédussel Wu, et al. (2017) and Chaisse and Bellak (2011).

<sup>9</sup> The Influence of Free Trade Agreement on Foreign Direct Investment: Comparison with non-FTA countries by Jongchol Moon, available at <https://pdfs.semanticscholar.org/848b/124b807124ccc6cb5c4b71bead9e5b27cbb1.pdf>

**Table 13: Data and Model 2 specification**

	<b>Variable</b>	<b>Definition</b>
	<u>Dependent variable</u>	
<b>1</b>	FDI inflows	FDI inflows based on OECD FDI database. OECD reports FDI from the perspective of member economies.
	<u>Independent variables</u>	
<b>2</b>	com_lang_ethno	Coded as a dummy variable where 1 indicates the presence of a language spoken by at least 9% of the population in both economies.
<b>3</b>	ln_gdp 1	Log of the economy 1's GDP in millions of constant 2000 dollars, World Development Indicators.
<b>4</b>	ln_gdp2	Log of economy 2's GDP in millions of constant 2000 dollars, World Development Indicators.
<b>5</b>	ln_dist	Log of the population weighted distance (pop-wt, km).
<b>6</b>	ISDS	Coded as a dummy where 1 indicates that the BIT between both economies has Investor-State Dispute Mechanism included.
<b>7</b>	NT	Coded as a dummy where 1 indicates that the BIT between both economies has National Treatment included.
<b>8</b>	FET	Coded as a dummy where 1 indicates that the BIT between both economies has Fair and Equitable Treatment included.
<b>9</b>	exprop	Coded as a dummy where 1 indicates that the BIT between both economies has expropriation and indirect expropriation included.

Data source and definition: 1, 2, 3, 4, 5: Pédussel Wu, et al. (2017). 6, 7, 8, 9: Chaisse and Bellak (2011).

The estimation results provided in Table 14 use the International Investment Agreement (IIA) database constructed by Chaisse and Bellak (2011) in combination with the FDI database from Pédussel Wu, et al. (2017). While the first model in this section uses a global dataset including economies with and without RTAs or FTAs, the second model estimates the gravity model between economies that have investment treaties in place as collected by Chaisse and Bellak (2011). The estimation for model 2 includes dummy variables for certain 'standard' IIA clauses: (i) Direct and indirect expropriation; (ii) Fair and Equitable Treatment (FET); (iii) Investor-State Dispute Settlement (ISDS).

The coefficients of the common gravity variables evaluated follow similar trends to the findings in Table 12. In the case of IIA clause variables, it is found that the inclusion of a FET clause has a positive and significant (at the 1% level) impact on FDI inflows. While the inclusion of ISDS, national treatment (NT) and expropriation clauses are estimated to have a negative impact on FDI inflows (except for expropriation variable under regression 2). Other (signaling) factors might be at play; often the inclusion of these clauses may indicate that the host economies have unfavorable investment environments, such as weak legal and judiciary system. In addition to improving the investment environment, some clauses may also serve as complements rather than substitutes to the legal system and institutions in place (Tobin, J., & Rose-Ackerman, S., 2010). As such, the results may be simply showing that the inclusion of these clauses do not sufficiently compensate for an unfavorable investment environment.

**Table 14: Impact of BIT clauses on FDI inflows (Model 2)**

VARIABLES	(1)	(2) <sup>a</sup>	(3) <sup>b</sup>
comlang_ethno	1.619*** (0.0985)	0.870*** (0.121)	1.646*** (0.0994)
ln_gdp1	0.371*** (0.0274)	1.095*** (0.0971)	0.368*** (0.0278)
ln_gdp2	0.740*** (0.0207)	1.211*** (0.0863)	0.739*** (0.0210)
ln_dist	-0.397*** (0.0394)	-1.026*** (0.0491)	-0.398*** (0.0396)
ec	1.116*** (0.119)	0.443*** (0.113)	1.038*** (0.126)
ISDS	-0.173** (0.0718)	-0.0299 (0.0691)	-0.185** (0.0721)
NT	-0.760*** (0.0675)	-0.238*** (0.0797)	-0.761*** (0.0676)
FET	0.758*** (0.137)	0.323*** (0.110)	0.740*** (0.136)
exprop	-0.486** (0.216)	0.346* (0.197)	-0.477** (0.218)
Constant	-8.097*** (0.552)	-19.15*** (1.457)	-8.334*** (0.600)
Observations	4,931	4,931	4,931
R-squared	0.300	0.650	0.305

Standard errors in parentheses

\*\*\* p&lt;0.01, \*\* p&lt;0.05, \* p&lt;0.1

<sup>a</sup> Origin and destination are used as a fixed effect in this regression<sup>b</sup> Year are used as fixed effects in this regression

Note: (1): OLS; (2) and (3): OLS with Fixed Effect. To correct for heteroscedasticity we use the 'robust' OLS option in Stata in order to get the robust standards errors.

## APPENDIX C: International Investment Agreements with Explicit Provisions on Investment Facilitation

Treaty	Improving investment climate	Removal of bureaucratic impediments	Facilitation of investment permits	Facilitation of permits for entry and sojourn of personnel	Transparency	Capacity building on investment issues	Treaty body with investment facilitation tasks	Pre-establishment investor servicing	Post-establishment investor facilitation	Relations with investors and private sector	Joint cooperation on investment facilitation
China-Hong Kong CEPA (2003)											
China-Macao Partnership Agreement (2003)											
BIMSTEC Framework Agreement (2004)											
Japan-Malaysia EPA (2005)											
Indonesia-Japan EPA (2007)											
Canada-Peru FTA (2008)											
ASEAN Comprehensive Investment Agreement (2009)											
ASEAN-China Investment Agreement (2009)											
Malaysia-New Zealand FTA (2009)											
India-Japan EPA (2011)											
China-Japan-Republic of Korea Trilateral Investment Agreement (2012)											
Australia-Malaysia FTA (2012)											
Cross-Strait Bilateral Investment Protection and Promotion Agreement (2012)											

<b>Treaty</b>	Improving investment climate	Removal of bureaucratic impediments	Facilitation of investment permits	Facilitation of permits for entry and sojourn of personnel	Transparency	Capacity building on investment issues	Treaty body with investment facilitation tasks	Pre-establishment investor servicing	Post-establishment investor facilitation	Relations with investors and private sector	Joint cooperation on investment facilitation
Canada-China BIT (2012)											
ASEAN-India Investment Agreement (2014)											
Brazil-Mexico BIT (2015)											
China-Hong Kong CEPA Investment Agreement (2017)											
	7	5	3	5	12	2	5	4	3	4	6

Note: 'Yellow'= hard commitment; 'red' = soft commitment; 'green' = cooperation.

Source: Lazo (2018), Annex 1.