

**REPORT**  
**of the Eurasian Economic Commission “On the State of the  
Business and Investment Climate in the Member States of  
the Eurasian Economic Union”**

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## LIST OF ABBREVIATIONS

Supreme Council, SEEC	–	Supreme Eurasian Economic Council
Member States	–	Member States of the Eurasian Economic Union
Treaty on the Union	–	Treaty on the Eurasian Economic Union dated May 29, 2014
Commission, EEC	–	Eurasian Economic Commission
competent authority (authorized authority)	–	any authority or organization exercising control, authorization or other regulatory functions with respect to matters covered by Annex 16 to the Treaty on the Union under the powers delegated by the Member State
FDI		foreign direct investment

## Introduction

The Report on the State of the Business and Investment Climate in the Member States of the Eurasian Economic Union (hereinafter the “Report”) has been prepared for the purposes of implementing paragraph 1.7.1 of the Action Plan for Implementing the Strategic Directions for Developing the Eurasian Economic Integration until 2025 approved by Disposition No. 4 of the Eurasian Economic Commission's Council dated April 5, 2021.

The subject matter of the Report is the analysis and identification of the best (subject to subparagraph 1 of paragraph 2 of Article 67 of the Treaty on the Eurasian Economic Union (hereinafter, the “EAEU” and the “Union”, respectively) and paragraphs 61 and 62 of Annex 16 to

the Treaty on the EAEU) international and national practices on creating the most favorable conditions for establishing and doing business in order to further (including through the adoption of recommendations) improve the business and investment climate, including based on the international ranking of accessibility and ease of doing business.

For the timely preparation of the Report, the Commission’s Business Development Department sent to the governments of the EAEU Member States requests for information (Letters No. BR-2470/10 dated September 28, 2021; No. BS-1988/10 dated July 28, 2022) on the state of the business and investment climate, the conditions for establishing and doing business, and the investor support tools used in the EAEU Member States.

Proposals for inclusion in the Report were received from the Ministry of Economy of the Republic of Armenia (No. 09.14.1/15776-2021 dated October 26, 2021; No. 09.14.5/14743-2022 dated September 14, 2022), the Ministry of Economy of the Republic of Belarus (No. 19-02-11/7645 dated August 19, 2022), the Ministry of National Economy of the Republic of Kazakhstan (No. 18025 dated September 26, 2022), the Ministry of

Economy and Commerce of the Kyrgyz Republic (No. 17048 dated September 12, 2022), the Ministry of Economic Development of the Russian Federation (No. 15719 dated August 22, 2022).

The Report consists of four chapters.

The first chapter “Investment and Business Climate: Definitions and Main Characteristics” provides definitions of investment, as well as the investment and business climate.

The second chapter “State of the Business and Investment Climate in the EAEU Member States” analyzes the current state of the business and investment climate in the Union countries.

In accordance with the instruction of the high-level working group on the creation of conditions for increasing internal sustainability of the economies of the EAEU Member States, including macroeconomic stability, the second chapter of the Report reflects the results of analyzing the investor support tools in the EAEU Member States (institutional mechanisms that ensure the interaction of investors of the EAEU Member States with the government authorities of the EAEU Member States and/or organizations supporting investors of the EAEU Member States through providing information and organizational support to investors of the EAEU Member States in the implementation of investment projects).

The third chapter “International Rankings Reflecting the State of the Business and Investment Climate in Countries” analyzes international rankings (World Competitiveness Ranking, Global Innovation Index, Index of Economic Freedom) with the aim to determine states having the best practices in forming the investment and business climate.

The fourth chapter “International Experience in Improving the Investment Climate” outlines the experience of some states of BRICS, the Association of Southeast Asian Nations (ASEAN) and the EU, as well as Japan in terms of implementation of investment policies and attraction of foreign direct investment by these countries.

The draft Report was discussed and agreed upon at meetings with the participation of the authorized authorities and business associations of the EAEU Member States.

The Report is intended for the businesses of the sides, as well as the potential investors and authorized authorities of the EAEU Member States, including for making investment decisions and solving the problems of sophisticating legislation to improve the business and investment climate in the EAEU Member States.

## Chapter 1. Investment and Business Climate: Definitions and Main Characteristics

### 1.1 Essence of investment

Attracting investments is the most important factor in the steady economic growth of the Eurasian Economic Union Member States and the improvement of their competitiveness.

Further intensification of investment processes within the Union will contribute to implementing joint import-substituting industries, diversifying the economic development of the EAEU Member States, raising the level of their technological sovereignty and enhancing industrial growth.

The promotion of mutual investment is included in the List of Measures to Ensure the Union Countries' Economic Stability approved by Disposition No. 12 of the Commission's Council dated March 17.

Investment represents capital investment in various projects, properties, securities and other items.

The essence of investment lies in the creation of additional value from the invested capital for the investor or other stakeholders. The created additional value can be measured both by economic indicators and other non-economic indicators.

Issues related to attracting investments are addressed in Section XV of the Treaty on the EAEU and Annex 16 to the Treaty on the EAEU.

In accordance with Annex 16 to the Treaty on the EAEU, “**investments**' means tangible and intangible assets invested by an investor of a Member State into subjects of entrepreneurial activity on the territory of another Member State in accordance with the legislation of the latter, including:

funds (cash), securities and other property;

rights to engage in entrepreneurial activity granted under the legislation of the Member States or under a contract, including, in particular, the right to exploration, development, production and exploitation of natural resources;

property rights and other rights having monetary value.”

The conceptual framework used in the legislation of the EAEU Member States is generally comparable with the terminology in Section XV of the Treaty on the EAEU.



A table with investment terminology defined by the legislation of the EAEU Member States is given in Annex 3.

Thus, in accordance with Article 1 of the Law of the Republic of Armenia “On Foreign Investments”, “**Foreign investment**’ means any type of property, including financial resources and intellectual values, which is being directly invested by a foreign investor in entrepreneurial and other activities implemented on the territory of the Republic of Armenia to gain profit (income) or to achieve any other beneficial result.”

According to Article 1 of the Law of the Republic of Belarus “On Investments”, “**Investments**: any property and other objects of civil rights belonging to an investor on the right of ownership or another legal basis which allows the investor to dispose of such objects being invested on the territory of the Republic of Belarus in ways provided by this Law with a view to gain profit (income) and/or achieve another significant result or for other purposes not related to personal, family, household and other likewise use.”

According to Article 4 of Law No. 53-Z of the Republic of Belarus “On Investments” dated July 12, 2013, one of the ways to carry out investments on the territory of the Republic of Belarus shall be creation of a commercial organization (including a joint venture (JV)).

In accordance with Article 15 of Law No. 53-Z of the Republic of Belarus “On Investments” dated July 12, 2013, investors shall have the right to create on the territory of the Republic of Belarus commercial organizations (including JVs) with any amount of investments in any organizational and legal form provided by the legislation of the Republic of Belarus.

According to paragraph 1 of Article 274 of the Entrepreneurial Code of the Republic of Kazakhstan, the definition of investments includes financial leasing items and assets for the implementation of public-private partnership projects: “**Investments** means all types of property (except goods intended for personal consumption), including financial leasing items since the conclusion of the lease agreement, as well as the rights to them, invested by the investor in the authorized capital of the juridical person or an increase in fixed assets used for entrepreneurial activity, as well as for the implementation of the public-private partnership project, including the concession project.”

In accordance with Article 1 of the Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic”, “Investments means tangible and intangible investments in subjects of economic activities in the form of funds; movable and immovable property; property rights (mortgages, liens, pledges and other); shares and other forms of participation in a juridical person; bonds and other debt obligations; non-property rights (in particular, the right to intellectual property including professional reputation, copyrights, patents, trademarks, prototypes, technological processes, company names and know-how); any right to activity based on a license or in another form provided by the state authorities of the Kyrgyz Republic; concessions based on the legislation of the Kyrgyz Republic, including concessions for exploration, development, production and exploitation of natural resources; profit or income gained from investment and re-invested on the territory of the Kyrgyz Republic; other forms of investments that are not forbidden by the legislation of the Kyrgyz Republic.”

Federal Law No. 39-FZ “On Investment Activities in the Russian Federation Carried Out in the Form of Capital Investments” dated February 25, 1999, states that **investments** mean funds, securities, other property, including property rights, and other rights with monetary value that are invested in subjects of entrepreneurial and/or other activities with the aim of gaining profit and/or achieving any other beneficial result.

In accordance with Federal Law No. 160-FZ “On Foreign Investments in the Russian Federation” dated July 9, 1999, **foreign investment** means the investment of foreign capital made by a foreign investor directly and independently in a subject of entrepreneurial activity on the territory of the Russian Federation in the form of objects of civil rights owned by the foreign investor unless trading in such objects of civil rights is prohibited or limited in the Russian Federation under federal laws, including money, securities (denominated in a foreign currency and the currency of the Russian Federation), other property, property rights having monetary value, exclusive rights to the results of intellectual activities (intellectual property) as well as services and information.

According to subparagraph 8 of paragraph 6 of Annex 16 to the Treaty on the EAEU, **an investor of a Member State** means any person of a Member State making investments on the territory of another Member State in accordance with the legislation of the latter.

In turn, a person of a Member State means any natural or juridical person of a Member State.

Thus, since investors can be both natural and juridical persons, the concept of an investor has been unified.

It should also be noted that investment processes are closely related to the creation of juridical persons. In this regard, the Treaty on the EAEU defines the **concept of incorporation**.

In accordance with subparagraph 24 of paragraph 6 of Annex 16 to the Treaty on the EAEU, **“incorporation”** (carried out, among other things, for the purposes of trade in services and/or manufacture of goods) means:

creation and/or acquisition of a juridical person (participation in the capital of a created or incorporated juridical person) with any organizational and legal form and form of ownership provided for by the legislation of the Member State on the territory of which such juridical person is created or incorporated;

acquisition of control over a juridical person of a Member State through obtaining of an opportunity to, either directly or via third persons, determine decisions to be adopted by such juridical person, including through the management of votes granted by voting shares (stakes) and participation in the board of directors (supervisory board) and other management authorities of such juridical person;

opening of a branch;

opening of a representative office;

registration as an individual entrepreneur.

One of the determining factors for the development of investment cooperation between the EAEU Member States is the **accordance of a favorable legal treatment for investors (set of measures taken by the Member States)**.

In accordance with paragraph 24 of Annex 16 to the Treaty on the EAEU, the treatment accorded by each EAEU Member State to persons of any other EAEU Member State in respect of incorporation and activities shall be **no less favorable than that accorded** under the same (similar) circumstances to **its own persons on its territory** (national treatment).

According to paragraph 29 of Annex 16 to the Treaty on the EAEU, the treatment accorded by each Member State, under the same (similar) circumstances, to persons of any other Member State and persons incorporated thereby in respect of their incorporation and activities on its territory shall be **no less favorable than that accorded to persons of third states** and persons incorporated thereby (most favored nation treatment).

In accordance with paragraph 68 of Annex 16 to the Treaty on the EAEU, each Member State shall ensure on its territory **fair and equitable treatment to investments** and investment-related activities conducted by investors of other Member States.

Paragraph 69 of Annex 16 to the Treaty on the EAEU determines that the **treatment** specified in paragraph 68 of Annex 16 to the Treaty on the EAEU **shall not be less favorable** than the treatment accorded by the Member State in respect of investments and investment-related activities conducted by its domestic (national) investors.

In accordance with paragraph 70 of Annex 16 to the Treaty on the EAEU, the treatment accorded by each Member State, under the same (similar) circumstances, to investors of any other Member State, their investments and investment-related activities shall be **no less favorable** than the treatment accorded to investors of any third state, their investments and activities related to such investments.

Thus, Section XV of the Treaty on the EAEU enshrines guarantees for the development of investment cooperation between persons of the EAEU Member States. In particular, national treatment and/or most favored nation treatment (MFN) are accorded in relation to investors of the EAEU Member States investing in other Union countries.

**An important factor in the formation of a favorable investment and business climate in the EAEU Member States is ensuring of protection of attracted investments.**

According to paragraph 75 of Annex 16 to the Treaty on the EAEU, each recipient state shall guarantee the following to investors of other Member States, upon completion by the latter of their obligations under all tax-related and other legislation of the recipient state:

1) **right to use and dispose of the income generated as a result of investments** for any purpose not prohibited by the legislation of the recipient state;

2) **right to freely transfer** investment-related funds (cash) and payments referred to in paragraph 8 of Annex 16 to the Treaty on the EAEU **to any country, at the discretion of the investor.**

According to paragraph 76 of Annex 16 to the Treaty on the EAEU, each Member State shall **guarantee** and ensure on its territory, in accordance with its

In accordance with paragraph 68 of Annex 16 to the Treaty on the EAEU, each Member State shall ensure on its territory **fair and equitable treatment to investments** and investment-related activities conducted by investors of other Member States.

legislation, the **protection of investments of investors of other Member States**.

The Treaty on the EAEU determines the guarantees of rights of investors in expropriation. Paragraphs 79 and 80 of Annex 16 to the Treaty on the EAEU specify the following:

**“79. Investments of investors of a Member State** made on the territory of another Member State **shall not be subject to direct or indirect expropriation, nationalization** and other measures with consequences equivalent to those of expropriation or nationalization (hereinafter "expropriation"), except in cases where such measures are taken for the public benefit in the procedure determined by the legislation of the recipient state, are not discriminatory and involve prompt and adequate compensation.

80. The compensation referred to in paragraph 79 of this Protocol shall correspond to the market value of investments expropriated from investors on the date immediately preceding the date of their actual expropriation or the date when it becomes known about the upcoming expropriation.”

An important guarantee for foreign investors is **paragraph 81 of Annex 16 to the Treaty on the EAEU: The compensation in the event of expropriation shall be paid without delay**, within the period provided for by the legislation of the recipient state, but not later than within three months from the date of expropriation. Such a legal guarantee which creates predictability for foreign investors in international investment relations is an important factor in attracting foreign investments.

Of great importance for the activities of investors of the EAEU Member States are the **guarantees** established by the Treaty on the EAEU **for the rights of any persons of the Parties to free transfers of funds and payments** in connection with trade in services, incorporation, activities and investments.

In accordance with paragraph 8 of Annex 16, each Member State shall **cancel** all effective and shall not introduce new **restrictions on transfers and payments in connection with trade in services, incorporation, activities and investments**, in particular with regard to:

- 1) income;
- 2) funds transferred in repayment of loans and credits recognized by the Member States as investments;
- 3) funds received by an investor in connection with a partial or complete liquidation of a commercial organization or sale of investments;

4) funds received by an investor in recovery of damages in accordance with paragraph 77 of Annex 16 and as a compensation referred to in Annex 16 to the Treaty on the EAEU;

5) salaries and other remuneration received by investors and nationals of other Member States allowed to perform investment-related activities on the territory of the recipient state.

Transfers under paragraph 8 of Annex 16 may be made in any freely convertible currency. Funds shall be converted without undue delay, at the exchange rate applicable on the territory of the Member State on the date of the transfer of funds and payments.

Annex 16 to the Treaty on the EAEU provides for the obligation of each investment recipient state to **guarantee to investors** of other Member States, upon completion by the latter of their obligations under all tax-related and other legislation of the recipient state, the **right to use and dispose of the income generated as a result of investments for any purpose not prohibited by the legislation of the recipient state.**

Annex 16 to the Treaty on the EAEU (paragraphs 30–32) determines **the rules for the non-application of investment restrictions in relation to persons of any Member State.**

Thus, the Member States shall not be entitled to introduce or apply to persons of any Member State the following additional requirements:

- 1) on exportation of all manufactured goods or services or any part thereof;
- 2) on importation of goods or services;
- 3) on the purchase or use of goods or services originating from a Member State;

4) any requirements that restrict the sale of goods or supply of services on the territory of that Member State, the import of goods into the territory of that Member State or export of goods from its territory and are based on the volume of goods manufactured (service supplied) or on the use of local goods or services or restrict access to foreign exchange payable in connection with transactions referred to in this subparagraph;

5) on the transfer of technology, know-how and other information of commercial value, except in the case of their transfer pursuant to a court order or an order issued by an authority in the field of protection of competition, subject to the rules of the competition policy determined by other international treaties of the Member States.

These measures are based on the provisions of the WTO Agreement on Trade-Related Investment Measures (hereinafter “TRIMs”).

TRIMs obliges WTO member countries not to apply measures that impede the development of international trade in the field of regulation of foreign investment and indicates such specific measures. TRIMs only applies to investment measures related to trade in goods.

Unlike TRIMs, the section of the Treaty on the EAEU applies to investment measures related to both trade in goods and trade in services.

Important legal guarantees for foreign investors are also **legal guarantees for the settlement of international investment disputes**. Moreover, the guarantee for the settlement of international investment disputes can be called the main guarantee in investment relations, taking into account the foreign origin of the investor, as well as the participation of the state as a party in civil law or administrative law.

Therefore, Annex 16 to the Treaty on the EAEU for the first time expands the prospects for the use of conciliation procedures **for the settlement of investment disputes** within the framework of a multilateral integration treaty.

Paragraph 85 of Annex 16 to the Treaty on the EAEU contains **guarantees for foreign investors in terms of settling investment disputes** that may arise in connection with international investment activities.

In addition, in accordance with paragraph 87 of Annex 16 to the Treaty on the EAEU, any arbitration decision made according to paragraph 85 of Annex 16 shall be final and binding on the parties to the dispute.

Paragraph 85 of Annex 16 to the Treaty on the EAEU **provides for several possibilities for non-judicial settlement of disputes** arising from or in connection with an investment of an investor on the territory of the recipient state:

1) negotiations (six months are allotted for their conduct from the application of any of the parties), which actually establishes the obligation of the parties to attempt an amicable settlement of the dispute;

2) international commercial arbitration court at the Chamber of Commerce of any state as may be agreed by the parties to the dispute (including non-EAEU Member States);

3) ad hoc arbitration court established and acting in accordance with the Rules of Arbitration of the United Nations Commission on International Trade Law (UNCITRAL), unless the parties agree other rules or choose another administrative institution;

4) the International Center for Settlement of Investment Disputes (hereinafter "ICSID") established pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of March 18, 1965, for the settlement of the dispute under the provisions of the Convention (provided that it has entered into force for both Member States that are parties to the dispute) or under the ICSID Additional Facility Rules (if the Convention has not entered into force for one or both Member States that are parties to the dispute).

According to paragraph 84 of Annex 16, these disputes may be related, among other things:

1) to indemnification for damages caused to investments as a result of civil unrest, hostilities, revolutions, insurrection, state of emergency or other similar circumstances on the territory of a Member State;

2) to the compensation referred to in paragraphs 79–81 of Annex 16

(the compensation in the event of nationalization or expropriation of investments shall be paid within three months in the amount of the market value of investments expropriated from investors on the date immediately preceding the date of their actual expropriation or the date when it becomes known about the upcoming expropriation);

3) to the order of payment and transfer of funds provided for in paragraph 8 of Annex 16 (transfers in repayment of loans and credits recognized by the Member States as investments; funds received by an investor as a result of a partial or complete liquidation of a commercial organization or sale of investments; salaries and other remuneration received by investors and nationals of other Member States allowed to perform investment-related activities on the territory of the recipient state).

Thus, the analysis of the EAEU Member States' legislation in the investment sphere and the relevant legal provisions of the Treaty on the EAEU has led to the conclusion that there are certain conditions within the Union for intensifying investment cooperation between the EAEU Member States and forming a favorable investment and business climate in the Union countries.



## 1.2 Investment and business climate as an important factor in business development

Solving the task of attracting investments requires the creation of special conditions for organizing investment activities that would efficiently ensure the attraction and targeted use of investment funds. Therefore, the issues related to the investment climate, as well as the conditions and factors of its formation in the EAEU States, are important and relevant for the development of national economies.

The **investment climate** is one of the basic factors for intensifying investment cooperation between countries and increasing the amount of attracted investments.

According to many experts, the investment climate is a set of social, economic, financial, organizational, legal and other prerequisites that affect the attraction of investments.

The Financial and Credit Encyclopedic Dictionary gives a more specific definition: “The investment climate is a set of prevailing political, socio-cultural, financial, economic and legal conditions that determine the quality of business infrastructure, investment efficiency and the degree of possible risks in capital investment.”

The investment climate is formed under the influence of a set of objective and subjective factors.

Objective factors include natural and climatic conditions, the availability of raw materials and energy resources, the geographical location, the demographic situation, etc.

Subjective factors are economic stability, the level of compliance with law and order, the level of development and accessibility of infrastructure facilities, the quality of the tax system, the level of taxes and the quality of the banking system and other financial institutions.

Moreover, it is necessary to single out the factors that positively and negatively affect the investment climate.

The circumstances contributing to the creation of a favorable investment climate and increased investment activity in the country include a high potential of the domestic market, a high rate of return, a low cost of resources (raw materials; labor and financial resources), a stable tax system and efficient state support.

The factors hindering the development of investment processes and thus worsening the investment climate in the country include political instability, social tension, high refinancing rates, high levels of inflation, external and internal debt, budget deficit and underdevelopment of legislation, including non-compliance with laws regulating the investment sphere, high transaction costs, etc.

The main components of the investment climate are investment activity and investment attractiveness. The ratio of these elements makes it possible to make an objective decision on the possibility of efficient investment activities.

Investment activity is the actual fulfillment of investment potential, taking into account the level of associated investment risks. It reflects the dynamics of attracting investments and their structure.

Investment attractiveness means the existence of investment conditions that have a great influence on investors' preferences in choosing a particular investment project.

The **business climate** represents a set of general possibilities and conditions for entrepreneurs carrying out their activities on a certain territory.

The concept of the business climate is also interpreted as “the institutional, policy, and regulatory environment in which firms operate”<sup>1</sup>, “... a set of factors specific to the country and identifying opportunities and incentives for firms to intensify and expand the activities through the implementation of productive investments, job creation, and active participation in global competition.”<sup>2</sup>

To assess the business climate, the following factors are usually analyzed:

- a) macroeconomic conditions;
- b) access to factors of production (financing, infrastructure, availability of skilled labor, etc.);
- c) basic conditions of taxation;
- d) formal state regulation and administrative barriers;
- e) state of informal institutions: corruption, security, business practices, judicial system, etc.;
- f) relationship between businesses and society.

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<sup>1</sup> Dollar D., Hallward-Driemeier M., Mengistae T. Investment Climate and Firm Performance in Developing Economies. World Bank, 2003.

<sup>2</sup> World Bank, World Development Report 2005.

Business climate assessments at the international level serve as a guide for investors to determine investment risks in individual countries.

At the national level, business climate assessments serve as a guide for the state to adopt decisions on priorities for economic and institutional reforms.

Business and investment climate assessments are presented in international rankings such as the World Competitiveness Index, the Global Innovation Index, the Index of Economic Freedom, etc. (see Chapter 3 of the Report).

A favorable business climate is essential for attracting foreign direct investment (FDI) and developing small and medium-sized enterprises. At the same time, an unfavorable business climate with factors determining high costs, delays and risks hinders economic development and FDI inflows. As world experience shows, even countries with a relatively low level of FDI can significantly increase its amount by focusing their efforts on improving the business climate.

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Chapter 1 of the Report is devoted to analyzing the definitions of the investment and business climate in the EAEU Member States.

In particular, the investment climate is a set of social, economic, financial, organizational, legal and other prerequisites that affect the attraction of investments.

The business climate represents a set of general possibilities and conditions for entrepreneurs carrying out their activities on a certain territory.

Chapter 1 analyzes the factors that positively and negatively affect the investment climate, as well as the factors that shape the business climate in countries.

The Treaty on the EAEU creates legal conditions for intensifying investment cooperation between the Member States.

The Treaty on the EAEU determines the legal norms for the accordence of a favorable legal treatment to investors, the protection of investments, the guarantees of rights of investors and the settlement of investment disputes.

Creating a favorable business and investment climate in the EAEU Member States is an important factor in business development, the achievement of steady economic growth rates in the Union countries and the intensification of investment processes within the EAEU.

## **Chapter 2. State of the Business and Investment Climate in the EAEU Member States**

### **2.1 State of the business and investment climate in the Republic of Armenia**

#### *State of the business and investment climate in the Republic of Armenia*

The Republic of Armenia has formed a favorable investment and business climate.

Attracting and supporting investments, as well as creating a favorable legal framework and environment for foreign investments are the main directions of economic policy in the Republic of Armenia. Over the past decade, significant reforms were carried out and a number of important goals were achieved to improve business and the investment environment, including both the reforms of the legal system and practical steps to simplify business processes.

The Republic of Armenia has one of the most open investment regimes among Commonwealth of Independent States countries. With regard to foreign investments, the Republic of Armenia adheres to the open-door policy. The Government of the Republic of Armenia is carrying out deep and comprehensive reforms of the business environment, providing favorable investment and business opportunities for foreign investors.

The Republic of Armenia is included in the Foreign Direct Investment Regulatory Restrictiveness Index of the Organization for Economic Cooperation and Development (OECD), a tool to measure the restrictiveness of a country's regulatory environment for foreign direct investment. The Republic of Armenia is in the top ten among 70 countries.

Legal conditions have been created in the Republic of Armenia for the provision of guarantees to investors, the protection of foreign investments and the granting of appropriate benefits.

In accordance with the Law of the Republic of Armenia “On Foreign Investments”, the state shall guarantee a non-discriminatory approach to foreign investors. Foreign investors are subject to general legislation (similar to local companies), and the following guarantees apply:

ensuring of a complete property right;  
the right of land leasehold and development for natural persons, as well as the right of land acquisition by foreign companies registered in the Republic of Armenia;  
absence of geographical and sectoral restrictions for investments;  
free and unlimited repatriation of profit and property;  
free exchange of foreign currencies;  
guarantees in case of amendments to the legislation of the Republic of Armenia: in case of amendments to the legislation of the Republic of Armenia that regulates foreign investments, the legislation in force at the time of investment shall be applied within five years from investment at the request of the foreign investor;  
absence of recruitment restrictions.

The Republic of Armenia has concluded 42 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 39 are in force<sup>3</sup>.

In accordance with these agreements, the investors of contracting parties are granted a number of guarantees, in particular, fair and equitable treatment, protection from expropriation, the free transfer of funds, full protection and security, as well as an alternative mechanism is provided for the settlement of disputes.

The Republic of Armenia is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (with the commercial reservation)<sup>4</sup>, the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965), the Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985), and the Investor Protection Convention (Moscow, 1997).

Fig. 1 shows the dynamics of attracting FDI to the economy of the Republic of Armenia. In 2021, the volume of attracted FDI amounted to 5,630.6 mln US dollars.

In accordance with the data of the Eurasian Economic Commission (hereinafter the “Commission”), the largest investors in the Republic of Armenia in 2021 were Cyprus (602.7 mln US dollars), the United Kingdom (578.7 mln US dollars), Canada (319.6 mln US dollars), Argentina (261.3 mln US dollars) and the USA (225.1 mln US dollars).<sup>5</sup>

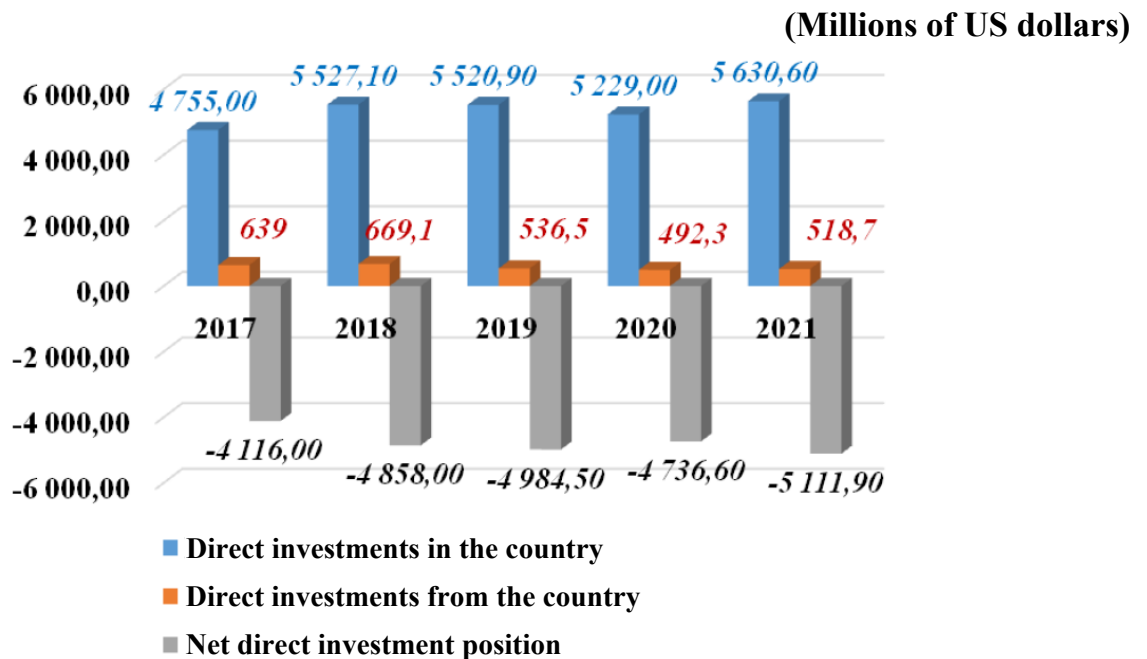
<sup>3</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

<sup>4</sup> Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958). P. 37 // [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/ru/v1604041\\_ebook-r.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/ru/v1604041_ebook-r.pdf).

<sup>5</sup> Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf).

Figure 1

### Attraction of foreign direct investment to the economy of the Republic of Armenia (reserves)



Source: Plotted according to the data of the Eurasian Economic Commission (Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf)).

The Republic of Armenia has a number of competitive advantages, in particular, skilled, educated labor, low business costs, favorable investment legislation, access to markets, etc.

The Republic of Armenia has in place the following benefits:

exemption from VAT payments for the supplied equipment and raw material of industrial importance;

possibility for the temporary importation of goods for further processing and export using the procedure of internal customs clearance;

corporate income tax benefits for creating new jobs as part of projects approved by the respective decision of the Government of the Republic of Armenia;

tax exemption for activities in border areas;

tax benefits for information technology (IT) companies (exemption from corporate income tax and reduction of personal income tax from 23% before December 23, 2022 to 10%;

exemption of residents of free economic zones (FEZ) from VAT, corporate income tax, property tax and customs duties;

if a taxpayer has a refundable VAT amount (negative amount of the difference between output and input VAT) – possibility of returning this amount to the taxpayer every month if it is confirmed by the results of an audit or study conducted in a simplified manner or in accordance with the determined procedure on the basis of the taxpayer's written application.

Services of state authorities are provided on the “single window” principle.

There are four free economic zones in the Republic of Armenia (“Alliance”, “MERIDIAN”, “MEGHRI”, “ECOS”).

“Alliance” Free Economic Zone is oriented to the production and exports of high and innovative technologies in the field of electronics, precision engineering, pharmaceuticals and biotechnologies, alternative energy, industrial design and telecommunications (elaboration and production of technological equipment; systems and materials for data/information transfer) ([www.fez.am](http://www.fez.am)).

“MERIDIAN” Free Economic Zone is specialized in jewelry production, gem cutting and watchmaking ([www.meridianfez.com](http://www.meridianfez.com)).

“Meghri” Free Economic Zone specializes in a wide range of sectors such as agriculture, manufacturing industry, electricity supply, transportation and storage, culture and recreation.

In the Hrazdan region, there is a free economic zone of IT and high technologies, “ECOS” ([www.ecos.am](http://www.ecos.am)).

*Entrepreneurial activity and rights of entrepreneurs (including enterprise and property registration, as well as specific features of doing business for foreign nationals and nationals of the Commonwealth of Independent States member states)*

The Law of the Republic of Armenia “On State Registration of Juridical Persons and State Record-Registration of Separated Subdivisions and Institutions of Juridical Persons and Individual Entrepreneurs” (hereinafter the “Law”) regulates legal relations arising in the field of state registration and state record-registration both for the nationals and juridical persons of the Republic of Armenia and for foreign natural and juridical persons.

The law provides great opportunities for foreign natural and juridical persons to engage in entrepreneurial activity on the territory of the Republic of Armenia. In particular, for registration/record-registration as an individual entrepreneur (IE) in the Republic of Armenia, a foreign national shall provide a personal identification document to the State Register Agency of Juridical Persons (hereinafter the “Agency”) or a service office operator, after which the IE shall be registered.

Where a joint-stock company is founded by a foreign natural person using copies of documents, the state registration of the juridical person shall be carried out instantly if the founder and head of the executive body personally submits a copy of the passport or another personal identification document certified and translated into Armenian (Article 34 of the Law).

Where the founder of the juridical person established through founding is a foreign juridical person, in addition to the documents required by law (application; decision of founders on establishing a juridical person or the Protocol of the founding meeting (or another body prescribed by law or the meeting) signed by all the founders or, in cases provided for by law, by the chairperson and secretary of the meeting; Charter of the juridical person; declaration on the beneficiaries of the juridical person), for the purpose of state registration the foreign juridical person shall also submit an extract from the commercial register of the given country or another equivalent document that confirms the legal status of the foreign juridical person and its instruments of foundation (or the relevant extracts) certified and translated into Armenian (Article 34 of the Law).

The State Register Agency of Juridical Persons is a separate subdivision of the Ministry of Justice of the Republic of Armenia.

Registration of juridical persons and record-registration of IEs are carried out in the Single Window system. The agency windows are available in single offices of public state services in four cities of Armenia (Yerevan, Gyumri, Vanadzor and Ijevan) which provide 97 state services, whose list will be expanded in the future.

Types of state record-registration and state registration include:  
state record-registration and deregistration of individual entrepreneurs;



state registration of juridical persons;  
state registration of changes in juridical persons;  
state registration of juridical persons due to restructuring;  
state registration of liquidation of juridical persons;  
record-registration of separated subdivisions and institutions of juridical persons, change in record-registration or deregistration.

The Agency manages websites ([www.e-register.am](http://www.e-register.am); [www.registration.am](http://www.registration.am); [www.azdarar.am](http://www.azdarar.am)) whose sections “Guide” and “Search” contain complete information about the documents required for carrying out economic activities, as well as sample templates for their preparation.

The functions of registration office operators are performed by notaries, lawyers, law firms, banks, HayPost CJSC and local authorities which are authorized operators of the Government of the Republic of Armenia (Decision of the Government of the Republic of Armenia No. 1110-N dated October 10, 2013; Decision No. 1109-NP dated October 27, 2016).

### *Credit ratings of the Republic of Armenia*

In 2022, the international rating agency Standard & Poor's maintained the credit ratings of the Republic of Armenia at B+ and B for short- and long-term bonds in foreign and national currency, respectively.

In accordance with Standard & Poor's estimates for 2022, GDP growth in the Republic of Armenia was reduced from 4.7% to 1.3% because of the economic downturn in Russia as a result of sanctions.

According to Standard & Poor's forecasts, GDP growth in the Republic of Armenia will average 4.3% per year in 2023–2025 thanks to the growth of domestic demand for goods and services, the development of the IT sector, as well as the expansion of state investment in infrastructure sectors.

The international rating agency Fitch Ratings affirmed the long-term foreign currency issuer default rating (IDR) of the Republic of Armenia in 2022 at B+ with a stable outlook.

According to Fitch's estimates, the IDR of Armenia reflects relatively strong income per capita, governance and business environment indicators vis-à-vis comparable countries, as well as a robust macroeconomic and fiscal policy framework and commitment to reforms, underpinned by the support of the International Monetary Fund (IMF).

However, the country still has a high share of state debt, relatively weak external finances and geopolitical risks.

According to Fitch's estimates, the forecasted economic growth of the Republic of Armenia in 2022 would decrease from 5.3% to 1.3% because of sanctions on Russia which accounts for 28% of goods exports from the Republic of Armenia and 37% of imports to the Republic of Armenia.

Fitch forecasts a 4.2% economic growth of the Republic of Armenia in 2023 because of possible domestic demand prospects<sup>6</sup>.

The Moody's rating agency kept its sovereign rating of the Republic of Armenia in 2022 at Ba3, but lowered its outlook to negative.

Moody's estimates the budget deficit of the Republic of Armenia to remain in 2022–2023 at the level of 4–4.5% of GDP, while the previous forecast was 3% in 2022.

According to Moody's forecasts, GDP was expected to grow in the Republic of Armenia by 1.8% in 2022 and by 3% in 2023, while the previous forecasts were 5 to 5.5%.

### *Currency control mechanisms for businesses in the Republic of Armenia*

The Republic of Armenia has no currency restrictions for residents of the Republic of Armenia, residents of the EAEU Member States or residents of third countries. In the field of currency regulation and currency control, the Republic of Armenia is guided by international best practices which imply the application of liberal measures to regulate currency relations.

### *Information about the Investor Support Center Enterprise Armenia*

Attracting investments is an important factor in the economic development of the Republic of Armenia.

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<sup>6</sup> Rating Report. Armenia // <https://www.fitchratings.com/research/sovereigns/armenia-21-06-2022>.

The Government of the Republic of Armenia is taking measures to improve the investment and business climate in the country.

Today, favorable conditions have been created for profitable investment and successful business in Armenia. In the investment sphere, the Government of the Republic of Armenia is guided by the policy of open doors and proper protection of investments, as well as other principles adopted in international best practice.

International practice shows that investment promotion agencies (IPAs) play an important role in promoting investments in the country. The main goal of an investment promotion agency (IPA) is to develop and implement the most efficient investment promotion strategy in any given country.

The coherent approach of the state to investment is evidenced by the establishment of the Investment Promotion Agency in the Republic of Armenia as an institutional basis for the investment policy of the Fund “Investment Promotion Center” (Enterprise Armenia).

Established by the Government of the Republic of Armenia and acting as a national investment promotion agency, Fund “Investment Promotion Center” (Enterprise Armenia) is a state institution providing comprehensive support to foreign and local businesses on the “single window” principle in the following areas:

- provision of information on investment opportunities and conditions in Armenia, including government benefits and other support mechanisms;
- support in all investments processes and assistance in relations with state authorities;
- consultations on resources required for investment, including existing land plots and other real estate, state property subject to alienation, co-financing sources and potential resident partners;
- rapid response to problems arising during the investment activities;
- post-investment service for foreign investors.

The main mission of Enterprise Armenia is to foster achieving the strategic goals of the economy of the Republic of Armenia by promoting the Republic of Armenia as a desirable destination for attracting new foreign direct investment to the economy of the Republic of Armenia.

## 2.2 State of the business and investment climate in the Republic of Belarus

Relations related to investment on the territory of the Republic of Belarus are regulated by Law No. 53-Z of the Republic of Belarus “On Investments” dated July 12, 2013, other legislative acts of the Republic of Belarus, international treaties of the Republic of Belarus and international legal acts constituting the law of the Eurasian Economic Union.

The Republic of Belarus has concluded 67 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 56 are in force<sup>7</sup>.

The Republic of Belarus is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965), the Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985), and the Investor Protection Convention (Moscow, 1997).

The above investment agreements provide, among other things: guarantees for the free transfer of profit; compensation for the market value of investments in case of their loss as a result of “indirect nationalization”; guarantees for the consideration of a dispute arising from the investment activities of an investor in international arbitration bodies or courts of foreign states; guarantees of property rights and expropriation only in the manner and under the conditions provided for by legislation, or under a court decision.

It should be noted that the Republic also has in place the Law “On Concessions” which establishes the legal basis for regulating investment activities carried out on the basis of concessions.

In addition to ensuring the basic rights of investors, a system of incentives (preferential legal conditions) has been created in Belarus to stimulate investment activity and strengthen economic security. A number of preferences are provided to investors in free economic zones, small and medium-sized cities, rural areas, Hi-Tech Park, Great Stone Industrial Park, etc. which, in turn, are enshrined in the relevant regulatory legal acts.

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<sup>7</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

The Law of the Republic of Belarus "On Investments" contains the following ways of investment:

1. creation of a commercial organization;
2. acquisition, creation, including by constructing, of immovable property objects, with the exception of acquisition or construction by nationals of the Republic of Belarus, foreign nationals or stateless persons of dwelling houses or dwelling premises for residence of these nationals of the Republic of Belarus, foreign nationals or stateless persons and/or members of their families;
3. acquisition of intellectual property rights;
4. acquisition of shares or stakes in the authorized fund or units in the property of a commercial organization, including instances of increasing the authorized fund of a commercial organization;
5. on the basis of a concession;
6. as part of public-private partnership;
7. other ways, except for those prohibited by the legislative acts of the Republic of Belarus.

It is not allowed to carry out investments in the sphere of ensuring defense and security without a special decision of the President of the Republic of Belarus, the sphere of manufacture and sale of narcotic, highly potent and toxic substances, as well as in the property of juridical persons enjoying a monopoly market position without the consent of the Ministry of Economy of the Republic of Belarus.

Restrictions in investment may be also established on the basis of legislative acts in the interests of national security, public order, protection of morality, health of the population, rights and freedoms of other persons.

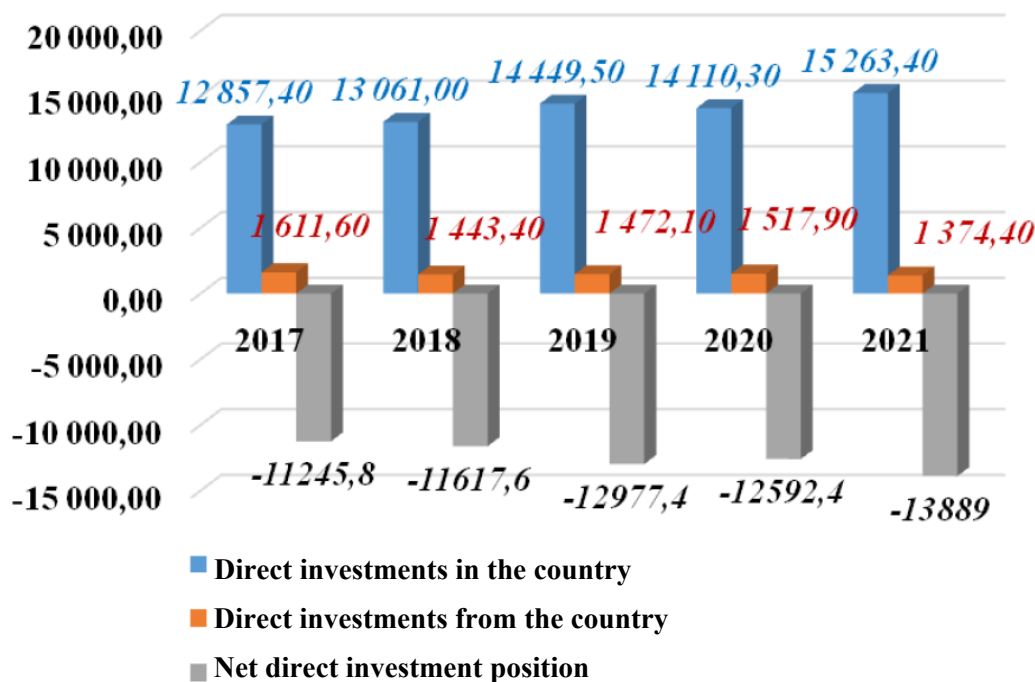
Fig. 2 shows the dynamics of attracting FDI to the economy of the Republic of Belarus. In 2021, the volume of attracted FDI amounted to 15,263.4 mln US dollars.

In accordance with the Commission's data, the largest investors in the Republic of Belarus in 2021 were Cyprus (3,244.8 mln US dollars), Austria (632.3 mln US dollars), the Netherlands (604.1 mln US dollars), Turkey (558 mln US dollars), Germany (445.5 mln US dollars).<sup>8</sup>

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<sup>8</sup> Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf).

**Figure 2**  
**Attraction of foreign direct investment to the economy of the Republic of Belarus (reserves)**  
**(Millions of US dollars)**



Source: Plotted according to the data of the Eurasian Economic Commission (Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf)).

### **Guarantees of rights of investors and protection of investments**

The Law of the Republic of Belarus "On Investments" guarantees to investors:

1. Protection of property being investments or being created as a result of investment from gratuitous nationalization or requisition;
2. Free transfer outside the Republic of Belarus of the compensation received as a result of:
  - 2.1. nationalization possible only on motives of public necessity;
  - 2.2. requisition possible only in the events of natural disasters, accidents, epidemics, epizootics and in other circumstances of an extraordinary nature in the interests of the society and on a decision of state authorities;

2.3. right of an investor whose property is requisitioned to demand through the court the return of remaining property upon termination of the effect of circumstances in relation to which the requisition is effected;

3. Free transfer outside the Republic of Belarus of profit (income) and other funds legally received in connection with investment on the territory of the Republic of Belarus, and also of payments being made in favor of a foreign investor in connection with investment, including:

3.1. funds received by foreign investors after a partial or full termination of investment on the territory of the Republic of Belarus, including funds received by foreign investors as a result of alienation of investments, as well as the property created as a result of investment and other objects of civil rights;

3.2. funds payable as salary to foreign nationals and stateless persons employed under an employment contract;

3.3. funds payable to foreign investors according to a court resolution;

4. Protection from adverse changes in tax legislation which mean the increase of tax rates and/or the introduction of new taxes and duties;

5. Three-year deadline for filing claims against the investor arising in connection with investment.

Such claims include claims in connection with the change (cancellation) of previously made decisions which may cause damage to the property rights of the investor, including deprivation (termination, restriction) of the property rights of the investor, unless such claims are related to the illegal actions of the investor.

The limitation period for filing claims against an investor does not apply to claims arising from tax, customs, labor and associated relations, as well as from relations associated with the criminal and administrative prosecution of persons.

## Mechanisms for attracting investments

### *Investment agreement*

For the purposes of creating additional conditions for investment, investors have the right for the conclusion of an investment agreement with the Republic of Belarus.

An investment agreement between an investor (investors) and the Republic of Belarus may be concluded only for the purpose of implementing an investment project on the territory of the Republic of Belarus in accordance with the priority activity (economic sector) for investment. The list of priority activities (economic sectors) is determined by the Government (Resolution No. 372 of the Council of Ministers of the Republic of Belarus dated May 12, 2016).

Decree No. 10 of the President of the Republic of Belarus “On the Creation of Additional Conditions for Investment in the Republic of Belarus” dated August 6, 2009, determines the list of mandatory conditions for investment agreements.

The legislation of the Republic of Belarus **does not establish** any minimum amount for which an investment agreement shall be concluded.

Investment agreements are divided into two types (levels):

1. investment agreements that do not provide for additional benefits and/or preferences, except for those established by Decree No. 10 or other legislative acts (first-level investment agreements);

2. investment agreements that provide for additional benefits and/or preferences, except for those established by Decree No. 10 or other legislative acts (second-level investment agreements).

Guarantees, benefits and preferences for investors who have concluded an investment agreement with the Republic of Belarus include the following:

1. Guarantee of indemnification to the investor for damages caused as a result of illegal actions/omission committed by officials of state authorities and/or executive committees.

2. During the term of the investment agreement, the investor(s) **shall have the right**, *inter alia*, **for**:

2.1. provision without tender procedures of land plots included in the list of plots for the implementation of investment projects on proprietary rights and in accordance with the legislation on the protection and use of land;



2.2. construction of facilities stipulated by the investment project, including the right to remove flora objects without making compensation payments of the cost of flora objects under removal;

2.3. full deduction of value added tax amounts recognized in accordance with legislation as tax deductions (except for tax amounts not subject to deduction in accordance with legislation) and charged upon the acquisition on the territory of the Republic of Belarus (paid upon the importation into the territory of the Republic of Belarus) of goods (works, services) or property rights used for the construction or equipment of facilities stipulated by the investment agreement, irrespective of value added tax amounts assessed on the sale of goods (works, services) or property rights;

2.4. determination without procurement procedures of the contractor and/or project documentation developer, suppliers of goods and service providers for the construction, including reconstruction, of facilities stipulated by the investment agreement (except for the state procurement of goods (works, services));

2.5. exemption from import customs duties (taking into account the international obligations of the Republic of Belarus) and value added tax levied by customs authorities upon the importation of technological equipment, its components and spare parts into the territory of the Republic of Belarus for their exclusive use on the territory of the Republic of Belarus for the purpose of implementing the investment project;

2.6. exemption from the state duty for issuing/extending permits for the attraction of foreign labor to the Republic of Belarus and special permits for the right of employment in the Republic of Belarus, as well as exemption of foreign nationals and stateless persons attracted by the investor(s) from the payment of the state duty for issuing/extending permits for temporary residence in the Republic of Belarus;

3. During the term of the investment agreement, unless another period is provided by legislation, investors are **exempt from:**

3.1. payment for the right to conclude a lease agreement for a land plot leased without an auction for the construction of facilities stipulated by the investment agreement;

3.2. land tax for land plots in state or private ownership and lease payment for land plots in state ownership;

3.3. compensation for losses of agricultural and (or) forestry production caused by the expropriation of a land plot;

3.4. VAT and corporate income tax, for which the payment obligation arises in connection with the gratuitous transfer/acceptance of permanent structures (buildings, constructions), isolated premises, assets under construction and other fixed assets transferred for the purpose of implementing the investment project under the investment agreement into the ownership, economic management or operational management of the investor(s) and/or the organization.

### *Public-private partnership*

Law No. 345-Z of the Republic of Belarus “On Public-Private Partnership” dated December 30, 2015, stipulates the possibility for initiating the project of public-private partnership (hereinafter the “PPP”).

PPP involves mutually beneficial cooperation between state government authorities/organizations (public partner) and a commercial organization or individual entrepreneur (private partner) for a certain period of time on the construction (including reconstruction) and operation of infrastructure facilities. The basis of cooperation is an agreement between public and private partners (hereinafter “PPP agreements”).

PPP can be implemented:

1. with respect to facilities of energy, engineering, transport, social and other infrastructures;
2. in the areas of road and transport services, education, social services, healthcare, utilities and municipal services, energy, telecommunications, information and telecommunication technologies, sports and tourism, culture and other areas.

The **public partners** as part of PPP projects are:

state authorities or state organizations authorized by the President of the Republic of Belarus;  
republican government authority or another state organization authorized by the Council of Ministers of the Republic of Belarus and subordinate to the Council of Ministers of the Republic of Belarus;

administrative territorial entity represented by the respective local executive and administrative authority authorized by the local Council of Deputies.

A **private partner** of a PPP may be:

commercial organization established in accordance with the legislation of the Republic of Belarus (with the exception of state unitary enterprises, state associations and economic companies with more than 50 percent of shares (stakes in the authorized fund) held by the Republic of Belarus or its administrative territorial entity);

individual entrepreneur of the Republic of Belarus.

The Law on PPP singles out five stages (steps) of implementing PPP projects:

1. preparation, consideration and evaluation of a proposal for the implementation of a PPP project;
2. decision-making on the implementation of the PPP project;
3. organization and holding of a competition;
4. conclusion of a PPP agreement;
5. implementation of a PPP agreement.

The Law on PPP grants the right to initiate the implementation of PPP projects to state authorities and other state organizations, as well as to potential private partners.

As a general rule, a private partner for concluding a PPP agreement is chosen on the basis of competition results. The competition can have two or three stages.

The two-stage competition includes:

1. preliminary selection of participants;
2. determination of the successful bidder.

The three-stage competition includes:

1. preliminary selection of participants;
2. consultations with competition participants included in the list;
3. determination of the successful bidder.

### *Special legal regimes*

The legislation of the Republic of Belarus singles out territories with a special legal status, as well as extraterritorial legal regimes. The main of them are:

- free economic zones;

- Hi-Tech Park;
- Great Stone Industrial Park;
- Bremino Orsha Special Economic Zone;
- activities on the territory of the Orsha District in the Vitebsk Region.

### *On currency control mechanisms for businesses in the Republic of Belarus*

Over the past years, the National Bank of the Republic of Belarus (hereinafter the “National Bank”), jointly with the Government of the Republic of Belarus, carried out coherent and systematic work to improve currency relations in the Republic of Belarus, with the key stage being the entry into force on July 9, 2021, of the new version of Law No. 226-Z of the Republic of Belarus “On Currency Regulation and Currency Control” dated July 22, 2003 (hereinafter the “Law”) and the regulatory legal acts adopted in its furtherance.

The current procedure for currency regulation in the Republic of Belarus conforms to modern world approaches to the regulation of currency relations and aims to remove currency restrictions and reduce the administrative burden on juridical and natural persons. At the same time, this procedure is focused on the need for resident juridical persons to comply with the deadlines for performing obligations established by the parties in foreign exchange agreements providing for export and import, as well as to fulfill obligations for the credit of funds by resident juridical persons to their accounts opened with the banks of the Republic of Belarus under foreign exchange agreements providing for export and import, for the registration by residents of foreign exchange agreements and for the provision of information on their implementation.

Taking into account a change in the core principles of currency regulation and currency control and refusal to use the authorization-based procedure for conducting foreign exchange operations, the National Bank has developed a system of foreign exchange monitoring, including the relevant information systems – the information resource for registration of foreign exchange agreements, placed on the website of the National Bank in the Internet (web portal) and the automated information system of foreign exchange monitoring (AIS FEM). These systems are designed to collect, process and analyze information on foreign exchange operations conducted by residents in order to provide information support for the analytical, regulatory and forecasting activities of the National Bank, state authorities and other stakeholders.

Foreign exchange operations are monitored by the National Bank in cooperation with the banks of the Republic of Belarus, the State Control Committee, the State Customs Committee and other republican government authorities. For these purposes, appropriate information exchange has been organized.

In addition, the Law enshrines the aims and main objectives of currency control, as well as determines currency control authorities and their powers. Thus, currency control authorities are the Council of Ministers of the Republic of Belarus, the National Bank, the State Control Committee, the State Customs Committee. In accordance with the provisions of the Law, the banks of the Republic of Belarus are not currency control agents. However, when conducting foreign exchange operations, banks, among other things, are entitled to require residents and non-residents to submit documents and other information confirming the conformity of foreign exchange operations to the currency legislation requirements.

### **Investor support**

The work of the state institution National Agency of Investment and Privatization (hereinafter the “Agency”) on information support is primarily based on the analysis of direct requests from investors, the experience of interaction with existing national and foreign businesses, as well as the practice of foreign and international companies operating in a similar field.

Potential investors receive information from the Agency through various media channels: website, social media channels, e-mail newsletters, as well as speeches with presentations at meetings of working groups on cooperation with the partner states of the Republic of Belarus.

#### **Website**

Sector overviews, presentations, investment guides, news and events calendars are published and regularly updated on the website [investinbelarus.by](http://investinbelarus.by). Taking into account the dynamically changing modern trends, the Agency works to improve the website by studying and analyzing the approaches of similar organizations abroad. In 2022, the Agency revised the page design for a more comfortable perception of information by consumers (set of colors; text structuring; icon style); illustrations and charts are updated in accordance with the Agency's visual style.

## **Investor Roadmap**

One of the Agency's tasks is to create and maintain a unified information base of investment activities, including a unified register of projects for foreign direct investment. As part of this work, in 2018 the Agency developed and launched the interactive portal Investor Roadmap (hereinafter the "Roadmap"). The roadmap represents an interactive portal for the storage and provision of information in Russian and English via the Internet about: investment projects implemented, being implemented and proposed for implementation on the territory of the Republic of Belarus; production sites and immovable property objects; land plots for the placement of enterprises and production facilities; objects of concession and PPP. The information on the Roadmap is broken down by each district, city of regional subordination and region of the Republic of Belarus. Each investment project is assigned to a specific point on the map posted on the Internet portal.

## **Social media**

The Agency is actively developing its social channels on Facebook, Twitter, YouTube, Telegram, LinkedIn, Instagram. At the moment, the audience of the Agency's social media is more than 2.5 thous. permanent subscribers. Internet resources are used to distribute publications about the most promising investment projects selected from the Agency's database and to post videos with a presentation of the country's investment potential.

## **E-mail newsletters**

Moreover, in its work the Agency uses e-mail newsletter tools. This tool is used to send analytical materials and presentations of the best projects to potential investors. For example, each issue of a monthly cold newsletter consists of three information blocks: B2B events calendar; investment and business news digest that may be relevant for a potential investor; analytical review of one sector of the Belarusian industry and one investment project of the Agency. A newsletter includes selling texts, is made in the form of a commercial proposal and contains hyperlinks for navigation to news and analytical materials on the Agency's website.

**Mass media**

The Agency's close interaction with traditional mass media (interviews, articles, comments, etc.) makes it possible to

present the Agency's news, the most interesting investment projects of Belarus, information about changes in the legislation of the Republic of Belarus and success stories.

**Brandbook**

In 2022, the Agency's brandbook was updated. It was developed using modern and current trends after studying the corporate style, experience and approach of similar organizations and agencies.

**Guidebook**

In partnership with international legal and consulting companies, the Agency annually publishes the guidebook "Invest in Belarus" which compiles the most relevant information on the top promising sectors of the Belarusian economy for FDI, opportunities available within various preferential regimes, judicial aspects of investment and Belarus' main directions of multi-faceted international cooperation.

**Compendia**

The Agency's another edition – Compendium of the Most Promising Investment Projects – contains information on the most attractive areas for investment, as well as green - and brownfield projects. Printed materials are presented to potential foreign investors upon their application to the Agency, during personal meetings and as part of participation in investment-related events.

**Partner networks**

Interaction with partners is one of the most important mechanisms in the Agency's work. The mechanism involves affiliate marketing (placement of the Agency's banner on partner websites), organization of thematic events (exhibitions, forums, conferences and thematic business events), co-organization of annual discussion platforms on investment, finance and trends under the Agency's auspices with the participation of foreign experts, as well as elite events for businesses (e.g. golf tournaments). When conducting or participating in investment events, the Agency uses such an element of promoting its products as outdoor advertising (banners and information boards).

## **Investor support tools**

In its work on supporting foreign investors, the Agency is guided by standard operating procedures developed by World Bank experts as part of the project for international technical assistance and taking into account international best practices. The Investor Servicing Department arranges visits of potential investors to Belarus, carries out visa procedures, selects objects for investment

and organizes meetings with potential partners, representatives of relevant ministries and local government authorities, as well as market regulators.

In order to support entrepreneurs, as well as foreign and national investors, on March 14, 2022, the Agency launched the Operational Contact Center (hereinafter the “OCC”) positioned as a B2G project – a channel for information and consulting support for businesses operating in Belarus. For foreign audiences, the OCC is promoted under the slogan “We Care”. Over four months, the OCC received 75 applications from 61 organizations. More than 90% of applications were received from organizations, whereas around 10% were received from individual entrepreneurs and natural persons. Most often, the applications concerned issues related to foreign trade (imports, exports and import substitution), the financial sphere (credits, foreign exchange operations and financial instruments for production), as well as transport and logistics. The Agency provides operational information support and the necessary assistance to all who apply.

### **Survey of existing businesses with foreign investments**

In 2021, the Agency, jointly with the ASER consulting company, conducted a survey of existing companies with foreign capital. The aim of the study was to identify the strengths, as well as the imperfections of the existing business environment in Belarus for the subsequent development of recommendations to improve the investment environment. Another aim of the study was to assess the relevance of the legislative initiatives proposed by the Agency to improve the investment climate and developed on the basis of information from foreign investors.

The study was conducted in the form of an online survey. The developed questionnaire was structured by question pools assessing the relevance of reforming the most significant (according to investors) areas of legislation, such as state administration, the judicial system, taxation and accounting rules, as well as certain aspects of labor, migration and investment legislation.



The sample included over 250 companies with foreign capital, of which 54 were FEZ residents. In total, responses were received from 40 investors. Based on the information received, the Agency formed legislative initiatives on improving the investment climate in the Republic of Belarus and sent them to the Government.

### **National Agency for Investment and Privatization as a “single window” for investors**

The National Agency for Investment and Privatization aims to assist foreign investors to find a niche for doing business in Belarus. The Agency acts as a single support center for foreign direct investors at no cost. Investor support includes the following services:

*1. Consultation and information services for investors*

- handling of investor applications;
- provision of information on the business environment and investment climate in Belarus;
- analysis of priority economic sectors for attracting investments;
- investment proposals;
- public-private partnership projects.

*2. Fact-finding missions to the Republic of Belarus*

- organization of missions (visa facilitation, accommodation, logistics);
- meetings schedule development (negotiations with local authorities, private institutions and potential partners);
- support and assistance at meetings.

*3. Site selection support*

- search for greenfield and brownfield project opportunities;
- site visits;
- cooperation with local authorities.

In addition, the Agency provides re-investment promotion and enterprise development support, including:

- assistance in the selection of a suitable land plot, real estate and investment projects;

- search for business partners;
- arrangement of negotiations with local and republican authorities;
- assistance in the resolution of problems with investment project implementation;
- provision of information about investment incentives;
- consideration of investors' proposals on improving the investment climate.

Another activity area of the National Agency for Investment and Privatization is rendering of services related to project management, including: development of a roadmap for project implementation; search for suppliers, service providers and joint venture partners; assistance in solving administrative issues.

JSC “Development Bank of the Republic of Belarus” (hereinafter the “Development Bank”) is implementing the following initiatives:

1) JSC “Servicization and Reengineering Agency” is conducting a comprehensive diagnostics and reengineering of **administrative procedures** in order to reduce the administrative burden on economic entities and decrease the time limits for the adoption by state authorities of administrative decisions in the field of entrepreneurial activity;

2) the Development Bank is creating a **national project office** which will be entrusted with the functions of:

information exchange and consultation with investors;

financial and design examination of business ideas proposed for implementation;

preparation for initiators of business ideas of information about their quality, value (key advantages) and potential for implementation on the territory of the Republic of Belarus;

improvement of business ideas (including ways to minimize risks) for the purposes of subsequent business modeling and preparation of business plans for investment projects;

elaboration of proposals, methods and conditions for carrying out investment activities in the Republic of Belarus and its regions.

One of the project office's functions will be the creation and updating of the **investor roadmap** – an information portal containing information (including information received from state authorities and organizations) on investment projects and business ideas being implemented (proposed for implementation) in the Republic of Belarus, as well as information on the conditions for investment activities on the territory of the country;

3) in terms of **financial support**, a unique program has been implemented since 2014 to support small and medium-sized enterprises, whereby 6.7 thousand various projects have been financed.

Currently, regulatory legal acts are being developed with the aim to introduce **new financial instruments** for promoting the **investment activities** of small and medium-sized enterprises which provide for the allocation of fiscal transfers to reimburse costs incurred in the implementation of export-oriented and import-substituting investment projects;

4) as part of expanding access to funding for the segment of small and medium-sized enterprises (SMEs) experiencing a collateral deficit, a **guarantee mechanism** is being introduced, including the development of criteria for access to guarantee instruments, the preparation and approval of guarantee instruments, the preparation of recommendations for partners on the promotion and implementation of the guarantee mechanism, the provision of guarantees (sureties) to SMEs and the monitoring of efficiency of guarantee instruments;

5) non-financial support is planned to be provided to business entities through **digital service platforms** for their comprehensive support at all steps of the life cycle, as well as the electronic platform “Single Window for FEA of the Republic of Belarus” – an information resource that will enable Belarusian economic entities to receive in one place information on foreign legislation in the field of foreign economic activity (FEA) (on the current customs regimes, tariff and non-tariff restrictions, financial, economic and trade indicators of individual world countries and other analytical information in terms of FEA);

6) JSC “Agency of International Business Development” also provides assistance to Belarusian economic entities in the following **FEA areas**:

search for alternative suppliers of raw and auxiliary materials (primarily, items of the so-called critical imports) that are located in the EAEU countries and other states friendly to the Republic of Belarus;

search for potential buyers of manufactured products in order to diversify export flows.

JSC “Agency of International Business Development” has organized interaction with the representative office of JSC "Russian Export Center" in the Republic of Belarus, the Trade Representation of the Russian Federation in the Republic of Belarus and the regional government authorities of the Russian Federation for the exchange of available information and the expansion of trade cooperation between Belarusian and Russian economic entities.

State enterprises and economic companies with a share of state ownership are provided with consulting services on supporting and improving the efficiency of FEA, namely, services on diagnosing the trade and procurement activities with the subsequent development of recommendations for their improvement (recommendations for diversifying exports, optimizing the product portfolio, identifying new promising niches in the markets, promoting goods to foreign markets, etc.).

### **Credit ratings of the Republic of Belarus**

In July 2022, the international rating agency Standard & Poor's affirmed the long-term and short-term rating of the Republic of Belarus in foreign currency at CC/C with a negative outlook and in national currency at CCC/C with a negative outlook.

The international rating agency Fitch Ratings in July 2022 downgraded the long-term foreign currency rating of the Republic of Belarus from C to RD and affirmed the short-term foreign currency rating of the Republic of Belarus at C.

### **On prospects for improving the business and investment climate in the Republic of Belarus in terms of creating and doing business (including in the field of authorization, control and supervisory activities), taking into account international practice, and on the corresponding effects on business activities**

#### *Business climate*

As a result of various reforms carried out in the last decade, the procedure and conditions for creating a business in the Republic of Belarus have been significantly simplified.

Foreign investors are entitled to create juridical persons on the territory of the country both independently and jointly with Belarusian natural and juridical persons. The procedure for state registration of economic entities is regulated by Decree No. 1 of the President of the Republic of Belarus “On State Registration and Liquidation (Termination of Activities) of Economic Entities” dated January 16, 2009 (hereinafter the “Decree”).

It should be noted that the Decree provides for the following favorable conditions for state registration of economic entities:

1. state registration of economic entities shall be carried out on the day the applicant applies to the registration authority on the basis of the declarative principle in accordance with which all responsibility for the accuracy of the information specified in the documents submitted for registration rests with the applicant (subparagraph 2.1 of paragraph 2 of the Decree). In the application for state registration, the applicant shall confirm that at the time of registration there are no restrictions established by legislation or court for business creation (paragraph 19 of the Regulation on State Registration of Economic Entities approved by the Decree (hereinafter the “Regulation”));

2. a minimum package of documents shall be submitted for state registration, in particular, the application, the charter in two counterparts and an electronic copy thereof, a legalized extract from the trade register of the incorporation country (for founders being foreign organizations), a copy of a personal identification document (for founders being foreign natural persons) and the original payment document confirming the payment of the state duty or a copy thereof (paragraph 14 of the Regulation);

3. the grounds for refusal to carry out state registration shall be formal (failure to submit a complete package of documents, execution of an application for registration in violation of the requirements of the legislation and submission of documents to an improper registration authority);

4. there are no requirements for the minimum amount of the authorized fund for the majority of commercial organizations (the minimum amount of the authorized fund is established for open and closed joint-stock companies), and there is no need to form an authorized fund before the state registration of a juridical person (paragraphs 7–8 of the Regulation);

5. an economic entity may be registered electronically through the web portal of Unified State Register of Juridical Persons and Individual Entrepreneurs (<http://egr.gov.by>) (hereinafter the “USR”, the “USR web portal”), including by applying to an intermediary notary;

6. a newly created economic entity shall be registered in all required databases without its participation (paragraph 25 of the Regulation);

7. the entity shall be entitled not to use a seal in its activities (subparagraph 3.11 of paragraph 3 of Decree No. 7 of the President of the Republic of Belarus dated November 23, 2017).

The draft Law of the Republic of Belarus “On State Registration and Liquidation (Termination of Activities) of Economic Entities” (hereinafter the “draft Law”) developed by the Ministry of Justice of the Republic of Belarus is aimed to further simplify and reduce a number of current requirements for creating and liquidating a business, including the reduction of administrative procedures and the maximum use of information exchange between state authorities in order to reduce the burden on businesses.

In particular, the draft Law proposes the exclusion of such a mandatory pre-registration procedure as the approval of the name of a juridical person, while simultaneously reducing the requirements established by the legislation for such names.

The conformity of the organization name to the requirements of the legislation is checked at the step of state registration of a juridical person. It should be noted that the Republic of Belarus was the first to adopt the decision on the introduction of such name check procedure among former Soviet Union countries.

Taking into account the experience of numerous foreign states, including the Russian Federation, the draft Law provides for the possibility and procedure for state registration of a juridical person on the basis of a standard charter. Information about the activities of a juridical person on the basis of a standard charter shall be included in the USR and posted on the USR web portal.

Based on the results of studying the best world practices, including the EAEU countries (in particular, the Russian Federation and Kazakhstan), in the field of authorization activities, as well as aimed at simplifying the current administrative procedures in the Republic of Belarus, Decree No. 240 of the President of the Republic of Belarus “On Administrative Procedures Carried Out in Relation to Economic Entities” dated June 25, 2021, provides for:

1. three-level system of regulation of administrative procedures:

at the level of the Head of State, approaches and principles for carrying out administrative procedures are determined and mechanisms are laid down to reduce the administrative burden on economic entities, including the digital transformation of the processes of interaction between state authorities and economic entities;

at the level of the Government, a unified list of administrative procedures carried out in relation to economic entities is approved and the practical implementation of approaches, principles and mechanisms determined by the Head of State is ensured;

at the level of regulatory authorities, regulations – step-by-step algorithms of administrative procedures – are developed, approved and transferred to electronic form;

2. digital transformation of the processes of interaction between government authorities and economic entities, which ensures the reduction of the burden on businesses;

3. creation of a register of administrative procedures in order to ensure the availability of information on administrative procedures for economic entities. This register enables an unlimited number of users to access a round-the-clock, fast, convenient and free search for accurate information about administrative procedures through the global computer network Internet (<https://rap.gov.by/>);

4. efforts to reduce and simplify the overall regulatory impact of administrative procedures on the conditions for economic activities in the Republic of Belarus.

One of reform objectives is the transition from quantitative indices to qualitative characteristics of reducing the administrative burden on economic entities through the introduction of a specialized indicator, the National Administrative Burden Index (hereinafter the “ABI”). This will make it possible to objectively, accurately and fully reflect all costs of economic entities (time, financial, labor) incurred in the course of going through administrative procedures and determine the dynamics of the administrative burden on businesses.

The integrated assessment of the ABI is based not only on quantitative, but also on qualitative criteria (fee; cost variability; cash and labor costs for meeting requirements; territorial accessibility; cooperation mechanisms; regime; document volume; gradation and duration of an administrative procedure; validity period of an administrative decision; appeal methods; coverage of entities).

This year, the controlling (supervisory) authorities of the Republic of Belarus have, with the participation of business representatives, reviewed problematic issues in the field of legal regulation of control (supervisory) activities.

Based on the results of the work carried out, key promising areas for enhancing the control (supervisory) activities in the Republic of Belarus and improving the business and investment climate have been identified.

In particular, the following areas of enhancing the control (supervisory) activities are planned in the Republic:

shifting emphasis in control (supervisory) activities to preventive work;

minimizing the interference of controlling (supervisory) authorities in the activities of economic entities;

streamlining and minimizing the facts of administrative prosecution.

The ongoing work involves the change of approaches to control (supervision) not only at the legal, but also at the organizational and technical level.

### *Investment climate*

The Republic of Belarus has formed a legal framework aimed **at investment promotion**. At the same time, the development of economic relations requires the constant improvement of such legislative framework.

Work on the country's investment climate is carried out in accordance with the Set of Measures to Launch a New Investment Cycle which is of strategic nature and aims at the determination of new benchmarks in investment policy.

*For reference:*

*At year-end 2021, 45% of the activities provided for by the Set of Measures were completed. The key activities were those aimed to improve the current legislation in order to create conditions for improving the investment climate and developing certain territories of the Republic of Belarus. They included the adoption of laws amending the Laws of the Republic of Belarus “On Investments” and “On Free Economic Zones”, the approval of the National Action Plan for the Development of the Green Economy in the Republic of Belarus for 2021–2025, and the improvement of conditions for conducting operations with securities.*

Currently, promising areas for improving the investment climate, including with account of international experience, are:



## 1. Developing the draft Law of the Republic of Belarus “On Assistance in and Promotion of Implementing Investment Projects in the Republic of Belarus”.

In order to improve the conditions for investment, there has been prepared a draft law providing for:

- introduction of a *new mechanism for the conclusion of investment agreements* which involves providing a wider range of benefits and preferences to investors exclusively **for implementing large-scale projects** of great importance for the Republic of Belarus;

*For reference:*

*The benefits and preferences include a special “**stabilization clause**” – a guarantee against adverse changes in tax legislation for the term of the investment agreement, but not longer than a five-year period.*

*The proposed guarantee is implemented in the draft Law, taking into account the studied experience of its provision under the mechanism of investment protection agreements in accordance with Federal Law No. 69-FZ of the Russian Federation “On Protection and Promotion of Investments in the Russian Federation” dated April 1, 2020.*

- introduction of a **mechanism for the implementation of investment** projects which involves providing benefits and/or preferences *without conclusion of an investment agreement* based on the decision of the local executive committee;

- **implementation of a special legal regime of special investment agreements** which establishes the possibility for the guaranteed state procurement of a part of products corresponding to classification as goods produced in the Republic of Belarus, which will contribute to the promotion of creating new production facilities, etc.

*For reference:*

*The mechanism of special investment agreements was developed taking into account the studied experience of functioning of offset agreements and the mechanism of special investment contracts in the Russian Federation (Federal Law No. 488-FZ of the Russian Federation “On Industrial Policy in the Russian Federation” dated December 31, 2014; Federal Law No. 44-FZ of the Russian Federation “On the Contract System in the Field of Procurement of Goods, Works and Services to Meet State and Municipal Needs” dated April 5, 2013).*

## 2. Introducing institutions of convertible loans, irrevocable powers of attorney, options.

Introducing institutions of convertible loans, irrevocable powers of attorney and options which are actively used by investors abroad will contribute to increasing the attractiveness of Belarusian jurisdiction for investors.

*For reference:*

*These institutions have been enshrined in the draft Law of the Republic of Belarus that, among other things, provides for amendments to the Civil Code of the Republic of Belarus.*

*The changes are aimed, among other things, at creating comfortable conditions for investors to work with Belarusian startups, as well as at approximating the legislation of the EAEU Member States.*

When used as part of structuring project financing transactions, these institutions have shown their efficiency within the framework of Decree No. 8 of the President of the Republic of Belarus “On Development of Digital Economy” dated December 21, 2017.

The implementation of these institutions in the national legislation of the Republic of Belarus will ensure the flexibility and competitiveness of Belarusian organizations.

### **2.3 State of the business and investment climate in the Republic of Kazakhstan**

#### *On the system of attracting investments in Kazakhstan*

The Government of the Republic of Kazakhstan pays special attention to creating the most favorable conditions for investment attraction and strengthening the protection of rights of investors.

The Republic of Kazakhstan has concluded 48 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 43 are in force<sup>9</sup>.

The Republic of Kazakhstan is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965), the Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985), and the Investor Protection Convention (Moscow, 1997).

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<sup>9</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

Fig. 3 shows the dynamics of attracting FDI to the economy of the Republic of Kazakhstan. In 2021, the volume of attracted FDI amounted to 168,370.7 mln US dollars.

In accordance with the Commission's data, the largest investors in the Republic of Kazakhstan in 2021 were Netherlands (6,973.1 mln US dollars), the USA (2,801.1 mln US dollars), Switzerland (2,656.8 mln US dollars), the Russian Federation (1,900.6 mln US dollars), China (1,847.6 mln US dollars), Belgium (1,068.9 mln US dollars), the UK (1,027.2 mln US dollars), South Korea (805.4 mln US dollars), Turkey (679.5 mln US dollars).<sup>10</sup>

At the end of 2018, for the purpose of improving the efficiency of the state administration system, the Ministry for Investment and Development was restructured into the Ministry of Industry and Infrastructure Development of the Republic of Kazakhstan (hereinafter the “MIID RK”) with the transfer of functions and powers:

1) in the field of forming the state investment attraction policy to the Ministry of National Economy (hereinafter the “MNE RK”);

2) in the field of implementing the state investment attraction policy to the Ministry of Foreign Affairs (hereinafter the “MFA RK”).

Thus, the functions of attracting investments and NC KAZAKH INVEST JSC (hereinafter “KAZAKH INVEST”) were transferred to the MFA RK. This decision was adopted in order to strengthen the economic vector of foreign policy.

From that period on, **a three-level system for attracting investments** has been built and formed for ensuring a targeted approach in dealing with investors.

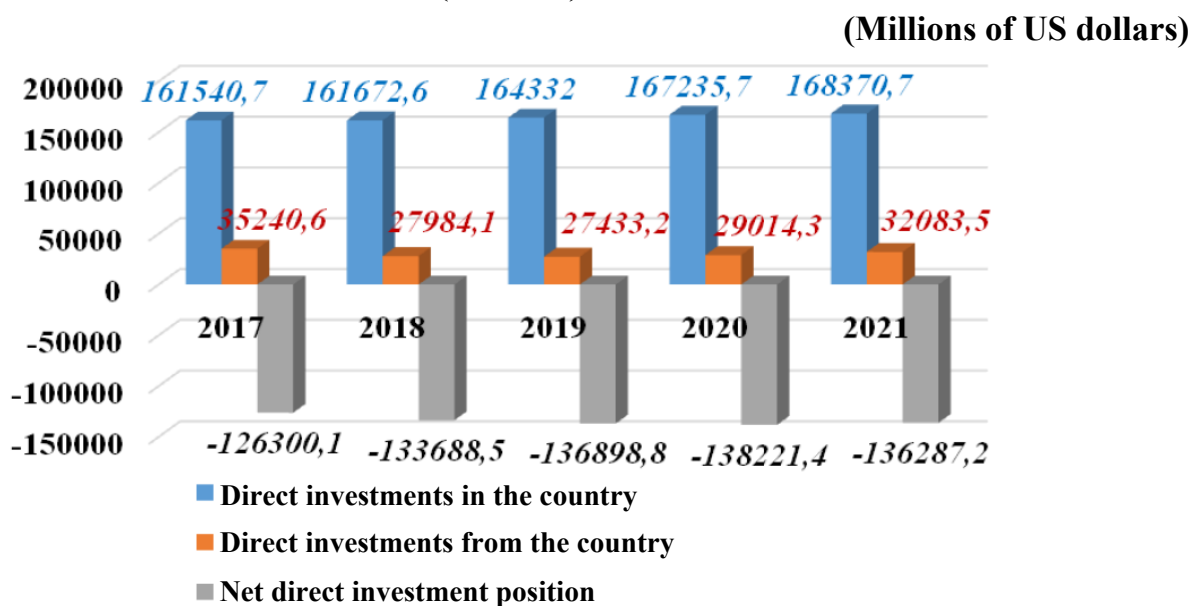
*The external level includes all foreign institutions of the Republic of Kazakhstan and foreign representatives of KAZAKH INVEST.* Potential investors establish an initial contact with the ambassadors of their countries or Kazakhstan in the host countries in order to familiarize themselves with the main conditions for the implementation of investment projects which, in turn, is supported by the MFA RK and KAZAKH INVEST at all stages of the investor's journey. Work is underway to target and establish initial contacts with potential investors and organize their visits to Kazakhstan.

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<sup>10</sup> Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf).

Figure 3

### Attraction of foreign direct investment to the economy of the Republic of Kazakhstan (reserves)



Source: Plotted according to the data of the Eurasian Economic Commission (Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf)).

The central level includes the MFA RK and KAZAKH INVEST jointly with sectoral state authorities, national development institutions and organizations. The MFA RK and KAZAKH INVEST have built work with all state authorities to form an “**order for investment**”. Industries and commodity groups most attractive to foreign investors have been identified. Based on the data of state authorities and organizations, KAZAKH INVEST prepares investment proposals in accordance with international standards. Prepared projects are sent to foreign institutions and the foreign representatives of KAZAKH INVEST for subsequent investor targeting and contact establishment.

The regional level includes local state authorities and regional representatives of KAZAKH INVEST. Coordinated work is carried out to ensure the necessary infrastructure for implementing foreign investors' projects and to develop conditions for their successful “landing”.

In order to provide state support and promote attracting investments to the country's economy, the MFA RK provides, within the framework of the Entrepreneurial Code, **investment preferences** through the conclusion of an investment contract, as well as the right to attract foreign labor without quotas and permits for the period of implementing the priority investment project and one year after the commissioning of the facility.

At the same time, in 2021 a new investment instrument – the **Investment Agreement** for strategic investors – was introduced to provide them with special conditions.

In addition, on July 15, 2022, the National Investment Strategy of the Republic of Kazakhstan became invalid and the Concept of the Investment Policy of the Republic of Kazakhstan until 2026 (hereinafter the “Concept”) was developed with the participation of the World Bank and approved in accordance with the instruction of the Head of State.

The concept provides for a set of measures to revise the policy of attracting investments with the aim to change the structure of investments toward competitive production of high value added goods.

In pursuance of the Concept, the implementation of a detailed **Action Plan (45 activities)** has begun in **three areas**:

The **first** one is the **further development of the investment ecosystem**, with a focus on the formation of a transparent and predictable investment policy.

Within this area, **the institutional environment and infrastructure for investors will be improved** by enhancing the legal treatment, **improving trust in justice** and access to information, strengthening interagency coordination, as well as creating digital tools to promote projects and manufacturers, etc.

The **second** area is the **promotion of growth in the investment activity of the private sector** which involves the creation of stable and easy conditions for investors.

The second area takes into account such measures as:

- **attraction of financing**, in particular **counterpart funding**, from strategic and retail investors, including banks, insurance companies, state-owned funds and companies of the quasi-public sector;

- integration and promotion of the Kazakh stock market to the international capital markets, as well as attraction of outward portfolio investments;

- comprehensive reform of approaches in public-private partnership;

- promotion of attracting investments to **sustainable development projects**, given the important growing trend of applying ESG **principles**, etc.

The **third** area is the fulfillment of the economy's investment potential.

The third area provides for the following measures:

- **simplification of bankruptcy procedures** aimed at the accelerated exit of insolvent enterprises from the market with the change of inefficient owners;
- **amnesty of capitals** subject to their return to the country's economy;
- transfer (redomiciliation) of Kazakh companies from foreign jurisdictions and offshore zones to the jurisdiction of the Astana International Financial Center, etc.

### *On the activities of KAZAKH INVEST*

The mission of KAZAKH INVEST is to promote sustainable socio-economic development of the Republic of Kazakhstan by **attracting foreign investment in priority sectors of the economy** and comprehensive support of investment projects.

**KAZAKH INVEST** is vested with broad powers of the national operator with a network of foreign representatives and regional branches, including a **single** negotiator on behalf of the Government of the Republic of Kazakhstan in discussing the prospects and conditions for the implementation of investment projects;

Since its foundation in 2017, KAZAKH INVEST has systematized the approach in dealing with foreign investors. Four main areas of work have been identified: attracting large companies and transnational corporations; providing end-to-end support for investment projects; creating soft infrastructure for investors, including service support on the “single window” principle; promoting the country's investment image to raise awareness of the measures taken in the Republic of Kazakhstan among the global business community.

Work with foreign investors has been streamlined. An appropriate database of investment projects and investors has been created. Targeted work is carried out with almost every foreign investor making investments in the economy of Kazakhstan. A responsible employee of KAZAKH INVEST is assigned to each project of a foreign investor in order to identify problematic issues of investment projects on a regular basis and assist in their resolution.

To provide end-to-end support for strategic projects, KAZAKH INVEST has created the **Task Force** negotiating team from the experts of KAZAKH INVEST and the Astana International Financial Center. The team is engaged in the development of important strategic projects by providing end-to-end support, developing the relevant conditions precedent and examining the issue of concluding Investment Agreements.

KAZAKH INVEST has streamlined the following efforts for the provision of service support to investors and assistance in improving the investment climate:

1. Remote and in-person consulting support (24/7 call center in three languages; support during negotiations; assistance in preparing applications for investment preferences and concluding an investment contract);
2. Prompt resolution of issues arising in the investment process (visa support; resolution of problematic issues in interaction with central state and local executive authorities);
3. Consideration of investors' applications as part of activities carried out by the Investment Ombudsman;
4. Monitoring of investor confidence and the investment climate (annual survey of investors in accordance with a methodology developed on the basis of international best practice; preparation of materials for the global annual analytical report on the investment climate);
5. Organization and conduct of trainings, webinars and seminars for regional organizations for attracting investments with the participation of state authorities and competent organizations and for representatives from the foreign institutions of the MFA RK;
6. Constant interaction with foreign business associations (European Business Association of Kazakhstan, American Chamber of Commerce and Industry, German Economy Union, Turkish-Kazakh Businessmen Association, CERBA, French Chamber of Commerce and Industry (CCI), KOTRA (Korea), Japanese Chamber of Commerce, etc.).
7. Improvement of the investment climate (preparation of proposals for improving the current legislation based on the analysis of investor's applications, participation in working groups on the review of draft laws and interaction with the investment community), etc.

### *Credit ratings of the Republic of Kazakhstan*

In 2022, the leading international rating agencies Standard & Poor's and Fitch Ratings affirmed the sovereign credit rating of Kazakhstan at BBB-/A-3 and BBB with a stable outlook, thereby appreciating the efforts made by the Government of the Republic of Kazakhstan to promote the recovery of economic growth, as well as the high level of investment reliability.

The key factors supporting Kazakhstan's rating are the country's strong fiscal and external economic balances. Moreover, the availability of marketable external assets significantly supports the fiscal stability of Kazakhstan.

In general, Standard & Poor's notes that along with rising oil and gold prices, the country's robust government and external balances will be sufficient to cushion external shocks.

According to Standard & Poor's data, the growth of Kazakhstan's economy in 2022 was projected at 2%.

Fitch expects the state budget deficit to decrease in 2023 and assumes that transfers from the National Fund to the budget will reduce to 58% of the 2021 level, which would be in line with the Government's strategy to maintain the amount of the National Fund within 30% of GDP.

The country's state debt is reported to be below that of half of comparable countries. According to Fitch's forecasts, the significant external reserves of Kazakhstan will help maintain net creditor status.

In 2021, Moody's upgraded Kazakhstan's rating from Baa3 (August 22, 2019) to Baa2 with a stable outlook.

The rating upgrade was due to the fact that Kazakhstan's state finances and credit profile showed resilience in line with Baa2 countries.

In general, Kazakhstan is distinguished by a high investment attractiveness, which is confirmed by international rankings, the presence of many leading international companies in the Kazakh market, as well as statistical data on attracting foreign investment.

The interest of foreign investors in Kazakhstan as the largest economy in Central Asia remains high.



*Advisory and consultative authorities on investment*

**Permanent investment platforms (*dialogue platforms*)** of various levels are aimed to improve investment activities, as well as build open and trusting relationships with businesses and foreign organizations accredited in the Republic of Kazakhstan. These are the **Foreign Investors' Council** chaired by the President of the Republic of Kazakhstan, as well as the **Council for the Improvement of the Investment Climate** and the **Council on Attracting Investors (*investment headquarters*)** chaired by the Prime Minister of the Republic of Kazakhstan.

**1. The Investment Headquarters** under the Ministry of Foreign Affairs of the Republic of Kazakhstan develops proposals and recommendations for investment projects being developed on the territory of the Republic of Kazakhstan and aimed at intensifying work with potential investors within the framework of the state policy on attracting investments, including taking into account conditions precedent.

In accordance with Resolution No. 1069 of the Government of the Republic of Kazakhstan dated December 26, 2015, the Prime Minister of the Republic of Kazakhstan shall be the Investment Ombudsman and shall regulate activities to ensure the protection of the rights and legitimate interests of investors on issues arising in the course of investment activities.

**2. The Foreign Investors' Council chaired by the President of the Republic of Kazakhstan (*hereinafter the "FIC"*)** is an advisory and consultative authority chaired by the President of the Republic of Kazakhstan. The working body is the Investment Committee of the MFA RK.

A joint Investment Policy Working Group under the FIC considers issues related to the improvement of legislation in accordance with international standards, taxation, customs regulation and investment promotion.

**3. The Council for the Improvement of the Investment Climate (*hereinafter the "CIIC"*)** is an advisory and consultative authority under the Government of the Republic of Kazakhstan.

The CIIC forms a common investment policy of the Republic of Kazakhstan that meets the priorities of economic development, as well as assistance in attracting and efficiently using domestic and foreign investments.

Meetings of the CIIC annually raise and discuss systemic problems related to the improvement of the investment climate which cannot be resolved by the direct efforts of the Investment Headquarters under the MFA RK and require interagency interaction and resolution at the level of the RK Government leadership.

**4. The National Contact Point (*hereinafter the “NCP”*)** is a permanent collegial authority that was established in accordance with the OECD Declaration on International Investment and Multinational Enterprises and adopts decisions on pending appeals on violations of the OECD Guidelines.

In accordance with subparagraph 1 of paragraph I of the Procedures for the Application of the OECD Guidelines for Multinational Enterprises and in accordance with Resolution No. 1453 of the Government of the Republic of Kazakhstan dated November 16, 2012, the Ministry of National Economy of the Republic of Kazakhstan is responsible for exercising the NCP's functions.

The NCP carries out activities to raise awareness of the OECD Guidelines and the principles of responsible business conduct, considers appeals from natural and juridical persons about violation of the OECD Guidelines and adopts decisions on them.

These investment platforms are used to discuss and resolve both systemic and individual issues with the involvement of representatives from businesses and other organizations.

#### *Currency control mechanisms for businesses in the Republic of Kazakhstan*

Currency control procedures in relation to foreign exchange operations in the Republic of Kazakhstan are provided for by the currency legislation of the Republic of Kazakhstan and as such do not have separate regulation for businesses.

In addition, the current currency regulation and control regime in Kazakhstan is liberal as neither licenses nor other authorization procedures are required for making payments or money transfers from residents and non-residents.

The currency control mechanism for foreign exchange operations primarily involves the performance by authorized banks of currency control agents' functions in making payments/money transfers and determines the need to provide documents (on the basis or in pursuance of which a foreign exchange operation is conducted) or information in order to identify the foreign exchange operation itself and its participants.

In turn, currency control agents, as well as other persons conducting foreign exchange operations are controlled by the National Bank of the Republic of Kazakhstan as the main currency control authority, including in the form of inspections.

## **2.4 State of the business and investment climate in the Kyrgyz Republic**

### *Business and investment climate in the Kyrgyz Republic*

One of investment policy priorities in the Kyrgyz Republic is to create favorable conditions for attracting investments and strengthen the protection of rights of investors.

The Kyrgyz Republic has concluded 35 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 25 are in force<sup>11</sup>.

The Kyrgyz Republic is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965), the Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985), and the Investor Protection Convention (Moscow, 1997).

Fig. 4 shows the dynamics of attracting FDI to the economy of the Kyrgyz Republic. In 2021, the volume of attracted FDI amounted to 5,656 mln US dollars.

The Kyrgyz Republic has a relatively liberal legal framework for protecting the rights of foreign investors. The main principles of the state investment policy aimed at the improvement of the investment climate in the Republic and the promotion of attracting domestic and foreign investments are established by the Law “On Investments in the Kyrgyz Republic” which also regulates relations between the state and an investor.

The Kyrgyz Republic accords to foreign nationals making investments on its territory the national treatment of economic activities applicable to juridical and natural persons of the Kyrgyz Republic.

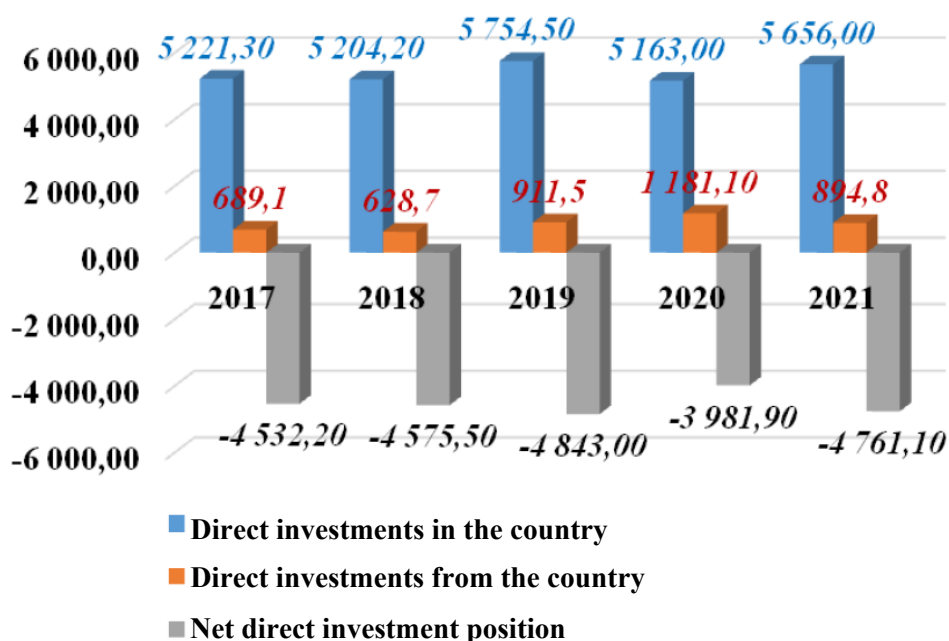
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<sup>11</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

Moreover, foreign investors have the right for free movement throughout the country, except for territories where the conditions and procedure for stay are determined by the relevant legislative acts of the Kyrgyz Republic.

**Figure 4**

**Attraction of foreign direct investment to the economy of the Kyrgyz Republic (reserves)  
(Millions of US dollars)**



Source: Plotted according to the data of the Eurasian Economic Commission (Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf)).

Legislation provides for the non-interference of the state in the economic activities of investors and recognition of their interests, except as provided by legal acts. At the same time, officials of the Kyrgyz Republic who do not comply with the requirements are liable in accordance with legislation.

Investors making capital investments in the priority economic and social sectors and carrying out works on certain territories of the Republic may be granted benefits in accordance with state development programs (projects).

*Exemption from import customs duties*

For the purpose of applying the tariff exemption established by subparagraph 7.1.11 of paragraph 7 of Decision No. 130 of the Commission of the Customs Union dated November 27, 2009, Resolution No. 503 of the Government of the Kyrgyz Republic “On Establishment of Priority Types of Activities (Economic Sectors) for Investment Projects” dated October 26, 2018, establishes the following priority types of activities (economic sectors) in respect of which the tariff exemption shall be applied:

- 1) industrial production based on innovative technologies;
- 2) light industry;
- 3) food industry;
- 4) energy;
- 5) agriculture, production and processing of agricultural products;
- 6) assembly production;
- 7) tourism;
- 8) export-oriented production;
- 9) communication networks and switching systems;
- 10) road transport and construction;
- 11) banking and payment activities;
- 12) healthcare (medical equipment, including components and spare parts for it, as well as medical products);
- 13) air transport (civil passenger aircraft).

Exemption from import customs duties is provided for technological equipment, components and spare parts for it, as well as raw and other materials imported for exclusive use on the territory of the EAEU Member States as part of implementing an investment project.

The above benefit is granted for raw and/or other materials if such raw and/or other materials are not produced (or are produced in quantities insufficient for the implementation of the investment project) in the EAEU Member States or if the raw and/or other materials produced in the EAEU Member States do not conform to the technical characteristics of the investment project being implemented.

Preferential taxation in preferential localities

In accordance with Resolution No. 193 of the Government of the Kyrgyz Republic “On Measures to Implement Articles 153, 159-1, 213, 315, 330 and 344 of the Tax Code of the Kyrgyz Republic” dated April 24, 2019, and for the purpose of promoting the investment activities of industrial and innovative enterprises launched in subsidized localities of the Kyrgyz Republic, the following localities are defined as preferential:

- localities of the Kyrgyz Republic: Karakol, Balykchy, Naryn, Kochkor, Tokmok, Karabalta, Talas, Isfana, Batken, Kadamjay, Uzgen, Kara-Suu, Tash-Kömür, Kara-Köl, Jalal-Abad, Kerben, Kochkor-Ata, Kyzyl-Kyya, Sulukta, Mayлуу-Suu, Nookat, Aydarken, Kök-Janggak, Toktogul, Cholpon-Ata, Shopokov, Kant, Orlovka, Kemin, Kayyngdy;
- village communities receiving redistributive grants (transfers) from the republican budget for the purpose of maintaining a stable socio-economic situation.

In addition, the Resolution approves a list of preferential types of industrial activities subject to preferential taxation and a standard investment agreement on activities in preferential localities.

In accordance with the Resolution, the list includes types of industrial activities in the following areas:

- all types of industrial production based on innovative technologies;
- light and food industries;
- electric power industry;
- processing of agricultural products;
- assembly production;
- any export-oriented industry.

*For reference:*

*In the conclusion of agreements, new industrial enterprises/industries shall be considered export-oriented if they have passed state registration after January 1, 2019, and carried out export supplies making up at least 50% of total supplies for six consecutive calendar months.*

This Resolution provides for exemption from property tax, land tax, corporate income tax and sales tax for newly established enterprises in preferential localities whose activities are classified as preferential types of industrial activities.

The decision to grant tax benefits to preferential industrial enterprises within the territory of a particular locality shall be made on the basis of an investment agreement. An investment agreement shall be concluded for five years by a local authority of a preferential locality with investors making investments in new industrial enterprises which have passed state registration after January 1, 2019, and whose activities are classified as preferential types of industrial activities.

One of the conditions of the investment agreement on activities in a preferential locality is that the investor shall create jobs, ensure investments in production in the amounts established by the agreement and ensure the amount of proceeds to be gained from the sale of products under the agreement.

Upon expiry of five years, the local authority has the right to extend the agreement to 10 years, depending on the amount of sales proceeds and the amount of personal income tax paid.

It should be noted that Resolution No. 193 of the Government of the Kyrgyz Republic “On Measures to Implement Articles 153, 159-1, 213, 315, 330 and 344 of the Tax Code of the Kyrgyz Republic” dated April 24, 2019, will be updated in connection with the adoption of the new Tax Code of the Kyrgyz Republic.

#### Preferential tax regime in the Batken Region

According to Law No. 114 of the Kyrgyz Republic “On the Status of the Batken Region” dated September 10, 2021, a special tax regime has been established on the territory of the Batken region in accordance with the legislation of the Kyrgyz Republic.

In particular, according to the Tax Code of the Kyrgyz Republic, tax benefits are granted in two areas: in certain border localities having a special preferential tax regime and throughout the territory of the Batken Region.

According to the first area, the entities registered and carrying out their activities in 62 villages of the Batken, Leylek and Kadamjay Districts in the Batken Region included in the list of certain preferential border localities are granted the following tax benefits:

- 5% personal income tax rate for employees of taxpayers;

- exemption from corporate income tax and sales tax;
- possible exemption from property tax by decision of local councils.

In the second area, benefits for these types of taxes are granted to taxpayers registered with the tax authorities of the Batken Region and carrying out preferential types of industrial activities without the requirement to conclude an investment agreement. The exception is their separated subdivisions located outside the Batken Region.

Preferential types of industrial activities include: all types of industrial production based on innovative technologies; light and food industries; electric power industry; processing of agricultural products; assembly production; any export-oriented industry.

#### Stabilization regime

According to the Regulation on the Procedure and Conditions for Applying the Stabilization Regime approved by Resolution No. 628 of the Government of the Kyrgyz Republic dated September 29, 2017, if any amendments are made to the Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic”, the tax legislation of the Kyrgyz Republic and the legislation on non-tax payments, the investor, as well as the investee that meets the conditions set out in the legislation of the Kyrgyz Republic on investments and this Regulation shall, within 10 years from the date of signing the stabilization agreement, have the right to opt for the most favorable conditions for the payment of taxes, including value added tax, but excluding other indirect taxes, and non-tax payments (except for payments for services rendered by state authorities) in accordance with the procedure determined by the legislation of the Kyrgyz Republic.

The right for the stabilization regime may be enjoyed by:

1) an investor making investments within three years from the date of signing the stabilization agreement in the capital of the investee, including in the authorized capital of the investee by increasing the number of outstanding shares or increasing the authorized capital by an amount in soms equivalent to at least 3 million US dollars and determined at the rate of the National Bank of the Kyrgyz Republic on the date of signing the stabilization agreement, as well as the investee itself; or



2) an investor carrying out activities related to the survey, prospecting, exploration or development of natural resources and making investments within five years from the date of signing the stabilization agreement in the capital of the investee, including in the authorized capital of the investee by increasing the number of outstanding shares or increasing the authorized capital by an amount in soms equivalent to at least twenty (20) million US dollars and determined at the rate of the National Bank of the Kyrgyz Republic on the date of signing the stabilization agreement, as well as the investee itself.

The stabilization regime may not be a basis for restricting the rights of an investor and/or investee signing the stabilization agreement to enjoy favorable conditions under the KR legislation which enter into force after the signing of the stabilization agreement.

#### Investment visa

Investors carrying out investment activities in the Kyrgyz Republic have the right to obtain an investment visa for up to three years. An investment visa is issued to investors or the head of a foreign investment company who carries out investment activities in the Kyrgyz Republic and has submitted the necessary supporting documents certifying the investment of monetary and material values equivalent to 10 million soms to the economy of the Kyrgyz Republic.

An investment visa gives to foreign investors the right to freely leave and enter the country and move within the country during a period determined by the Ministry of Foreign Affairs of the Kyrgyz Republic, while observing the legislation of the Kyrgyz Republic with the aim of developing and managing their own business, as well as to participate in tenders and auctions under the legislation of the Kyrgyz Republic. Investment activities shall have the following goals:

- 1) manufacturing;
- 2) industry;
- 3) agriculture;
- 4) banking;
- 5) energy;
- 6) education;
- 7) medicine;
- 8) engineering and construction;
- 9) information and communication technologies.

Temporary ban on inspections by law enforcement authorities

In order to create favorable conditions for the development of public-private partnerships, improve the investment climate, support the economic activities of investors, ensure their legal protection and eliminate unreasonable and excessive interference of law enforcement authorities in the activities of private and public partners under public-private partnership projects, a temporary ban (moratorium) has been imposed in accordance with Articles 10 and 17 of the Constitutional Law of the Kyrgyz Republic “On the Government of the Kyrgyz Republic” on inspections of private and public partners implementing public-private partnership projects by law enforcement authorities from June 15, 2021, to December 31, 2022, except for inspections performed:

- as part of criminal, civil and administrative proceedings;
- by the customs service in respect of goods under customs control;
- on issues related to preventing the spread of the COVID-19 coronavirus in the Kyrgyz Republic.

#### Investment guarantees

In accordance with the legislation, the Kyrgyz Republic provides foreign investors with the following guarantees:

application of the national treatment of economic activities; equal investment rights for local and foreign investors; non-interference in the economic activities of investors; protection and restoration of violated rights and interests of investors in accordance with the legislation of the Kyrgyz Republic and international treaties;

export or repatriation outside the Kyrgyz Republic of profit from investments and funds received as a result of investment activities in the Kyrgyz Republic, property, information;

protection from expropriation (nationalization, requisition or other equivalent measures, including actions or omissions by the authorized state authorities of the Kyrgyz Republic which have led to the forced withdrawal of investors' funds or their deprivation of an opportunity to gain on the investments' results). In exceptional cases related to public interests, investments may be subject to forced expropriation, whereby the state guarantees appropriate indemnification for damages to the investor;

right for free use by investors of income from their activities in the Kyrgyz Republic;

possibility of investment in any form in objects and activities not prohibited by the legislation of the Kyrgyz Republic, including licensed activities;

freedom of monetary operations (free conversion; free and unimpeded money transfers: if any provisions restricting foreign currency transfers are introduced into the legislation of the Kyrgyz Republic, these restrictions shall not apply to foreign investors, except in cases of illegal actions (e.g. money laundering));

free access to open information;

right to create juridical persons in any organizational and legal forms provided for by the legislation of the Kyrgyz Republic, open branches and representative offices on the territory of the Kyrgyz Republic, choose any organizational and management structure for their companies, unless otherwise specifically established by law for a certain organizational and legal form of an economic entity, acquire property (except for land plots), shares and other securities, including state securities, participate in privatization of the state property, create associations and other unions, hire both local and foreign employees in accordance with the legislation of the Kyrgyz Republic and perform other actions related to investors' activities in the Kyrgyz Republic and not prohibited by the legislation;

recognition of all rights of foreign investors with respect to objects of intellectual property by the state authorities and officials of the Kyrgyz Republic;

other guarantees specifically provided for by bilateral and multilateral international treaties concluded by the Kyrgyz Republic on the promotion and protection of investments.

Resolution No. 88 of the Cabinet of Ministers of the Kyrgyz Republic dated February 18, 2022, approved the List of Financial Obligations of Authorized State Authorities for the Protection of Investments on Territories with a Special Investment Regime for Priority Economic and Social Sectors and the Regulation on the Procedure for Providing Financial Obligations of Authorized State Authorities for the Protection of Investments under a Guarantee for Investment Projects, as Enshrined in Investment Agreements, on Territories with a Special Investment Regime for Priority Economic and Social Sectors.

The list of financial obligations is as follows:

1. Obligations of the state under guarantees for investment projects, as enshrined in investment agreements, in the event of damage as a result of illegal actions/omissions committed by state authorities in the consideration of disputes arising from conflicts in the legislation.

2. Guarantee of protection from any forms of discrimination by the state to ensure equal competitive opportunities for investors.

3. Equal relations with both foreign investors and domestic investors.

4. Free transfer of profit and other types of income.

5. Guarantee of protection of investments from expropriation, except as provided by the legislation.

6. Guarantee of protection of rights of investors in relation to intellectual and other property.

Conditions for providing the above are as follows:

1. The investor shall make investments within three years from the date of signing the investment agreement in the capital of the investee in an amount equivalent to at least three (3) million US dollars or, in case of the Batken Region, at least one (1) million US dollars.

2. The investor carrying out activities related to the survey, prospecting, exploration or development of natural resources shall make investments within five years from the date of signing the investment agreement in an amount equivalent to at least twenty (20) million US dollars or, in case of the Batken Region, at least ten (10) million US dollars.

The procedure for providing financial obligations is as follows:

1. The investor applying for the financial obligations of the state under guarantees for investment projects shall submit to the authorized authority responsible for investment policy implementation an application, notarized copies of the certificate of state registration, a project feasibility study, the opinion of an independent auditor, reports on the financial and economic activity, etc.

2. After receiving all the documents in accordance with paragraph 10 of this Regulation, the authorized authority shall prepare a draft investment agreement and obtain approval of the draft from the relevant state authorities and the investor.

3. After obtaining approval of the draft investment agreement from the relevant state authorities, the authorized authority shall submit the draft investment agreement to the Secretariat of the Council of the Cabinet of Ministers of the Kyrgyz Republic for Fiscal and Investment Policy (hereinafter the “Council”) which shall, in turn, bring this matter before the Council.

4. The Council shall, in accordance with the determined procedure, adopt a decision to approve the draft investment agreement or reject it.

5. If the Council adopts a positive decision, the authorized authority shall, in accordance with the determined procedure, submit the draft investment agreement for approval to the authorized committees of the Jogorku Kenesh (Supreme Council) of the Kyrgyz Republic on economy, budget, finance and international affairs for appropriate decision-making on approval or rejection.

6. Upon obtaining of a positive decision from the committees of the Jogorku Kenesh of the Kyrgyz Republic, the authorized authority shall submit for consideration by the Cabinet of Ministers of the Kyrgyz Republic a draft disposition of the Cabinet of Ministers of the Kyrgyz Republic on the approval of the draft investment agreement and on the authorization of a particular official to sign it in accordance with the determined procedure.

7. After the entry into force of the draft disposition specified in paragraph 6, the authorized official shall sign the investment agreement with the investor.

#### Procedure for Considering Investor Claims and Supporting Investors

For the purpose of implementing Decree No. 3 of the President of the Kyrgyz Republic “On Protection of Property and Support of Entrepreneurs and Investors” dated January 29, 2021, and in accordance with Articles 13 and 17 of the Constitutional Law of the Kyrgyz Republic “On the Cabinet of Ministers of the Kyrgyz Republic”, the Cabinet of Ministers of the Kyrgyz Republic approved the Procedure for Considering Investor Claims and Supporting Investors (Resolution No. 32 of the Cabinet of Ministers of the Kyrgyz Republic dated January 28, 2022).

The objectives of this Procedure are:

- 1) to create an investor claims register;
- 2) to provide assistance to investors in resolving issues encountered by investors in interaction with state and local authorities, economic partnerships and companies with state share, as well as state and municipal enterprises;
- 3) to minimize economic and legal consequences of legitimate investor claims for the Kyrgyz Republic;
- 4) to minimize the risks of legal disputes and arbitration proceedings with investors;
- 5) to provide assistance to investors in maintaining and increasing their investments in the Kyrgyz Republic;

6) to improve the investment attractiveness of the Kyrgyz Republic.

The activities of considering investor claims are carried out by the authorized authority in the field of attracting investments in close cooperation with state and local authorities, economic partnerships and companies with state share, state and municipal enterprises, as well as independent institutions for the protection of rights of investors.

As part of the mechanism for considering investor claims and supporting investors, the authorized authority in the field of attracting investments performs the following functions:

- 1) maintenance of the Investor Claims Register (hereinafter the “Register”);
- 2) economic and legal analysis of the information contained in the claims;
- 3) interaction with claimees for the purpose of claim resolution;
- 4) holding of meetings with investors filing claims for their proper consideration;
- 5) notification of the Cabinet of Ministers of the Kyrgyz Republic, the authorized authority for development of a unified state investment policy and the authorized authority for legal representation of the Cabinet of Ministers of the Kyrgyz Republic about the existing risks of arbitration proceedings on investor claims;
- 6) interaction with prosecution authorities in terms of the findings identified during the legal analysis;
- 7) subsequent support of investors registered in the Register.

### *Business Ombudsman Institution in the Kyrgyz Republic*

The position of an authorized person for the protection of the rights, freedoms and legitimate interests of business entities – the Business Ombudsman – has been established with the aim to ensure the transparency of the activities carried out by state government authorities, reduce the level of corruption and create a legal and institutional framework for the protection of the rights, freedoms and legitimate interests of business entities.

The main tasks of the Business Ombudsman are:

1) to receive and consider claims from business entities against actions (including decisions) or omissions of state and local authorities, public sector enterprises and their officials in accordance with the Regulation and the Rules of Procedure, as well as to send recommendations and submissions to the relevant state and local authorities and public sector enterprises;

2) to send recommendations to the relevant state and local authorities and public sector enterprises on ensuring the formation and implementation of state policy in the field of entrepreneurial activity with the aim of improving it, enhancing the conditions for entrepreneurial activity and preventing corruption and/or other violations of the rights and/or legitimate interests of business entities.

In accordance with the assigned tasks, the Business Ombudsman performs the following functions:

1) consideration of claims lodged by business entities regarding violations of their rights, freedoms and/or legitimate interests by state and local authorities, public sector enterprises and their officials;

2) filing of requests with state and local authorities and public sector enterprises;

3) collection, processing and systematization of information on pending claims of business entities.

### *Procedure for registration and issuance of temporary and permanent residence permits to foreign nationals and stateless persons on the territory of the Kyrgyz Republic*

For the purpose of attracting investments through the introduction of a simplified system for issuing residence permits to foreign nationals (except for the nationals of countries bordering the Kyrgyz Republic) investing in the economy of the Kyrgyz Republic, Resolution No. 627 of the Cabinet of Ministers of the Kyrgyz Republic dated November 16, 2022, amended Resolution No. 626 of the Government of the Kyrgyz Republic “On Approval of the Regulation on the Procedure for Registration and Issuance of Temporary and Permanent Residence Permits to Foreign Nationals and Stateless Persons on the Territory of the Kyrgyz Republic” dated November 13, 2008.

According to the made amendments, the period for consideration of materials for issuing temporary residence permits to foreign nationals investing over 10 mln soms in the economy of the Kyrgyz Republic was reduced from 4 to 2 weeks. The above amendments also provide for issuing a residence permit to a foreign national (except for the nationals of countries bordering the Kyrgyz Republic) investing over 10 mln soms in the economy of the Kyrgyz Republic without the requirement of mandatory residence for at least six months before submitting an application.

### *Credit ratings of the Kyrgyz Republic*

In January 2022, the Moody's rating agency downgraded the credit rating of the Kyrgyz Republic in connection with the nationalization of the Kumtor gold deposit.

### *Currency control mechanism*

There is no currency control regime in the Kyrgyz Republic in connection with the chosen floating rate policy pursued by the National Bank of the Kyrgyz Republic (hereinafter the "NBKR"), as well as the absence of legislative restrictions on the purchase and sale (exchange) of national and foreign currency on the territory of the Kyrgyz Republic and on capital inflow from abroad and capital transfer abroad. However, the Kyrgyz Republic has in place currency regulation, with the NBKR being the authorized authority.

Currency regulation is carried out through:

- issuing the regulatory legal acts governing foreign exchange operations;
- issuing and revoking licenses for foreign exchange operations in accordance with the Law of the Kyrgyz Republic "On the National Bank of the Kyrgyz Republic, Banks and Banking Activities" (hereinafter the "Law") and regulatory legal acts of the National Bank;
- monitoring the currency market and exercising supervision over persons conducting foreign exchange operations in accordance with the Law;
- implementing other regulatory measures provided for by the Law and regulatory legal acts of the NBKR.



### *Investor support*

For the purpose of promoting steady economic growth and creating a favorable investment climate and business environment, Decree No. 115 of the President of the Kyrgyz Republic dated April 15, 2022, approved the Regulation on the National Investment Agency under the President of the Kyrgyz Republic.

The goals of the National Agency are creation of a favorable investment climate by attracting and promoting investments to the economy of the Kyrgyz Republic, assistance to exporters in promoting goods to foreign markets, development of public-private partnership mechanisms, assistance and support to investors, as well as development of free and other economic zones having a special regime for economic activities in accordance with the legislation of the Kyrgyz Republic.

The tasks of the National Agency are:

- improvement of investment attractiveness and promotion of investment activity, exports;
- efficient bilateral and multilateral interaction with international economic and financial institutions, as well as foreign government and financial organizations; assistance in attracting project (thematic) investment from international organizations and funds;
- increase in the efficiency of using foreign investments attracted to the country's economy through systematic monitoring of the progress in implementing investment projects, including on the basis of public-private partnership projects;
- development of international and interregional foreign economic relations of the Kyrgyz Republic in terms of attracting and promoting investments, as well as exports;
- attraction of investments to the development of free and other economic zones having a special regime for economic activities in accordance with the legislation of the Kyrgyz Republic;
- assistance in the settlement of investment disputes arising from investment activities on the territory of the Kyrgyz Republic.

The National Agency performs a number of functions in accordance with the assigned tasks.

In terms of forming a favorable investment climate, the following functions can be distinguished:

- assistance to domestic enterprises in finding investors and concluding investment agreements with them;
- implementation of a policy to promote the “single window” principle for investors;
- coordination of activities carried out by state and local authorities for the implementation of investment projects, public-private partnership projects and other investment projects and programs;
- ensuring of interaction between state and local authorities and investors; analysis of the objectivity and legality of their decisions from the standpoint of protecting the rights and legitimate interests of investors;
- organization of work to support investors at each stage of the investment cycle; holding of negotiations to resolve emerging organizational issues in terms of preventing bureaucratic hurdles, including in the post-investment period;
- development of proposals for state and local authorities to improve the investment climate in the Kyrgyz Republic;
- provision of investors with the necessary information related to the authorization-based procedure for carrying out activities, as well as provision of appropriate assistance;
- assistance in solving the problems of existing and potential investors and parties to public-private partnership agreements through their official representation before state and local authorities if they encounter illegal or obstructive actions of state and local authorities, as well as their officials and representatives.

For the convenience of investors, the National Investment Agency maintains an investment map posted on the official website [invest.gov.kg](http://invest.gov.kg). The investment map gives an insight into the main indicators of the Kyrgyz Republic broken down by regions, the availability of natural resources, existing infrastructure, potential investment projects, etc.

### *Control and supervision activities in the Kyrgyz Republic*

Given the importance of the private sector in economic development, state policy is aimed at creating favorable conditions for business development. This has been reflected in the creation of a regulatory framework in the field of entrepreneurship and its further improvement.

For many years, the Ministry has closely cooperated with businesses and international organizations and developed joint measures that limit state intervention in the business of entrepreneurs and prevent the creation of various administrative barriers by state authorities.

When conducting inspections of business entities, state controlling authorities are guided by the Law of the Kyrgyz Republic “On the Procedure for Conducting Inspections of Business Entities”. The Law regulates the relations of the authorized authorities whose powers to conduct inspections are established in the laws of the Kyrgyz Republic with business entities whose activities are subject to inspection in accordance with the legislation of the Kyrgyz Republic.

Thus, the Government of the Kyrgyz Republic has introduced risk criteria and checklists for state controlling authorities to determine the degree of risk associated with businesses and, accordingly, the frequency of inspections. Much attention is paid to businesses whose activities pose a high potential risk to human life and health.

Thus, depending on the degree of risk:

businesses with a high degree of risk shall be inspected no more than once a year;

businesses with a medium degree of risk shall be inspected no more than once every three years;

businesses with a minor degree of risk shall be inspected no more than once every five years.

The introduction of risk criteria for business entities makes it possible to apply a differentiated approach to business entities in the determination of inspection frequency depending on the degree of risk, thus preventing duplicate inspections. This will, in turn, improve the development of the business environment and the competitiveness of business entities, as well as contribute to a higher quality and efficiency of inspections and more effective work of state authorities on inspection analysis and monitoring.

The time limits for conducting inspections have been reduced **from 30 to 15 business days** or, in case of **small businesses, to 5 business days**.

The official website [www.proverka.gov.kg](http://www.proverka.gov.kg) has been created for sharing all information on inspections with businesses. Any entrepreneur may go to the website and obtain information about what inspector plans to conduct an inspection and when, what degree of risk the business entity has and how often it will be inspected. The website contains answers to the most frequently asked questions about inspections, the legal framework for inspections, as well as an online forum for communication and claims of entrepreneurs against illegal inspections.

Moreover, there has been introduced an automated feedback mechanism which serves as a tool for interaction between the business community and state controlling authorities.

The purpose of introducing a feedback mechanism is to obtain from entrepreneurs a prompt and objective assessment of inspections' work to further improve and optimize it, develop concepts and training programs for employees, as well as extract information for the development of tutorials. It should be noted that the above mechanism is based on the principle of anonymity.

Temporary rules for registration of inspections conducted by law enforcement and tax authorities in relation to business entities and local authorities have been approved in order to eliminate unreasonable and illegal interference of law enforcement and tax authorities in the activities of business entities.

Temporary rules for registration of inspections stipulate that all inspections of business entities and local authorities by state law enforcement and fiscal authorities shall be carried out by agreement with the Prosecutor General's Office of the Kyrgyz Republic.

In addition, by Resolution No. 602 of the Government of the Kyrgyz Republic dated December 11, 2020, the Government of the Kyrgyz Republic introduced a ban on inspections of business entities by law enforcement authorities in order to create favorable conditions for entrepreneurs, support the economic activities of business entities, ensure their legal protection and eliminate unreasonable and excessive interference of individual law enforcement authorities in the activities of business entities.

## 2.5 State of the business and investment climate in the Russian Federation

The activities of foreign investors in the Russian Federation are regulated by Federal Law No. 160-FZ “On Foreign Investments in the Russian Federation” dated June 9, 1999 (hereinafter the “Federal Law”). The Federal Law establishes the basic guarantees of rights of foreign investors for investments and the income and profit gained on them in order to ensure a stable environment for the activities of foreign investors and compliance of the legal treatment of foreign investments with international law and international practice of investment cooperation.

Federal Law No. 57-FZ “On Procedures for Foreign Investments in the Economic Companies of Strategic Importance for Russian National Defense and State Security” dated April 29, 2008 (hereinafter “Federal Law 57-FZ”), determines the areas of activities in which the buying of Russian companies' shares (stakes) by foreign investors shall undergo the procedure of approval by the Government Commission for Control over Foreign Investments in the Russian Federation. Such industries include the handling of nuclear and radioactive substances, the development and manufacture of weapons and military equipment, the development of aviation equipment and space activities, the exploration and production of natural resources, the harvesting (catching) of aquatic biological resources and others.

The provisions of Federal Law 57-FZ apply to the acquisition by foreign investors of the right to directly or indirectly control over 50 percent of the shares (stakes) of strategic economic companies (25 percent or more if such entities exploit subsurface areas with federal status and/or carry out the harvesting (catching) of aquatic biological resources) or the right to appoint a sole executive authority and/or over 50 percent of members of such an entity's collegial executive authority.

The Russian Federation has concluded 79 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 63 are in force<sup>12</sup>.

The Russian Federation is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), as well as the Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985). In addition, the Russian Federation signed the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965).

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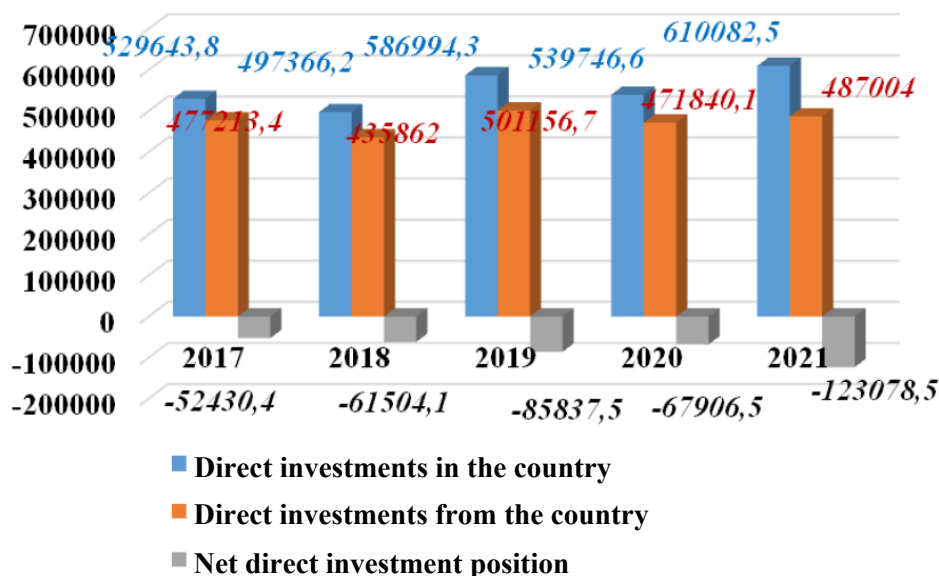
<sup>12</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

Fig. 5 shows the dynamics of attracting FDI to the economy of the Russian Federation. In 2021, the volume of attracted FDI amounted to 610,082.5 mln US dollars.

In accordance with the Commission's data, the largest investors in the Russian Federation in 2021 were Cyprus (182,197.3 mln US dollars), the Bermudas (UK) (62,251.1 mln US dollars), the United Kingdom (53,474.4 mln US dollars), the Netherlands (36,920.8 mln US dollars), Ireland (34,065.2 mln US dollars).<sup>13</sup>

**Figure 5**

**Attraction of foreign direct investment to the economy of the Russian Federation (reserves)**  
**(Millions of US dollars)**



Source: Plotted according to the data of the Eurasian Economic Commission (Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf)).

<sup>13</sup> Direct Investments in the Eurasian Economic Union. 2021 According to the Current Data. Statistical Bulletin; Eurasian Economic Commission // [http://www.eurasiancommission.org/ru/act/integr\\_i\\_makroec/dep\\_stat/fin\\_stat/statistical\\_publications/Documents/finstat\\_5/finstat\\_5\\_2021.pdf](http://www.eurasiancommission.org/ru/act/integr_i_makroec/dep_stat/fin_stat/statistical_publications/Documents/finstat_5/finstat_5_2021.pdf).

## **Measures for developing a favorable investment environment in the Russian Federation**

In order to prevent unreasonable obligations, prohibitions and restrictions in the field of entrepreneurial and other economic activities, the institutions of regulatory impact assessment (RIA) and actual impact assessment (AIA) are used in the Russian Federation.

The RIA of draft regulatory legal acts determines the possible positive and negative consequences of adopting the draft act, as well as identifies in the draft the provisions establishing excessive obligations, prohibitions and restrictions for natural and juridical persons in the field of entrepreneurial and other economic activities or contributing to their introduction, as well as the provisions contributing to unreasonable expenses of natural and juridical persons in the field of entrepreneurial and other economic activities (paragraph 4 of the Rules for the Regulatory Impact Assessment by Federal Executive Authorities of Draft Regulatory Legal Acts and Draft Decisions of the Eurasian Economic Commission approved by Resolution No. 1318 of the Government of the Russian Federation dated December 17, 2012).

AIA is carried out in accordance with the Rules for Actual Impact Assessment of Regulatory Legal Acts in the Russian Federation approved by Resolution No. 83 of the Government of the Russian Federation dated January 30, 2015. The ultimate goal of AIA is to review and cancel provisions of regulatory legal acts that involve excessive or inefficient regulation of entrepreneurial or other economic activities.

In order to reduce the administrative burden on business entities and increase the efficiency of control and supervision functions, measures are being taken to continue the reform of control and supervision activities.

The most important area in the development of control and supervision activities is the introduction of risk management mechanisms including the analysis and evaluation of the activities carried out by juridical persons and individual entrepreneurs. In the future, the use of a risk-based approach must become universal.

In addition, in accordance with Federal Law No. 247-FZ “On Mandatory Requirements in the Russian Federation” dated July 31, 2020, the provisions of regulatory legal acts establishing mandatory requirements shall enter into force either on March 1 or September 1 of the respective year but not earlier than 90 days after the official publication of the respective regulatory legal act, unless otherwise established by the federal law, the Decree of the President of the Russian Federation or the international treaty of the Russian Federation providing for the establishment of mandatory requirements.

These measures enable economic entities to familiarize themselves with changes in the regulation of the respective economic sphere and prepare for them in advance, which ensures the stabilization of the conditions for the activities of entrepreneurs.

In 2018, the Government of the Russian Federation launched a mechanism for managing systemic changes in the entrepreneurial environment “Business Climate Transformation” (hereinafter “BCT”). BCT is a tool that ensures rapid response of the federal government authorities to the requests of the business community, as well as the removal of regulatory restrictions on doing business, including the elimination of excessive, outdated and conflicting regulatory requirements.

The BCT mechanism includes regular collection of proposals from the business community, organization of expert groups with representatives of state government authorities and interested organizations, preparation of proposals for changing the legal regulation of entrepreneurial activity, monitoring of implementation of measures based on proposals of businesses, as well as assessment of the achieved effects.

In order to improve the investment climate in the constituent entities of the Russian Federation and stimulate regional government authorities to create a comfortable business environment, since 2017 all regions have introduced target models for simplifying business procedures in the main areas of entrepreneurial activity (obtaining of construction permits; technical connection to electric grids, heat supply systems, as well as centralized water supply and disposal systems; control and supervision activities; accounting and registration sphere). The introduction of target models contributes to equal conditions for doing business in the regions.



In accordance with Federal Law No. 78-FZ “On Commissioners for the Protection of the Rights of Entrepreneurs in the Russian Federation” dated May 7, 2013, the Russian Federation has the Institution for the Protection of the Rights of Entrepreneurs.

The tasks of the Commissioner under the President of the Russian Federation for the Protection of the Rights of Entrepreneurs (hereinafter the “Commissioner”) include the protection of the rights and legitimate interests of Russian and foreign business entities on the territory of the Russian Federation and Russian business entities on the territory of foreign states, supervision over the observance of the rights and legitimate interests of business entities, assistance in the development of public institutions focused on protecting the rights and legitimate interests of business entities, interaction with the business community, as well as participation in the formation and implementation of state policy.

The rights of entrepreneurs in the regions are protected by the commissioners for the protection of the rights of entrepreneurs in the constituent entities of the Russian Federation. At present, the institution of the Commissioner is also used in all constituent entities of the Russian Federation.

### **Mechanisms for attracting investments**

In order to strengthen the investment potential in the Russian Federation, a special institution of investment support – an investment protection and promotion agreement (hereinafter the “IPPA”) – has been developed for guaranteeing to investors the unchanged conditions for doing business in the territory of the Russian Federation.

IPPAs may be used by economic entities in all areas of economic activities, except for gambling, the production of certain types of excisable goods, the production of crude oil and natural gas, wholesale and retail trade, the activities of financial organizations regulated by the Bank of Russia, as well as the construction or reconstruction of administrative and business centers, shopping centers, apartment buildings and residential buildings.

The practice of using IPPAs in 2020–2021 showed (*36 IPPAs concluded*) that this institution was successfully used by economic entities and, therefore, the Russian Federation considered the expediency of expanding the list of economic sectors to include investment projects implemented under IPPAs.

In 2022, the IPPA institution was updated and re-launched.

Another significant tool to support investment activity is a special investment contract (SPIC) aimed at the promotion of investment in industrial production in Russia.

The investor shall conclude with the state an agreement which stipulates the investor's obligations to implement the investment project, as well as the state's obligations to ensure stable conditions for doing business and provide state support measures.

The mechanism is presented in two versions:

The SPIC 1.0 mechanism is used for investment projects on the creation or modernization and/or ramp-up of industrial production.

The SPIC 2.0 mechanism is used for investment projects on the introduction or development and introduction of modern technology from the approved list for the purpose of ramping up the mass production of industrial products based on this technology.

Another mechanism is a corporate competitiveness enhancement program of the organization's activities which is aimed at enhancing competitiveness, as well as increasing production volumes and product sales. Organizations implementing corporate competitiveness enhancement programs are provided with access to concessional lending mechanisms.

Concessional loans may be granted to industrial companies by the Industrial Development Fund under a wide range of programs, including Development Projects, Industrial Digitalization, etc.

The Russian Federation is interested in attracting foreign investors to public-private partnership projects.

Another tool for attracting foreign investments in the form of a public-private partnership is a concession agreement. Thus, in accordance with Federal Law No. 115-FZ “On Concession Agreements” dated July 21, 2005 (hereinafter the “Federal Law”), concession agreements shall be used for attracting investments to the economy of the Russian Federation, as well as to ensure the efficient use of state or municipal property.

Foreign juridical persons may also be concessionaires along with Russian individual entrepreneurs and juridical persons.

## **Regional investment climate**

To assess the efficiency of the investment climate at the regional level, the autonomous non-profit organization “Agency for Strategic Initiatives” forms the National Investment Climate Rating (hereinafter, the “ANO 'ASI”, the “Rating”, respectively) jointly with business associations.

The rating measures the totality of factors within the jurisdiction of the regional authorities, i.e. in fact, evaluates the direct efforts of the regional authorities to improve the investment climate in an individual constituent entity of the Russian Federation.

The use of the Rating institution makes it possible to:

- evaluate efforts to improve the conditions for entrepreneurial activity in the regions of the Russian Federation;

identify best practices on certain aspects of the investment climate;

to motivate and stimulate the executive authorities of the constituent entities to implement a comprehensive policy for investment climate improvement.

At the regional level, there is also a wide range of tools to stimulate investors, in particular, special economic zones, industrial clusters and a number of others.

A separate area of work is the introduction of a regional investment standard involving the implementation of elements such as an investment map, a set of investment rules, an investment declaration, an investment committee and a development agency.

## **Foreign Investment Advisory Council**

The Foreign Investment Advisory Council (hereinafter the “Council”) was established in 1994. The Council is a consultative and advisory authority for the Government of the Russian Federation. The main tasks of the Council are to develop proposals for improving the investment climate in Russia, as well as to resolve issues related to the continuation of companies' operating activities in the Russian market.

A distinctive feature of the Council is the functioning of working groups on the most priority activity areas determined annually.

### *Credit ratings of the Russian Federation*

In March 2022, the international rating agency Standard & Poor's downgraded the long-term foreign currency sovereign credit rating of the Russian Federation from CCC- to CC with a negative outlook.

The long-term national currency rating was also downgraded from CCC- to CC.

The international rating agency Moody's downgraded the sovereign rating of the Russian Federation from B3 to Ca in March 2022.

### *On currency control in the Russian Federation*

Currency control in the Russian Federation is carried out by the Central Bank of the Russian Federation, currency control authorities authorized by the Government of the Russian Federation and currency control agents in accordance with Federal Law No. 173-FZ “On Currency Regulation and Currency Control” dated December 10, 2003, acts of the Government of the Russian Federation (including Resolution No. 1365 of the Government of the Russian Federation "On the Procedure for Submission by Resident Natural Persons to Tax Authorities of Statements of Flows of Cash and Other Financial Assets on Accounts (Deposits) in Banks and Other Financial Market Organizations Located Outside the Territory of the Russian Federation, and on Transfers of Funds Without Opening a Bank Account Using Electronic Payment Instruments Provided by Foreign Payment Service Providers” dated December 12, 2015, Resolution No. 819 of the Government of the Russian Federation “On Approval of the Rules for Submission by Resident Juridical Persons and Resident Individual Entrepreneurs to Tax Authorities of Statements of Flows of Cash and Other Financial Assets on Accounts (Deposits) in Banks and Other Financial Market Organizations Located Outside the Territory of the Russian Federation, and on Transfers of Funds Without Opening a Bank Account Using Electronic Payment Instruments Provided by Foreign Payment Service Providers” dated December 28, 2005, Resolution No. 1459 of the Government of the Russian Federation “On the Procedure for Transfer by Customs Authorities to the Central Bank of the Russian Federation and Authorized Banks of Electronic Information on Declarations Registered by Customs Authorities for Goods” dated December 28, 2012, and Resolution No. 65 of the Government of the Russian Federation “On the Procedure for Functioning of the Single Window Information System in the Field of Foreign Trade Activities” dated January 28, 2022), acts of the Central Bank of the Russian Federation (including Instruction No. 181-I of the Bank of Russia “On the Procedure for Submission by Residents and Non-Residents to Authorized Banks of Supporting Documents and Information in the Conduct of Foreign Exchange Operations, Uniform Forms of Accounting and Reporting on Foreign Exchange Operations, the Procedure and Deadlines for Their Submission” dated August 16, 2017) and others.

*On the support system for new investment projects in the constituent entities of the Russian Federation (“regional investment standard”)*

In pursuance of subparagraph d of paragraph 2 of the List of Instructions No. Pr-1096 of the President of the Russian Federation dated June 26, 2021, the Government of the Russian Federation has, jointly with the regions, business associations (Business Russia, Russian Union of Industrialists and Entrepreneurs (RSPP) and Russian CCI) and the Investment Commission of the State Council of the Russian Federation, developed a support system for new investment projects (hereinafter the “System”) that includes:

- 1) formation of a **regional investment standard** consisting of five tools for interaction with investors;
- 2) provision of grants to regions for the purpose of partial compensation for shortfalls in income from the application of the investment tax deduction upon confirmation of the regional investment standard;
- 3) standardization and optimization of the investor's customer journey in the regions through lean manufacturing tools;
- 4) training of regional teams to work with investors.

These tracks are currently being implemented in 45 regions. The introduction of the System in all regions will be ensured by 2024.

**Order No. 591 of the Ministry of Economic Development of the Russian Federation dated September 30, 2021,**

approved the Guidelines for Forming All Elements of the Regional Investment Standard, as well as regulations on monitoring and confirming the introduction of the System.

The **regional investment standard** includes five separate areas of work, as part of which the constituent entities of the Russian Federation:

I. Approve **investment declarations** – lists of obligations to the investor on non-deterioration of the conditions for the implementation of investment projects which are approved by a regional law/decree of the governor of a constituent entity of the Russian Federation.

***Best regional practices for investment declarations:***

1) **Kaluga Region:** Approved by Disposition No. 14-r of the Governor of the Kaluga Region dated February 4, 2022.

The declaration is available in the form of a brochure. Posted on the investment portal of the Kaluga Region<sup>14</sup>.

2) **Republic of Sakha (Yakutia):** Approved by Disposition No. 346-RG of the Head of the Republic of Sakha (Yakutia) dated April 21, 2022.

The declaration is available in the form of a brochure. Posted on the investment portal of the Republic of Sakha (Yakutia)<sup>1</sup>.

3) **Sakhalin Region:** Approved by Disposition No. 237-r of the Governor of the Sakhalin Region dated November 30, 2021.

The declaration is available in the form of a brochure. Posted on the investment portal of the Sakhalin Region<sup>15</sup>.

II. Create **development agencies** to support new investment projects. Agencies serve as a platform for the work of investment teams, whose main task is to support investment projects.

**Best regional practices for development agencies:**

We would like to note the work of development agencies in the **Republic of Tatarstan, as well as the Novgorod** and Nizhny Novgorod Regions. In the Republic of Tatarstan, the functions of a development agency are performed by the regional executive authority.

Regional development agencies organize investment committees. In contrast to the common practice of investment councils, the main task of the investment committee is pre-trial dispute resolution. That is why it is fundamentally important that the Committees are headed directly by the Governor and that representatives of government authorities and public organizations, as well as experienced entrepreneurs participate in the meetings.

**Best regional practices for investment committees:**

The practice for the settlement of disputes through investment committees is being formed at the moment. The following regions with successful implementation practices can be noted:

1) **Sverdlovsk Region:** The procedure for submitting and considering investors' applications is visualized. There is a practice of involving mediators in the resolution of disputes and conflicts.

2) **Republic of Bashkortostan:** Meetings of the investment committee are held once a week. Meetings on the settlement of disputes and conflicts are held once a month. The decisions of the investment committee are controlled by the Head of the Republic.

<sup>14</sup> <https://investyakutia.ru/investitsionnaya-deklaratsiya.html>

<sup>15</sup> <https://investinsakhalin.ru/investor/invest-declaration.php>

Local authorities actively participate in the work of the committee with the involvement of business sheriffs for settling conflict situations at the municipal level.

III. Form a **set of investment rules** in order to optimize the time limits for key infrastructure procedures in the implementation of investment projects. The main objective is not only to reduce the time limits but also to determine the optimal algorithms of actions and a set of documents in areas such as connection to electric grids, energy supply, heat supply, gas supply, water supply and disposal, the obtaining of land plots, construction and commissioning permits, registration of ownership for a commissioned facility and access to road infrastructure.

Best regional practices on the set of investment rules:

1) **Moscow**: A clear step-by-step visualization has been developed for all algorithms of investors' actions stipulated by the set of investment rules<sup>16</sup>.

Work is underway to optimize the procedures.

2) **Belgorod region**: A clear step-by-step visualization has been developed for all algorithms of investors' actions stipulated by the set of investment rules<sup>17</sup>.

Work is underway to optimize the procedures.

IV. Post **information about resources, support and infrastructure** for businesses on the investment map of the region. Companies investing in different regions must have access to a certain array of information presented in a similar form, regardless of what region the project is planned to be implemented in. The regional standard determines the data model itself and the minimum amount of information to be posted.

Best regional practices for the investment map:

#### 1) **Belgorod Region**<sup>18</sup>

Main advantages:

- visualized reference information on all requested categories of tariffs, as well as on tax rates and benefits;
- high level of detail on map layers, especially in terms of transport infrastructure and communication coverage areas;
- territorial resources of prospective development are singled out in a separate tab and categorized by districts of the region;

<sup>16</sup> <https://investmoscow.ru/about-moscow/investment-rulebook>

<sup>17</sup> <https://belgorodinvest.com/podderzhka-novykh-investitsionnykh-proyektov/#projects-2>

<sup>18</sup> <https://www.belgorodinvest.ru/investicionnaya-karta/>

- availability of the Investor's Cabinet and the possibility of accessing it from the investment map webpage;

- intuitive interface formed on the “single page” principle.

## 2) Leningrad Region<sup>19</sup>

Main advantages:

- possibility to view the basemap with the cadastral map overlaid on it;
- links to master plans for a number of urban and rural settlements located near investment sites;

- display of specially protected territories, areas of predominantly agricultural use, as well as other types of territories with restrictions on certain types of activities;

- site selection filter by key parameters (permitted land use type, possibility of connection to engineering infrastructure, hazard class, location in a specific municipal district, location in a territory of advanced social and economic development, form of ownership, etc.);

- possibility to display only objects of regional development programs;

- information layer with engineering infrastructure detailed in terms of displaying not only existing but also planned connection points;

- high level of detail on map layers, including the demographic situation and population growth forecast for specific territories;

- possibility to obtain detailed information about each object on the map (acquisition variants, responsible persons and their contacts, customer, display of possibilities for connecting to engineering infrastructure through specific entry points, etc.).

### *On digitalization of control (supervision) and authorization-based activities*

In 2021, the reform of control (supervision) activities in the Russian Federation was accompanied by the active introduction of digital solutions that speeded up, simplified and lent **transparency to the interaction between the controlled person and the controller.**

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<sup>19</sup> <https://map.lenoblinvest.ru/>



One of the main services is the **Unified Register of Types of Control (URTC)** operated by the Ministry of Economic Development of the Russian Federation. The main functions of this service are the creation of legally significant directories for other systems and the collection of high-level analytics by type of control (supervision).

In fact, filling out a control type card means the digitization of the adopted regulation on the control type; the formation of many directories and the description of control types in non-legal parlance enables any entrepreneur visiting the website [ervk.gov.ru](http://ervk.gov.ru) to understand what and in what form can be inspected as part of the activities carried out for a particular control type.

The **Unified Register of Control (Supervisory) Activities (URCSA)** which replaced the Unified Register of Inspections has also become the most important element of digital solutions in this area. The operator of this system is the Prosecutor General's Office of the Russian Federation. The main distinctive feature of the URCSA is the wide use of directories from other information systems, including the URTC, which makes it possible to generate structured information about control. If the information is not available in the URCSA, the control (supervisory) activity is illegal.

For each control activity, the system generates a QR code to be applied to each document issued during the control activity. It leads to the card of the activity in the system and enables everyone to check the legality of the actions taken and the very existence of the activity.

Federal Law No. 248-FZ “On State Control (Supervision) and Municipal Control in the Russian Federation” dated July 31, 2020, establishes the right of controlled persons for pre-trial appeal of decisions of control (supervisory) authorities and actions (omissions) of their officials (hereinafter “pre-trial appeal”).

The mechanism of pre-trial appeal ensures the reliable real time monitoring of the status of the claim, the progress of its consideration and the running of functional time limits during the consideration of the claim, as well as enables the remote provision of the necessary documents.

The service Claim Against a Control Authority's Decision is implemented through the Federal State Information System “Unified Portal of State and Municipal Services (Functions)”, provides a unified channel for the analysis and distribution of claims against violations in the field of control (supervision) activities, ensures routing and monitoring of claim consideration, a unified numbering system, as well as unified accounting and, as a result, improves the quality and simplifies the filing of claims against violations in the field of control (supervision).

An important event in the field of authorization-based activities was the introduction of the Unified Register of Licenses on March 1, 2022.

The register was created to form a unified licensing data model. Earlier there was no single point for collecting information from license registers in one place, whereas now all information from registers for 54 licensed activities is accumulated in the Unified Register of Licenses.

This register contains a description of licensing types which served as a basis for creating directories. The directories were formed for use in all departmental information systems, in which licensing authorities maintain their license registers, as well as for dashboards. The use of directories eliminates possible violations when information is entered into license registers (owing to the use of drop-down lists instead of text fields).

The Unified Register of Licenses enables format and logical control of all draft entries made by the licensing authorities in license registers.

The Unified Register of Licenses is used to ensure that all granted licenses are assigned registration numbers with a unified structure. Such a number is generated automatically and is not subject to change, including in the event of a change in the information in the register.

At present, it is planned to apply the Unified Register of Licenses to other permits in addition to licenses.

The development of digitalization has significantly increased the transparency and predictability of control and authorization-based activities, raised the awareness of the current rules among businesses, as well as ensured the protection of entrepreneurs' rights in the exercise of state and municipal control and highly legal actions of controllers in relation to controlled persons.

### *About the International Council for Cooperation and Investment (ICCI)*

A separate area related to improving the business and investment climate is the work of advisory bodies under leading business associations, such as the International Council for Cooperation and Investment (ICCI) under the RSPP. The Council was established in 2008 for assistance in building systemic relations between foreign businesses operating in our country and Russian government authorities.

It is an advisory body established as a platform for interaction between foreign businesses and Russian authorities. The establishment of the ICCI was welcomed by S.E. Prikhodko, Aide to the Russian President, and S.V. Lavrov, Minister of Foreign Affairs of the Russian Federation.

The ICCI brings together leading foreign investors in the Russian economy, business associations and Chambers of Commerce and Industry. Its main goal is to develop coordinated positions of businesses in order to improve the national business climate, as well as a constructive dialogue with the government authorities on key issues of concern to businesses. The ICCI members consider their most important task to be that of communicating the common positions of Russian and foreign businesses on the key issues of the international agenda, as well as objective and exhaustive information on the positive trends in the development of the Russian investment climate to the official authorities of their countries.

The ICCI is chaired by A.N. Shokhin, RSPF President, and co-chaired by V.F. Vekselberg, Head of the RSPF International Cooperation Committee, and the leaders of foreign business associations – President of the American Chamber of Commerce in Russia, Chairman of the Board of the Association of European Businesses in the Russian Federation, Head of the Japanese Business Club, Chairman of the Russian-German Chamber of Commerce and Director General of the Franco-Russian CCI.

ICCI meetings have been repeatedly attended by the heads of state government authorities: A.V. Dvorkovich, Deputy Prime Minister of the Government of the Russian Federation, E.S. Nabiullina, Minister of Economic Development of the Russian Federation, S.V. Lavrov, Minister of Foreign Affairs of the Russian Federation, V.O. Nikishina, Member of the Board – Minister in charge of Trade of the Eurasian Economic Commission (EEC), A.V. Samoylova, Head of the Federal Service for Surveillance in Healthcare, G.P. Ivliev, Head of the Federal Service for Intellectual Property (Rospatent), A.I. Denisov, First Deputy Minister of Foreign Affairs of the Russian Federation, A.Yu. Ivanov and T.I. Maksimov, Deputy Ministers of Finance of the Russian Federation, S.S. Voskresensky, Deputy Minister of Economic Development of the Russian Federation, A.I. Khersontsev, State Secretary – Deputy Minister of Economic Development, V.S. Osmakov, Deputy Minister of Industry and Trade of the Russian Federation, R.Kh. Nizamov, Deputy Head of the Federal Service for Supervision of Natural Resources, K.L. Chaika, State Secretary – Deputy Head of the Federal Customs Service, E.Yu. Egorova, Deputy Head of the Federal Migration Service, S.V. Chupsheva, ASI General Director, Markus Ederer, EU Ambassador to Russia, and heads of more than 100 largest foreign companies operating in Russia.

The priority topics on the ICSI agenda include: investment climate improvement; development of law enforcement practice and legislation on investment promotion in Russia; ensuring of stable conditions for doing business in the Eurasian space; development of regulation and elimination of trade barriers in the economy; mechanisms for the alternative settlement of disputes; customs legislation and retail trade regulation; migration registration of foreign nationals; protection of intellectual property; support for localization and innovation; development of the legal services market in Russia; development of the insurance services market, state procurement and regulation of the medicine circulation market; improvement of tax legislation; development of legislation and problems related to the institution of extended producer and importer responsibility; development of trade and economic cooperation between Russia, Europe and certain foreign states; impact of the European Green Deal on the prospects for the trade, economic and investment cooperation of the EU with Russia and the EAEU; and many others.

By now, the ICCI has turned into an efficient mechanism of Russian and foreign businesses cooperation with Russian authorities. On the one hand, the Council provides a platform for coordination of Russian and foreign market participants' efforts aimed at improving the conditions for doing business in Russia. On the other hand, the Council serves as a partner for the Russian Government in discussing the key issues of foreign companies' activities in Russia. ICCI proposals are regularly reflected in the decisions of state government authorities.

## **2.6 State of the business and investment climate in the Republic of Uzbekistan**

The Republic of Uzbekistan is an observer state at the EAEU. This status was granted to the Republic of Uzbekistan by Decision No. 14 of the SEEC dated December 11, 2020<sup>20</sup>.

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<sup>20</sup> Decision No. 14 of the SEEC "On Granting to the Republic of Uzbekistan the Observer State Status at the Eurasian Economic Union" dated December 11, 2020 // [https://docs.eacunion.org/docs/ru-ru/01428324/err\\_12012021\\_14](https://docs.eacunion.org/docs/ru-ru/01428324/err_12012021_14).

One of the most important directions in the economic policy of the Republic of Uzbekistan is the creation of a favorable business and investment climate in the country.

The Government of Uzbekistan provides assistance to investors through collective intergovernmental coordination and partnerships with various stakeholders.

The authorized state authority responsible for the implementation of the unified state investment and foreign trade policy in the Republic of Uzbekistan is the Ministry of Investments and Foreign Trade of the Republic of Uzbekistan.

Interaction with investors is carried out by the Investment Promotion Agency under the Ministry of Investments and Foreign Trade of the Republic of Uzbekistan.

The Republic of Uzbekistan has great opportunities for developing investment potential, including the presence of a large domestic market with a population of 35 million people, rich natural resources (natural gas, gold, uranium, etc.), skilled labor, steady economic growth rates, as well as ongoing reforms aimed at liberalizing the country's economy.

In particular, as part of implementing the Action Strategy of the Republic of Uzbekistan for 2017–2021, the Government of the Republic of Uzbekistan initiated a number of key reforms, including: liberalization of the currency market, unification of multiple exchange rates, changes in the tax and customs system, development of public-private partnership, reforms in the financial and banking sectors, privatization of state enterprises, liberalization of the mechanism for licensing and issuing permits, creation of a competitive environment in various economic sectors and development of mutually beneficial cooperation with neighboring countries.

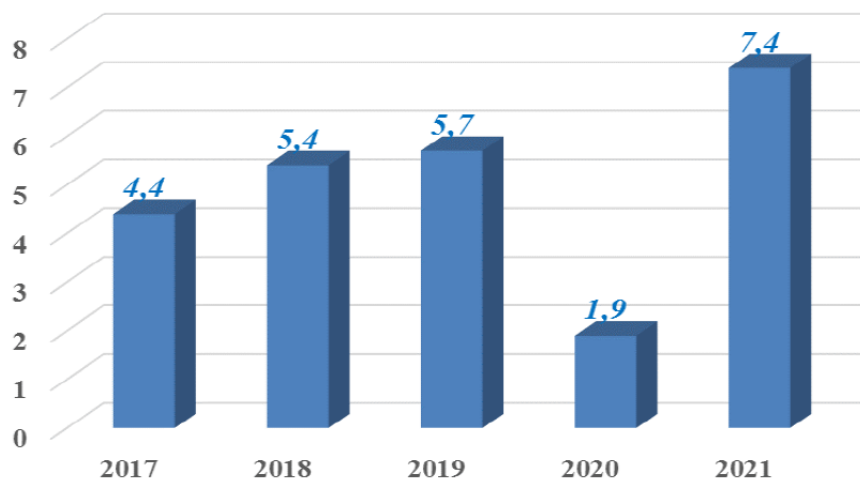
In 2022, the Government adopted a new national development strategy, the **Development Strategy of the New Uzbekistan for 2022–2026**. This strategy provides for attracting investments in the amount of \$120 bln over the next five years, including foreign investments in the amount of \$70 bln.

Priority areas for attracting investments are sectors such as electric power industry, transport, healthcare, education, green economy, utilities and municipal services, as well as water resources management.

Other initiatives related to investment and business under the strategy include reforms in the agricultural sector and land use, reforms in the field of education and healthcare, economy digitalization, trade regime liberalization, possible entry into regional customs unions and the WTO, as well as the implementation of privatization programs and transformation of state enterprises<sup>21</sup>.

The Republic of Uzbekistan shows a trend towards macroeconomic growth. Fig. 6 presents dynamics of economic growth rates in the Republic of Uzbekistan. The strongest drop in the country's GDP occurred in 2020 because of the coronavirus infection pandemic (COVID-19). (The GDP growth rate in 2020 was 1.9% vs. 5.7% in 2019.)

However, as a result of the measures taken by the Government of the Republic of Uzbekistan for the development of the business environment and the promotion of the private economic sector, the GDP growth rates were stabilized and in 2021 the GDP growth rate amounted to 7.4% (see Fig. 6).

**Figure 6****GDP growth rates in the Republic of Uzbekistan****(%)**

Source: Plotted according to the data of the State Committee of the Republic of Uzbekistan on Statistics // <https://stat.uz/ru/>.

*Investment legislation of the Republic of Uzbekistan*

**Law No. ZRU-598 of the Republic of Uzbekistan “On Investments and Investment Activities” dated December 25, 2019** (hereinafter the “Law on Investments”), regulates relations in the field of investments and investment activities carried out by foreign and domestic investors.

<sup>21</sup> Investment Guide of Uzbekistan // <https://mift.uz/ru/investp>.

The Law on Investments defines the basic terms used in the field of investment activities.

Thus, in accordance with the **Law on Investments**, **investments** means tangible and intangible assets and rights to them, including intellectual property rights, as well as reinvestments made by an investor on the basis of risks in social facilities and entrepreneurial, scientific and other activities for profit which may include:

funds, in particular, cash (including foreign currency), targeted bank deposits, units, stakes, shares, bonds, bills and other securities;

movable and immovable property (buildings, structures, equipment, machinery and other material values);

intellectual property rights, including patented or non-patented (know-how) technical, technological, commercial and other knowledge drawn up in the form of technical documentation, skills and production experience necessary for organizing a particular type of production, as well as other values not prohibited by the legislation of the Republic of Uzbekistan.

The **Law on Investments** defines the term **investor** as an investment activity subject carrying out investment of own and/or borrowed funds or other attracted investment resources in investment activity objects in order to make a profit.

In the **Law on Investments**, “**enterprises with foreign investments**” mean enterprises in which foreign investments make up at least 15 percent of the shares (stakes, units) or authorized fund (authorized capital).

The **Law on Investments** stipulates guarantees for investors.

In particular, in accordance with **Article 15 of the Law on Investments**, the state **guarantees the rights of investment activity subjects**.

According to Article 15 of the Law on Investments, state authorities and their officials shall not be entitled to interfere in the activities of investment activity subjects carried out in accordance with the legislation. The state guarantees non-discrimination against investors regarding their nationality, place of residence, place of economic activities, as well as the country of origin of investors or investments.

In accordance with **Article 16 of the Law on Investments**, the income of investment activity subjects gained as a result of investment activities may be reinvested or used in any other way at their discretion after the payment of taxes and charges.

According to **Article 17 of the Law on Investments**, investors are **guaranteed the free transfer of funds** in foreign currency to and from the Republic of Uzbekistan without any restrictions subject to their payment of taxes and charges, including currency conversion for repatriation. Such transfers shall include:

- initial and additional amounts to maintain or increase foreign investment;
- income from investment;
- funds received as compensation for losses in accordance with this Law;
- payments made in furtherance of agreements;
- proceeds from the sale of all or part of foreign investments;
- payments arising from the settlement of the dispute, including any judicial or arbitral award;
- salaries and other payments to employees;
- funds from other sources received in accordance with the legislation.

In accordance with **Article 18 of the Law on Investments**, a foreign investor shall have the **right for the termination of investment activities** in the Republic of Uzbekistan.

After the termination of investment activities, a foreign investor shall have the right to freely repatriate, in cash or in kind, the assets resulting from the termination of investment activities.

According to **Article 19 of the Law on Investments**, if subsequent legislation of the Republic of Uzbekistan worsens the conditions for investment, **the legislation that was in force on the date of investment shall be applied to investors for 10 years from the date of investment**. Investors shall have the right to apply, at their discretion, the provisions of the new legislation that improve the conditions for their investment.

**Article 20 of the Law on Investments** determines **guarantees for ensuring publicity and openness**.



In particular, natural and juridical persons are ensured openness and the possibility of free access to information on activities of state administration authorities and local authorities, as well as decisions adopted by them in the sphere of investment activities.

**Article 21 of the Law on Investments determines the rules for investment protection.**

In particular, investments and other assets of investors are not subject to nationalization. Investments and other assets of investors are not subject to requisition (expropriation), except in cases of natural disasters, accidents, epidemics, epizootics and in other circumstances of an extraordinary nature.

An additional source for regulation of investment activities in the Republic of Uzbekistan is the signed intergovernmental agreements on the promotion and protection of investments. In particular, the Republic of Uzbekistan has concluded 49 bilateral intergovernmental agreements for the promotion and reciprocal protection of investments, of which 46 are in force<sup>22</sup>.

Other laws regulating certain areas of investment activities in the Republic of Uzbekistan are:

a) Civil Code of the Republic of Uzbekistan (Part I approved by Law No. 163-I dated December 21, 1995; Part II approved by Law No. 256-I of the Republic of Uzbekistan dated August 29, 1996) which establishes a general framework for most transactions between juridical or natural persons (including the acquisition of property by foreign investors);

b) Law No. ZRU-604 of the Republic of Uzbekistan “On Special Economic Zones” dated February 17, 2020, which grants to investors additional benefits and preferences in relation to projects created in special economic zones (SEZ);

c) Law No. ZRU-537 of the Republic of Uzbekistan “On Public-Private Partnership” dated May 10, 2019, which determines the rights, obligations and state support incentives for foreign investors as private partners;

d) Law No. ZRU-392 of the Republic of Uzbekistan “On Investment and Mutual Funds” dated August 25, 2015, which stipulates mechanisms for diversified investment activities;

e) Law No. 312-II of the Republic of Uzbekistan “On Production Sharing Agreements” dated December 7, 2001, which establishes distinctions between foreign investments in mining activities within the country;

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<sup>22</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

f) Law No. ZRU-701 of the Republic of Uzbekistan “On Licensing, Authorization and Notification Procedures” dated July 14, 2021, which contains information on licensing rules and a list of activities that shall be carried out solely on the basis of licenses, permits or notifications;

g) Law No. 754-XII of the Republic of Uzbekistan “On Nature Protection” dated December 9, 1992, which sets out the provisions on the protection of environment and the use of natural resources.

### *Company establishment in the Republic of Uzbekistan*

The main legislation governing the formation of companies and their activities in the Republic of Uzbekistan consists of the following regulatory legal acts:

a) Law No. ZRU-370 of the Republic of Uzbekistan “On Joint-Stock Companies and Protection of Shareholders' Rights” dated May 6, 2014;

b) Law No. 310-II of the Republic of Uzbekistan “On Limited and Additional Liability Companies” dated December 6, 2001;

c) Resolution No. 66 of the Cabinet of Ministers of the Republic of Uzbekistan dated February 9, 2017 “On Measures to Implement Decree No. PP-2646 of the President of the Republic of Uzbekistan 'On Improving the System of State Registration and Recording of Business Entities' dated October 28, 2016”;

d) Resolution No. 410 of the Cabinet of Ministers “On Approval of the Regulation on the Procedure for Accreditation and Activities of Representative Offices of Foreign Commercial Organizations on the Territory of the Republic of Uzbekistan” dated October 23, 2000<sup>23</sup>.

### *Overview of corporate forms in the Republic of Uzbekistan*

Foreign companies may carry out entrepreneurial activity in the Republic of Uzbekistan by the incorporation of a juridical person in the country or through other forms such as a permanent establishment (PE) and a representative office.

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<sup>23</sup> Investment Guide of Uzbekistan // <https://mift.uz/ru/investp>.

Foreign investors in Uzbekistan most often create joint-stock companies (JSC) or limited liability companies (LLC).

In accordance with Article 3 of Law No. ZRU-370 of the Republic of Uzbekistan “On Joint-Stock Companies and Protection of Shareholders’ Rights” dated May 6, 2014, a **joint-stock company (hereinafter the “JSC”)** means a commercial organization whose authorized fund (authorized capital) is divided into a certain number of shares certifying the rights of shareholders in relation to the company.

The JSC is a juridical person and owns separate property, including property transferred to it in the authorized fund (authorized capital), accounted for on its own balance sheet, as well as may acquire and exercise property and personal non-property rights on its own behalf, bear obligations and be a plaintiff and a respondent in court.

JSC shares may be listed on the Uzbek stock exchange and freely traded. JSCs are mostly organizations such as financial institutions (banks and insurance companies), large manufacturers and state enterprises. They are characterized by more complex managerial and administrative procedures, as well as tighter regulation by capital market authorities compared to other forms of juridical persons.

A **limited liability company (LLC)** is one of the most convenient registration forms in the Republic of Uzbekistan.

Most of the enterprises with foreign investments in the country have been organized in the form of a LLC. Liability is limited to the size of the company's assets, and the voting rights of the members are proportional to their stakes in the authorized fund of the LLC. Unlike JSCs, stakes in the authorized fund of a LLC are not securities, but participatory interests (expressed as a percentage).

A juridical person in the form of a LLC is administratively a more practical option than a JSC as it is subject to less stringent requirements for corporate governance and company activities. Since July 2020, LLCs may issue corporate bonds on the stock exchange of the Republic of Uzbekistan.

A **permanent establishment (PE)** is not considered a separate juridical person, but only represents the tax status of a foreign juridical person (i.e. tax registration in the Republic of Uzbekistan). The PE form is usually used for one-time service projects (for example, oil industry services, turnkey projects, consulting). A disadvantage of a PE is that it may not apply for a license if one is required for a specific activity.

For PE registration, a company shall submit the necessary package of documents to the respective district tax authority.

A **representative office** is a subdivision of a foreign company that represents and protects the interests of the juridical person in the host country. It is not itself a juridical person and may not carry out commercial activities.

### *Company registration in the Republic of Uzbekistan*

Registration of an economic entity is carried out by the Public Services Agency under the Ministry of Justice of the Republic of Uzbekistan.

The company establishment procedure in the Republic of Uzbekistan includes the following stages:

a) Pre-registration: preparation of constituent documents for the future company, determination of founders, execution of a power of attorney, etc. As a rule, this procedure takes one to two months.

b) State registration: filing of constituent documents and registration of the company with the relevant state authorities. This process can be completed during one business day.

*For reference:*

#### *Documents required for state registration of enterprises with the participation of foreign capital in the Republic of Uzbekistan*

- 1). *Application (electronic request in case of registration via the Internet).*
- 2). *Original constituent documents in the state language (in one copy).*
- 3). *Copy of the payment document confirming the payment of the state duty in the established amount.*
- 4). *In case of registration via the Internet: consent of each founder from the Uzbek side to become a founder (confirmation by e-mail).*
- 5). *In case of registration via the Internet: certification of the request for an electronic digital signature (EDS) from all foreign founders.*
- 6). *In case of registration in person: power of attorney (translated into the state language and legalized in case of foreign investors) if the documents for registration are submitted by a representative of the founder.*

*Requests sent through the automated system for state registration of enterprises with foreign investments, enterprises with the participation of foreign capital and other juridical persons whose founders include non-nationals of the Republic of Uzbekistan shall be signed with an EDS of these persons on a mandatory basis.*

c) Post-registration: registration with the tax authorities, opening of a bank account, etc. These procedures usually take one week.

If the company's activities require additional licenses or permits from state authorities, the post-registration period may take longer – two to six months, depending on the necessary documents and permits.

### *Public-private partnership in the Republic of Uzbekistan*

Since the adoption of Law No. ZRU-537 of the Republic of Uzbekistan “On Public-Private Partnership” dated May 10, 2019 (hereinafter the “Law of the Republic of Uzbekistan 'On PPP’”), the Government of the Republic of Uzbekistan has actively implemented public-private partnership (PPP) projects in many economic sectors.

The development of PPP in the Republic of Uzbekistan expands the possibilities of attracting foreign investments to the development of the country's economy and using international practices in the accomplishment of social tasks.

**In accordance with Article 3** of the Law of the Republic of Uzbekistan “On PPP”, a **public-private partnership** means cooperation between a public partner and a private partner legally arranged for a determined period of time and based on pooling their resources for the implementation of a public-private partnership project.

**According to Article 3 of the above Law, a public-private partnership project** means a combination of activities implemented based on attracting private investments and/or introducing best management practices and aimed to address economic, social and infrastructural issues.

**In accordance with Article 4 of the** Law of the Republic of Uzbekistan “On PPP”, **the main principles of public-private partnership** shall include:

- equality of a public partner and a private partner before the law;
- transparency of rules and procedures for public-private partnership implementation;
- competitiveness and objectivity in the selection of a private partner;
- inadmissibility of discrimination;
- inadmissibility of corruption.

**Article 10 of the Law of the Republic of Uzbekistan “On PPP” determines the main directions of state policy of the Republic of Uzbekistan in the area of public-private partnership:**

promotion of economic growth and ensuring of sustainable development in the Republic of Uzbekistan;

development, approval and implementation of national programs in the area of public private partnership;

assistance in formation, rehabilitation, operation and maintenance of existing public infrastructure;

improvement of public infrastructure operation and maintenance quality;

improvement in the quality of state services and access to them;

creation of conditions ensuring attraction of financing from the private sector, including foreign investments;

state support in scientific research, as well as introduction of modern methods and technologies for development and improvement of the institutional and legal framework of public-private partnership.

In accordance with Article 12 of the Law of the Republic of Uzbekistan “On PPP”, the authorized state authority in the area of PPP shall be the Public-Private Partnership Development Agency under the Ministry of Finance of the Republic of Uzbekistan (hereinafter the “authorized state authority”) with the following main functions:

implementation of state policy in the area of PPP;

participation in development and implementation of state programs in the area of PPP;

ensuring of interagency coordination during preparation and implementation of PPP projects;

assistance to ministries, state committees, departments and local authorities in the implementation of state programs in the area of PPP, as well as in the development of concepts for PPP projects;

organization of interaction with investors, international financial and donor organizations, the scientific and expert community, as well as other PPP participants;

preparation of methodological documents, guidelines and instructions in the area of PPP;

consideration of PPP projects;

development of draft standard agreements on PPP;

maintenance of the Register of PPP Projects;  
assistance in preparation and implementation of PPP projects;  
submission of the concept for a PPP project with the total value exceeding the equivalent of 10 million US dollars for approval to the Cabinet of Ministers of the Republic of Uzbekistan<sup>24</sup>.

According to Article 15 of the Law on PPP, a PPP project may be initiated by:

- a) state authority (state initiator);
- b) individual entrepreneur or juridical person (private initiator).

*For reference:*

#### *PPP projects implemented in the Republic of Uzbekistan*

*A number of large PPP projects have been implemented in the Republic of Uzbekistan with the aim of developing renewable energy sources, improving the healthcare system, developing rural areas, etc.:*

*Abu Dhabi Future Energy Company PJSC – Masdar (United Arab Emirates) is participating in the implementation of the project for the construction of a photovoltaic (solar) power plant with a capacity of 100 MW in the Navoiy Region. The total amount of investments is about \$100 mln.*

*NephroPlus (India) was selected through a tender in 2021 for the construction of four new clinics (the amount of investments will be \$9.7 mln).*

*A consortium consisting of EDF (France), Nebras Power (Qatar) and Sojitz Corporation (Japan) is implementing a project for the construction of a combined cycle thermal power plant with a capacity of 1600 MW in the Sirdaryo Region. Investments in the amount of \$1.2 bln are expected.*

#### *Special economic zones in the Republic of Uzbekistan*

The activities of SEZ in the Republic of Uzbekistan are regulated by Law No. ZRU-604 of the Republic of Uzbekistan “On Special Economic Zones” dated February 17, 2020.

In accordance with Article 2 of the above Law, a special economic zone means a territory with defined boundaries and a special legal regime which is specially allocated in order to attract foreign and domestic investments, high technologies and managerial experience for the accelerated social and economic development of the respective region.

As of July 1, 2022, the Republic of Uzbekistan had 24 free economic zones (FEZ) providing export-oriented enterprises with special benefits and infrastructure.

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<sup>24</sup> Law No. ZRU-537 of the Republic of Uzbekistan “On Public-Private Partnership” dated May 10, 2019 // <https://lex.uz/ru/docs/4329272>.

During the period from 2008 through 2021, 559 investment projects were implemented in FEZ, resulting in the creation of 46,833 jobs and the attraction of foreign investment in the amount of \$905.6 mln<sup>25</sup>.

Investment projects are selected for placement in FEZ in accordance with the Regulation on the Procedure for Selection of Investment Projects for Placement on the FEZ Territory and Registration of FEZ Participants approved by Resolution No. 29 of the Cabinet of Ministers dated January 16, 2018.

A decision to implement a project on the territory of free economic zones shall be adopted by the administrative councils if there is a positive opinion of the State Unitary Enterprise “Center for Comprehensive Examination and Import Contracts under the Ministry of Economy and Industry of the Republic of Uzbekistan” (hereinafter the “Center”) on business plans or technical and economic justifications of projects to be implemented.

In accordance with Decree No. UP-5600 of the President of the Republic of Uzbekistan “On Measures to Further Improve the System of Coordination and Management of Free Economic Zones” dated December 21, 2018, the period for issuing the Center's opinion on business plans or technical and economic justifications of projects to be implemented shall not exceed 20 calendar days; the total period for consideration by the administrative councils of investment applications for locating production on the territory of free economic zones shall not exceed 30 calendar days, including the process of issuing the Center’s opinion<sup>26</sup>.

The investor shall submit to the FEZ Directorate a completed investment application for locating production on the FEZ territory with the following attached:

- information on the state registration of a juridical person (investor) or other document confirming the activities of this investor;

- business plan of the proposed investment project;

- information confirming the experience of the investor in the relevant field and/or the implementation of similar investment projects (if any);

- information on the financial and economic activity of the investor over the past three years.

All documents shall be submitted by the investor to the Directorate together with their translation into the state or Russian language certified in accordance with the determined procedure. The investor shall be liable for the accuracy of the information and documents submitted.

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<sup>25</sup> Investment Guide of Uzbekistan // <https://mift.uz/ru/investp>.

<sup>26</sup> Free economic zones in the Republic of Uzbekistan // <https://invest.gov.uz/ru/investor/sez-i-mpz/>.



The Administrative Council shall consider the submitted investment applications and business plans and, based on the results, make a decision on the possibility of implementing the project on the FEZ territory or the need to finalize the submitted documents or the inexpediency of implementing the investment project on the FEZ territory.

In accordance with Decree No. UP-4853 of the President of the Republic of Uzbekistan dated October 26, 2016, enterprises participating in FEZ shall be exempt from:

a) land tax, corporate income tax, tax on the property of juridical persons, tax on improvement and development of social infrastructure, unified tax payment for microfirms and small enterprises, as well as mandatory contributions to the Republican Road Fund and the off-budget Fund for Reconstruction, Overhaul and Equipment of Secondary Schools, Professional Colleges, Academic Lyceums and Medical Institutions under the Ministry of Finance of the Republic of Uzbekistan;

b) customs payments (except for customs clearance fees) for equipment, raw and other materials, as well as components imported for their own production needs with the targeted use of the released funds for the creation of new production facilities, the modernization, reconstruction, technical or technological re-equipment and expansion of existing production facilities, the construction of industrial buildings or the purchase of raw and other materials necessary for their own production needs without the right to refund the negative amount of value added tax arising from product exports;

c) customs payments (except for customs clearance fees) for construction materials not produced in the Republic and imported as part of implementing projects if there is a positive opinion of the State Unitary Enterprise “Center for Comprehensive Examination of Projects and Import Contracts” under the Ministry of Economy and Industry of the Republic of Uzbekistan based on the results of comprehensive examination for lists of goods.

Benefits in SEZ are granted for a period of **3 to 10 years** depending on the amount of investments made, including in the equivalent (US dollar):

\$300 thous. to \$3 mln – for a period of **3 years**;

\$3 mln to \$5 mln – for a period of **5 years**;

\$5 mln to \$10 mln – for a period of **7 years**;

\$10 mln and more – for a period of **10 years** with the levy of corporate income tax and the unified tax payment at rates **50%** lower than the current ones for the next **5 years**.

For the entire period of FEZ operation, enterprises participating in FEZ are exempt from customs payments (except for customs clearance fees) for imported raw and other materials, as well as components in terms of exported products.

The state ensures a guaranteed timely connection of enterprises participating in FEZ and their production sites to mechanical, electrical and plumbing systems, as well as their uninterrupted functioning<sup>27</sup>.

### **Tax and customs benefits granted to investors in the Republic of Uzbekistan**

The granting of tax benefits is regulated by the Tax Code of the Republic of Uzbekistan.

An overview of tax and customs benefits in the Republic of Uzbekistan is presented in Annex 4 to the Report.

### **2.7 State of the business and investment climate in the Republic of Moldova**

The Republic of Moldova is an observer state at the EAEU. This status was granted to the Republic of Moldova by Decision No. 9 of the SEEC dated May 14, 2018<sup>28</sup>.

The priority directions of economic policy in the Republic of Moldova are enhancement of regulation of entrepreneurial activity, improvement of the tax system, simplification of access to the market (primarily that of agricultural products) through developing the activities of free enterprise zones, growth in the competitiveness of Moldovan goods and improvement of conditions for their export<sup>29</sup>.

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<sup>27</sup> Investment Guide of Uzbekistan // <https://mift.uz/ru/investp>.

<sup>28</sup> Decision No. 9 of the SEEC “On Granting to the Republic of Moldova the Observer State Status at the Eurasian Economic Union” dated May 14, 2018 // [https://docs.eaeunion.org/docs/ru-ru/01417707/scd\\_16052018\\_9](https://docs.eaeunion.org/docs/ru-ru/01417707/scd_16052018_9).

<sup>29</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.

### *Investment activities in the Republic of Moldova*

Investment activities in the Republic of Moldova are regulated by Law No. 81-XV of the Republic of Moldova “On Investments in Entrepreneurial Activity” dated March 18, 2004 (hereinafter the “Law”)<sup>30</sup>.

In accordance with the above Law:

**investment** means an aggregate of values (assets) invested in any entrepreneurial activity on the territory of the Republic of Moldova, including on the basis of a financial leasing agreement, as well as under a public-private partnership, with a view of gaining income;

**capital investment (costs)** means costs incurred by an investor in connection with the purchase and/or improvement of long-term assets which are not charged to the result of the current period but are subject to capitalization (recognized as an increase in the value of long-term assets);

**foreign investments** means investments made by foreign investors in any entrepreneurial activity in the Republic of Moldova, including income gained from these investments and reinvested on the territory of the Republic of Moldova;

**investment activities** mean activities related to investment and the carrying out of entrepreneurial activity in connection with this investment with a view of gaining income.

In accordance with Article 4 of the Law, investments may be in the following forms:

- a) property right for movable and immovable property, as well as other proprietary rights;
- b) any right granted on the basis of law or contract; any license or permit issued in accordance with current legislation, including concessions for prospecting, cultivation, production or exploration of natural resources;
- c) rights arising from shares, stakes or any other form of participation in commercial societies;
- d) funds;
- e) rights arising from debt obligations or any other obligations to the investor which have economic and financial value;

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<sup>30</sup> Law No. 81-XV of the Republic of Moldova “On Investments in Entrepreneurial Activity” dated March 18, 2004 // [https://base.spinform.ru/show\\_doc.fwx?rgn=6644](https://base.spinform.ru/show_doc.fwx?rgn=6644).

f) intellectual property rights: industrial property rights (patents for inventions, utility models, trademarks, service marks, company names, appellations of origin of goods, designs, drawings, patents for plant varieties and layout designs of integrated circuits), copyright and other related rights, commercial secret (know-how), goodwill;

g) other contractual rights, including those arising from public-private partnerships.

In accordance with Article 5 of the Law, investors may make investments in any field of entrepreneurial activity on the entire territory of the Republic of Moldova in accordance with current legislation, provided that the interests of national security, antitrust legislation and the rules of environmental protection, public health and public order are observed.

According to Article 6 of the Law, investments in the Republic of Moldova shall not be discriminated based on the investor's nationality, place of residence, location, place of registration or activities, the country of origin of investor or investment or any other reasons.

Article 6 of the Law states that investors shall be offered fair and equal conditions for their activities that exclude the use of discriminatory measures which could impede management, operation, maintenance, use, profitability, purchase, expansion or disposition of investments.

In accordance with Article 8 of the Law, investors shall carry out investment activities in accordance with international treaties to which the Republic of Moldova is a party, the Law and other legislative acts, as well as in accordance with standards (norms, rules, etc.) approved in accordance with the determined procedure.

According to Article 8, investors, including foreign ones, shall comply with the legal requirements of public authorities.

The Law determines the rules for investment protection.

In particular, in accordance with Article 9 of the Law, public authorities shall observe rights of investors granted to them by law. If a public authority violates rights of investors, the latter shall be entitled to demand recognition of their rights and compensation for losses incurred by them.

The Law establishes rules for providing guarantees of non-application of expropriation or other similar actions to investors.

In particular, in accordance with paragraph 1 of Article 10 of the Law, investments shall not be expropriated or subject to any other similar measures which can directly or indirectly deprive the investor of its property right or the right to control investments, except as provided by paragraph 2 of Article 10.

Paragraph 2 of Article 10 notes that investment activities may be compulsorily terminated only subject to the following conditions:

- a) the measure is taken for socially useful purposes subject to preliminary and equivalent compensation for losses and is not a discriminatory measure;
- b) the above measure is determined by the contractual conditions established under the public-private partnership.

The Law determines the guarantee of compensation for losses to the investor.

In accordance with Article 11 of the Law, investors shall enjoy, in accordance with current legislation, the right to receive compensation for losses incurred as a result of their rights' violation, including by an act issued by a public authority in violation of rights and interests of investors or any other unlawful actions of a public authority.

The Law contains special provisions on foreign investors and foreign investments.

In accordance with paragraph 1 of Article 17 of the Law, in the Republic of Moldova, enterprises with foreign investments may be created in the form of joint ventures and enterprises with foreign capital.

According to paragraph 2 of Article 17 of the Law, a joint venture means an enterprise which is created in accordance with the legislation of the Republic of Moldova and whose authorized capital is partially made up of foreign investments.

In accordance with paragraph 3 of Article 17 of the Law, an enterprise with foreign capital means an enterprise which is created in accordance with the legislation of the Republic of Moldova and whose authorized capital is entirely made up of foreign investments.

According to paragraph 4 of Article 17 of the Law, enterprises with foreign investments shall have the right to create international associations and organizations, as well as be members of international associations and organizations.

In accordance with paragraph 1 of Article 18 of the Law, registration, operation and dissolution procedures for enterprises with foreign investments shall be identical to those for domestic enterprises and shall be carried out in accordance with the current legislation of the Republic of Moldova.

### *State registration*

In accordance with Article 7 of Law No. 220 of the Republic of Moldova “On State Registration of Juridical Persons and Individual Entrepreneurs” dated October 19, 2007, the following documents shall be submitted for state registration of a juridical person:

application for registration according to the sample approved by the state registration authority;

decision on the creation and constituent documents of the juridical person depending on its organizational and legal form (in two copies);

opinion of the National Commission for Financial Markets – for insurance companies, non-state pension funds, as well as savings and loan associations;

document confirming payment for registration.

Moreover, juridical persons with foreign investments shall additionally provide:

extract from the national register of the investor's country of residence;

constituent documents of a foreign juridical person<sup>31</sup>.

### *Permissive documents*

In order to reduce the regulatory burden on businesses, a radical, across-the-board revision and optimization of permits and licenses was carried out in 2016–2017 and the number of these documents was reduced from 416 to 152. The provisions of Law No. 160 of the Republic of Moldova “On Regulation by Authorization of Entrepreneurial Activity” dated July 22, 2011, and the legal framework for issuing three categories of permissive acts (licenses: 34 documents; authorizations (permissive documents granted for the right to operate and documents confirming the certification of certain capabilities of an economic entity): 82 documents; certificates (permissive documents confirming the conformity of services and/or goods to certain technical requirements): 36 documents) were combined into a single act according to Law No. 185 of the Republic of Moldova “On Making Amendments to Certain Legislative Acts” dated September 21, 2017.

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<sup>31</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.

Both the license conditions and the conditions for issuing other permits are established by sectoral laws that specifically regulate the types of activities and are binding for carrying out the respective type of activities.

Resolution No. 753 of the Government of the Republic of Moldova “On Approving the Concept of the Mechanism for the Management and Issuance of Permissive Documents and the Action Plan for Optimizing Permissive Documents and Implementing Single Window Solutions” dated June 14, 2016, was adopted in order to optimize the authorization system. In pursuance of this resolution, the necessary measures have been taken, an automated information system has been developed and is being implemented, and two Resolutions of the Government of the Republic of Moldova dated June 13, 2018, were adopted: No. 550 “On Approving the Technical Concept of the Automated System for the Management and Issuance of Permissive Documents” (Automated Information System for the Management and Issuance of Permissive Documents (AIS MIPD)) and No. 551 “On Approving the Regulation on the Procedure for Maintaining the Register of Permissive Documents”. As a result, an automated information system was developed and put into operation on July 9, 2018. Thus, 60% of permissive documents are issued in the “single window” mode.

Introducing the point of single contact for issuing permissive documents is one of the main goals promoted by the Government of the Republic of Moldova to reduce the administrative burden and create a favorable business environment. With the onset of the COVID-19 epidemic, the point of single contact has become increasingly important. The process of obtaining licenses and other permissive documents has been simplified with the introduction of an electronic platform. Using the point of single contact saves about 3.5 mln US dollars for businesses<sup>32</sup>.

The average time to obtain a permissive document using the “single window” is currently 6 days vs. 25–30 days prior to its introduction.

In order to increase the utilization rate of the AIS MIPD, the Parliament of the Republic of Moldova adopted amendments to Law No. 160/2011 of the Republic of Moldova “On Regulation by Authorization of Entrepreneurial Activity”, according to which each permissive act shall be accompanied by a QR code created by the AIS MIPD (the new provisions entered into force in February 2021).

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<sup>32</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.

### *Currency regulation*

The basic document establishing the main principles of currency regulation in the Republic of Moldova, the rights and obligations of residents and non-residents in the field of foreign exchange, as well as the powers of currency control authorities and the functions of currency control agents is Law No. 62-XVI of the Republic of Moldova “On Currency Regulation” dated March 21, 2008 (hereinafter “Law No. 62-XVI”). In specified cases, Law No. 62-XVI provides for the right of the National Bank of Moldova to regulate, within the established limits, certain aspects in the field of foreign exchange by its regulatory acts (e.g. conditions and procedure for conducting foreign exchange operations through bank accounts/payment accounts in national and foreign currencies, conditions for the granting of foreign currency loans to residents by licensed banks, etc.)<sup>33</sup>.

Residents have the right to open foreign currency accounts with licensed banks and foreign currency payment accounts with resident non-bank payment service providers, except for payment accounts in connection with the issuance of electronic money. Non-residents may open accounts with the licensed banks of the Republic of Moldova without restrictions.

With regard to current foreign exchange operations, the Republic of Moldova accepted the obligations of Sections 2–4 of Article VIII of the IMF's Charter on June 30, 1995. By doing so, the Republic of Moldova assumed obligations to refrain from imposing restrictions on payments and transfers on current international operations without the IMF's consent, from participating in discriminatory foreign exchange agreements and using the practice of multiple exchange rates.

Residents and non-residents may receive and make payments and transfers on current foreign exchange operations without restrictions.

With regard to capital foreign exchange operations, Law No. 62-XVI establishes the following requirements:

Capital foreign exchange operations involving the inflow of capital into the Republic of Moldova are conducted without restrictions, unless otherwise provided by the legislation of the Republic of Moldova that regulates the field relevant to respective capital foreign exchange operations.

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<sup>33</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.



Thus, according to Article 22 of Law No. 81-XV of the Republic of Moldova “On Investments in Entrepreneurial Activity” dated March 18, 2004, foreign investors may not purchase agricultural land and forestry fund land.

In case of residents obtaining from non-residents loans/credits and guarantees listed in Law No. 62-XVI, capital foreign exchange operations involving the inflow of capital into the Republic of Moldova are subject to the notification regime aimed at the registration by the National Bank of Moldova of the obligations arising from the mentioned operations as a result of notification by residents of these operations. The notification regime does not apply to capital foreign exchange operations subject to Law No. 419-XVI of the Republic of Moldova “On Public Sector Debt, State Guarantees and State On-Lending” dated December 22, 2006, as well as to foreign exchange operations which are related to the collateral provided for in paragraph 12 of Article 4 of Law No. 184 of the Republic of Moldova “On Financial Security Agreements” dated July 22, 2016, and which are regulated by it.

Capital foreign exchange operations involving the outflow of capital from the Republic of Moldova may be conducted without the authorization of the National Bank of Moldova, except for certain operations expressly provided by Law No. 62-XVI (e.g. operations for the purchase by residents of foreign financial instruments, the granting of financial loans/credits and certain guarantees by residents to non-residents, currency exchange operations conducted abroad by residents, as well as the opening abroad of current and deposit accounts by residents, with some exceptions).

The requirement to obtain from the National Bank of Moldova an authorization for conducting capital foreign exchange operations applies only to residents, except for certain operations for the import/export of currency values, where an authorization shall be obtained from the National Bank of Moldova by non-residents.

The authorization regime does not apply to capital foreign exchange operations whose participants are the Ministry of Finance or the National Bank of Moldova, the opening of accounts abroad by public institutions, capital foreign exchange operations conducted at the expense of the national public budget, as well as to foreign exchange operations which are related to the collateral provided for in paragraph 12 of Article 4 of Law No. 184 of the Republic of Moldova “On Financial Security Agreements” dated July 22, 2016, and which are regulated by it.

Law No. 62-XVI provides for the right of the National Bank of Moldova to allow or refuse the issuance of an authorization, taking into account the main task of the National Bank of Moldova provided for by Law No. 548-XIII of the Republic of Moldova “On the National Bank of Moldova” dated July 21, 1995, the current conditions of the money, credit and currency markets, the payments position and the legislation of the Republic of Moldova.

### *Taxation of juridical persons*

The taxation of juridical persons in the Republic of Moldova is regulated by the Tax Code of the Republic of Moldova approved by Law No. 1163-XII dated April 24, 1997, which establishes the general principles of taxation in the Republic of Moldova, the legal status of taxpayers, tax authorities and other participants in relations regulated by tax legislation, the principles for determining the objects of taxation and accounting income and deductible expenses, the procedure and conditions for prosecution for violations of tax legislation, as well as the procedure for appealing the actions of tax authorities and their officials<sup>34</sup>.

In case of conflicts between regulatory acts adopted by the Government of the Republic of Moldova, the Ministry of Finance, the State Tax Service, the Customs Service under the Ministry of Finance, other central sectoral public authorities, as well as local public authorities on the basis and in pursuance of the Tax Code, the provisions of the Tax Code shall apply.

If any international treaty which regulates taxation or contains provisions regulating taxation and to which the Republic of Moldova is a party establishes rules and provisions other than those provided for by tax legislation, the rules and provisions of the international treaty shall apply.

The Republic of Moldova levies state and local taxes (duties) and charges.

*The system of state taxes (duties) and charges includes:* income tax; VAT; excise duties; private tax; customs duty; road charges; property tax; single tax from residents of information technology parks.

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<sup>34</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.

*The system of local taxes and charges includes:* immovable property tax; private tax; charges for natural resources; charge for landscaping; charge for organizing auctions and lotteries within an administrative territorial entity; advertising charge; charge for use of local symbols; charge for objects of trade and/or objects for the rendering of services; market charge; charge for temporary residence; resort charge; charge for provision of services for the road transportation of passengers on municipal, urban and rural (public) routes; charge for parking vehicles; charge from dog owners; parking charge; charge for sanitary cleaning; charge for advertising devices.

***State taxes (duties) and charges***

*Income tax* is regulated by Section II of the Tax Code.

The subjects of taxation are juridical persons, exception for partnerships, which during the tax year gain income from any sources in the Republic of Moldova, and resident juridical persons which gain investment and financial income from sources outside the country.

The object of taxation for resident enterprises is profit gained from sources both in and outside the Republic of Moldova. The object of taxation for non-resident enterprises is only profit gained from sources in the Republic of Moldova. The object of taxation is gross income (including benefits) gained from all sources by any juridical person, minus the deductions and exemptions to which this person is entitled.

The total amount of income tax for juridical persons is determined as 12% of taxable income (since 2012).

*Value added tax* is a state tax which is a form of withdrawal to the budget of a part of the cost of supplied goods and rendered services subject to taxation on the territory of the Republic of Moldova, as well as a part of the cost of taxable goods and services imported into the Republic of Moldova.

The subjects of taxation are:

juridical and natural persons carrying out entrepreneurial activity and non-residents carrying out entrepreneurial activity in the Republic of Moldova through a permanent establishment that are registered or subject to registration as VAT payers;

juridical and natural persons, as well as non-residents carrying out entrepreneurial activity in the Republic of Moldova through a permanent establishment that import goods (except for natural persons importing goods for personal use or consumption) whose value does not exceed the limit established by the current legislation;

juridical and natural persons, except socio-political organizations, as well as non-residents carrying out entrepreneurial activity in the Republic of Moldova through a permanent establishment that import services, regardless of whether they are registered as VAT payers or not;

non-residents that carry out entrepreneurial activity without formalizing the organizational and legal form in the Republic of Moldova, provide services through electronic networks and gain income from resident natural persons of the Republic of Moldova who do not carry out entrepreneurial activity, as well as non-residents that carry out entrepreneurial activity without formalizing the organizational and legal form in the Republic of Moldova and through which resident natural persons of the Republic of Moldova who do not carry out entrepreneurial activity pay for services which are received through electronic networks from other non-residents and whose place of supply is considered to be the Republic of Moldova (since April 1, 2020);

juridical and natural persons carrying out entrepreneurial activity and acquiring on the territory of the Republic of Moldova the property of enterprises that are registered as VAT payers and are in the process of insolvency, except for those in the process of restructuring and plan implementation, in accordance with Law No. 149 of the Republic of Moldova “On Insolvency” dated June 29, 2012 (since January 1, 2020).

The objects of taxation are:

supply of goods and services by the subjects of taxation as a result of their entrepreneurial activity in the Republic of Moldova;

import into the Republic of Moldova of goods (except for goods for personal use or consumption imported by natural persons) whose value does not exceed the limit established by the current legislation;

import of services into the Republic of Moldova;

supply of services through electronic networks by non-residents carrying out entrepreneurial activity without formalizing the organizational and legal form in the Republic of Moldova to resident natural persons of the Republic of Moldova who do not carry out entrepreneurial activity (since April 1, 2020);

acquisition of property from the subjects of taxation in the process of insolvency, except for those in the process of restructuring and plan implementation, in accordance with Law No. 149 of the Republic of Moldova “On Insolvency” dated June 29, 2012 (since January 1, 2020).

The standard VAT rate is 20% of the taxable cost of imported goods and services and supplies on the territory of the Republic of Moldova.

*Excise duties* are a nationwide tax imposed on certain consumer goods.

The subjects of taxation are the authorized owner of the tax warehouse producing and/or processing excisable goods on the territory of the Republic of Moldova, and juridical and natural persons importing excisable goods.

The objects of taxation are 14 types of excisable goods, including: beer and all types of alcoholic beverages; tobacco products; petroleum products; cars; perfume and eau de toilette; fur clothes; video recording and video reproducing equipment; red and black caviar; other goods provided for in the Annex to Section IV of the Tax Code of the Republic of Moldova.

The tax base is:

volume in physical terms if excise duty rates, including those for imports, are set in absolute amount per unit of measurement of goods;

cost of goods without excise duties and VAT if ad valorem percentage excise duty rates are set for them, except for Article 123-1 of the Tax Code of the Republic of Moldova;

customs value of imported goods, as determined in accordance with the customs legislation, as well as taxes, duties and charges payable upon import without excise duties and VAT if ad valorem percentage excise duty rates are set for these goods, except for Article 123-1 of the Tax Code of the Republic of Moldova.

The following excise duty rates are set:

specific – in absolute amount per unit of measurement of goods;

ad valorem – as a percentage of the cost of goods without excise duties and VAT or of the customs value of imported goods, taking into account taxes and charges payable upon import but without excise duties and VAT.

### *Free enterprise zones*

Free enterprise zones (FEZ) have the status of customs territories with preferential customs, tax, currency, visa and labor regimes. Currently, the Republic of Moldova has seven FEZ, as well as Giurgiulesti International Free Port and Marculesti International Free Airport which have the characteristics of free zones:

Giurgiulesti International Free Port with an area of up to 120 ha is an economically separate part of the customs territory of the Republic of Moldova intended for the development of international trade and consisting of a terminal for transshipment of vegetable oil and bulk cargo, the oil, grain, container and RORO terminals, as well as an industrial zone. Thanks to its location on the Danube and available water depths of up to 7 meters, Giurgiulesti International Free Port is capable of receiving not only river barges but also sea vessels. The free port was created for a period of 25 years;

Marculesti International Free Airport with an area of 265 ha is part of the customs territory of the Republic of Moldova intended to accelerate the development of air transportation, aviation services, export industrial production and foreign trade activities. The runway is capable of receiving almost all types of cargo aircraft.

The following types of activities may be carried out in FEZ:

industrial production of export-oriented goods, except for ethyl alcohol and alcoholic products;

sorting, packaging, marking and other similar operations in relation to goods in transit through the customs territory of the Republic of Moldova;

foreign trade activities;

types of activities such as utilities services, warehouse activities, construction, catering, etc. which are auxiliary and necessary for carrying out the activities of residents<sup>35</sup>.

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<sup>35</sup> Overview of the Business Climate, Investor Benefits, Free Economic Zones and Industrial and Technology Parks of the Republic of Moldova for 2020 // <https://e-cis.info/upload/iblock/993/993818d8521f6ce95ae0bd3d88532264.doc>.

### *Tax regime*

Taxation for residents of free economic zones (FEZ) has the following specific features:

In accordance with paragraphs f, f-1 and i of Article 104 of the Tax Code of the Republic of Moldova, the following shall be exempt from VAT with the right of deduction:

goods and services supplied to FEZ from outside the customs territory of the Republic of Moldova, supplied from FEZ outside the customs territory of the Republic of Moldova, supplied to FEZ from the rest of the customs territory of the Republic of Moldova, as well as supplied by residents of various FEZ of the Republic of Moldova to each other, except for transport services supplied to FEZ from the rest of the customs territory of the Republic of Moldova, as well as supplied by residents of various FEZ of the Republic of Moldova to each other;

goods supplied by a resident of the FEZ of the Republic of Moldova to a non-resident of the Republic of Moldova if the goods are transferred for processing to a resident of another FEZ of the Republic of Moldova, as specified by the non-resident buyer/recipient;

goods and services supplied to Giurgiulesti International Free Port and Marculesti International Free Airport from outside the customs territory of the Republic of Moldova, supplied from Giurgiulesti International Free Port and Marculesti International Free Airport outside the customs territory of the Republic of Moldova, supplied to Giurgiulesti International Free Port and Marculesti International Free Airport from the rest of the customs territory of the Republic of Moldova, as well as supplied by residents of various FEZ of the Republic of Moldova, International Free Port Giurgiulesti and Marculesti International Free Airport to each other, except for transport services supplied to Giurgiulesti International Free Port and Marculesti International Free Airport from the rest of the customs territory of the Republic of Moldova, as well as supplied by residents of various FEZ of the Republic of Moldova, Giurgiulesti International Free Port and Marculesti International Free Airport to each other.

In addition, in accordance with Article 124 of the Tax Code of the Republic of Moldova, excisable goods imported into a FEZ from outside the customs territory of the Republic of Moldova, from other FEZ, from the rest of the customs territory of the Republic of Moldova, as well as originating from this FEZ and exported outside the customs territory of the Republic of Moldova shall be exempt from excise duties.

### *Currency regime*

Non-cash payments on the territory of FEZ are made both in national and foreign currencies in accordance with the legislation of the Republic of Moldova. The requirement of legislation on currency repatriation does not apply to operations between residents and economic entities of the Republic of Moldova. The requirement of legislation on currency repatriation applies to export-import operations between residents and foreign entities. The salary of persons working in FEZ is paid in national currency.

### *Visa and registration regimes*

Foreign investors and employees of residents, as well as persons invited by the principal administrator of the FEZ are not charged a consular fee for processing business visas. A reasonable request from the principal administrator of the FEZ is the basis for issuing a residence permit and a work permit to the foreign investor or resident employee.

### *Industrial, science and technology parks and innovation incubators*

In order to facilitate the creation and functioning of the industrial park and in accordance with Law No. 182 of the Republic of Moldova “On Industrial Parks” dated July 15, 2010,<sup>36</sup> the state represented by the central and local public authorities shall grant to the residents of the industrial park the following benefits:

exemption from compensation for losses caused by the exclusion of land from the category of agricultural land in accordance with Law No. 1308-XIII of the Republic of Moldova “On Normative Price and Procedure of Sale and Purchase of Land” dated July 25, 1997;

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<sup>36</sup> Law No. 182 of the Republic of Moldova “On Industrial Parks” dated July 15, 2010 // [https://base.spinform.ru/show\\_doc.fwx?rgn=31903](https://base.spinform.ru/show_doc.fwx?rgn=31903).



gratuitous alienation or transfer for gratuitous use of public property, by decision of the owner, to the managing enterprise for the creation and development of an industrial park in accordance with Law No. 121-XVI of the Republic of Moldova “On Management and Denationalization of Public Property” dated May 4, 2007;

right for the privatization of a land plot in public ownership adjacent to structures at the normative price of land established at the time of its transfer for use to the managing enterprise or for lease to the residents of the industrial park only after the acquisition and/or commissioning of industrial and auxiliary buildings and constructions in accordance with Law No. 1308-XIII of the Republic of Moldova “On Normative Price and Procedure of Sale and Purchase of Land” dated July 25, 1997;

granting of tax benefits in accordance with the Tax Code of the Republic of Moldova;

application by the managing enterprise of a reduction factor of up to 0.3 to the tariff of annual payment for the lease of land in public ownership, as established in accordance with Law No. 1308-XIII of the Republic of Moldova “On Normative Price and Procedure of Sale and Purchase of Land” dated July 25, 1997, or to the basic tariff of annual payment for the lease of property in public ownership, as established by the Law of the Republic of Moldova “On the State Budget for the Relevant Year”;

optimization of state inspections of activities carried out by residents of industrial parks by conducting scheduled inspections according to the annual schedule approved by the Resolution of the Government of the Republic of Moldova or unscheduled inspections with the consent of the Ministry of Economy of the Republic of Moldova in accordance with the current legislation;

allocation of financial resources for the creation of industrial and technical infrastructure, if necessary.

In addition, in order to facilitate the creation and operation of science and technology parks and innovation incubators, in accordance with Law No. 226 of the Republic of Moldova “On Science and Technology Parks and Innovation Incubators” dated July 7, 2018,<sup>37</sup> the state shall, through central and local public authorities, grant to the administrator and residents of the science and technology park and innovation incubator the following benefits:

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<sup>37</sup> Law No. 226 of the Republic of Moldova “On Science and Technology Parks and Innovation Incubators” dated July 7, 2018 // [https://base.spininform.ru/show\\_doc.fwx?rgn=112504](https://base.spininform.ru/show_doc.fwx?rgn=112504).

making available of state immovable property for free use to the administrator of the science and technology park and/or innovation incubator for the creation and development of the science and technology park and/or innovation incubator;

budget allocations distributed through a competition as part of programs and projects in the field of research, development, innovation and technology transfer, including for creating and developing the infrastructure of a science and technology park and an innovation incubator;

donations, sponsorship and investment;

application by the administrator of the science and technology park

to its residents of the reduction factor for the tariff established for the calculation of the lease payment for state property, as provided for by the Law of the Republic of Moldova “On the State Budget for the Relevant Year”: 0.3 in the first and second years of activities within the science and technology park, 0.4 in the third year and 0.5 in the fourth year;

exemption by the administrator of the innovation incubator of its residents from the lease payment for state property in the first and second years of activities within the innovation incubator;

application by the administrator of the innovation incubator to its residents of the reduction factor for the tariff established for the calculation of the lease payment for state property, as provided for by the Law of the Republic of Moldova “On the State Budget for the Relevant Year”: 0.5 in the third year of the residents’ activities;

allocation of financial resources for the creation of the technical and production infrastructure of a science and technology park or an innovation incubator from the state budget, the budgets of administrative territorial entities, from the National Regional Development Fund, as well as the National Research and Innovation Program.

Law No. 182 of the Republic of Moldova “On Industrial Parks” dated July 15, 2010, regulates the procedure for creation and functioning of industrial parks, as well as the mechanism for financing their production and technical infrastructure.

Resolution No. 652 of the Government of the Republic of Moldova “On Approval of the Regulation on the Procedure for Holding a Competition for the Selection of Residents and Investment Projects for an Industrial Park and the Standard Report on Activities in an Industrial Park” dated September 1, 2011, determines the procedure and basic conditions for organizing and holding competitions for the selection of residents and investment projects implemented in an industrial park created on the basis of public property or the principle of public-private partnership.

## **2.8 State of the business and investment climate in the Republic of Cuba**

The Republic of Cuba is an observer state at the EAEU. This status was granted to the Republic of Cuba by Decision No. 13 of the SEEC dated December 11, 2020<sup>38</sup>.

The priorities of Cuba's economic policy are: promotion of exports and import substitution; development of the electric power industry based on renewable energy sources; active attraction of foreign investments.

An important factor in the further development of cooperation between the Republic of Cuba and the EAEU Member States was the signing on May 31, 2018, of the Memorandum of Understanding between the Eurasian Economic Commission and the Government of the Republic of Cuba and the adoption of the Joint Action Plan of the Commission and the Government of the Republic of Cuba for 2021–2025.

In particular, in accordance with the above Memorandum, the purpose of cooperation between the Parties is assistance in the development of comprehensive interaction between the EAEU Member States and the Republic of Cuba for the increase of mutual trade and investment, the implementation of measures aimed to remove barriers hindering the development of trade and the attraction of investments, as well as for closer cooperation in areas of mutual interest.

### *Investment activities in the Republic of Cuba*

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<sup>38</sup> Decision No. 13 of the SEEC “On Granting to the Republic of Cuba the Observer State Status at the Eurasian Economic Union” dated December 11, 2020 // [https://docs.eacunion.org/docs/ru-ru/01428322/err\\_12012021\\_13](https://docs.eacunion.org/docs/ru-ru/01428322/err_12012021_13).

The regime of foreign investments in the Republic of Cuba is regulated by Law No. 118 “On Foreign Investments” dated March 29, 2014 (hereinafter “Law No. 118”) which entered into force on June 28, 2014<sup>39</sup>. It determines a system of benefits, guarantees and legal protection for investors, the sectors open to foreign investments, the forms of foreign investments, the banking, foreign trade, labor and special tax regimes, the registration and financial reporting regimes, as well as rules concerning environmental protection, the rational use of natural resources and copyright protection.

According to Law No. 118, foreign investments may be authorized in all sectors except for health, public education and the armed forces. However, business structures created by the authorities of these activities may be objects of foreign investment.

Foreign investments may be authorized in the following forms: joint venture; international economic association agreement; totally foreign capital company.

Joint ventures imply the establishment of a new juridical person and shall adopt the form of a joint-stock company. Joint ventures may establish offices, representative offices, branches and subsidiaries both within the country and abroad, as well as make foreign investments.

The international economic association agreement does not involve the establishment of a new juridical person. The parties agree on the parameters of cooperation and act under an authorization issued by the competent Cuban authority. The scope of obligations of each contracting party is stipulated. The authorized capital is not created; however, the parties may create a common fund in which the ownership of each member is determined.

International economic association agreements include, among others, risk contracts for the exploration of non-renewable natural resources, contracts for construction, agricultural production, hotel or production management or the rendering of services, as well as contracts for the provision of professional services.

In a totally foreign capital company, foreign investors shall carry out activities strictly within the scope of the authorization issued by the competent Cuban authority. Foreign investors in totally foreign capital companies may carry out their activities within the territory of Cuba as natural persons acting on their own behalf, as juridical persons by setting up a subsidiary of the foreign company they own, in the form of a joint-stock company with registered shares or as juridical persons by establishing a branch of a foreign company.

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<sup>39</sup> Republic of Cuba: Business Guide // [https://www.polpred.com/upload/pdf/Businessguide\\_Cuba\\_2017.pdf](https://www.polpred.com/upload/pdf/Businessguide_Cuba_2017.pdf).

Joint ventures, parties to international economic association agreements and totally foreign capital companies have the right to perform exports and imports of goods and services as part of accomplishing their stated goals.

Joint ventures and parties to international economic association agreements are exempt from customs duties for the import of equipment, machinery and other goods during the investment process.

### *Currency regulation*

Settlements and payments on the territory of Cuba are made exclusively in the national currency – Cuban pesos<sup>40</sup>.

The legal tender is Cuban convertible pesos and non-convertible pesos. One convertible peso equals 25 non-convertible pesos and 1 US dollar. Salaries, pensions and social benefits are accrued in non-convertible pesos; taxes and customs payments are set for resident natural and juridical persons of the Republic of Cuba in non-convertible pesos. Foreign nationals and enterprises with the participation of foreign capital make payments to the budget in convertible pesos. Goods and services on the territory of the Republic of Cuba are sold to foreigners and enterprises with the participation of foreign capital in convertible pesos. Currently, Cuba has taken a course towards a gradual transition to a monocurrency system.

Cuban organizations of the non-financial sector may not have foreign currency bank accounts, an exception being made for participants of foreign economic activities. One hundred percent of foreign exchange earnings shall be sold to the Central Bank of Cuba (at the rate of 1 convertible peso for 1 US dollar). Receipts in foreign currency to the accounts of Cuban organizations are automatically converted by the servicing bank into convertible pesos.

For foreign trade and other authorized operations, as well as payments on debt obligations in foreign currency to be effected, a Cuban organization shall submit an application for the purchase of foreign currency to its servicing bank. Authorizations to purchase foreign currency are issued by the Central Bank of Cuba.

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<sup>40</sup> Republic of Cuba: Business Guide // [https://www.polpred.com/upload/pdf/Businessguide\\_Cuba\\_2017.pdf](https://www.polpred.com/upload/pdf/Businessguide_Cuba_2017.pdf).

For the opening of a bank account abroad and the conduct of operations on it, a Cuban organization requires an authorization from the Central Bank of Cuba.

Foreign investors may freely transfer abroad, without the payment of taxes or other charges, dividends and profit from investments, as well as funds received as compensation in the event of liquidation of an enterprise with foreign capital or from the sale of their participatory interests.

Enterprise employees who are foreign nationals, but are not residents of Cuba may freely transfer abroad the funds paid to them as remuneration for their work.

Because of sanctions imposed by the US government, settlements with Cuban companies as part of foreign trade transactions may not be made in US dollars or through US banks. Therefore, the euro is mainly used for these purposes.

A 10% fee is charged for exchanging cash US dollars at Cuban authorized financial organizations. The fee is not charged for exchanging euros and other freely convertible currencies.

### *Regulation of free (special) economic zones*

Cuba's first special economic zone, the Mariel Special Development Zone (Zona Especial de Desarrollo de Mariel, ZEDM), was established in 2013<sup>41</sup>.

The regime of its activities is determined by Decree-Law No. 313 “On the Mariel Special Development Zone” dated September 19, 2013, which entered into force on November 1, 2013. The ZEDM is located 45 km west of Havana, has an area of 465 sq km and is formed around the cargo port of Mariel.

The ZEDM territory is divided into sectors. The first stage involves the development of Sector A with an area of 43 sq km (9% of the entire territory of the zone) located on the western shore of the Mariel Bay and divided into 11 sections.

The main governing body of the ZEDM is the Administration subordinate to the Council of Ministers of the Republic of Cuba. The Administration is headed by CEO. Interaction with ZEDM clients is organized on the “single window” principle.

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<sup>41</sup> Republic of Cuba: Business Guide // [https://www.polpred.com/upload/pdf/Businessguide\\_Cuba\\_2017.pdf](https://www.polpred.com/upload/pdf/Businessguide_Cuba_2017.pdf).

In order to carry out economic activities on the ZEDM territory, a foreign investor or a company being a resident of the Republic of Cuba shall be registered. Two forms of participation are possible: as a concessionaire or a tenant. The concession is approved by the Council of Ministers of the Republic of Cuba and is issued for a period of up to 50 years (with the possibility of extension up to 50 years). The status of a tenant is granted by the decision of the Council of Ministers of the Republic of Cuba and, in some cases, by ZEDM CEO.

Investments in the following activities or areas are approved exclusively by the Council of Ministers of the Republic of Cuba:

- exploration and/or use of natural resources (non-renewable);
- use of non-renewable energy sources;
- transfer of rights to state property;
- provision and/or rendering of public services (transport; communications; electricity and water supply);
- construction and operation of social facilities;
- real estate;
- totally foreign capital companies;
- enterprises with the participation of foreign capital;
- healthcare; education; military institutions.

The approval of foreign investment in other areas is the prerogative of ZEDM CEO.

The ZEDM has a special tax regime, according to which:

- tax on the use of labor is not levied;
- corporate income tax is not levied during the first 10 years (in exceptional cases even for more than 10 years). After this period, the tax rate is 12%;
- customs duties on the import of equipment as part of accomplishing the stated investment goals are not charged; in other cases, Law No. 113 “On the Taxation System” dated July 23, 2012, is applied;
- sales tax is not levied during the first year of operations. The subsequent rate is 1%;
- social insurance contribution is 14%;
- territorial contribution for local development is not charged;
- personal income tax is not levied on income received in the form of dividends or interest from entrepreneurial activity; salary tax for non-residents is 15%;
- a preferential rate of 50% is granted for the tax on the use or operation of beaches, the use and operation of bays and the use and exploitation of forest resources and fauna, as well as water tax throughout the payback period for investment expenses.

Concessionaires and tenants may open accounts with any bank on the territory of Cuba in any currency in accordance with the current Cuban legislation. The currency regime in force in the country is applied for settlements with the subjects of the national economy. ZEDM participants may transfer abroad funds in freely convertible currency related to their activities through the national banking system without taxes or other encumbrances. Foreign nationals working in the ZEDM and not permanently residing in the Republic of Cuba may transfer funds abroad according to the rules established by the Central Bank of Cuba.

In February 2022, the Cuban side put forward an initiative to open the EAEU industrial park on the ZEDM territory, which will contribute to the development of investment cooperation between the EAEU Member States and observer states at the EAEU.

## 2.9 Activities of the EAEU Business Council

An important factor in the formation of a favorable business and investment climate in the EAEU Member States is interaction between business structures of the EAEU Member States and development of cooperation between Eurasian business associations and the EAEU Business Council.

The EAEU Business Council was established on May 21, 2015, on the basis of the Belarusian-Kazakh-Russian Business Dialogue created on December 15, 2010.

The EAEU Business Council is a permanent coordinating and advisory body of business circles which includes the Union of Manufacturers and Businessmen (Employers) of the Republic of Armenia, the Union of Non-Profit Organizations “Confederation of Industrialists and Entrepreneurs (Employers)” of the Republic of Belarus, the Atameken National Chamber of Entrepreneurs of the Republic of Kazakhstan, the Kyrgyz Union of Industrialists and Entrepreneurs and the Russian Union of Industrialists and Entrepreneurs (RSPP)<sup>42</sup>.

Leading business associations of countries with the observer state status at the EAEU may participate as observers at the meetings of the **Presidium of the EAEU Business Council** if they wish. Thus, from 2017 the meetings of the Presidium were attended by V. Tarlev, President of the National Congress of Industrialists and Entrepreneurs of Moldova (NCIEM).

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<sup>42</sup> The agreement on Establishing the EAEU Business Council was signed on May 21, 2015, in Astana.



Because of the epidemiological situation and in the context of holding the meetings of the Presidium online in 2020–2021, the idea of observers' participation in the meetings of the Presidium of the Business Council failed to gain traction. In particular, the Republic of Uzbekistan which was granted observer status at the EAEU on December 11, 2020, has not yet participated in the meetings of the Presidium.

The Council develops a coordinated position of the EAEU States' business community in interaction with the bodies of the Union, establishes direct ties and dialogue between the business circles of the Union countries, as well as assists in developing trade and economic relations and industrial and financial cooperation, increasing the competitiveness of national economies and identifying barriers, exceptions and restrictions for mutual access to the markets of the integration association. The focus area of the Business Council includes a number of important issues: technical regulation; sectoral cooperation under the Agreement between the EAEU and the People's Republic of China (PRC); labeling of goods by means of identification; assistance to manufacturers from the EAEU Member States in expanding exports to foreign markets; elimination of barriers in the EAEU single food market; transit of goods across the EAEU territory; gradual convergence of qualifications of specialists in various types of professional activity; formation of the EAEU single payment area; expansion of the scope of settlements in the national currencies of the Union Member States; and others.

Each Side of the Business Council has its own **Coordinator** who is the head of the Union of Manufacturers and Businessmen (Employers) of the Republic of Armenia, the Confederation of Industrialists and Entrepreneurs (Employers) of the Republic of Belarus, the Atameken National Chamber of Entrepreneurs of Kazakhstan, the Kyrgyz Union of Industrialists and Entrepreneurs and the Russian Union of Industrialists and Entrepreneurs, respectively.

The permanent collegial governing body of the Business Council is the **Presidium** which includes the **President of the Business Council** appointed based on the decision of the collegial governing body by the **Business Council**, the Coordinators of the Sides and the Executive Secretary of the EAEU Business Council. The functions of the Chairman of the Presidium of the Business Council are performed for one year by the Coordinator from the state presiding over the Supreme Eurasian Economic Council in the current year.

In order to avoid duplication of various functions and ensure continuous interaction with the Eurasian Economic Commission (EEC), international organizations and the business associations of other states, a decision was adopted in June 2020 to combine the positions of the Chairman of the Presidium of the EAEU Business Council and the President of the EAEU Business Council (these positions are combined on a rotational basis).

According to the Agreement on Establishing the EAEU Business Council in all three versions (2015, 2016 and 2020) and the versions of the Rules of Procedure of the Presidium of the EAEU Business Council (2015 and 2017), the meetings of the Council shall be held as and when needed, but at least twice a year. Since the establishment of the EAEU Business Council in 2015 to date, 16 meetings of the Presidium of the Business Council have been held. The key agenda items considered at the meetings of the Presidium of the EAEU Business Council are given in Annex 1.

In order to maintain efficient day-to-day interaction, the Coordinators of the Business Council's Sides appoint their authorized representatives who ensure working contacts with the Secretariat of the EAEU Business Council. The head of the Secretariat is the Executive Secretary of the Business Council appointed for a three-year term by decision of the Coordinators of the Business Council's Sides. Since April 2022, this position has been held by S.V. Mikhnevich, Managing Director of the RSPP Department of the International Multilateral Cooperation and Integration (who previously served as acting Executive Secretary of the Business Council from October 2021).

The Business Council can create committees (commissions) that operate on a permanent basis in the main directions of the Council's activities, as well as special working groups that are created, if necessary, on a temporary basis to seek a consolidated position on complex issues. The issue of creating the working bodies of the EAEU Business Council was actively considered and discussed during the establishment of the Business Council on the basis of the Belarusian-Kazakh-Russian Business Dialogue in 2015. Then a decision was adopted not to create working bodies under the EAEU Business Council on a mass scale, but rather to use the potential of the working bodies of business associations included in the EAEU Business Council to form the positions of the Sides and the Business Council as a whole.

In connection with intensified interaction between the EEC and the People's Republic of China, the EAEU Business Council Committee on Trade and Economic Relations with the PRC was established in 2016 for the purpose of creating favorable conditions for trade and economic interaction between the business circles of the EAEU Member States and the PRC. Subsequently, this working body was renamed the EAEU Business Council Committee on Trade and Economic Relations with Trading Partner Countries and continues to operate.

The EAEU Business Council Committee on the Digital Agenda was established in 2017 and operates in order to assist in forming a consolidated position of the EAEU countries' business community on the development of the “digital space” and eliminating administrative barriers related to the development of a digital market in the EAEU countries.

In 2019, the EAEU Business Council Committee on the Food Market and the Working Group on Convergence of Qualifications of Specialists in Various Types of Professional Activity in the EAEU Member States under the EAEU Business Council were established in order to develop self-regulation of the EAEU food market.

The development of cooperation with third countries and partners amongst the leading international organizations is among the priorities of the EAEU international activities. In particular, one of the Strategic Directions for Developing the Eurasian Economic Integration until 2025 approved by Decision No. 12 of the Supreme Eurasian Economic Council dated December 11, 2020, is the formation of the Union as one of the most significant centers for the development of the modern world (Direction 11).

As of September 2022, the EAEU concluded free trade agreements with Vietnam, Singapore and Serbia, an interim free trade agreement with Iran, as well as a non-preferential agreement on trade and economic cooperation with the PRC. The EEC has signed agreements and organized work to develop cooperation with a total of more than 20 world countries and several dozen multilateral institutions for international cooperation.

The Action Plan for Implementing the Strategic Directions for Developing the Eurasian Economic Integration until 2025 (hereinafter the “Plan”) approved by Disposition No. 4 of the Eurasian Economic Commission's Council dated April 5, 2021, includes specific actions aimed at implementing Direction 11 of the Strategic Directions for Developing the Eurasian Economic Integration until 2025. Thus, para. 11.4.2 of the Plan stipulates tasks, such as:

a) formation within the EAEU Business Council of mechanisms to develop business contacts between the Union and third countries with which sustainable cooperation mechanisms exist or which show interest in cooperation with the Union;

b) establishment by the EAEU Business Council of direct business contacts between the Member States and third countries with the aim to intensify sectoral cooperation, taking into account the competence of the Commission.

The tool for the implementation of these tasks in the Plan is “the creation of a channel for direct interaction between the EAEU Business Council and the business associations of third countries, including through the signing of memorandums and the formation of effective working bodies”.

The EAEU Business Council has signed memorandums of cooperation with partners from Mongolia, Iran and Cuba, Moldova and the International Congress of Industrialists and Entrepreneurs (ICIE) which brings together national unions of industrialists and entrepreneurs from 26 countries. In accordance with these memorandums, Business Dialogues have been formed, with the EAEU Business Council being one side and a partner business association being the other.

The member organizations of the Business Council can act as the points of entry to the EAEU markets for foreign partners. In addition, it appears a promising step to conclude an agreement between the EAEU Business Council and the North East Asia Business Association (NEA BA) which brings together the Russian Union of Industrialists and Entrepreneurs (RSPP), the China Committee for the Promotion of International Trade (CCPIT), the Chamber of Commerce and Industry of the Republic of Korea and the Mongolian National Chamber of Commerce and Industry (MNCCI).

In 2023, cooperation with partners in the markets of third countries on the Union's outer perimeter will become one of the central themes of the RSPP chairmanship in the EAEU Business Council.

During the plenary session of the first Eurasian Economic Forum held in Bishkek in May 2022, V.V. Putin, President of Russia, expressed the opinion that the business dialogue system of the EAEU Business Council might become an example for a potential business cooperation platform in Greater Eurasia.

The work of the Business Council is carried out in active interaction with the Eurasian Economic Commission (EEC). The EAEU Business Council participates on a permanent basis in the work of almost all Advisory Committees under the EEC Board in activity areas of the Commission's Members of the Board – Ministers. On May 24, 2016, the *Memorandum of Interaction between the Eurasian Economic Commission (EEC) and the Business Council of the Eurasian Economic Union was signed in Astana*. This document confirms the importance of respecting the interests of the Union countries' business communities for ensuring the Union's efficient development. Moreover, it recognizes the expediency of forming a consolidated position of business communities on issues affecting entrepreneurial activity in the Union.

The main directions of interaction between the Commission and the EAEU Business Council include considering the Business Council's proposals aimed to form the Union's regulatory framework and holding forums of business circles with the participation of the Member States' business communities. The EAEU Business Council has the opportunity to present its vision of the issues to be considered by the EEC Board. It is based on the consolidated position of national and sectoral business associations of the EAEU Member States. The EEC interacts with them according to the principles of mutual benefit, equality, respect for national interests of the Parties, economic feasibility and validity of the decisions adopted, openness, transparency and objectivity.

In addition, for the purposes of interaction and constant discussion of strategic and systemic issues related to development and functioning of the integration association jointly with the business associations of the Union countries, the **Advisory Board for Interaction between the EEC and the EAEU Business Council** was established on October 25, 2016. It serves as a platform for constant discussion of strategic and systemic issues related to development and functioning of the integration association jointly with the business associations of the Union countries<sup>43</sup>. The Board is the legal successor of the Advisory Board for Interaction between the Eurasian Economic Commission and the Belarusian-Kazakh-Russian Business Dialogue which was established in 2013 and created the organizational and legal basis for the participation of business community representatives in meetings of advisory committees under the EEC, as well as for the prompt appeal of Advisory Board members to the EEC through the working areas on the Commission's website.

The Advisory Board is a body that ensures interaction and dialogue between the EEC and the EAEU Business Council on issues related to the determination of the directions and prospects for developing entrepreneurial activity in the following areas: integration development and macroeconomics;

- development of entrepreneurial activity;
- financial markets (banking, insurance, currency market, security market);
- industry;
- agricultural sector;
- mutual and foreign trade;

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<sup>43</sup> Decision No. 121 of the EEC Board dated October 25, 2016

technical regulation;  
veterinary, sanitary and phytosanitary measures;  
customs regulation;  
energy;  
natural monopolies;  
transport and shipping operations;  
labor migration and migration policy; social, pension and medical support; education and professional activity of the Member States' workers;  
competition development;  
intellectual property;  
computerization, information and communication technologies, information exchange, development of the digital space and transformation of the digital economy;  
removal of barriers, exceptions and restrictions within the internal markets functioning;  
circulation of medicines and medical products.

The Chairman of the Advisory Board for Interaction between the EEC and the EAEU Business Council is the Chairman of the EEC Board. The Chairman's deputies are the Member of the Board – Minister in charge of Economy and Financial Policy of the EEC and the President – Chairman of the Presidium of the EAEU Business Council; the Executive Secretary is the head of the Secretariat of the Chairman of the EEC Board. The Advisory Board includes Members of the Board – Ministers of the EEC, members of the Presidium of the EAEU Business Council and their authorized representatives, as well as 14 representatives from each business community in various areas of cooperation. The list of key issues considered by the Advisory Board for Interaction between the EEC and the EAEU Business Council is given in Annex 2.

Upon consideration of eliminating exemptions, restrictions and barriers to mutual access to the market of the EAEU Member States at the meeting of the former Advisory Board for Interaction between the EEC and the Belarusian-Kazakh-Russian Business Dialogue on April 2, 2015, a decision was adopted to create a Working Group on the Main Directions of Integration Development under the Advisory Board.

The working group has held four meetings chaired by T.D. Valovaya, Member of the Board – Minister in charge of Integration and Macroeconomics of the EEC, and two meetings chaired by S.Yu. Glazyev, Member of the Board – Minister of the EEC. The working group is distinguished by the fact that it is the only advisory and consultative body created in the EEC where business representatives of the EAEU Member States make up the majority of members.

The working group has considered the following issues: measures to eliminate existing barriers in the formation of a common market for medicines; obstacles faced by Armenian entrepreneurs in the export of goods to other Union Member States; double charge of the utilization fee for vehicles purchased/sold between residents of Belarus and Russia; problems associated with the transportation of valuable goods; mandatory importation of sanctioned goods in transit from Belarus to Kazakhstan and other states through the Russian section of the EAEU external customs border; areas of forming the EAEU single digital market; report prepared by the Commission on implementing the main directions of the Eurasian economic integration; progress in preparing the draft Strategic Directions for Developing the Eurasian Economic Integration until 2025; assessment of the impact barriers, exemptions and restrictions have on the development of mutual trade between the EAEU Member States.

Coordination of work on issues related to the Eurasian integration at the RSPP is carried out on the platform of the **Integration Council on Interaction between the EEC and the RSPP** (hereinafter the “Integration Council”) established according to Order No. Pp-132 of RSPP President on February 3, 2015. Its main goal is to consolidate the positions of RSPP members, RSPP Committees and Commissions, as well as Russian businesses on problematic issues of the Eurasian economic integration and represent the interests of Russian businesses in the EEC.

The functions of the Integration Council include: prompt consideration of topical and strategic issues of the Eurasian integration; rapid response to incoming requests from the EEC and state government authorities; conduct of surveys; consolidation and preparation of harmonized proposals from RSPP member companies actively working in the Eurasian space; elaboration of businesses' consolidated positions on the development of integration processes in the EAEU; improvement in the efficiency of business representatives' participation in advisory bodies under the EEC. The issues considered at the meetings of the Integration Council form the basis for the proposals of Russian businesses on the agenda for the meetings of the Presidium of the EAEU Business Council, the Advisory Board for Interaction between the EEC and the EAEU Business Council, as well as the EEC advisory bodies.

## 2.10 Promotion of industrial cooperation

The deepening of industrial cooperation is an important priority of the Eurasian integration, which has been repeatedly noted by the Heads of the EAEU Member States.

The need to implement this area of integration cooperation between the Union countries is also reflected in the adopted Main Directions for Industrial Cooperation of the EAEU Member States approved by Decision No. 9 of the Eurasian Intergovernmental Council (EIC) dated September 8, 2015, and the Main Directions for Industrial Cooperation of the EAEU Member States until 2025 approved by the decision of the Eurasian Intergovernmental Council dated April 30, 2021.

The EAEU is implementing the project Eurasian Network of Industrial Cooperation, Subcontracting and Technology Transfer whose services will enable the economic entities of the EAEU Member States to enter the market for joint procurement of goods, works and services in the B2B segment (Decision No. 2 of the Eurasian Intergovernmental Council dated April 30, 2019).

The designated operator of the Eurasian network under the project is the International Eurasian Industrial Fund (hereinafter the “IEIF”), whose founders are representatives from the operators of the national components of the Eurasian network in all EAEU Member States.

In August 2021, the Commission and the IEIF signed an agreement for the rendering of services for the implementation of the digital project Eurasian Network of Industrial Cooperation, Subcontracting and Technology Transfer and began its full-scale implementation which was to last until the end of 2022.

The Eurasian network provides for the formation of an integrated system that covers the issues of industrial cooperation and technology transfer, as well as integrates existing national systems and regional platforms operating in this area into a whole. The project services will meet the needs of the businesses, research institutions and state government authorities of the Member States for end-to-end processes and digital services.

An important tool for industrial cooperation of the EAEU Member States is the Industrialization Map (hereinafter the “Map”) created within the Union as an information database that allows real-time tracking of relevant industrial projects, as well as analysis of the current production and import-substituting potential of the EAEU Member States. The map contains lists of major ongoing and planned investment projects and technological areas in which the EAEU needs import substitution.



The issues of developing industrial cooperation of the EAEU Member States are also stipulated by the Strategic Directions for Developing the Eurasian Economic Integration until 2025 approved by Decision No. 12 of the SEEC dated December 11, 2020 (hereinafter the “Strategic Directions”). In accordance with paragraph 7.5.1 of the Action Plan for Implementing the Strategic Directions approved by Disposition No. 4 of the Commission's Council dated April 5, 2021, it is planned to elaborate and introduce mechanisms to support projects for developing cooperation.

For the purpose of implementing the instructions given by the Heads of State and Government of the Union Member States and the Strategic Directions, Disposition No. 18 of the EIC dated August 26, 2022, approved the report on the mechanisms for financing industrial cooperation in the Union.

In pursuance of the above disposition of the EIC, the Commission prepared specific approaches, tools and mechanisms to ensure preferential mechanisms for financing cooperative integration projects which were supported by the heads of the Member States' governments during the EIC meeting on October 20–21, 2022 (Instruction No. 14 of the EIC dated October 21, 2022).

The above instruction of the EIC:

determines a financing mechanism in the form of subsidizing rates on issued cooperative loans in the amount of not more than the key rate;

determines the amount equal to 10% of special, anti-dumping and countervailing duties as a criterion for the size of the Parties' contributions to the budget of the Union (10% of receipts from special, anti-dumping and countervailing duties will allow the formation of a subsidy fund in the amount of about \$19–20 mln a year and, accordingly, the support of projects worth about RUB 16–17 bln);

enshrines the most important substantive aspects of the future procedure for selecting and financing cooperative integration industrial projects to be approved by the EIC;

enshrines the key priorities to be taken into account in the development of criteria for selecting cooperative projects (participation of three or more Parties, formation of added value in the cooperation chain, financial efficiency and sustainability, growth of mutual trade and investment, etc.).

Moreover, in order to organize this work at the supranational level, the Commission shall be endowed with new functions for working with projects and providing financial support centrally from the budget of the Union. The Parties unanimously noted the need to make relevant amendments to the Treaty on the EAEU.

In this regard, the Commission prepared the agenda item “On the Sources and Mechanisms of Financing Industrial Cooperation Projects within the Framework of the Eurasian Economic Union” that was considered and approved at the SEEC meeting on December 9, 2022 (Instruction No. 1 dated December 9, 2022). This instruction includes the following provisions:

enshrining the need to prepare a draft Protocol Amending the Treaty on the Union in terms of vesting the Union bodies with appropriate powers to provide financial support for the development of industrial cooperation at the expense of the Union budget, taking into account the adoption of the Protocol for a five-year term with the possibility of extension, in the absence of objections from the Union Member States;

instructing the Union bodies to develop and adopt, in accordance with the determined procedure, the acts necessary for exercising the above powers.

In order to implement Instruction No. 1 dated December 9, 2022, the Commission, jointly with the authorized authorities of the EAEU Member States, prepared, agreed upon and considered at the meeting of the EEC Board the draft Protocol Amending the Treaty on the Eurasian Economic Union (hereinafter the “draft Protocol”).

Thus, by Disposition No. 219 of the EEC Board dated December 13, 2022, the draft Protocol was approved and sent to the Union Member States for internal approval.

As part of implementing the above Disposition, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan and the Kyrgyz Republic sent official notifications to the EEC on the approval of the draft Protocol without comments and suggestions. The Russian Federation agreed upon the document with the editorial changes which were subsequently withdrawn at the working meeting.

By Disposition No. 7 of the EEC Council dated March 30, 2023, the draft Protocol was sent to the EAEU Member States with a request to inform the Eurasian Economic Commission before May 10, 2023, about the implementation of internal legal procedures.

The draft Protocol provides for the adoption by the SEEC of a decision indicating the percentage of total revenues to the budgets of the Member States from special, anti-dumping and countervailing duties and the form of financial support in the implementation of joint cooperative projects in industries by the Member States of the Eurasian Economic Union.

In accordance with Instruction No. 14 of the EIC dated October 21, 2022, the Commission prepared a draft Decision of the SEEC “On Financial Support in the Implementation of Joint Cooperative Projects in Industries by the Member States of the Eurasian Economic Union”.

The above Decision of the SEEC and the Protocol Amending the Treaty on the Eurasian Economic Union in terms of financial support in the implementation of joint cooperative projects in industries were adopted at the meeting of the Supreme Eurasian Economic Council on May 25, 2023.

The adoption of the above measures for the promotion of industrial cooperation between the EAEU Member States will contribute to the intensification of investment processes within the Union, the implementation of joint industrial projects, the improvement of conditions for investors' activities and the achievement of steady economic growth rates in the EAEU countries.

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Analyzing the state of the business and investment climate in the EAEU Member States has led to the conclusion that the Union countries have created legal conditions for the promotion of investment attraction.

The EAEU Member States and Uzbekistan (observer state at the EAEU) have adopted relevant legislative acts regulating investment activities (Law of the Republic of Armenia “On Foreign Investments”; Law No. 53-Z of the Republic of Belarus “On Investments” dated July 12, 2013; Entrepreneurial Code of the Republic of Kazakhstan; Law No. 66 of the Kyrgyz Republic “On Investments in the Kyrgyz Republic” dated March 27, 2003; Federal Law No. 160-FZ “On Foreign Investments in the Russian Federation” dated July 9, 1999; Federal Law No. 57-FZ “On Procedures for Foreign Investments in the Economic Companies of Strategic Importance for Russian National Defense and State Security” dated April 29, 2008; Law No. ZRU-598 of the Republic of Uzbekistan “On Investments and Investment Activities” dated December 25, 2019).

In accordance with the above regulatory legal acts, investors in the EAEU Member States are accorded a favorable legal treatment and granted guarantees of rights of investors and protection of investments.

The EAEU Member States have concluded intergovernmental agreements for the promotion and reciprocal protection of investments. In addition, the Union countries are parties to the most important international conventions in the investment field (United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), Convention establishing the Multilateral Investment Guarantee Agency (Seoul, 1985), Convention on the Settlement of Investment Disputes between States and Nationals of Other States (Washington, 1965)).

The EAEU Member States are taking measures to improve the business and investment climate. In particular, the Union countries are addressing issues related to the reduction and simplification of the regulatory impact of administrative procedures on the conditions for entrepreneurial activity.

Investor support institutions created in the EAEU Member States are of great importance for the intensification of investment processes within the EAEU (Fund “Investment Promotion Center” (Enterprise Armenia) in the Republic of Armenia, National Agency for Investment and Privatization in the Republic of Belarus, National Company KAZAKH INVEST JSC in the Republic of Kazakhstan, National Investment Agency under the President of the Kyrgyz Republic in the Kyrgyz Republic and regional development agencies in the Russian Federation).

In terms of service support for investors, the EAEU Member States have introduced the “single window” principle which will contribute to the promotion of the Union countries' investment image and investment attraction.

An important factor in the formation of a favorable business and investment climate in the EAEU Member States is interaction between business structures of the EAEU Member States and development of cooperation between Eurasian business associations and the EAEU Business Council.

## **Chapter 3. International Rankings Reflecting the State of the Business and Investment Climate in Countries**

International rankings reflecting the state of the business and investment climate in countries are the World Competitiveness Ranking, the Global Innovation Index and the Index of Economic Freedom.

In particular, the factors of forming the above rankings include: state of the business environment for the World Competitiveness Ranking, business development for the Global Innovation Index and business freedom for the Index of Economic Freedom.

An analysis of these international rankings will determine the positions of the EAEU Member States in regard to the state of the business and investment climate in comparison with the leading developed and developing countries in the global economy and prospects for its improvement.

### **3.1 International Doing Business ranking**

The Doing Business ranking was developed by the World Bank to compare countries by the ease of doing business.

The ranking was calculated by 10 benchmarks: Starting a Business, Dealing with Construction Permits, Getting Electricity, Registering Property, Getting Credit, Protecting Minority Investors, Paying Taxes, Trading across Borders, Enforcing Contracts and Resolving Insolvency.

Over the past few years, the leaders in the Doing Business ranking were New Zealand, Singapore and Hong Kong.

In September 2021, the World Bank made a decision to stop publishing the annual Doing Business ranking in connection with the development of a new approach to assessing the business and investment climate.

### **3.2 World Competitiveness Ranking**

The IMD World Competitiveness Ranking is an annual global study of states' economic competitiveness. The ranking is calculated according to the methodology of the leading European Institute of Management Development (IMD) and is issued in a series of IMD World Competitiveness Yearbook reports.

The Institute of Management understands the competitiveness of a country to mean the ability of the national economy to create and maintain an environment in which competitive business emerges.

The ranking of states is assessed based on an analysis of 333 criteria on four main indicators of key aspects of the country's economic life:

1. economic performance;
2. government efficiency;
3. business efficiency;
4. infrastructure.

The ranking is calculated using data from international organizations, including the United Nations, the Organization for Economic Cooperation and Development, the World Trade Organization, the World Bank, the International Monetary Fund and other institutes, as well as 57 Partner Institutes around the world. The business climate in the countries covered by this study is assessed based on the opinions of analysts and surveys among heads of large corporations and management specialists. The final ranking is based on the analysis of relevant statistical data and expert assessments.

In 2022, the World Competitiveness Ranking was topped by Denmark. Its economy was recognized as the most efficient in the world thanks to a successful social policy, sustainable development of the corporate sector, low state debt and minimal unemployment.

In addition, Denmark was the most digitized and “green” (environmentally friendly) state.

The Top 10 of the IMD ranking also included: Switzerland, Singapore, Sweden, Hong Kong, Netherlands, Taiwan, Finland, Norway and USA (see Table 1).

**Table 1**

**World Competitiveness Ranking**

<b>2022</b>	<b>Country</b>	<b>2021</b>	<b>↑↓</b>
1	Denmark	3	+2
2	Switzerland	1	-1

3	Singapore	5	+2
4	Sweden	2	-2
5	Hong Kong	7	+2
6	Netherlands	4	-2
7	Taiwan	8	+1
8	Finland	11	+3
9	Norway	6	-3
10	United States of America	10	—

*Source: World Competitiveness Ranking 2022 Results // <https://www.imd.org/centers/world-competitiveness-center/rankings/world-competitiveness/>.*

Table 2 shows data by world competitiveness ranking factors.

In particular, Denmark, Sweden and the Netherlands had high business efficiency rankings in 2021–2022. In terms of business efficiency, Denmark ranked first in 2021–2022, Sweden ranked second and

the Netherlands ranked third in 2022 (see Table 2).

In terms of economic performance, the ranking was led by Singapore (first in 2021 and second in 2022), the Netherlands (second in 2021) and the USA (third in 2022) (see Table 2).

In terms of government efficiency, Switzerland and Hong Kong ranked high in 2021–2022. Switzerland was second in 2021 and first in 2022, while Hong Kong was first and second, respectively (see Table 2).

In terms of infrastructure, such countries as Denmark, Switzerland and Sweden were ahead. Denmark ranked third in 2021 and second in 2022, Switzerland ranked first in 2021 and 2022 whereas Sweden ranked second and third, respectively (see Table 2).

High scores for the factors determining the World Competitiveness Ranking account for a favorable investment and business climate in developed countries.

The list of countries included in the World Competitiveness Ranking did not include the EAEU Member States, except the Republic of Kazakhstan which ranked 43rd in terms of competitiveness in 2022. Moreover, it ranked 45th in 2021 and 58th in 2022 by the economic performance indicator, 21st and 25th in terms of government efficiency, 28th and 32nd in terms of business efficiency, as well as 47th and 46th in terms of infrastructure, respectively.



Table 2

## World Competitiveness Ranking factors

Country	Ranking		Economic Performance		Government Efficiency		Business Efficiency		Infrastructure	
	2021	2022	2021	2022	2021	2022	2021	2022	2021	2022
Denmark	3	1	17	13	7	6	1	1	3	2
Switzerland	1	2	7	30	2	1	5	4	1	1
Singapore	5	3	1	2	5	4	9	9	11	12
Sweden	2	4	16	21	9	9	2	2	2	3
Hong Kong	7	5	30	15	1	2	3	7	16	14
Netherlands	4	6	2	19	12	12	4	3	7	5
Taiwan	8	7	6	11	8	8	7	6	14	13
Finland	11	8	34	44	14	10	12	5	5	4
Norway	6	9	25	25	4	5	6	10	4	6
United States of America	10	10	5	3	28	27	10	12	6	7
Kazakhstan	35	43	45	58	21	25	28	32	47	46

Source: IMD World Competitiveness Booklet 2022. June 2022 // <https://imd.cld.bz/IMD-World-Competitiveness-Booklet-2022/2/>.

### 3.3 Global Innovation Index

The Global Innovation Index was developed by INSEAD Business School, Cornell University and the World Intellectual Property Organization. The number of studied economies in the ranking is 131. The Global Innovation Index assesses the level of innovative development and the degree of economic modernization.

The Global Innovation Index is calculated on the basis of the following indicators:

1. institutions;
2. human capital and research;
3. infrastructure;
4. market sophistication;
5. business sophistication;
6. knowledge and technology outputs;
7. creative outputs.

The final ranking is the average of two sub-indices: Innovation Input Sub-Index (institutions; human capital and research; infrastructure; market sophistication; business sophistication) and Innovation Output Sub-Index (knowledge and technology outputs; creative outputs).

In 2022, the leaders of the Global Innovation Index were Switzerland, the USA and Sweden. The top ten also included the UK, the Netherlands, South Korea, Singapore, Germany, Finland and Denmark (see Table 3).

In terms of the institution factor, Singapore and Switzerland held the leading positions (in 2022, Singapore was first while Switzerland was second). In terms of human capital and research, in 2022 the Republic of Korea was first, Germany was second and Sweden was third. In terms of infrastructure, in 2022 Sweden ranked first and Finland ranked third. In terms of market sophistication, in 2022 the USA was the leader (first place). In terms of business sophistication, Sweden held the leading position (first place in 2021–2022), Singapore was second in 2022 and Sweden was third. In terms of knowledge and technology outputs, in 2021–2022 Switzerland consistently ranked first, Sweden ranked second and the USA ranked third (see Table 3).

The EAEU Member States lagged far behind developed countries in the Global Innovation Index ranking (see Table 3). Among the EAEU Member States, the Russian Federation was the leader in this ranking (47th in 2022), followed by the Republic of Belarus (77th), the Republic of Armenia (80th), the Republic of Kazakhstan (83rd) and the Kyrgyz Republic (94th).

Table 3

## Global Innovation Index factors

Countries	Ranking		Institutions		Human Capital and Research		Infrastructure		Market Sophistication		Business Sophistication		Knowledge and Technology Outputs		Creative Outputs	
	2021	2022	2021	2022	2021	2022	2021	2022	2021	2022	2021	2022	2021	2022	2021	2022
Switzerland	1	1	13	2	6	4	2	4	6	8	4	7	1	1	2	1
USA	3	2	12	13	11	9	23	19	2	1	2	3	3	3	12	12
Sweden	2	3	9	19	2	3	3	1	11	13	1	1	2	2	5	8
England	4	4	15	24	10	6	10	8	4	5	21	22	10	8	4	3
Netherlands	6	5	6	4	14	14	16	14	31	18	5	10	7	5	7	10
Republic of Korea	5	6	28	31	1	1	12	13	18	21	7	9	8	10	8	4
Singapore	8	7	1	1	9	7	15	11	5	4	3	2	13	13	17	21
Germany	10	8	17	20	3	2	21	23	20	14	12	19	9	9	11	7
Finland	7	9	2	11	4	8	11	3	19	17	6	5	5	4	16	18
Denmark	9	10	8	9	5	10	5	5	7	15	11	15	14	12	13	14
Armenia	69	80	65	55	94	91	80	80	99	85	98	84	64	71	49	73
Belarus	62	77	85	130	38	35	59	67	101	96	69	72	37	40	93	91
Kazakhstan	79	83	45	52	66	60	58	58	80	90	78	68	86	81	110	118
Kyrgyzstan	98	94	95	113	70	63	87	86	52	51	107	107	102	92	120	121
Russia	45	47	67	89	29	27	63	62	61	48	44	44	48	51	56	48
Uzbekistan	86	82	94	63	72	65	72	74	24	60	123	74	77	80	113	102

Source: Global Innovation Index 2022 // [https://www.wipo.int/global\\_innovation\\_index/ru/2022/index.html](https://www.wipo.int/global_innovation_index/ru/2022/index.html); Global Innovation Index 2021 // [https://www.wipo.int/edocs/pubdocs/ru/wipo\\_pub\\_gii\\_2021\\_exec.pdf](https://www.wipo.int/edocs/pubdocs/ru/wipo_pub_gii_2021_exec.pdf).

Among the factors of this index, the Republic of Armenia improved its positions in terms of institutions (65th place in 2021 vs. 55th place in 2022). In terms of human capital and research, in 2022 higher positions were reached by the Republic of Armenia (94th place in 2021 vs. 91st place in 2022), the Republic of Belarus (38th vs. 35th positions, respectively), the Republic of Kazakhstan (66th vs. 60th positions), the Kyrgyz Republic (70th vs. 63rd positions) and the Russian Federation (29th vs. 27th positions).

The Republic of Uzbekistan (observer state at the EAEU) ranked 82nd in the Global Innovation Index 2022, having improved its position compared to 2021 when the country was 86th. The country significantly improved its rankings by the following factors: institutions (94th place in 2021 vs. 63rd place in 2022), human capital and research (72nd place in 2021 vs. 65th place in 2022), business sophistication (123rd place in 2021 vs. 74th place in 2022) and creative outputs (113th place in 2021 vs. 102nd place in 2022).

### **3.4 Index of Economic Freedom**

The Index of Economic Freedom is an indicator annually calculated by The Wall Street Journal newspaper and The Heritage Foundation think tank for most countries of the world.

Heritage Foundation experts define economic freedom as government non-interference in the production, distribution and consumption of goods and services, except for protecting and supporting freedom as such to the extent necessary for citizens.

The Index of Economic Freedom is based on 12 components (indices) with 100 corresponding to the maximum freedom and 0 to the minimum freedom:

- property rights;
- judicial effectiveness;
- government integrity;
- tax burden;
- government spending;
- fiscal health;
- business freedom;
- labor freedom;
- monetary freedom;
- trade freedom;

investment freedom;  
financial freedom.

According to this index, all countries are divided into the following groups:

free (scoring 80–100);  
mostly free (scoring 70–79.9);  
moderately free (scoring 60–69.9);  
mostly unfree (scoring 50–59.9);  
repressed (scoring 0–49.9).

According to the results of the study conducted by The Heritage Foundation, in 2022 free states were: Singapore, Switzerland, Ireland, New Zealand, Luxembourg, Taiwan, Estonia (see Table 4).

Singapore was first in the ranking of economic freedom according to the results of the 2021–2022 study.

Important factors in Singapore's dynamic economic development were an open and corruption-free business environment, prudent monetary and fiscal policies, as well as a transparent legal framework. Free trade and secure property rights efficiently promoted entrepreneurship and innovation. The overall rule of law was supported by a high degree of government transparency and accountability.

Singapore received the highest scores in the following areas: trade freedom (95), property rights (94.4) and government integrity (92.8) (see Table 4).

Switzerland was second in the ranking of economic freedom.

Switzerland scored high in the following criteria: judicial effectiveness (98), property rights (95.2) and government integrity (92.3) (see Table 4).

Ireland was third in this ranking. Ireland had the highest scores for the following indicators: judicial effectiveness (93.0), property rights (92.6) and investment freedom (90.0).

New Zealand was fourth in the ranking. The highest scores were received for the following indicators: government integrity (97.5), judicial effectiveness (95.9) and trade freedom (90.0).

Luxembourg was fifth in the ranking. The best scores were given for fiscal health (98.7), property rights (97.4) and judicial effectiveness (96.4).

Taiwan ranked sixth in the Index of Economic Freedom. The highest scores were received for the following indicators: judicial effectiveness (94.2), government spending (90.7) and monetary freedom (86.1).

Estonia was the seventh state in the ranking of economic freedom in 2022. The highest scores were given for the following indicators: fiscal health (93.3), judicial effectiveness (92.3) and property rights (91.5).

The EAEU Member States lagged far behind developed countries in the ranking of economic freedom.

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Chapter 3 analyzes international rankings reflecting the state of the business and investment climate in countries (World Competitiveness Ranking, Global Innovation Index, Index of Economic Freedom).

The leading positions in these rankings are held by such countries as Denmark, Switzerland, Singapore, Sweden, Germany, Hong Kong, the Netherlands, Taiwan, the USA, etc.

The EAEU Member States lag far behind developed countries in these rankings, which indicates the need for the Union countries to take further practical measures for improving the business and investment climate.

Table 4

## Index of Economic Freedom factors

Country	Ranking		Property Rights		Judicial Effectiveness		Government Integrity		Tax Burden		Government Spending		Fiscal Health		Business Freedom		Labor Freedom		Monetary Freedom		Trade Freedom		Investment Freedom		Financial Freedom	
	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22
Singapore	1	1	97.5	94.4	90.8	58.3	93.2	92.8	90.5	90.5	94.1	90.1	80.0	79.6	93.8	83.1	91.5	77	85.4	86.5	95.0	95	85.0	85	80.0	80
Switzerland	4	2	85.4	95.2	82.2	98	87.9	92.3	70.4	70.1	67.6	67.2	96.9	96.3	73.6	84.3	72.5	60	85.4	84.9	86.0	86.6	85.0	85	90.0	90
Ireland	5	3	86.0	92.6	72.4	93	82.0	80.7	76.6	76.5	81.1	79.9	93.1	89	81.5	87.2	76.1	60.9	84.4	85.2	84.0	79.2	90.0	90	70.0	70
New Zealand	2	4	91.3	88.2	80.5	95.9	95.3	97.5	70.6	70.8	58.1	53.5	98.2	88.3	89.9	81.3	86.3	70.5	86.9	81.8	90.2	90.0	80.0	70.0	80.0	80.0
Australia	3	12	81.5	91.7	90.0	95.2	89.8	87.0	62.6	62.5	58.1	51.6	88.7	52.0	87.4	84.6	84.1	64.2	86.7	83.2	89.8	90.0	80.0	80.0	90.0	90.0
Luxembourg	18	5	85.7	97.4	77.6	96.4	92.5	89.5	63.4	64.1	46.2	41.5	99.0	98.7	66.1	89.3	45.9	56.3	76.5	80.1	84.0	79.2	95.0	95.0	80.0	80.0
Taiwan	6	6	87.3	81.3	72.9	94.2	74.5	73.8	79.2	79.2	91.0	90.7	93.7	86.6	93.4	84.3	60.4	68.7	84.3	86.1	86.0	86.0	60.0	77.0	60.0	60.0
England	7		87.6		76.7		86.5		64.9		54.8		77.3		94.4		73.2		81.0		84.0		80.0		80.0	
Estonia	8	7	81.8	91.5	80.8	92.3	86.4	83.9	81.0	81.1	54.4	48.4	99.6	93.3	72.7	86.9	57.8	61.1	79.7	82.8	84.0	79.2	90.0	90.0	70.0	70.0
Netherlands	16	8	88.9	96.2	72.8	96.9	90.6	92.3	51.7	51.2	47.7	45.4	95.3	93.6	80.5	88.1	60.1	58.9	80.4	82.1	84.0	70.2	90.0	90.0	80.0	80.0
Canada	9	15	84.5	89.5	73.3	96.4	87.9	86.7	76.0	75.7	49.8	39.6	84.2	62.8	81.4	78.8	72.4	68.7	76.1	78.2	88.8	83.2	80.0	80.0	80.0	80.0
Finland	17	9	91.9	10.0	82.2	97.8	97.2	96.4	68.0	68.4	14.3	10.7	91.4	83.2	85.8	88.7	50.5	65.1	83.3	84.9	84.0	79.2	85.0	85.0	80.0	80.0
Denmark	10	10	86.7	98.6	86.9	89.6	93.4	99.5	43.7	42.3	23.1	21.1	98.2	96.2	88.8	89.0	73.8	64.4	84.5	85.7	84.0	79.2	90.0	90.0	80.0	80.0
Armenia	32	58	57.3	50.0	55.3	33.1	45.0	50.8	87.1	86.9	81.3	78.9	84.3	75.5	81.9	64.9	74.5	47.2	76.9	77.5	73.8	73.6	75.0	75.0	70.0	70.0
Belarus	95	135	58.6	34.5	40.4	15.5	39.8	43.7	92.9	93.3	55.5	56.7	96.5	95.3	75.9	54.5	75.7	46.8	70.2	70.2	76.0	75.6	30.0	30.0	20.0	20.0
Kazakhstan	34	64	60.2	55.3	62.8	34.5	44.6	37.9	93.6	92.7	86.7	86.5	98.3	93.5	76.2	64.7	86.2	62.7	70.0	69.1	74.6	75.4	50.0	50.0	50.0	50.0

Country	Ranking		Property Rights		Judicial Effectiveness		Government Integrity		Tax Burden		Government Spending		Fiscal Health		Business Freedom		Labor Freedom		Monetary Freedom		Trade Freedom		Investment Freedom		Financial Freedom		
	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	21	22	
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Kyrgyzstan	78	116	46.0	95.1	23.3	11.8	33.7	28.8	94.8	94.8	63.8	66.7	90.6	79.0	72.6	56.1	79.5	52.2	77.5	71.4	72.8	73.2	60.0	60.0	50.0	50.0	
Russia	92	113	54.4	36.8	42.4	34.7	41.7	29.7	93.0	93.1	66.1	62.6	99.6	99.3	84.1	62.5	55.4	57.3	67.3	68.0	74.0	69.0	30.0	30.0	30.0	30.0	

Source: *Index of economic freedom 2022, Index of economic freedom 2021* // <https://www.heritage.org/index/download>.



## Chapter 4. International Experience in Improving the Investment Climate

### 4.1 Attraction of foreign direct investment in developed and developing countries of the world

In accordance with United Nations Conference on Trade and Development (UNCTAD) data,<sup>44</sup> global foreign direct investment (FDI) flows fell by 35% in 2020 to 1 tln US dollars (in 2019, this indicator amounted to 1.5 tln US dollars). The fall of FDI flows amounted to 58% in developed countries and 8% in developing countries. As a result, developing countries accounted for two thirds of global FDI in 2020 (see Fig. 1).

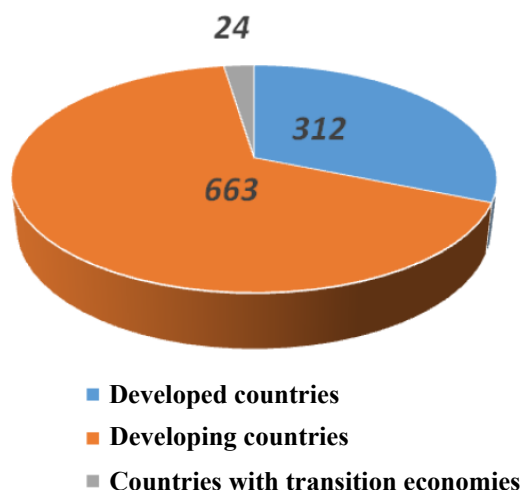
The decline of FDI flows in developed countries in 2020 was inflated by strong fluctuations in conduit and intrafirm financial flows, and by corporate restructurings. Among the components of FDI flows, new equity investments were curtailed.

In 2020, FDI flows to Europe fell by 80% to 73 bln US dollars. The fall was magnified by strong swings in conduit flows in countries such as the Netherlands and Switzerland. However, inflows also fell in large European economies such as the UK, France and Germany. FDI flows to North America marginally declined by 42% to 180 bln US dollars. FDI flows to the USA decreased by 40% to 156 bln US dollars.<sup>45</sup>

**Figure 1**

#### FDI inflows in developed and developing countries in 2021

(Billions of US dollars)



Source: UNCTAD data (<https://unctad.org/fdistatistics>).

<sup>44</sup> World Investment Report 2021. Investing in Sustainable Recovery // [https://unctad.org/system/files/official-document/wir2021\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2021_overview_ru.pdf).

<sup>45</sup> Ibid. P. 14.

The engines of global FDI growth among developing countries are the states of the Asian region accounting for half of global FDI.<sup>46</sup> Thus, FDI inflows to developing Asian countries rose in 2020 by 4% to 535 bln US dollars.

FDI inflows in China increased by 6% to 149 bln US dollars. The growth was driven by technology-related industries, e-commerce and research and development.

At the same time, Singapore, Indonesia and Vietnam recorded declines of FDI inflows in 2020. FDI to Singapore fell by 21% to 91 bln US dollars, to Indonesia by 22% to 19 bln US dollars, and to Vietnam by 2% to 16 bln US dollars.<sup>47</sup>

Investment in South Asia rose by 20% to 71 bln US dollars, driven mainly by a 27% rise in FDI in India to 64 bln US dollars. Robust investment through acquisitions in information and communication technologies (ICT) and construction bolstered FDI inflows. Total cross-border mergers and acquisitions (M&As) surged by 86% to 28 bln US dollars as a result of major deals involving ICT, health, infrastructure and energy sectors. FDI fell in South Asian economies that rely to a significant extent on export-oriented garment manufacturing. Inflows in Bangladesh and Sri Lanka contracted by 11% and 43%, respectively<sup>48</sup>.

According to UNCTAD data, in 2021 FDI flows to developing countries increased by more than 26% compared to 2020, reaching 837 bln US dollars (see Fig. 2).

A significant portion of this FDI was attracted in 2021 to the countries of the Asian region (619 bln US dollars), underscoring its resilience to external shocks. According to UNCTAD estimates, the Asian region accounted for 40% of global FDI inflows. Six economies (China, Hong Kong (China), Singapore, India, the United Arab Emirates and Indonesia) accounted for more than 80% of FDI to the region in 2021<sup>49</sup>.

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<sup>46</sup> World Investment Report 2021. Investing in Sustainable Recovery. P. 11 // [https://unctad.org/system/files/official-document/wir2021\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2021_overview_ru.pdf).

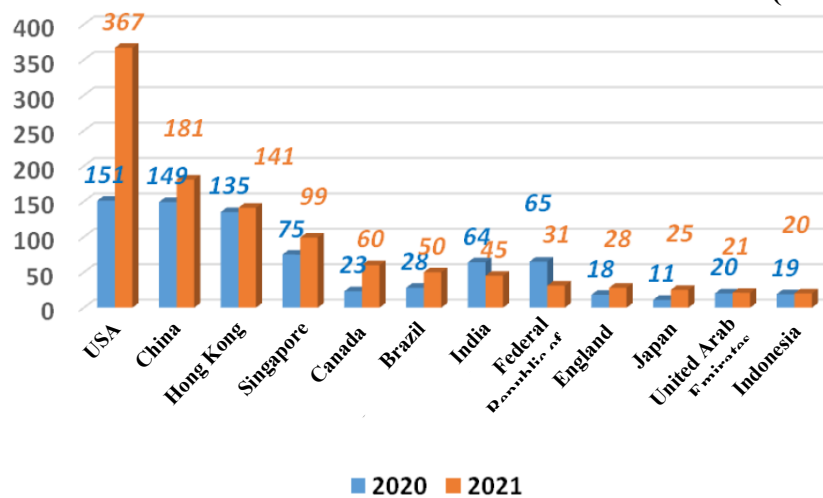
<sup>47</sup> Ibid.

<sup>48</sup> World Investment Report 2021. Investing in Sustainable Recovery. P. 11 // [https://unctad.org/system/files/official-document/wir2021\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2021_overview_ru.pdf).

<sup>49</sup> World Investment Report 2022. International tax reforms and sustainable investment. P. 11 // [https://unctad.org/system/files/official-document/wir2022\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2022_overview_ru.pdf).

Figure 2

**FDI inflows in developed and developing countries in 2020–2021**  
(Billions of US dollars)



Source: UNCTAD data (<https://unctad.org/fdistatistics>).

In order to promote FDI attraction, many countries applied appropriate investment measures related to taxation. Thus, according to UNCTAD data, of 100 countries that adopted investment measures related to taxation, 90 lowered taxes, introduced new tax incentives or made existing incentives more generous. More than one third of the fiscal incentives introduced (39%) were profit-based (mainly tax holidays and reduced corporate income tax)<sup>50</sup>.

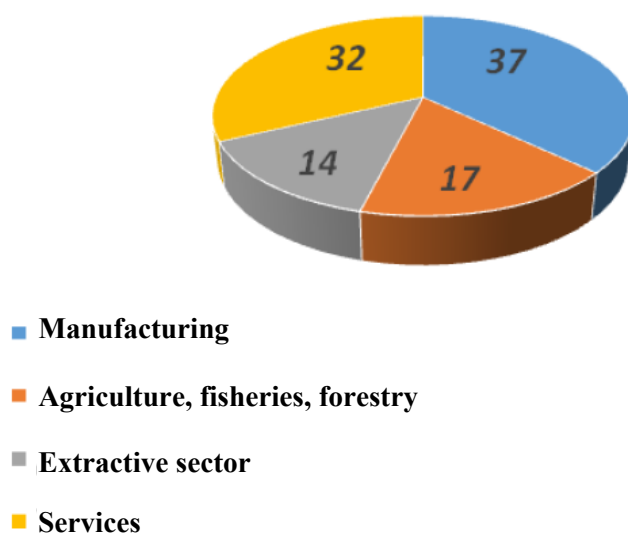
In addition, countries applied preferential tax mechanisms for indirect taxes and duties (such as VAT, import tariffs, etc.). These incentives accounted for about 30% of all tax incentives introduced in Asia, Latin America and the Caribbean. They were also frequently utilized in Africa (24% of all tax incentives), but far less commonly in Europe and North America (13%)<sup>51</sup>.

<sup>50</sup> World Investment Report 2022. International tax reforms and sustainable investment. P. 19 // [https://unctad.org/system/files/official-document/wir2022\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2022_overview_ru.pdf).

<sup>51</sup> Ibid.

Business facilitation measures such as simplified import and export procedures, single-window mechanisms for permits and licenses, or streamlined procedures for employment visas represented the most significant non-tax promotion instrument adopted in every region in conjunction with fiscal promotion schemes.

Globally, most new incentives targeted investments in the manufacturing industry and the service sector, although there were regional differences (see Fig. 3, 4). Tax incentives specifically targeting the agricultural and extractive sectors were mainly granted in the developing countries and least developed countries (see Fig. 5)<sup>52</sup>.

**Figure 3****Sectoral structure of tax incentives for investment in the world, 2011–2021****(%)**

*Source: UNCTAD data (Investment Policy Monitor).*

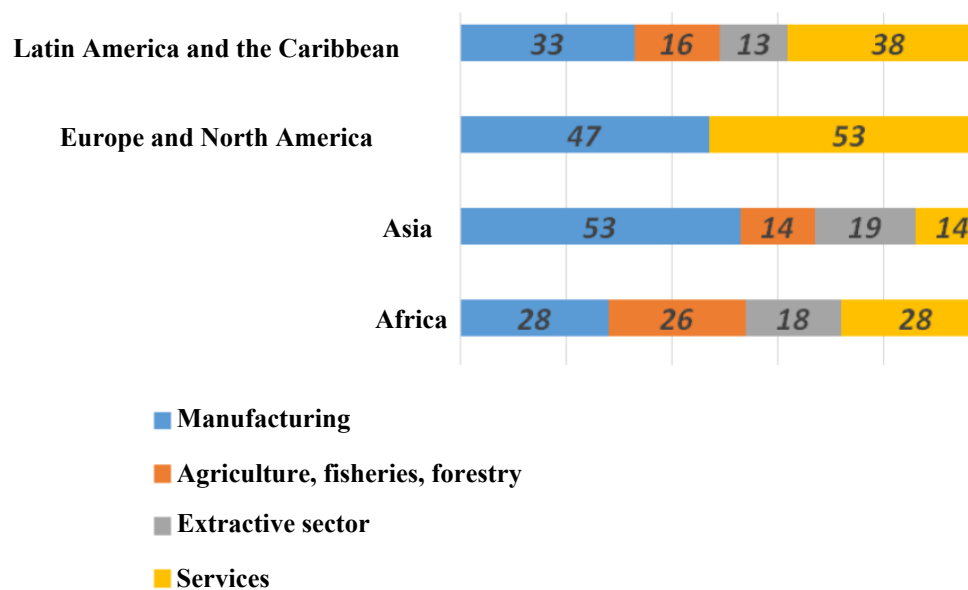
The use of preferential taxation mechanisms expands the opportunities for attracting FDI in developed and developing countries.

<sup>52</sup> World Investment Report 2022. International tax reforms and sustainable investment. P. 20 // [https://unctad.org/system/files/official-document/wir2022\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2022_overview_ru.pdf).

Figure 4

## Sectoral structure of tax incentives for investment, by region, 2011–2021

(%)



Source: UNCTAD data (*Investment Policy Monitor*).

## 4.2. Specific features of investment policy in some BRICS countries

### 4.2.1 People's Republic of China

The global economic system is distinguished primarily by a high level of capital movement. The pivotal trend of international financial policy is the attraction of foreign investment.

One of the leaders in attracting foreign investment is definitely the People's Republic of China (PRC).

China is one of the leaders in attracting foreign investment.

In accordance with UNCTAD data, in 2021 China ranked second in the world after the USA in terms of FDI inflows (181 bln US dollars) and fourth in terms of outward FDI after the USA, the Federal Republic of Germany and Japan (145 bln US dollars).<sup>53</sup>

<sup>53</sup> World Investment Report 2022. International tax reforms and sustainable investment. P. 4,5. // [https://unctad.org/system/files/official-document/wir2022\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2022_overview_ru.pdf).

The implementation of the investment policy in the People's Republic of China began in the 1980s with the launch of large preferential formations, the so-called special economic zones with a mild investment climate that were mainly created in coastal areas. “By the beginning of the 90s, the vector of Chinese investment policy began to change direction from territorial to territorial-sectoral.” The institutional deployment of productive forces in the east of the country and the stimulating investment policy in the northwest had a positive impact, which enabled China to enter the top five economies in the world by 2010.

The structure of investments attracted by China is dominated by foreign direct investment (FDI). According to the PRC Ministry of Commerce, the amount of actually used foreign direct investments at year-end 2021 was 173.48 bln US dollars, showing a 20.2% increase compared to the previous year. Investment from countries along the Belt and Road and ASEAN grew by 29.4% and 29%, respectively.<sup>54</sup> According to the State Administration of Foreign Exchange, in 2021 the amount of portfolio investments in China was 176.9 bln US dollars, which was 28% less than in 2020.<sup>55</sup>

One of the main factors that contribute to attracting foreign investments to China is the stable socio-economic and political situation in the country. In particular, in the international ranking World Competitiveness Index, China was 16th in 2021 and 17th in 2022. Indicators relating to the economic performance of the state were very high. In 2021 and 2022, China ranked fourth by this indicator.

In the Global Innovation Index, China ranked 11th in 2022, scoring high in business sophistication (12th place), market sophistication (12th place), as well as knowledge and technology outputs (6th place).

The second attractive factor for foreign investors is China's capacious domestic market with great growth prospects.

In 2010, the volume of the consumer market in the PRC was 2.7 tln US dollars, whereas according to the forecast of the Institute for Contemporary China Studies, Tsinghua University, the volume of the consumer market in China grew to 14.5 tln US dollars in 2020 and in 2025, China will be first in the world in terms of consumer market volume.

<sup>54</sup> <http://www.mofcom.gov.cn/xwfbh/20220113.shtml>

<sup>55</sup> <http://www.gov.cn/xinwen/2022-03/25/5681503/files/23d8bc8aaf2347ddb0639de76ea3a11f.pdf>

In order to attract foreign investors and ensure the transfer of advanced technological and management practices, China actively uses zones with special tax, customs and administrative regulation. These zones (commonly named development zones according to Chinese terminology) play a prominent role in the process of investment cooperation with foreign countries. Currently, the PRC has several thousand such formations (created and supervised by both the central and local governments) which are entrusted with many tasks in various areas. The main categories of state-level zones include:

- 7 special economic zones;
- 229 economic and technological development zones;
- 168 hi-tech zones;
- 19 border and cross-border economic cooperation zones;
- 168 special customs control zones, including:
  - 9 bonded zones;
  - 155 comprehensive bonded zones;
  - 2 port zones;
  - 1 export processing zone;
  - 1 cross-border industrial zone;
- 21 pilot free trade zones.

There are 1,999 regional-level economic development zones.

As an efficient way of attracting foreign investments to the regions, the PRC Government uses the regular organization of investment, trade and economic fairs in various provinces of China. The largest fair is held in Xiamen (South China). This contributes to regional development and the social welfare of the population in the provinces.

An important factor in the influx of foreign capital into the PRC is also an improved legal framework.

The Foreign Investment Law that entered into force in 2020 provides for the equal application of state support programs to both Chinese companies and companies with foreign capital. Moreover, this law introduced a negative list which regulates the access of foreign companies to the Chinese market. This negative list contains fields of activities in which the participation of foreign capital is prohibited.

On December 27, 2021, the National Development and Reform Commission of China and the Ministry of Commerce jointly issued the Special Administrative Measures (Negative List) for Foreign Investment Access (2021 Edition) and the Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2021 Edition). The two documents (collectively referred to as

the “Negative List for 2021”) entered into force on January 1, 2022, and superseded the 2020 National Negative List and the Pilot Free Trade Zone Negative List.

The 2021 Negative List was additionally reduced to 31 articles and 27 articles with a reduction rate of 6.1% and 10%, respectively.

Of great importance in the formation of China's investment climate is the implementation of the **Provisions on the Encouragement of Foreign Investment approved by the PRC State Council** (hereinafter the “Provisions”).

In accordance with Article 1 of the Provisions, these provisions are formulated to improve the investment environment, to better facilitate the attraction of foreign investment, to introduce advanced technology, to improve product quality, to expand in order to generate foreign exchange and to develop the national economy.

According to Article 2 of the Provisions, the state encourages foreign companies, enterprises and other economic entities or individuals to establish Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises within the PRC territory.

In accordance with the Provisions, the state grants special preferences to the enterprises with foreign investments which include products export enterprises and technologically advanced enterprises. In particular, in accordance with Article 4 of the Provisions, a preferential level of payment shall be established for a leased plot.

According to Article 5 of the Provisions, products export enterprises and technologically advanced enterprises shall be given priority in obtaining water, electricity and transportation services and communication facilities needed for their production activities. Fees for these services shall be computed and charged in accordance with the standards for local state enterprises.

Article 6 of the Provisions stipulates that products export enterprises and technologically advanced enterprises, after examination by the Bank of China, shall be given priority in receiving loans for short-term working funds needed for production and distribution, as well as for other needed credit.



In accordance with Article 7 of the Provisions, when foreign investors in products export enterprises and technologically advanced enterprises remit abroad profits distributed to them by such enterprises, the amount remitted shall be exempt from income tax.

According to Article 8 of the Provisions, products export enterprises in free economic zones and in economic and technological development zones that have already paid enterprise income tax at a tax rate of 15% and that comply with the foregoing conditions shall pay enterprise income tax at a rate of 10%.

In accordance with Article 9 of the Provisions, after the expiration of the period of reduction or exemption of enterprise income tax in accordance with the provisions of the state, technologically advanced enterprises may extend for three years the payment of enterprise income tax at a rate reduced by 50%.

According to Article 10 of the Provisions, foreign investors who reinvest the profits distributed to them by their enterprises in order to establish or expand products export enterprises or technologically advanced enterprises for a period of operations of not less than five years, after application to and approval by the tax authorities, shall be refunded the total amount of enterprise income tax already paid on the reinvested portion.

The implementation of Article 11 of the Provisions contributes to developing the export potential of Chinese enterprises. In particular, in accordance with this article, export products of enterprises with foreign investments, except crude oil, petroleum products and other products subject to special state provisions, shall be exempt from the consolidated industrial and commercial tax.

In general, the implementation of these Provisions creates favorable conditions for an increase in the competitiveness of Chinese JVs, the development of industries with high added value and the modernization of industrial production in the PRC.

**The Law of the PRC on Chinese-Foreign Equity Joint Ventures** amended on March 15, 2001, was originally adopted by the Standing Committee of the Fifth National People's Congress on July 1, 1979.

This Law expands international economic cooperation and technological exchange and permits foreign companies, enterprises, other organizational and legal forms or natural persons to establish equity joint ventures together with the PRC entities within the territory of the country. These enterprises are subject to the principle of equality and mutual benefit between the foreign and the PRC entities.

The creation of enterprises in question is subject to approval by the PRC Government.

This Law determines the rules for investment protection.

Thus, in accordance with Article 2 of this Law, the PRC Government protects the investment of foreign joint venturers, the profits due to them and their other legitimate rights and interests in accordance with agreements, contracts and articles of association approved by the PRC Government. According to Article 2 of the Law, the state shall not nationalize or requisition any equity joint venture. Under special circumstances, when public interests require, equity joint ventures may be requisitioned in accordance with the procedure determined by law and appropriate compensation shall be made.

The implementation of this Law also creates favorable conditions for expanding export supplies of JVs created in the PRC. In particular, in accordance with Article 10 of the Law, equity joint ventures shall be encouraged for product exports which may be carried out by equity joint ventures directly or through associated agencies.

In addition, the Law regulates the mechanism for the settlement of investment disputes.

According to the conditions of membership in the World Trade Organization (WTO), the PRC Government has amended about 3,000 legislative acts, departmental rules, regulations and instructions. Moreover, the Government of China constantly improves the enforcement of law and the transparency of the relevant policies. The Foreign Investment Law that entered into force in 2020 provides for the equal application of state support programs to both Chinese companies and companies with foreign capital. Moreover, this law introduced a negative list which regulates the access of foreign companies to the Chinese market. This negative list contains fields of activities in which the participation of foreign capital is prohibited. On December 27, 2021, the National Development and Reform Commission of China and the Ministry of Commerce jointly issued the Special Administrative Measures (Negative List) for Foreign Investment Access (2021 Edition) and the Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2021 Edition).

The two documents (collectively referred to as the “Negative List for 2021”) entered into force on January 1, 2022, and superseded the 2020 National Negative List and the Pilot Free Trade Zone Negative List.

The 2021 Negative List was additionally reduced to 31 articles and 27 articles with a reduction rate of 6.1% and 10%, respectively.

A well-developed transport infrastructure also contributes to attracting foreign investment to the PRC. China is among the top three states with the longest roads (5.3 mln km) and railways (153 thous. km); it has 418 large sea ports with a freight turnover of 1 mln t/year or more and a fleet of sea and river vehicles that comprises 266 thous. registered civil vessels, as well as over 300 thous. small-tonnage and small-sized vessels. The PRC aircraft fleet is about 6,795 aircraft [3].

Another distinctive aspect of China's regional investment policy is that in its implementation, exceptional attention is paid to interregional cross-border cooperation. As the experience of Chinese provinces shows, the border position is a positive factor influencing mutually beneficial investment cooperation with neighboring states. Individual provinces have achieved better economic performance owing to the creation of investment conditions and the availability of transit routes for trade development and expansion.

China continues to efficiently develop new procedures and market institutions to increase FDI inflows. The development of export by attracting foreign investments has helped China accumulate the necessary foreign exchange reserves for the modernization of production, which, in turn, stimulates FDI inflows.

Chinese government authorities support foreign investment by granting a large number of tax benefits and tax holidays to companies with foreign capital. The PRC is implementing a policy primarily aimed at increasing FDI inflows to the most priority areas, regions and industries. In this regard, China is carrying out the gradual liberalization of foreign trade and expanding economy openness, which enables foreign companies to have the majority of shares in the sectors previously closed to them. In particular, these sectors are: metallurgy, food industry, production of various consumer goods and automotive industry.

Over the past three decades, China has accumulated rich experience in attracting foreign investments, which has made it one of the most attractive countries for foreign investors.

### **4.2.2 India**

India is also quite an attractive country for foreign investors. This is primarily due to not only the large volume of the domestic market, but also the low cost and high qualification of labor. The country ranks fourth in the world by the number of new start-ups in the IT field.

Over the past 15 years, the Government of India has adopted a number of amendments in the field of foreign investment to promote FDI inflows to the Indian economy.

First, in order to liberalize the market, India has removed a number of restrictions in the field of currency control that were previously applied to foreign companies with a significant share of capital in national economic sectors. The country has lifted the ban on the use of foreign trademarks.

Second, the taxation system has been reformed and the number of indirect taxes has been reduced. Indian and foreign companies have been exempted from tax on profit from export operations.

Third, the Government of India has approved accelerated decision-making procedures, measures to develop e-government and electronic document submission and approval systems, as well as document flow reduction.

Fourth, measures have been taken to develop 100 smart cities. The construction of a network of high-speed trains connecting the main metropolitan cities of India and the reform of the port structure have begun. For attracting foreign investments, all ports are registered as separate companies. The Reserve Bank of India allows 100% foreign investment in the construction of bridges and roads.

In total, the Government of India has allocated more than 10 bln US dollars for infrastructure development.

In order to organize production within 25 key sectors (automotive industry, pharmaceuticals, IT industry and others), the Government of India has taken measures to improve the investment climate and create favorable conditions for Indian and foreign investors.

According to the data of the Indian investment promotion agency Invest India (<https://www.investindia.gov.in/foreign-direct-investment>), there is an automatic investment route which does not require obtaining any approval for investment from the Government of India. In most economic sectors, 100% FDI is permitted through the automatic route.

At the same time, there are certain industries for which FDI in the amount of 100% is permitted only with approval from the Government of India. These include:

- air transport services (for investment in the amount of over 49%);
- biotechnology (brownfield; for investment in the amount of over 74%);
- defense sector (for investment in the amount of over 74%);
- food product retail trading (for investment in any amount);
- healthcare, pharmaceuticals (brownfield; for investment in the amount of over 74%);
- mining and separation of titanium bearing minerals and ores (for investment in any amount);
- print media (scientific and technical magazines; specialty journals) (for investment in any amount).

In a number of sectors, a restriction on the amount of FDI is imposed on foreign companies even if approval is obtained from the Government of India. These include:

- broadcasting content services – up to 49%;
- digital media – up to 26%;
- multi-brand retail trading – up to 51%;
- print media (publication of newspapers, periodicals and Indian editions of foreign magazines dealing with news and current affairs) – up to 26%.

FDI is prohibited in some industries, such as lottery business, gambling, the manufacturing of cigarettes and tobacco products, etc.

According to the Ministry of Commerce and Industry of India<sup>56</sup>, the top five sectors with the largest FDI inflows in 2021–2022 financial years were: software and computer hardware – 24.6%; service sector – 12.1%; automotive industry – 11.9%; trade – 7.7%; construction and infrastructure development – 5.5%.

India also has free economic zones (both state and private) which are aimed at attracting investments in various industries, including information technologies, pharmaceuticals, the textile industry, engineering and electronics. It should be noted that the largest number of zones specialize in IT and information technology services.

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<sup>56</sup> <https://dpiit.gov.in/publications/fdi-statistics>.

### 4.3. Specific features of investment policy in some ASEAN countries 4.3.1. Singapore

Singapore is one of the world's countries with the highest investment potential.

In accordance with UNCTAD data, in 2020 and 2021 Singapore ranked fourth -in the world in terms of FDI inflows to the country with the amount of FDI reaching 75 bln US dollars in 2020 and 99 bln US dollars in 2021.

The sectoral distribution of investments is as follows: finance and insurance (55.5%); wholesale and retail trade (14.8%); manufacturing (12%); administrative and auxiliary services (10.6%); real estate (2.1%).

The main investors in the Singaporean economy are the USA (24.7%), the Cayman Islands (11.5%), the Virgin Islands (7.6%), Japan (6.5%) and the UK (5.9%).

The amount of outward investment from Singapore in 2020 and 2021 was 32 bln US dollars and 47 bln US dollars, respectively.<sup>57</sup>

Singapore is a party to free trade agreements with the largest economies in the world. Singapore was an active participant in the creation of the Trans-Pacific Partnership Agreement, ASEAN, etc.

Singapore has established a free trade regime with China, India, Japan, South Korea, Australia, New Zealand, the USA, Turkey.

There are separate bilateral free trade agreements with Panama, the Hashemite Kingdom of Jordan, Peru, the European Free Trade Association (EFTA), Costa Rica, Taipei and the Gulf Cooperation Council (GCC).

Jointly with ASEAN partners, Singapore is a member of the Regional Comprehensive Economic Partnership.

Singapore is intensifying investment cooperation with the EAEU Member States.

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<sup>57</sup> World Investment Report 2022. International tax reforms and sustainable investment. P. 4,5. // [https://unctad.org/system/files/official-document/wir2022\\_overview\\_ru.pdf](https://unctad.org/system/files/official-document/wir2022_overview_ru.pdf).

On October 1, 2019, two agreements were signed with the Republic of Singapore: Free Trade Agreement between the Eurasian Economic Union and its Member States, on the one part, and the Republic of Singapore, on the other part, and Framework Agreement on Comprehensive Trade and Economic Cooperation between the Eurasian Economic Union and its Member States, on the one part, and the Republic of Singapore, on the other part. Since the Member States chose the format of a bundle agreement, their further entry into force depends on reaching bilateral agreements on trade in services and investment between the Member States and Singapore.

The EAEU Member States and the Republic of Singapore signed bilateral investment protection and promotion treaties (Treaty between the Republic of Belarus and Singapore dated May 15, 2000, Treaty between

the Republic of Kazakhstan and Singapore dated November 21, 2018, Treaty between the Russian Federation and Singapore dated September 27, 2010)<sup>58</sup>.

Singapore has created ample opportunities for attracting investments.

In particular, national treatment is accorded to foreign investments. There are no restrictions on the areas of application of foreign capital. The activities carried out by all residents of the local economy (Singapore and foreign companies) are regulated by individual sectoral legislative acts.

The economic governance structure ensures a stronger position of the city-state as a world-class research center, investment attraction to high-tech manufacturing sectors and innovation promotion.

The system of state support and investment attraction is not clearly centralized. It can be characterized as a **matrix structure** which, in the absence of a **single point of entry** for both local and foreign companies, efficiently processes incoming requests and resolves entrepreneurs' issues.

The set of state support measures is mainly concentrated in specialized agencies subordinate to the Ministry of Trade and Industry of Singapore with direct horizontal interaction between them. The main ones are the Economic Development Board (EDB<sup>59</sup>) and the Enterprise Development Agency Enterprise Singapore (ESG<sup>60</sup>).

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<sup>58</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

<sup>59</sup> <https://www.edb.gov.sg/>

<sup>60</sup> <https://www.enterprisesg.gov.sg/>

The **Singapore Economic Development Board** is the lead organization for planning and implementing a strategy to transform Singapore into a global business hub through the creation of a business ecosystem conducive to investors, manufacturers and service companies in the country.

The main directions of the Board's activities are: attracting investments to export-oriented and knowledge-intensive manufacturing and service sectors, creating vertically integrated industrial ties and improving the business atmosphere for small, medium and large businesses. Heads of the world's largest corporations (such as McKinsey & Co., Siemens AG, Alibaba Group, Procter & Gamble Corp., Panasonic Corp., Marubeni Corp, Tata Communications, DH) take part in the Board's activities as members of the Board of Directors and consultants.

The Board's 19 offices in the USA, China, Japan, South Korea, the Netherlands, Brazil, the UK, Germany, Italy, France, Switzerland, Sweden, India and Indonesia search for potential investors in the Singaporean economy. The result of the Board's efforts is attraction to Singapore of more than 7,000 transnational corporations of which 60% have regional or global headquarters in the country<sup>61</sup>.

The **Enterprise Development Agency** is responsible for the state support of innovative small and medium-sized enterprises, the expansion of international business cooperation and the development and improvement of standards, implements a number of financial and non-financial support measures, actively interacts with Chambers of Commerce and Industry and sectoral associations, as well as assists Singapore companies in developing market entry strategies, conducting marketing research and searching for trading partners. The Agency has 37 offices in the most promising export destinations, including Russia.

Singapore's success in attracting foreign investments is primarily associated with a comprehensive and consistent approach used in the country in working with foreign companies.

The systemic factors that make Singapore one of the world leaders in attracting foreign investors include:

- ease of registration and doing business for foreigners (the average cost of setting up a company starts from 225 US dollars; the minimum capital starts from 1 Singapore dollar);

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<sup>61</sup> <https://www.edb.gov.sg/en/contact/edb-offices.html>



- tax regime: in addition to the above approach of unified national fiscal policy, Singapore has no taxes on dividends, capital gains or investment income;

- foreign companies that choose to set up regional/global headquarters or trading divisions in Singapore enjoy preferential tax rates and may also qualify for the vast majority of state support measures from the Government of Singapore;

- in sectors most important for the development strategy of Singapore, the Government of Singapore is ready to co-invest in the implementation of projects together with a foreign partner.

An investor in Singapore has a large number of advantages in comparison with other jurisdictions.

The advantages of working with third countries through Singapore are also due to:  
wide range of world-class service providers offering a variety of financial, legal and other business services;

free import and export of any currency in unlimited quantities;

official status of the English language;

simplified legislative system based on UK law;

availability of free trade areas and agreements with the world's largest economies (USA, PRC, etc.), which, along with Singapore's high rankings, offers the possibility to freely enter world markets through the establishment of companies in Singapore;

agreements on avoidance of double taxation with many countries (Singapore has concluded comprehensive tax agreements with more than 80 countries, including: Australia, Belgium, UK, Germany, India, Italy, Canada, China, France, South Africa, Japan, as well as EAEU States (Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Russian Federation)).

In 2014, Singapore signed the Declaration on Automatic Exchange of Information in Tax Matters which establishes the obligation to adopt the new single global standard for the automatic exchange of financial account information. In accordance with the new standard, states and jurisdictions shall obtain financial information from their financial institutions and annually exchange this information with other jurisdictions on an automatic basis.

A number of amendments were made to the Singapore Tax Code, which legislated the possibility of processing group information requests from November 28, 2014. A new law enabled Singapore to automatically exchange tax information with other states under the OECD's Common Reporting Standard. Since May 1, 2016, the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters has been applied on the territory of Singapore.

Singapore's Competition Act 2004 prohibits anti-competitive agreements, abuses of a dominant market position, as well as mergers leading to a substantial lessening of competition within any market in Singapore. The creation of a JV which is to perform on a lasting basis all the functions of an autonomous economic entity will qualify as a merger where joint control among shareholders can be established on the basis of the nature and scope of the minority protections obtained.

Singapore hosts foreign invested companies from the largest global economies, such as Australia, Hong Kong, the USA, China, Japan and India, Malaysia and Indonesia.

Companies in Singapore may be incorporated in the following forms:

companies with the liability of members limited to the value of the shares they hold (**private limited company**);

companies with the liability of members limited by the guarantee provided by them, i.e. to the guaranteed amount (**company limited by guarantee**);

partnerships with unlimited liability (**unlimited company**).

**Exempt private limited company** means a company with no more than 20 shareholders, none of which may be a juridical person. A company with this organizational and legal form is exempt from filing audited financial statements if the company's turnover is less than 5 mln Singapore dollars for the tax year. This form minimizes costs of doing business and at the same time ensures tax benefits.

However, a company, an association or a partnership of more than 20 persons may be incorporated with the aim of carrying out commercial activities for the profit of the company, association, partnership or an individual member thereof only in case of registration as a company under the Companies Act or another statute of Singapore.

In accordance with the Companies Act, a juridical person having a share capital may receive the status of a private company if its constitution:

restricts the right to transfer its shares;

limits to not more than 50 the number of its members (counting joint holders of shares as one person and not counting any person in the employment of the company or of its subsidiary or any person who while previously in the employment of the company or of its subsidiary was and thereafter has continued to be a member of the company).

A private company may, by special resolution, alter any restriction on the right to transfer its shares included, or deemed to be included, in its constitution or any limitation on the number of its members included, or deemed to be included, in its constitution.

However, the constitution of the company shall still include the above limitation required for the registration of a company as a private company.

In addition, a person may register and work in Singapore as an individual entrepreneur (**sole proprietorship**).

The most popular form in Singapore is a private limited company, whose benefits are as follows:

the company is a separate juridical person;

shareholders are liable for the debts of the company only within the limits of the shares they hold;

free circulation of shares;

this form is optimal in terms of taxation.

A quite convenient form for a start-up business with no juridical persons among its founders is an **exempt private limited company**. This is a company with no more than 20 shareholders, none of which may be a juridical person.

Such a company is exempt from filing audited financial statements if its turnover is less than 5 mln Singapore dollars for the tax year. This form minimizes costs of doing business and at the same time ensures tax benefits.

A **private limited company** may have 1 to 50 shareholders. Shareholders may be directors of the company. A shareholder may be a natural or juridical person, such as another company or fund.

Foreigners are allowed 100% ownership of shares. At any time after company registration, it is possible to freely issue additional shares or transfer shares to another person.

The most important advantage for activities of foreign investors in Singapore is the adopted free trade agreements with the world's largest economies (USA, PRC, etc.), which, along with Singapore's high rankings, offers the possibility to freely enter world markets through the establishment of companies in Singapore.

Singapore's experience in attracting foreign investments is important to create a mechanism for improving the business and investment climate in the EAEU Member States.

### **4.3.2 Vietnam**

As one of the fastest developing countries in Southeast Asia, Vietnam has a large market with attractive opportunities and growth potential.

Vietnam successfully pursues a policy of attracting investments. A stable socio-political situation, activity on regional and global platforms, steady growth of national economic indicators, a favorable situation in the market of labor resources, integration into global production chains, a coherent national investment policy and a constructive dialogue between investors and the state contribute to the inflow of capital into the Vietnamese economy.

According to UNCTAD data, the amount of officially registered foreign direct investment in Vietnam amounted to 15.7 bln US dollars in 2021 and 15.8 bln US dollars in 2020.<sup>62</sup>

In 2007, Vietnam acceded to the World Trade Organization (WTO); the country is also a member of the Association of Southeast Asian Nations (ASEAN) and the Asia-Pacific Economic Cooperation (APEC) forum.

As an ASEAN member, Vietnam is a party to free trade agreements with China (2002), Japan (2003), the Republic of Korea (2006), Australia and New Zealand (2009), India (2009) and Hong Kong (2014).

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<sup>62</sup> UNCTAD data. Foreign direct investment: Inward and outward flows and stock // <https://unctad.org/fdistatistics>.

Vietnam concluded bilateral free trade agreements with Japan (2008) and Chile (2011). In 2015, bilateral agreements were signed with the Eurasian Economic Union and the Republic of Korea. In 2019, the European Union and the Socialist Republic of Vietnam signed a Free Trade Agreement. In 2019, Vietnam became a party to the Trans-Pacific Partnership Agreement which at that time brought together 10 states (the USA withdrew from this agreement in 2017): Australia, Brunei, Canada, Malaysia, Mexico, New Zealand, Peru, Singapore, Chile, Japan. In 2020, a bilateral free trade agreement was signed with the UK.

In addition, since 2015, negotiations have been underway to conclude a free trade agreement with the State of Israel. Vietnam has also set up a joint research group to study the expediency of concluding a free trade agreement with EFTA (Norway, Iceland, Liechtenstein, Switzerland).

There are strong, stable foreign policy and trade relations between the EAEU States and Vietnam. The Free Trade Agreement between the Eurasian Economic Union and its Member States, on the one part, and the Socialist Republic of Vietnam, on the other part, was signed on May 29, 2015<sup>63</sup>.

In particular, Section 8 of the Agreement covers issues related to trade in services, investment and the movement of natural persons, whereas obligations in these areas apply only to the Russian Federation and Vietnam. However, other EAEU Member States may subsequently accede to the relevant provisions.

The above section is aimed, among others, to create additional conditions for the attraction and protection of mutual investments.

The Agreement guarantees the provision of fair and equitable treatment, as well as full protection and security to the investments of the Parties.

In addition, investors are accorded the national treatment and the most favored nation treatment.

Bilateral investment protection and promotion treaties were concluded between the EAEU Member States and the Socialist Republic of Vietnam (between the Republic of Belarus and Vietnam (dated July 8, 1992), the Republic of Kazakhstan and Vietnam (dated September 15, 2009), as well as the Russian Federation and Vietnam (dated June 16, 1994)).

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<sup>63</sup> Features of doing business in the Socialist Republic of Vietnam // [https://eec.eaeunion.org/upload/medialibrary/c1b/EEC\\_Vietnam\\_int\\_cont.pdf](https://eec.eaeunion.org/upload/medialibrary/c1b/EEC_Vietnam_int_cont.pdf).

The treaty between the Republic of Armenia and Vietnam was signed on February 1, 1993, but has not entered into force<sup>64</sup>.

The procedure for establishment of a juridical person in Vietnam is governed by the provisions of the new Law on Enterprises No. 68/2014/QH13 which entered into force in 2015. The new law aims to encourage foreign investors to use the form of the Vietnamese juridical person as the most attractive way of foreign investment in Vietnam.

Commercial activities in Vietnam may be carried out by limited liability companies (LLCs), open joint-stock companies (JSCs), partnerships and individual entrepreneurs (private enterprises).

The procedure for registration of a juridical person in Vietnam is governed by the provisions of the above Law on Enterprises which defines the conditions and requirements for the establishment, organization, restructuring, dissolution and other activities of enterprises, including limited liability companies, joint-stock companies, partnerships and sole proprietorships<sup>65</sup>.

In accordance with Article 27 of the above Law, the founder of the enterprise or an authorized representative shall submit the application for the registration of a juridical person to the Vietnam registration authority responsible for considering the legitimacy of the provided documents.

The registration authority shall issue the Certificate of Business Registration within three business days from the day on which the application is received. In case of refusal to issue the Certificate of Business Registration, the registration authority shall notify the applicant accordingly in writing with explanation of causes.

The establishment of a juridical person requires the obtaining of the Certificate of Business Registration.

In accordance with the Law on Enterprises (Article 45), every enterprise is entitled to establish a branch or representative office, whether on the territory of Vietnam or overseas. To do so, the enterprise shall submit an application for registration of the branch or representative office to a registration authority in charge of the region where the branch or representative office is to carry out its activities.

In accordance with Vietnam Commercial Law No. 36/2005/QH11, non-residents shall have the right to set up their representative offices and branches in Vietnam, as well as to establish companies with foreign capital in the organizational and legal forms provided for by Vietnamese law.

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<sup>64</sup> Investment Policy Hub // <https://investmentpolicy.unctad.org/international-investment-agreements/by-economy>.

<sup>65</sup> Features of doing business in the Socialist Republic of Vietnam // [https://eec.eaeunion.org/upload/medialibrary/c1b/EEC\\_Vietnam\\_int\\_cont.pdf](https://eec.eaeunion.org/upload/medialibrary/c1b/EEC_Vietnam_int_cont.pdf).

The basis of the regulatory framework in the investment sphere is the Law on Investment. The current version was adopted by the National Assembly of Vietnam on June 17, 2020 (Law No. 61/2020/QH14 entered into force on January 1, 2021). The investment policy is set out in more detail in Decree No. 31/2021/ND-CP of the Government of the Socialist Republic of Vietnam dated March 26, 2021, and other regulatory acts.

The Law on Investment establishes the main principles of the investment regime: transparency, equal treatment of foreign and Vietnamese investors, protection against expropriation and respect for investment-related agreements to which Vietnam is a party. Notable amendments made to the new Law on Investment include a black list of foreign investors, an increase in the property threshold for the registration of a national level project, a provision on national security, new investment promotion instruments, additional measures facilitating investment procedures and additional rules on foreign investment.

#### State administration

In the Government of Vietnam, investment issues are addressed by the Ministry of Planning and Investment. Its structure includes an organization that interacts with foreign capital, the Foreign Investment Agency (FIA). FIA consists of five divisions, manages three regional Investment Promotion Centers in the northern, central and southern parts of the country and supervises the work of representative offices in several foreign countries. The main functions of FIA are: coordination and state assistance to investors; development and implementation of foreign investment policy; development of solutions to eliminate obstacles in the implementation of investment policy; monitoring of compliance with investment regimes; registration, examination and validation of investment projects with the participation of foreign capital under the BOT (Build Operate Transfer), BTO (Build Transfer Operate), BT (Build Transfer) schemes.

### **4.3.3 Kingdom of Thailand**

In foreign policy, Thailand follows the principles of balance and equidistance, with the priority being participation in regional integration associations.

Thailand is the initiator of creating the Asia Cooperation Dialogue (ACD) and a member of the East Asia Summits, the Asia-Pacific Economic Cooperation (APEC) forum, the Asia–Europe Meeting (ASEM), the Conference on Interaction and Confidence Building Measures in Asia (CICA), the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation, as well as the Group of 77. The Kingdom has a status of an observer in the Organization of Islamic Cooperation and a partner of the Organization for Security and Cooperation in Europe (OSCE).

Thailand's economy has shown steady growth over the past 30 years. Since 1990, the GDP of the Kingdom of Thailand has increased seven times. Moreover, negative dynamics was recorded only three times:

- in 1998, a 0.2% decline in GDP was due to the Asian financial crisis;
- in 2009, a 0.5% reduction in GDP was due to the global financial crisis;
- in 2020, a 7.4% decline in GDP was due to restrictions caused by the global pandemic of coronavirus infection<sup>66</sup>.

At year-end 2021, the amount of foreign direct investment in Thailand was 64.4 bln US dollars (+30.1%). The sectoral distribution of investments is as follows: manufacturing (20.4%), finance and insurance (7.2%), wholesale and retail trade (5.9%), as well as real estate (2.3%)<sup>67</sup>.

The top five investors in the Thai economy are: China (15.9%), Japan (13.6%), USA (8.8%), Singapore (8.7%), Switzerland (5.2%)<sup>68</sup>.

To solve urgent socio-economic problems, the Government of the Kingdom of Thailand takes active steps for modernizing existing industries, attracting investments, increasing labor productivity and creating a competitive economy aimed at the export of high value-added products.

One of the most ambitious projects for which the Government of Thailand has high hopes is Eastern Economic Corridor (EEC), a special economic zone on whose territory it is planned to locate high-tech production facilities related to 12 “key industries” (“S-Curves”): next-generation automotive; intelligent electronics; high-value and medical tourism; advanced agriculture and biotechnology; food for the future; automation and robotics (manufacturing of industrial robots); aviation and logistics; medical and comprehensive healthcare; biofuel and biochemical; digital; defense; education and human resource development.

<sup>66</sup> <https://data.imf.org/regular.aspx?key=63122827>

<sup>67</sup> [https://www.bot.or.th/App/BTWS\\_STAT/statistics/ReportPage.aspx?reportID=853&language=eng](https://www.bot.or.th/App/BTWS_STAT/statistics/ReportPage.aspx?reportID=853&language=eng)

<sup>68</sup> Ibid



In addition, the Government of Thailand is currently pursuing a policy for the import substitution of expensive original drugs and is aimed at attracting investments to the creation of new pharmaceutical industries on the territory of the country. As part of the Eastern Economic Corridor program, significant tax and other benefits are granted to foreign investors creating new production facilities in the country or investing in existing production sites for improving production standards to fully comply with PIC/S (Pharmaceutical Inspection Cooperation Scheme) requirements.

The government is planning to expand state investment in digital technologies with the aim of creating an advanced society in accordance with the new economic model called Thailand 4.0.

Thanks to a coherent state policy supporting the private sector as a driver of economic growth, the investment promotion regime in Thailand is considered one of the most successful and favorable in Asia.

Thailand has Agreements on Avoidance of Double Taxation with 58 countries, including the Russian Federation (dated September 23, 1999). Agreements for the promotion and reciprocal protection of investments have been signed with 51 countries; however, the Agreement with the Russian Federation (dated October 17, 2002) has not yet been ratified.

According to the legislation of the country, several areas of entrepreneurial activity are completely closed to foreigners, namely: media, rice cultivation, fisheries in Thai territorial waters and logging.

The Government of Thailand may sell shares in state enterprises to private foreign investors.

The set of state measures for attracting investments in Thailand is mainly concentrated in the **Board of Investment**<sup>69</sup>. The Board provides assistance in the development of investment activities both within Thailand and overseas, regulates the activities of foreign entrepreneurs, primarily investors, as well as provides tax and non-tax incentives for foreigners.

### **Tax incentives are:**

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<sup>69</sup> <https://www.boi.go.th/en/index/>

- exemption/reduction of import customs duties on machinery and equipment;
- reduction of import customs duties on raw and essential materials;
- exemption of import customs duties on materials imported for research and development purposes;
- exemption of corporate income tax on net profit and dividends gained from activities “promoted” by the Board of Investment;
- double deduction of expenses for transport, electric power and water supply in the determination of the tax base;
- additional deduction in the amount of 25% of the cost of installation or construction of infrastructure facilities in the determination of the tax base;
- exemption of import customs duties on raw and essential materials imported for use in the production of goods for export.

**Non-tax incentives are:**

- permit for foreign nationals to enter the Kingdom of Thailand in order to explore investment opportunities;
- simplified entry regime for qualified specialists;
- granting to foreigners the property right to land;
- permit to export or transfer money abroad in foreign currency.

The investment center One Start One Stop (OSOS) operates as a part of the Board of Investment<sup>70</sup>. It offers foreign investors a “single window” service for interaction with several agencies located throughout Bangkok at once and brings together all institutions related to supporting investment activities in the country.

The center provides **assistance to investors:**

- in preparing applications required for company registration in Thailand;
- in obtaining investment benefits and licenses for foreign business, assessing the impact of future enterprises on the environment and obtaining the relevant opinions, permits for land use for industrial purposes and approval for connection to utilities.

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<sup>70</sup> <https://osos.boei.go.th/EN/home/>

Foreign investors may establish international headquarters (IHQ) and international trading centers (ITC) eligible for reduction or exemption of corporate income tax, personal income tax for foreign specialists, as well as a special business tax<sup>71</sup>.

#### **4.3.4 Republic of Indonesia**

At present, the Republic of Indonesia is not a major investor, but rather, on the contrary, is actively attracting investments to its economy. Indonesian investments are mainly directed to ASEAN countries and the developing countries of the Middle East and Africa.

According to the Indonesian Ministry of Investment, in 2021 the total amount of investments in the Indonesian economy was 901 tln Indonesian rupiah (63 bln US dollars), of which foreign investment accounted for 50.4%. In 2019, most investments were directed to Java (53.7%); in 2021, 52% of all investments were made outside the island.

In 2021, the top investors in the Indonesian economy were Singapore (9,390.1 mln US dollars), Hong Kong (4,609.3 mln US dollars), China (3,160.4 mln US dollars), the USA (2,537.2 mln US dollars) and Japan (2,263.2 mln US dollars). A significant portion of investment from Singapore actually came from other countries using Singapore as a hub for onward operations in Southeast Asian countries.

The bulk of investments were accounted for by the metallurgical industry (48.2 tln Indonesian rupiah, or 15.9% of total investments); the remaining major sectors for investment were mining and the real estate sector (33.0 and 26.7 tln Indonesian rupiah, respectively). In the first half of 2022, most investments were directed to the metallurgical industry (87.9 tln Indonesian rupiah; 15%), mining (68.2 tln Indonesian rupiah; 11.7%), transport, warehousing and telecommunications (65.1 tln Indonesian rupiah; 11.1%).

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<sup>71</sup> [https://www.boi.go.th/upload/content/BOI-brochure 2015-IHQ-20150619\\_34592.pdf](https://www.boi.go.th/upload/content/BOI-brochure%2015-IHQ-20150619_34592.pdf)

The Investment Agency was established by Decree No. 90 of the President of Indonesia for improving the efficiency of investments and attracting foreign capital and later received the status of the Ministry. The competence of this Ministry includes the determination of the most priority economic sectors requiring foreign investment inflows.

On March 4, 2022, Indonesia's Presidential Regulation No. 10/2021 on business fields open to investment entered into force and repealed Indonesia's Presidential Regulation No. 44 of 2016 (that previously contained the list of sectors closed to foreign investment). In accordance with the new Regulation, most sectors of industry and services (except for financial services, gambling, the manufacture and distribution of drug-containing substances and some other sectors) shall become open to foreign investment.

The Regulation was signed as part of implementing Job Creation Law No. 11/2020 aimed at improving the business climate in the country by reducing the requirements for doing business and reviewing 79 laws existing in this area.

The document contains a list of priority investment areas and projects included in the Indonesian National Strategic Development Program: capital-intensive and labor-intensive projects, technology start-ups, research and development projects, as well as export-oriented industries.

Entrepreneurs investing in sectors from the priority list shall be granted tax benefits, including tax credits and holidays, as well as non-tax incentives (simplification of business and licensing procedures, creation of supporting infrastructure and employment incentives). For example, e-commerce companies, investors in the construction of small power plants, etc. shall have the right for tax benefits, while oil and gas refineries, manufacturers of vaccines, electric vehicles and batteries for electric vehicles shall be granted tax holidays.

In Indonesia, investment in healthcare, engineering, new and renewable energy sources, electronic production and infrastructure creation is in particular demand.

In March 2022, Jakarta hosted the official launch of new Indonesia Sustainable Investment Projects that was organized by the Investment Coordinating Board. A total of 47 investment projects were announced (12 in the tourism sector, 14 in economic (industrial) zones, 15 in the manufacturing industry and 6 infrastructure projects) with the estimated total cost of 155.12 trillion Indonesian rupiah (10.9 bln US dollars) (list of projects attached).

At the same time, Indonesia is actively attracting investments in the project for the transfer of the capital to Borneo. In 2019, the President of Indonesia announced plans to transfer the capital to the province of East Kalimantan. The project was originally planned to be started in 2024. However, since the Government of Indonesia had to allocate a significant amount of financial resources to combat the COVID-19 pandemic, the deadline for implementing the project has been shifted by 10–15 years. The planned amount of investments is 32.7 bln US dollars.

According to the plan, all state authorities, the military and law enforcement communities, as well as embassies should move to the new capital. Institutions closely cooperating with the private sector, such as the central bank, financial regulator or investment authority, will remain in Jakarta.

According to preliminary estimates, the new capital will be located on 56,180 hectares. The city is planned to accommodate more than 1.5 mln residents. They will include 195,000 employees of the central government office and 25,000 military and police officers, as well as their families and citizens employed in the service sector.

### **4.3.5 Malaysia**

As one of development centers in Southeast Asia, Malaysia is claiming the role of a regional leader in the field of modernization and innovation and has a modern financial, transport, energy and telecommunications infrastructure. Its main feature is a balanced, diversified economy with the successful development of foreign trade, industry, infrastructure, services, the financial sector, agriculture, etc.

The Government of Malaysia takes active measures to improve the investment climate in the country and develop investment infrastructure. One of the factors in the investment attractiveness of Malaysia for international players is a steadily developing national economy. Over the past decade, Malaysia maintained steady economic growth and is currently one of the leading economies among Southeast Asian countries. Thus, according to the Ministry of Finance of Malaysia, 2021 was marked by a 3.1% GDP growth despite the consequences of the pandemic and the global economic stagnation. According to the classification of the World Bank, in 2021 Malaysia was 12th in the Doing Business ranking (15th in 2019).

In addition, the Government of Malaysia is pursuing an active policy for attracting direct investments. In 1967, the Malaysian Investment Development Authority (MIDA) was established in Malaysia with the main task of attracting investments to industry and the service sector.

The wide range of MIDA's services includes the provision of information on investment opportunities, as well as assistance to companies searching for joint venture partners. In addition, MIDA's competence includes the coordination of activities carried out by asset management companies.

As for the area of asset management as a whole, the observer of the current legislation in this area is the Securities Commission Malaysia. The Commission's main functions include the following competencies: supervision of exchanges, clearing houses and central depositories; approval of authority for corporate bond issues; regulation of matters relating to securities and futures contracts; regulation of take-overs and mergers of companies; regulation of matters relating to unit trust schemes; ensuring of proper conduct among market institutions.

The basic regulatory legal acts regulating the activities of investment and venture funds in Malaysia are the Securities Commission Act 1993, the Capital Markets and Services Act 2007, etc.

In order to establish a fund in Malaysia, investors shall comply with the requirements and restrictions for the chosen type of fund, as well as undergo the appropriate licensing procedure. There are several types of funds in Malaysia: joint-stock funds, fixed income funds, mutual trust funds, etc.

Real estate investment trusts (REITs) or Shariah funds are another two available options for choosing the form of investment. Mutual funds are among the most popular as they enable investors to access Malaysian companies listed on Bursa Malaysia. Fixed income funds are a more limited investment option (e.g. corporate bonds), but as a rule provide regular income.

Fund management companies in Malaysia are subject to a number of rules established by the Securities Commission Malaysia. When developing their activities, they shall have a system of supervision and control, as well as act in the interests of their clients.

According to the data of the Securities Commission Malaysia, the main players of the Malaysian fund structure are:

- real estate investment trusts – AmFirst Real Estate Investment Trust (held by Maybank Trustees Berhad), Axis Real Estate Investment Trust (held by RHB Trustees Berhad),

- AmanahRaya Real Estate Investment Trust (held by AmanahRaya Real Estate Investment Trust), CapitaLand Malaysia Mall Trust (held by MTrustee Berhad);

- trustees of trust funds and other types of funds – CIMB Islamic Trustee Berhad, Deutsche Trustees Malaysia Bhd, RHB Trustees Berhad, Affin Hwang Trustee Berhad, Maybank Trustees Berhad.

The main associations in the investment and venture sector of Malaysia are the Malaysian Investor Relations Association, the Malaysian Investors Association and the Malaysian Venture Capital & Private Equity Association.

Malaysia positions itself as one of the most attractive countries in Asia for investment and fund services. A number of solutions are offered for local and international investors and players in the banking sector, specifically in Labuan. Labuan is a federal territory of Malaysia and an offshore financial center (and Islamic financial center) offering international financial and business services since 1990. The Labuan International Offshore Financial Center (IOFC) was created to strengthen the financial service sector in Malaysia's GDP structure, as well as to develop the island itself and its environs. Currently, the Labuan Center hosts more than 6,500 offshore companies and about 300 licensed financial institutions (including leading world banks).

Promising areas for foreign investment include radio electronics production, green energy, the oil and gas sector, telecommunications and infrastructure projects.

## Preferences granted to foreign investors in Malaysia

Parameters	Preference
Exemption from income tax for a company granted Pioneer Status	Exemption from income tax in the amount of 70 to 100 percent for a period of 5 to 10 years.
ITA	ITA of 60% or 100% on qualifying capital costs (equipment used for the approved project) for a period of 5 years (extension up to 10 years possible)
Exemption from import duty	Applicable to raw material/components, equipment
Reinvestment allowance for resident companies in operation for at least 36 months	Companies have the right for the reinvestment allowance at the rate of 60% on the qualifying expenditure for the last 15 years
Companies localizing production in Malaysia	New company: <i>0% special tax rate for up to 15 years.</i> Existing company: <i>ITA of 100% on capital costs</i>
Individual types of preferences	May be obtained by sending a request to the Ministry of Finance of Malaysia

In 2021, the total amount of foreign direct investment (FDI) in the country was 194.2 bln US dollars, with manufacturing being the main sector (76.1 bln US dollars; 39.2%). Singapore remained the largest investor (21.2%), followed by Hong Kong (10.8%) and Japan (10.4%).

### 4.4 Specific features of investment policy in the EU and some EU Member States

The principle of free movement of capital is one of the core principles in the activities of the European Union (hereinafter the “EU”) and is stipulated in Article 67 of the 1957 Treaty of Rome.

The free movement of capital involves the removal of all barriers to the movement of capital between the EU countries and the adoption of measures to liberalize capital flows, which will contribute to the economic growth of the European Union states based on a more efficient investment of capital.



The program for the creation of a single market for capital has been implemented since 1986 as an integral part of the EU Single Market Program. Its legal basis is EU Directive 88/361 adopted on June 24, 1988, in pursuance of Article 67 of the Treaty of Rome.

Directive 88/361 determined the need to eliminate the remaining restrictions on capital flows between residents of EU countries by July 1, 1990. The liberalization covered monetary and non-monetary transactions, long-term loans under commercial transactions and the purchase of securities in financial markets, except for stock exchanges. The implementation of these measures significantly affected the monetary policy of the EU countries.

Directive 88/361 contains a safeguard clause in accordance with which states shall be entitled to take protective measures where large amounts of short-term capital disturb the conduct of monetary policy.

In accordance with Article 63 of the Treaty on the Functioning of the EU (hereinafter the “Treaty”), all restrictions on the movement of capital between the EU countries and on payments between the EU states and third countries shall be prohibited.

Article 66 of the Treaty determines safeguard measures to be introduced where capital flows in mutual relations or in relations with third countries cause, or threaten to cause, serious disruptions for the operation of the EU economic and monetary union.

Article 65 of the Treaty grants to the EU countries the right to take measures to prevent infringements of national legislation and regulations in the field of taxation and the prudential supervision of financial institutions.

The movement of capital is also regulated by Directive 2005/60 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. This Directive determines the international standard for combating fraud, organized crime and terrorist financing.

An important aspect in the implementation of investment policy by the EU countries is the establishment of companies, which is regulated by Article 43 of the Treaty. According to this article, nationals of the EU countries shall have the right of establishment and carrying out of activities (which also applies to self-employed persons) in accordance with the legislation of the host country. In accordance with Article 48 of the Treaty, companies formed under the national legislation of an EU state shall be treated in the same way as nationals of that state. A similar treatment applies to juridical persons from third states, subject to the establishment of companies in accordance with the legislation of the EU country.

Like other countries of the world, EU states have bilateral investment agreements (or agreements for the reciprocal protection and promotion of foreign investments) with third countries, whose main provisions:

- 1) accord fair and equitable treatment to foreign investments;
- 2) guarantee the free transfer of capital, profit and other forms of income abroad;
- 3) regulate the procedure for the settlement of disputes.

As a member of the global community, the EU fulfills the obligations and recommendations of international organizations on investment regulation, including the OECD Code of Liberalization of Capital Movements, the OECD National Treatment Instrument, the agreements of the World Trade Organization (WTO) (General Agreement on Trade in Services (GATS), Agreement on Trade-Related Investment Measures (TRIMs), Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Agreement on Subsidies and Countervailing Measures, General Agreement on Tariffs and Trade (GATT)), the IMF's Charter, World Bank and UNCTAD documents, as well as the Energy Charter Treaty.

#### **4.4.1 Germany**

Germany is one of the most successful countries in attracting FDI. According to the Global Data Investment Monitor, Germany attracted more foreign direct investment than any other country in 2021 with 1,537 such projects in Germany vs. 1,517 in the USA.

According to Germany Trade and Invest (see below), there were even more such projects in 2021, and specifically 1,851 projects.

Germany Trade and Invest (full name with the organizational and legal form: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH, or GTAI for short), a national agency established in the form of a limited liability company and subordinate to the Ministry for Economic Affairs and Climate Action of Germany, is responsible for attracting investments to Germany.

This agency is responsible both for information and analytical support of German exports to third countries (Export Guide web portal which aggregates information about foreign markets) and for the attraction of FDI to the national economy (brand and same-named web portal Germany Works which aggregates information about the German market).

**State measures for stimulating FDI attraction.**

The list of measures is presented on GTAI's official website and includes six areas:

- 1) public funding framework;
- 2) grants for investments;
- 3) grants for R&D;
- 4) grants for hiring personnel;
- 5) equity from public sources;
- 6) public loans, public guarantees.

*Public funding framework.*

Financing under this framework is mostly provided through the financial resources provided by the EU; however, the German government and the federal states of the country also allocate their own funds.

The size of a company is an important criterion for the determination of possible financial support a company may receive under EU-wide regulation. Company size is generally determined in accordance with an EU-wide classification system in which companies are categorized as being small, medium-sized or large according to their employee numbers, annual turnover and/or annual balance sheet total.

Most incentives programs offer the highest incentives rates to SMEs. Some programs may even specifically target SMEs (this is very often the case with R&D programs).

*Grants for investments.*

Investor facility set-up costs can be significantly reduced by cash incentives provided in the form of grants subject to defined conditions under the program Joint Task for Improving Regional Economic Structures (GRW).

The program is supervised by the Ministry for Economic Affairs and Climate Action of Germany (BMWK). On the basis of EU regulations and confirmation by the European Commission, BMWK defines maximum possible incentive rates (share of covered costs) for all German federal states. These are published in the form of the so-called “incentives map” (currently valid until 2027).

The amount of grants provided varies from region to region subject to economic indicators. Regions with the highest rates offer grants of up to 45% of eligible expenditures for small enterprises and grants of up to 25% for large enterprises in the eastern part of Germany. Thus, the implementation of investment policy at the present stage is largely focused on supporting the eastern federal states which are significantly lagging behind in development and provoking an increase in the polarization of the national economy.

Several regions within the western parts of Germany are also incentive regions. In some of these districts, small enterprises can receive subsidy rates of up to 35% of project costs.

The calculation basis for the determination of possible grants receivable through the GRW program might be the actual investment costs (e.g. for buildings or machinery) or (assumed) salary costs for two subsequent years.

GRW program funds must be applied for with the relevant federal state government before the investment project begins.

#### *Grants for R&D.*

Research and development (R&D) is considered to be among the most important areas for the development of the German economy. Industry and the public sector have assumed an obligation to spend around 3.5% of national GDP per year on R&D activities until 2025.

#### *Grants for hiring personnel.*

Support measures and incentives related to labor resources also play a significant role in reducing the operation costs incurred by new businesses and investors. Germany's Federal Employment Agency and German states offer a range of employment-related incentives programs designed to fit the different company needs when building a workforce. The range of programs offered can be classified into four main groups:

- programs focusing on recruitment support;
- training support;

- salary subsidies;
- on-the-job training.

Employment-related support measures are available throughout Germany, regardless of factors such as the company size, the industry sector or the investment project location. Programs can be carried out and adjusted by local authorities in accordance with investor needs – usually in close cooperation with the investor.

*Equity from public sources.*

GTAI's experts assist foreign investors in identifying appropriate equity partners and investment funds to raise capital in accordance with their company's development stage.

The High-Tech Gründerfonds (HTGF) is the largest and most active seed stage fund in Germany focusing on technology driven start-ups. The initial amount of investments totals 1 mln euros. The maximum possible HTGF investment level amounts to 3 mln euros per enterprise.

Coparion offers young and innovative companies in the start-up and early growth phases direct access to funds of up to 15 mln euros in several rounds. Coparion invests in companies headquartered in Germany together with other investors subject to the same conditions and amounts.

Similar venture capital companies in the German federal states offer equity financing to young and innovative enterprises to support early-stage development. These venture capital companies act as subsidiaries of the development banks of the federal states and actively support companies by providing risk capital as well as management and industry knowledge for their further development.

The investment focus is on innovation and is mainly in industry sectors including ICT, life sciences and new materials. In accordance with the regulations of the individual venture capital company, financing volumes of up to 10 mln euros are achievable.

For established companies seeking to finance further growth, as well as start-ups, 15 public-private equity companies for small and medium-sized enterprises (Mittelständische Beteiligungsgesellschaften, MBGs) are available as financing partners in the federal states. MBGs operate mainly through the provision of subordinated capital; they have no investment focus on special industry sectors. At the same time, such companies do not operate to maximize profits. Applicants can expect a financing volume of up to 1 mln euros.

A further advantage of financing by equity capital from the federal state MBGs for companies is that they have easier access to the financing network of the respective development bank and, therefore, they are a very important instrument for the economic development policy of the federal states.

*Public loans, public guarantees.*

In the implementation of the German investment policy, an important role is assigned to financial and credit institutions that provide soft loans to both domestic and foreign investors.

Investors can access public loan programs in Germany. These programs usually offer loans at below current market interest rates in combination with grace periods.

Public loans are provided by so-called development banks which exist at the national and state level.

Each financial instrument or program offered by such public banks is accessible to foreign investors planning to invest in Germany and subject to the same conditions available to investors from Germany.

Interest-reduced loans may constitute a subsidy and can usually be combined with other public funding. However, the total amount of financial incentives available may be reduced when combined with other programs.

One of the largest federal financial and credit institutions – the Credit Institute for Economic Recovery (Kreditanstalt für Wiederaufbau AöR, KfW) – was established in 1948 with the aim of assistance in developing the German national economy. Currently, KfW is a bank for the development of the German and European economy, whose tasks are provision of long-term credit for nationwide programs of structural economic transformation and supervision over the intended use of the funds provided.

#### **4.4.2 France**

France has a number of advantages for attracting foreign investors. These include access to a large and dynamic market, availability of high-quality transport and communications infrastructure, skilled and productive labor, competitive energy prices, as well as an efficient and affordable healthcare system.

The main activities for attracting foreign investors in France are carried out by Business France, the agency for the international development of businesses. The agency not only attracts foreign investment to the country, but also closely interacts with the administrations of all regions pursuing an active policy to develop cooperation in the field of FDI with all EU partner countries.

According to surveys by the consulting company EY, France was the leader in investment attractiveness among European countries for the third year in a row<sup>72</sup>. In 2021, the number of projects and jobs created by international investment in France reached an all-time high. After a reduction in 2020 because of the crisis related to the coronavirus pandemic, the number of international investment projects being implemented in 2021 increased significantly and exceeded the level of 2019. In 2021, more than 1,600 projects of foreign companies were registered in France, which was 32% more than in 2020. These projects created or retained more than 45 thous. jobs (+30% compared to 2020). These figures demonstrate the strong structural advantage that France has in attracting international projects.

Companies under foreign control are present and create jobs in all regions of France. Over the past five years, the main regions hosting foreign projects were: Ile-de-France (24%), Hauts-de-France (16%), Auvergne-Rhône-Alpes (11%) and Grand Est (10%).

In 2021, the top investment sectors were trade and distribution (14% of projects and 13% of jobs), IT services (9% of projects and 11% of jobs), corporate consulting and services (7% of projects and 7% of jobs), healthcare (6% of projects and 6% of jobs) and the automotive industry (5% of projects and 8% of jobs).

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<sup>72</sup> EY's report "France Attractiveness Survey" for 2020–2022:

[https://assets.ey.com/content/dam/ey-sites/ey-com/fr\\_fr/topics/attractiveness/barometre-de-l-attractivite-de-la-france-2022/ey-attractivite2022-executive-summary.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/fr_fr/topics/attractiveness/barometre-de-l-attractivite-de-la-france-2022/ey-attractivite2022-executive-summary.pdf)

[https://assets.ey.com/content/dam/ey-sites/ey-com/fr\\_fr/topics/attractiveness/barometre-de-l-attractivite-de-la-france-2021/ey-attractivite-execsum-eng-2021.pdf?download](https://assets.ey.com/content/dam/ey-sites/ey-com/fr_fr/topics/attractiveness/barometre-de-l-attractivite-de-la-france-2021/ey-attractivite-execsum-eng-2021.pdf?download)

[https://assets.ey.com/content/dam/ey-sites/ey-com/fr\\_fr/topics/advisory/attractivite-2020/ey-france-attractiveness-survey-2020.pdf](https://assets.ey.com/content/dam/ey-sites/ey-com/fr_fr/topics/advisory/attractivite-2020/ey-france-attractiveness-survey-2020.pdf)

In 2020, France launched an ambitious 100 bln euro plan to recover the national economy after the health crisis. This plan is based on three priorities: ecology, competitiveness and cohesion. Its implementation began back in 2020 and intensified in 2021. The state has already allocated 3.5 bln euros to support more than 2.5 thous. industrial projects. Their participants include several hundred subsidiaries of foreign groups that have invested in the regions of France for the modernization of their production facilities. As part of the Recovery Plan, foreign companies have created about 4 thous. jobs.

The main goal of the Plan is to increase the competitiveness of French businesses through the widespread use of innovation experience in strategic economic sectors. The total budget of the Enterprise Support and Development program under the Recovery Plan is 35 bln euros:

- 20 bln euros: reduction of taxes related to production activities and going to local budgets;
- 11 bln euros: support of the Investment in the Future Program (investments in innovative projects and start-ups). This measure will complement the gradual reduction in corporate income tax which is carried out by decision of President E. Macron;
- 3 bln euros: guarantees on loans to maintain the working capital of enterprises;
- 1 bln euros: reshoring to France of production facilities moved outside its territory. First of all, this concerns pharmaceuticals, chemistry, electronics, as well as the production of batteries for electric vehicles and new technologies (5G, artificial intelligence and development of quantum computers).

#### **4.4.3 Ireland**

Ireland is one of the most attractive European countries for investors.

As an EU member, Ireland provides foreign investors with access to the EU market. Ireland's developed transport infrastructure and a low level of corporate taxation contribute to the growth of the country's investment attractiveness.



Ireland demonstrates a high level of FDI attraction. According to UNCTAD data, the volume of FDI attracted to the Irish economy amounted to about 81 bln US dollars in 2020 and 15.7 bln US dollars in 2021.<sup>73</sup>

Foreign investors in Ireland are stimulated through the provision of tax benefits and appropriate financial support.

In terms of tax incentives, of great importance is the decision of the Government of Ireland to reduce corporate income tax to 10% and introduce a single flat tax rate.

Financial support from the state is provided in the form of grants issued by decision of various specialized state authorities.

In particular, Ireland's state investment agency (IDA Ireland) issues grants to foreign investors in industrial production and the service sector. Grants are also provided for R&D and professional training projects.

Capital subsidies are provided to cover expenses for acquiring land plots, buildings and technical equipment. The amounts of capital expenditures and the subsidy are agreed with IDA Ireland; then the schedule for their transfer is determined. The amount of the subsidy is determined based on the share of capital expenditures in the overall investment structure. The maximum amount of the subsidy is established by the EU regulations on the procedure for granting state support. Capital subsidies are allowed in the amount of 40% to 17.5%.

Subsidies are also provided upon the creation of new full-time jobs (the amount of the subsidy is 1,250 to 12,500 euros per job).

Irish legislation provides for two schemes to subsidize R&D for investors having commercial enterprises in the country. The first scheme is aimed at financing the modernization or creation of a material base for R&D; the second is to subsidize R&D of high complexity and high-risk R&D for companies active in the research field. Subsidized projects must be related to the development of a fundamentally new type of products or a new technological process; ongoing development of new product models is not subsidized.

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<sup>73</sup> UNCTAD data. Foreign direct investment: Inward and outward flows and stock // <https://unctad.org/fdistatistics>.

Foreign companies operating on the territory of Ireland may also apply for an EU R&D grant under the relevant program (Framework Program 6). The condition for receiving a grant is the cooperation of the company with another company, university or research institute registered in an EU country other than Ireland.

The granting of subsidies for a particularly large-scale investment project may require approval from the Government of Ireland or the EU.

The priority sectors for attracting FDI to the Irish economy are the information and communication technologies sector (investors include Intel, Dell, IBM and Hewlett-Packard), pharmaceuticals and the medical industry, as well as international financial services.

#### **4.5 Specific features of investment policy in Japan**

Japan is the third largest economy in the world after the PRC and the USA in terms of GDP, a leading global investor and a major technology hub. At the same time, the protracted stagnation of the economy, combined with the consequences of the coronavirus pandemic, continues to reduce the country's share in the global economy. At year-end 2021, Japan's GDP based on purchasing power parity amounted to 5,103 bln US dollars (+2.5% YoY). The service sector accounted for 75.5%, industry for 23.4% and agriculture for 1.1%.

According to Japanese statistical data, the trade balance deficit in 2021 amounted to 13.02 bln US dollars. Foreign trade turnover increased by 20.3% compared to 2020, reaching 1.5 tln US dollars, exports increased by 18.6%, reaching 759 bln US dollars, and imports increased by 22%, reaching 772 bln US dollars.

The growth of foreign trade was due to the post-pandemic recovery of the global economy, the revitalization of Japan's key export markets and the increase in the cost of imported resources. The latter factor affected the balance of payments which became negative for the first time in a long period.

In 2021, the main foreign trade partners of Japan remained the PRC, the USA, Taiwan (PRC), the Republic of Korea and Australia. Trade turnover with the PRC amounted to 350 bln US dollars (export: 164.1 bln US dollars; import: 185.9 bln US dollars). Trade turnover with the USA amounted to 216.5 bln US dollars (export: 135.4 bln US dollars; import: 81.2 bln US dollars). Trade turnover with Taiwan amounted to 88.3 bln US dollars (export: 54.6 bln US dollars; import: 33.7 bln US dollars).

The economic situation in Japan in 2021 was greatly affected by the gradual recovery in global demand for Japanese export products, which generally had a positive effect on the intensification of industry, as well as business contacts. At the same time, the situation in terms of trade was significantly complicated by the transport and logistics component. As a result of a shortage in containers and means of their delivery, costs for external logistics more than doubled.

Significant problems were also faced by the metallurgical industry (overproduction; overstocking of the market) and the automotive industry of the country (shortage of semiconductors).

At the same time, the digital industry continued to actively develop in the country. Japanese business continued to diversify towards IT, online services and the introduction of artificial intelligence (AI) developments.

At year-end 2021, the amount of foreign direct investment (hereinafter “FDI”) in Japan was 27.3 bln US dollars and FDI from Japan amounted to 149.8 bln US dollars.

Priority areas for investing Japanese capital in the manufacturing sector are traditionally the transport and electrical engineering industries. In recent years, investment has intensified in the energy sector, including the creation of production facilities for new “clean” fuels. The leading areas in the non-manufacturing sector are still communication, finance and insurance, as well as wholesale and retail trade.

Priority areas for foreign investment in Japan are sectors such as electrical engineering, chemical and pharmaceutical industries, finance and insurance.

### FDI to/from Japan

*Millions of US dollars*

	2015	2016	2017	2018	2019	2020	2021
<b>To Japan</b>	5,253	40,942	18,805	25,297	39,958	61,509	27,315
<b>From Japan</b>	138,428	178,533	173,768	160,267	258,276	146,041	149,814
<b>Balance</b>	-133,175	-137,591	-154,963	-134,970	-218,318	-84,532	-122,499

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*Source: Ministry of Finance of Japan*

The Government of Japan is trying to reduce the traditional imbalance through a large-scale program for attracting foreign investments to the country – Invest Japan – whose main operator is the Japan External Trade Organization (JETRO).

In order to create additional jobs and introduce innovation by attracting highly skilled labor and technology, the Government of Japan aimed to increase the amount of FDI inflows to the country to 35 tln yen by 2020. The achievement of this bar led to the revision of the Strategy for Promoting Foreign Direct Investment in Japan adopted in June 2021. According to the Strategy, the target for FDI inflows to Japan shall rise to 80 tln yen by 2030.

Meanwhile, the trend of attracting FDI is shifting from quantitative expansion to higher quality investment. Increasing attention around the world is being paid to innovation, start-ups, as well as the active implementation of the Internet of Things (IoT) and AI.

The country is paying special attention to attracting foreign resources for R&D and provides foreign partners with assistance in increasing funds, speeding up patent examinations, reducing investment procedures and speeding up the obtaining of resident status.

In order to support investors, the J-Bridge digital platform has been created and efficiently functions with the aim of searching for and establishing cooperation between Japanese and foreign companies. At the same time, JETRO coordinators abroad often take on the role of representatives from Japanese companies and hold initial negotiations with potential partners on their behalf.

Much attention is also paid to attracting investments to the regions. Since the 2018 financial year, the Ministry of Economy, Trade and Industry of Japan and JETRO have promoted the investment potential of various Japanese regions on international platforms through holding regional business conferences with potential foreign partners.

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The analysis of international experience in the improvement of the business and investment climate is important in developing recommendations for the introduction in the EAEU Member States of the most favorable conditions for establishing and doing business and attracting investments.

In particular, it currently appears very important to study the experience of some BRICS and ASEAN countries.

Of great importance in the formation of China's investment climate is the implementation of the Provisions on the Encouragement of Foreign Investment approved by the PRC State Council (hereinafter the "Provisions").

In accordance with the Provisions, the state grants special preferences to the enterprises with foreign investments which include products export enterprises and technologically advanced enterprises. According to Article 2 of the Provisions, the state encourages foreign companies, enterprises and other economic entities or individuals to establish Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures and wholly foreign-owned enterprises within the PRC territory.

Singapore has been a leader in the Index of Economic Freedom and held the leading positions in the World Competitiveness Ranking for the recent years. In accordance with the legislation of Singapore, simplified procedures for setting up a business have been determined in the country, which is an important factor of the favorable business climate in Singapore.

In India, in order to organize production in key sectors (automotive industry, pharmaceuticals, IT industry and others), measures have been taken to improve the investment climate and create favorable conditions for Indian and foreign investors.

According to the data of the Indian investment promotion agency Invest India (<https://www.investindia.gov.in/foreign-direct-investment>), there is an automatic investment route which does not require obtaining any approval for investment from the Government of India. In most economic sectors, 100% FDI is permitted through the automatic route.

In Vietnam, the new Law on Investment No. 67/2014/QH13 entered into force in July 2015 with the aim to simplify the regime for entering the Vietnamese market for foreign investors and make the investment process more transparent and clear.

In Thailand, the set of state measures for attracting investments is mainly concentrated in the Board of Investment<sup>74</sup>.

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<sup>74</sup> <https://www.boi.go.th/en/index/>

The Board provides assistance in the development of investment activities both within Thailand and overseas, regulates the activities of foreign entrepreneurs, primarily investors, as well as provides tax and non-tax incentives for foreigners.

In Indonesia, on March 4, 2022 Indonesia's Presidential Regulation No. 10/2021 on business fields open to investment entered into force and repealed

Indonesia's Presidential Regulation No. 44 of 2016, in accordance with which most sectors of industry and services shall become open to foreign investment.

In accordance with the Regulation, entrepreneurs investing in sectors from the priority list shall be granted tax benefits, including tax credits and holidays, as well as non-tax incentives (simplification of business and licensing procedures, creation of supporting infrastructure and employment incentives).

The use of the above international experience is important for improving the business and investment climate in the EAEU Member States.

## Conclusion

The aim of the Report is to study the state of the business and investment climate in the EAEU Member States and the international experience of improving the business climate in countries.

The analysis of the relevant legislative acts of the EAEU Member States has led to the conclusion that the Union countries have created legal conditions for stimulating the attraction of investments by according a favorable legal treatment and granting guarantees of rights of investors and protection of investments.

Investor support institutions in the EAEU Member States whose activities contribute to stimulating the attraction of investments are of great importance for the intensification of investment processes within the EAEU.

The analysis of international rankings reflecting the state of the business and investment climate in countries (World Competitiveness Ranking, Global Innovation Index, Index of Economic Freedom) has led to the conclusion that the EAEU Member States lag far behind developed countries in these rankings. This circumstance indicates the need for the Union countries to take further practical measures for improving the business and investment climate.

For the EAEU Member States, it is very important to use the international experience of improving the business and investment climate.

It seems expedient to regularly update the Report as regulation and integration processes develop in the Eurasian space.

## **Key issues considered at the meetings of the Presidium of the EAEU Business Council<sup>75</sup>.**

On the implementation of the Main Directions for Industrial Cooperation within the EAEU (2015);

On the progress of preparation of the draft Customs Code of the Eurasian Economic Union (2015, 2016);

On conceptual approaches to the development of international treaties in the field of technical regulation (2015);

On the formation of a single digital space within the EAEU and the digital transformation of economy in the EAEU Member States (2015, 2017, 2020);

Role of businesses in forming the EAEU trade policy (2016);

Role of integration in the development of entrepreneurship in the EAEU (2016);

Formation of a single retail payment area within the EAEU (2016);

Silk Road Economic Belt (SREB) in the space of the Eurasian Economic Union (EAEU) (2017);

Participation of the Business Council in forming the content of the Agreement on Trade and Economic Cooperation between the EAEU and the PRC (2017);

On the interaction of the EAEU Business Council with the National Congress of Industrialists and Entrepreneurs of Moldova (2017);

Approval of the text and signing of the Memorandum of Cooperation between the EAEU Business Council and the Business Development Bank (2017);

On the progress of work on the Rules of Origin for Goods Imported into the EAEU Territory (2017, 2019);

Technical regulation as a tool of the Eurasian economic integration (2018, 2020);

Building of sectoral cooperation under the Agreement on Trade -and Economic Cooperation between the EAEU and the PRC (2018);

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<sup>75</sup> Note: The indication of several dates in certain paragraphs, for example, “(2018, 2020, 2021)”, means that this topic and related issues were considered more than once.



Formation of a coordinated position of the EAEU businesses on the labeling of goods by means of identification, the traceability of goods and digital transport corridors to ensure the legal circulation of goods in the EAEU internal market (2018, 2020, 2021);

Assistance to manufacturers from the EAEU Member States in expanding exports to foreign markets (2018);

On the problems of transit across the EAEU territory and ways to solve them (2018);

On RSPP proposals on the draft Strategy for Developing the Eurasian Integration until 2025 formulated in accordance with the Declaration on Further Development of Integration Processes within the EAEU (2019);

On the participation of Business Council representatives in the work of the Eurasian Economic Commission's advisory bodies (advisory committees, subcommittees, working groups and expert groups) (2019);

On the development of measures for the implementation of the Strategic Directions for Developing the Eurasian Economic Integration until 2025 (2020);

On the expansion of cooperation and interaction between national business communities in the implementation of the EAEU anti-crisis measures with the aim of countering the COVID-19 pandemic and on the creation of conditions for fulfilling the integration potential of the EAEU business in the post-pandemic period (2020);

On the removal of obstacles in the EAEU market (2020);

On the establishment of information exchange and assistance in economic cooperation between the EAEU enterprises (2020);

On the development of priorities for joint actions in the EAEU pharmaceutical market (2020);

On the improvement of interaction between the EAEU Business Council and the Eurasian Economic Commission (2021);

On the development of the mechanism of the Advisory Board for Interaction between the EEC and the EAEU Business Council (2021);

On interaction between the EEC and the Eurasian business community in the implementation of the Strategic Directions for Developing the Eurasian Economic Integration until 2025 (2021);

On the need to develop the EAEU separate technical regulation on safety of building materials (2021);

On joint actions of the business community to ensure steady growth and development of the EAEU and the international economy in the new environment (2022);

On the holding of the Eurasian Economic Forum-2022 (2022);

On the organization of the work of the Secretariat of the EAEU Business Council (2022);

On interaction with the business community of the EAEU partner countries and international organizations (2022);

On the recognition of marine fishery products harvested and/or produced by vessels of the EAEU member countries in the exclusive economic zone of the EAEU member countries and on the high seas as the EAEU goods (2022);

On the introduction and development of digital integrators as an opportunity to increase the flow of goods and waive unnecessary expenses of companies for digitalization and integration of complex projects (2022);

On the digital transformation of architectural, urban planning and construction activities. Creation of the EAEU countries' single platform in information modeling technology (2022);

On the Strategic Directions for Developing the Eurasian Economic Integration amid new realities and the role of the business community in their implementation (2022);

On the draft recommendation of the Eurasian Economic Commission's Board “On Forming or Improving Conditions for the Creation and Operation in the Eurasian Economic Union Member States of Joint Ventures in Priority Types (Sectors) of Activities” (2022).

## **Key issues considered at the meetings of the Advisory Committee on Interaction between the Eurasian Economic Commission (EEC) and the EAEU Business Council<sup>76</sup>.**

On the proposals of the business and expert community of the EAEU Member States to expand access to the Chinese market and implement joint projects with the Chinese side (2016);

On the aims and objectives of the Agreement on Trade and Economic Cooperation between the EAEU and the PRC and the development of sectoral cooperation between the EAEU Member States and the PRC (2016, 2019);

On the main directions for implementing the EAEU digital agenda (2017);

On interaction between the EEC and the EAEU Business Council on issues related to identifying and removing obstacles, as well as assessing their impact on the economies of the EAEU Member States (2017);

On individual projects in the real sector of the EAEU economy with a high integration potential (2017);

On the draft Rules of Origin for Goods Imported into the Customs Territory of the Union (non-preferential rules of origin for goods) (2017);

On the implementation of a coordinated (agreed) transport policy in the EAEU (2018);

On the creation of the EAEU single food market (2018);

On the need to develop a mechanism for recognizing industry-based competence of conformity assessment authorities in order to remove unfair conformity assessment authorities from the market (2018);

On the establishment of a Working Group on the Main Directions of Integration Development under the Advisory Board for Interaction between the EEC and the EAEU Business Council (2019);

On the system for confirming the origin of exported goods (2019);

On the development of trade and economic cooperation with the EAEU main partners in the medium term (2019);

On the expediency of creating the EAEU organizational and legal form Eurasian Company (2019, 2022);

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<sup>76</sup> Note: The indication of several dates in certain paragraphs, for example, “(2018, 2020, 2021)”, means that this topic and related issues were considered more than once.

On the strengthening of measures to ensure the protection of the EAEU market from unsafe products (2019);

On the holding of the annual conference on technical regulation in the EAEU under the auspices of the EAEU Business Council (2019);

On the prospects for cooperation between business communities of the EU and the EAEU (2019);

Content of the draft international Treaty on Regulating Cross-Border Data Turnover in the EAEU in regard to the participation of the EAEU Member States' business community and preparation of proposals for regulating digital platforms and ecosystems (2021);

On the digital initiative to create the BRICK PAY payment and settlement system (2021);

On the assistance of the EAEU Business Council in conducting a survey among companies and enterprises of the EAEU Member States to determine promising areas of scientific and technological policy and priorities for scientific and technological development of the Eurasian Economic Union Member States (2021);

On the improvement of interaction between the EAEU Business Council and the Eurasian Economic Commission (2021, 2022);

On the participation of the EAEU Member States' business community representatives in the implementation of the Strategic Directions for Developing the Eurasian Economic Integration until 2025, including the involvement of the EAEU Business Council and its members in the elaboration of proposals for the development of the EEC dialogue with the EAEU foreign partners, as well as the implementation of the EAEU international agenda (2021, 2022);

On proposals to create a single exchange market for goods within the EAEU (2022);

On the financing of industrial cooperation projects within the EAEU (2022);

On the development of cooperation with the business community of the EAEU partner countries and representatives of business circles from third countries (2022).

## Annex 3

Table 1

## Definition of investment

Treaty on the EAEU	Republic of Armenia	Republic of Belarus	Republic of Kazakhstan	Kyrgyz Republic	Russian Federation
<p><b>Investments</b> means tangible and intangible assets invested by an investor of a Member State into subjects of entrepreneurial activity on the territory of another Member State in accordance with the legislation of the latter, including: funds (cash), securities and other property; rights to engage in entrepreneurial activity granted under the legislation of the Member States or under a contract, including, in particular, the right to exploration, development, production and exploitation of natural resources; property rights and other rights having monetary value.</p>	<p><b>Foreign investment</b> means any type of property, including financial resources and intellectual values, which is being directly invested by a foreign investor in entrepreneurial and other activities implemented on the territory of the Republic of Armenia to gain profit (income) or to achieve any other beneficial result.</p>	<p><b>Investments</b> means any property and other objects of civil rights belonging to an investor on the right of ownership or another legal basis which allows the investor to dispose of such objects being invested on the territory of the Republic of Belarus in ways provided by this Law with a view to gain profit (income) and/or achieve another significant result or for other purposes not related to personal, family, household and other likewise use.</p>	<p><b>Investments</b> means all types of property (except goods intended for personal consumption), including financial leasing items since the conclusion of the lease agreement, as well as the rights to them, invested by the investor in the authorized capital of the juridical person or an increase in fixed assets used for entrepreneurial activity, as well as for the implementation of the public-private partnership project, including the concession project.</p>	<p><b>Investments</b> means tangible and intangible investments in subjects of economic activities in the form of funds; movable and immovable property; property rights (mortgages, liens, pledges and other); shares and other forms of participation in a juridical person; bonds and other debt obligations; non-property rights (in particular, the right to intellectual property including professional reputation, copyrights, patents, trademarks, prototypes, technological processes, company names and know-how); any right to activity based on a license or in another form provided by the state authorities of the Kyrgyz Republic; concessions based on the legislation of the Kyrgyz</p>	<p><b>Investments</b> means funds, securities, other property, including property rights, and other rights with monetary value that are invested in subjects of entrepreneurial and/or other activities with the aim of gaining profit and/or achieving any other beneficial result.</p>

				Republic, including concessions for exploration, development, production and exploitation of natural resources; profit or income gained from investment and re-invested on the territory of the Kyrgyz Republic;	
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				other forms of investments that are not forbidden by the legislation of the Kyrgyz Republic.	
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*Source: Treaty on the EAEU; investment legislation of the EAEU Member States.*

**Annex 4**  
**Table 2****Tax and customs incentives for investors in the Republic of Uzbekistan**

Object of Incentives	Nature of Incentives	Eligibility Requirements	Duration/Expiration Date
Enterprises attracting FDI	Exempt from: <ul style="list-style-type: none"> <li>• Property tax</li> <li>• Land tax</li> <li>• Water usage tax</li> </ul>	<ul style="list-style-type: none"> <li>• Operation in the following manufacturing sectors: computer components; electronics; light industries; silk; construction materials; food and food processing; chemicals and pharmaceuticals</li> <li>• Location outside the city of Tashkent or Tashkent region</li> <li>• Minimum share of foreign capital at least 33% (15% for joint-stock companies)</li> <li>• Investment not subject to a sovereign guarantee</li> <li>• At least 50% of tax savings spent on reinvestment for further development</li> </ul>	<ul style="list-style-type: none"> <li>• 3 years: investment of \$300,000 to \$3 million</li> <li>• 5 years: investment of \$3 million to \$10 million</li> <li>• 7 years: investment of more than \$10 million</li> </ul>
		Goods imported by enterprises with foreign shareholdings exceeding 33%	2 years from the date of state registration



Object of Incentives	Nature of Incentives	Eligibility Requirements	Duration/Expiration Date
	Exempt from: • Customs duties	Goods imported by enterprises with FDI exceeding \$50 million, provided that these goods are produced by the foreign entity	Unlimited
FEZ tenants	Exempt from: • Corporate income tax	<ul style="list-style-type: none"> <li>• Provision of export-oriented production</li> <li>• Alignment of projects with technical and environmental regulations and energy-efficiency requirements</li> <li>• Alignment with the functional and industrial specialization of the FEZ</li> <li>• Ensuring that 90% of staff are local workers</li> </ul>	<ul style="list-style-type: none"> <li>• <b>3 years:</b> investment of \$3 million to \$5 million</li> <li>• <b>5 years:</b> investment of \$5 million to \$15 million</li> <li>• <b>10 years:</b> investment of over \$15 million</li> </ul>
	Exempt from: • Property tax • Land tax • Water usage tax		<ul style="list-style-type: none"> <li>• <b>3 years:</b> investment of \$300,000 to \$3 million</li> <li>• <b>5 years:</b> investment of \$3 million to \$5 million</li> <li>• <b>7 years:</b> investment of \$5 million to \$10 million</li> <li>• <b>10 years:</b> investment of more than \$10 million</li> </ul>
	Exempt from: • Customs duties (except for VAT and customs processing fees)	<ul style="list-style-type: none"> <li>• Materials not produced in Uzbekistan and used in a project's construction phase</li> <li>• Technological equipment not produced in Uzbekistan as per the approved list</li> </ul>	Unlimited

Object of Incentives	Nature of Incentives	Eligibility Requirements	Duration/Expiration Date
		<ul style="list-style-type: none"> <li>• Raw materials and components used to produce export-oriented goods</li> </ul>	
Investment agreement parties	<p>When not specified in legislation, the nature of incentives may vary, depending on the project's:</p> <ul style="list-style-type: none"> <li>• amount of investment;</li> <li>• location;</li> <li>• industry; and</li> <li>• socio-economic impact and job creation as part of the project.</li> </ul>	Specified upon conclusion of the investment agreement	Specified in the investment agreement
Production sharing agreement (PSA) participants	Should be determined by the PSA terms	Specified upon conclusion of the PSA	Specified in the investment agreement
Specific territories in the Fergana region (the Sokh district; the Chungar mahalla in the Rishtan district; the Shakhimardan mahalla; and the Yordan, Tashtepa, and Khosilot mahallas)	1% corporate income tax rate	Registering and carrying out activities in a specific territory	Unlimited
	1% turnover tax rate		
	1% social tax rate on payroll of employees working in a specific territory	Engagement of employees in activities in a specific territory	
	Applications of 0.1 coefficient on property tax and land tax rates, respectively	Location in a specific territory	
	Applications of 0.1 coefficient on water usage tax rate 1% personal income tax rate	Usage of water resources in a specific territory	

Object of Incentives	Nature of Incentives	Eligibility Requirements	Duration/Expiration Date
		Individuals engaged in employment activities in a specific territory	
Temporary tax benefits for newly established business entities in the Republic of Karakalpakstan	Exempt from: <ul style="list-style-type: none"> <li>• Property tax</li> <li>• Land tax</li> <li>• Turnover tax</li> </ul>	Newly established entities designated as “points of growth” for all districts and cities of the Republic of Karakalpakstan by decree of the President of Uzbekistan	For a period until January 1, 2024
	Exempt from: <ul style="list-style-type: none"> <li>• Property tax</li> <li>• Land tax</li> <li>• Turnover tax 50% reduction of the tax rate:</li> <li>• Corporate income tax</li> <li>• Water usage tax</li> </ul>	Entities newly established in the manufacturing sector and located in the Takhtakupyr, Bozatau and Shumanai districts of the Republic of Karakalpakstan	
	Exempt from: <ul style="list-style-type: none"> <li>• Corporate income tax</li> <li>• Property tax</li> <li>• Land tax</li> <li>• Turnover tax</li> </ul>	Entities newly established in the service sector and located in 45 mahallas and auls with difficult conditions, corresponding to the list drawn up by the Jokargy Kenes of the Republic of Karakalpakstan	

Source: Investment Guide of Uzbekistan // <https://mift.uz/ru/investp>.