




# Foreign direct investment

## A. GLOBAL AND REGIONAL TRENDS IN FOREIGN DIRECT INVESTMENT

### 1. Global and regional Asia-Pacific FDI inflows continue to weaken

According to the United Nations Conference on Trade and Development (UNCTAD), global foreign direct investment (FDI) inflows continued their decline in 2018, following a 23% decrease in 2017 from the previous year, to \$1.43 trillion, with a 41% estimated decrease in the first half of 2018 (UNCTAD, 2018b). The decline was largely concentrated in developed countries and was mainly due to large repatriations of foreign earnings from affiliates of foreign investors from the United States of America following tax reforms implemented by the Government of the United States (UNCTAD, 2018a). Structural changes also contributed to the downward spiral, including an increasing number of asset-light businesses such as e-commerce companies with less physical assets engaging in FDI, and a significant and continued decline in rates of return on FDI, thus lowering investors' appetites for new investments abroad. Other factors accounting for the decline were mega one-off deals and corporate restructuring. (UNCTAD, 2018a)

 *“The Asia-Pacific region stood firm as the largest recipient of FDI, despite a decline in the level of FDI inflows.”*

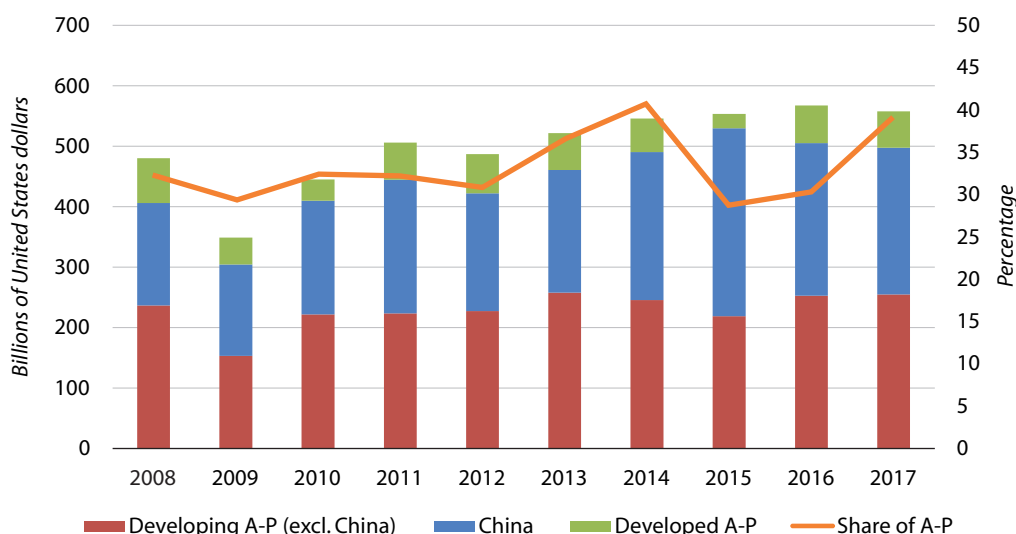
According to the latest available annual data, FDI inflows to the Asia-Pacific region also stagnated, and contracted by 2% to \$558 billion in 2017 compared with the previous year (figure 3.1). However, Asia and the Pacific remained the main destination for FDI; the region accounted for 39% of global FDI inflows in 2017, a rise by 9 percentage points compared to 2016. Developing Asia-Pacific economies were collectively the largest recipient region for FDI inflows

worldwide in 2017. However, FDI was not evenly distributed across all those economies. China and Hong Kong, China remained the biggest FDI destinations, together receiving 43% of total FDI inflows to the region. Other economies, such as Indonesia, the Islamic Republic of Iran, the Philippines, Thailand, Turkey and Viet Nam, also attracted more FDI inflows.



**Figure 3.1**

**FDI inflows to the Asia-Pacific region and their global share, 2008-2017**



Source: ESCAP calculations based on UNCTAD (2018a).

Note: China in this graph includes China, Hong Kong, China and Macao, China. A-P stands for Asia-Pacific.

## 2. Asia-Pacific region expands its outward FDI

*“FDI outflows from the Asia-Pacific region increased, despite a significant decline in FDI outflows from China.”*

The Asia-Pacific region also remained a major source of FDI worldwide. FDI outflows from the region increased by 2% in 2017 to \$515 billion, accounting for 36% of global FDI outflows (figure 3.2). Japan was the largest investor, followed by China and Hong Kong, China. China’s FDI outflows declined significantly in 2017 for the first time since 2003 to \$125 billion, a 36% decrease compared with the

previous year. Many other economies increased their FDI outflows.

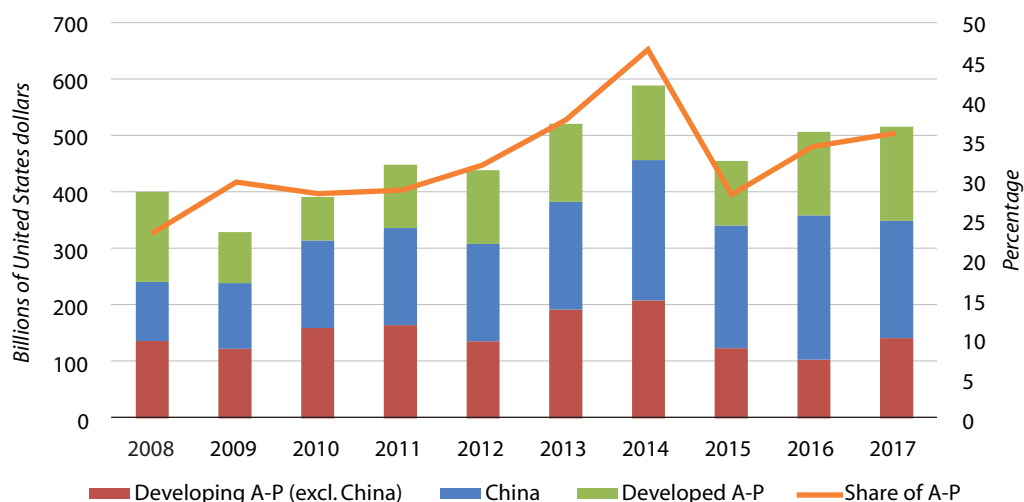
## 3. Uncertainties hampering greenfield FDI

*“A steeper decline in the announced FDI greenfield could point to stagnancy in future FDI inflows to the region.”*

In 2017, the value of announced global FDI greenfield projects declined by 13% to \$806 billion, driven to a large extent by the political uncertainty over global trade which could have deterred and delayed investment decisions (*Financial Times*, 2018). In the

**Figure 3.2**

**FDI outflows from the Asia-Pacific region and their global share, 2008-2017**



Source: ESCAP calculations based on UNCTAD (2018a).

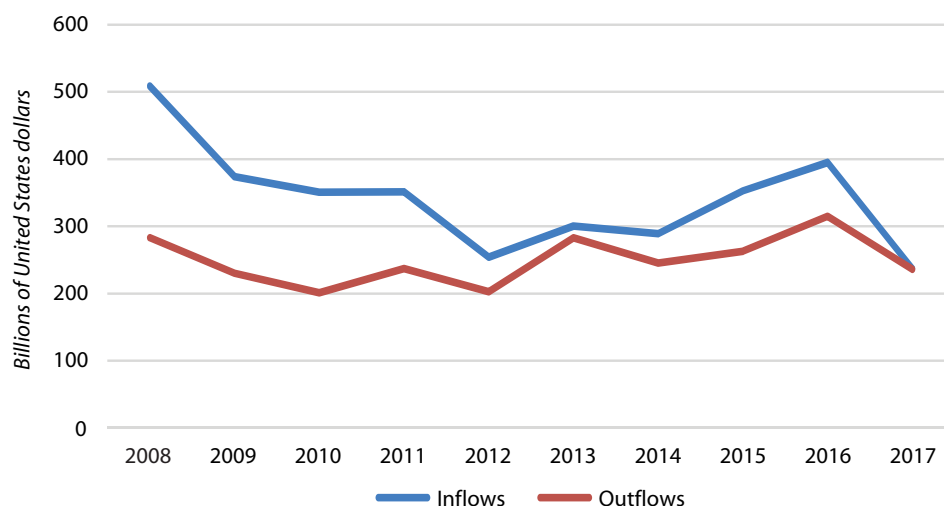
Note: China in this graph includes China, Hong Kong, China and Macao, China. A-P stands for Asia-Pacific.

Asia-Pacific region, where trade and investment are closely interlinked through a vast net of value chains, greenfield FDI inflows declined at an even steeper rate of 40% to \$237 billion (figure 3.3). As the value

of announced FDI greenfield projects is an indicator of future FDI trends, this decline could point to stagnation of future FDI inflows to the region (see subsection 4 below).

**Figure 3.3**

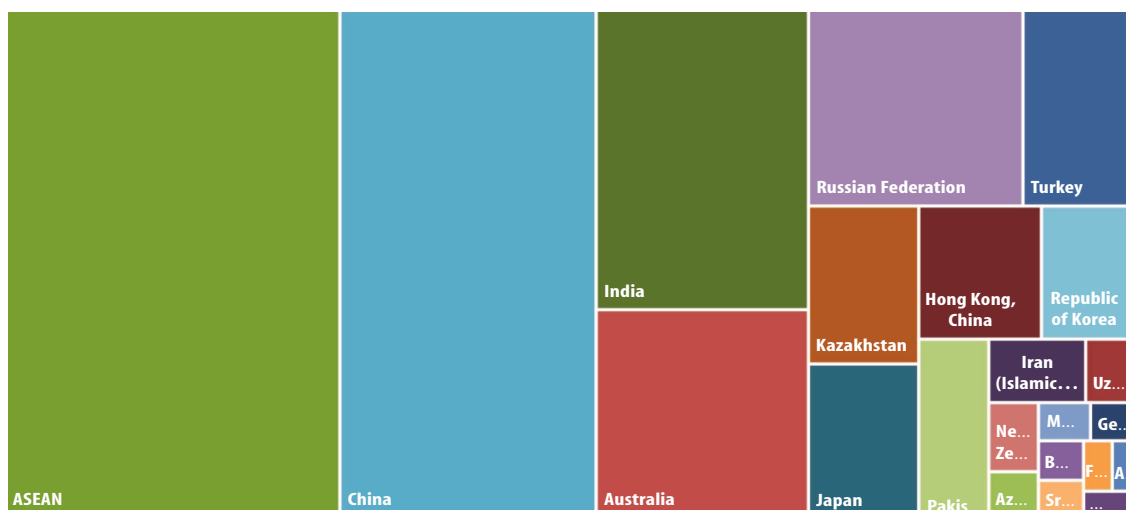
**Announced greenfield FDI flows in the Asia-Pacific region, 2008-2017**



Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).



**Announced greenfield FDI projects by Asia-Pacific destinations, 2017**



Source: ESCAP calculations based on fDI Intelligence data (accessed September 2018).

ASEAN and China received the most significant shares of greenfield FDI inflows to the region in 2017, at 30% and 23%, respectively (figure 3.4). While ASEAN and China attracted investment from around the world, they also attracted many investors from within the region (see section C below for more details).

#### 4. Expected FDI trends in 2018

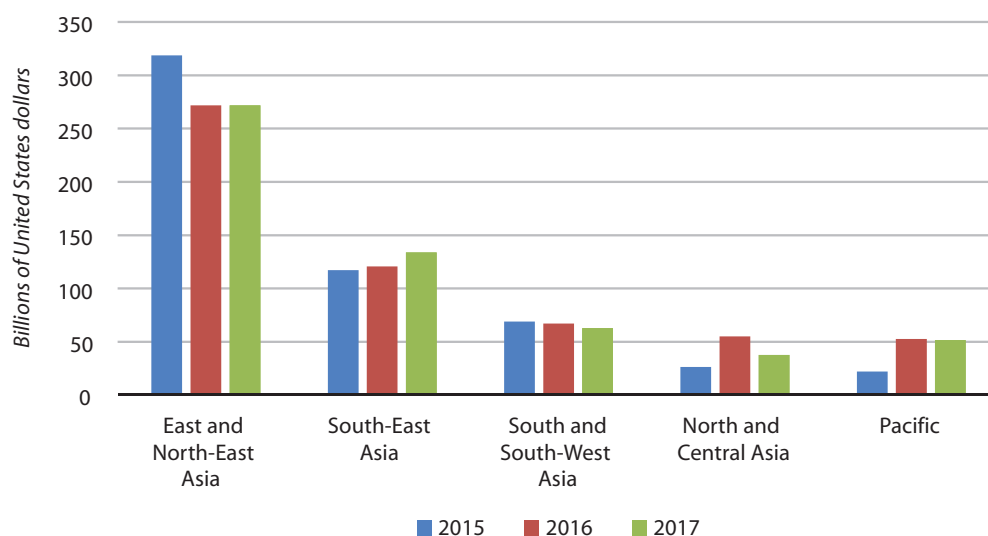
As noted above, global FDI fell by 41% in the first half of 2018 compared with the same period in 2017 (UNCTAD, 2018b). Earlier estimates by UNCTAD had projected marginal increases in global FDI flows of by about 5% in 2018, to reach \$1.5 trillion (UNCTAD, 2018a). However, FDI inflows to developing Asia in the first half of 2018 declined by 4% compared with the same period in 2017 (UNCTAD, 2018b).<sup>1</sup> China continued to be both a major source of, and destination for FDI, and it became the largest FDI recipient in the world as a result of continued economic growth and FDI liberalization policies. Countries in North and Central Asia can expect increases in FDI supported by recovering oil prices and growing macro-stability of the Russian Federation economy (UNCTAD, 2018a).

*“FDI inflows to the Asia-Pacific region in 2018-2019 will remain uneven with overall growth expected from 2020 onwards.”*

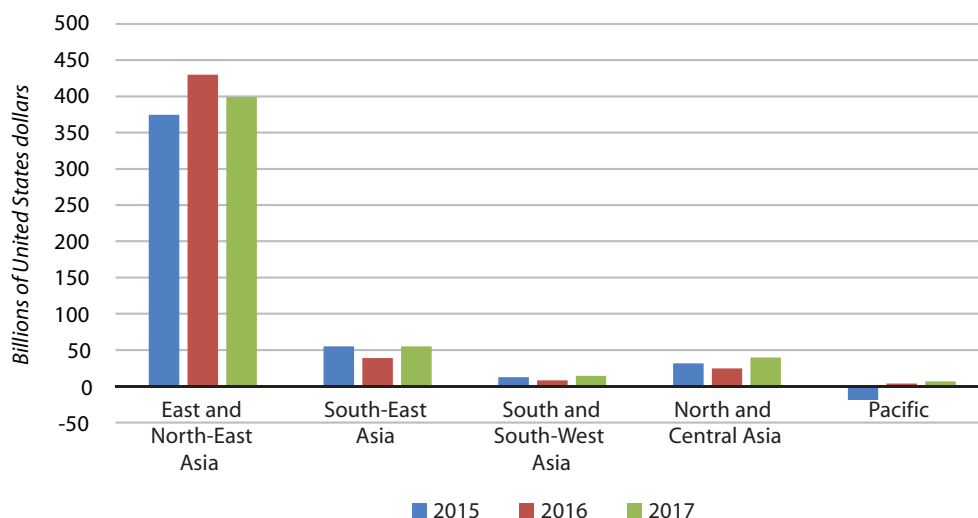
According to the Economic Intelligence Unit Data Tool,<sup>2</sup> the Asia-Pacific region will experience an estimated 4% decline in FDI inflows in 2018, but is expected to recover and witness rising FDI inflows from 2020 onwards. FDI outflows from the region are also expected to shrink by 2% in 2018, but recover in 2019.<sup>3</sup> However, recent developments in global policymaking (e.g. Brexit and trade protectionist measures adopted by the United States) have raised concerns and uncertainty for future FDI flows, which are discussed further in chapter 4.

## B. SUBREGIONAL FOREIGN DIRECT INVESTMENT TRENDS

Despite the general contraction of regional FDI inflows, South-East Asia was the only subregion that recorded an increase of FDI inflows in 2017 (figure 3.5), while East and North-East Asia remained the leading destination for FDI inflows, still attracting more than double the amount going to South-East Asia.

**FDI inflows to Asia-Pacific subregions, 2015-2017**

Source: ESCAP calculations based on UNCTAD (2018a).

**FDI outflows from Asia-Pacific subregions, 2015-2017**

Source: ESCAP calculations based on UNCTAD (2018a).

East and North-East Asia also dominated FDI outflows from the region in 2017, but with a smaller share than in the previous year (figure 3.6).

## 1. East and North-East Asia: China still a leading destination and source for FDI

 *“China and Hong Kong, China account for most inward FDI to East and North-East Asia.”*

China continued to be the leading destination for FDI in East and North-East Asia, and for the entire region in 2017. While the subregion accounted for 49% of FDI inflows to the Asia-Pacific region, China and Hong Kong, China alone accounted for almost 90% of that share. China is expected to continue to attract significant FDI inflows as its economy is transitioning from labour-intensive, low value-added industries to higher value-added industries. This transformation has been supported by government initiatives such as “Made in China 2025”, as discussed in last year’s Asia-Pacific Trade and investment Report (ESCAP, 2017, chapter 3).


It should be noted that FDI inflows to the high-tech sector (e.g. manufacturing of electronics, medical devices, communications equipment, computers and pharmaceutical products) in China rose significantly and accounted for 29% of total FDI inflows to China in 2017 (UNCTAD, 2018a). However, there are worries resulting from the country’s multi-year trend of declining GDP growth as well as from the increasingly unstable global political and economic environment (Hu, 2017). Trade tensions between China and the United States, which deepened in 2018, not only have implications for FDI between these two countries, but also for FDI in the rest of the world.<sup>4</sup>

East and North-East Asia also continued to be the leading subregion for FDI outflows, both within the Asia-Pacific region and beyond. However, outward FDI from China, the biggest source, declined by 36% to \$125 billion in 2017 as a result of restrictive policies and regulations on outward FDI intended to stem capital flight, shore up reserves and prop up the value of the renminbi currency (Kotoski and Ng, 2017). However, it is expected that FDI outflows from China will continue to grow, especially in view of the continued growing investment and trade links between China and the Belt and Road Initiative (BRI)

participating countries (Huang and Xia, 2018). It has been estimated that \$900 billion in future investment in roads, ports, pipelines and other infrastructure as part of the BRI can be expected (Chatterjee and Kumar 2017).

## 2. South-East Asia: Strong FDI rebound in leading economies

FDI inflows to South-East Asia, i.e. the members of the Association of Southeast Asian Nations (ASEAN) plus Timor-Leste, increased further in 2017 by 11% year-on-year to \$134 billion. Most countries recorded an increase of FDI inflows; Indonesia and Thailand, in particular, witnessed a strong rebound, although FDI contracted in Indonesia in the second and third quarter of 2018 from one year earlier, according to official national data.

 *“South-East Asia continued to receive increasing levels of FDI inflows, with CLMV countries expected to record the fastest growth.”*

Significant growth in cross-border mergers and acquisitions, led by expansion of Chinese investment in the subregion, played a vital role (UNCTAD, 2018a). For example, planned Chinese projects in Cambodia grew almost threefold in the year up to September 2017 (Economist Intelligence Unit, 2018a). With growing subregional investment opportunities, these economies are attracting increasing FDI inflows from both the world and from within the Asia-Pacific region. It is noteworthy that economies which joined ASEAN last, namely Cambodia, Lao People’s Democratic Republic, Myanmar, and Viet Nam (commonly known as CLMV countries) are expected to be the fastest-growing in the subregion, reflecting advantageous geographical locations, relatively low labour costs, and comparatively stable Governments (Economist Intelligence Unit, 2018a).

Thanks to the financial strength and desire for internationalization of ASEAN-based multinational enterprises, investment from South-East Asia is also on the rise (ASEAN Secretariat and UNCTAD, 2017). Thailand, for example, has witnessed a more than 10-fold rise in its stock of outward FDI in the past decade (Economist Intelligence Unit, 2017a). The importance of ASEAN in intraregional investment is discussed further in section C below.

### 3. South and South-West Asia: Stronger presence of Chinese investors

FDI inflows to South and South-West Asia decreased by 6% to \$63 billion in 2017. This relatively modest performance was due to a drop in FDI inflows in South-West Asia, including India and Turkey. While India remains the largest investment destination in the subregion, largely due to its large and growing market and attracted \$22 billion FDI in the first half of 2018, the country slipped three notches to eleventh ranking in 2018, from eighth ranking in 2017 according to the AT Kearney FDI Confidence Index 2018. This is the first time it has fallen out of the top 10 since 2015. UNCTAD recorded a 9% drop in FDI in India in 2017 (UNCTAD, 2018a). The Islamic Republic of Iran, Nepal, Pakistan and Sri Lanka, witnessed sharp rises of 49%, 87%, 13% and 53%, respectively. However, with the United States announcing the re-imposition of sanctions on the Islamic Republic of Iran in May 2018 with implementation starting in August 2018, the country's attractiveness to foreign investors is falling (Salehi-Isfahani, 2018).

Intraregional foreign investors were prevalent in the subregion in 2017, especially from China. For example, China dominated FDI inflows in the power and construction sectors in Pakistan, led by investments in the China-Pakistan Economic Corridor (CPEC) (*Gulf Times*, 2018; UNCTAD, 2018a). In Sri Lanka, China accounted for 35% of total FDI inflows to the country (up to September 2017) (Economynext, 2018). While India's FDI outflows more than doubled in 2017 to \$11 billion in 2017, most was directed out of the subregion.

### 4. North and Central Asia: Poor business environment continues to hamper FDI

FDI inflows to North and Central Asia continued to be concentrated on oil and gas and other natural resources. Due to continued policy uncertainty, linked in part to geopolitical concerns, FDI inflows to the countries of the subregion decreased by 32% in 2017 compared with the previous year, to reach \$38 billion (UNCTAD, 2018a). Several countries in the subregion, such as Azerbaijan, Kazakhstan and the Russian Federation, receive FDI inflows mainly in commodities, and are hence exposed to cyclical FDI flows. In the Russian Federation, which accounts for most of the FDI inflows to the subregion, the sale of Rosneft did not prevent a contraction of FDI inflows

by \$25 billion in 2017, a decrease of 32% over the previous year (Sudakov, 2017). In addition to the declining oil price, rising tensions between the Russian Federation and the United States leading to new sanctions by the former country, as of August 2018, are expected to negatively affect FDI to the latter country (Economist Intelligence Unit, 2018b).

The North and Central Asia subregion has great FDI potential, based on the availability of relatively cheap and reasonably skilled workforces and modest average corporate tax rates. However, the poor business environment in the countries of the subregion, exemplified by a relatively high corruption index, low ease of doing business ranking and high political risk, continue to undermine the interest of foreign investors. However, it is expected that the business environment in most countries of the subregion will improve in the future. In particular, major economic reforms are underway in Uzbekistan, including a renewed interest in attracting FDI. Inflows of FDI in the energy sector will also be boosted by the completion of the Trans-Anatolian Pipeline in 2019. In addition, various countries, particularly Kazakhstan, have been identified as major investment targets under the Belt and Road Initiative. (Economist Intelligence Unit, 2018c).

### 5. Pacific: FDI remains limited and volatile

Australia, which accounts for almost 90% of total FDI inflows to the Pacific, maintained a prominent level of FDI inflows in 2017, but with a slight decline that contributed to a 2% overall decline of FDI inflows to the subregion to \$52 billion. This was the result of changes in FDI policies in Australia; Foreign Investment Review Board (2017) approvals fell in 2016/2017 because of the introduction of application fees in December 2015 as well as the implementation of a higher foreign investment screening threshold for Chinese investors under the China-Australia Free Trade Agreement (Economist Intelligence Unit, 2018d).

For other countries, mainly small island developing countries, FDI remains very limited due to the small size of their economies and remote geographic locations. They also suffer from exposure to volatile flows, depending on one-off transactions of multinational enterprises (MNEs). For example, Papua



New Guinea experienced an accelerated divestment of \$201 million in 2017, which was a further decrease from \$40 million in 2016. Despite ongoing efforts towards improving an enabling business environment, including the adoption of the revised Companies Act and the Business Names Act, and a new online business registration system, that country suffers from policy uncertainties related mainly to the implementation of large-scale mining and natural gas projects, and an overall weak investment environment, including but not limited to efficient infrastructure, financial market and government policies (Oxford Business Group, 2017; Santander, 2018). However, in Fiji, the investment climate has improved following the democratic elections in 2014, and FDI inflows reached \$299 million in 2017.

### C. CONTINUED SIGNIFICANCE OF INTRAREGIONAL FOREIGN DIRECT INVESTMENT FLOWS

*“Intraregional greenfield FDI flows accounts for nearly half of the total greenfield FDI flows to the Asia-Pacific region.”*

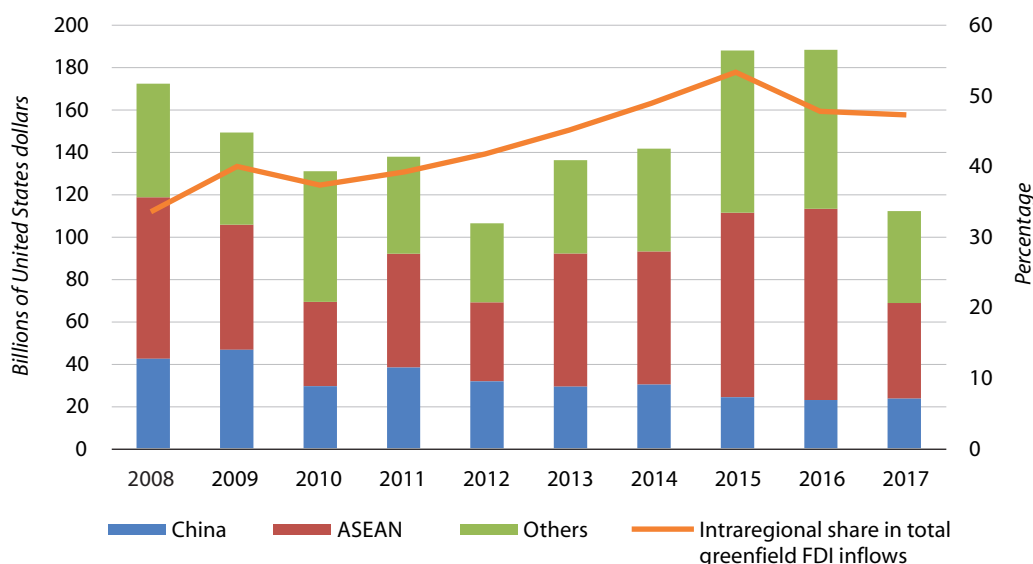
Intraregional greenfield FDI flows accounted for nearly half of the total greenfield FDI flows to the Asia-Pacific region in 2017 (figure 3.7). Countries

within Asia and the Pacific, especially the East and North-East Asia subregion, continued to be significant investors in the region. Their increasing share has been noticeable during the past few years, indicating a shift from FDI by traditional sources, mainly countries in the West. China’s total greenfield investment in the region in 2017 accounted for 10% of total greenfield FDI inflows to the region – more than doubling in a decade, even though it was a decrease almost by 50% over the previous year – amounting to \$24 billion. China continued to invest in Pakistan’s China-Pakistan Economic Corridor, which is part of the Belt and Road Initiative. According to Pakistan’s Board of Investment figures, inward FDI for the financial year 2017-2018 (July-June) is expected to reach about \$3.7 billion, with Chinese companies providing up to 70% of the new investment (Jorgic, 2018).

Japan continued its position as a long-standing investor in Thailand (Creehan, 2017); it accounted for 47% of the total FDI in Thailand in 2017, according to the Bank of Thailand. Japan and the Republic of Korea were the biggest investors in Viet Nam, accounting for 60% of total FDI inflows to that country in 2017 (VietNamNet, 2018). Singapore was the largest investor in Indonesia in 2017, at \$8.4 billion, followed by China, Japan as well as Hong Kong, China and the Republic of Korea, all countries from the Asia-Pacific region. India is not a major investor in the region except for Singapore.



**Figure 3.7** Destinations of intraregional greenfield FDI inflows and share of intraregional in total greenfield FDI inflows to the Asia-Pacific region, 2008-2017



Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).



*“South-East Asia is the leading destination for intraregional FDI reflecting sustained market integration efforts within the framework of ASEAN.”*

ASEAN firmly positioned themselves as the leading destination in intraregional FDI flows from the Asia-Pacific region (figure 3.8). In 2017, ASEAN received \$45 billion of greenfield FDI inflows from the region, which accounted for 40% of total intraregional FDI inflows. Moreover, intra-ASEAN investments are on the increase (ASEAN Secretariat and UNCTAD, 2017).

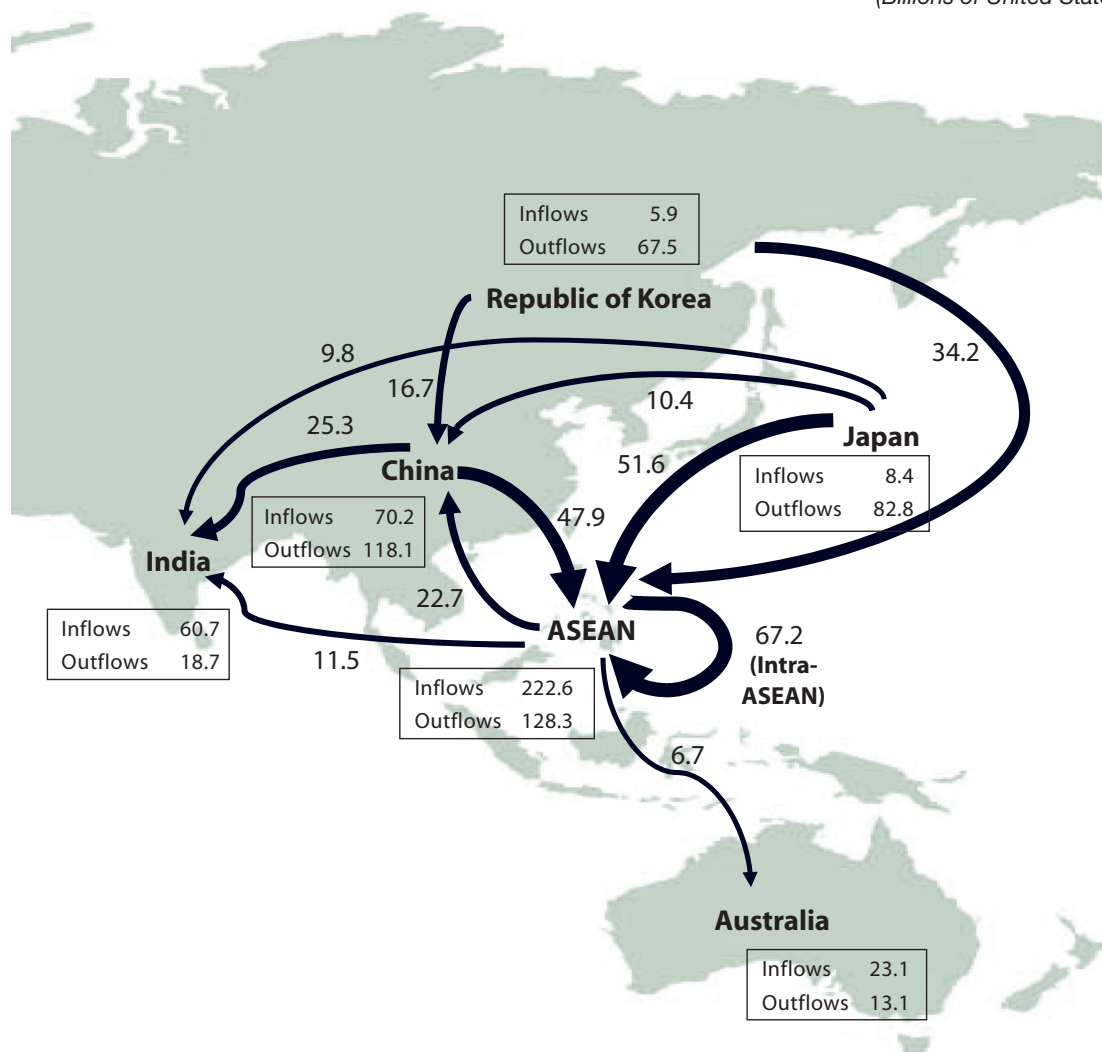
Intra-ASEAN FDI has typically represented around one-fifth of total ASEAN FDI inflows but it increased to one fourth in 2016 (OECD, 2018), supported by the ASEAN Economic Community. Sustained market integration would contribute to making ASEAN an even more attractive investment destination. ASEAN's firm position would also contribute to sustained FDI flows into the Asia-Pacific region as a whole, partly compensating for slowed growth of FDI inflows to China, as explained in last year's Asia-Pacific Trade and Investment Report (ESCAP, 2017).



**Figure 3.8**

**Major intraregional greenfield FDI flows between selected Asia-Pacific economies, and total intraregional greenfield FDI inflows and outflows, 2015-2018**

(Billions of United States dollars)



Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).

Note: In order to even out volatile annual FDI flows, total FDI flows during 2015-2018 are used instead of annual flows.

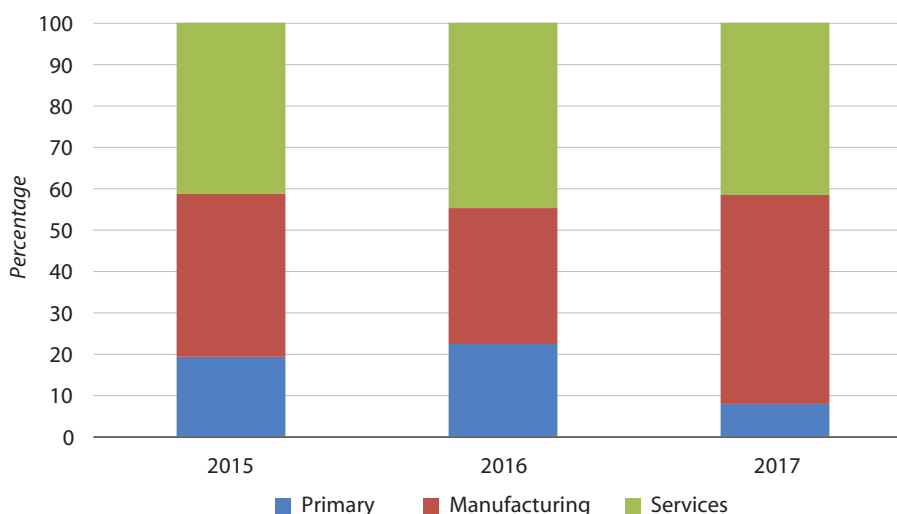
Reviewing data only for greenfield FDI flows from 2015 to 2018 shows that Malaysia, Singapore and Thailand were the major intra-ASEAN investors, while Indonesia and Viet Nam received the biggest share of intra-ASEAN investment. The ASEAN subgroup CLMV (Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam) benefited from lower wage costs compared to the more developed ASEAN countries with relatively advantageous geographical locations and stable Governments. In addition, in Myanmar, intraregional FDI contributed to a significant increase of 45% in FDI inflow to the country, for example investment in a new tin can manufacturing plant by Malaysia-based Kian Joo Group's in the Thilawa Special Economic Zone (UNCTAD, 2018a).

## D. SHIFT IN SECTORAL FOREIGN DIRECT INVESTMENT FLOWS<sup>5</sup>

Sectoral FDI inflows to the Asia-Pacific region have evolved over time, with the services sector gaining a bigger share and the primary sector receiving declining FDI inflows (figure 3.9). The decline of the primary sector is felt universally. A review of the composition of the global top 100 MNEs reveals that over time extractive industries and trade corporations have been replaced by digital-economy related MNEs (UNCTAD, 2018a). In 2017, FDI inflows to coal, oil and natural gas resources in the region declined significantly to \$19 billion, an 80% decrease from the previous year. However, the primary sector remains relevant, especially for North and Central Asia.



**Figure 3.9** Announced greenfield FDI inflows to the Asia-Pacific region, composition by sector, 2008-2017



Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).

*“The Asia-Pacific region continues to receive significant and continuing FDI inflows to the manufacturing sector.”*

The Asia-Pacific region has received, and is expected to continue receiving significant and continued FDI inflows to the manufacturing sector. Target subsectors vary by country and are evolving as several countries pursue structural reforms. China, as discussed in the previous editions of the Asia-Pacific

Trade and Investment Report, is pursuing a transition to high value-added industries. Thailand, despite concerns about its domestic capacity and technological readiness, is making efforts to move towards technology-based manufacturing and services under its Thailand 4.0 policy and the Eastern Economic Corridor. New legislation came into force in February 2017 incentivising foreign companies in target industries in the corridor (see section E for more details) (Economist Intelligence Unit, 2017b).

Developing countries in the region continue to attract investment in labour-intensive sectors, particularly the garment industry. Traditional big players, such as Bangladesh, Cambodia and Viet Nam have continued to receive significant FDI inflows to this sector, with most FDI coming from neighbouring economies such as China and Hong Kong, China as well as Singapore, Malaysia and the Republic of Korea, while domestic companies dominate in Bangladesh. Nevertheless, Bangladesh received \$422 million in FDI for the textile and apparel sector in 2017, 1% higher compared with the previous year, according to Bangladesh Bank data (*Textile Today*, 2018). This upward trend was recorded despite lingering concerns about the sustainability of the country's ready-made garment sector. The ongoing trade war between China and the United States is expected to open worldwide investment opportunities. In this regard, major players in the garment industry in the Asia-Pacific region, such as Bangladesh and Viet Nam, are expected to benefit by acquiring a larger share in exports to the United States, and thus attracting more investment. Smaller but still

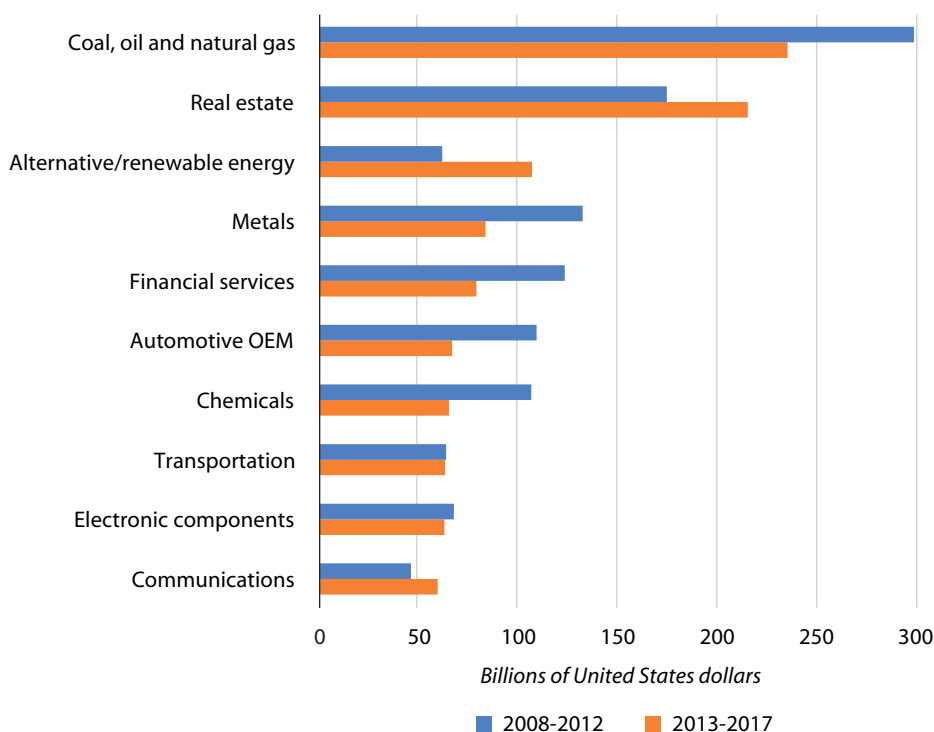
significant gains can also be expected for other countries such as Cambodia, Myanmar and Sri Lanka (Economist Intelligence Unit, 2018e).

*“The services sector accounts for a bigger share of FDI inflows, with ASEAN and China in particular witnessing significant increases.”*

In the Asia-Pacific region, FDI inflows to the services sector accounted for a bigger share during 2013-2017 than in 2009-2012. In 2017, despite the steep declines in greenfield FDI inflows globally and regionally, FDI inflows to the services sector in the Asia-Pacific region still accounted for 42% of total greenfield FDI inflows to the region (figure 3.9). At the regional level, alternative/renewable energy,<sup>6</sup> communications and real estate experienced significant growth, at 73%, 29% and 23%, respectively, during 2013-2017, compared with 2009-2012 (figure 3.10). ASEAN was a major investment destination for FDI in services. In the early 2000s, FDI inflows to services represented around 50% of total FDI inflows received by ASEAN; however, this figure

**Figure 3.10**

**Top 10 sectors by announced greenfield FDI inflows to the Asia-Pacific region, 2008-2017**



Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).

rose to more than two thirds a decade later (2012-2016) (OECD, 2018). For China, a similar trend can be seen with FDI in the services industry as a share of total FDI rising from 41% in 2008 to 67% in 2016 (KPMG, 2018a).

An evaluation of industries also supports the shifting trend. Whereas extraction of natural resources such as coal, oil, natural gas and metals have attracted

less greenfield FDI inflows, sectors such as real estate, alternative/renewable energy and transportation have attracted increasing greenfield FDI inflows (figure 3.10).

In 2017, most sectors received less greenfield FDI inflows. However, some major services subsectors, such as financial services, transportation, and communications suffered less (table 3.1).



**Announced greenfield FDI inflows to the Asia-Pacific region, by industry, 2016-2017**

*(Millions of United States dollars)*

Sector/industry	2016	2017
<b>Total</b>	<b>395 196</b>	<b>236 866</b>
<b>Primary</b>	<b>87 972</b>	<b>18 871</b>
Coal, oil and natural gas	87 825	18 779
<b>Manufacturing</b>	<b>130 106</b>	<b>119 596</b>
Electronic components	24 607	11 278
Metals	14 871	9 089
Food and tobacco	11 884	10 936
Chemicals	11 321	14 762
Automotive OEM	9 643	10 827
Textiles	9 170	7 543
Semiconductors	3 041	11 602
<b>Services</b>	<b>177 117</b>	<b>98 399</b>
Real estate	76 361	25 247
Alternative/renewable energy	32 955	19 124
Financial services	13 757	10 947
Communications	13 712	10 686
Software and IT services	10 085	8 277
Transportation	8 803	10 615

Source: ESCAP calculations based on fDi Intelligence data (accessed September 2018).

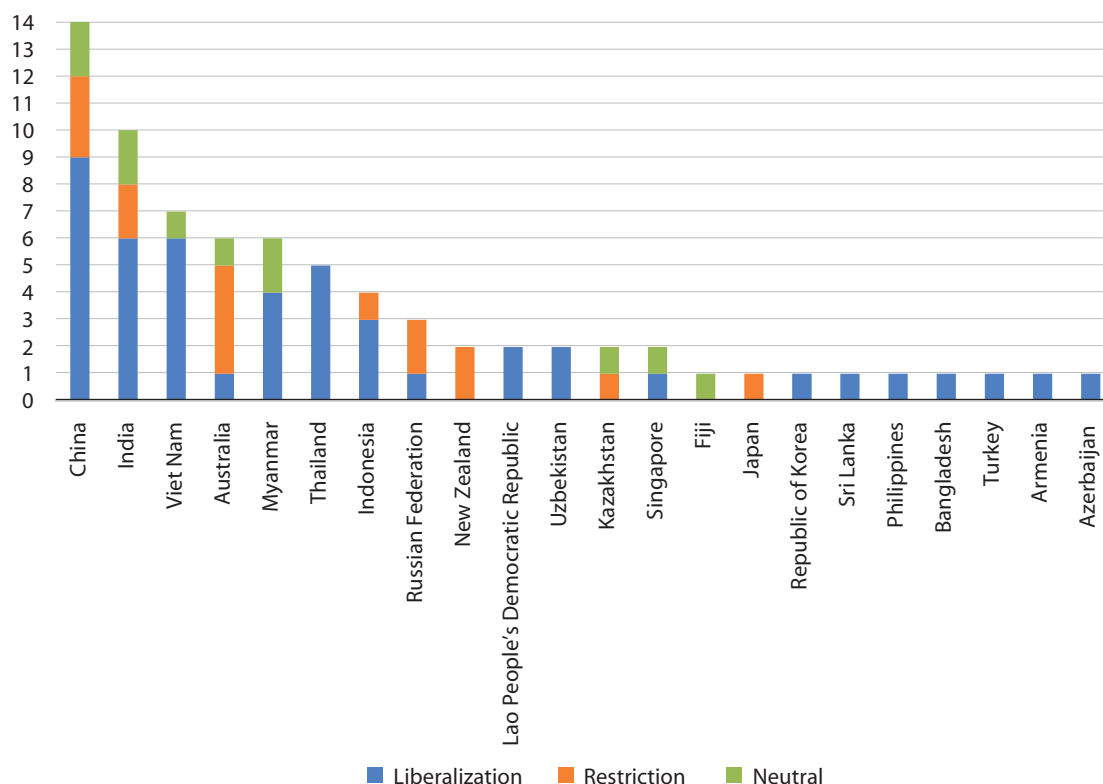
## E. NATIONAL POLICIES ON FOREIGN DIRECT INVESTMENT: LIBERALIZATION CONTINUES BUT RESTRICTIONS ALSO INCREASE

Countries in Asia and the Pacific continued to pursue policies to improve the environment for FDI. During the observed period, from January 2017 to June 2018, 163 policy changes were adopted globally while 22 countries in the Asia-Pacific region adopted

74 policy measures related to FDI, according to the UNCTAD Investment Policy Monitor Database.<sup>7</sup> Forty-seven of these measures liberalized, promoted or facilitated investment while 16 new policy measures introduced restrictions or regulations on investment, and 11 policies were neutral (figure 3.11). Compared with 124 policy measures introduced during 2016, the number of policy measures in the region from January 2017 to June 2018 showed significant declines.



**Number and types of investment policy changes in Asia-Pacific economies, January 2017-June 2018**



Source: ESCAP calculations based on the UNCTAD Investment Policy Monitor database (accessed September 2018).

*“Countries of the Asia-Pacific region introduced fewer FDI policy measures in 2017 with most aimed at easing FDI regulations as part of overall investment facilitation. However, restrictive or regulatory policy measures also increased mainly due to national security concerns.”*

During this period, changes in FDI policy measures mainly concerned easing the regulations for FDI and facilitating investment. At the same time, restrictive or regulatory FDI policy measures significantly increased due to national security concerns. China led with nine policy changes aimed at easing the environment for foreign investors, but also implemented several restrictions on both inward and outward FDI to balance liberalization with national priorities. The following presents an overview of the main areas where policy measures were introduced.

## 1. FDI Liberalization

In efforts to attract more foreign investors, many countries in the Asia-Pacific region have further liberalized foreign ownership. In China, one notable update is the Special Administrative Measures (Negative List) for Foreign Investment Access (so called “Negative List 2018”), jointly issued by the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOC) in June 2018.<sup>8</sup> It is a continuation of the gradual reform of China’s move towards a more liberalized, negative list approach for pre-establishment. The length of the negative list 2018 was further shortened from 63 items to 48 items while market access in 22 industry sectors was liberalized (Glueck, 2018). In addition, other changes have been made such as a separate negative list for free trade zones, temporary tax exemption for foreign companies and easier rules for FDI in securities firms (Glueck, 2018; Xinhua, 2018).

Another country that has implemented significant FDI liberalization policies is Uzbekistan. Uzbekistan's Development Strategy for 2017-2021 indicates FDI liberalization as a policy priority together with economic development. A major step was taken with the issuing of a Presidential Decree in September 2017 on the liberalization of monetary policy, moving away from strict control of the outflows of national currency. Another Decree issued in August 2018 relaxed legal requirements for enterprises with foreign shareholders, expanded the authority of regional authorities to provide land for foreign investor, and the relaxation of visa requirements (Uzbekistan, State Committee for Investments, 2018). These significant reforms are aimed at removing barriers to business and proving that the country is moving away from economic isolationism (Economist Intelligence Unit, 2017c).

Myanmar is another country that is actively pursuing FDI liberalization. The Myanmar Companies Act signed in December 2017, and which came into effect in August 2018, followed the enactment of the Myanmar Investment Law. Myanmar continues to encourage investment activity. The Ministry of Commerce opened the country to wholly foreign-owned firms operating in the wholesale and retail sectors (Singh, A., 2018). In addition, foreign investors are allowed to hold up to 35% of shares in a domestic company without the company losing its categorization as a local company (Aung, 2017). Moreover, foreigners were allowed to make full capital investments in private schools (Thiha and Kang, 2018). However, the country faces significant challenges in addressing international image problems arising from its perceived treatment of ethnic minorities, which undermine investment inflows from Western countries in particular.

Other countries in the region also continued to liberalize policies to attract FDI. For example, the Lao People's Democratic Republic removed the minimum registered capital requirements for certain foreign investors (*Laotian Times*, 2017), while Viet Nam issued a new decree which allows foreign investors to hold up to 49% ownership (Bizhub, 2018). India also liberalized FDI in selected sectors; 100% FDI under the automatic route is now allowed for Single Brand Retail Trading, and foreign airlines are allowed to hold up to 49% of ownership in Indian airlines, including Air India (Srivats, 2018).

## 2. Easing of investment facilitation processes

Various Asian and Pacific countries, especially South-East Asian countries, continued their efforts to facilitate FDI by simplifying processes and using information communications technology to reduce red tape. For example, the Indonesian Investment Coordination Board simplified the process for obtaining investment licences and made the procedures to obtain tax privileges easier (Sundaryani and Singgih, 2017; KPMG, 2018b). Under a Presidential regulation, central and regional Governments are pushed to cooperate in a system called "online single submission" that allows investors to complete registration more easily. The system was implemented in July 2018. The Government of the Philippines launched a business data bank that allows businesses to renew permits in a shorter time (Caraballo 2017). Singapore introduced an enhanced "EntrePass" to attract global start-up talents to build innovative businesses (Singapore, Ministry of Manpower, 2017). Thailand issued a regulation exempting certain business activities from the requirement for obtaining a foreign business licence (Baker McKenzie, 2017). Myanmar's Directorate of Investment and Company Administration (2018) implemented an electronic registry, easing the registration of businesses.

Countries from other subregions also improved their investment facilitation processes. In India, the Foreign Investment Promotion Board (FIPB) was abolished, and individual departments of the Government have been empowered to clear FDI proposals in consultation with the Department of Industrial Policy and Promotion. This decision was made in order to simplify the existing procedure for seeking clearance of FDI proposals. Ensuring the alignment in the approach of different ministries will be the key for maintaining consistency and continuity for investors (Mishra, 2017). In Central Asia, Azerbaijan established a single online portal for the issuance of business licences and permits that is operated by the Ministry of Economy (UNCTAD, 2018b). Uzbekistan also launched a new platform for business registration as part of its liberalization efforts (Economist Intelligence Unit, 2018a). In the Pacific, Australia announced changes to the foreign investment framework, which took effect from July 2017, including streamlining and simplifying of several regulations. Australia introduced



new exemption certificates to streamline the processing of multiple transactions as well as a streamlined and simplified commercial fee framework<sup>9</sup> (Australia, Foreign Investment Review Board, 2017).

### 3. Expansion and refocusing of special economic zones

 *“Asia-Pacific countries continue to establish special economic zones as a mechanism to attract FDI with mixed success rate.”*

During the observed period, many special economic zones (SEZs) were established and developed in various Asia-Pacific region countries. The empirical evidence of the economic, social and environmental impacts of SEZs is mixed and needs to be considered with regard to factors such as: physical, strategic and financial links with the local economy; strategical location of SEZs; flexibility of SEZs regimes and systems; and other factors (ESCAP, 2017). One clear benefit of SEZs, which has been successfully utilized by China, is that they can be used as testing grounds for new policies and economic reforms, especially liberalization of FDI. For this reason, and in order to attract more investment and establish linkages with regional and global value chains, many countries in the region have established more SEZs or expanded the privileges for companies operating in SEZs. For example, the Government of Bangladesh approved four new SEZs (*Economist*, 2017). India issued a notification exempting all goods imported by a unit or a developer in an SEZ for authorised operations from the integrated goods and services tax (PTI, 2018). Myanmar has renewed efforts to develop SEZs. The Thilawa SEZ, a Japan-Myanmar joint venture, is almost complete whereas progress in the development of the Dawei SEZ, in the making for almost a decade, is slow despite recent discussions between Thailand and Myanmar, and support from China and Japan. (Jagan, 2017). Sri Lanka is currently developing four investment zones (Sri Lanka, Board of Investment, 2018). In Uzbekistan, the President ordered legislation for creating new economic zones, together with other economic reforms, and 16 new SEZs were created by Presidential Decree (Uzbekistan, State Committee for Investments, 2018).

Another noticeable trend is the change in the focus of SEZs. Many are moving away from general

purposes towards specific types of SEZs that reflect economic or competitive strengths of the locations or the zones. Some examples are: tourism-linked SEZs in Indonesia and the Lao People’s Democratic Republic; information technology and business process outsourcing in the Philippines; aerospace parks in Singapore; and the Rubber City Industrial Estate in Thailand (ASEAN Secretariat and UNCTAD, 2017). Quite often, focused SEZs offer special treatment for target industries. For example, Viet Nam has issued a decree providing preferential treatment of companies operating in the Danang Hi-tech Park, including corporate income tax, import duty and land usage (Tilleke and Gibbins, 2018).

One noteworthy development is Thailand’s development of the Eastern Economic Corridor (EEC), and associated legal reforms aimed at boosting investment in EEC. EEC builds on strong connectivity to neighbouring trade partners and established shipping routes, and links with China’s Belt and Road Initiative. EEC stands as a good example of pursuing strategic sectors within a focused area that facilitate foreign investment, based on competitive strengths of the location and capacity. Thailand sees EEC playing an important part in implementing the Thailand 4.0 initiative, which aims to transform the country’s manufacturing base from labour-intensive industries towards innovative and digitalized production (Oxford Business Group, 2018).

### 4. Increased restrictions on foreign investment

Due to rising concerns that foreign acquisitions of strategic domestic companies may give investors access to critical infrastructure, technology or sensitive data, various countries have expanded restrictions on FDI, often based on national security. However, blocking and screening FDI based on national security is quite often subjective and not transparent. In addition, it is sometimes a disguised form of trade protectionism. In this context, other measures could be considered for addressing security concern that are less trade and investment distorting, such as strengthened provisions in bilateral investment treaties that deter broad intellectual-property theft. While many of the policy changes in the region have been aimed towards liberalization of FDI, 16 policy measures introduced restrictions or tightened regulations on investments in the Asia-Pacific region between January 2017 and



June 2018. Such restrictions are often related to the protection of strategic industries in host countries, or to controlling transactions with/from countries and entities that experience political tensions with the host country. Some highlights of such policy changes are detailed below.

China has applied a new rule prohibiting outbound FDI to countries or regions that have no diplomatic ties with China, are at war or face civil disturbance, or are subject to investment restrictions by international treaties or agreements of which China is a party (ReedSmith, 2018). In addition, the Chinese State Council Measures for the Overseas Transfers of Intellectual Property Rights sets out review procedures for the transfer of intellectual property from China, in consideration of the country's national security and innovation and development capabilities (CMS, 2018). India prohibits direct outward investment in countries identified as “non-cooperative countries and territories” (Reserve Bank of India, 2017). Japan has promulgated a rule that extends the review mechanism of acquisitions of non-listed companies, based on a consideration of threats to national security, change to business environment and the spread of critical technologies (Japan, Ministry of Economy, Trade and Industry, 2017). The Russian Federation has amended foreign investment laws for offshore companies and prohibits them from establishing control over Russian entities considered “strategic” under the Strategic Investments Law (Ostapets, Dmitrieva and Tyunik, 2017).

Various other countries have voiced concerns over investment, especially by state-owned enterprises (SOEs), particularly from China. In response, various countries have created or strengthened the regulatory review processes of incoming mergers and acquisitions, especially in critical infrastructure industries (Sauvant, 2018). For example, Australia, as the world's second-largest recipient of Chinese investment since 2007, has tightened rules on foreign investment in electricity infrastructure and agricultural land, amid concerns about growing Chinese influence (Smyth, 2018). Japan has also expanded its scrutiny based on a reconsideration of threats to national security, changes to the business environment and the spread of critical technologies, including dual-use technologies (OECD and UNCTAD, 2017). The Government of New Zealand issued a ministerial directive letter on tightening the screening procedures for sensitive land

acquisitions by foreign investors (Thomson and Edirisuriya, 2017).

With the rise of nationalism and protectionism globally, leading to retaliatory actions by affected countries, it is anticipated that more Governments – particularly those of developed countries – may introduce new FDI restrictions in the immediate future. Examples are the recently approved bill expanding the scope of the Committee on Foreign Investment in the United States, an inter-agency body able to block deals that may threaten national security. Germany intends new measures to block FDI, while the European Union is developing an overarching screening framework for its members (*Economist*, 2018).

## F. INTERNATIONAL INVESTMENT AGREEMENTS

### 1. Slowdown of investment treaty making

A slowdown in investment treaty-making in 2017 and 2018 has been evident, with a record low in the number of new international investment agreements (IIAs) since 1983. According to the UNCTAD International Investment Agreements Navigator database,<sup>10</sup> from January 2017 to June 2018, 37 bilateral investment treaties (BITs) and 13 treaties with investment provisions (TIPs) were either signed and/or entered into force globally, bringing the total number of IIAs to 3,332. A total of 34 IIAs were terminated during the same period. The number of effective treaty terminations outpaced the number of newly concluded IIAs for the first time, partly due to the heightened need for review of the current IIA regime in terms of rebalancing investor and host country rights and obligations (UNCTAD, 2018c).

 “Despite a global trend towards the signing of fewer investment treaties, countries in the Asia-Pacific region remain active in investment treaty making.”

Despite the slowdown, countries in the Asia-Pacific region have continued to be active in investment treaty-making, accounting for a significant proportion of new IIAs, with 25 BITs either signed and/or entered into force. Turkey was the most active country,

followed by Japan and the Islamic Republic of Iran. One notable trend in the region, reflecting the global trend, is the high number of terminated IIAs. During the observed period, 19 BITs were terminated<sup>11</sup> by one or more countries in the region. India was particularly active, having terminated 17 BITs. (figure 3.12.) The intention of the Government of India behind the terminations is to replace all its existing BITs with a new set of treaties, based on its new Model BIT 2015, which is designed to strike a balance between investors' rights and regulatory space of the host Government. This was prompted by recent arbitration claims from investors (Singh and

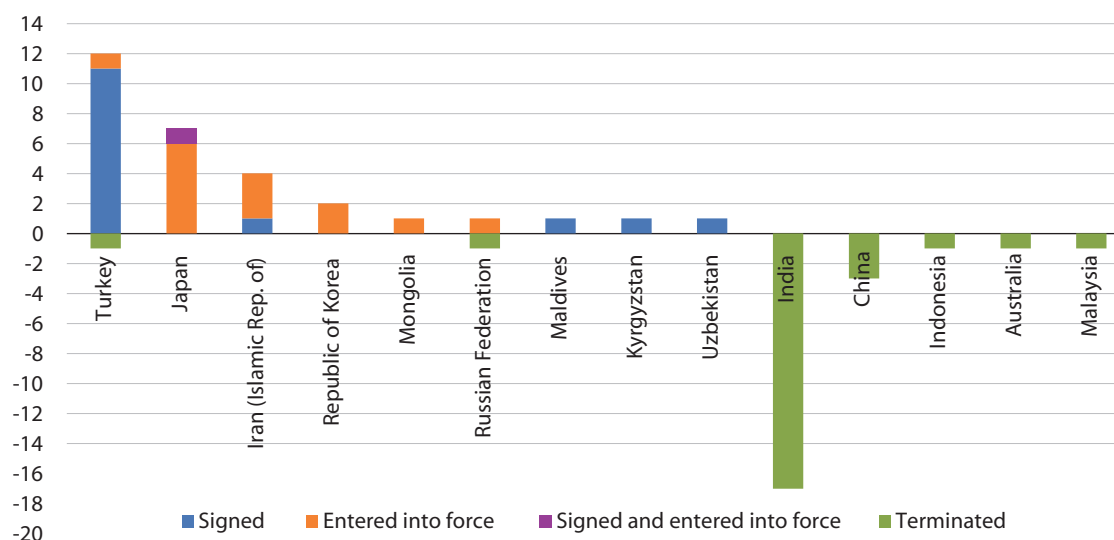
Ilge, 2016). The UNCTAD Investment Policy Framework for Sustainable Development (UNCTAD, 2015) has provided policy options to implement sustainable development objectives in IIAs.

For TIPs, 11 new TIPs were either signed and/or entered into force (table 3.2).

The Asia-Pacific region is already home to a few very advanced regional IIAs, such as the ASEAN Comprehensive Investment Agreement (ACIA) and the ASEAN-China Agreement on Investment. A new mega-regional agreement in the region, the

**Figure 3.12**

**New and terminated bilateral investment treaties by countries in the Asia-Pacific region, January 2017-June 2018**



Source: UNCTAD International Investment Agreements Navigator database (accessed on August 2018).

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), will come into effect on 30 December 2018, with 7 out of 11 signatories from Asia-Pacific – Australia, Brunei Darussalam, Japan, Malaysia, New Zealand, Singapore and Viet Nam.<sup>12</sup> Notwithstanding the withdrawal of the United States from TPP in early 2017, CPTPP represents a continued endeavour towards forming closer trade and investment linkages in the Asia-Pacific region, with the anticipation of increased FDI flows and opportunities to better integrated into global value chains.

Another noteworthy development is the “Free Trade Agreement between Hong Kong, China and the Association of Southeast Asian Nations”, which was signed on 12 November 2017. With the removal of barriers on foreign capital participation and the number of foreign workers allowed to be employed, the Agreement aims to reduce the restrictions on doing business and expand business opportunities between ASEAN countries and Hong Kong, China (Hong Kong, Government of Hong Kong Special Administrative Region, 2017). Considering the fact that many Chinese investors use Hong Kong, China



**New TIPs by countries from the Asia-Pacific region, January 2017-June 2018 based on UNCTAD classification**

Treaties with investment provisions (short title)	Signatories from Asia and the Pacific	Signatories from non-Asia and the Pacific	Date of signature	Date of entry into force
<b>Mainland and Hong Kong Closer Economic Partnership Arrangement (2017)</b>	China, Hong Kong, China		28 June 2017	28 June 2017
<b>China-Georgia Free Trade Agreement (FTA)</b>	China, Georgia		13 May 2017	
<b>ASEAN – Hong Kong, China SAR Investment Agreement (2017)</b>	ASEAN, Hong Kong, China		12 November 2017	
<b>Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)</b>	Australia, Brunei Darussalam, Japan, Malaysia, New Zealand, Singapore, Viet Nam	Canada, Chile, Mexico, Peru	8 March 2018	30 December 2018 <sup>a</sup>
<b>Republic of Korea – Republics of Central America FTA</b>	Republic of Korea	Costa Rica, El Salvador, Honduras, Nicaragua, Panama	21 February 2018	
<b>Chile-Indonesia Comprehensive Economic Partnership Agreement (CEPA)</b>	Indonesia	Chile	15 December 2017	
<b>Singapore – Turkey FTA (2015)</b>	Singapore, Turkey		14 November 2015	1 October 2017
<b>EU-Armenia CEPA</b>	Armenia	European Union	24 November 2017	
<b>EFTA-Georgia FTA (2016)</b>	Georgia	EFTA (European Free Trade Association)	27 June 2016	1 September 2017
<b>Pacific Agreement on Closer Economic Relations (PACER) Plus</b>	Australia, Cook Islands, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, New Zealand, Niue, Palau, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu		14 June 2017	
<b>Australia-Peru FTA</b>	Australia	Peru	12 February 2018	

Source: UNCTAD International Investment Agreements Navigator database (accessed on August 2018).

<sup>a</sup> Australia became the sixth and final nation to complete the ratification in October 2018, and CPTPP will come into effect on 30 December 2018.

as a strategic location to invest abroad, and that many investors from all over the region use Hong Kong, China as a financial hub for their investment and operations, this FTA could potentially encourage further investment within the region and in ASEAN specifically. In addition, the “Mainland and Hong Kong Closer Economic Partnership Arrangement: Investment Agreement” was implemented on 1 January 2018, broadening its scope to become a comprehensive FTA. In the meantime, the Asia-Pacific Trade Agreement (APTA) members started negotiations in 2018 to promote and facilitate FDI among their countries, based on the implementation of the Framework Agreement on Promotion, Protection and Liberalization of Investment.

## 2. Investment facilitation: Towards a harmonized global investment regime

Despite many failed attempts towards realizing multilateral investment frameworks, the rapid growth of MNEs from emerging markets is creating renewed interest in reviewing multilateral approaches to investment. With regard to recent negotiations under mega-regionals, such as the Regional Comprehensive Economic Partnership (RCEP) and CPTPP, these efforts could lead to enhanced harmonization of the substantive and procedural aspects of international investment law (Sauvant, 2018). Discussions have continued through the G20, especially during the Chinese presidency in 2016, with the “Guiding Principles for Global Investment Policymaking” and the Trade and Investment Working Group.

*“Global discourse on harmonizing the global investment regime, with specific focus on investment facilitation, is attracting renewed interest.”*

One discussion thread that warrants attention is the global discourse on harmonizing the global investment regime, specifically with regard to investment facilitation. The definition of investment facilitation varies but can be scoped to refer to activities that improve the overall investment climate and reduce the costs of doing business. It does not cover investment protection, investment liberalization or investment promotion (Hamdani, 2018). Investment facilitation is considered to enhance the

investment environment by “improving transparency and predictability of investment policies, streamlining administrative procedures and adopting tools to handle inquiries or complaints by investors” (Singh, K., 2018). Therefore, it is considered to be relatively non-controversial and in the interests of every country.

Several initiatives have been put forward in this regard. An international support programme for sustainable investment facilitation was put forward by the E15 Task Force on Investment Policy.<sup>13</sup> During the Chinese presidency of the G20 in 2016, the groundwork was laid together with support from international organizations,<sup>14</sup> aimed at agreement on a non-binding investment facilitation package that included the fostering of open and transparent business climates and actions to promote inclusive economic growth. However, the negotiations collapsed and the final G20 Hamburg Summit declaration<sup>15</sup> included only a vague reference (Berger, 2018).

A multilateral investment agreement, even one that focuses on investment facilitation, is unlikely to be realized in the immediate future; however, with renewed interest and pursuit from international organizations and selected countries, improvements and harmonization may materialize in the foreseeable future. The issue has now been taken up by the World Trade Organization (WTO), and emerging economies, including China and Brazil, are the main drivers (Berger, 2018). However, there are concerns that the current discussions may lead to actual negotiations and that WTO may not be the best forum for such negotiations, particularly as the negotiation processes within the WTO framework have not always been inclusive. While there are no current intentions to start formal negotiations, the principal objective of any multilateral agreement on investment is that it should contribute to the achievement of the Sustainable Development Goals. In the meantime, India introduced the idea of an “Agreement on Trade Facilitation in Services” in WTO. As FDI is a mode of the delivery of a service, such an agreement could become, in the longer term, a stepping-stone for multilateral efforts towards investment facilitation (Sauvant, 2018).

Recent protectionist measures adopted by several countries, including the United States, that impose trade restrictions are prompting reciprocal measures

from its trading partners have raised investors' concerns. Notwithstanding the current trade war, efforts are continuing towards multilateralization of investment commitments, including those by emerging economies.

## G. CONCLUSIONS

Despite the decline in the level of FDI inflows, the Asia-Pacific region continued to stand firm in 2017 as a major FDI destination, accounting for 39% of global inflows amid significant decreases in FDI inflows worldwide. The region also remained a major source of FDI outflows worldwide, accounting for 36% of global outflows.

Within the region, China continued to be both the main investment destination and the main source of FDI within and outside the region. Despite the recent slowdown in FDI inflows due to its structural change from labour-intensive industries to high value-added industries, the country is expected to retain its leading position as outward investor, especially expanding its outward investment related to the Belt and Road Initiative partners. The shift to high value-added industries in China and American trade policies could help less developed countries attract FDI in manufacturing industries, provided they improve their domestic business and investment environment.

One notable trend is the continuing and growing importance of intraregional investment, which accounts for nearly half of total FDI inflow to the region. Intraregional investment has already been on the rise for the past few years, but large economies such as China, Japan and the Republic of Korea invested heavily in the region in 2017, and ASEAN was the leading destination for intraregional investment. Intraregional investment could further strengthen economic linkages within the region and encourage the development of robust regional value chains.

Another trend has been the rise of FDI in the services sector. Against the backdrop of steep declines in global and regional greenfield FDI inflows, FDI in the services sector in the region has remained relatively intact and has on fact risen in a number of countries. ASEAN and China in particular have received increasing FDI inflows in the services sector. The region also received increased FDI inflows in the

alternative/renewable energy, communications and real estate subsectors in more recent years.

Countries in Asia and the Pacific continued to implement policies to improve the environment for FDI. Changes in FDI policy measures from observed period of January 2017 to June 2018 were mainly on easing the regulations for FDI and strengthening investment facilitation. There was a significant push in this direction by a number of countries, including: China with its gradual reform towards a more liberalized, negative list approach; Uzbekistan with a number of policy changes on relaxing regulations and requirements for foreign investors; and Myanmar with the enactment of relevant laws supporting FDI liberalization.

Countries have continued to adopt policies to either attract FDI that is strategically important to host countries or enhance the screening process for certain types of investment. One modality widely utilized in the region was SEZs, often used as testing grounds for new policies and economic reforms, especially towards liberalization of FDI. Countries have been increasingly moving away from general purpose towards specific types of SEZs that reflect economic or competitive strengths of the locations or zones. Another modality is restrictive or regulatory investment policy measures, which significantly increased. National security was often used as the screening criteria, despite being criticized for its subjectivity. With the global rise of nationalism and protectionism, it is anticipated that these restrictive or regulatory investment policy measures will expand further.

During the observed period, a slowdown of international investment treaty-signing was evident. The number of effective treaty terminations outpaced the number of newly concluded IIAs for the first time, due to increasing concerns over the current IIA regime in terms of rebalancing investor and host country rights and obligations. To overcome persistent concerns, interest in the global discourse on harmonizing the global investment regime was renewed, specifically with regard to investment facilitation. Several initiatives have been put forward, such as (a) an international support programme for sustainable investment facilitation by the E15 Task Force on Investment Policy, and (b) discussions on a non-binding investment facilitation package that were initiated at the G20 with the support from international organizations. Notwithstanding the

current trade war, efforts are continuing towards multilateralization of investment commitments, including by emerging economies.

As global prospects for FDI remain unclear in the current environment that is clouded by uncertainty

and volatility, including protectionist measures adopted by a number of countries, FDI to and from the region is also expected to stagnate. However, with its strong fundamentals and structural change, it is anticipated that the Asia-Pacific region will retain its importance in the global investment environment.



## Endnotes

- <sup>1</sup> Developing Asia is the approximate equivalent of East and North Asia, South-East Asia, and South-West Asia, and is taken as the best-estimate for the Asia-Pacific region as a whole (among available data).
- <sup>2</sup> Accessed on 12 September 2018.
- <sup>3</sup> The estimate was based on the 21 economies of the Asia-Pacific region, which accounted for 97% of FDI inward stock of the region as of 2017. The 21 economies are: Australia; Azerbaijan; Bangladesh; China; Hong Kong, China; India; Indonesia; Islamic Republic of Iran; Japan; Kazakhstan; Malaysia; New Zealand; Pakistan; Philippines; Republic of Korea; Russian Federation; Singapore; Sri Lanka; Thailand; Turkey; and Viet Nam.
- <sup>4</sup> Trade wars do not involve direct actions against FDI, but raise barriers to trade and, indirectly, to trade-related investment linked to global and regional value chains. Their impact on FDI is discussed further in chapter 4.
- <sup>5</sup> Data on sectoral flows are from fDi Intelligence data, and which provide a two-dimensional classification system recording the sector and activity. Efforts were made to best align this with official industry classifications, such as the International Standard Industrial Classification, which is a hierarchical system. However, this proved to be problematic. In this report, aggregate sectors as defined in fDi Intelligence data were used to construct primary, manufacturing and services sectors.
- <sup>6</sup> Alternative/renewable energy is classified under Services on the basis that distribution is the major activity.
- <sup>7</sup> UNCTAD Investment Policy Monitor Database available from <http://investmentpolicyhub.unctad.org/IPM> (accessed August 2018).
- <sup>8</sup> Under a negative list approach, all foreign investments are to be liberalized unless otherwise specified in annexes containing reservations or non-conforming measures. The Negative List in China is a list of industries in which foreign investment is either prohibited or restricted. The Free Trade Zone Negative List follows the same logic but is less restrictive than the national list, and only applies to China's free trade zones. For industries not included in the Negative List, foreign investors are given equal treatment to domestic Chinese investments, except for record-filing requirements. Restricted industries are usually only accessible to foreign investors through joint venture structures with Chinese companies or are restricted through shareholding limits. In other cases, foreign investors might need prior approval from the Ministry of Commerce to invest in a restricted industry.
- <sup>9</sup> Foreign persons are required to pay a fee for each application made, or notice given, under the Foreign Acquisitions and Takeovers Fees Imposition Act 2015 (Fees Act) and Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Fees Regulation).
- <sup>10</sup> UNCTAD International Investment Agreements Navigator database, available at <http://investmentpolicyhub.unctad.org/IIA> (accessed on August 2018).
- <sup>11</sup> Termination of IIAs refers to various types, including expired, replaced by a new treaty, terminated by consent or unilaterally denounced.
- <sup>12</sup> Australia became the sixth and final nation to complete the ratification in October 2018, and CPTPP will come into effect from 30 December 2018.
- <sup>13</sup> The International Centre for Trade and Sustainable Development and the World Economic Forum established the E15 Initiative for examining the challenges faced by the international trade and investment regime. The Task Force on Investment Policy released a policy option paper in January 2016, available at [https://www.ictsd.org/sites/default/files/research/WEF\\_Investment\\_Law\\_Policy\\_regime\\_report\\_2015\\_1401.pdf](https://www.ictsd.org/sites/default/files/research/WEF_Investment_Law_Policy_regime_report_2015_1401.pdf).
- <sup>14</sup> UNCTAD published a discussion note on "Investment facilitation and promotion: A global action menu" and OECD also contributed to the discussion, and a working paper, "Towards an international framework for investment facilitation", available at <http://investmentpolicyhub.unctad.org/Publications/Details/148> and <https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf>.
- <sup>15</sup> G20 Leaders' Declaration: Shaping an Interconnected World, Hamburg, 7-8 July 2017. Available at [https://www.g20germany.de/Content/EN/\\_Anlagen/G20/G20-leaders-declaration.pdf?\\_\\_blob=publicationFile&v=11](https://www.g20germany.de/Content/EN/_Anlagen/G20/G20-leaders-declaration.pdf?__blob=publicationFile&v=11).



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