

INTERNATIONAL
ENERGY CHARTER

***THE
BLUE BOOK***

***MAKING INVESTMENTS IN
ENERGY CHARTER MEMBER COUNTRIES***

***EXCEPTIONS TO THE PRINCIPLE
OF NON-DISCRIMINATORY TREATMENT***

***DECEMBER
2016***



THE ENERGY CHARTER BLUE BOOK

Making investments in Energy Charter Member Countries
Exceptions to the principles on non-discriminatory treatment

*Non-Conforming Measures Maintained by a Contracting Party and
Any Commitments with Regard to Them (the “Blue Book”)*

BRUSSELS, DECEMBER 2016

Table of Contents

Table of Contents	4
List of Tables.....	4
INDEX	5
INTRODUCTION	6
The Notification Process	6
Treatment of “Making Investments”: The Standard of Non-Discrimination.....	7
Register of Non-Conforming Measures (“The Blue Book”)	7
Categories of Non-Conforming Measures	8
Land and Real Estate.....	8
Privatisation	9
Registration and Screening	9
Reciprocity	10
Other exceptions.....	10
Non-Conforming Measures (Exceptions) Status	10
TEXT OF NOTIFICATIONS	14
SECTION ONE: EXCEPTIONS RELATED TO LAND AND REAL ESTATE	15
SECTION TWO: PRIVATISATION	41
SECTION THREE: ACCESS, REGISTRATION, SCREENING	50
SECTION FOUR: RECIPROCITY	93
SECTION FIVE: OTHER TYPES OF EXCEPTIONS.....	107

List of Tables

Table 1: Signatories / Contracting Parties to the Energy Charter Treaty with Exceptions.	10
Table 2: Signatories / Contracting Parties to the Energy Charter Treaty without Notified Exceptions	12
Table 3: Notified Exceptions by Type and Country	13

INDEX

- ALBANIA**, 15, 41
ARMENIA, 16, 35
AUSTRALIA, 17, 51, 52
AUSTRIA, 18, 53, 54
AZERBAIJAN, 19, 42, 43
BELARUS, 20, 55, 56, 107
BULGARIA, 21, 108
CROATIA, 44, 45, 93
CYPRUS, 22
FINLAND, 58, 59, 60, 61, 62, 63
FRANCE, 64, 65
GERMANY, 66
GREECE, 67, 68, 69
HUNGARY, 70
ICELAND, 71
ITALY, 95, 96
JAPAN, 72, 73, 97, 98
LATVIA, 99
LIECHTENSTEIN, 74
LITHUANIA, 100
MALTA, 25, 75
MONGOLIA, 27, 76
POLAND, 28, 77, 101
ROMANIA, 30
SLOVAKIA, 33, 81
SLOVENIA, 82, 83, 103
SPAIN, 104, 105
SWITZERLAND, 34, 84, 85, 86, 87
CZECH REPUBLIC, 23, 57
EUROPEAN COMMUNITIES, 94
**THE FORMER YUGOSLAV
REPUBLIC OF MACEDONIA**, 37
RUSSIAN FEDERATION, 31, 32, 78,
79, 80, 109, 110, 111
TURKEY, 47, 48
TURKMENISTAN, 88
UKRAINE, 38, 49, 89, 90, 91, 112
UZBEKISTAN, 39

INTRODUCTION

Comprehensive Review of the Blue Book

In accordance with the 2010 Road Map for Modernisation, a comprehensive review of the Blue Book was launched in 2014. On 12 February 2014, the Secretariat circulated the Questionnaire (IN.117.Rev.1) requesting the signatories to report on any existing exceptions at pre-investment and post-investment phases. The purpose of the comprehensive review is to update and identify existing instances of non-compliance with the National and with the Most-Favoured National (MFN) treatment principle; limit them to the minimum; as well as to progressively remove existing restrictions affecting Investors of other Contracting Parties (Article 10(9) of the Energy Charter Treaty (ECT)).

From 12 February 2014 till 11 October 2014, six contracting parties, Albania, Armenia, Tajikistan, Sweden, Lithuania and France, notified the Secretariat about their respective exceptions summarised in document IN.126.rev.1). The Investment Group took note of all notified exceptions and agreed to continue the review in 2015. The ECT contracting parties and signatories were again invited to review their respective exceptions that are registered in the Blue Book; withdraw non-existing exceptions; update text of the notified exceptions if required; and notify about new exceptions to the Secretariat.

From 12 October 2014 till 27 May 2015, the Secretariat received notifications from Austria, Czech Republic, Germany, Switzerland, Latvia, Poland and Norway. These notifications were summarised and disseminated in document IN 136. From 28 May 2015 till 20 October 2015, the ECS received notifications from Azerbaijan, Cyprus and Japan, summarised in document IN 144 Rev.

Sixteen countries updated their report on existing exceptions at pre-investment and post-investment phases. Overall, ninety one exceptions have been notified by thirty nine countries. The updated status of the Blue Book does not show nor an increase nor a decrease in the number of notified exceptions, and the number of withdrawn measures was compensated by the number of new measures. In the light of the comprehensive review, the Energy Charter Conference welcomed the 2016 update of the Blue Book as a means to implement a voluntary initiative of transparency in relation to the establishment of energy investments in the spirit of Art. 10(5) of the ECT.

The Notification Process

For the Making of Investments in the energy sector, the ECT contains a best endeavours commitment for Contracting Parties and Signatories applying the Treaty provisionally to accord the better of national and MFN treatment to investors of other Contracting Parties. The Treaty requires the parties to notify existing laws, regulations and other measures constituting exceptions to this fair treatment standard (“Non-Conforming Measures Maintained by a Contracting Party and any Commitments with Regard to Them”) (Article 10(9) ECT).

The notified exceptions are furthermore subject to a best endeavours commitment, according to which Contracting Parties and Signatories applying the Treaty should limit to the minimum the exceptions by not introducing new measures, and progressively remove existing restrictions affecting investors of other Contracting Parties. These commitments of the Contracting Parties are known as “standstill” and “rollback” obligations (Article 10(5) ECT).

The exceptions are subject to periodical reviews by the Charter Conference. Over the years there has been a reduction, helped by the peer review process, in the number and the scope of notifications of exceptions listed in the registry.

This version of the document lists the exceptions of Contracting Parties and Signatories as of the date of its release. It incorporates deletions, additions and amendments to exceptions as advised by Contracting Parties and Signatories. The changes are based primarily on three reporting processes:

- Notifications in pursuit of the general reporting obligations required by the Treaty;
- Notifications instigated during the preparation, review and discussion of ICMS reports, in pursuit of reporting obligations required by the Treaty;
- Notifications resulting from the process of “comprehensive review” of non-conforming measures, in pursuit of reporting obligations required by the Treaty.

Changes to registry entries are made by the authorities of the relevant countries and upon the completion of a peer review process. While peers in the Energy Charter Process may request clarifications and suggest amendments to an exception as notified by a Contracting Party / Signatory, it is ultimately the Contracting Party / Signatory’s sovereign decision that is recorded in the Blue Book, and any notification of change is the sole responsibility of the relevant Contracting Party / Signatory.

Treatment of “Making Investments”: The Standard of Non-Discrimination

The ECT obliges Contracting Parties to endeavour to accord non-discriminatory treatment to Investors of other Contracting Parties with regard to Making of Investments. This obligation is applicable for the fifty-four Contracting Parties that have ratified the Treaty.

The standard of non-discrimination is defined under Article 10(7) ECT. It imparts that each Contracting Party shall accord to Investments in its Area of Investors of other Contracting Parties treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors from any other Contracting Party or any third state, whichever is the most favourable. The standard also applies to related activities.

The Making of Investments is defined under Article 1(6) and (8) ECT as establishing a new investment or acquiring an existing investment. To be considered an investment in the energy sector, the investment must be associated with an economic activity concerning the exploration, extraction, refining, production, storage, land transportation, transmission, distribution, trade, marketing or sale of energy raw materials or products. The introduction of third party access to energy infrastructure is not obligatory under the Treaty.

The non-discrimination treatment standard is understood not to apply to any existing non-conforming measure that is maintained by a Contracting Party. Furthermore, Contracting Parties may at any time amend existing discriminatory measures, as long as the amendment does not increase the non-conformity of the measure.

Register of Non-Conforming Measures (“The Blue Book”)

What is non –conforming measure or in other words an exception? It is any legislation and/or measure that treats investors (enterprises or natural persons) of another Contracting Party less favourably than their domestic counterparts and/or any other foreign investor in like situations.

Throughout the Energy Charter process, there has been an obligation to notify and record the non-conforming measures. Existing laws, regulations and other measures constituting exceptions to the non-discrimination principle have thus been collected and compiled in a registry known as “the Blue Book”.

The document contains the notifications in a standardised form, which quotes the title of the measure, the sector(s) to which it applies, a short description of the non-conforming element of the measure, any planned or envisaged phase-out of the measure, and finally other implicit exceptions contained in the measure, such as exceptions to the Most Favoured Nation (MFN) principle.

The descriptive part of an exception listed in the Blue Book in some cases is a quotation of the non-conforming elements of the measure, whereas in other cases the descriptive part may be an explanation of the non-conformity of the measure.

Categories of Non-Conforming Measures

The existing non-conforming measures have been arranged, mainly for reason of ease of reference, into five categories:

- (1) Land and real estate restrictions;
- (2) Privatisation;
- (3) Measures regarding registration and screening;
- (4) Reciprocity requirements; and
- (5) Other non-conforming measures.

The last category (“other”) lists measures that do not fall in any of the four previous categories. Such “other” measures are sometimes thought to generally fall outside the scope of the Treaty.

Most of the non-conforming measures are global in their nature, i.e. relate to the entire economy. Some measures – perhaps a quarter of all – are energy sector-specific. Measures that apply only to the energy sector almost exclusively fall under the category of “registration and screening”, dealing, for example, with licensing of energy sector activities, primarily related to hydrocarbons.

Several exceptions consist of elements that qualify them for more than one category. In such cases, the exceptions have been listed in a category according to the prevalent element.

Land and Real Estate

Twenty one Contracting Parties / Signatories have notified twenty three exceptions, relating primarily to the ownership of land and immovable property, but also to the leasing of land.

The non-conforming measures in the land and real estate category altogether twenty, falling into five groups:

- A. Exceptions which discriminate against foreign investors only if they or their companies / organisations are not registered in accordance with applicable laws;
- B. Exceptions which discriminate against foreign controlled companies/organisations (but not including minority ownership);
- C. Exceptions which in general discriminate against foreign investors (even though the foreign investment is in a minority position in a company registered according to the applicable laws);
- D. Exceptions which discriminate on the ground of approval procedures;
- E. Exceptions that in general discriminate against foreign investors, and in addition impose restrictions on leasing.

Based on these five possible levels of discrimination, there are seven exceptions relating to property ownership, where the measure is not applicable to any juridical person registered in accordance with the pertinent laws, i.e. to a “national juridical person” (Group A).

There are five exceptions (Group B) applying to foreign-controlled companies, whereas five exceptions (Group C) potentially amount to quite substantial general exclusions from the non-discrimination principle of foreign investors. Overall, the exceptions in Group C are more extensive than the ones in Group A, since they apply to foreign investors even after they have properly established themselves in the country concerned.

The two exceptions requiring an approval for acquisition or lease of land or real estate (Group D) by foreigners may, in its discretionary approach, be discriminatory, in particular because the measures apply not only to natural persons, but also to legal entities.

Four exceptions relate to land lease (Group E). In many cases, it is not clear whether national subjects are given different conditions compared to foreign investors. As of the date of putting this edition of the Blue Book to print, this group contained three exceptions.

Privatisation

Six Contracting Parties/Signatories have a total of eight exceptions with respect to privatisation.

The non-conforming measures are divided into the following groups:

- A. First sale restrictions;
- B. Approval or control by Government for listed sectors/entities;
- C. Preferential treatment of nationals in the case of equal bids;
- D. Differentiation with respect to sales price or conditions;
- E. Approval by Government for the purchase of shares;
- F. Restrictions on re-sale.

The majority of exceptions (seven) in the category of privatisation are in Group A.

Transformation of state-owned enterprises into joint stock companies prior to privatisation itself, or other concepts of “denationalisation”, such as transfer of state property to other forms of public ownership, is quite common practice. Such structural changes do not normally involve any preferential treatment and are therefore not included in the non-conforming measures.

Generally, the existence of a monopoly does not, on its own, constitute a measure of non-conformity.

Registration and Screening

Twenty one countries have notified forty two exceptions pertaining entirely or partially to limiting access for foreign natural or juridical persons to Making an Investment.

The exceptions in this category are very heterogeneous. On the basis of the available information, it is difficult to classify them or evaluate the actual level of discrimination and its impact on potential investors. An attempt has, however, been made to classify these measures, and they are listed in the following groups:

- A. Exceptions where the main potential discriminatory element is related to the registration of foreign investors in the host country in order to become a national juridical person:
 - A.1. Registration;
 - A.2. Concessions / Licenses;
- B. Exceptions where the discriminatory treatment normally comes after registration or is independent of such registration in the host country (thus the exception also applies to juridical persons which are registered in the host country provided that they are in whole or at least partly under foreign ownership or control):
 - B.1. Screening / Monitoring;
 - B.2. Permits not related to establishment;
 - B.3. Securities market.

Thirty exceptions fall into group A, of which twenty originate from the energy-related legislation of Contracting Parties / Signatories concerning to a various degree limitations for foreign investors with respect to granting concessions or licenses (sub-group A.2). About 70% of the measures in that sub-group come from OECD countries. The measures maintained by Contracting Parties / Signatories in Group A may be considered as being the most serious, although sometimes only potential, violations of the national treatment principle.

Reciprocity

Nine Contracting Parties / Signatories including the EU maintain twelve exceptions with respect to reciprocity. The non-conforming measures in this category are divided into the following groups:

- A.1 Land / real estate – related to reciprocity;
- A.2 Land / real estate – related to the Most Favoured Nation principle;
- B. Registration / screening;
- C. Third party access;
- D. Post-investment.

The majority of non-conforming measures relate to land/real estate (five exceptions) and registration / screening (four exceptions) groups. The single non-conforming measure in group D, which is from a country with well developed market system, is subject to a revision, as well as two measures in group C, which are not necessarily covered by the Treaty.

However, the fundamental question with respect to reciprocity in a multinational treaty is whether or not the treaty itself meets the reciprocity requirements. Typically there are two types of conditions:

- a) The reciprocity requirement is met when two countries enter into a bilateral agreement;
- b) The reciprocity requirement is met when investors of the host country are granted similar treatment in the other country.

It may be argued that condition (a) would be met by a multilateral treaty, whereas the fulfilment of condition (b) depends on a concrete evaluation of other countries' treatment or exceptions in the relevant sector or economic activity.

Other exceptions

There are six other notified measures from four Contracting Parties/Signatories, all of them countries with former centrally planned economies, which are deemed to be outside the scope of the Treaty.

Non-Conforming Measures (Exceptions) Status

Table 1. contains a list of the thirty nine countries that have submitted notifications of exceptions. Table 2. contains a list of Signatories / Contracting Parties to the Energy Charter Treaty that have no notified exceptions. Table 3. contains a listing of notified exceptions by country and type.

Table 1. Signatories / Contracting Parties to the Energy Charter Treaty with Exceptions.

Country	Number of exceptions	Country	Number of exceptions
Albania	1	Latvia	1
Armenia	1	Liechtenstein	1
Australia	3	Lithuania	1
Austria	3	Malta	2
Azerbaijan	2	Moldova	1
Belarus	4	Mongolia	2
Bulgaria	2	Poland	3
Croatia	3	Romania	1
Cyprus	1	Russian Federation	8
Czech Republic	3	Slovakia	2
European Communities	1	Slovenia	3
Finland	6	Spain	2
France	2	Switzerland	5
Germany	1	Tajikistan	2

Greece	3	The FYR of Macedonia	1
Hungary	1	Turkey	2
Iceland	1	Turkmenistan	1
Italy	2	Ukraine	6
Japan	4	Uzbekistan	1
Kazakhstan	2		
Total			91

Table 2. Signatories / Contracting Parties to the Energy Charter Treaty without Notified Exceptions

Belgium	Luxembourg
Bosnia and Herzegovina	Netherlands
Denmark	Norway
Estonia	Portugal
Georgia	Sweden
Ireland	United Kingdom
Kyrgyzstan	

Table 3. Notified Exceptions by Type and Country

COUNTRY CATEGORY/GROUP	LAND / REAL ESTATE					PRIVATISATION						ACCESS/REGISTRATION/SCREENING					RECIPROCITY					OTHER	TOTAL
	A	B	C	D	E	A	B	C	D	E	F	A1	A2	B1	B2	B3	A1	A2	B	C	D		
ALBANIA						1																	1
ARMENIA			1																				1
AUSTRALIA	1														2								3
AUSTRIA		1											2										3
AZERBAIJAN			1				1																2
BELARUS			1												2							1	4
BULGARIA			1																			1	2
CROATIA						2											1						3
CYPRUS				1																			1
CZECH REPUBLIC	1												1		1								3
EUROPEAN UNION																			1				1
FINLAND												2	3	1									6
FRANCE													2										2
GERMANY														1									1
GREECE													2		1								3
HUNGARY												1											1
ICELAND													1										1
ITALY																			2				2
KAZAKHSTAN					1	1																	2
JAPAN													1	1			1				1		4
LATVIA																		1					1
LIECHTENSTEIN													1										1
LITHUANIA																		1					1
MALTA		1										1											2
MOLDOVA				1																			1
MONGOLIA					1							1											2
POLAND		1											1						1				3
ROMANIA	1																						1
RUSSIAN FEDERATION	1	1														3						3	8
SLOVAKIA	1												1										2
SLOVENIA												2					1						3
SPAIN																				2			2
SWITZERLAND		1										1	3										5
TAJKISTAN			1		1																		2
THE FYR OF MACEDONIA	1																						1
TURKEY						2																	2
TURKMENISTAN												1											1
UKRAINE	1					1						1	2									1	6
UZBEKISTAN					1																		1
Total exceptions in group	8	5	5	2	4	7	1	-	-	-	-	10	20	5	4	4	3	2	4	2	1	6	
Total exceptions in category	23					8						42					12					6	91

TEXT OF NOTIFICATIONS

***SECTION ONE: EXCEPTIONS RELATED TO LAND AND REAL
ESTATE***

1 LAND/REAL ESTATE

COUNTRY: **ALBANIA**

MEASURES

Law No.7980 of 27 July 1995 on Buying and Selling Building Sites, Article 5, paragraph 2.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign individuals or legal entities have the right to buy building sites after they have completed an investment, in accordance with the construction license, only when the value of investment is three times higher than that of the building site, according to the definition of the Council of Ministers.

PHASE-OUT

No plans for changes.

OTHER EXCEPTIONS

None.

2 LAND/REAL ESTATE

COUNTRY: **ARMENIA**

MEASURES

Constitution of the Republic of Armenia of July 1995; Law on Real Estate Property of 1996; Foreign Investment Law of 1994, Art 20.

Law on Real Estate Property of January 1996.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign natural persons, stateless natural persons and foreign legal persons do not enjoy the right to own land on the territory of Armenia.

According to Law any lawfully established legal entity in Armenia enjoys the same status as national legal entities, and is therefore entitled to acquire ownership rights over land.

According to Article 20 of the Foreign Investment Law, property may be leased to foreign investors and enterprises with foreign investment on the basis of lease contracts.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

3 LAND/REAL ESTATE

COUNTRY: AUSTRALIA

MEASURES

Foreign Acquisitions and Takeovers Act 1975, attendant Regulations and Australia's Foreign Investment Policy.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

Federal

DESCRIPTION

Acquisition of interests in urban land in Australia by foreign interests is subject to the requirements of the Foreign Acquisitions and Takeovers Act 1975, and generally require prior notification and approval. There are residency requirements for the purchase of developed residential property and development requirements for vacant land (see www.firb.gov.au).

PHASE-OUT

No plans

OTHER EXCEPTIONS

None.

4 LAND/REAL ESTATE

COUNTRY: AUSTRIA

MEASURES

Laws, including detailed regulations, issued by the states (“Länder”) (a list of applicable state laws is attached).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

State (“Länder”).

DESCRIPTION

Acquisition, purchase as well as rent or lease of real estate by foreigners is subject to authorisation. Authorisation is also required for the acquisition of real estate by established foreign-controlled companies. The states, under their own constitutionally granted authority, permit the acquisition of real estate by foreigners, subject to approval by the respective Real Estate Commission.

PHASE-OUT

Plans for further liberalisation in some states are currently under consideration.

OTHER EXCEPTIONS

None.

Addendum

State Real Estate Laws (“Landesgrundverkehrsgesetze”):

Burgenland: State Law Gazette No 25/2007, 69/2008, 79/2013, 26/2014

Carinthia: State Law Gazette No 9/04

Lower Austria: State Law Gazette No 6800-5

Upper Austria: State Law Gazette No 88/94, 93/95, 93/96, 85/02, 94/05

Salzburg: State Law Gazette No 9/01 (partial liberalisation)

Styria: State Law Gazette No 134/1993, 14/2000, 75/2002, 88/2002

Tyrol: State Law Gazette No 61/96, 59/97, 75/99, 9/2005, 85/2005, 15/2009, 60/2009, 56/2010, 30/2011, 73/2011, 50/2012, 150/2012, 130/2013 (partial liberalisation)

Vorarlberg: State Law Gazette No 28/2004 (partial liberalisation)

Vienna: State Law Gazette No 33/1967, 11/1998, 115/2001, 39/2003 (partial liberalisation).

5 LAND/REAL ESTATE

COUNTRY: AZERBAIJAN

MEASURES Land Code of the Republic of Azerbaijan approved by the Law No. 695-IQ of June 25, 1999; (Article 48.3, Article 49.4, 51.2, 60.2.).

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Article 48. General characteristics of rights to land of legal and natural persons

3. Foreign nationals and stateless persons, foreign legal entities, international associations and organisations as well as foreign states may acquire land plots in the Republic of Azerbaijan only on a leasehold basis.

Article 49. Private property rights for land

4. Private property rights transferred to foreign legal and natural persons as a result of contracts of inheritance, gift or mortgage of land shall be alienated within one year in accordance with the legislation of the Republic of Azerbaijan. In case of failure to alienate private property rights for land of legal and natural persons in accordance with the legislation, a relevant executive authority or municipality shall implement a compulsory purchase of land under a procedure envisaged by this Code.

Article 51. The right to lease land

2. Plots are provided on a leasehold basis to the citizens and legal entities of Republic of Azerbaijan, foreign nationals and stateless persons, foreign legal entities, international associations and organisations as well as to foreign states.

Article 60. Specificities of providing a land plot where the enterprise (facility) under privatization is located

2. If an enterprise (facility) under privatisation is owned by a foreign national or a stateless person, or by a foreign legal entity, they may lease the land plot without the right of its purchase.

Article 88. Specificities of acquiring rights to a land plot due to the conclusion of immovable property transactions

4. When buildings, structures or enterprises (facilities) are sold to foreign nationals and stateless persons, foreign legal entities, international associations and organisations as well as to foreign states, the land plots where these facilities are located shall be leased to them as well.

5 LAND/REAL ESTATE

Article 89. *Specificities of pledging (mortgage) of a land plot*

8. If the pledge holder is a foreign legal entity or a foreign natural person, then the mortgage agreement shall contain a provision on the forced sale of the land plot within one year in case of non-fulfilment of the obligation secured by the pledge.

PHASE-OUT

At present, there are no plans with regard to the phase-out of the above-mentioned exceptions.

OTHER EXCEPTIONS

None.

6 LAND/REAL ESTATE

COUNTRY: **BELARUS**

MEASURES

Land Code of 4.01.1999 N 226-3, article 11.

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Privately owned may be land slots acquired by citizens of the Republic of Belarus who permanently reside on the territory of the Republic of Belarus or persons in a status equal to the permanent residents in accordance with legislation of the Republic of Belarus.

PHASE-OUT

Not planned.

OTHER EXCEPTIONS

None.

7 LAND/REAL ESTATE

COUNTRY: **BULGARIA**

MEASURES

Constitution of the Republic of Bulgaria, Article 22, amended SG No.18/2005; The Ownership Act, Article 29, amended SG No. 24/2007.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

(1) Non-resident natural and juristic persons may acquire the right of ownership in land under the terms of an international agreement ratified under the terms of Article 22 (2) of the Constitution of the Republic of Bulgaria which has been promulgated and entered into force, and non-resident natural persons - also in cases of legal succession.

(2) Citizens of EU Member States or of Member States under the European Economic Space Agreement may acquire the right of ownership in land in accordance with the requirements laid down in law in compliance with the Treaty concerning the Accession of the Republic of Bulgaria to the European Union.

(3) Juristic persons from EU Member States or from Member States under the European Economic Space Agreement may acquire the right of ownership in land under the terms of Paragraph 2.

(4) Non-resident natural and juristic persons may acquire the right of ownership in premises and limited real rights in a real estate in the country unless provided otherwise by law.

(5) A foreign country or intergovernmental organization may acquire the right of ownership in land, premises and limited real rights in a real estate in the country pursuant to an international agreement, law or act of the Council of Ministers.

(6) A foreign country may not acquire the right of ownership in a real estate in the country by inheritance.

PHASE-OUT

Citizens of the Member States of the European Union and of the states - parties to the European Economic Area Agreement may acquire right of ownership over agricultural lands and forests after the expiry of the term defined in the Treaty of Accession of the Republic of Bulgaria to the European Union.

OTHER EXCEPTIONS

None.

8 LAND/REAL ESTATE

COUNTRY: **CYPRUS**

MEASURES

The Immovable Property Acquisition (Aliens) Law, Cap. 109.

SECTOR

National Economy – Ministry of Interiors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Acquisition of immovable property by natural or legal persons, who reside or are registered outside the EU or the EEC, is allowed only by permit of the national competent authority.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

9 LAND/REAL ESTATE

COUNTRY: **CZECH REPUBLIC**

MEASURES

Article 9 of the Act No. 503/2012 Coll., on the State Land Office, from 19th December 2012, as amended.SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to Article 9 of the Act No. 503/2012 Coll., on the State Land Office, state agricultural land can be transferred from the ownership of the State to the ownership of a natural or juridical person carrying out business in agriculture only if this natural or juridical person is a citizen of (or is a juridical person pursuant to) either the Czech Republic or an EU member state, Switzerland or an EEA member state.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

MEASURES

Land Code of RK of 20 June 2003 No. 442-II, Articles 23, 24, 37

SECTOR

National economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreign nationals, stateless persons and foreign legal entities (non-state) may hold in private property land plots granted for construction or land plots comprising constructed production and nonproduction buildings, including residential (structures, facilities) and their complexes, including land designed to serve buildings (structures, facilities) in accordance with its intended use.

Foreign nationals and foreign legal entities may not hold in private property land designated for agricultural production and afforestation.

Foreign nationals, stateless persons and foreign legal entities, as well as legal entities in which foreign nationals, stateless persons and foreign legal entities legal entities hold an interest in excess of 50% may acquire land plots designated for agricultural production only in lease for temporary use for up to 10 years.

Lands located in border areas and frontier belt shall not be granted to foreign nationals, stateless persons and foreign legal entities in private ownership.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None

10 LAND/REAL ESTATE

COUNTRY: **MALTA**

MEASURES

Immovable Property (Acquisition by non-residents) Act as amended by Act LVIII of 1974, Legal Notice 148 of 1975 and Acts: XVI of 1978, IV of 1979, XIII of 1983 and I of 1988.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign investors are not allowed to own more than one property in Malta. However, they can lease additional property. In addition, the Maltese Minister of Finance cannot withhold his permission for the acquisition of an immovable property by a non-resident, if he is satisfied that the immovable property is required for an individual or tourist project approved by the Government or for any other project or purpose similarly approved in view of its contribution to the development of the Maltese economy.

PHASE-OUT

No plans.

OTHER EXCEPTIONS

None.

11 LAND/REAL ESTATE

COUNTRY: **MOLDOVA**

MEASURES

Law of the Republic of Moldova on Investments in Entrepreneurial Activity, Article 22, Official Monitor of the Republic of Moldova No. 64-66, as of 23/04/2004; Law of the Republic of Moldova on foreign investments of December 13, 1994, Art 32.

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreign investors shall have the right to take possession, in compliance with legislation of the Republic of Moldova, of real estate on the territory of the Republic of Moldova to carry out business activity, except for agricultural lands and forestry fund lands, with the purpose to develop entrepreneurial activities.

Renting out of state (municipal) property costing more than it is stipulated by the Parliament of the Republic of Moldova to enterprises with foreign investments is carried out with the permission of a state (municipal) control organ authorised to handle this property.

PHASE-OUT

Not planned

OTHER EXCEPTIONS

None

11 LAND/REAL ESTATE

COUNTRY: MONGOLIA

MEASURES

Constitution of Mongolia, Article 6, paragraphs 1, 2, 3 and 5; Foreign Investment Law of July 1993, Article 21; Law on Allocation of Land to Mongolian Citizens for Ownership (adopted on 28 June 2002).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Mongolian Constitution stipulates that land, its subsoil, water, fauna and flora and other natural resources are the exclusive property of the state, with the exception of land given to the citizens of Mongolia for private use. Citizens are prohibited to transfer land in their possession to foreign citizens or stateless persons without permission of the competent State authorities. The state may, however, allow foreign citizens, legal persons and stateless persons to lease land for a specific period of time. Accordingly, the Foreign Investment Law stipulates that business entities with foreign investment may require the right to use land by way of lease.

The newly adopted Law on Allocation of Land to Mongolian Citizens for Ownership allows the transfer of plots of land into private ownership of Mongolian citizens (privatisation) under certain terms and conditions related to location, size of the plot, etc. Private land cannot be sold to foreigners or stateless persons. However, a local joint venture partner can contribute land as its equity in a joint venture.

An authorisation by the relevant local Hural of Representatives and its Presidium is required for lease of State-owned land by a wholly foreign-owned business entity or a business entity with foreign investment in which a Mongolian investor is a party.

The duration of any lease is determined by the duration of the operations of the business entity with foreign investment. The initial term of lease shall not exceed 60 years; the lease may be extended once for a period of up to 40 years on the same conditions as the original lease.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

COUNTRY: POLAND

MEASURE

Law of 24th March 1920 on the Acquisition of Real Estate by Foreigners, (Journal of Laws of 2004 No 167, item 1758 with later amendments).

SECTOR

All sectors

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The acquisition of real estate, direct and indirect, by foreigners requires a permit. A permit is issued through an administrative decision by a minister competent in internal affairs, with the consent of the Minister of National Defence, and in the case of agricultural real estate, also with the consent of the Minister of Agriculture and Rural Development.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

.

13 LAND/REAL ESTATE

COUNTRY: **ROMANIA**

MEASURE

Constitution of Romania, Article 44, paragraph 2.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign citizens and stateless persons shall only acquire the right to private property of land under the terms resulting from:

- Romania's accession to the European Union and other international treaties to which Romania is a party;
- Lawful inheritance.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

14 LAND/REAL ESTATE

COUNTRY: **RUSSIAN FEDERATION**

MEASURES

Land Code of the Russian Federation No. 136-FZ dated 25 October 2001, Articles 15(3), 22(1), 28(5), 35(5).

Federal Law No. 137-FZ dated 25 October, 2001, "On the Implementation of the Land Code of the Russian Federation", Article 5, Article 8.

SECTOR

National economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

Foreign citizens, persons without citizenship and foreign legal entities are not entitled to the right to own land acreage in areas located in proximity to borders, the list of which is established by the President of the Russian Federation in accordance with the federal legislation on the State Border of the Russian Federation, as well as in other specially defined territories of the Russian Federation in accordance with federal legislation.

Foreign citizens, persons without citizenship and foreign legal entities may acquire the right to own land acreage in exchange for a payment only, the amount of which is determined in accordance with the Land Code.

Foreign citizens, persons without citizenship and foreign legal entities, who own buildings, edifices, facilities located on a land acreage owned by others, are entitled to the right of first call on buying or renting the land acreage, subject to rules and procedures established by the Land Code, however, the President of the Russian Federation may establish a list of buildings, edifices, facilities, to which this rule does not apply.

PHASE-OUT

Not envisaged.

OTHER EXCEPTIONS

Until the establishment by the President of the Russian Federation of a list of areas in proximity of borders, the transfer of land acreage located in such areas to the ownership of foreign citizens, persons without citizenship and foreign legal entities, is not permitted.

Until the enacting of the federal law on transactions with agricultural land, foreign citizens, persons without citizenship and foreign legal entities may be in possession of and use agricultural land acreage as tenants only.

Article 3 of the regulation entitled "Rules for the sale of land acreage upon the privatisation of state and municipal enterprises, upon expansion(s) and addition(s) via construction to such enterprises, as well as of acreage let to citizens and their associations for entrepreneurial activities" (approved by Decree No 631 of the President of the Russian Federation dated 14 June 1992), which stipulated that any natural person(s) and legal entity(ies), including foreign ones, could buy such acreage in accordance with the Rules, as long as they qualified for the status of buyers in accordance with the Law of the Russian Soviet Federal Socialist Republic (RSFSR) "On the privatisation of state and municipal enterprises in RSFSR", has been abolished in compliance with Decree No 485 of the President of the Russian Federation, dated 16 May 1997.

COUNTRY: RUSSIAN FEDERATION

MEASURES

Federal Law dated 24 July 2002 No. 101-FZ “On Transactions Involving Agricultural Land”, Art. 3.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

Foreign citizens, foreign legal entities, persons without citizenship, as well as legal entities, wherein the share of foreign citizens, foreign legal entities, persons without citizenship exceeds 50 percent in the charter capital fund (authorised capital shares), may possess plots of land belonging to the agricultural land as tenants only.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

COUNTRY: **SLOVAKIA**

MEASURES

Act. 202/1995 Coll. (Foreign Exchange Act)

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreigners may own land in the Slovak Republic only if it does not belong to an agricultural soil fund or a forest soil fund. However, they can own this kind of land if they are citizens of the European Union (with transition residence permit issued in Slovakia), and operate the land for at least three consecutive years after the entry of the Slovak Republic into the European Union.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

17 LAND/REAL ESTATE

COUNTRY: **SWITZERLAND**

MEASURES

Federal Act of 16 December 1983 on the Acquisition of Real Estate by Persons Abroad (Systematic Collection of Federal Laws and Regulations [RS], No. 211.412.41).

SECTOR

All Sectors.

LEVEL OF GOVERNMENT

Federal and cantonal.

DESCRIPTION

Acquisition of real estate is subject to authorisation by the relevant cantonal authority when the acquirer does not use the property to operate a permanent establishment.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

18 LAND/REAL ESTATE

COUNTRY: **TAJIKISTAN**

MEASURES

The Land Code of the Republic of Tajikistan on 13 December 1996, 327, Article 25 (as amended on 01.08.2012 891), the Civil Code of the Republic of Tajikistan (Part 2) from December 11, 1999, 884, Article 687, part 3 (as amended on 22.07.2013 977).

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreign citizens and foreign legal entities may be granted land in limited use for up to 50 years. Agricultural land and land protected areas to foreign citizens and foreign legal entities are not available. Foreign citizens and foreign legal entities may lease land for agricultural purposes for a period of 20 years.

PHASE - OUT

No plans

OTHER EXCEPTIONS

(No exceptions)

COUNTRY: TAJIKISTAN

MEASURES

Law of the Republic of Tajikistan "On Legal Status of Foreign Citizens in the Republic of Tajikistan" dated February 1, 1996, 23, Article 11 (as amended from 14.03.2014 1071)

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreign nationals are not allowed to acquire ownership of residential buildings and houses, and also other buildings belonging to the housing stock (except for the purchase of the inheritance heirs at law), unless otherwise provided by laws and international legal acts recognized by Tajikistan.

PHASE - OUT

No plans

OTHER EXCEPTIONS

No exceptions

COUNTRY: THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

MEASURES

Law on Ownership and Other Material Rights of the Republic of Macedonia (Official Gazette of Macedonia No 18/2001), Articles 244, 245, 246, and 277.

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

A foreign natural or juridical person, including its organisation unit in the Republic of Macedonia, may not acquire ownership of any land whereas national natural or juridical person may acquire ownership of land.

According to Articles 244, 245, 246, and 277 of the Law on Ownership and Other Material Rights of the Republic of Macedonia, a foreign natural or juridical person under reciprocity conditions may acquire ownership right of real estate (including land) on the territory of the Republic of Macedonia by inheriting. A foreign natural or juridical person, under reciprocity may also acquire ownership right and long-term lease of business area right on the territory of the Republic of Macedonia and long term land lease right for construction of business building and offices or apartment buildings.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

COUNTRY: UKRAINE

MEASURES

Law on Treatment of Foreign Investments No 93/96-VR of 19 March 1996, Article 3.

Land Code No 2768-III dated 25 October 2001, Article 22, paragraph 5; Article 33, paragraph 2; Article 35, paragraph 2; Article 81, paragraph 2 & 4.

Forestry Code No 3852-XII of 21 January 1994, Article 13, paragraph 2.

Decree of the President of the Ukraine No.612/93 on Privatisation of Filling Plants that Sell Fuel and Lubricants Solely to the Population of 29 December 1993.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

To a large extent, the Land Code No. 2768-III dated 25 October 2001 liberalised land-related relations, and removed the restrictions on the right of foreign citizens and foreign legal entities to possess land acreage. Still, a number of restrictions remain:

- Agricultural plots of land cannot be transferred into the ownership of foreign citizens, persons without citizenship, foreign legal entities and foreign governments;
- Foreign citizens and persons without citizenship may possess land acreage for the purpose of personal farming on rental terms (as tenants);
- Foreign citizens and foreign legal entities may acquire ownership over non-agricultural acreage:
 -) within city/village limits in cases of acquisition of real estate property and for the purpose of construction of facilities related to the carrying out of entrepreneurial activity in the Ukraine;
 - b) outside city/village limits in cases of acquisition of real property.

Agricultural acreage inherited by foreign citizens and legal entities, must be disposed of within one year.

PHASE-OUT

Phase-out of this specific exception depends on the progress of the land reform of the Ukraine and liberalisation of land relations. Higher state authorities of the Ukraine have declared their intention to gradually liberalise land relations.

OTHER EXCEPTIONS

None.

COUNTRY: **UZBEKISTAN**

MEASURES

Land Code of 1 July 1998, Article 24 (“Land Acreage Rental”)

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The lease of a land plot is a fixed-term, subject to remuneration, possession and use of land in accordance with the terms of a lease agreement.

A land lot is leased on a contractual basis:

- to citizens and legal persons of the Republic of Uzbekistan – by the district and city khokims;
- to associations and enterprises with foreign investments, international organisations, foreign legal and natural persons – by the Cabinet of Ministers of the Republic of Uzbekistan.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None

SECTION TWO: PRIVATISATION

1 PRIVATISATION

COUNTRY: **ALBANIA**

MEASURES

Law No. 8306 of 14 March 1998 on the Privatisation Strategy of the Primary Importance Sectors, Article 8.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Participation with privatisation vouchers, during privatisation of enterprises and companies in the primary sectors, is determined in the formula of privatisation, but may not in any case exceed 20% of the accounted capital (nationals only; re-sale is not restricted).

PHASE-OUT

No plans for changes.

OTHER EXCEPTIONS

None.

3 PRIVATISATION

COUNTRY: **AZERBAIJAN**

MEASURES

Law on Privatisation of the State Property of January 7, 1993, Article 8, paragraph 1.

The Second State Programme for Privatisation of the State Property in the Republic of Azerbaijan, 2000, Art. 2.2

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The participation of foreign legal and natural persons in privatisation is permitted in accordance with the legislation of the Republic of Azerbaijan pursuant to the procedure established by the State Privatisation Programme.

According to the State Programme for Privatisation of State Property in the Republic of Azerbaijan, the decision on the possible admission of foreign investors to participation in the privatisation of facilities, specified in Art 2.2 of the Programme, is made by [the] President of the Republic of Azerbaijan, as advised by the State Committee on Property, simultaneously with the decision on the permissibility of privatisation of those facilities and enterprises. In accordance with Art 2.2.13, the enterprises of the fuel and energy complex, power and oil and gas industries, enterprises involved in the sales of oil and oil products may be privatized only by the decision of the President.

PHASE-OUT

At present, there are no plans with regard to the phase-out of the above mentioned exception..

OTHER EXCEPTIONS

None.

4 PRIVATISATION

COUNTRY: **CROATIA**

MEASURES

Act on Privatisation of national oil company INA of March 2002 (OG 32/02)

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Act on Privatisation of INA essentially does not contain discrimination against foreign investors, nevertheless it provides, in special cases, for a possibility of granting some preferences to domestic investors.

The Act on Privatisation of INA envisages the further sale of 15% of shares through public offering on Croatian stock exchanges. Also, 7% of INA's shares will be offered to employees and former employees, and 7% of shares will be transferred without compensation to war veterans. The Republic of Croatia will keep 25% plus one INA share until accession of the Republic of Croatia to the EU. The remaining 21% will be distributed as compensation to former owners, and the rest will be sold or exchanged in accordance with market conditions, the decision of the Government and with the approval of the Croatian Parliament.

PHASE-OUT

This depends on the outcome of the future accession negotiations with the European Union.

OTHER EXCEPTIONS

None.

5 PRIVATISATION

COUNTRY: **CROATIA**

MEASURES

Act on Privatisation of national electricity company Hrvatska elektroprivreda (HEP) of March 2002 (OG 32/02)

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Act on Privatisation of HEP essentially does not contain discrimination against foreign investors, nevertheless it provides, in special cases, for a possibility of granting some preferences to domestic investors.

7% of the shares will be given directly and free of charges to Croatian defenders during the aggression on Croatia, 7 % of shares will be sold, under specific conditions, to the present and former employees, and at least 15 % of shares will be offered through the IPO model. The Republic of Croatia will keep at least 51 % of shares until its membership in the European Union.

PHASE-OUT

This depends on the outcome of the future accession negotiations with the European Union.

OTHER EXCEPTIONS

None.

5 PRIVATISATION

PRIVATISATION

COUNTRY: **KAZAKHSTAN**

MEASURES

Law of RK of 1 March 2011, No. 413-IV *On State Property*, Article 188(3); the Civil Code of RK of 27 December 1994; Rules for Sale of Assets Subject to Privatization (approved by the Resolution of the Government of RK of 9 August 2011 No.920)

SECTOR

National economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Foreign nationals, stateless persons, legal entities with participation of non-residents and their affiliated entities are not admitted to auctions for strategic properties.

In accordance with Article 193-1 of the Civil Code of RK, strategic assets shall be the property of social and economic significance for sustainable development of Kazakhstan society, where ownership and/or use and/or disposal of such property will influence national security of Kazakhstan.

The following assets may be included on strategic category: long-distance railway networks; oil transmission pipelines; gas transmission pipelines; national grid; refineries; generation installations with capacity of at least 50 MW; nuclear energy facilities, and other facilities indicated in Article 193-1 of the Civil Code of RK; as well as stocks (interest, shares) of legal entities, which own strategic assets, stocks (interest, shares) of individuals and legal entities that may directly or indirectly define decisions or influence decisions taken by legal entities, which own strategic assets. Strategic assets may be in state of private ownership in accordance with Kazakhstan legislation.

PHASE-OUT

No plans at present

OTHER EXCEPTIONS

None

6 PRIVATISATION

COUNTRY: **TURKEY**

MEASURES

Privatisation Law (Law No 4046), Article 13, paragraph (b).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Privatisation High Council is authorised to determine strategic subjects and organisations as well as to remove such sectors and organisations determined to be strategic from the scope of the Privatisation Programme.

In the event that the State's shareholdings in organisations determined to be strategic fall below 50%, the Privatisation Council is authorised:

- to determine the number of preference shares granting special management and approval rights to the management bodies and the rights attaching to those shares which the State shall enjoy;
- to change the quantity of these shares and the rights attached thereto.

However, if and when more than 49% of the capital shares of the organisations listed below are decided to be privatised, preference shares must be established in them:

- Turkish Petroleum (TPAO, refineries).

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

7 PRIVATISATION

COUNTRY: **TURKEY**

MEASURES

Privatisation Law (Law No 4046), Article 14.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Sale and transfer of real estate to foreign natural or juridical persons within the framework of the privatisation process to be conducted in accordance with the provisions of this Law are subject to the provisions of the legislation in force on the basis of rules of reciprocity.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

8 PRIVATISATION

COUNTRY: **UKRAINE**

MEASURES

Regulation Concerning the Procedure of Preparation, Organisation and Conduct of International Competitions in the Area of Privatisation in the Ukraine, Chapter III, paragraph 5, part 1 (approved by the Order No 242 of State Property Fund of the Ukraine of 27 April 1994).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Decisions to call an international competition in the area of privatisation in the Ukraine are taken by the Order of the State Property Fund of the Ukraine based on a feasibility study (business plan) of the facility development. In this case the share of state property offered for sale to a foreign investor should be clearly specified.

PHASE-OUT

Phase-out of this specific exception depends on the progress of market reform in the Ukraine and liberalisation of privatisation legislation.

OTHER EXCEPTIONS

None.

SECTION THREE: ACCESS, REGISTRATION, SCREENING

1 ACCESS/REGISTRATION/SCREENING

COUNTRY: **AUSTRALIA**

MEASURES

Foreign Acquisitions and Takeovers Act 1975.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

Australia welcomes foreign investment, including in relation to the energy sector. The welcoming environment is in recognition of the substantial contribution foreign investment has made and can continue to make to the development of Australia's industries and resources.

Within this welcoming environment, a screening system for foreign investment proposals above certain thresholds operates, under the provisions of the Foreign Acquisitions and Takeovers Act 1975. Prior authorisation is required for acquisitions by non-government foreign interests of a substantial interest in domestic firms with total assets of A\$231 million or more.

The proposals screened are subject to a 'contrary to the national interest' test. Under this test, the onus is on the authorities to identify reasons to reject, rather than on the investor to justify the approval. Approval would only be withheld in the most unusual circumstances. On occasions, approval is subject to certain conditions and as a means to protect the environment.

The screening system operates within statutory deadlines whereby a decision on each case must be made within a set time. Most decisions are advised within a month.

Foreign investors are encouraged to make early contact with Australia's Foreign Investment Review Board, which regularly briefs investors of Australia's foreign investment policy (see www.firb.gov.au).

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

2 ACCESS/REGISTRATION/SCREENING

COUNTRY: **AUSTRALIA**

MEASURES

Foreign investment policy for investments by foreign governments.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

All direct investments, irrespective of value, by foreign governments require prior approval.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

3 ACCESS/REGISTRATION/SCREENING

COUNTRY: **AUSTRIA**

MEASURES

Federal Act Providing New Rules for the Natural Gas Sector (Natural Gas Act), Article 1 of the Federal Energy Liberalisation Act, published in the Federal Law Gazette (Bundesgesetzblatt) No. 121/2000.

Pipeline Law (Rohrleitungsgesetz) of 1975, Federal Law Gazette No 411/1975, amended repeatedly.

SECTOR

Oil and gas pipelines.

LEVEL OF GOVERNMENT

Federal ("Bund").

DESCRIPTION

Notwithstanding international obligations, these laws provide for licensing conditions referring to issues such as nationality, domicile and the registered seat.

PHASE-OUT

There are no plans for further liberalisation.

OTHER EXCEPTIONS

None.

4 ACCESS/REGISTRATION/SCREENING

COUNTRY: AUSTRIA

MEASURES

Laws issued by the Federal Provinces (Länder) in line with several principles and guidelines, determined by the Federal Act Providing New Rules on the Organisation of the Electricity Sector (Electricity Act), as amended by the Federal Energy Liberalisation Act, published in the Federal Law Gazette (Bundesgesetzblatt), No. 121/2000. A list of laws is provided below.

SECTOR

Electricity.

LEVEL OF GOVERNMENT

Federal Provinces (“Länder”).

DESCRIPTION

Notwithstanding international obligations, these laws may provide for licensing conditions referring to such issues as nationality, domicile and the registered seat.

PHASE-OUT

There are no plans for further liberalisation.

OTHER EXCEPTIONS

None.

Addendum

Province (Land)	Law
Burgenland	Law dated September 28, 2006, [on] the Regulation of the Electricity Sector in Burgenland (Burgenländisches Elektrizitätswesengesetz 2006 – Bgld. EIWG 2006), LGBl. Nr. 59, in der Fassung des Gesetzes LGBl.Nr. 79/2013
Carinthia	Law dated January 5, 1999, On the Generation, Transmission and Distribution of Electricity, as well as on the Organisation of the Electricity Sector in Carinthia (Kärntner Elektrizitätswirtschaftsgesetz 1999 – K-EIWG, LGBl Nr. 5, idF des Landesgesetzes LGBl Nr. 75/2001)
Lower Austria	Law on the Electricity Sector dated 2005 [(NÖ Elektrizitätswesengesetz 2005, NÖ EIWG 2001, LGBl 7800-0 (LGBl Nr. 33/1999)]
Upper Austria	Law on the Establishment of the Law on the Electricity Sector and Its Organisation, dated 2005 (Oö EIWOG 2005, LGBl Nr. 7800-5)
Salzburg	Electricity Law dated 1999 (1999 – LEG, LGBl Nr. 75, idF des Landesgesetzes LGBl Nr. 41/2001)
Styria	Law dated 19, April 2005 LGBl. Nr. 70/2005 i.d.F. LGBl Nr. 45/2014
Tyrol	Law dated July 4, 2001, On the Regulation of the Electricity Sector in Tyrol (Tiroler Elektrizitätsgesetz 2001 – TEG, LGBl Nr. 76/2001)
Voralberg	Law on the Generation, Transmission and Distribution of Electric Power (Law on the Electric Sector), dated 6/1999 (Elektrizitätswirtschaftsgesetz, LGBl Nr. 6/1999, idF des Landesgesetzes LGBl Nr. 41/2001)
Vienna	Law on the Reorganisation of the Electrical Sector, dated 2001 (Wiener Elektrizitätswirtschaftsgesetz 2005 – WEIWG 2005, LGBl Nr. 46/2005, LGBl Nr. 35/2013)

Note: LGBl – Federal Province Law Gazette; idF

5 ACCESS/REGISTRATION/SCREENING

COUNTRY: **BELARUS**

MEASURES

Investment Code of 26.01.2001 N 2-78, article 78.

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign investments in the property of legal persons that have a monopoly position on the market of the Republic of Belarus are not allowed without consent of the Ministry of Entrepreneurship and Investments of the Republic of Belarus.

PHASE-OUT

Not planned.

OTHER EXCEPTIONS

None.

6 ACCESS/REGISTRATION/SCREENING

COUNTRY: **BELARUS**

MEASURES

Investment Code of 26.01.2001 N 2-78, article 80.

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

A commercial organisation with foreign investments may engage in certain types of activities, which are defined by legislative acts of the Republic of Belarus, only on the basis of special permits (licenses).

PHASE-OUT

Not planned.

OTHER EXCEPTIONS

None.

7 ACCESS/REGISTRATION/SCREENING

COUNTRY: CZECH REPUBLIC

MEASURES

Art. 2 para. 5 and Art. 7 para. 1 of the Act No. 360/1992 Coll., on Authorisations of Architects, Engineers and Technicians on Performance in Civil Engineering, from 7th May 1992, as amended.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Art. 2 para. 5 prescribes that natural or legal persons may perform certain design activities in construction only if these are performed by authorised persons.

Art. 7 para. 1 further prescribes that such authorisation (license from the Czech Chamber of Authorised Engineers and Technicians) will only be issued to a person who is a citizen of either the Czech Republic or an EU member state, Switzerland or an EEA member state (hereinafter as “member states”) or is a family member of such citizen and will be also issued to a citizen of a third country if such person:

- has been awarded the status of an EU long-term resident
- has been awarded a residence permit in the Czech Republic for the purpose of scientific research
- has been awarded asylum or supplementary protection in the Czech Republic or is a family member of a person in paragraph 1 or 2 or has been awarded a long-term resident status or asylum or supplementary protection for the purpose of family reunification
- has been awarded a residence permit in the Czech Republic or another member state for the purpose of education
- has been awarded a residence permit in the Czech Republic or another member state because this person is a victim of trafficking with human beings or has been assisted with illegal immigration and is cooperating with the relevant authorities.

This person must also fulfil other pre-conditions; however, they are not discriminative.

PHASE-OUT

No plans at present

OTHER EXCEPTIONS

None.

8 ACCESS/REGISTRATION/SCREENING

COUNTRY: **CZECH REPUBLIC**

MEASURES

Art. 3, para. 3 and Art. 7, para. 4(g) of the Act No. 458/2000 Coll., on business requirements and exercise of public administration in the energy sectors (Energy Act), from 28th November 2000, as amended.

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Article 3, para. 3 prescribes that to access the energy market, every natural or juridical person has to be granted a licence by the Energy Regulatory Office.

Pursuant to article 7, para. 4(g), a foreign natural person that is not a citizen of an EU member state must attach to the license application a proof of permanent residence in the Czech Republic. (Permanent residence permits are issued by the Ministry of Interior pursuant to the Act No. 326/1999 Coll., on the residence of aliens in the territory of the Czech Republic.)

PHASE - OUT

No plans at present

OTHER EXCEPTIONS

None

8 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Act on Monitoring Foreign Acquisitions of Enterprises (1612/92), sections 1, 3, 5, 8 and 9.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The transfer of Finnish companies into foreign hands is monitored concerning every company with more than 1000 employees on its payroll or with turnover or year end assets of FIM 1000 million or above. Confirmation by the Ministry of Trade and Industry would be needed if the buyer acquires control of at least 1/3 of the voting rights rendered by all shares of the company. Under the procedure, the MTI has to confirm the acquisition unless it considers that an essential national interest would be jeopardised. In such a case the Council of State may block an individual acquisition. Defence industries and services will fall under the monitoring practice regardless of the company's size.

As regards its acquisitions, any Finnish entity with foreign control of more than 50% of all voting rights rendered by all shares, is subject to the same monitoring procedure as foreigners and foreign entities. The same procedure also applies when a partner in a Finnish General or Limited Partnership is a foreigner or a foreign entity.

This regime is not applied to States party to the EEA or members of the OECD.

PHASE-OUT

None.

OTHER EXCEPTIONS

This is an exception to the MFN treatment.

9 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Trade Act of 1919 and the Act of 1993 on Amending the Trade Act (228/93), section 1.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the 1993 Act (228/93) amending the 1919 Trade Act no permission for trade is required if the foreigner (i.e. natural person) in question is permanently resident in the area covered by the EEA Treaty. Similarly, no permission is required if a foreign entity which has registered a branch in Finland, has been established according to the legislation of a State party to the EEA Treaty and also has its registered office, central management or main place of business in such a State.

A permission to act as a partner in General Partnerships and as an active partner in Limited Partnerships is required unless the natural person or entity has its residence in the EEA area, as explained above. Such permission is however not required if one of the partners in a General Partnership or one of the active partners in a Limited Partnership has its residence in the EEA area.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

10 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Companies Act of 1978 and the Act of 1993 on Amending the Companies Act, chapter 2, section 1 (2-3) and chapter 8, section 4 (1).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the present (Limited) Companies Act, unless an exception is granted by permission:

1. At least half of the founders of a limited company (whether natural or legal persons) must have residence in the European Economic Area. If the founder is a legal entity it must have been established according to the legislation of a State party to the EEA Treaty and have its registered office, central management or main place of business in such a State.
2. At least one member of the board and the managing director, where one is needed, must have residence in the European Economic Area.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

11 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Mining Act of 1965 and the Act of 1992 on Amending the Mining Act (1625/92), section 1.

SECTOR

Mining.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

For mining activities a foreign natural person or entity needs a permit issued by the Ministry of Trade and Industry. No such permit is necessary for:

- a) a natural person being resident in the area covered by the EEA Treaty; or
- b) a foreign entity being established according to legislation of a State party to the EEA Treaty which also has its registered office, central management or main place of business in such a State.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

12 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Nuclear Energy Act of 1987 (990/87) and the Act on Amending the Nuclear Energy Act (1420/94), section 17.

SECTOR

Nuclear.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

A license to use nuclear energy may be granted only to natural persons, entities or government authorities under the jurisdiction of a member state of the European Union.

PHASE-OUT

None.

OTHER EXCEPTIONS

A license to possess, use, transport, export or import nuclear material or nuclear waste may, in connection with control activities, be also granted to an international organisation or foreign authority responsible for the control required by international treaties binding on Finland.

13 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FINLAND**

MEASURES

Continental Shelf Act of 1965, section 2 (1).

SECTOR

Exploration and exploitation of the continental shelf.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The license needed for exploration and exploitation of the continental shelf of Finland may be granted to a foreign citizen or entity only when especially justified.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

14 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FRANCE**

MEASURES

Decree on Concessions for Hydropower Production (May 12th, 1970).

SECTORS

Energy sector - hydropower.

LEVEL OF GOVERNMENT

National and local.

DESCRIPTION

Hydropower : Authorisation for electricity generation in hydropower plants with a capacity below 8 000 kW cannot be granted to foreign investors other than from the Member States of the European Union.

PHASE-OUT

None.

OTHER EXCEPTIONS

MFN exception.

14 ACCESS/REGISTRATION/SCREENING

COUNTRY: **FRANCE**

MEASURES

Decree on Foreign Investments subject to Prior Approval (May 14th, 2014)

SECTORS

Energy sector - electricity, gas, hydrocarbons or other energy sources.

LEVEL OF GOVERNMENT

National and local.

DESCRIPTION

Control on foreign investment: Prior Approval shall be requested by foreign investors for activities relating to the integrity, security and continuity of supply in electricity, gas, hydrocarbons or other energy sources, and which are vital for safeguarding France's interests as regards public order, public security and national defence.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

15 ACCESS/REGISTRATION/SCREENING

COUNTRY: **GERMANY**

MEASURES

Foreign Trade and Payments Act and its implementing regulations, 18 April 2009

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

The Federal Ministry for Economic Affairs and Energy has the right to initiate a review of foreign investments, and can exceptionally prohibit transactions that threaten to impair public security or public order. The screening is applicable to investors from outside the EU and the European Free Trade Association that seek to acquire 25% or more voting rights of a German company. It is not limited to specific sectors or a certain size of the target enterprise.

PHASE-OUT

No commitments

OTHER EXCEPTIONS

None

16 ACCESS/REGISTRATION/SCREENING

COUNTRY: **GREECE**

MEASURES

Legislative Decree No. 210/1973 (Greek Mining Code), as amended by Law No 274/1976 (Law 274/1976 amends Articles 8, 9.1, 10, 11, 12, 20, 79.2, 80, and 126.4 of the Legislative Decree 210/1973 and introduces a general prohibition through its Article 1).

Presidential Decree 92/1986.

SECTOR

Solid fuels, radioactive minerals and geothermal energy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Under no circumstances an exploration license may be granted to foreign natural or legal persons.

The prior approval of the Council of Ministers is mandatory for any concession or act of any kind referring to the exploitation by a foreign natural or legal person.

The above constraints do not apply to natural or legal persons from an EU Member State.

PHASE-OUT

No commitments.

OTHER EXCEPTIONS

MFN exception.

17 ACCESS/REGISTRATION/SCREENING

COUNTRY: **GREECE**

MEASURES

Legislative Decree No. 210/1973 (Greek Mining Code), Articles 3, 8, 9, 10, 11 and 20.

Presidential Decree 92/1986.

SECTOR

Mining.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The right of exploration and exploitation of all minerals except hydrocarbons, solid fuels, radioactive minerals and geothermal potential is subject to a concession by the Greek State. The concession is accorded by Presidential Decree after previous approval by the Council of Ministers. Such approval is not required for natural or legal persons or entities of the EU countries. A permit for exploration of minerals cannot be granted to non-EU natural or legal persons.

PHASE-OUT

No commitments.

OTHER EXCEPTIONS

MFN exception.

18 ACCESS/REGISTRATION/SCREENING

COUNTRY: **GREECE**

MEASURES

Law on Juridical Acts in Border Areas No 1892/1990, Articles 25 and 26, as amended by Law 1969/1991.

SECTOR

Real Estate.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Acquisition of real estate in the border regions either directly or through equity participation in a company which is not listed in the Greek Stock Exchange and which owns real estate in those regions or any change in the persons of the stockholders of such company, are subject to a permit issued by competent authorities. The procedure for obtaining this permit as well as the competent authority are different in the case of Greek or European Community natural or legal persons (local committee) than in the case of natural or legal persons of third countries (Ministry of Defense).

PHASE-OUT

No commitments.

OTHER EXCEPTIONS

MFN exception.

19 ACCESS/REGISTRATION/SCREENING

COUNTRY: **HUNGARY**

MEASURES

Act V of 1990 on Private Entrepreneurs.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Only Hungarian residents have the right to take up and pursue economic activities as self-employed persons. In the application of this Act, the provisions of the Act on Foreign Exchange define a resident as follows: natural person who holds a valid identity card issued by the competent Hungarian authority.

PHASE-OUT

No commitments.

OTHER EXCEPTIONS

None.

20 ACCESS/REGISTRATION/SCREENING

COUNTRY: ICELAND

MEASURES

Act No. 34/1991 on Investment by Non-Residents in Business Enterprises in Iceland, as amended.

SECTOR

Hydro and geothermal energy resources, production and distribution of energy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Only Icelandic citizens, legal persons with domicile in Iceland, and private and legal persons with domicile in a State which is party to the Agreement on the European Economic Area, are permitted to acquire and own exploitation rights of hydro and geothermal energy. The same applies to ownership of enterprises which produce and distribute energy.

PHASE-OUT

No commitments.

OTHER EXCEPTIONS

None.

21 ACCESS/REGISTRATION/SCREENING

COUNTRY: **JAPAN**

MEASURES

Foreign Exchange and Foreign Trade Law No 228 of 1 December 1949;

Cabinet Order No 261 concerning Direct Domestic Investment, etc., of 11 October 1980;

Ordinance concerning Direct Domestic Investment, etc., of 20 November 1980.

SECTOR

Energy sectors, including nuclear energy, electric utility, gas utility, heat supply, oil and mining industry sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the Foreign Exchange and Foreign Trade Control Law, advance notice to the competent agency is required from foreign investors who plan to make the direct domestic investment in Japan's energy sector.

If the competent agency finds a problem from such point as view of the national security, public order, and smooth operation of the national economy, with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council, and may order the foreign investor to change the contents of the notice or to cease the investment.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

22 ACCESS/REGISTRATION/SCREENING

COUNTRY: **JAPAN**

MEASURES

Mining Law No 289 of 20 December 1950.

SECTOR

Mining industry.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Mining right is granted only to Japanese nationals or Japanese legal entities. Japanese nationals are defined as people with Japanese nationality, while Japanese legal entities are those that are established under Japanese laws, such as, for example, the Commercial Law.

However, Article 17 of the Mining Law does not necessarily deprive foreign investors of the opportunity to acquire a mining right in Japan. By fulfilling the requirements of the Japanese Law, foreign investors are able to establish a Japanese entity, which would enable them to acquire a mining right. Neither the percentage of foreign nationals on the Board, nor the percentage of foreign capital in the total capital will be an impediment to establishing a Japanese entity.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

23 ACCESS/REGISTRATION/SCREENING

COUNTRY: **LIECHTENSTEIN**

MEASURES

Law on Pipelines (Rohrleitungsgesetz).

SECTOR

Oil and gas pipelines.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

A concession for the construction and operation of a pipeline that crosses the Liechtenstein border, to transport oil, gas or liquid or gaseous fuels, is accorded only to EEA citizens domiciled in one EEA member state or to legal persons founded according to the law and having their seat in an EEA member state.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

24 ACCESS/REGISTRATION/SCREENING

COUNTRY: **MALTA**

MEASURES

Exchange Control Act (investment by non-residents) enacted by Act XLIX of 1972, amended by Acts XXIV of 1973 and LVIII of 1974; Legal notice No. 148 of 1975; and Acts: XXII of 1976, XXXI of 1981 and XIII of 1983.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Investments made in Malta by non-residents require exchange control approval by the Governor of the Central Bank of Malta. Decisions of approval or non-approval for investment by non-residents under this Act are at the discretion of the Governor who must be satisfied with the purpose of the investment and that the proposed investment is technically feasible, economically viable and will benefit the national economy.

PHASE-OUT

In the context of Malta's accession to the European Union, a detailed plan for the liberalisation of capital movements (including exchange controls) has been compiled. Following the third stage of liberalisation, which will be introduced in January 2002, only short-term capital restrictions will remain for prudential purposes. Following accession, only those restrictions, which can be maintained against third countries in terms of the EU Treaty will remain.

OTHER EXCEPTIONS

None.

COUNTRY: **MONGOLIA**

MEASURES

Law on the regulation of foreign investment in entities operating in strategic sectors of 2012, Art. 4, 6; 7; Foreign Investment Law of 10 May 1993, latest amendment as of 16 August, 2012, Article 12

SECTOR

National Economy

LEVEL OF GOVERNMENT

National

DESCRIPTION

Applications by investors to establish business entities with foreign investment require assessment and approval by the central state administrative body responsible for implementation of foreign investment policy which is Department of Foreign Investment Regulations and Registration (DFIRR) of the Ministry of Economic Development. The DFIRR registers a foreign investor and grants a certificate of registration within three working days after the submission of completed registration form. Upon issuing the registration the certificate by the department, the Central State Taxation Department register and publicly announces the foreign investment entity.

A foreign entity wishing to operate in a strategic sector of Mongolia or acquire one third or more of the shares of the company that is an entity operating in the strategic sector (includes mining; banking and finance; media, information and communications) shall obtain a permit from the Government of Mongolia. The state administrative body responsible for foreign investment shall, within 45 days upon the receipt of the application deliver its recommendation on the permissibility of the transaction to the Government.

For foreign investments outside a strategic sector the State Central administrative body in charge of foreign investment matters shall receive application and make decision within fourteen days after the date when the application was received.

PHASE-OUT

Plans to introduce amendments to the Law on the regulation of foreign investment in entities operating in strategic sectors.

OTHER EXCEPTIONS

None

COUNTRY: **POLAND**

MEASURES

Energy Law Act of 10 April 1997, art 32 and 33

SECTOR

Energy

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The following activities are subject to licensing under the Energy Law Act:

1. the generation of fuels or energy, except for: generation of solid or gaseous fuels; generation of electricity using electricity sources of the total capacity of not more than 50 MW other than renewable energy sources; cogeneration of electricity and heat using sources of the total capacity of not more than 5 MW other than renewable energy sources; generation of heat using the sources of the total capacity of not more than 5 MW;
2. storage of gaseous fuels in storage installations, liquefaction of natural gas and regasification of liquefied natural gas at LNG installations, as well as the storage of liquid fuels, except for: the local storage of liquid gas at installations of the capacity of less than 1 MJ/s capacity and the storage of liquid fuels in retail trade;
3. the transmission or distribution of fuels or energy, except for: the distribution of gaseous fuels in grids of less than 1 MJ/s capacity and the transmission or distribution of heat if the total capacity ordered by customers does not exceed 5 MW;
4. the trade in fuels or energy, except for: the trade in solid fuels; the trade in electricity using installations of voltage lower than 1 kV owned by the customer; the trade in gaseous fuels if their annual turnover value does not exceed the equivalent of EUR 100,000; the trade in liquid gas, if the annual turnover value does not exceed EUR 10,000; and the trade in gaseous fuels and electricity performed on commodity exchanges by brokerage houses which conduct the brokerage activity on the exchange commodities on the basis of the Act of 26 October 2000 on commodity exchanges, as well as the trade in heat if the capacity ordered by the customers does not exceed 5 MW. The limits on turnover do not apply to wholesale trade services in gaseous fuels or liquid gas or to retail services of bottled gas.

A licence may only be granted by the Competent Authority to an applicant that has registered their principal place of business or residence in the territory of the EU, Swiss Confederation or the EEA.

This person must also fulfil other pre-conditions; however, they are not discriminative.

PHASE-OUT

No plans at present

OTHER EXCEPTIONS

None.

COUNTRY: RUSSIAN FEDERATION

MEASURES

Federal Law "On the Securities Market" of April 22, 1996, 39-FZ, Article 24 (paragraph 7).

SECTOR

National economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

In connection to a public offering or circulation of emitted securities it shall be prohibited to collateralise a priority as to the purchase of securities by one potential owner before another.

This provision shall not apply to the following:

- 1) Government securities emission;
- 2) Privileges to shareholders of joint stock societies related to purchase of newly emitted securities in quantities proportionate to the number of shares owned as of the date of the emission decision;
- 3) Establishment of restrictions by an issuer for purchase of securities by non-residents.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

COUNTRY: RUSSIAN FEDERATION

MEASURES

Federal Law "On Gas Supply in the Russian Federation" of March 31, 1999, 69-FZ, Article 7 (version of August 22, 2004, 122-FZ).

SECTOR

National economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

In connection with purchase and sale of shares of owners of regional gas supply systems and owners of gas distribution systems and other transactions or operations related to change of ownership of the said shares, the share of foreign citizens or foreign organisations shall not exceed 20% of the total number of ordinary shares of the owners of the said systems.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

29 ACCESS/REGISTRATION/SCREENING

COUNTRY: **RUSSIAN FEDERATION**

MEASURES

Federal Law No 187 On the Continental Shelf of the Russian Federation of 30 November 1995, Articles 7, 8, 17(12), 18, 20(4), 23, 27, 28 and 35.

SECTOR

Mineral resources.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

In order to ensure security and the development of the Russian industry and energy sector, upon a request by the relevant Federal executive authority, restrictions may be imposed on the participation of foreign natural or legal persons in tenders (auctions) for prospecting, exploration and development of mineral resources on certain territories, as well as tenders (auctions) with the exclusive participation of Russian natural or legal persons may be held.

Foreign natural or legal persons may carry out regional geological studies, prospecting, exploration and development of mineral resources; establish and use artificial isles, installations and structures on the continental shelf; carry out marine research; dispose of waste and other materials on the continental shelf only with the permission of the authorised agencies and in the presence of their officers.

In all cases, foreign applicants must provide to the officers of the Russian agencies free return passage to the location where the work is performed, the use of radio communication equipment, as well as carry all costs of their full board and lodging at a level identical to that of their own senior (executive) personnel, ensure their access to all premises and facilities, to all data and samples obtained in the course of such research; provide access to the research results to the international community via national or international channels.

In order to obtain a permit for such research, foreign applicants shall submit via diplomatic channels at least six months prior to the proposed date for the start of the scientific marine research an application to the federal agency specifically authorised for such cases, and the agency shall issue a permit or deny it for good reasons.

PHASE-OUT

The Federal Assembly of the Russian Federation at present is considering a bill “On amendments to the Continental Shelf Law”.

OTHER EXCEPTIONS

None.

30 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SLOVAKIA**

MEASURES

Energy Law, Article 3, paragraph 1.

SECTOR

Electricity, natural gas and heating industries.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Any business in the energy industries may only be conducted after a licence shall have been granted by the Regulatory Office for Network Industries to a natural person or a legal person who meets the terms and conditions provided both by general regulations applicable to any business¹ and by this Act (Act No. 70 from February 11, 1998 on Energy Management, as later amended). This measure is not valid for the non-resident, who is domiciled in a member state of the European Union or the OECD and has established an organisational unit on the territory of the Slovak Republic.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

¹ Commercial Code.

31 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SLOVENIA**

MEASURES

Law on Commercial Companies (OGRS 30/1993), Article 563.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

A foreign company may establish a subsidiary or branch if it has been registered in the country where its registered office is located for at least two years.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

32 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SLOVENIA**

MEASURES

Law on Environmental Protection (OGRS 32/1993), Article 23.

SECTOR

Hydropower.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The deed of concession is a regulation of the Government or the local authorities. The deed of concession granting a concession to a foreign person may only take the form of a law.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

33 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SWITZERLAND**

MEASURES

Federal Act (Code of Obligations) of 30 March 1911, RS 220; Amendment of January 1, 2008; Art. 718, para 4.

SECTOR

All Sectors.

LEVEL OF GOVERNMENT

Federal and Cantonal.

DESCRIPTION

For a “corporation” (société anonyme/ Aktiengesellschaft), a “corporation with unlimited partners” (société en commandite par actions/ Kommanditaktiengesellschaft), a “limited partnership” (société à responsabilité limitée/Gesellschaft mit beschränkter Haftung) and a “cooperative” (société cooperative/ Genossenschaft) at least one member of the governing body of the legal person or another person with the right to represent the legal person must be domiciled in Switzerland.

A foreign legal person may also establish one or several branch offices in Switzerland. At least one person of the branch office with the right to represent the branch office must be domiciled in Switzerland.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

COUNTRY: SWITZERLAND

MEASURES

Federal Act of 21 March 2003 on Atomic Energy (RS 732.1).

SECTOR

Nuclear energy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

A concession to construct and operate nuclear facilities is granted only to a corporation, a cooperative or legal persons of public law. A foreign company must have a registered subsidiary in Switzerland. Without prejudice to international obligations, the Federal Council may refuse the concession to a foreign company if its home state does not grant reciprocity.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

35 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SWITZERLAND**

MEASURES

Federal Act of 4 October 1963 on Pipelines for Liquid or Gaseous Fuels (RS 746.1); Amendment of January 1, 2000, Art. 4.

SECTOR

Pipelines.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

For foreign-owned or controlled companies a registered office and management presence in Switzerland is required.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

36 ACCESS/REGISTRATION/SCREENING

COUNTRY: **SWITZERLAND**

MEASURES

Concordat of 24 September 1955 on Oil Prospecting and Exploitation.

SECTOR

Oil Prospection and Exploitation.

LEVEL OF GOVERNMENT

Cantonal.

DESCRIPTION

The inter-cantonal agreement among ten cantons (Zürich, Schwyz, Glarus, Zug, Schaffhausen, Appenzell Ausser-Rhoden, Appenzell Inner-Rhoden, St. Gallen, Aargau, Thurgau) stipulates that oil concessions may be granted only to companies that are at least 75 percent Swiss-owned. Other cantons apply similar restrictions.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

COUNTRY: **TURKMENISTAN**

MEASURES

Law on Foreign Investments of 19 May 1992 as amended in 1993, Article 8;

Provision on the Procedure for the State Registration of Enterprises (Establishments and Organisations) with Foreign Investments, Affiliates and Representations of Foreign Companies approved by the Ordinance of the President of Turkmenistan No 1987 of 24 November 1994, Article 3.1;

Law on Enterprises of 1 October 1993 as amended in 1994, Article 28.3.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The State registration of foreign investors is made at the Ministry of External Economic Affairs of Turkmenistan, while the State registration of national enterprises (according to Article 1.1 of the Law on Enterprises, all enterprises have a status of legal persons) is made by the Commissions, established under hakimliks of vulajats (regional authorities) and in the city of Ashgabad, on whose territories enterprises are established.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

COUNTRY: **UKRAINE**

MEASURES

Regulation on the Procedure for the State Registration of Foreign Investments (approved by the Resolution of the Cabinet of Ministers of the Ukraine No 928 of 7 August 1996 “On the Approval of the Regulation on the Procedure for the State Registration of Foreign Investments”), paragraph 3.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

For the purpose of state registration of foreign investments, foreign investors are obliged to submit to a State registration body relevant documents, including those confirming the value of foreign investments.

Confirmation of the value of foreign investments is necessary for the following reasons:

- money orders and rights for the execution of commitments contained in agreements, which are guaranteed by first class banks and which value is in convertible currency;
- any intellectual property rights;
- rights for the implementation of economic activities, including rights for the use of subsoil and natural resources, granted in accordance with the relevant legislation or agreements.

PHASE-OUT

In accordance with foreign investment regime liberalisation.

OTHER EXCEPTIONS

None.

39 ACCESS/REGISTRATION/SCREENING

COUNTRY: **UKRAINE**

MEASURES

Subsoil Code No 132/94-VR of 27 July 1994, Article 68.

SECTOR

Subsoil and exploitation of mineral resources.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Rights to use subsoil, specifically for geological studies, including research and industrial development of mineral deposits of national and local importance, mining of natural resources, construction and operation of underground structures not related to mining of mineral resources, including structures for underground storage of oil, gas and other substances and material, and process mineral resources are accorded to foreign legal persons and citizens on a competitive basis through conclusion of agreements (contracts).

Procedure for concluding contracts for subsoil use and processing of mineral resources with the participation of foreign legal persons is set by the Cabinet of Ministers of the Ukraine.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

40 ACCESS/REGISTRATION/SCREENING

COUNTRY: **UKRAINE**

MEASURES

Law No 93/96-VR on Treatment of Foreign Investments of 19 March 1996, Article 22.
Law No 997-XIV "On Concessions" dated 16 July 1999.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Amendments are introduced related to Law of the Ukraine dated 16.07.99 . 997-XIV «On concessions»

Accordingly, Article 22 of the Law of the Ukraine "On the regulations of foreign investment" dated 19.03.1996 . 93/96-VR reads:

“The award to foreign investors of the right to commercial activity related to the use of facilities that are government or communal property and are transferred into concession, shall be carried out on the basis of current Ukrainian law via the execution of a concession contract”.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None

SECTION FOUR: RECIPROCITY

1 RECIPROCITY

COUNTRY: **CROATIA**

MEASURES

Basic Ownership Rights and Relations Act, Article 356, paragraph 1.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Non-resident foreign investors (i.e. natural persons having their residence outside of Croatia and local branches/representative offices of foreign companies) may acquire real estate under the condition of reciprocity, and provided that the Minister of Foreign Affairs gives its consent thereto on the basis of a prior opinion of the Minister of Justice. Reciprocity is presumed to exist until proven otherwise.

Notwithstanding the above limitations, a foreign-owned company registered in Croatia may acquire ownership of real estate without any restrictions.

PHASE-OUT

This depends on the outcome of the accession negotiations with the EU.

OTHER EXCEPTIONS

None.

2 RECIPROCITY

CONTRACTING PARTY: **EUROPEAN COMMUNITIES**

MEASURES

Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the Conditions for Granting and Using Authorisations for the Prospecting, Exploration and Production of Hydrocarbons, Articles 2 and 8.

SECTOR

Hydrocarbons.

LEVEL OF GOVERNMENT

European Union.

DESCRIPTION

Member States shall ensure that there is no discrimination between entities as regards access to and exercise of the activities of prospecting, exploring for and producing of hydrocarbons.

Whenever a third country is not granting Community entities, as regards access to and exercise of these activities, treatment comparable to that which the Community grants entities from that third country, the Commission may at any time propose that the Council authorise one or more Member States to refuse an authorisation to an entity which is effectively controlled by the third country concerned and/or by nationals of that third country.

PHASE-OUT

No plans.

OTHER EXCEPTIONS

This provision would be a potential violation of the MFN standard.

3 RECIPROCITY

COUNTRY: ITALY

MEASURES

Law No 136 of 10 February 1953 on Establishment of ENI (Ente nazionale Idrocarburi);
Law No 6 of 11 January 1957 on Exploration and Exploitation of Hydrocarbons;
Law No 613 of 21 July 1967 on Exploration and Exploitation of Hydrocarbons in the Territorial Sea and Continental Shelf;
Law No 170 of 26 April 1974 on Storage of Natural Gas;
Law No 9 of 9 January 1991 on Provisions for the Enforcement of the New National Energy Plan;
Legislative Decree No 625 of 25 November 1996 on Application of the EC Directive 94/22.

SECTOR

Prospecting, exploration and exploitation of hydrocarbons; construction and operating hydrocarbons pipelines, storage of natural gas in existing surveyed fields; oil refining.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Exploration and exploitation rights, both in the oil and gas sectors, are granted by the Ministry of Industry to Italian and EU operators, and, under conditions of reciprocity, to other foreign investors.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

4 RECIPROCITY

COUNTRY: **ITALY**

MEASURES

Law No 752 of 6 October 1982 and Law No 221 of 30 July 1990 on Exploration and Exploitation of Mineral Resources, Article 12.1.

SECTOR

Exploration and exploitation of coal.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Exploration and exploitation rights are granted by the Ministry of Industry to Italian and EU operators and, under conditions of reciprocity, to other foreign investors.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

This provision would be a potential violation of the MFN standard.

5 RECIPROCITY

COUNTRY: **JAPAN**

MEASURES

Alien Land Law No 42 of 1 April 1925.

SECTOR

Land transaction.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

With respect to acquisition or lease of land properties in Japan, prohibitions or restrictions may be imposed by Cabinet Order on foreign nationals or legal entities, where Japanese nationals or legal entities are placed under similar prohibitions or restrictions in the country of the said foreign nationals or legal entities.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

6 RECIPROCITY

COUNTRY: **JAPAN**

MEASURES

Law Concerning State Liability for Compensation No 125 of 27 October 1947.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

An alien who has suffered damages by unlawful act of a governmental official who is in a position to wield governmental powers of the State or of a public body or by defects in the establishment or management of public installations, may claim the compensation for the damages against the State or the public body, only if a law of the national of the alien permits a claim of a Japanese similar to that permitted by the Law Concerning State Liability for Compensation of Japan.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

7 RECIPROCITY

COUNTRY: **LATVIA**

MEASURES

Law on Land Reform in the Cities of the Republic of Latvia of 20 November 1991, as amended by Laws of 31 March 1994; 24 November 1994; 12 October 1995; 8 May 1997 and 15 April 1999, Article 20, paragraphs 3 and 4.

Law on Privatisation of Land in Rural Areas of the Republic of Latvia of 9 July 1992, as amended by Laws of 27 April 1993; 16 December 1993; 8 December 1994; 5 October 1995; 12 January 1996 and 5 December 1996, Article 28, paragraphs 4 and 5.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Land may be obtained in ownership in cities or in rural areas by companies registered in the Latvian Enterprise Register

- where more than 50% of the fixed capital is owned by Latvian nationals (has Latvian citizenship), state or municipality – either separately or in any combination of these categories; or
- where more than 50% of the fixed capital is owned by individuals or foreign companies from countries with which Latvia has ratified international Agreements on Promotion and Protection of Foreign Investments.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

9 RECIPROCITY

COUNTRY: LITHUANIA

MEASURES

Constitutional Law on the Subjects, Procedure, Terms and Conditions, and Restrictions of the Acquisition into Ownership of Land Plots provided for in Article 47, paragraph 2 of the Constitution of the Republic of Lithuania of 20 June 1996, Articles 3 to 5.

Constitutional Law of the Republic of Lithuania on the Subjects, Procedure, Terms and Conditions of the Acquisition into Ownership of Land Plots, Provided for in Paragraph 2 of Article 47 of the Constitution of the Republic of Lithuania in 2003 was amended and set forth as follows: The Constitutional Law of the Republic of Lithuania on the Implementation of Paragraph 3 of Article 47 of the Constitution of the Republic of Lithuania.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

(Article 3) Foreign Subjects which May be Permitted to Acquire Land, Internal Waters and Forests into Ownership.

Under this Law, acquisition into ownership of land, internal waters and forests shall be permitted to foreign subjects meeting the criteria of European and transatlantic integration embarked on by Lithuania.

(Article 4) Foreign Subjects Meeting the Criteria of European and Transatlantic Integration

1. The criteria of European and transatlantic integration embarked on by Lithuania are met by foreign legal persons as well as other foreign organisations set up in:

- 1) the European Union member states or states parties to the Europe (Association) Agreement concluded with the European Communities and their member states;
- 2) Member states of the Organisation for Economic Co-operation and Development, North Atlantic Treaty Organisation and states parties to the European Economic Area Agreement.

2. The criteria of European and transatlantic integration embarked on by Lithuania are met by nationals of the states specified in paragraph 1 of this Article and permanent residents of the said foreign states, as well as permanent residents of the Republic of Lithuania who are not citizens of the Republic of Lithuania.

(Article 5) Prohibition to Sell Land, Internal Waters and Forests prior to the Restitution of Ownership Rights of the Citizens of the Republic of Lithuania to them

1. The land to which under the laws of the Republic of Lithuania the rights of ownership of the citizens of the Republic of Lithuania must be restituted may be acquired by foreign subjects

9 RECIPROCITY

specified in Article 4 of this Law after the restitution of ownership rights of the citizens of the Republic of Lithuania to it and the registration of the land ownership in accordance with the procedure laid down by law.

2. State-owned agricultural land, internal waters and forests may be sold or otherwise transferred into private ownership of foreign subjects specified in Article 4 of this Law only after conclusion of the restitution of ownership rights and land reform in that cadastre district in accordance with the procedure laid down in the Law on Land Reform.

PHASE-OUT

None.

OTHER EXCEPTIONS

None.

9 RECIPROCITY

COUNTRY: **POLAND**

MEASURES

Act of 2 July 2004 on Freedom of Economic Activity, art. 13.3 and 95. 1

SECTOR

All Sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The scope of operations of a representative office may only encompass advertising and promotion of the foreign parent company represented by the office.

For all sectors except legal services and services provided by healthcare units, non-EU investors may undertake and conduct economic activity only in the form of a limited partnership, limited joint-stock partnership, limited liability company, and joint-stock company, while domestic companies have access also to the forms of non-commercial partnership companies (general partnership and unlimited liability partnership).

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

.

10 RECIPROCITY

COUNTRY: SLOVENIA

MEASURES

Constitution of the Republic of Slovenia (OGRS 33/1991), Article 68.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreigners may acquire right of possession of real estate under conditions determined in law or stipulated in a ratified international agreement on the basis of reciprocity.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

11 RECIPROCITY

COUNTRY: **SPAIN**

MEASURES

Royal Decree-Law 7/1996 on Urgent Measures of Fiscal Character and of Encouragement and Liberalisation of the Economic Activity (Articles 25 to 29 "Distribution of carburants").

SECTOR

Transportation and retailing of oil products and liquefied petroleum gases.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The third party access to large fixed installations of reception, storage and transport of oil products, as well as the large installations of reception and storage of liquefied petroleum gases may be refused when the applicant for the transport or service is a national of a State that, according to the principle of reciprocity, does not allow the granting of similar rights.

PHASE-OUT

There is no intention of eliminating the requirement for reciprocity.

OTHER EXCEPTIONS

None.

12 RECIPROCITY

COUNTRY: **SPAIN**

MEASURES

Royal Decree 1914/1997 on Third Party Access to Facilities of Natural Gas Delivering, Conversion, Storage and Transport.

SECTOR

Transportation and retailing of natural gas.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The third party access to the basic services of natural gas (conversion, storage and transport) may be refused when the applicant for the service is a resident of a State that, according to the principle of reciprocity, does not allow the granting of similar rights.

PHASE-OUT

There is no intention of eliminating the requirement for reciprocity.

OTHER EXCEPTIONS

None

SECTION FIVE: OTHER TYPES OF EXCEPTIONS

.

1 OTHER

COUNTRY: **BELARUS**

MEASURES

Regulation on rules of selection of a supplier (contractor, work provider) for carrying out government procurement on the territory of the Republic of Belarus (Art. 109, 149, 159, Decree of the President of the Republic of Belarus dated 25 August 2006 529).

SECTOR

National economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In cases where, in an open competition, participants offer goods (works, services) of both Belarus and foreign origin, a preferential corrective rate shall be applied when evaluating the competitive offers to the price of the participant offering goods (works, services) originating in the Republic of Belarus, by reducing it by 15 percent.

An evaluation of price offers shall be carried out when:

- At least three such offers exist;
- The offers comply to the requirements of the invitations for making price offers;
- The offers have been submitted before the expiration of the final time limit for the submission of such offers.

In cases where, in a procedure for inviting price offers, participants offer goods (works, services) of both Belarus and foreign origin, a preferential corrective rate shall be applied when evaluating the price offers to the price of the price offer of the participant offering goods (works, services) originating in the Republic of Belarus, by reducing it by 15 percent.

The criteria for selecting a supplier (contractor, work provider) in the course of carrying out the procedure for drawing the competitive list shall be the lowest price per unit of goods (works, services), as well as other criteria which the client (organiser, mandate holding organisation) may consider to be necessary for the given procurement.

In such cases, a preferential corrective rate shall be applied to the price of goods (works, services) of Belarus origin by reducing the price by 15 percent upon comparing, in the course of carrying out the procedure for drawing the competitive list, of prices of goods (works, services) of participants who offer goods (works, services) of both Belarus and foreign origin.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

2 OTHER

COUNTRY: **BULGARIA**

MEASURES

Law on Foreign Investment (State Gazette 97/1997 with amendments published in State Gazette 99/1997 and 29/1998), Article 3, paragraph 2, which re-enacts a provision of the Law on Foreign Investment of 1996.

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The provisions of the Law are not applicable, wholly or partially, to investments of foreign natural or legal persons from States listed by the Council of Ministers in which Bulgarian citizens or companies are subject to discrimination.

PHASE-OUT

No plans at present. However, the Council of Ministers of Bulgaria has not yet prepared a list of countries (States) in which Bulgarian citizens are subject to discrimination, and the exception is dormant.

OTHER EXCEPTIONS

None.

3 OTHER

COUNTRY: **RUSSIAN FEDERATION**

MEASURES

Resolution No 531 of the Council of Ministers – the Government of the Russian Federation “On Regulating in the Russian Federation of the Construction of Facilities Financed from State Foreign Currency Funds and State Foreign Investment Loans, dated 8 June 1993, Clause 2.

SECTOR

National economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

In cases when, as a result of the competition of construction bidding (tenders), the construction of such facilities is awarded to a foreign company, contracts shall envisage the maximum use of equipment and materials produced in the Russian Federation, as well as the carrying out of at least 30 percent of the total project work and services by Russian organisations.

PHASE-OUT

Not envisaged.

OTHER EXCEPTIONS

None.

4 OTHER

COUNTRY: **RUSSIAN FEDERATION**

MEASURES

Federal Law "On Environmental Expertise" of November 23, 1995, 174-FZ, Article 11 (7).

SECTOR

National economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

The following shall be subject to state environmental expertise at the Federal level:

- Feasibility studies and projects for construction, rehabilitation, expansion, technical retooling, mothballing and decommissioning of organisations and other economic entities of the Russian Federation, and other projects regardless of their estimated value, sectoral identity or form of ownership, implementation of which may affect natural environment within the area of at least two constituent members of the Russian Federation, as well as documents related to the establishment by the citizens or legal persons of the Russian Federation with the participation of foreign citizens or foreign legal persons, of organisations with foreign investments exceeding five hundred thousand US Dollars.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

5 OTHER

COUNTRY: **RUSSIAN FEDERATION**

MEASURES

Decree No 1928 of the President of the Russian Federation “On Private Investments in the Russian Federation” of 17 September 1994, paragraphs (1) and (3).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

Federal.

DESCRIPTION

The Government of the Russian Federation is authorised to earmark annually capital resources for financing highly efficient investment projects developed with the participation of commercial organisations, provided that the resources are assigned on a competitive basis. In doing so, the Government of the Russian Federation has the right to impose additional conditions for projects wherein participation of foreign investments is foreseen.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.

6 OTHER

COUNTRY: **UKRAINE**

MEASURES

Procedures for Foreign Subjects of Economic Activities carrying out Operations with Goods of the Ukraine Origin on the Territory of the Ukraine without their Exportation from the Customs Territory of the Ukraine, paragraphs 3 and 4 (approved by the Resolution No 853 of the Cabinet of Ministers of the Ukraine of 30 June 1996).

SECTOR

National Economy.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Operations with goods of the Ukrainian origin which have become a property of a foreign subject of an economic activity on the territory of the Ukraine and have not been exported from the customs territory of the Ukraine and which is being sold, exchanged or transferred to other persons (except operations with raw materials) are considered entrepreneurial activity on the territory of the Ukraine and are subject to taxation under the Ukrainian legislation.

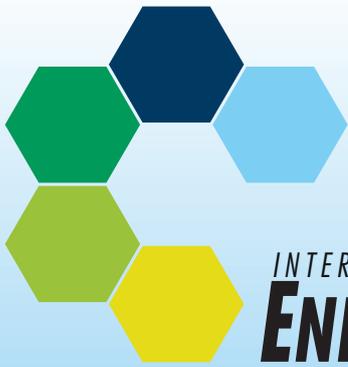
Foreign subjects of economic activities may carry out operations with goods of the Ukrainian origin which have become their property on the territory of the Ukraine and have not been exported from the customs territory of the Ukraine and which is being sold, exchanged or transferred to other persons only in the case if they have properly registered representation in the Ukraine.

PHASE-OUT

No plans at present.

OTHER EXCEPTIONS

None.



INTERNATIONAL
ENERGY CHARTER

**ENERGY CHARTER SECRETARIAT
BOULEVARD DE LA WOLUWE, 56
B-1200 BRUSSELS, BELGIUM**

TEL: +32 2 775 98 00

FAX: +32 2 775 98 01

MAIL: INFO@ENCHARTER.ORG

WEB: WWW.ENERGYCHARTER.ORG