

Energy Charter Treaty Expert Meeting

Removing pre-investment barriers in energy

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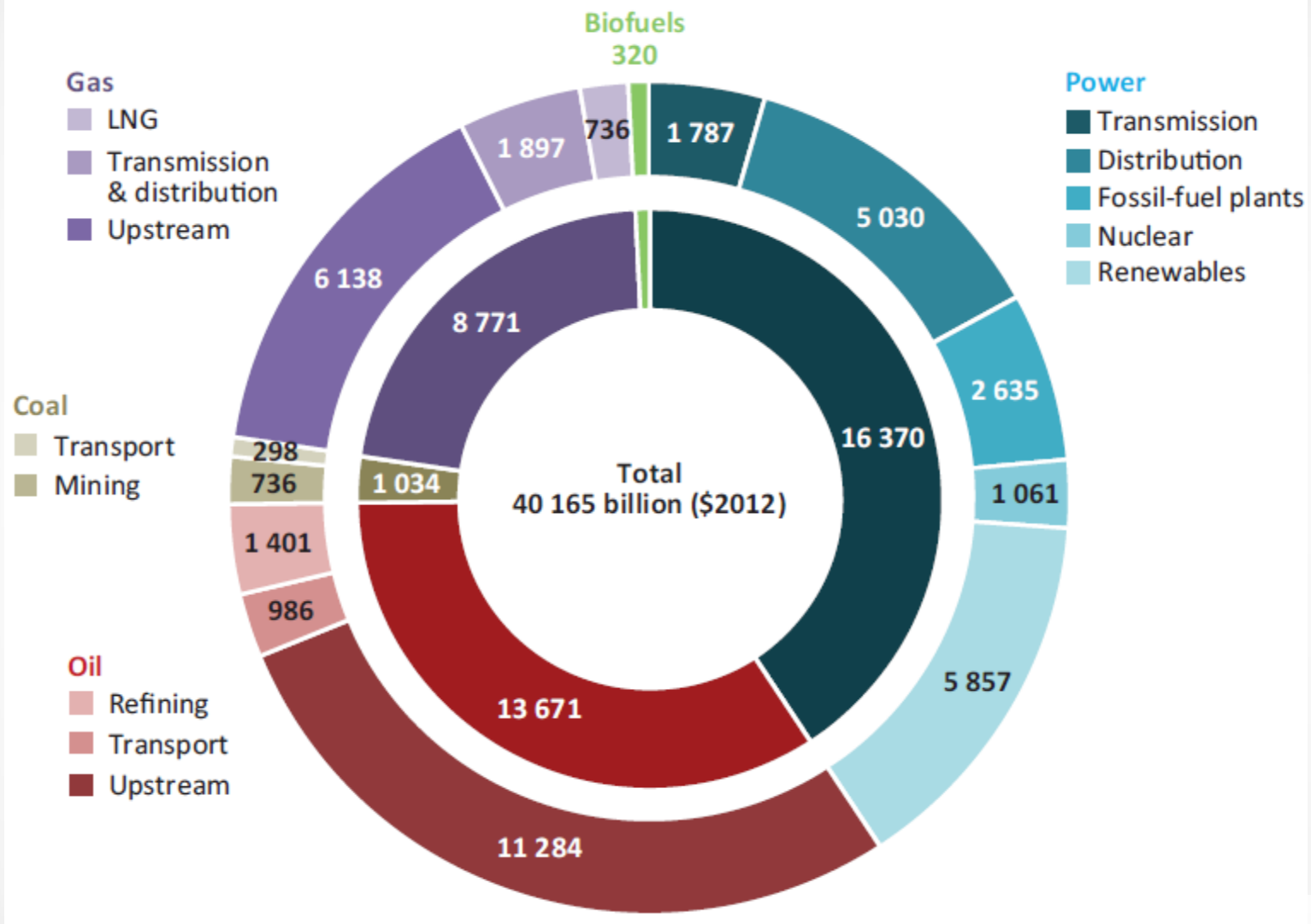
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Projected global energy investment needs 2014-2035



Source: World Energy Investment Report Outlook, 2014

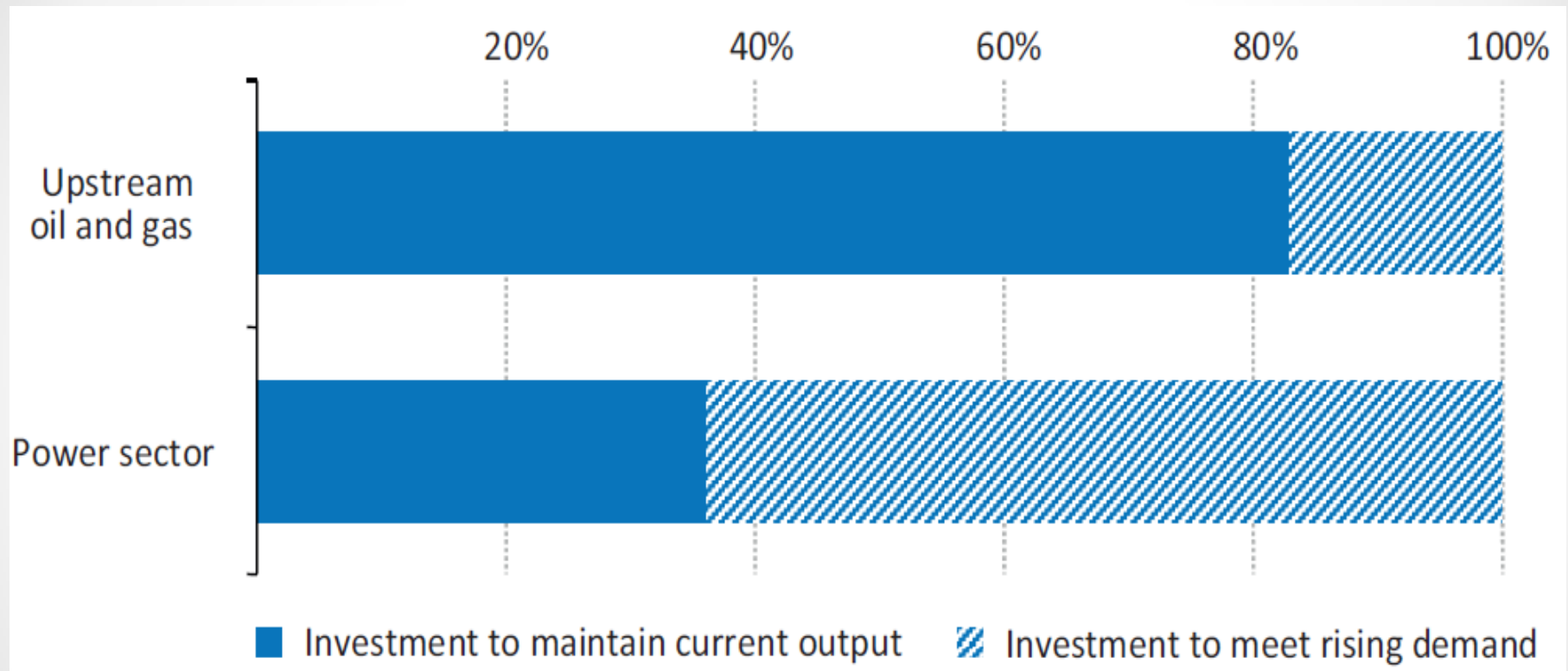
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Projected share of investment required to keep global output at current levels versus total investment required, 2014-2035



Source: World Energy Investment Report Outlook, 2014

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SDGs: Additional energy investment needs

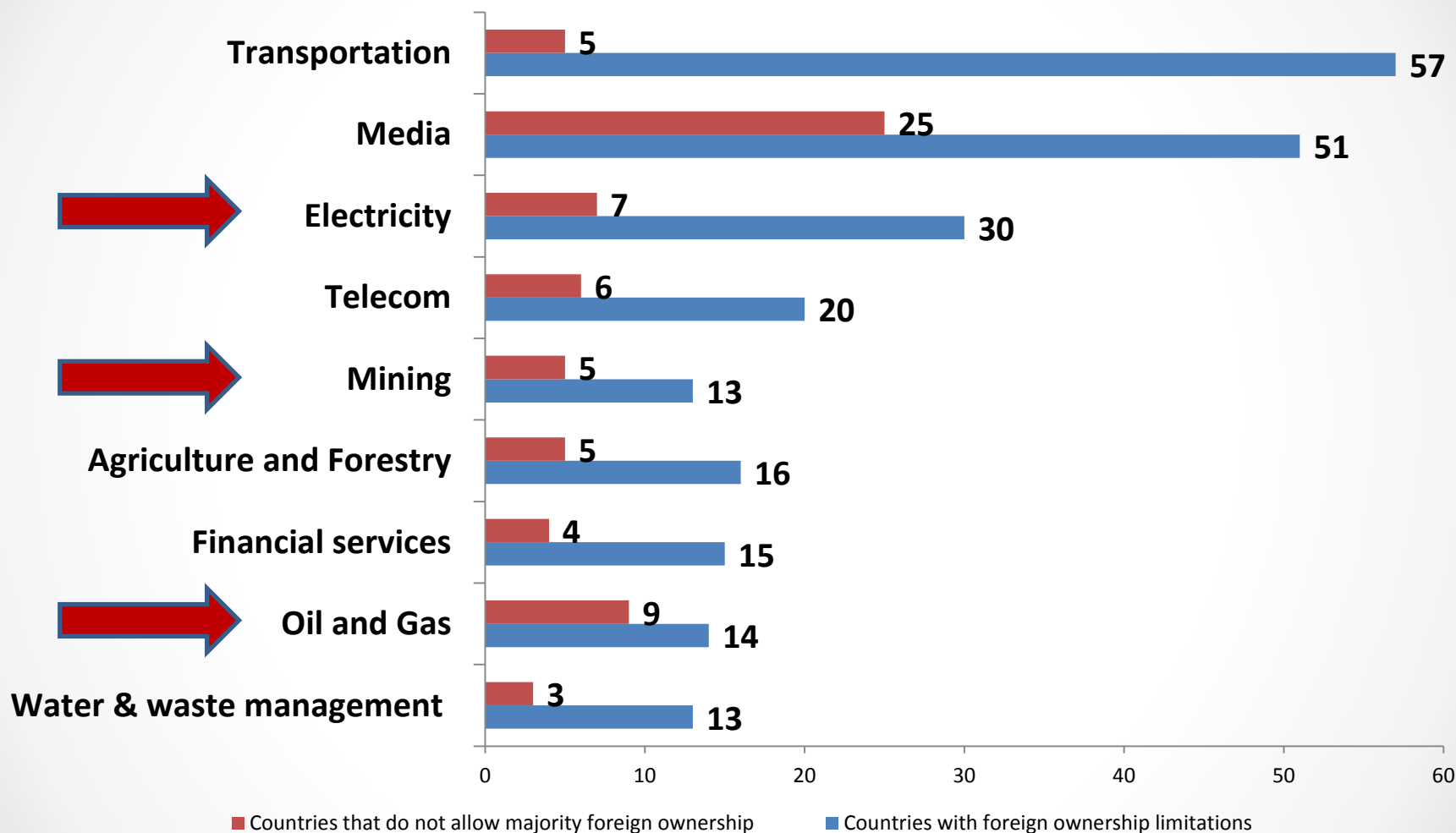


Current economic environment for investment in the energy sector

- **Low energy prices: reduced profit margins (investors) and budget constraints (energy producing countries);**
- **Rising costs for exploration and exploitation of new energy deposits; high costs of fracking;**
- **Geopolitical factors (sanctions policies – Iran/Russia; conflicts in important energy producing countries);**
- **Incentive programs for investment in renewables.**



Most countries are formally open to FDI in the energy sector



Source: World Bank's Investment Across Borders database (104 countries)

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But FDI in the energy sector may face other entry barriers (examples)

1. Public Monopolies:

- ***Norway*** (electricity transmission and distribution)
- ***Mexico*** (subsoil hydrocarbon resources)
- ***Saudi Arabia*** (oil and gas production)

2. Existence of SOEs:

- ***China*** (CNOOC, PetroChina)
- ***Russian Federation*** (Rosatom, Rosneft, Gazprom)
- ***U.A.E.*** (Abu Dhabi National Oil Company)

3. FDI screening in respect of the energy sector:

- ***(e.g. France, Japan, Russian Federation)***



And expropriation and nationalisation remain a risk for energy investments

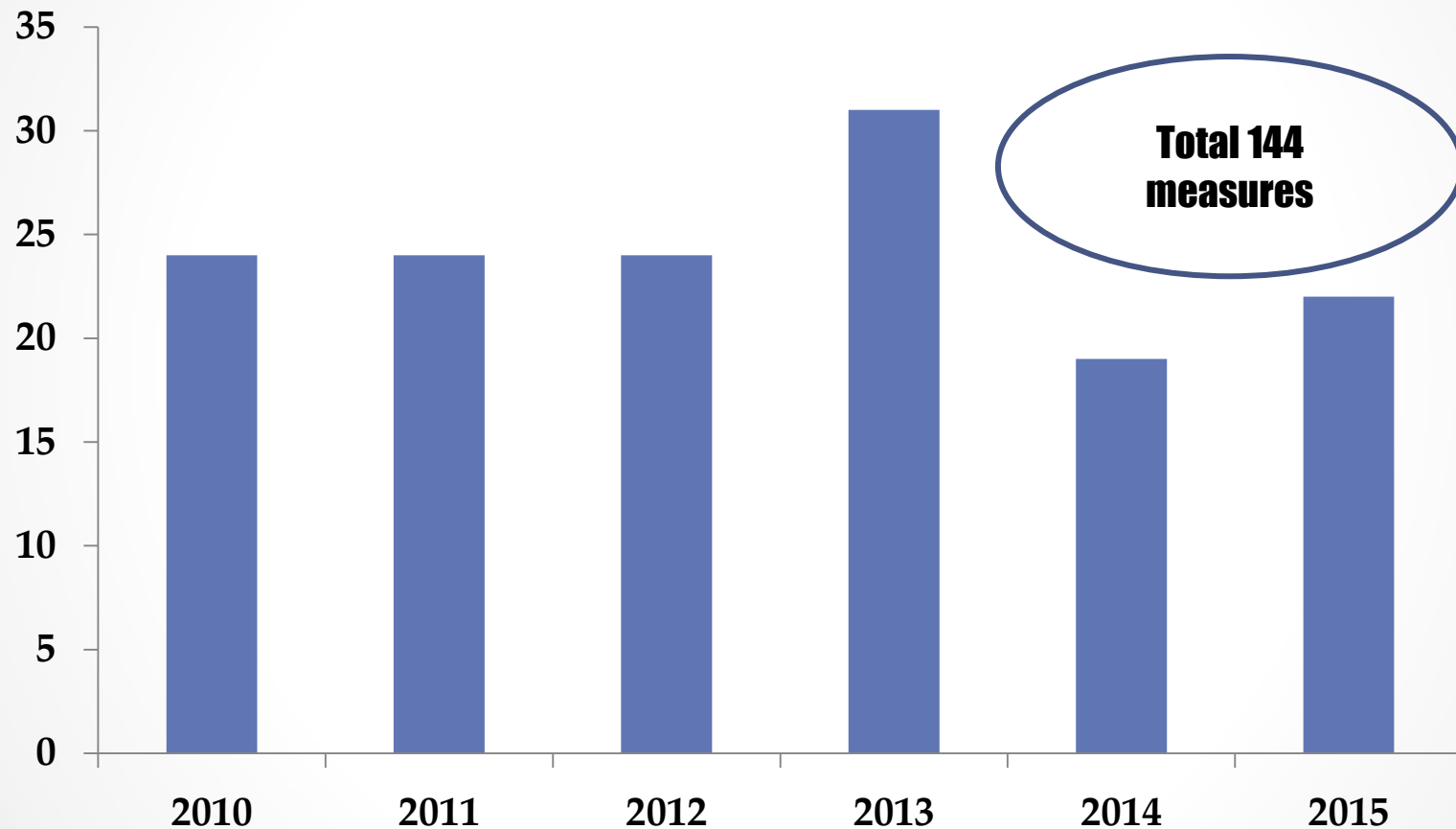
Recent examples :

- **Argentina (2012):** Law No. 26741 declares the expropriation of "YPF SA" and "Repsol YPF Gas SA" to be in the public interest.
- **Bolivia (2012):** Decree 1214/12 expropriates the "Transportadora de Electricidad" (national grid company).
- **Venezuela (2009-2010):** Organic Law for the Development of Petrochemical Activities - expropriations of "ExxonMobil", "ConocoPhillips", "Helmerich&Payne«.



On the other hand, countries also actively promote investment in the energy sector

**New Promotion and Facilitation investment policy, (not industry specific + energy sector)
2010–2015 (Number of measures)**



Source : UNCTAD Investment Policy Monitor database

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Examples of recent liberalisation and privatisation in the energy sector

- **Albania (2012):** Adoption of Law 10490 privatizing 100% of Albpetrol (oil producing company).
- **Argentina (2014):** Amendment to the Federal Hydrocarbons Law No. 27.007 improving the investment environment in the hydrocarbon industry.
- **Mexico (2013):** Energy reform through Constitutional amendments - possibility for private capital to participate in the oil industry.
- **Peru (2013):** Adoption of Law No. 30130, allowing the privatization of up to 49% of the state energy firm Petroperú.



Examples of recent promotion and facilitation measures for energy investment

- **Algeria (2013):** Amends Hydrocarbons Law offering incentives for the development of unconventional hydrocarbon resources.
- **Argentina (2015):** Adoption of Resolution 14/2015 establishing a "Crude Oil Production Stimulus Program".
- **Bolivia (2015):** Adoption of Law No. 767 on "Promotion of Investment in Exploration and Exploitation of Hydrocarbons".
- **Kazakhstan (2014):** Establishment of an Investment Ombudsman.



Balancing private and public interests in the energy sector

— Investment Policy Challenges

- ❑ Integrating investment and energy policy in overall development strategy;
- ❑ Incorporating sustainable development objectives in investment policy – Maximizing positive impact and minimizing risks;
- ❑ Ensuring investment policy effectiveness and measuring impact.



Policy options for further improving entry conditions for energy investments

- ☐ Room for additional domestic liberalization, incl. privatization?
- ☐ General investment promotion and facilitation measures (UNCTAD Global Action Menu)
- ☐ Specific promotion measures for investments in renewable energy
- ☐ International investment agreements



UNCTAD Investment Facilitation and Promotion: a Global Action Menu

- 1) Promote accessibility and transparency in the formulation of investment policies and regulations and procedures relevant to investors**
- 2) Enhance predictability and consistency in the application of investment policies.**
- 3) Improve the efficiency and effectiveness of investment administrative procedures.**
- 4) Build constructive stakeholder relationships.**
- 5) Designate a lead agency or investment ombudsperson/facilitator with a specific mandate.**



UNCTAD Investment Facilitation and Promotion: a Global Action Menu (cont.)

- 6) Establish monitoring and review mechanisms for investment facilitation.**
- 7) Enhance international cooperation for investment facilitation, including through provisions in IIAs.**
- 8) Strengthen investment facilitation efforts in developing-country partners through technical assistance.**
- 9) Enhance investment policy and proactive investment promotion in developing-country partners.**
- 10) Enhance international cooperation for investment promotion and facilitation for development, including through provisions in IIAs.**



Specific promotion measures for investments in renewable energy - Improving the risk-return profile

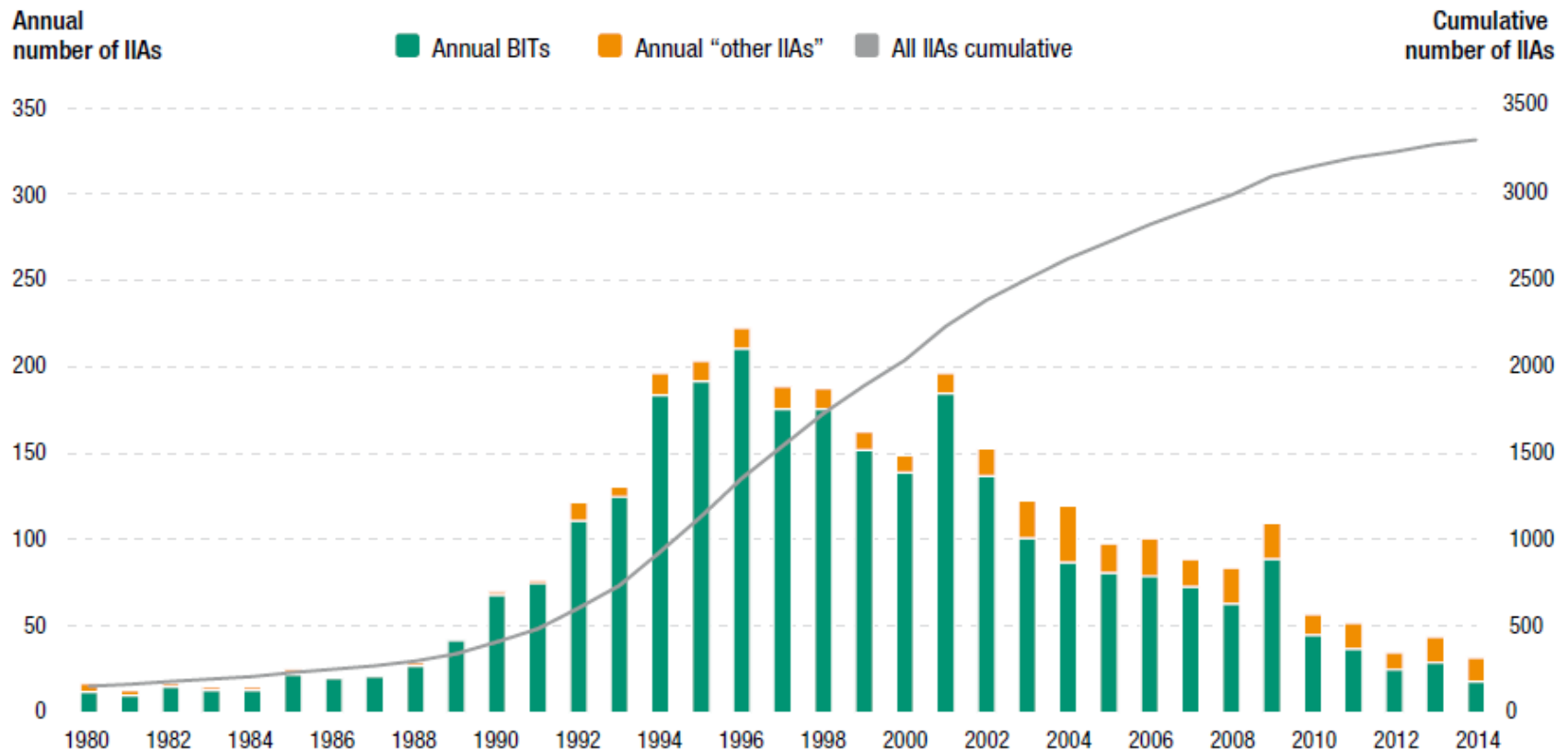
- **Wider use of PPPs (e.g. in the power sector);**
- **Linking the availability of investment guarantee and risk insurance facilities to SD impact;**
- **Specific incentives for investment in renewables;**
- **Using development banks and ODA as leveraging mechanisms;**
- **Creating stable and reliable markets (e.g. through public procurement, feed-in tariffs for «green» energy, consumer subsidies, regional cooperation);**
- **Investor targeting through IPAs.**



Promoting energy investments through IIAs

Figure III.4.

Trends in IIAs signed, 1980–2014



Source: UNCTAD, IIA database.

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IIA reform and energy investments

- ☐ Coverage of pre-establishment phase?
- ☐ Clarification of IIA provisions;
- ☐ Reform of investor-State dispute settlement;
- ☐ Specific promotion and facilitation provisions in IIAs.



Investment Policy Framework for Sustainable Development (IPFSD)



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UNCTAD 14

Nairobi, 17-22 July 2016



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Thank you!

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