

ENERGY CHARTER EXPERT MEETING

REMOVING PRE-INVESTMENT BARRIERS IN ENERGY

JUNE 14, 2016



WORLD BANK GROUP

Trade & Competitiveness

Peter Kusek
World Bank Group

OUTLINE

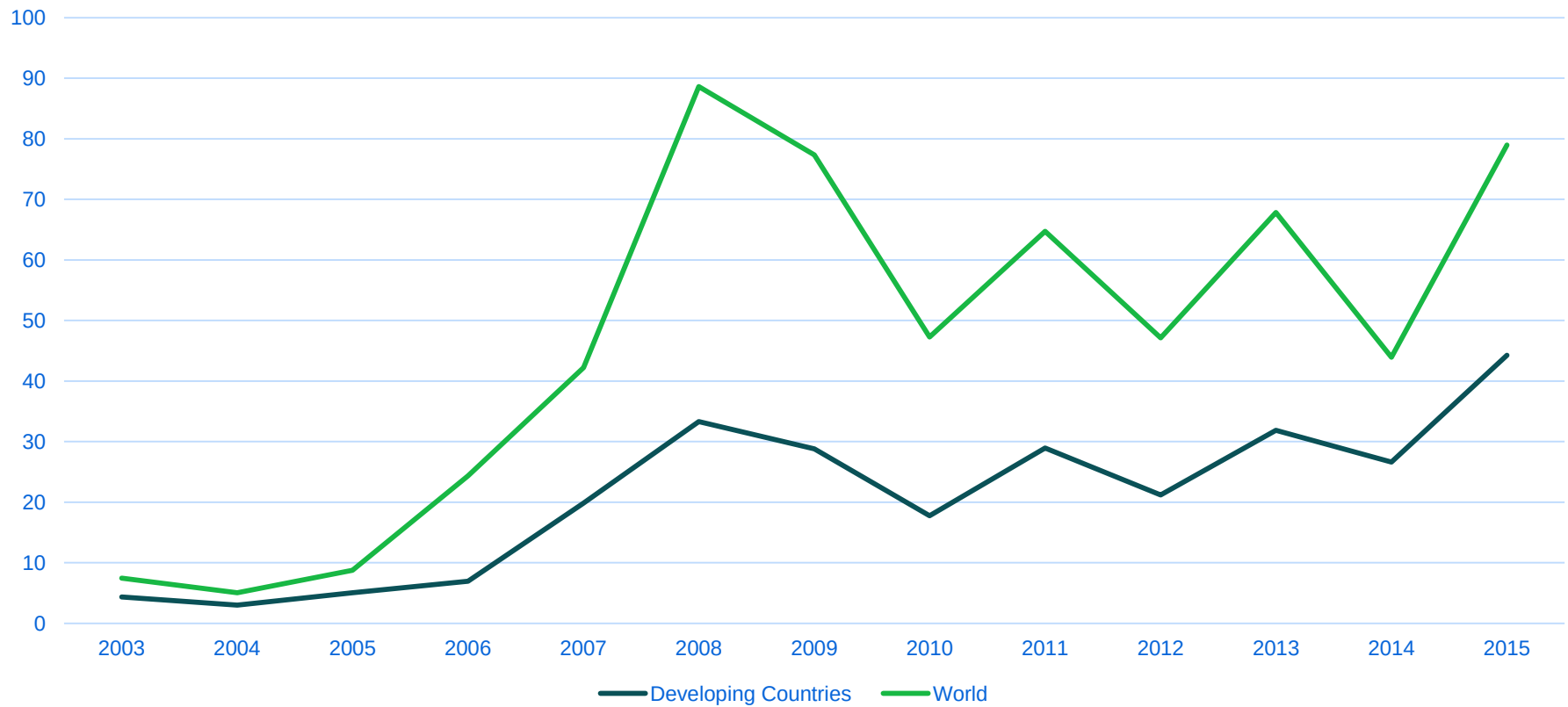
- Overview of FDI data in renewable energy (RE)
- World Bank Group (WBG) measurements of FDI barriers in RE
- WBG investments and technical assistance
 - IFC investment
 - WBG country assistance in improving investment frameworks for investment entry, protection and retention
- Conclusions

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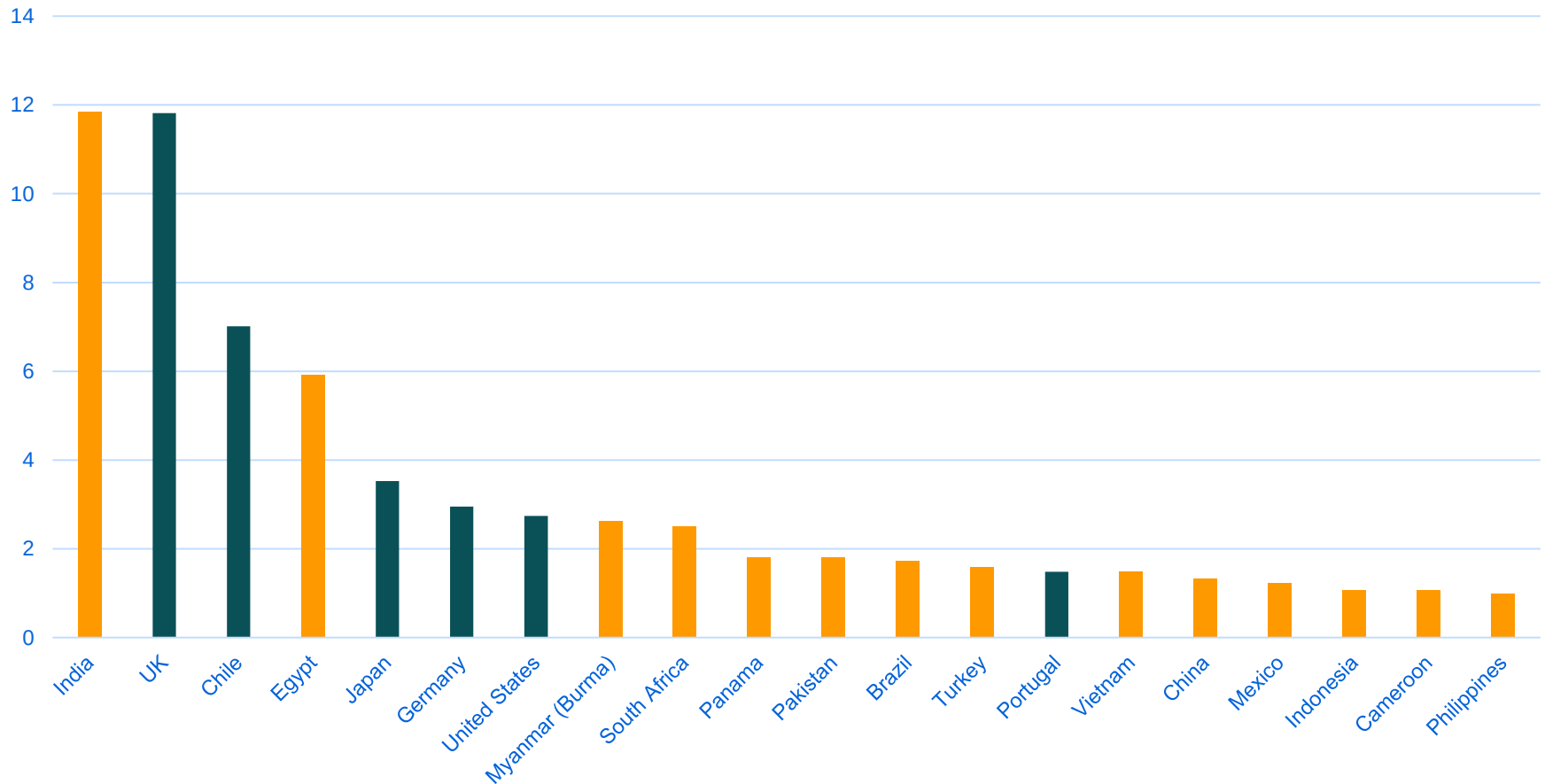
FDI in RE in developing countries is gradually increasing

Total FDI Invested in Renewable Energy: World vs. Developing Countries (2003-2015)
(billions USD)

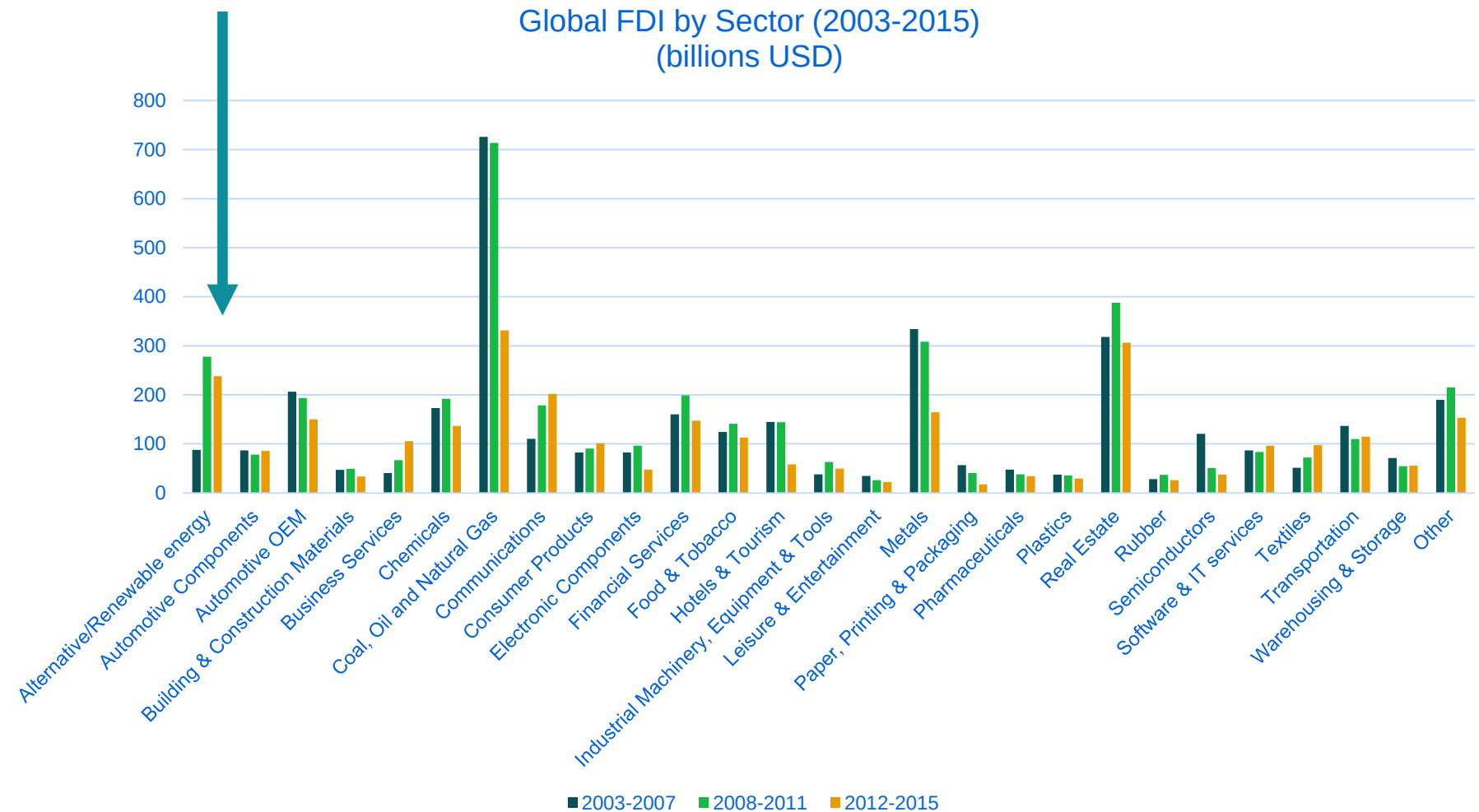


Majority of renewable energy FDI recipients in 2015 were developing countries

Top 20 Renewable Energy FDI Recipients (2015)
(billions USD)

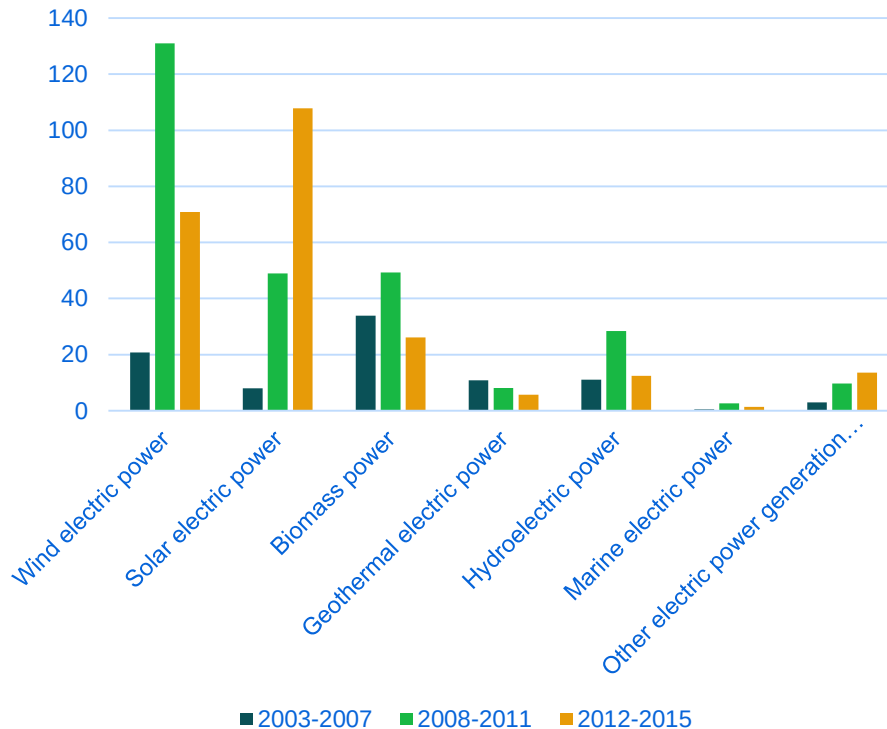


Globally, renewable energy is among the top sectors receiving the most FDI

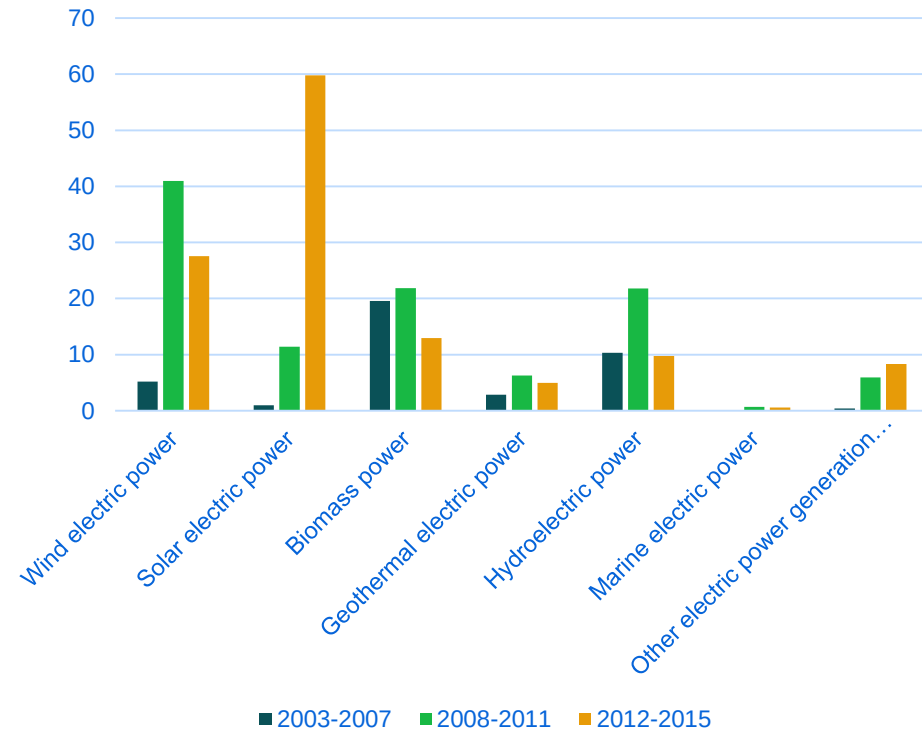


Wind & solar electric power sectors receive the most investments, across the globe & developing countries. Investments in solar electric power have increased over time.

Global Total FDI By Renewable Energy Sub Sector (2003-2015)
(billions USD)



Developing Countries Total FDI By Renewable Energy Sub (2003-2015)
(billions USD)



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WBG DATABASE: INVESTING ACROSS BORDERS

THE WORLD BANK GROUP

Investing Across Borders

INDICATORS OF FOREIGN DIRECT INVESTMENT REGULATION

[DATA](#)
[METHODOLOGY](#)
[FAQ](#)
[RESEARCH](#)
[CONTRIBUTORS](#)

ACCESS HISTORICAL DATA

Select an economy
- OR -
Select a topic

[View new FDI regulations data](#)

Investing Across Borders is a World Bank Group initiative comparing regulation of foreign direct investment around the world. It presents quantitative indicators on economies' laws, regulations, and practices affecting how foreign companies invest across sectors, start businesses, access industrial land, and arbitrate commercial disputes.

DOWNLOAD THE REPORT

Investing Across Borders 2010 provides selected indicators of foreign direct investment regulation in 87 economies.

- [Full Report \(PDF, 2.1MB\)](#)
- [Overview \(PDF, 202KB\)](#)

REGULATING FDI IN LATIN AMERICA

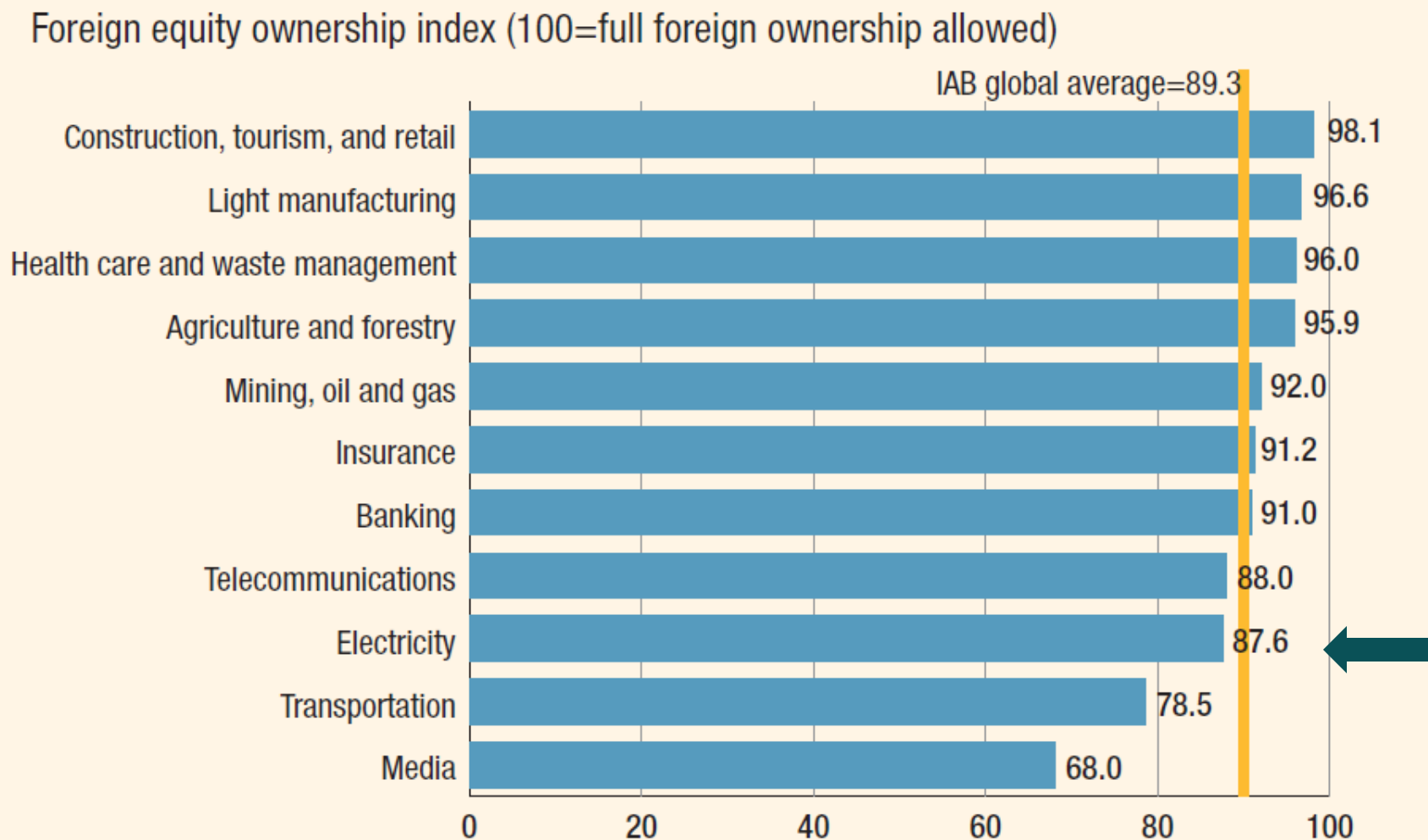
Regulating Foreign Direct Investment in Latin America: Indicators, regulation, investment report we partner with the Bank of Latin America

Sample data: Foreign ownership restrictions

Economy	Agriculture	Forestry	Mining	Oil and Gas	Food processing	Manufacturing of basic chemicals	Light Manufacturing	Electric Power generation - biomass	Electric Power generation - solar	Electric Power generation - wind	Electric Power transmission	Electric Power distribution	Waste management and recycling	Water distribution	Financial services
Afghanistan	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	49%	49%	100%	100%	4
Albania	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	0%	100%	100%	100%	1
Algeria	49%	49%	49%	49%	49%	49%	49%	49%	49%	49%	0%	49%	49%	49%	4
Angola	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Argentina	85%	85%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Armenia	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Australia	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Austria	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Azerbaijan	100%	100%	100%	49%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Bangladesh	100%	0%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Belarus	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Bolivia	100%	100%	100%	49%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Bosnia and Herzegovina	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1
Brazil	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	1

Source: <http://iab.worldbank.org/>

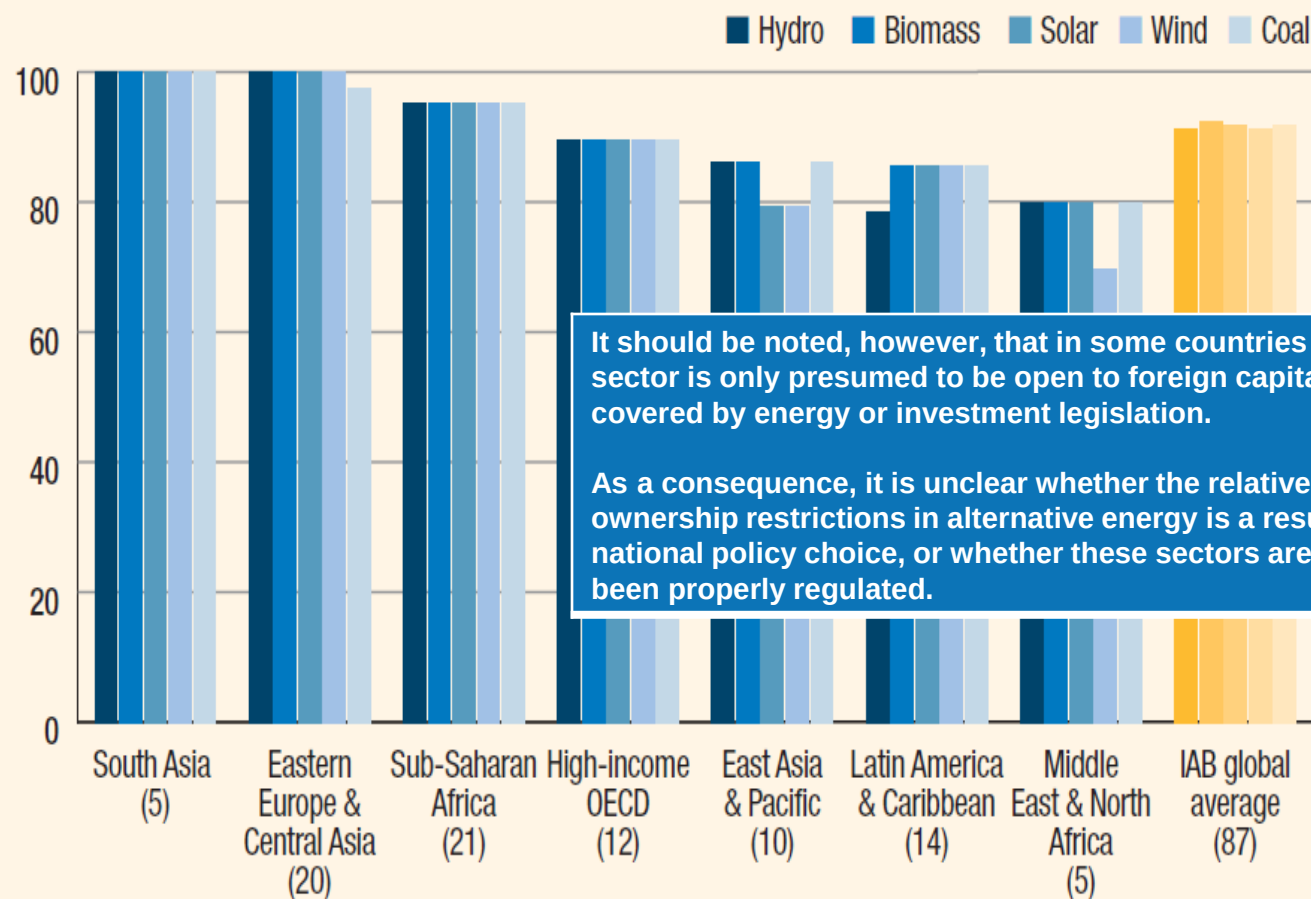
FIGURE 3.2: Equity limits on foreign ownership of companies vary across sectors



Source: Investing Across Borders database.

FIGURE 3.5: Most regions welcome FDI in alternative energy

Foreign equity ownership index (100=full foreign ownership allowed)



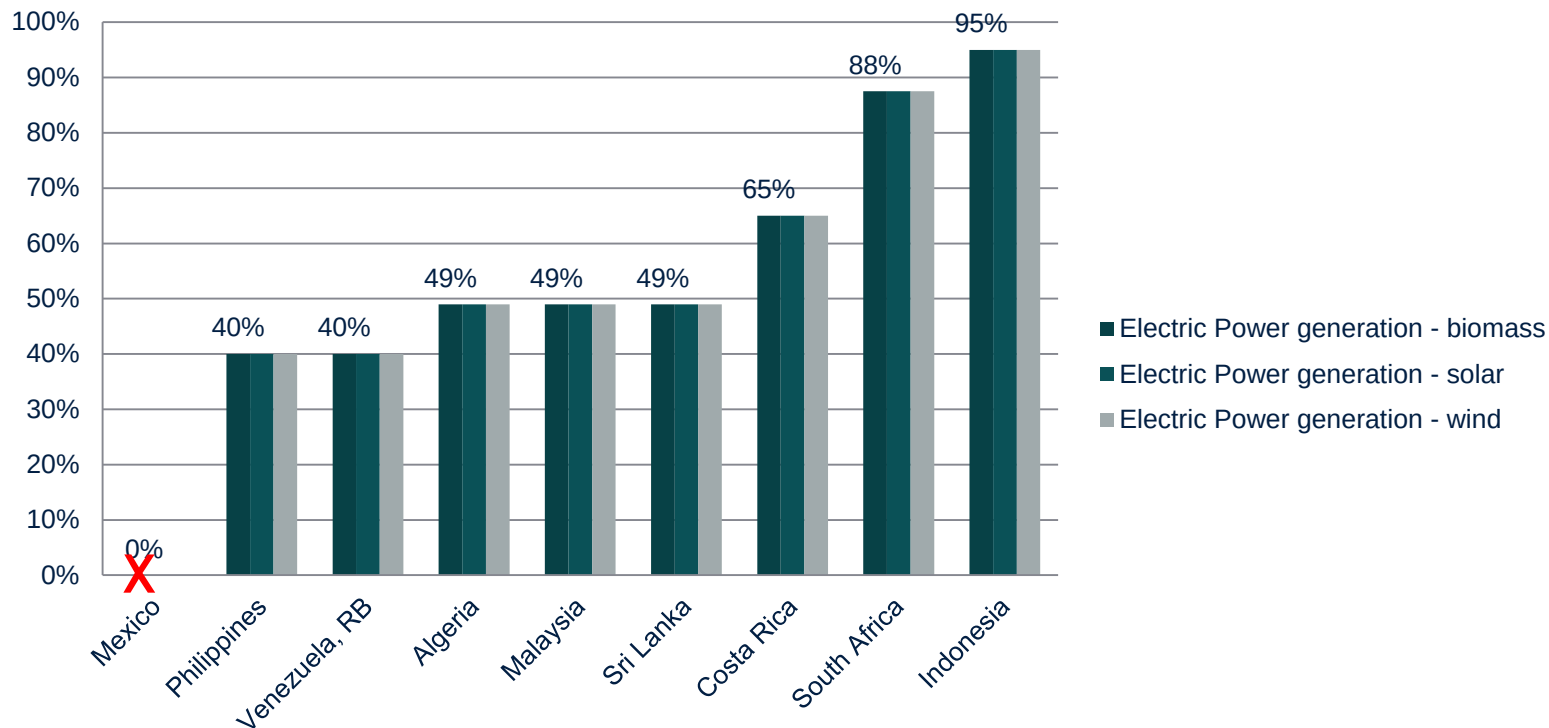
It should be noted, however, that in some countries the renewable energy sector is only presumed to be open to foreign capital, as it is not explicitly covered by energy or investment legislation.

As a consequence, it is unclear whether the relative absence of foreign ownership restrictions in alternative energy is a result of a conscious national policy choice, or whether these sectors are too new to have yet been properly regulated.

Source: Investing Across Borders database.

EXAMPLES OF COUNTRY-SPECIFIC RESTRICTIONS

Maximum foreign ownership allowed in renewable energy
(2013 data)



X Since the data was collected, Mexico has opened up its energy sector.

Source: <http://iab.worldbank.org/>

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INTERNATIONAL FINANCE CORPORATION (IFC)

IFC Infrastructure & Natural Resources Highlights

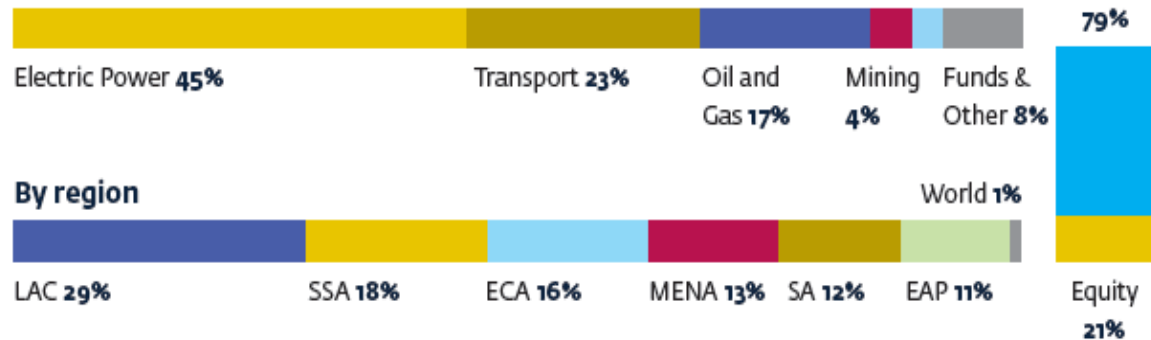
\$12.6 billion

Total Committed Portfolio
as of June 30, 2015

FY15 commitments:

- **\$5.9 billion** including \$3.4 billion mobilization
- **98 projects**

By sector



Global Needs

- 1.2 billion people lack access to electricity; 650 million people lack access to clean water
- Global electricity demand to increase by 70% by 2040; outages already frequent in emerging markets
- 2 billion more people will move to cities by 2045; municipal services in high demand
- Poor transport networks, shipping delays among biggest international trade barriers¹



Our Impact

Infrastructure portfolio projects to date have provided:

- Electricity for 100 million people
- Clean water for 23 million people
- Jobs for 2.5 million people
- Natural gas for 35 million people
- \$20 billion in governments revenues
- \$52 billion for local suppliers²



\$3 Billion+ Invested in Renewable Energy

IFC is one of the largest renewable energy investors in the world, having co-financed more than 200 renewable energy projects over the past five years. Our investments have supported about 8 GW of hydropower, nearly 4 GW of wind power, and nearly 2 GW of solar power for emerging markets.

Hydro



- 75+ investments
- 25+ countries including Nepal, India, Philippines, Uganda, Turkey, Georgia, Pakistan, Costa Rica, Fiji, Mali, Peru, Guatemala
- Expertise in small, medium and large hydropower installations

Wind



- 40+ investments
- 15+ countries including Brazil, Mexico, Turkey, Romania, Kenya, South Africa, China, Sri Lanka, Pakistan, India
- Experience with wide range of turbines and regulations

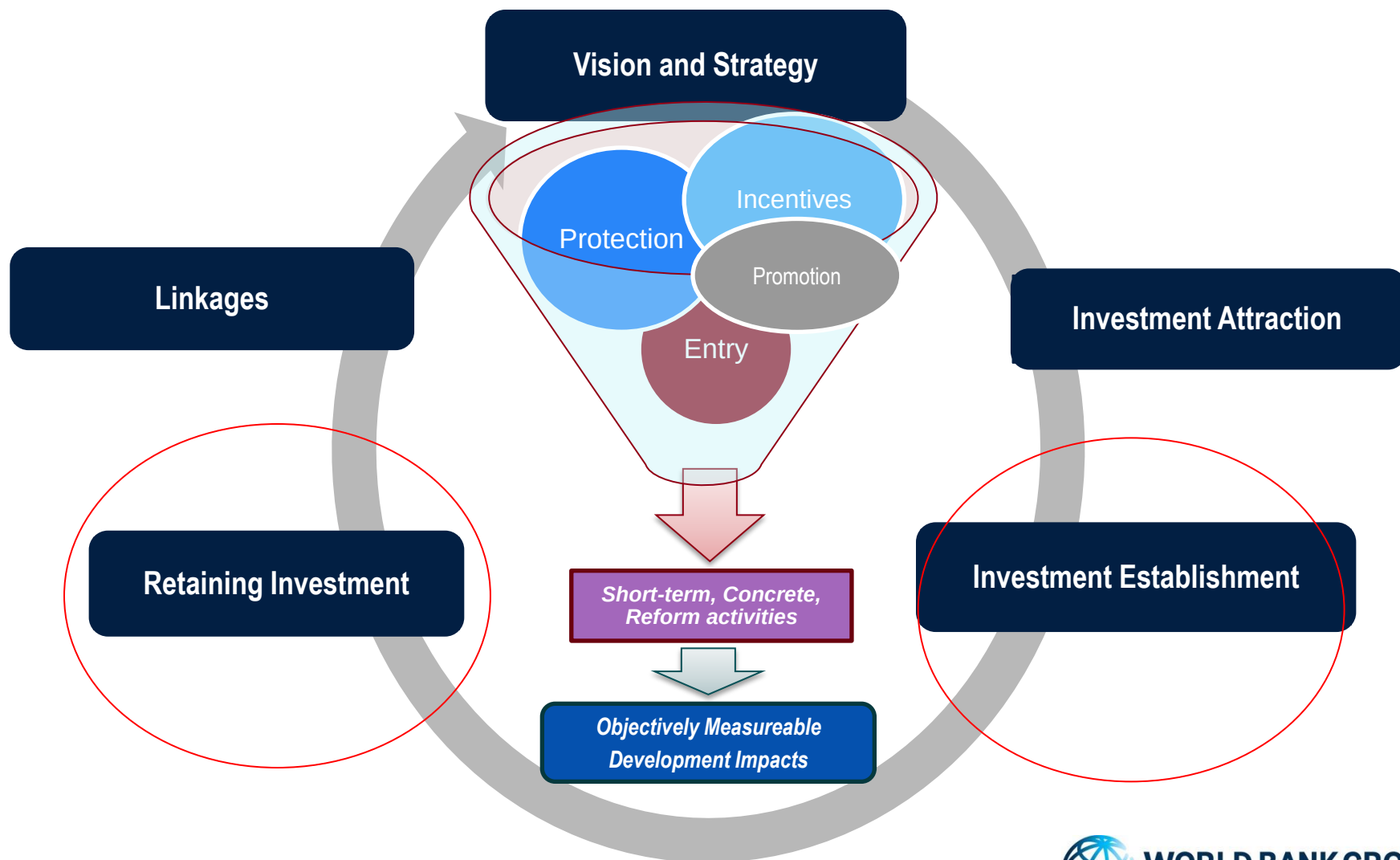
Solar



- 70+ investments
- 10+ countries including Thailand, India, Chile, Honduras, Mexico, South Africa, Mali, Jordan, Tanzania, Bulgaria
- Experience with wide range of technologies and regulations

Scaling Solar is a new program helping sub-Saharan African countries procure large-scale solar power quickly and at low tariffs, using economies of scale and leveraging WBG expertise in tendering, financing, regulation and risk management.

WBG TRADE AND COMPETITIVENESS GLOBAL PRACTICE | INVESTMENT POLICY TEAM:
OUR WORK WITH DEVELOPING COUNTRY GOVERNMENTS IS AIMED AT GETTING THE RIGHT
INVESTMENT POLICY MIX



TECHNICAL ASSISTANCE IN FOREIGN INVESTMENT ENTRY: OVERVIEW OF BARRIERS

	Focus areas	Examples
Legal and regulatory barriers	Prohibition of foreign investment in certain sectors	A country may prohibit FDI in the retail sector by regulating that only companies owned and controlled by nationals can own supermarkets or department stores
	Restrictions on top managerial personnel	A country may restrict the appointment of foreigners to the board of directors and/or to executive-level positions
	Discriminatory licensing requirements	A foreign investor may be required to meet additional conditions in order to get a license to operate (in comparison to a domestic investor)
Procedural barriers	Obtaining investment approval	A country may require several different agencies to sign off on investment approval, causing increased time and costs
	Registration or notification of investment	Registration or notification requirements may require detailed, forward-looking information that is time-consuming to prepare
	Obtaining a work permit or visa	Work permits applications may be onerous and lengthy, and may impose restrictions on staff mobility
	Opening a bank account in a foreign currency	Documentation required to open a bank account may be costly to collect and slow to process
	Having documents recognized (Hague Apostille Convention)	A country may require that certain foreign documents be certified or <u>notarised</u> before they can be recognised for establishment
De Facto barriers	Lack of transparency	Substantive laws and regulations of the country may be complex and difficult to access, and decision-making processes may be opaque .
	Excessive discretion and lack of certainty	Decision-makers may have significant discretion, allowing informal practices to creep into the system.

COMMON ELEMENTS OF REFORM ASSISTANCE

- Conducting an assessment of entry regimes and conducting investor surveys to identify procedural barriers
- Ensuring consistency of domestic investment legislation with the country's international legal commitments found in its bilateral and regional investment agreements
- Reducing FDI screening and minimum FDI requirements
- Establishing an effective expatriate work permit and visa regime
- Developing process maps and guidelines as diagnostic tools for process simplification
- Introducing templates and model forms
- Enhancing automation of procedures
- Facilitating accession of countries to the Hague Apostille Convention
- Advocating for increased use of transparency principles, such as consultation and notification
- Collecting and publishing information on FDI entry regimes
- Introducing Investor Tracking Systems

RESULTS:

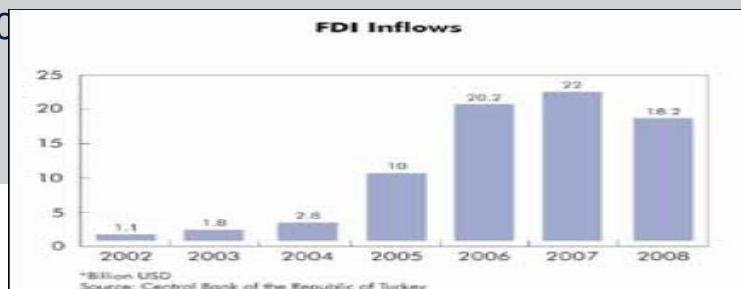
REMOVING FDI RESTRICTIONS LEADS TO MORE INVESTMENT

Turkey

Key reforms:

- The *ex-ante screening* and approval process was abolished and replaced by a simple, post-facto *notification* system.
- The new Law did not introduce any new incentives (which Governments often do when they adopt a new FDI Law).
- The \$50,000 minimum capital requirement for FDI projects was removed.

Result: Post the intervention, the **total value of FDI inflows increased** from \$1.7 billion in 2003 to \$2.8 billion in 2005, \$10 billion in 2005 and \$20.2 billion in 2006



Source: <http://www.invest.gov.tr>

Liberia

Key reforms:

- Established national treatment as a cornerstone for investment
- Reduced sectoral restrictions to ensure compliance with WTO. (Previously, 26 sectors were closed to FDI. Under the new law, only 16 are still closed and 12 other have minimum investment requirements.)

Result: **FDI inflows have been steadily increasing.**

Country fact sheet: Liberia

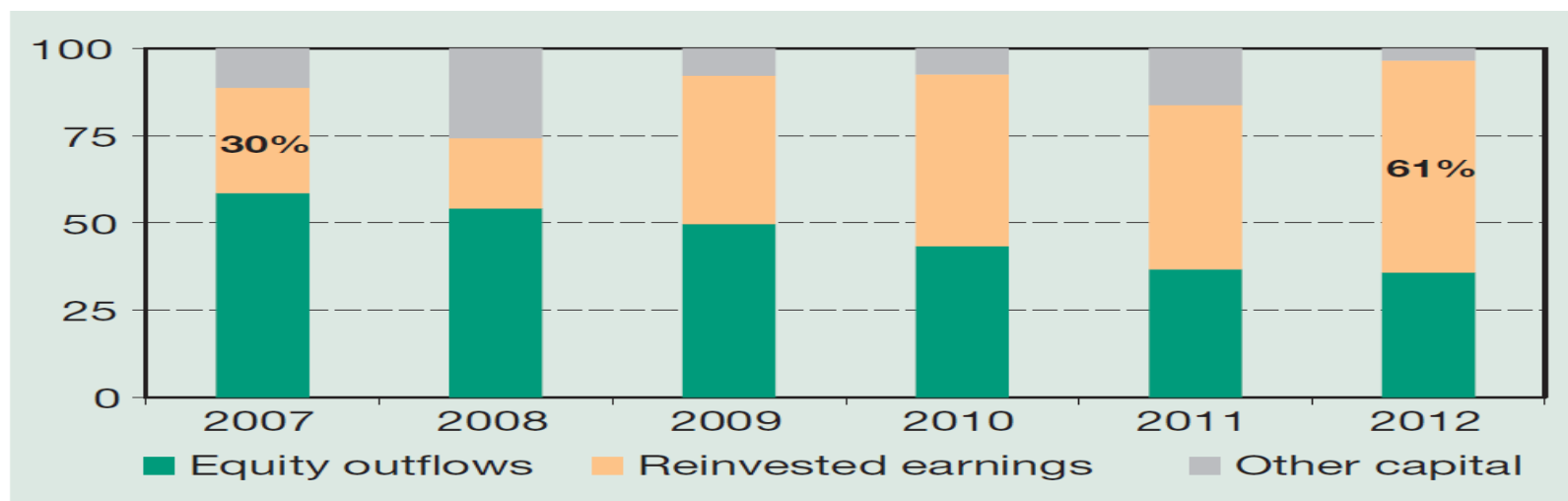
Foreign direct investment (FDI) overview (Millions of dollars and percentages)

FDI flows	2005-2007 (Pre- crisis annual average)	2009	2010	2011	2012
Liberia					
Inward	107	218	450	508	1 354

AFTER INVESTMENT ENTRY COMES INVESTMENT RETENTION:
EXISTING INVESTORS ARE AN OFTEN UNDERUTILIZED RESOURCE

Reinvestment earnings: Increasing FDI source

Figure 1.7. FDI outflows by components for 37 selected developed countries,^a 2007–2012
(Billions of dollars)

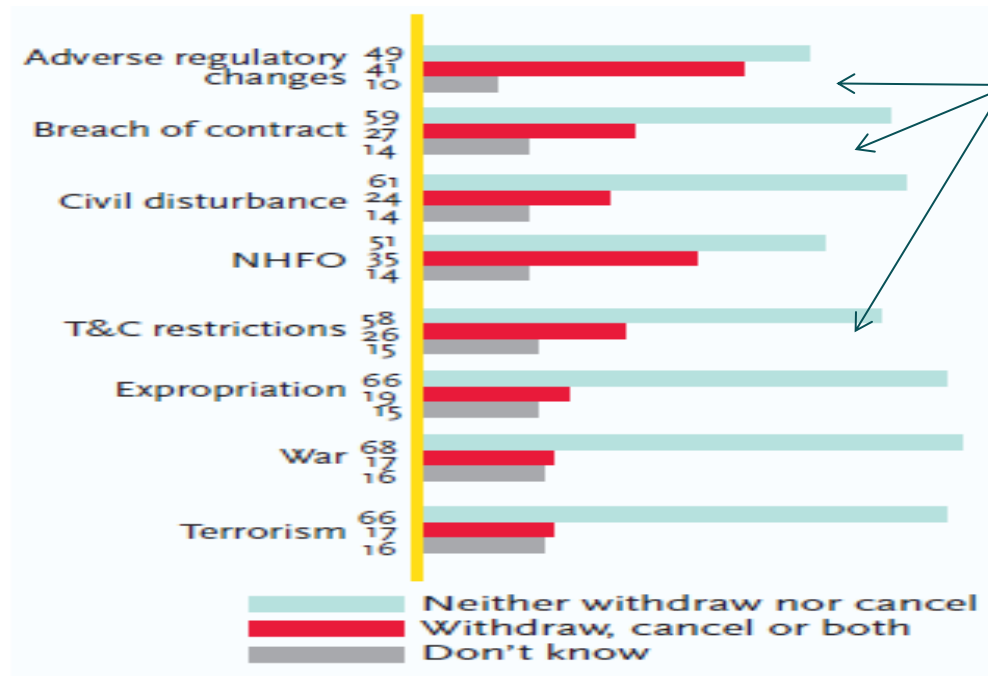


Source: UNCTAD FDI-TNC-GVC Information System, FDI database (www.unctad.org/fdistatistics).

MANAGING POLITICAL RISK FOR INVESTORS

~ 25% of investors said they might withdraw from an existing investment, or cancel a planned investment due to political risk concerns

Percent of respondents



Political risks that investors are most concerned about relate to government actions

MECHANISMS FOR THE PREVENTION OF DISPUTES

1. Tracking and Monitoring System (ICT)	2. Mechanism for investment retention & confidence(MIRC)
For each grievance/ problem ,record: a) Investor profile and amount of stock of investment b) Issue area c) Government agencies involved d) Impact of grievance on investment plan e) Impact of grievance on revenue and other aspects f) Action taken by investor g) Existence of a domestic/international court case relating to grievance; current status of case.	Objective is to provide an effective and timely response to resolve a specific case of violation of a protection guarantee A single investor's complaint helps identify prevalent instances of lack of implementation of investor protection guarantees – solution is often systemic Entails legal reform and capacity building to set up and operationalize MIRC (Establish Lead agency, information sharing, early alert, problem solving techniques, implementation of solution)

RESULTS:

ADDRESSING INVESTOR GRIEVANCES BOOSTS RE-INVESTMENT

POSJETA KOMPANIJI I POPRATNE RADNJE/ COMPANY VISIT AND FOLLOW-UP									
Sektor poslovanja u koji se planira nova investicija/ Sector of Announced Reinvestment	Industrija-Proizvodna djelatnost u koju je planira nova investicija/ Industry-Production Activity of Announced Reinvestment	Odgovorna osoba u FIPAI/ Responsible Person at FIPA	Ime koordinatora (iz općine, kantona, Brčko Distrikta BiH); Naziv općine-opštine, kantona, Brčko Distrikt BiH/ Focal Point (Municipality, Canton, Brcko District); Municipality, Canton, Brcko District BiH	Datum posjete kompaniji/ Date of Visit to a Company	Tim za posjetu/ Visiting Team	Datum dostave pisma zahvale kompaniji/ Initial Follow Up Date (Sending Thank you letter)	Broj dana između posjete i dostave pisma zahvale kompaniji/ Initial Response Time	Datum zadnjeg kontakta s kompanijom / Last Follow Up Date with Company	Broj dana od zadnjeg kontakta s kompanijom: NAPOMENA: ZELENO - Do 5 mjeseci ZUTO - Između 5 i 6 mjeseci CRVENO - Više od 6 mjeseci/ Days Since Last Follow Up GREEN - Up to 5 months, YELLOW - Between 5 and 6 months
				4.10.2014		16.10.2014	12	16.10.2014	112
				8.10.2014		16.10.2014	8	16.10.2014	112
				10.10.2014		16.10.2014	6	16.10.2014	112
				3.10.2014		16.10.2014	13	16.10.2014	112
				8.10.2014		14.10.2014	6	16.10.2014	112
				3.10.2014		9.10.2014	6	16.10.2014	112
				7.10.2014		9.10.2014	2	16.10.2014	112
				3.10.2014		8.10.2014	6	16.10.2014	112
								16.10.2014	112
								16.10.2014	112
								10.10.2014	118
								11.10.2014	117
								12.10.2014	116
								13.10.2014	115
								14.10.2014	114
								23.9.2014	135
								24.9.2014	134
								25.9.2014	133
								26.9.2014	132
								27.9.2014	131

In Bosnia and Herzegovina, a mechanism to systematically track and address investor grievances resulted in **\$34.6 million reinvestment** from 22 companies in the course of the first 18 months of the reform. These investments resulted in the creation of **730 new jobs**.

OUTLINE

- Overview of FDI in renewable energy (RE)
- World Bank Group (WBG) measurements of barriers in RE
- WBG country advisory services in:
 - Investment policy and promotion
 - Investment entry
 - Investment protection
- **Conclusions**

Conclusions

1 Energy sector needs more investment

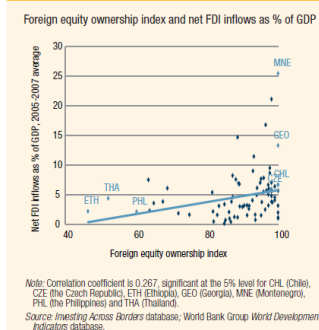
Investment Needs

- \$57 trillion in infrastructure investment needed by 2030 to keep up with projected GDP growth—60% above historical spending rate.
- Developing countries account for half of global infrastructure spending, compared to 10% in 2006
- Every dollar spent on an infrastructure project generates an economic return of between 5% and 25%¹

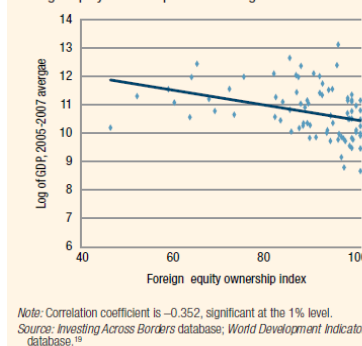


2 Barriers to FDI have economic costs to countries

FIGURE 3.7: Statutory restrictions on foreign equity ownership limit FDI



Foreign equity ownership index and log of GDP



3 World Bank and IFC stand ready to help

- IFC offers **solutions for infrastructure development** in emerging markets, drawing on industry-leading sector and regulatory **expertise** and a track record of leading pioneering projects in developing countries.
- We **develop early-stage projects** through IFC InfraVentures and offer a **range of financing** tailored to meet project needs, including loans, equity, quasi-equity, and local currency products.
- We **mobilize funding** through IFC's syndications programs and work with IFC's Asset Management Company to **co-invest** with institutional investors.
- IFC has **more than 300 staff** dedicated to infrastructure and natural resources, including specialists in PPPs, financial structuring, risk management, engineering, procurement, and environmental, social, and governance standards.

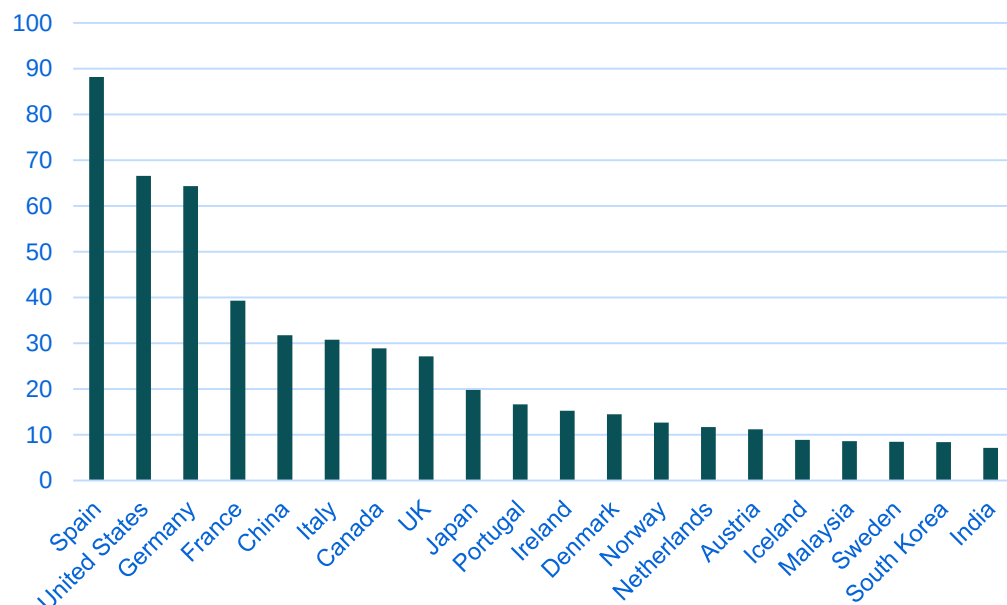
Thank you

pkusek@ifc.org

Annexes

The world's top investors in renewable energy have historically been...

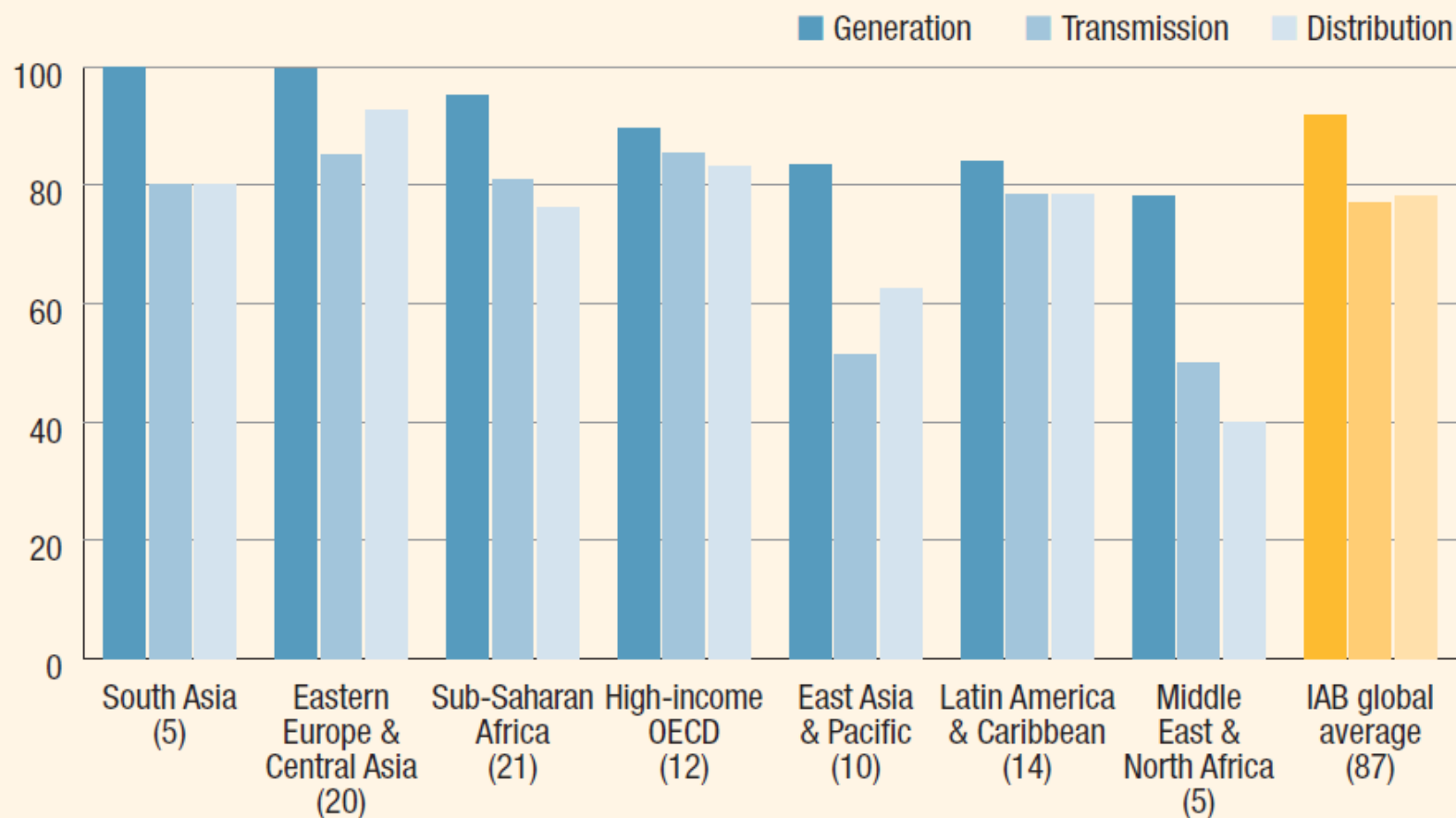
Top 20 Global Investors in Renewable Energy
(2003-2015)
(billions USD)



Investing Country	Top Investing Company	Company's Total FDI Invested
Spain	Iberdrola	\$16.40 billion
USA	SunEdison	\$5.14 billion
Germany	RWE Innogy UK	\$4.44 billion
France	Engie (GDF SUEZ) (Gaz de France)	\$4.06 billion
China	Shanghai Electric	\$3.09 billion

FIGURE 3.4: Foreign ownership in electricity generation is less restricted than in electricity transmission and distribution

Foreign equity ownership index (100=full foreign ownership allowed)



Source: Investing Across Borders database.

OVERVIEW OF WORLD BANK GROUP APPROACH TO SETTING AN INVESTMENT POLICY STRATEGY



Investment policy is not about choosing between foreign and domestic investment

It is about connecting them through global value chains. Trade and investment are two sides of the same coin. Both domestic and foreign investment must be regulated.



Foreign investment is not a transaction; it is a relationship

An investment policy strategy should not only pursue attraction, but also retention and linkages with the domestic productive sector, thereby maximizing benefits from investment.

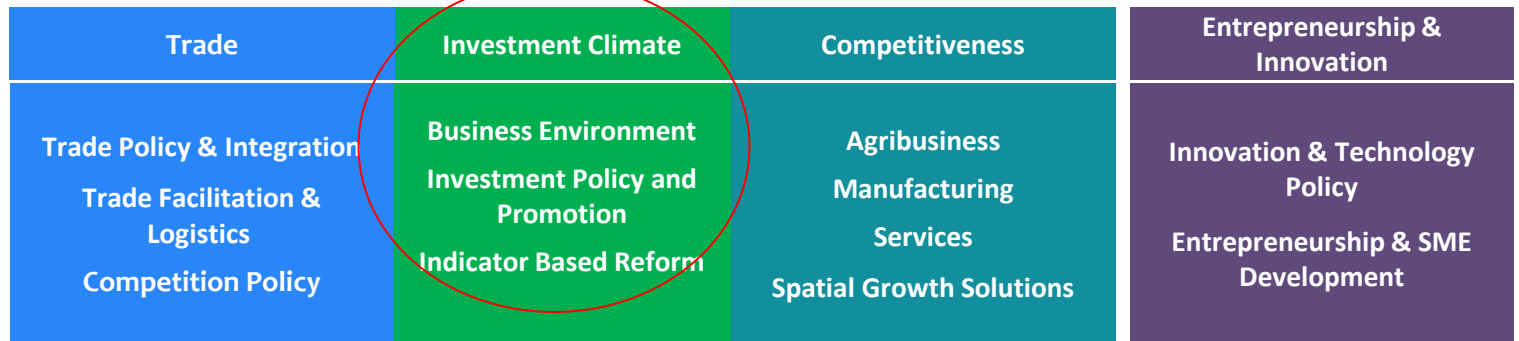


Not all types of investment are the same

Different types of investment have different effects on socio-economic development and thus require different policies. Countries should align the type of investment with different policies. Different competitive drivers in different sectors.

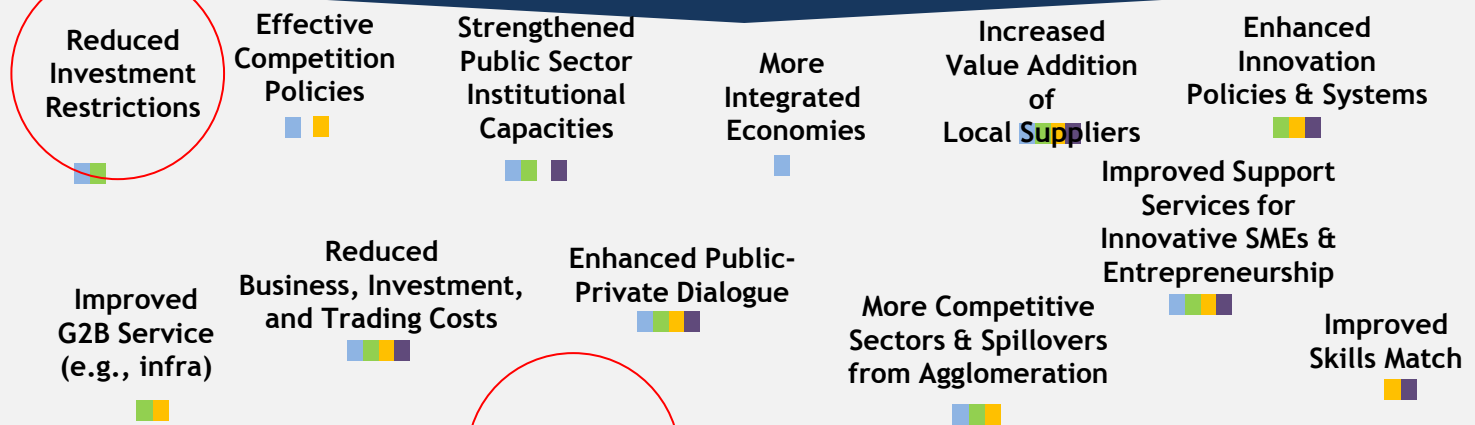
WBG TRADE AND COMPETITIVENESS GLOBAL PRACTICE

Core global themes



Country Operations | Knowledge | Global Voice

Illustrative Intermediate Outcomes



Outcomes

Improved Firm Productivity | Increase Investment | Improved Trade Performance | Enhanced Innovation

Impacts

Growth | Aggregate Productivity | Jobs | Rising Incomes

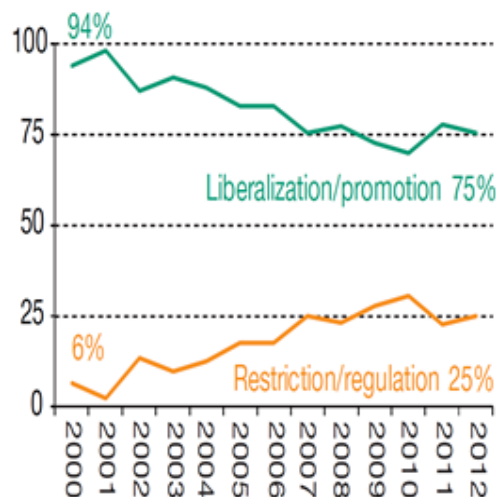
Twin goals

Ending extreme poverty | Boosting shared prosperity

TECHNICAL ASSISTANCE IN FOREIGN INVESTMENT ENTRY: CONTEXT

Despite trend of liberalization in the long term, protectionism has gained momentum

Figure 4. Changes in national investment policies, 2000–2012 (Per cent)



Source: UNCTAD

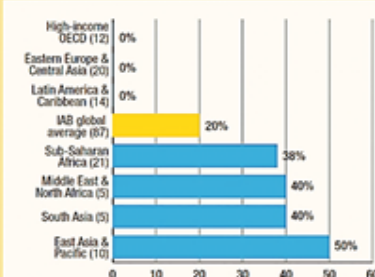
WBG research shows existence of restrictions across countries and sectors

FIGURE 2.2: Restrictions on foreign ownership of companies vary by sector



Source: Investing Across Borders database.

FIGURE 2.1: Share of IAB countries requiring foreign investment approval, by region

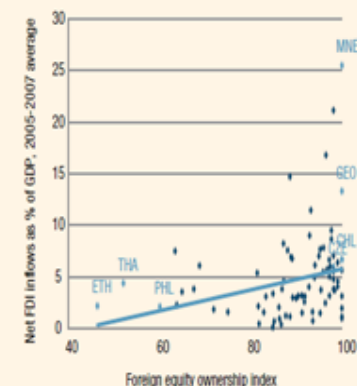


Note: 0% denotes that none of the countries in that region require an investment approval.
Source: Investing Across Borders database.

Countries with fewer restrictions attract more FDI

FIGURE 3.7: Statutory restrictions on foreign equity ownership limit FDI

Foreign equity ownership index and net FDI inflows as % of GDP



Note: Correlation coefficient is 0.267, significant at the 5% level for CHL (Chile), CZE (the Czech Republic), ETH (Ethiopia), GEO (Georgia), MNE (Montenegro), PHL (the Philippines) and THA (Thailand).

Source: Investing Across Borders database; World Bank Group World Development Indicators database.

INVESTMENT ENTRY TOOLKIT



Module 1: Why is Investment Entry Important?

This module introduces the key concepts addressed in the Investment Entry Toolkit. It explains why countries want to attract foreign investment, why reforming investment entry barriers makes economic sense, and how international commitments relate to investment entry.



Module 2: What Problems Tend to Arise in Relation to Investment Entry?

This module provides a more detailed discussion of the different types of investment entry barriers that might exist in a country. These include barriers set out in law, those that arise from complex or slow procedures, and those that arise from issues such as rent-seeking and a lack of transparency.



Module 3: How can Countries Address Problems Related to Investment Entry?

This module guides the user through reform considerations for each of the different types of entry barrier, setting out diagnostics, reform solutions, and implementation. A number of practical tools are included, with descriptions of how and when these might be used.



Module 4: How do we Measure Success?

This module assists users to identify the impacts of reform projects they undertake relating to investment entry. It covers how to define targets, identify outcomes, and measure results.

INVESTMENT POLICY TOOLKITS



Investment Entry
with Tools and Selected Readings



<http://globalpractices.worldbank.org/trade/Pages/SitePages/IPP-Toolkits.aspx>

World Bank Group report: Global Investment Promotion Best Practices

- Measures (1) inquiry handling, and (2) website quality.
- Lesotho performed “average (41-60% score)” ...which is however better than most African countries.



Table 5: Top 10 IPIs at Inquiry-Handling

1. PRONicaragua (Nicaragua)
2. Hungarian Investment and Trade Development Agency
3. Invest in Greece Agency
4. Invest in Finland
5. Cyprus Investment Promotion Agency
6. InvestHK (Hong Kong, China)
7. ABA–Invest in Austria
8. Invest in Sweden Agency
9. aicep Portugal Global
10. Invest in Denmark

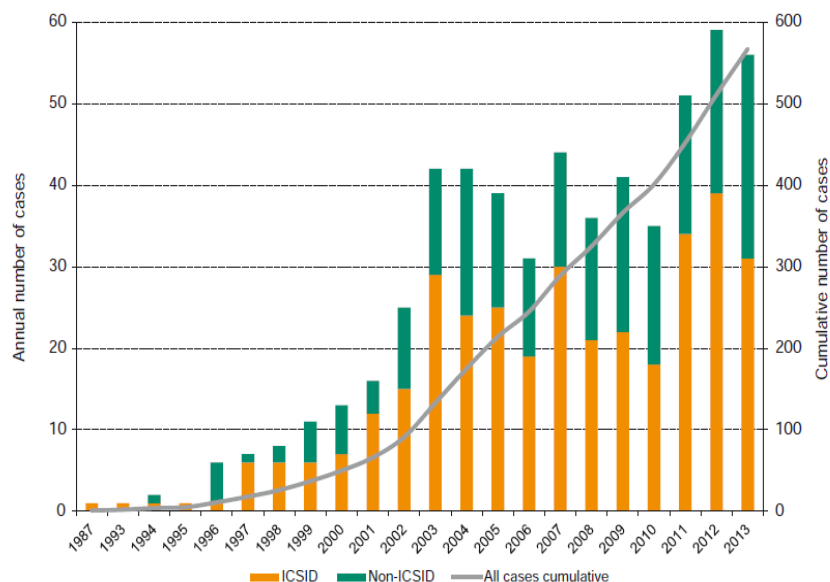
Table 2: Top 10 IPI Web Sites in the World

- | | |
|---------------------------------|---|
| 1. ABA–Invest in Austria | 6. Invest in Spain |
| 2. CzechInvest (Czech Republic) | 7. Investment Support and Promotion Agency of Turkey |
| 3. Austrade (Australia) | 8. PRONicaragua (Nicaragua) |
| 4. Germany Trade and Invest | 9. Department of Investment Services (Taiwan, China) |
| 5. Invest in Denmark | 10. Hungarian Investment and Trade Development Agency |

https://www.wbginvestmentclimate.org/uploads/Global%20Investment%20Promotion%20Best%20Practices_web.pdf

GOVERNMENT'S VIOLATIONS OF INVESTOR RIGHTS AND GUARANTEES CAN ALSO LEAD TO INVESTOR-STATE DISPUTES

Figure III.13. Known ISDS cases, 1987–2013



Source: UNCTAD, ISDS database.

Note: Due to new information becoming available for 2012 and earlier years the number of known ISDS cases has been revised.

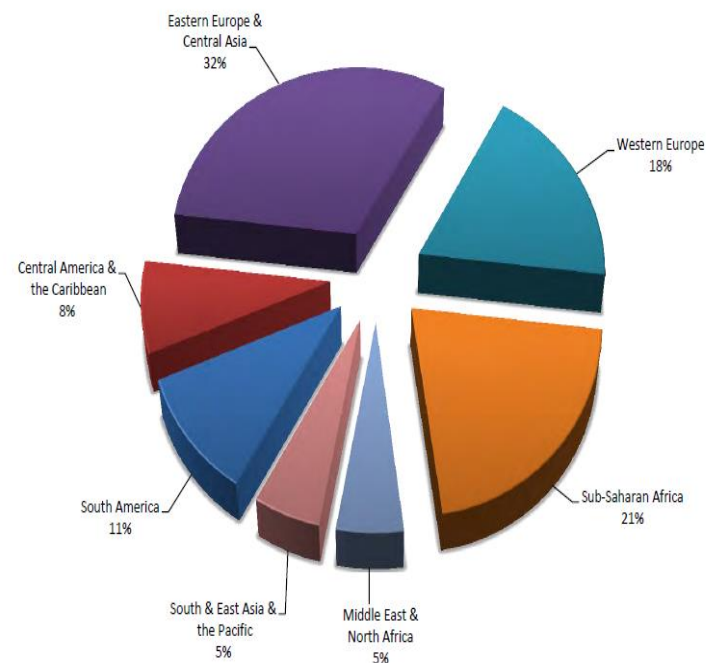
Cost:

Average of \$3 million in administrative costs and \$10.4 million in damages per arbitration case.

Source: UNCTAD, ICSID

4. Geographic Distribution of New ICSID Cases Registered in 2014, by State Party Involved

Chart 4: Geographic Distribution of New Cases Registered in 2014 under the ICSID Convention and Additional Facility Rules, by State Party Involved*:



DISPUTES CAN BE PREVENTED - SOME EMPIRICAL EVIDENCE

Agency	Specific evidence
MIGA experience	■ In 25 years, all but 6 claims in over 1000 projects (and 4 of those claims were due to war/civil disturbance) have been avoided ■ Working with investors and governments MIGA was able to solve 95 “pre-claim” (potential dispute) situations.
ICSID experience	■ Approximately 1/3rd investor-State disputes settled before there is an award on the merits ■ Almost 40 % have been settled at a very early stage of the process (before the arbitration tribunal has been constituted) ■ This means that a number of disputes submitted to arbitration were in fact conflicts that were allowed to escalate into disputes and could have been successfully managed much earlier.