



NOTE FOR PROSPECTIVE CONSULTANTS:

- If you are interested in submitting your CV for this assignment, kindly email robertj@finmark.org.za
- See the Scoring Grid (Annex 1) for the desired qualifications, skills and professional experience
- In-country consultants are needed to carry out this assignment in the following SADC countries; South Africa, Botswana, Malawi, Eswatini, Lesotho, Mozambique, Tanzania, Zambia, Angola, Zimbabwe, Namibia, Madagascar, Seychelles, Mauritius, DRC
- Deadline for CV submission: To be advised on request

SUPPORT TO IMPROVING BUSINESS AND INVESTMENT ENVIRONMENT (SIBE)

Terms of Reference (ToR) for Recruitment of Short-Term Experts (STEs)	
Title of Assignment:	Conduct research on the investment legal frameworks in South Africa and support preparation of the “SADC Investment Climate Scorecard”.
Reference no.:	TOR 0294/R.A 1.3/AWP2020-21
Activity Code:	NI 0294.1.3.2 “STE inputs”
Responsible SADC SPO:	Mario Lironel, SPO Finance and Investment, SIBE Task Manager, Directorate Finance, Investment and Customs
Date of issue:	9 June 2021
1. Background	
1.1 Background SADC	<p>The Southern African Development Community (SADC) was formed in 1980 as the “Southern African Development Co-operation Conference” (SADCC) by nine of the current Member States. On 17 August 1992 in Windhoek, South Africa, the SADCC was transformed into The Southern African Development Community (SADC) with the signing of the SADC Declaration and Treaty. It currently comprises sixteen Member States, with a combined population of approximately 360 million and a gross domestic product (GDP) of more than USD 700 billion (2019).</p> <p>The main objectives of SADC are to achieve development, peace and security, and economic growth, to alleviate poverty, enhance the standard and quality of life of the peoples of Southern Africa, and support the socially disadvantaged through regional integration, built on democratic principles and equitable and sustainable development.</p> <p>Over the past years, significant changes in the global economy have taken place to persuade the SADC region to change its economic architecture and strategic direction. The desire to survive and participate in the global markets demands high levels of competitiveness.</p> <p>Consequently, emphasis is increasingly being placed on private sector led growth and governments of the sub-region continue to seek to establish an appropriate enabling environment to support economic growth and poverty alleviation. It was in this context that the SADC Regional Indicative Strategic Development Plan (RISDP) was revised to take into account the region’s revised strategic direction as</p>

	<p>encapsulated in the various policy documents, such as the SADC Regional Industrialization Development Plan, the SADC Infrastructure Development Plan and the various Protocols that define regional programs.</p> <p>The Revised RISDP (2020-2030), which is the main strategic document for SADC, puts industrialisation and market integration at the forefront of SADC's efforts to achieve the integration agenda. Furthermore, the SADC Industrialization Strategy and Roadmap (2015-2063) and Action Plan which was approved at the same time as the revised RISDP (2020-2030) informs the priorities of the SADC industrialisation agenda.</p> <p>Notably, one of the objectives outlined in the Regional Indicative Strategic Development Plan (RISDP) (2020-2030) is to promote the development of sound investment policies in Member States, to improve the investment climate and enhance the levels of intra-SADC and foreign direct investment in the region. This objective is supported by a similar objective aimed at enhancing cooperation in taxation and related matters, including tax information sharing; capacity building for Tax Administrations; and to develop common approaches and policies to the application and treatment of tax incentives and negotiation of tax agreements. This is in recognition that investors, among other things, consider tax regimes in making their investment decisions.</p> <p>The RISDP (2020-2030) also highlights enhancement of monetary cooperation to reform the SADC banking system and harmonization of banking regulatory frameworks. Furthermore, development and strengthening of the financial and capital markets is critical to facilitate free movement of capital and mobilization of financial resources for the promotion of growth and development in the region. In addition, the strengthening of financing mechanisms to be more responsive to the needs of SMEs operations remains critical, including the strengthening of financial inclusion regulatory frameworks in support of the Industrialisation Strategy and Roadmap.</p> <p>For further information see www.sadc.int</p>
<p>1.2 Background - SIBE Programme</p>	<p>The Support to Improving Investment and Business Environment (SIBE) Programme is a five-year Programme, implemented by the Finance, Investment and Customs (FIC) Directorate and financed to the tune of €14 million by the EU under the 11th European Development Fund (EDF). The Financing Agreement and the Contribution Agreement were signed in June 2019 and August 2019, respectively. The Programme, which covers all the 16 SADC member states in SADC, is being implemented by the SADC Secretariat over a period of 55 months from the date of signature of the Agreements.</p> <p>The overall objective of the Programme is to achieve sustainable and inclusive growth and support job creation through the transformation of the region into a SADC investment zone and promoting intra-regional investment and foreign direct investment (FDI) in the SADC region, in particular for small and medium enterprises (SMEs).</p> <p>The specific objective of the SIBE Programme is to develop the region into a SADC investment zone, promoting intra-regional investment and FDI in the SADC region, in particular for SMEs.</p> <p>The Programme focuses its support on the following Results Areas (RAs):</p>

	<p>RA1 - An enabling investment policy framework across SADC Member States is supported.</p> <p>This Result Area covers the following main activities:</p> <ul style="list-style-type: none"> (i) Set-up a dialogue at regional level on improving investment and business environment in SADC; (ii) Provide ad-hoc support to Member States in developing structured public-private dialogue mechanisms for improving investment and business environment in SADC; (iii) Harmonise SADC Member States' investment and business environment related laws and regulations; and (iv) Enhance the SADC Tax regime in support of a conducive investment and business environment. <p>RA2 - Enhanced integration of financial markets in the SADC region is promoted.</p> <p>Under this Result Area, the programme will assist in:</p> <ul style="list-style-type: none"> (i) Development of financial markets in the SADC region; (ii) Developing policies and strategies to address risks to financial stability at regional and national levels; and (iii) Strengthen SADC-Real Time Gross Settlement System (RTGS), Committee of Insurance, Securities and Non-banking Authorities (CISNA), Committee of SADC Stock Exchange (CoSSE), SADC Committee of Central Bank Governors (CCBG) and SADC Bank Association (SADCBA). <p>RA3 - Enhanced financial inclusion is supported.</p> <p>This Result Area focuses on developing proper and specific action plans aimed at reducing costs of remittances and developing financial products for SMEs.</p> <p>The SIBE Programme is being implemented by the SADC Secretariat, supported by Long- and Short-Term Experts. The tasks envisaged for the Secretariat include procurement, managing the resulting contracts, payments, reporting to the various stakeholders as well as monitoring and evaluation. The Programme is coordinated by a Task Manager, the Senior Programme Officer – Finance and Investment under the operational oversight and guidance of the Director of Finance, Investment and Customs (FIC).</p> <p>The SADC Secretariat has contracted a consortium composed of FinMark Trust, GFA Consulting Group and Southern Africa Trust, under a Service Contract for a Technical Assistance Team including one Long Term Expert to coordinate and manage the implementation of activities across the 3 Result Areas, and a pool of Long and Short-Term Experts.</p> <p>These Terms of Reference (ToRs) are a request for the provision of short-term expertise to undertake data collection on investment rules and regulations of South Africa and facilitate the process of filing out the project questionnaire and identifying relevant laws and regulations to support the development of a “SADC Investment Climate Scorecard”.</p>
1.3 General Background	<p>According to the World Investment Report 2020, FDI flows to Africa declined by 10 per cent. FDI inflows to North Africa decreased by 11 per cent to \$14 billion, with reduced inflows in all countries except Egypt. Egypt remained the largest FDI recipient in Africa in 2019, with inflows increasing by 11 per cent to \$9 billion.</p>

After an increase in 2018, FDI flows to Sub-Saharan Africa decreased again by 10 per cent in 2019 to \$32 billion. FDI to West Africa fell by 21 per cent to \$11 billion in 2019 largely driven by the steep decline in investment in Nigeria. FDI flows to East Africa also decreased, by 9 per cent to \$7.8 billion as inflows to Ethiopia contracted by a fourth to \$2.5 billion. Central Africa received \$8.7 billion in FDI, marking a decline of 7 per cent mainly due to the fall in flows to the Democratic Republic of the Congo. Southern Africa was the only sub-region that received higher inflows in 2019 (a 22 per cent increase to \$4.4 billion) but only due to the slowdown in net divestment from South Africa. FDI inflows to South Africa decreased.

The global economy is currently in the midst of a severe crisis caused by the COVID-19 pandemic. The immediate impact on FDI will be dramatic. Longer term, a push for supply chain resilience and more autonomy in productive capacity by diversifying economic activities could have lasting consequences.

The difficulty to diversify investment in the SADC region to non-extractive sectors with high impact on employment reveals itself in the World Bank Ease of Doing Business Index 2019 where, with the exception of Mauritius, Botswana and South Africa, most Member States are performing poorly, and this has limited the amount of intra-SADC investment. In a region like SADC, with several landlocked countries with small populations, advancing in deeper economic integration that would allow investors to consider the SADC region as a larger market is key.

Furthermore, export-oriented FDI, often located in export processing zones, has contributed to the growth of many countries. Efficiency-seeking investment is a factor influencing intra-regional, inter-regional and international investments. However, the challenge consists of offering additional sources of competitiveness to FDI, such as skills, infrastructure, research and development support, and a high-standard regulatory framework so that export processing zones can evolve to continue performing as relevant platforms for FDI attraction. This is to say that efficiency-seeking FDI is critical for SADC' Member States to attract investments that enable to integrate into the regional and global economy.

Establishing a conducive environment for domestic and foreign investment is recognised as a major tool for sustainable growth, development and poverty reduction in the region. The SADC Protocol on Finance and Investment (FIP) specifically calls for an investment policy strategy to accompany the regional integration objectives of SADC. It requires Member States to co-ordinate their investment regimes and co-operate to create a favourable investment climate within the region. Annex I of the Protocol, on Co-operation on Investment, further refers to the need for harmonisation of investment regimes with the objective of developing the region into an investment zone.

To fully obtain the dividends of the regional integration, Member States need to encourage regional value chains and facilitate cross-border trade in manufactured products and services by minimizing and eliminating Non-Tariff barriers within the region.

Therefore, the development of an investment climate scorecard tool would track progress towards attaining regional integration objectives, by assessing and reporting on the performance of each Member State on the level of facilitation/or

	impediment of foreign and domestic investments, cross-border investments and FDI facilitation among others. It will also help to benchmark the state of reforms, monitor trends, as well as facilitate a dialogue across SADC Member States.
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2. Description of the Assignment

2.1 Global objective	The overall objective of this assignment is to improve the investment and business environment in the SADC region in order to foster regional integration.
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2.2 Specific objectives	<p>The specific objectives of the assignment are to:</p> <ul style="list-style-type: none"> (i) facilitate the process of completing questionnaires for South Africa. (ii) undertake legal research by identifying relevant laws and regulations pertaining to Intra-SADC and FDI environment limitations/impediment. (iii) ongoing support to SADC Secretariat and South Africa towards its own efforts in completing the questionnaires. (iv) review of the completed questionnaires to ensure quality/fill any gaps. (v) support with additional research as needed for preparation of the scorecard, as requested by the World Bank and OECD. (vi) Participation/presentations at project workshops/webinars, as requested.
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2.3 Requested services	<p>The STE for South Africa will be among 15 National STEs supporting Member States in collecting data and completing the questionnaires. The assignment under this consultancy service, therefore, covers the following:</p> <ul style="list-style-type: none"> (i) Provide ongoing support to SADC Secretariat and South Africa towards efforts in completing the questionnaires provided in Annex 5 for South Africa on the following areas: <ul style="list-style-type: none"> (a) Foreign equity limits across sectors; (b) FDI screening and approval requirements; (c) Restrictions on the employment of foreigners as key personnel and directors; (d) Operational restrictions (e.g. restrictions on branching and on capital repatriation or on land ownership).
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These areas are assessed economy-wide and across 22 sectors:

1. Agriculture	12. Distribution – Retail
2. Forestry	13. Distribution – Wholesale
3. Fishery	14. Transport (surface, air and water/maritime)
4. Mining and quarrying (incl. oil extraction)	15. Hotels & Restaurants
5. Manufacturing – Food and others	16. Media (Radio and TV broadcasting, and other media)
6. Manufacturing – Oil refining and Chemicals	17. Communications (fixed and mobile telecommunications)

	7. Manufacturing – Metals, Machinery and Other Minerals	18. Financial Services – Banking	
	8. Manufacturing – Electrical, Electronics and Other Instruments	19. Financial Services – Insurance	
	9. Manufacturing – Transport Equipment	20. Financial Services – Other Finance	
	10. Electricity (generation and distribution)	21. Business Services (Legal, Accounting & Audit, Architectural and Engineering Services)	
	11. Construction	22. Real Estate Investment	
	<p>Annex 6 provides an example of the level of detail required to properly complete the questionnaire.</p> <p>(ii) Review of the completed questionnaires to ensure quality and fill any gaps: check accuracy and completeness of the submitted questionnaires and support SADC Secretariat and South Africa to conduct any research needed to complete gaps;</p> <p>(iii) Support with additional research as needed for preparation of the scorecard, as requested by the World Bank and OECD, which will review the submitted questionnaires;</p> <p>(iv) Facilitate the organisation of national workshops at which the World Bank and OECD will present the scorecard once constructed, provide necessary clarifications and responses to relevant stakeholders.</p>		
2.4 Deliverables	<p>The main expected deliverables of this assignment are:</p> <p>(i) An inception report outlining the main steps involved in carrying out the assignment and a Work Plan indicating timelines;</p> <p>(ii) A Sample completed questionnaire and completed questionnaires for South Africa;</p> <p>(iii) Country Report with final completed questionnaires for South Africa to be shared with the World Bank and OECD Team that will construct the draft SADC Investment Climate Scorecard;</p> <p>Note: All deliverables will be the property of the SADC Secretariat.</p>		
2.5 Management	<p>The Consultant's report will be addressed to and will be under the day-to-day supervision of the SIBE Programme Coordinator and Task Manager/SPO Finance and Investment.</p>		
2.6 Methodology	<p>The assignment will broadly entail:</p> <p>Part 1: Kick Off Meeting</p> <p>Immediately after the signature of the contract, a kick off meeting will be organized to discuss all aspects of the assignment, as well as how to manage any challenges. All stakeholders will participate in this meeting (SADC Secretariat, FinMark Trust, OECD, WBG) and clear roles of each will be identified. This will be a virtual meeting</p>		

via video conference. Based on this meeting, FinMark Trust will finalize its Work Plan for this assignment.

The main parts related to this assignment are as follows:

Part 2: Questionnaire completion, and submission

- Submit a sample completed questionnaire to SADC Secretariat/WBG/OECD for confirmation on the format and quality of inputs provided. The format, level of detail can be indicative for South Africa as they prepare their questionnaire.
- Administer questionnaire for South Africa and provide ongoing support to South Africa as needed for completion of the questionnaire.
- Provide an initial review of the completed questionnaire to confirm that the information submitted is complete and accurate, and further, submit them to South Africa for onward submission to the SADC Secretariat.

Part 3: Analysis/ Confirmation:

- Support SADC Secretariat/ South Africa to conduct any research needed to complete gaps before the transmission of the questionnaire to World Bank and OECD for analysis.
- Provide ongoing support as World Bank and OECD proceed with the construction of the scorecard.

Part 4: Validation Workshop and Follow up

Once the scorecard is constructed by the World Bank/OECD, it will be presented to Member States. During this phase, additional questions may emerge requiring more information/clarification. The World Bank, OECD, and the STE (together with other national STEs) will be expected to provide necessary clarifications and responses to relevant stakeholders.

After validation workshop, the STE will finalise a report to be submitted to FinMark Trust for onward submission to the Secretariat.

3. Resources allocated

3.1 Resources from the Technical Assistance contract:

	Part 1	Part 2	Part 3	Part 4
Up to 35 STE days	2	23	8	2
Up to per diem days (approximate)				
Mobilisation travel	0	0	0	0
Regional travel	None	None	None	None
The STE will be facilitated to engage with stakeholders virtually. The STE is expected to arrange his/her own transport in the locations of the Assignment.				

3.2 Other related resources allocated from the SIBE budget	
Translation of documents	The translation of deliverables will be arranged by SADC Secretariat separately. It should be noted that a minimum of 5 weeks is required for translation.
Interpretation	Interpretation when/if necessary will be arranged by SADC Secretariat separately.
	The STE to be hired by FinMark Trust are expected to utilise his/her own laptop computers, cellular telephones and internet services.
3.3. Expert profiles	
Qualifications and skills	<p>Following are the qualifications and skills required for the STE:</p> <ul style="list-style-type: none"> • Minimum of a Bachelor's Degree in law, commerce, finance or related field from a recognised institution. • Excellent written and communication skills in English and Portuguese. • Excellent computer skills including knowledge of Microsoft Office packages such as Power Point and Microsoft Word.
General experience	<p>Following is the general experience required for the STE:</p> <ul style="list-style-type: none"> • Minimum 7 years of general professional experience in investment law or business law, or/and related fields. • At least 5 years of experience in dealing with investment and business environment within a public or private sector. Working with a regional or an international organization is an added advantage. • Ability to undertake legal or regulatory research in related field.
Specific experience	<p>The following is the specific experience required for the STE:</p> <ul style="list-style-type: none"> • At least 5 years of extensive experience in advising on policy, legal and regulatory frameworks on foreign Director Investment (FDI). • Prior experience in undertaking business/investment survey where policy and legal/regulatory analysis, are dealt with, such as the World Bank Ease of Doing Business. • Knowledge of the issues and processes involved in regional economic integration and investment climate/conditions, preferably in Southern Africa region.
4. Location duration and planning	
4.1 Location of work	The assignment will be carried out using face to face arrangements and virtual systems.
4.2 Duration	The indicative expected start date is 12 July 2021 The indicative expected end date is 30 October 2022
5. Reporting	
5.1 Language	The Assignment language and report are in English and shall be addressed to FinMark Trust.

<p>5.2 Progress reporting</p>	<p>Submission and approval procedure for inception and progress reports All written deliverables shall be submitted in soft copy by email, with Arial font size 12, in a format provided by FinMark Trust to the SADC Secretariat.</p> <p>The soft copy must not be in PDF format preventing formatting.</p> <p>All reports will be submitted to FinMark Trust through the Programme Coordinator for quality control; then they will be submitted to the RA Manager for preliminary endorsement, who will then submit them to the SIBE Task Manager with recommendation for approval. Comments on the reports, if any, will be communicated in writing to the STE within 10 working days of receipt of each report.</p> <p>Part 1: Inception report and presentation The STE will complete an inception report and submit it by the end of Part 1. The Report will include a methodology for the Assignment. At the end of Part 1 the STE will make a brief PowerPoint presentation to the Secretariat of the inception report.</p> <p>Note: this presentation is a deliverable and should be annexed to the report. The inception report will be submitted by the STE to FinMark Trust, copied to the Secretariat. FinMark Trust will formally submit it to the SADC Secretariat (Task Manager) for approval.</p> <p>After submission, the Secretariat will consider the report and provide any feedback within 5 working days.</p> <p>Parts 2 and 3 – Progress report (numbered/STE/PR) At the End of Parts 2, 3 and 4, the STE will submit progress reports within 5 working days at the end of each Part.</p>
<p>5.3 End of Assignment Reporting</p>	<p>Part 4 - End of Assignment Report (EoAR) and presentation The STE will submit the EoAR for approval at the completion of the Assignment. The country report shall be submitted in the format provided and will include the following:</p> <ul style="list-style-type: none"> • An executive summary of the whole Assignment; • List of activities carried out during the Assignment; • Methodology/Discussion of key issues; • Main Conclusions and Lessons Learned; • Any recommendations for further support to the Secretariat and Member States; • Key Annexes, all deliverables produced including the completed updated reports; <p>In addition to the report, at the end of Part 5, the STE will provide a PowerPoint presentation to the Secretariat of the EoAR on the last day of the assignment (which will be by way of remote link through Zoom or such other e-platform to be suggested by SADC Secretariat). The presentation is a deliverable and should be annexed to the report</p> <p>EoAR Submission and approval procedure:</p> <p>After end of assignment, EOAR will be submitted by email to FinMark Trust through the Programme Coordinator for quality control; then, it will be submitted to the RA Manager for technical comments. Technical comments will be issued within 10 working days.</p> <p>The STE shall address all the technical comments within 15 calendar</p>

	<p>days of receiving comments and submit the final EoAR to SADC for final technical and administrative approval by SADC Secretariat. If no comments are issued by SADC within one month since submission, the EoAR will be deemed satisfactory</p> <p>Upon acceptance (or if the one-month period has elapsed since submission without comments being issued), the EoAR shall be submitted to the RA Manager and the SIBE Task Manager for administrative approval;</p> <p>The Assignment will not be considered to be complete until the approval of the SIBE Task Manager to the EoAR has been obtained.</p> <p>The EoAR shall be delivered in soft copy. The soft copy shall include deliverables produced as annexes. The soft copy must not be in pdf format preventing formatting.</p>
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6. Administrative Information

Timesheets	<p>The STE will complete a monthly Timesheet according to the template provided by the SIBE Programme Co-ordinator, recording days worked and outputs.</p> <p>Fees will be due only for working days recorded in the Timesheets that are countersigned by:</p> <ul style="list-style-type: none"> - SIBE Programme Co-ordinator and Team Leader; - SIBE RA Manager (Programme Officer Investment); and - The SIBE Task Manager. <p>The monthly Timesheet should be accompanied by the monthly Progress Report, and both should be submitted by e-mail for review and approval.</p> <p>Note: Travel days for mobilisation and demobilisation are not fee-paying days. Travel days for mission-related travels between SADC countries will be recorded as working days and will be fee paying days.</p>
Travel approval forms	Given the COVID 19 pandemic, cross-border travels are not envisaged for this assignment.
Travel support documents	Given the COVID 19 pandemic, cross-border travels are not envisaged for this assignment.

7. Endorsement

SIBE Programme Coordinator	RA Manager	Task Manager	Director-Finance, Investment and Customs
Mike Nyamazana	Lisivololona Razanajaholy	Mario Lironel	S.L. Mtonakutha
Signature:	Signature:	Signature:	Signature:
Date:	Date:	Date:	Date:.....

ANNEXES TO TOR 0294/R.A 1.3/AWP2020-21

ANNEX 1. Experts scoring grid

ANNEX 2: Botswana official holiday (non-working/fee days)

ANNEX 3: Gantt chart

ANNEX 4: Estimated budget

ANNEX 5: Sample Questionnaire

ANNEX 6: Example of a Completed Questionnaire

ANNEX 7: Typical Member States Respondents to the Questionnaire

ANNEX 1
STE scoring grid

Qualifications and Experience	Points*
Qualifications and skills	20
Minimum of a Bachelor's Degree in law, commerce, finance or related field from a recognised institution.	10
Excellent written and communication skills in English and Portuguese	5
Excellent computer skills including knowledge of Microsoft Office packages such as Power Point and Microsoft Word.	5
General experience:	30
Minimum 7 years of general professional experience in investment law or business law, or/and related fields.	10
At least 5 years of experience in dealing with investment and business environment within a public or private sector. Working with a regional or an international organization is an added advantage	10
Ability to undertake legal or regulatory research in related field.	10
Specific experience:	50
At least 5 years of extensive experience in advising on policy, legal and regulatory frameworks on foreign Director Investment (FDI).	20
Prior experience in undertaking business/investment survey where policy and legal/regulatory analysis, are dealt with, such as the World Bank Ease of Doing Business.	20
Knowledge of the issues and processes involved in regional economic integration and investment climate/conditions, preferably in Southern Africa region.	10
Score	100

ANNEX 2
Botswana official holidays 2021

Date	Day	Occasion
1 January	Friday	New Year's Day
2 April	Friday	Good Friday
3 April	Saturday	Public Holiday
5 April	Monday	Easter Monday
1 May	Saturday	Labour Day
13 May	Thursday	Ascension Day
1 July	Thursday	Sir Seretse Khama Day
19 July	Monday	President's Day
20 July	Tuesday	Public Holiday
30 September	Thursday	Botswana Day
1 October	Friday	Public Holiday
25 December	Saturday	Christmas
26 December	Sunday	Boxing Day
27 December	Monday	Public Holiday

Note: These dates are subject to confirmation by the Government of Botswana

ANNEX 3:

Gantt Chart

Task ID	Task Description	Duration (days)	Start Date	End Date	June 21	July 21	Aug 21	Sept 21	Oct 21	Nov 21	Jan 22	Feb 22	March 22	April 22	May 22	June 22	July 22	August 22	Sept 22	Oct 22
1	Kick-Off Meeting and inception report	2	12 July 21	13 July 21		X														
2	Data collection/Confirmation; and submission of country reports on data collection	23	14 July 21	17 Aug 21		X	X													
3	Data analysis and construction of the Scorecard	8	18 Aug 21	30 Aug 22			X													
	Translation of the documents	(5 weeks)	1 Sept 22	10 Oct 22																
4	Validation Workshop of the Investment Climate Scorecard	2	11 Oct 22	30 Oct 22																X

ANNEX 4

Estimated budget

ANNEX 5

Questionnaire

The questionnaire for the SADC FDI Scorecard is based on the following OECD FDI Regulatory Restrictiveness Index questionnaire.

Questionnaire	
<p>A. Introduction</p> <p>The OECD FDI Regulatory Restrictiveness Index is a <i>de jure</i> policy indicator reflective of market access barriers to FDI and exceptions to national treatment. Non-discrimination is a central tenet of an attractive investment climate. The non-discrimination principle provides that all investors in like circumstances are treated equally, irrespective of their ownership. One of the concepts derived from the principle of non-discrimination in the context of foreign investment is that of national treatment, which requires that a government treat foreign-owned or -controlled enterprises no less favourably than domestic enterprises in like situations. No government applies national treatment across the board, even in OECD Member countries where restrictions on foreign investment tend, on average, to be lower than in other parts of the world. If other attributes of the investment climate are favourable, investors may still come even if they face some operational restrictions once established, but discriminatory restrictions against foreign direct investment (FDI) have been found to result in less FDI overall. Beyond the impact on FDI, any policy that favours some firms over others involves a cost, notably less competition and hence lower firm-level efficiency. For this reason, exceptions to non-discrimination need to be regularly evaluated with a view to determining whether the original motivation behind an exception (e.g. safeguarding essential security-interests, protection based on the infant industry argument) remains valid, supported by an evaluation of the costs and benefits, including an assessment of the proportionality of the measure. Broad consideration of the costs and benefits is especially important in-service sectors that support a wide range of economic activities across the economy.</p>	
<p>B. Assessment framework</p> <p>The OECD FDI Regulatory Restrictiveness Index assessment is based on a review of the relevant sector-specific and horizontal legislations for the purposes of identifying all market access barriers to FDI and exceptions to national treatment. The collection of such information is supported by the questions below, which provide guidance on the key relevant issues to look for when reviewing the legislation.</p> <p>For the completeness of the assessment, please answer the horizontal and sector-specific-related questions for each of the sectors:</p>	
<p>Horizontal measures</p> <p><i>[In addition to your explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
<p>Please provide the <u>definition of foreign investor</u> applied in your jurisdiction and its legal authority.</p>	
<p>Does your country adopt a <u>negative list approach</u> whereby foreign investments are allowed in all sectors without discrimination unless otherwise specified in the laws and regulations of the country and in international treaties to which the country is a party? If so, have these</p>	

discriminatory measures been compiled into a negative list of sectors fully or partially restricted to foreign investors? Please provide a copy of the list. If not, has the government undertaken a stocktaking exercise of existing restrictions to foreign investment? Please share the document.

Please provide information on any measure applying horizontally across economic sectors on the following issues:

1) Foreign shareholding limitations or joint-venture requirements (either on greenfield investments or acquisitions of domestic companies by foreign-owned investors, including listed companies)

2) Screening or prior approval mechanisms applying exclusively, or in a different manner, to investments by foreign-owned enterprises (either greenfield investments or acquisitions of domestic companies). If the case, please explain its scope and rationale:

- Is it a screening and approval requirement for the entry of the investment or only for obtaining any incentive provided in the law?
- What are the criteria for approval (e.g. national security; economic needs test, etc.)?
- Are the criteria for approval transparently and clearly established in the law and regulations?
- Do decisions have to be rendered within a specified time? Are the reasons for rejecting a project published?
- Can the investor appeal the decision?
- Is there a system for monitoring commitments by the investor once established?
- Are screening policies subject to a periodic review of their effectiveness and necessity?

3) Restrictions on foreign key personnel (e.g. nationality requirements for companies' board of directors members; government approval, nationality requirement, quotas and labour markets tests applicable to top-level management positions, such as chairman, CEO/president and directors)

4) Restrictions on land acquisition applying exclusively, or in a different manner, to foreign-owned investors (both acquisition of land and other real estate assets needed for business operations). If land acquisition is not allowed, please describe the applicable leasing terms and possible extension periods.

5) Other operational restrictions affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).

Sector-specific measures

Please provide answers for each of the 22 sectors listed below. The respective tables in Annex B can be accessed via the hyperlinks below.

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator).¹²³ In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Any screening or prior approval mechanism applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises.⁴ Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.

1. Agriculture
2. Forestry
3. Fishery
4. Mining and quarrying (incl. oil extraction)
5. Manufacturing – Food and others;
6. Manufacturing – Oil refining and Chemicals;
7. Manufacturing – Metals, Machinery and Other Minerals;
8. Manufacturing – Electrical, Electronics and Other Instruments;
9. Manufacturing – Transport

¹ In the case of fisheries and maritime transport, please include if any limit applies to the ownership or registration of vessels.

² In the case of business services, please include any limit to foreigners holding some sort of ownership or becoming partners of companies in business services sectors. This applies to the ownership and not to the ability to practice the profession (i.e., foreigners could potentially be allowed to invest in such business even if foreign natural persons may not be allowed to practice the activity or join the local professional association - e.g. foreign lawyers may not be allowed to represent clients in the courts.

³ In the case of real estate investment, please include any limit to foreign ownership of real estate investment (both land and property) not for business purposes, i.e. not directly associated with a company's business activity.

⁴ In the case of real estate investment, any screening or approval procedure for the acquisition of real estate (both land and property) not for business purposes, i.e. investment in real estate not directly associated with a company's business activity.

<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors)⁵, such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	<p><u>Equipment</u></p> <p><u>10. Electricity (generation and distribution)</u></p> <p><u>11. Construction</u></p> <p><u>12. Distribution – Retail</u></p> <p><u>13. Distribution – Wholesale</u></p> <p><u>14. Transport - surface</u></p> <p><u>14. Transport – water transport</u></p> <p><u>14. Transport – air transport</u></p> <p><u>15. Hotels & Restaurants</u></p> <p><u>16. Media (Radio and TV broadcasting, and other media)</u></p> <p><u>17. Communications (fixed and mobile telecommunications)</u></p> <p><u>18. Financial Services – Banking</u></p> <p><u>19. Financial Services – Insurance</u></p> <p><u>20. Financial Services – Other Finance</u></p> <p><u>21. Business Services (Legal, Accounting & Audit, Architectural and Engineering Services)</u></p> <p><u>22. Real Estate Investment</u></p>
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	

1. *Sectoral questions for 22 sectors*

1. Agriculture

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

⁵ In the case of fisheries and maritime transport, please include if in relation to captains of vessels.

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
Any <u>other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	
<u>Any restriction on land acquisition</u> applying exclusively, or in a different manner, to foreign-owned investors (both acquisition of agricultural land and other real estate assets needed for business operations). If land acquisition is not allowed, please describe the applicable leasing terms and possible extension periods. Please describe any difference in treatment between resident and non-resident investors, as well as between national and foreign-owned investors.	

2. Forestry

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the	

<p>aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p>	
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	
<p>Any restriction on <u>land acquisition</u> applying exclusively, or in a different manner, to foreign-owned investors (both acquisition of agricultural land and other real estate assets needed for business operations). If land acquisition is not allowed, please describe the applicable leasing terms and possible extension periods. Please describe any difference in treatment between resident and non-resident investors, as well as between national and foreign-owned investors.</p>	

3. Fisheries

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

<p>Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u>, i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). Please also indicate if any limit applies to the ownership or registration of vessels. In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p>	

<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions). Please also indicate if any restriction applies in relation to captains of vessels.</p>	
<p>Any other <u>operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	
<p>4. Mining and quarrying (incl. oil extraction)</p> <p><i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
<p>Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u>, i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
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<p>Any other <u>operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in</p>	

government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	
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5. Manufacturing – Food and others (incl. beverages, textiles, apparel, leather products, paper, wood and furniture, printing)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
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Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
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<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	
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6. Manufacturing – Oil refining and Chemicals (incl. refined petroleum, chemicals, rubber, plastics and pharmaceuticals)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise	
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holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations</u> or <u>joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
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7. Manufacturing – Metals, Machinery and Other Minerals

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
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foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
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8. Manufacturing – Electrical, Electronics and Other Instruments

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
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9. Manufacturing – Transport Equipment

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

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Any restrictions on the employment of key foreign personnel (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).

Any other operational restriction affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).

10. Electricity (generation and distribution)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign

participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

11. Construction	
<i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
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requirement, quotas and labour markets tests applicable to top-level management positions).	
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

12. Distribution – Retail

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations</u> or <u>joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
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<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

13. Distribution – Wholesale

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate

the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Any screening or prior approval mechanism applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.

Any restrictions on the employment of key foreign personnel (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).

Any other operational restriction affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).

14. Transport – surface <i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
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<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

14. Transport – water transport (incl. inland and maritime transport) <i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
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<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions). Please also indicate if any restriction applies in relation to captains of vessels.</p>	
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	
<p>14. Transport – Air transport</p> <p><i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
<p>Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u>, i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p>	
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality</p>	

requirement, quotas and labour markets tests applicable to top-level management positions).	
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

<p>15. Hotels & Restaurants (incl. accommodation, travel agencies and tour operators, restaurants/bars, arts, entertainment and recreation activities)</p> <p><i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

<p>16. Media (radio and TV broadcasting, and other media, incl. radio & TV programming and broadcasting, printed media, web-based media portals, and music, motion picture, video and TV</p>

production and related activities, incl. post-production, distribution and projection)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Any screening or prior approval mechanism applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.

Any restrictions on the employment of key foreign personnel (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).

Any other operational restriction affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).

17. Communications (fixed and mobile telecommunications)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
Any other <u>operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

18. Financial Services – Banking

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
Any other <u>operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement,	

preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	
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<p>19. Financial Services – Insurance (incl. life and non-life insurance/reinsurance, pension and related auxiliary services)</p> <p><i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	

<p>20. Financial Services – Other financial services (incl. securities and commodity exchanges and brokerage services, investment advisory services and related activities; trusts, funds and fund management activities; and other financial services: financial leasing, factoring etc.)</p> <p><i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i></p>	
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<p>Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u>, <i>i.e.</i> where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p>	
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (<i>e.g.</i> applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	
<p>Any <u>other operational restriction</u> affecting investments by foreign-owned enterprises (<i>e.g.</i>, local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	

21. Business Services (Legal, Accounting & Audit, Architectural and Engineering Services)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

<p>Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u>, <i>i.e.</i> where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p> <p>Please indicate if a foreign business services firm can establish and/or</p>	

<p>invest in another business service firm in your country. Please describe any limitation imposed on foreign business services firms investing in your country.</p> <p>Please also indicate if foreign natural persons can practice the profession on equal terms with citizens, including be founders and/or hold ownership interests in a business service firm in the sector. Please describe any limitation to a foreign natural person's ability to a business service firm in the sector and/or practice the profession in the country.</p> <p>Please also indicate if there is any restriction on non-licensed individuals or firms holding ownership interests in a business service firm in the sector.</p>	
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	
<p>Any <u>other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	

22. Real Estate Investment

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitation or joint-venture requirement applying to real estate investments by foreign investors, including if any limit applies to the aggregate foreign participation (e.g. limitations on the share of condominium units in a building that may be owned by foreign investors). Please indicate any limit to foreign ownership of land and real estate assets (commercial and residential units) not used for business purposes, i.e. not directly associated with a company's business activity.

Any screening or prior approval mechanism applying only, or in a different manner, to foreign investments/acquisition of real estate not used for business purposes, i.e. not directly associated with a company's business activity. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.

Any restrictions on the employment of key foreign personnel (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).

Any other operational restriction affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).

ANNEX 6

Example of a Completed Questionnaire

One of the common challenges of completing the project questionnaire are incomplete or inaccurate responses. To illustrate the level of detail required for successfully completing the questionnaire, the following example provides a sample list of properly filled out questions. It focuses on a subset of the questionnaire sections and sectors, specifically agriculture, fisheries, water transport, legal services, and economy-wide (i.e. horizontal) FDI rules. The provided sample responses are based on property completed questionnaires in various South East Asian economies.

OECD FDI Regulatory Restrictiveness Index

A. Introduction

The OECD FDI Regulatory Restrictiveness Index is a *de jure* policy indicator reflective of market access barriers to FDI and exceptions to national treatment. Non-discrimination is a central tenet of an attractive investment climate. The non-discrimination principle provides that all investors in like circumstances are treated equally, irrespective of their ownership. One of the concepts derived from the principle of non-discrimination in the context of foreign investment is that of national treatment, which requires that a government treat foreign-owned or -controlled enterprises no less favourably than domestic enterprises in like situations. No government applies national treatment across the board, even in OECD Member countries where restrictions on foreign investment tend, on average, to be lower than in other parts of the world. If other attributes of the investment climate are favourable, investors may still come even if they face some operational restrictions once established, but discriminatory restrictions against foreign direct investment (FDI) have been found to result in less FDI overall. Beyond the impact on FDI, any policy that favours some firms over others involves a cost, notably less competition and hence lower firm-level efficiency. For this reason exceptions to non-discrimination need to be regularly evaluated with a view to determining whether the original motivation behind an exception (e.g. safeguarding essential security-interests, protection based on the infant industry argument) remains valid, supported by an evaluation of the costs and benefits, including an assessment of the proportionality of the measure. Broad consideration of the costs and benefits is especially important in service sectors that support a wide range of economic activities across the economy.

B. Assessment framework

The OECD FDI Regulatory Restrictiveness Index assessment is based on a **review of the relevant sector-specific and horizontal legislations** for the purposes of identifying all market access barriers to FDI and exceptions to national treatment. The collection of such information is supported by the questions below, which provide guidance on the key relevant issues to look for when reviewing the legislation.

For the completeness of the assessment, please answer the horizontal and sector-specific-related questions for each of the sectors:

Horizontal measures

[In addition to your explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Please provide the definition of foreign investor applied in your jurisdiction and its legal authority.

"Section 4

In this Act, "foreigner" means:

1. a natural person who is not of Thai nationality;
2. a juristic person not registered in Thailand;
3. a juristic person registered in Thailand, being of the following descriptions:
 - a. being a juristic person at least one half of capital shares of which are held by persons under (1) or (2) or a juristic person in which investment has been placed by the persons under (1) or (2) in the amount at least equivalent to one half of the total capital thereof;
 - b. being a limited partnership or a registered ordinary partnership the managing partner or the manager of which is the person under (1);
4. a juristic person registered in Thailand at least one half of the capital shares of which are held by persons under (1), (2) or (3) or a juristic person in which investment has been placed by the persons under (1), (2) or (3) in the amount at least equivalent to one half of the total capital thereof;

For the purpose of this definition, shares of a limited company represented by share certificates issued to bearers are deemed as shares held by foreigners, unless otherwise provided by the Ministerial Regulation. [...]” (Foreign Business Act, B.E. 2542 (1999), Sec. 4)

Does your country adopt a negative list approach whereby foreign investments are allowed in all sectors without discrimination unless otherwise specified in the laws and regulations of the country and in international treaties to which the country is a party? If so, have these discriminatory measures been compiled into a negative list of sectors fully or partially restricted to foreign investors? Please provide a copy of the list. If not, has the government undertaken a stocktaking exercise of existing restrictions to foreign investment? Please share the document.

No. Thailand’s main legislation governing foreign investment (the Foreign Business Act - FBA) enumerates a number of business categories (in List One, Two and Three) that are subject to prohibitions and different levels of restrictions for foreign investors, but such lists do not fully reflect a negative list approach as restrictions in other legislation prevail over the FBA.

“Section 6

The following foreigners may not operate any business within the Kingdom:

- a foreigner who has been deported or whose deportation is pending;
- a foreigner entering and staying in the Kingdom without permission under the law on immigration or other laws.

Section 7

The following foreigners may operate businesses upon obtaining a licence from the Director-General and may operate only such businesses, and in such localities, as prescribed in the Notification issued by the Minister with the approval of the Council of Ministers and published in the Government Gazette, provided that in such Notification the Minister may prescribe any conditions as the Minister deems appropriate:

- a foreigner born in the Kingdom without having Thai nationality under the law on nationality or other laws;
- a foreigner becoming a foreigner in consequence of the revocation of nationality under the law on nationality or other laws.

The application for a licence, issuance of a licence and a term of a licence shall be in accordance with rules and procedures as prescribed in the Ministerial

	<p>Regulation.</p> <p>In the case where the Director-General refuses to grant permission to the foreigner under paragraph one for the operation of businesses, such foreigner has the right to lodge an appeal with the Minister and the provisions of section 20 paragraph one and paragraph three shall apply mutatis mutandis.</p> <p>Section 8</p> <p>Subject to section 6, section 7, section 10 and section 12:</p> <p>-no foreigner may operate such businesses stricto sensu not permissible to foreigners by special reason, as prescribed in List One;</p> <p>-no foreigner may operate such businesses related to national safety or security, businesses having impacts on arts, culture, traditions, customs and folklore handicrafts or businesses having impacts on natural resources or the environment, as prescribed in List Two, unless upon obtaining permission from the Minister with the approval of the Council of Ministers;</p> <p>-no foreigner may operate such businesses in respect of which Thai nationals are not yet ready to compete with foreigners, as prescribed in List Three, unless upon obtaining permission from the Director-General with the approval of the Commission. [List One, Two and Three are annexed to the Act]</p> <p>[...]</p> <p>Section 13</p> <p>In the case where there exist other laws which govern shareholding, partnership or investment of foreigners, permission or prohibition of the operation of certain businesses vis-à-vis foreigners or which prescribe rules in connection with the operation of businesses of foreigners, such laws shall prevail and the provisions of this Act shall not apply to matters insofar as they are specifically provided by other laws.”(Foreign Business Act, B.E. 2542 (1999), Sections 6, 7, 8 and 13; Annexed Lists One, Two and Three.)</p>
<p>Please provide information on any measure <u>applying horizontally across economic sectors</u> on the following issues:</p> <p>1) <u>Foreign shareholding limitations or joint-venture requirements</u> (either on greenfield investments or acquisitions of domestic companies by foreign-owned investors, including listed companies)</p> <p>2) <u>Screening or prior approval mechanisms</u> applying exclusively, or in a different manner, to investments by foreign-owned enterprises (either greenfield investments or acquisitions of</p>	<p>1) Foreign shareholding limitation: Pursuant to Sections 8 and 15 of the FBA, foreign ownership restrictions applied to business categories listed under List One and Two of the FBA</p> <p>“Section 8</p> <p>Subject to section 6, section 7, section 10 and section 12:</p> <p>-no foreigner may operate such businesses stricto sensu not permissible to foreigners by special reason, as prescribed in List One;</p> <p>- no foreigner may operate such businesses related to national safety or security, businesses having impacts on arts, culture, traditions, customs and folklore handicrafts or businesses having impacts on natural resources or the environment, as prescribed in List Two, unless upon obtaining permission from the Minister with the approval of the Council of Ministers;</p> <p>[...]</p> <p>Section 15</p> <p>A foreigner which is a juristic person may operate any business specified in List Two only where not less than forty percent of its shares are held by Thai nationals or juristic persons which are not foreigners under this Act, save that, where there is a reasonable cause, the Minister with the approval of the Council of Ministers may reduce the proportion in this matter, provided that the required shareholding must not be less than twenty five percent and that not less than two-fifths of the total number of its directors must be Thai nationals.”</p>

<p>domestic companies). If the case, please explain its scope and rationale:</p> <ul style="list-style-type: none"> • Is it a screening and approval requirement for the entry of the investment or only for obtaining any incentive provided in the law? • What are the criteria for approval (e.g. national security; economic needs test, etc.)? • Are the criteria for approval transparently and clearly established in the law and regulations? • Do decisions have to be rendered within a specified time? Are the reasons for rejecting a project published? • Can the investor appeal the decision? • Is there a system for monitoring commitments by the investor once established? • Are screening policies subject 	<p>2) Screening or prior approval mechanisms: Pursuant to Sections 5, 8, 17 and 18 of the FBA, screening explicitly taking into account economic interests is applied to foreign investments in business categories listed under List Two and Three of the FBA. The criteria for approval are not clearly established in the legislation, but decisions have to be rendered within a specified time frame; reasons for a refusal to give approval needs to be clearly communicated to the applicant investors; investors applying for permission of operation of businesses in List Three have the right to appeal. Pursuant to Section 9 of the FBA, categories of businesses in the Lists annexed to the Act are to be reviewed at least once every duration of one year.</p> <p>“Section 5</p> <p>In granting permission to foreigners for the operation of businesses under this Act, regard shall be had to advantageous and disadvantageous effects on national safety and security, economic and social development of the country, public order or good morals, national values in arts, culture, traditions and customs, natural resources conservation, energy, environmental preservation, consumer protection, sizes of undertakings, employment, technology transfer and research and development.</p> <p>[...]</p> <p>Section 8</p> <p>Subject to section 6, section 7, section 10 and section 12: [...]</p> <p>- no foreigner may operate such businesses related to national safety or security, businesses having impacts on arts, culture, traditions, customs and folklore handicrafts or businesses having impacts on natural resources or the environment, as prescribed in List Two, unless upon obtaining permission from the Minister with the approval of the Council of Ministers;</p> <p>- no foreigner may operate such businesses in respect of which Thai nationals are not yet ready to compete with foreigners, as prescribed in List Three, unless upon obtaining permission from the Director-General with the approval of the Commission. [List One, Two and Three are annexed to the Act]</p> <p>[...]</p> <p>Section 9</p> <p>Any amendment or revision of categories of businesses in the Lists annexed hereto shall be by a Royal Decree, save for the businesses in List One or in List Two, Chapter 1, where such amendment or revision shall be by an Act.</p> <p>The Commission shall consider and review categories of businesses in the Lists annexed hereto at least once every duration of one year as from the date of the entry into force of this Act and shall prepare an opinion for submission to the Minister.[...]</p> <p>[...]</p> <p>Section 17</p> <p>In applying for permission for the operation of a business, the foreigner shall file an application to the Minister or the Director-General in accordance with the rules and procedures prescribed in the Ministerial Regulation; and the Council of Ministers, in the case of businesses in List Two, or the Director-General, in the case of businesses in List Three, shall complete the consideration as to whether to give approval or grant permission, as the case may be, within the period of sixty days as from the date of the filing of the application. In the case where, with respect to the consideration by the Council of Ministers as to whether to give approval, there</p>
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<p>to a periodic review of their effectiveness and necessity?</p> <p>3) <u>Restrictions on foreign key personnel</u> (e.g. nationality requirements for companies' board of directors members; government approval, nationality requirement, quotas and labour markets tests applicable to top-level management positions, such as chairman, CEO/president and directors)</p> <p>4) <u>Restrictions on land acquisition</u> applying exclusively, or in a different manner, to foreign-owned investors (both acquisition of land and other real estate assets needed for business operations). If land acquisition is not allowed, please describe the applicable leasing terms and possible extension periods.</p> <p>5) <u>Other operational restrictions</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital</p>	<p>exists an inevitable cause preventing the Council of Ministers from completing its consideration within such period of time, that period may be extended as is necessary, provided that the extension shall not be in excess of sixty days as from the expiration thereof.</p> <p>When the Council of Ministers has given approval or the Director-General has licence within fifteen days as from the date of the approval by the Council of Ministers or the permission by the Director-General.</p> <p>In granting permission, the Minister may, with respect to the businesses in List Two, prescribe conditions as prescribed by the Council of Ministers or as prescribed in the Ministerial Regulation issued by virtue of section 18, or the Director-General may, with respect to the businesses in List Three, prescribe conditions as prescribed in the Ministerial Regulation issued by virtue of section 18.</p> <p>In the case where the Council of Ministers refuses to give approval to a foreigner for the operation of businesses in List Two, the Minister shall, in writing and within thirty days, notify such foreigner of the refusal to give approval and shall also make a clear indication of the reason for such refusal to give approval.</p> <p>In the case where the Director-General refuses to grant permission to a foreigner for the operation of businesses in List Three, the Director-General shall, in writing and within fifteen days, notify such foreigner of the refusal to grant permission and shall also make a clear indication of the reason for such refusal to grant permission. Such foreigner has the right to lodge with the Minister an appeal against the order refusing to grant permission, and the provisions of section 20 shall apply mutatis mutandis.</p> <p>Section 18</p> <p>The Minister, with the recommendation of the Commission, has the power to issue Ministerial Regulations prescribing any of the following conditions to be observed by foreigners who are licence grantees:</p> <ul style="list-style-type: none"> -the ratio of the capital to loans for the operation of permitted businesses; -the number of foreign directors who must have a domicile or residence in the Kingdom; -the amount of, and the period of time for maintaining, the minimum capital in the country; -technology or property; -other necessary conditions. <p>3) Restrictions on foreign key personnel: Pursuant to Section 15 of the FBA, the Minister with the approval of the Council of Ministers may reduce the applicable foreign shareholding limitation for investments in business categories listed under List Two, provided that Thai shareholding be not less than 75% and not less than two-fifths of the total number of its directors must be Thai nationals.</p> <p>"Section 15</p> <p>A foreigner which is a juristic person may operate any business specified in List Two only where not less than forty percent of its shares are held by Thai nationals or juristic persons which are not foreigners under this Act, save that, where there is a reasonable cause, the Minister with the approval of the Council of Ministers may reduce the proportion in this matter, provided that the required shareholding must not be less than twenty five percent and that not less than two-fifths of the total number of its directors must be Thai nationals."</p> <p>4) Restrictions on land acquisition: Pursuant to Sections 86, 87, 97 and 99 of the Land Code B.E. 2497 (1954) and Sections 3 and 4 of the Rental of Immovable Property for Commerce and Industry Act B.E. 2542 (1999), foreign investors (foreign shareholding above 49%) are not permitted to hold title to land unless by</p>
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<p>repatriation etc.).</p>	<p>virtue of a treaty that provides for ownership of immovable property and subject to restrictions imposed by the Land Code, but they are allowed to obtain leasehold interests up to 50 years, renewable for another 50 years. However, under existing regulations, foreigners may purchase a freehold interest in land if they are: foreign manufacturers promoted by the BOI; Oil concessionaires under the Petroleum Act; Businesses located in certain industrial estates.</p> <p>"[...] CHAPTER VIII - Determination of Aliens' Right to Land</p> <p>Section 86. An alien may acquire land only by virtue of the provisions of a treaty that provides for ownership of immovable property and also subject to the provisions of this Code.[...]</p> <p>Section 87. The amount of land permitted under the preceding Section shall be as follows:</p> <ol style="list-style-type: none"> (1) for residence, not more than 1 rai per family; (2) for commercial purposes, not more than 1 rai; (3) for industrial purposes, not more than 10 rai; (4) for agricultural purposes, not more than 10 rai per family; (5) for religious purposes, not more than 1 rai; (6) for public charity purposes, not more than 5 rai; (7) for cemeterial purposes, not more than 1/2 rai per family. <p>If any alien wishes to have right to land for industrial purposes in excess of that provided in (3), and if deemed appropriate, the Council of Ministers may permit acquisition of land in excess of the limit prescribed, by imposing conditions thereon, and the provisions of Section 48 shall apply mutatis mutandis.</p> <p>[...]</p> <p>CHAPTER IX - DETERMINATION OF RIGHT TO LAND OF CERTAIN TYPES OF JURISTIC PERSONS</p> <p>Section 97. The following juristic persons shall have right to land as if they were an alien:</p> <ol style="list-style-type: none"> (1) A limited company or public limited company whose shares constituting its registered capital are held by aliens by more than forty-nine per cent of its registered capital, or whose alien shareholders are more than one-half of the total number of its shareholders, as the case may be [as amended by the Land Code Amendment Act (No. 6) B.E. 2535 (1992)]; <p>For the purposes of this Chapter, if any limited company issues bearer share certificates, such a share certificate shall be deemed to be held by an alien.</p> <ol style="list-style-type: none"> (2) A limited partnership or registered ordinary partnership whose contributions by aliens are more than forty-nine per cent of its total capital or whose alien partners are more than one-half of the total number of its partners, as the case may be [as amended by the Land Code Amendment Act (No. 6) B.E. 2535 (1992)]; (3) An association including co-operative whose alien members are more than one-half of its total number of members or which operates exclusively or substantially for the benefit of aliens; (4) A foundation whose objectives are exclusively or substantially for the benefit of aliens. <p>[...]</p> <p>Section 99. If a juristic person under Section 97 or Section 98 is to acquire or to dispose of right to land, the provisions of Chapter 8 shall apply mutatis mutandis,</p>
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and such juristic person shall have the same duties and liabilities as those provided for aliens and persons in general [as amended by the Land Code Amendment Act (No. 12) B.E. 2551 (2008)].

Section 100. For any juristic person which acquired land while it did not come under the provisions of Section 97 and Section 98, if subsequently it comes under the provisions of Section 97 or Section 98, the provisions of Section 95 shall apply mutatis mutandis.[...]"(ACT PROMULGATING THE LAND CODE B.E. 2497 (1954))

"Section 3. In this Act:

"rental" means rental of immovable property for commerce or industry for a period of more than thirty years but not exceeding fifty years; [...]

Section 4. Rental under this Act must be in writing and registered with the competent official otherwise it is void.

Upon the expiry of a rental agreement, the lessee and the lessor may agree to extend it for a period not exceeding fifty years from the date on which they agree to extend the rental agreement; the extension must be done in writing and registered with the competent official otherwise it is void.

Section 5. The lessor must be the sole owner of the immovable property.

Obtaining a plot of land on lease with the area exceeding one hundred rai must be approved by the Director General [of the Department of Lands] as per the rules, procedures and conditions prescribed in the Ministerial Regulations. [...]" (RENTAL OF IMMOVABLE PROPERTY FOR COMMERCE AND INDUSTRY ACT, B.E. 2542 (1999))

5) Other operational restrictions: Pursuant to Section 14 of the FBA, foreign investors (including non-resident investors and majority-foreign owned firms incorporated in Thailand), are subject to discriminatory minimum capital requirements.

"Section 14

The minimum capital to be used by a foreigner for the commencement of the operation of a business in Thailand shall not be less than that prescribed in the Ministerial Regulation, provided that it shall not be less than two million Baht.

In the case where the business of the foreigner under paragraph one is the business requiring permission as specified in the Lists annexed hereto, the minimum capital as prescribed in the Ministerial Regulation for each business shall not be less than three million Baht.

The Ministerial Regulation issued under the provisions of this section may also prescribe the time within which the minimum capital must be brought or remitted into Thailand.

The provisions of this section shall not apply to the case where the foreigner uses money or property derived as revenues from the original business already in operation in Thailand for commencement of another business or for subscribing to shares or investing in any other undertaking or in any other juristic person.[...]" (Foreign Business Act, B.E. 2542 (1999), Sec. 14)

Sector-specific measures

Please provide answers for each of the 22 sectors listed below. The respective tables in Annex B can be accessed via the hyperlinks below.

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator).^{6,7,8} In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Any screening or prior approval mechanism applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises.⁹ Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.

1. Agriculture

3. Fishery

14. Transport – water transport

21. Business Services (Legal, Accounting & Audit, Architectural and Engineering Services)

22. Real Estate Investment

⁶ In the case of fisheries and maritime transport, please include if any limit applies to the ownership or registration of vessels.

⁷ In the case of business services, please include any limit to foreigners holding some sort of ownership or becoming partners of companies in business services sectors. This applies to the ownership and not to the ability to practice the profession (i.e., foreigners could potentially be allowed to invest in such business even if foreign natural persons may not be allowed to practice the activity or join the local professional association - e.g. foreign lawyers may not be allowed to represent clients in the courts.

⁸ In the case of real estate investment, please include any limit to foreign ownership of real estate investment (both land and property) not for business purposes, i.e. not directly associated with a company's business activity.

⁹ In the case of real estate investment, any screening or approval procedure for the acquisition of real estate (both land and property) not for business purposes, i.e. investment in real estate not directly associated with a company's business activity.

<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors)¹⁰, such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	

¹⁰ In the case of fisheries and maritime transport, please include if in relation to captains of vessels.

2. Sectoral questions for 22 sectors

1. Agriculture	
[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	Corporations in Indonesia may not own agricultural land but may receive long-term leases (95 years) for business purposes. [not discriminatory] (see explanation below in relation to land for business purposes)
Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?	<p>Foreign investment in seeding and cultivation of a variety of crops, including rice, corn and soybean, is limited to 49% of the equity capital. Foreign investment in the seeding and cultivation of vegetables and fruits is limited to 30%.</p> <p>Foreign investment in plantation seeding and business in an area of 25 Ha or more - including of sugarcane, tobacco, palm oil, coconut, tea, coffee, cocoa, cotton and rubber - is limited to 95% equity ownership, and is subject to the 20% "plasma obligation", i.e. the investor needs to provide the local community with a plantation area of at least 20% (twenty percent) of the total area given to the company as stated in its plantation business license.</p> <p>Foreign investment in seeding and cultivation of staple crops and in plantation business in an area of less than 25 Ha is reserved for domestically-owned SMEs.</p> <p>Please refer to Appendix II and III of the <u>Presidential Regulation No. 44/2016 concerning Lists of Business Fields that are Closed to and Business Fields that are Open with Conditions to Investment</u></p>
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the	None

<p>share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	<p>The employment of foreign key personnel is subject to governmental approval, and the employment of foreigners to certain key management positions, namely for Chief Executive Officer [, is prohibited.</p> <p>“CHAPTER VIII - ASSIGNMENT OF EXPATRIATES</p> <p>Article 42. (1) Every employer employing expatriates shall secure a written license from the minister or the appointed official. [...]</p> <p>(4) Expatriates can be employed in Indonesia only inside working relations for certain positions and period.</p> <p>(5) Provisions on the certain positions and period as meant in paragraph (4) shall be stipulated by a decree of the minister.</p> <p>(6) The expatriates as meant in paragraph (4) having their working period expiring and un-extendable could be replaced by other expatriates.</p> <p>Article 43.</p> <p>(1) Employers employing expatriates shall have an expatriate assignment plan ratified by the minister or the appointed official.</p> <p>(2) The expatriate assignment plan as meant in paragraph (1) shall contain at least information about: a. Reason for employing expatriates; b. Position and/or status of expatriates in the organizational structure of the said companies; c. Period of assignment of expatriates; d. Appointment of manpower being Indonesian citizens as counterpart of the employed expatriates.</p> <p>[...]</p> <p>Article 46</p> <p>(1) Expatriates shall be prohibited from assuming positions in charge of personnel affairs and/or certain positions.</p> <p>(2) The certain positions as meant in paragraph (1) shall be regulated by a decree of the minister. [...]"(MANPOWER ACT No. 13/2003)</p> <p>"The Minister of Manpower and Transmigration of the Republic of Indonesia, Considering: that in order to implement the provision of Article 46 paragraph (2) of Act Number 13 Year 2003 concerning Manpower, it is necessary to stipulate a Ministerial Decree on Certain Occupations Banned from Occupation of Foreign Workers; [...]</p> <p>Has decided:</p> <p>FIRST: Certain positions prohibited from occupation by Foreign Workers are contained in the Attachment of this Ministerial Decree.</p> <p>[...] ATTACHMENT</p> <p>Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 40 Year 2012 Regarding Certain Positions Prohibited from Occupation by Foreign Workers</p>

	<p>1. Personnel Director; 2. Industrial Relation Manager; 3. Human Resource Manager; [...] 9. Chief Executive Officer" (<u>MINISTERIAL DECREE 40/2012, Specific Positions Prohibited from Occupation by Foreign Workers, February 29</u>)</p>
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	<p>(1) Foreign-owned companies are subject to a discriminatory minimum capital requirement policy.</p> <p>"CHAPTER I - GENERAL PROVISIONS</p> <p>Article 1. In this Board Regulation meant by: [...]</p> <p>6. Foreign Investment hereinafter referred to as PMA, is the activity of investing to conduct business in the territory of the Republic of Indonesia by Foreign Investors, either using fully foreign capital or joining with Domestic Investor. [...]</p> <p>CHAPTER V - TERMS AND PROCEDURES OF INVESTMENT LICENSING</p> <p>Article 12</p> <p>(1) PMA companies with large business qualifications shall, unless otherwise stipulated by legislations, be obliged to implement terms of investment value and capital requirements to obtain Investment Registration and/or Business License. [...]</p> <p>(3) PMA shall, in order to start the business as referred to in Article 10 paragraph (1), meet the requirements of investment and capital value as referred to in paragraph (1), unless otherwise provided by legislations, namely to comply with the following provisions:</p> <p>a. total investment value greater than Rp.10.000.000.000,00 (ten billion rupiah), excluding land and buildings;</p> <p>b. issued capital is equal to the paid up capital, at least Rp.2.500.000.000,00 (two billion five hundred million rupiah);</p> <p>c. investment in share capital, for each shareholder at least Rp.10.000.000.00 (ten million rupiah);</p> <p>d. the percentage of shareholding is calculated based on the par value of the shares. [...]" (<u>REGULATION OF INVESTMENT COORDINATING BOARD OF THE REPUBLIC OF INDONESIA NUMBER 13 OF 2017 CONCERNING GUIDELINES AND PROCEDURES OF INVESTMENT LICENSING AND FACILITY</u>)</p> <p>(2) Government procurement offers preference to locally-owned firms: Rules on public procurement of services (e.g. construction of works, consultations and other services) give preferential treatment to majority-owned Indonesian firms, and the rules on public procurement of goods give preferential treatment to companies partnering with Indonesian SMEs, in addition to establishing domestic content requirements in terms of input goods and services (in the case of services, it is considered domestic only when the service supplier is majority-owned by Indonesians).</p> <p>"CHAPTER III - UTILIZATION OF DOMESTIC SERVICE COMPANIES</p> <p>Part One - Domestic Service Companies</p> <p>Article 10</p> <p>(1) The provision of services must involve Domestic Service Companies.</p> <p>(2) The Domestic Service Company as referred to in paragraph (1) is a business entity that produces services which is established in accordance with the prevailing laws and regulations in Indonesia and works and is domiciled in the</p>

	<p>territory of the Unitary State of the Republic of Indonesia with more than 50% share ownership (fifty percent) by State-Owned Enterprises, Region-Owned Enterprises and / or Indonesian Citizen Individuals, who have voting rights, dividend rights, and the right to determine / appoint members of the board of directors and / or amend the company's articles of association, and at least 2 / 3 (two thirds) of the total number of directors are Indonesian citizens.</p> <p>Article 11</p> <p>(4) Domestic Service Companies as referred to in Article 10 paragraph (2) may form consortiums / joint operations with other Domestic Service Companies or with National Service Companies if the capacity of one of the Domestic Service Companies is insufficient.</p> <p>(5) Domestic Service Companies or a consortium of Domestic Service Companies and National Service Companies as referred to in paragraph (1) may cooperate with foreign service companies in the form of a consortium / joint operation or subcontract part of the work to foreign service companies.</p> <p>Article 12</p> <p>(1) A Domestic Service Company must become a lead firm in a consortium / joint operation for on-shore construction services.</p> <p>(2) Domestic Service Companies or consortium of Domestic Service Companies are required to carry out at least 50% (fifty percent) of the implementation of work based on the contract value in the event of conducting a consortium with National Service Companies and / or with foreign service companies.</p> <p>(3) In off-shore construction service work, the Domestic Service Company is obliged to perform the work at least 30% (thirty percent) of the minimum limit as referred to in paragraph (2) in accordance with the size of the contract value.</p> <p>(4) The physical implementation of construction service work must be done in the territory of the Republic of Indonesia at least 50% (fifty percent) in accordance with the size of the value of the service.[...]" (<u>Ministry of Industry issued regulation 02/M-IND/PER/1/2014 CONCERNING GUIDELINES FOR IMPROVING THE USE OF DOMESTIC PRODUCTS IN THE PROCUREMENT OF GOVERNMENT GOODS / SERVICES</u> [google translated])</p>
<p><u>Any restriction on land acquisition</u> applying exclusively, or in a different manner, to foreign-owned investors (both acquisition of agricultural land and other real estate assets needed for business operations). If land acquisition is not allowed, please describe the applicable leasing terms and possible extension periods. Please describe any difference in treatment between resident and non-resident investors, as well as</p>	<p>Land right for the cultivation of land for agriculture, fishery or cattle breeding purposes is only available to Indonesian citizens and corporations which have been established according to the Indonesian law and have their seat in Indonesia.</p> <p>“PART IV: THE RIGHT OF EXPLOITATION</p> <p>Article 28.</p> <p>(1) The right of exploitation is the right to cultivate the land which is directly controlled by the State for a period of time as stipulated in Article 29 for enterprises in the field of agriculture, fishery or cattle breeding. [...]</p> <p>Article 29.</p> <p>(1). The right of exploitation is granted for a period of not longer than 25 years.</p> <p>(2). To an enterprise that needs a longer period, a right of exploitation for not longer than 35 years may be granted.</p> <p>(3). At the request of the holder of the right and considering the situation of his enterprise the period of time as meant in paragraph (1) and (2) of this Article,</p>

<p>between national and foreign-owned investors.</p>	<p>may be extended with a period of not longer than 25 years.</p> <p>Article 30.</p> <p>(1) Those who may have the right of exploitation are:</p> <p>a. Indonesian citizens; b. Corporation which has been establish according to the Indonesian law and have their seat in Indonesia.[...]" (<u>ACT NO. 5 OF 1960 CONCERNING BASIC REGULATIONS ON AGRARIAN PRINCIPLES</u>, Art. 28-30)</p> <p>“Chapter X. Investment facility [...]</p> <p>Article 21</p> <p>In addition to facilities set forth in Article 18, Government will provide service and/or licensing convenience to investment companies in obtaining:</p> <p>a. land rights;</p> <p>[...]</p> <p>Article 22</p> <p>1) Ease of service and/or land right permit set forth in Article 21(a) may be given, extended and renewed in advance simultaneously and may be further renewed upon request of investors in form of:</p> <p>a. Hak Guna Usaha (Leasehold) may be given for 95 (ninety-five) years and simultaneously renewed in advance for 60 (sixty) years, and it may be further renewed for 35 (thirty-five) years.</p> <p>[...]</p> <p>c. Hak Pakai (Right of Use) may be given for 70 (seventy) years and simultaneously renewed in advance for 45 (forty-five) years, and it may be further renewed for 25 (twenty-five) years.</p> <p>2) Land Rights set forth at Article 21(a) may be granted and simultaneously renewed in advance for any investment activity, with, among others, the following conditions :</p> <p>a. such investment is for long term and associated with the structural change of Indonesian economy into the more competitive one;</p> <p>b. such investment is with the level of investment risk requiring long-term return on investment according to the types of the investment activity;</p> <p>c. such investment does not require extensive area;</p> <p>d. such investment uses state-owned land rights; and</p> <p>e. such investment does not interrupt the sense of impartiality in the community as well as public interest." (<u>Law Concerning Investment No. 67/2007</u>).</p>
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3. Fisheries

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is	No
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<p>closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). Please also indicate if any limit applies to the ownership or registration of vessels. In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p>	<p>Foreign shareholding in companies carrying out commercial fishing activity is limited to 49% of equity ownership.</p> <p>“Section 8</p> <p>Subject to section 6, section 7, section 10 and section 12: 1. no foreigner may operate such businesses <i>stricto sensu</i> not permissible to foreigners by special reason, as prescribed in List One;</p> <p>[...]</p> <p>Annex</p> <p>List one. Businesses <i>stricto sensu</i> not permissible to foreigners by special reason: [...]</p> <p>5. Fishery, only in respect of the catchment of aquatic animals in Thai waters and specific economic zones of Thailand</p> <p>[...]” ((Foreign Business Act, B.E. 2542 (1999), Sec. 8, List Three)</p>
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	<p>Foreign investment in excess of 49% of the equity capital of enterprise carrying out aquaculture activity is subject to government approval.</p> <p>“Section 8</p> <p>Subject to section 6, section 7, section 10 and section 12: [...]</p> <p>3. no foreigner may operate such businesses in respect of which Thai nationals are not yet ready to compete with foreigners, as prescribed in List Three, unless upon obtaining permission from the Director-General with the approval of the Commission.</p> <p>[...]</p> <p>Annex</p> <p>List three. Businesses in respect of which Thai nationals are not ready to compete with foreigners: [...]</p> <p>2. Fishery only in respect of the hatching and raising of aquatic animals [...]” ((Foreign Business Act, B.E. 2542 (1999), Sec. 8, List Three)</p>
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies’ board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions). Please also indicate if any restriction applies in</p>	<p>None</p>

relation to captains of vessels.	
<p><u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	[see horizontal measures]

14. Transport – water transport (incl. inland and maritime transport)

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign), i.e. where a state-owned enterprise holds a *de jure* monopoly over the activity. Please describe if foreign equity in the referred company is allowed.

no

Any foreign equity limitations or joint-venture requirements applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). Please also indicate if any limit applies to the ownership or registration of vessels. In addition, are merger and acquisitions of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?

Thai registered and flagged vessels that engage in coastal trading (cabotage) must be owned by a Thai national or by a juristic person where half of the board of directors has to be national and not less than 70% of capital shares must be owned by Thai nationals. The registration and flagging of vessels that engage in international maritime transport also requires that half of the board of directors of the maritime company must be of Thai nationality and that no less than 51% of the capital shares should be held by Thai nationals. There is an exception for vessels below a certain transport capacity (20 tonnage for sea vessels).

Maritime transport service is classified under list 3 of FBA. Foreigners may acquire equity shares upto 100% upon obtaining permission from the director general with the approval of the commission.

“Section 8

Subject to section 6, section 7, section 10 and section 12: [...]

2. no foreigner may operate such businesses related to national safety or security, businesses having impacts on arts, culture, traditions, customs and folklore handicrafts or businesses having impacts on natural resources or the environment, as prescribed in List Two, unless upon obtaining permission from the Minister with the approval of the Council of Ministers;

[...]

Section 15

A foreigner which is a juristic person may operate any business specified in List Two only where not less than forty percent of its shares are held by Thai nationals or juristic persons which are not foreigners under this Act, save that, where there is a reasonable cause, the Minister with the approval of the Council of Ministers may reduce the proportion in this matter, provided that the required shareholding must not be less than twenty five percent and that not less than two-fifths of the total number of its directors must be Thai nationals.

[...] Annex

[...] List two. Businesses related to national safety or security or having impacts on arts, culture, traditions, customs and folklore handicrafts or natural resources and the environment [...]

I. Businesses related to National Safety or Security [...] 2. Domestic transportation by land, water or air, including domestic aviation" ((Foreign Business Act, B.E. 2542 (1999), Sec. 8, List Two)

"Section 5. In this Act, unless otherwise provided:

1. "Territorial waters" means all the jurisdictional waters under Thai sovereignty; [...]

CHAPTER I - REGISTRATION OF THAI VESSEL

Section 7.

The person who is eligible to hold ownership of registered Thai vessel operating marine commerce in the territorial waters under section 47 must possess any of the qualification as follows:

- (1) being a natural person of Thai nationality;
- (2) being an unregistered ordinary partnership having all partners being natural persons of Thai nationality;
- (3) being a State enterprise under the law on budgetary procedure;
- (4) being a juristic person established under Thai law, as follows:
 - (a) a registered ordinary partnership having all partners being natural persons of Thai nationality;
 - (b) a limited partnership having all partners of unlimited liability being natural persons of Thai nationality, and not less than seventy percent of shares were held by persons other than alien;
 - (c) a limited company having not less than half of Directors being of Thai nationality; not less than seventy percent of shares of registered capital fund were held by persons other than alien; and no regulation of the company permits the issuance of share entered in a certificate to bearer;
 - (d) a public limited company having not less than half of Directors being of Thai nationality, and not less than seventy percent of paid-up stocks were held by persons other than alien.[...]

Section 7 bis.

The person who is eligible to hold ownership of registered Thai vessel specifically operating international marine transport, without operating marine commerce in the territorial waters under section 47, must be a juristic person established under Thai law having not less than half of Directors being of Thai nationality, and possess any of the qualification as follows:

- (1) a limited company having not less than fifty-one percent of shares of registered capital fund were held by persons other than alien; and no regulation of the company permits the issuance of share entered in a certificate to bearer;
- (2) a public limited company having not less than fifty-one percent of shares of registered capital fund were held by persons other than alien. [...]

CHAPTER VI - SPECIAL RIGHT AND DUTY OF THAI VESSEL

Section 47. Unless otherwise agrees upon with a foreign country,

	<p>only the Thai vessel registered under this Act and the vessel of the size smaller than that prescribed in section 8 used for marine commerce in the territorial waters by the person under section 7 may operate marine commerce in the territorial waters.</p> <p>The provisions of the aforementioned paragraph shall not apply to the vessel of the size smaller than that prescribed in section 8 of a natural person used for marine commerce in the territorial waters.</p> <p>Section 47 bis.11 In the case where the Minister is of the opinion that there is not enough Thai vessel operating under section 47 for supplying the demand of the country in any part of the territorial waters, the Minister has the power to permit the vessel of the person ineligible to hold ownership of Thai vessel under section 7 to operate under section 47 for a term not exceeding one year each time; provided that the condition prescribed by the Minister must be complied therewith.</p> <p>Section 48. No person ineligible to hold ownership of Thai vessel under section 7 shall rent or acquire by other means the Thai vessel of the size under section 8 registered under this Act for operating marine commerce in the territorial waters, and use it for operating marine commerce in the territorial waters. [...]” (<u>THAI VESSEL ACT B.E. 2481 (1938)</u>, Sections 7, 7bis and 47-48)</p>
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	<p>Screening applies as per the Foreign Business Act for foreign investments in domestic water (inland water and coastal maritime transport) (see restrictions mentioned above under foreign equity restrictions).</p>
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies’ board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions). Please also indicate if any restriction applies in relation to captains of vessels.</p>	<p>Majority Thai nationality is required for members of the board of directors (see restrictions mentioned above under foreign equity restrictions). The captain of a Thai vessel operating commerce in the territorial waters must be a person of Thai nationality.</p> <p>“Section 50. Every vessel personnel in a registered Thai vessel under section 7 capable of operating marine commerce in the territorial waters must be person of Thai nationality.” (<u>THAI VESSEL ACT B.E. 2481 (1938)</u>, Section 50)</p>
<p>Any other <u>operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation)</p>	<p>See horizontal measures</p>

etc.).	
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21. Business Services (Legal Services)	
<i>[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].</i>	
Any activity or sub(activity) in the sector which is <u>closed to private investment (domestic or foreign)</u> , i.e. where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.	No
<p>Any <u>foreign equity limitations or joint-venture requirements</u> applying to resident enterprises in the sector, including if any limit applies to the aggregate foreign participation in the sector (instead of limits to foreign participation in individual companies) or if any foreign equity limit applies only to a particular company (such as an incumbent operator). In addition, are <u>merger and acquisitions</u> of resident enterprises (listed and unlisted) by foreign-owned investors allowed in this sector?</p> <p>Please indicate if a foreign business services firm can establish and/or invest in another business service firm in your country. Please describe any limitation imposed on foreign business services firms investing in your country.</p> <p>Please also indicate if foreign natural persons can practice the profession on equal terms with citizens, including be founders and/or hold ownership interests in a business service firm in the sector. Please describe any limitation to a foreign natural person's ability to a business service firm in the sector and/or practice the profession in the country.</p> <p>Please also indicate if there is any restriction on non-licensed individuals or firms holding ownership interests in a business service firm in the sector.</p>	<p>Foreign lawyers can provide legal counselling, but cannot represent in courts neither open a law firm. Foreign law firms are, however, present in the Indonesian market through association agreements with local firms.</p> <p>""CHAPTER I - GENERAL PROVISIONS</p> <p>Article 1. In this Act referred to as:</p> <p>(1) Advocate is a person who has a legal service profession both inside and outside the court that meets the requirements under the provisions of this Law.</p> <p>(2) Legal Services are services provided by an Advocate in the form of providing legal consultations, legal assistance, exercising power, representing, accompanying, defending and taking other legal actions for the client's legal interests. [...]</p> <p>(4) Advocate Organizations are professional organizations established under this Act; [...]</p> <p>(8) Foreign Advocate is an advocate of foreign nationality who carries out his profession in the territory of the Republic of Indonesia under the terms of the provisions of the laws and regulations.</p> <p>[...]</p> <p>Article 3.</p> <p>(1) To be appointed an Advocate must meet the following requirements:</p> <p>a. citizens of the Republic of Indonesia;</p> <p>b. residing in Indonesia;</p> <p>[...]</p> <p>CHAPTER VII - FOREIGN ADVOCACY</p> <p>Article 23.</p> <p>(1) Foreign lawyers are prohibited from conducting trials, practicing and / or opening up their legal services or representatives in Indonesia.</p> <p>(2) The Advocate Office may hire foreign advocates as</p>

	<p>employees or experts in the field of foreign law with the permission of the Government with the recommendation of the Advocate Organization.</p> <p>(3) Foreign lawyers are required to provide free legal services for a certain time to the world of education and legal research.</p> <p>(4) The provisions concerning the requirements and procedures for employing foreign advocates and the obligation to provide legal services free of charge to the world of education and legal research shall be further stipulated by a Ministerial Decree [...] "<u>LAW OF THE REPUBLIC OF INDONESIA NUMBER 18 OF 2003 CONCERNING LAWYERS</u>".</p>
<p>Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to investments by foreign-owned enterprises or to acquisitions of resident companies by foreign-owned enterprises. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.</p>	No
<p>Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).</p>	Foreign lawyers can be hired by Indonesian advocate offices as advisors to foreign law.
<p>Any <u>other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).</p>	None specific.

22. Real Estate Investment

[In responding to the questions, in addition to any explanatory comments, please provide the actual legal text and/or make explicit reference to the relevant provision in the legislation, as well as indicate the link for accessing the legislation online if available].

Any activity or sub(activity) in the sector which is closed to private investment (domestic or foreign),

<p><i>i.e.</i> where a state-owned enterprise holds a <i>de jure</i> monopoly over the activity. Please describe if foreign equity in the referred company is allowed.</p>	
<p>Any <u>foreign equity limitation or joint-venture requirement</u> applying to real estate investments by foreign investors, including if any limit applies to the aggregate foreign participation (e.g. limitations on the share of condominium units in a building that may be owned by foreign investors). Please indicate any limit to foreign ownership of land and real estate assets (commercial and residential units) not used for business purposes, i.e. not directly associated with a company's business activity.</p>	<p>(1) Real estate investment in land: foreign individuals or corporations [i.e. non-resident or locally incorporated companies where foreign shareholding exceeds 49%] are not permitted to hold title to land, but they are allowed to obtain leasehold interests. However, under existing regulations, foreigners may purchase a freehold interest in land in some specific situations for business purposes (e.g. foreign manufacturers promoted by the BOI; Oil concessionaires under the Petroleum Act; Businesses located in certain industrial estates)</p> <p>Please refer to the horizontal measures on land for the underlying legislation.</p> <p>(2) Real estate investment in commercial and residential real estate units: Foreigners can purchase any condominium unit in a building where not more than 49% of the total space of all units in that condominium belong to foreigners at the time of the application without the need for permanent residence. Eligible foreigners include: 1) Those with residence permits; 2) Those who were granted permission to enter Thailand under the Investment Promotion Act; 3) Limited companies with more than 49% of its capital owned by aliens who have been registered as a foreign "juristic person" under Thai law; 4) Foreign juristic persons with investment promotion certificates.</p> <p>"Section 19. An alien person or a juristic person deemed alien by law may have an ownership in a unit if it satisfies the following conditions [as amended by the Condominium Act (No. 2), B.E. 2534 (1991)]:</p> <p>(1) the person obtains a residence permit in accordance with immigration law;</p> <p>(2) the person obtains a permit to enter the country in accordance with the law on investment promotion;</p> <p>(3) the person is a juristic person under section 97 and section 98 of the Land Code, registered as a juristic person under Thai law.</p> <p>(4) the person is a alien juristic person under the Announcement of the Revolutionary Council No. 281, dated the 24th November B.E. 2515 (1972), and obtains an investment promotion certificate in accordance with the law on investment promotion.</p> <p>(5) the person is an alien person or a juristic person deemed alien by law, bringing foreign currency into the country, withdrawing fund from a Thai baht account of a person having a place of residence outside of the country, or withdrawing fund from a foreign currency-based deposit account [as amended by the Condominium Act (No. 3), B.E. 2542 (1999)]</p> <p>Section 19 bis. Ownership of each condominium shall not be held by alien persons or juristic persons under section 19 greater than forty-nine percent of the total area of every unit in the condominium at the time of registration under section 6 [as amended by the Condominium Act (No. 4), B.E. 2551 (2008)].</p>

	[...]" (<u>CONDOMINIUM ACT, B.E. 2522 (1979)</u>)
Any <u>screening or prior approval mechanism</u> applying only, or in a different manner, to foreign investments/acquisition of real estate not used for business purposes, i.e. not directly associated with a company's business activity. Please indicate if any threshold conditions apply (e.g. applies only to investment above a certain amount or only to investments where the share of foreign participation is greater than a certain percentage). Please explain the criteria and procedures for approval.	See related horizontal measure.
Any restrictions on the <u>employment of key foreign personnel</u> (board of directors, chairman, CEO/president and directors), such as nationality requirements for members of companies' board of directors, nationality requirement, quotas and labour markets tests applicable to top-level management positions).	None
<u>Any other operational restriction</u> affecting investments by foreign-owned enterprises (e.g., local incorporation requirement, reciprocity requirement, preference for domestically-owned companies in government procurement, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.).	Access to local finance is restricted: a foreign individual who does not hold a permanent resident certificate or a foreign company purchasing a condominium unit, is required to bring 100% of the amount of the purchase price from an overseas source into Thailand. (<u>CONDOMINIUM ACT, B.E. 2522 (1979)</u> , Section 19, Point 5) See also other horizontal measures.

ANNEX 7

Typical Member States Respondents to the Questionnaire

Governments and public agencies are the respondents to the project questionnaire. However, because the questionnaire covers 22 sectors of the economy, experience from other countries has shown that inter-ministerial and inter-agency coordination and collaboration are needed to successfully complete the questionnaire in most economies. The following is a general list of government bodies and public agencies that are usually best placed to provide accurate questionnaire responses based on the laws and regulations affecting FDI in the economy overall and in each of the sectors.

Questionnaire Section	Suggested Government Respondent
Overall and Economy-Wide Section	<ul style="list-style-type: none"> • Investment policy body in the government (e.g. department in the Ministry of Economy, Ministry of Trade, etc.) • Trade negotiators • Investment promotion agency / Economic development board • Ministry of Justice (legal department) • Ministry of Foreign Affairs (international economic diplomacy department, legal department) • Other
1. Agriculture	<ul style="list-style-type: none"> • Ministry of Agriculture or equivalent
2. Forestry	<ul style="list-style-type: none"> • Ministry of Natural Resources or equivalent
3. Fishery	<ul style="list-style-type: none"> • Ministry of Natural Resources or equivalent
4. Mining and quarrying (incl. oil extraction)	<ul style="list-style-type: none"> • Ministry of Natural Resources or equivalent
5. Manufacturing – Food and others	<ul style="list-style-type: none"> • Ministry of Economy, Ministry of Industry, or equivalent
6. Manufacturing – Oil refining and Chemicals	<ul style="list-style-type: none"> • Ministry of Economy, Ministry of Industry, or equivalent
7. Manufacturing – Metals, Machinery and Other Minerals	<ul style="list-style-type: none"> • Ministry of Economy, Ministry of Industry, or equivalent • Ministry of Natural Resources or equivalent
8. Manufacturing – Electrical, Electronics and Other Instruments	<ul style="list-style-type: none"> • Ministry of Economy, Ministry of Industry, or equivalent
9. Manufacturing – Transport Equipment	<ul style="list-style-type: none"> • Ministry of Economy, Ministry of Industry, or equivalent • Ministry of Transportation
10. Electricity (generation and distribution)	<ul style="list-style-type: none"> • Ministry of Natural Resources • Ministry of Economy, Ministry of Industry, or equivalent • Electricity regulatory agency
11. Construction	<ul style="list-style-type: none"> • Ministry of Development
12. Distribution – Retail	<ul style="list-style-type: none"> • Ministry of Economy
13. Distribution – Wholesale	<ul style="list-style-type: none"> • Ministry of Economy
14. Transport (surface, air and water/maritime)	<ul style="list-style-type: none"> • Ministry of Transportation
15. Hotels & Restaurants	<ul style="list-style-type: none"> • Ministry of Tourism

16. Media (Radio and TV broadcasting, and other media)	<ul style="list-style-type: none"> • Ministry of Culture
17. Communications (fixed and mobile telecommunications)	<ul style="list-style-type: none"> • Ministry of Telecommunications
18. Financial Services – Banking	<ul style="list-style-type: none"> • Ministry of Finance • Central Bank • Regulatory agency for banking
19. Financial Services – Insurance	<ul style="list-style-type: none"> • Ministry of Finance • Central Bank • Regulatory agency for insurance
20. Financial Services – Other Finance	<ul style="list-style-type: none"> • Ministry of Finance • Central Bank • Regulatory agency for finance
21. Business Services (Legal, Accounting & Audit, Architectural and Engineering Services)	<ul style="list-style-type: none"> • Ministry of Economy or equivalent • Licensing body for business services
22. Real Estate Investment	<ul style="list-style-type: none"> • Ministry of Development or equivalent