



FDI Regulatory Restrictiveness Index webinar

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11:00-12:30 GMT+1: Paris, France
15:00-16:30 GMT+5: Tashkent, Uzbekistan



- **The OECD FDI Regulatory Restrictiveness Index**
 - What does it measure?
 - Data & coverage
 - Methodology
 - Recent developments
- **Some key findings: Uzbekistan**
- **Discussion**



The OECD FDI Regulatory Restrictiveness Index:

A tool for assessing countries' FDI regimes

- **No indicator can grasp it all:** the FDI RRI is not a full measure of a country's investment climate
 - A good investment climate is more than just stable and efficient regulations for investors, but a **wide range of complementary policies >>> the OECD Policy Framework for Investment**
 - Indicators may sometimes lead to a narrow approach toward reforms, but are still useful to policy monitoring and evaluation
- The FDI RRI focuses on **statutory restrictions on admission and treatment of foreign investors** (*exceptions to non-discrimination*)



The OECD FDI Regulatory Restrictiveness Index: What does it measure?

Types of restrictions:

- **Foreign equity** restrictions by sector or overall, for acquisitions or greenfield projects
- **FDI screening** above a threshold or foreign equity share
- **Restrictions on key foreign personnel:** top executive positions and board of directors
- **Other restrictions:** access to land/real estate, profit/capital repatriation, branching, reciprocity, local content, discriminatory minimum capital requirement etc.

What is not covered?

- Degree of implementation (quality / transparency / etc.) | State ownership | National security| Special treatment accorded to a group of investors (e.g. SEZs, treaty partners)



The OECD FDI Regulatory Restrictiveness Index: Data & coverage (1/2)

84 countries (currently):

- 38 OECD countries: reservations / exceptions under the *OECD Code of Liberalisation of Capital Movements & the National Treatment instrument (NTi)*
- 13 countries adhering to the *OECD Declaration on International Investment & Multinational Enterprises: NTi*
- Others: OECD Investment Policy Reviews (**dedicated questionnaire**, survey of national legislation etc.) and other *ah hoc* projects

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BETTER POLICIES FOR BETTER LIVES

Co-funded by the European Union

**OECD Investment Review of
Central Asia Economies**

**OECD FDI Regulatory Restrictiveness Index
QUESTIONNAIRE**

Thank you for your time in completing this assessment. Please complete and return this assessment by 30 July 2019. Please contact Arnault Pretet (Arnault.pretet@oecd.org) and Luke Mackle (Luke.mackle@oecd.org) for any questions you may have regarding this assessment framework.

Any other operational restriction affecting investments by foreign-owned companies (e.g. local incorporation requirement, restrictions on access to local finance, limitations on the expansion of indirect branches, regional/geographical zone limitations for business operations, preference for domestically-owned companies in government procurement, reciprocity requirements, different minimum capital requirements than required for domestically-owned investments, local content requirements, restrictions on profit/capital repatriation etc.)

¹ In the case of bilateral 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 foreign holding and/or 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 associations - i.e. foreign investors 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

Time coverage: 2020-2010, 2006, 2003, 1997



The OECD FDI Regulatory Restrictiveness Index: Data & coverage (2/2)

22 Sectors covered

1. Agriculture
2. Forestry
3. Fishery
4. Mining & Quarrying (incl. oil extr.)
5. Manufacturing - *Food & Other*
6. Manufacturing - *Oil ref. & chemicals*
7. Manufacturing - *Metals, Machinery and Other Minerals*
8. Manufacturing - *Electric, Electronics and Other Instruments*
9. Manufacturing - *Transport Equipment*
10. Electricity (generation, distribution)
11. Construction
12. Distribution – Wholesale
13. Distribution - Retail
14. Transport (surface, water, air)
15. Hotels & restaurants
16. Media (broadcasting and other media)
17. Communication (fixed & mobile telecoms)
18. Financial services - Banking
19. Financial services - Insurance
20. Financial services - Other financial services
21. Business Services (accounting, legal, architecture, engineering)
22. Real estate



The OECD FDI Regulatory Restrictiveness Index: Scoring methodology

- Overall score: **simple average** of 22 sectors
- **Equal weights** are simpler and easy to use ; changes reflects policy reforms, not variations in weights
 - Other possibilities for weighting but little impact on country scores
 - Horizontal measures (e.g. screening) have the greatest impact on overall scores
- Scoring: based on '**expert's assessment**' of the importance of measures for foreign investors

RESTRICTIONS	SCORES
I. Foreign equity limits	
	Start-ups and acquisitions
No foreign equity allowed	1
Foreign equity < 50% of total equity	0.5
Foreign equity > 50% but < 100% of total equity	0.25
	Acquisitions
No foreign equity allowed	0.5
Foreign equity < 50% of total equity	0.25
Foreign equity > 50% but < 100% of total equity	0.125
II. Screening and approval*	
Approval required for new FDI/acquisitions of < USD 100mn or if corresponding to < 50% of total equity***	0.2
USD100mn or if corresponding to > 50% of total	0.1
Notification (pre or post)	0.025
III. Restrictions on foreign key personnel/directors	
Foreign key personnel not permitted	0.1
Economic needs test for employing foreign key	0.05
Nationality requirements for board of directors	
Majority must be nationals	0.075
At least one must be national	0.02
IV. Other restrictions	
Establishment of branches not allowed/local	0.05
Reciprocity requirement	0.1
Restrictions on profit/capital repatriation	1.0 - 0.1
Access to local finance	0.05
Land ownership not permitted but leases possible	0.05 - 0.01
Minimum capital requirement	0.05
Local content requirements	0.1
Government procurement offers preference to locally-owned firms	0.025



The OECD FDI Regulatory Restrictiveness Index: How can it be used?

- **Benchmark** a country's regime against peers;
- **Monitor and evaluate** reform progress over time;
- **Assess performance in attracting FDI** for given level of restrictiveness
- **Evaluate the potential effect of reforms** on economic outcomes (e.g. on productivity)
- **Communicate** about current FDI regime and reforms



On-going update of the FDI RRI methodology

Motivation

- **Lessons accumulated over the last 10 years of use**
 - Demand for **greater transparency** (e.g. underlying regulatory measures)
 - Demand for more **granularity in policy and sectoral coverage**
 - Opportunity to **streamline and clarify the framework**

Key revisions

- **A new online FDIRRI Regulatory Database** consolidating all underlying measures in a transparent, accessible and systematic manner
- **Additional sector breakdowns** (ISIC rev. 4 corresp.)
- **Simplified scoring framework** (in view of the difficulties in establishing a ranking of restrictiveness at the measure level)
- **Further clarifications and policy granularity** to improve transparency and make it more reflective of policy variations applied. Some key revisions:
 - **Foreign equity**: capturing more variation in such restrictions (e.g. additional threshold levels etc.)
 - **Screening**: simplified; covering other screening policies (e.g. national security) [as *memo item* only]
 - **Key foreign personnel**: (1) simplified and clarified
 - **Other restrictions**: some new measures; drop of 'local incorporation requirements' (except in financial services and real estate);



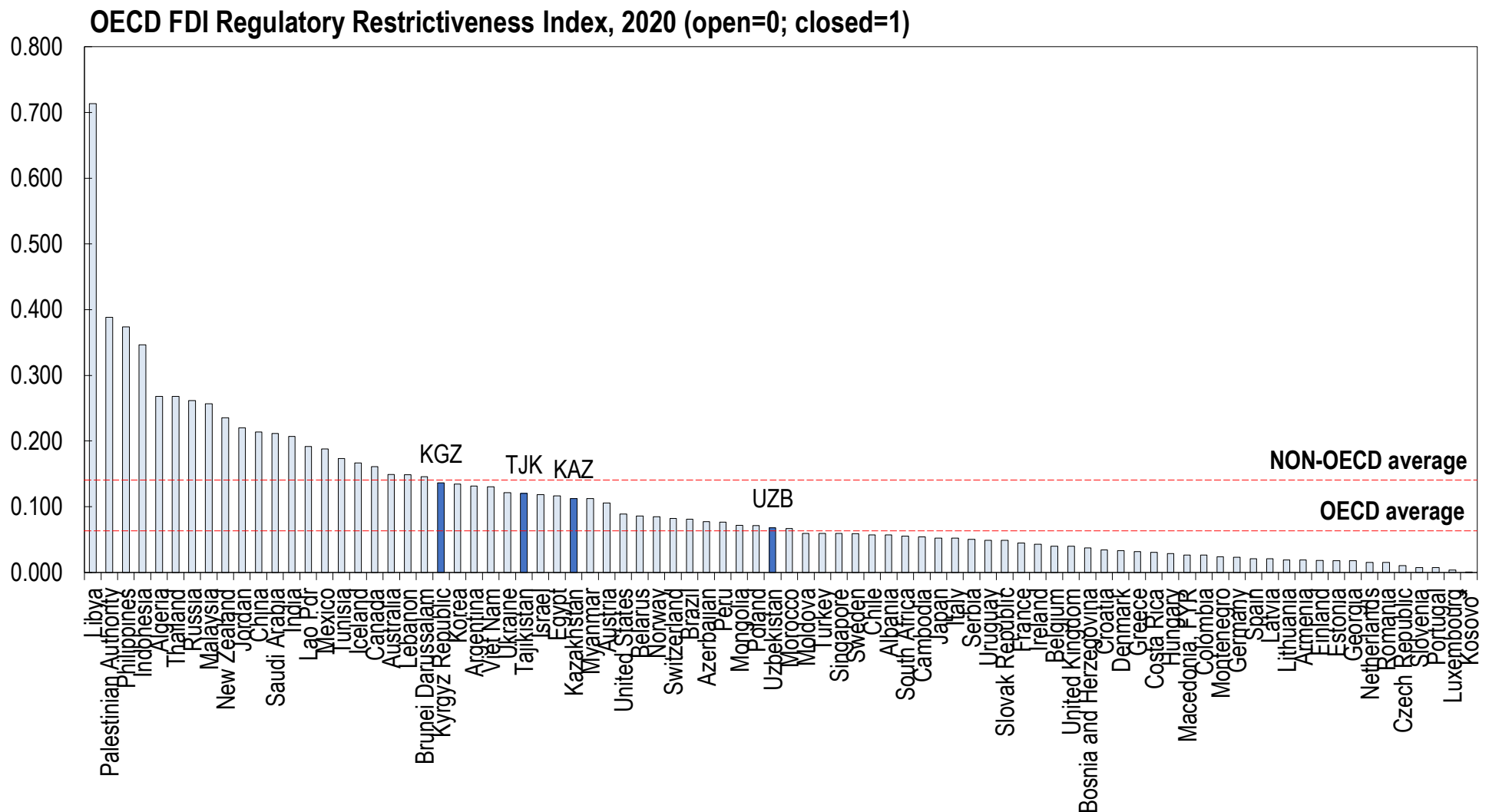
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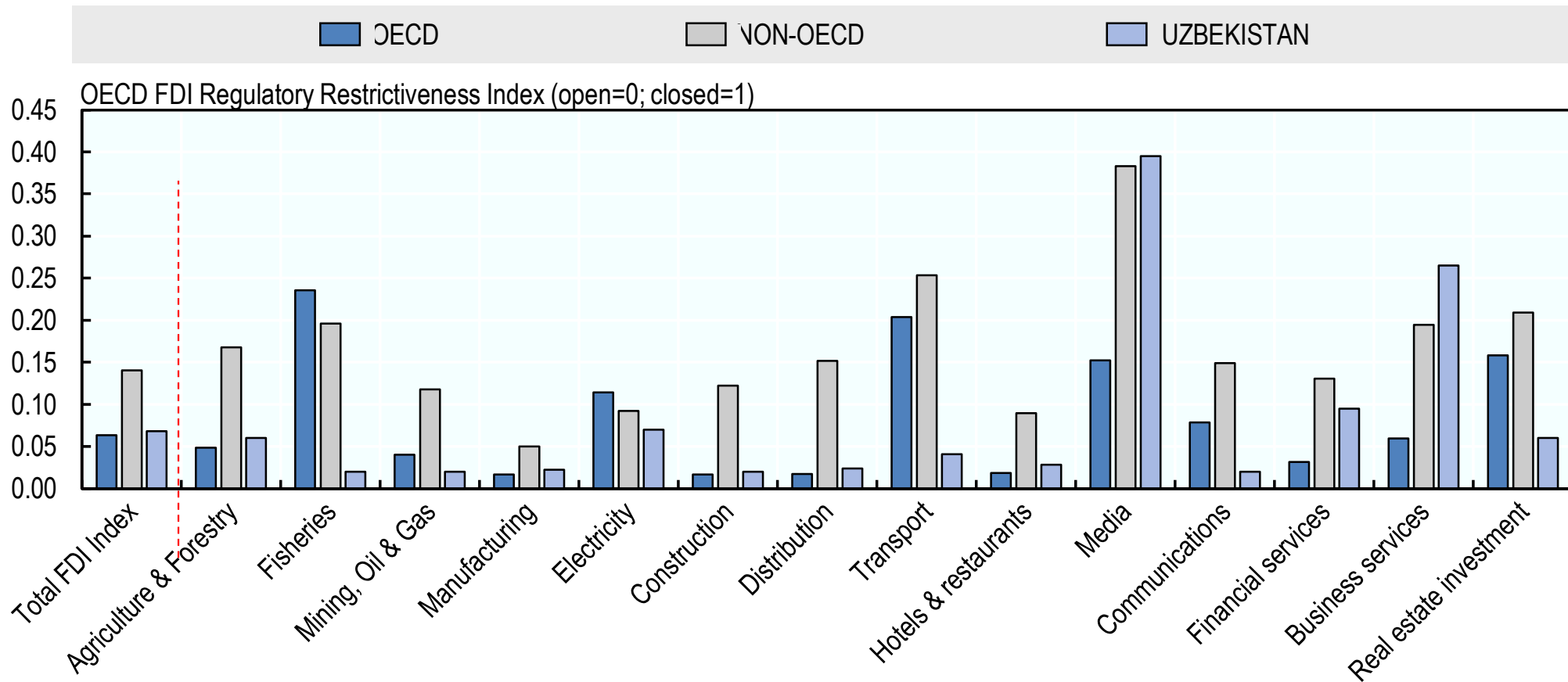
Strong variation in treatment of FDI worldwide. Uzbekistan compares relatively well

Levels of discrimination against foreign investors in Uzbekistan are close to the OECD average and the lowest in Central Asia



Worldwide, primary and services sectors remain partly off limits to FDI; Manufacturing has been largely liberalised

OECD FDI Regulatory Restrictiveness Index, by economic sectors, 2020



- **Uzbekistan restrictions are concentrated in relatively few sectors**
- **But may still contribute to holdback potential economy-wide productivity gains**



Legal basis for restrictions (1)

Sub-Sector	Type of restriction	Restrictions	Comments	Legal authority / official source
Horizontal	Other operational restrictions	Land ownership not permitted but leases possible for over 70 years	Foreign investors and foreign-owned companies established in Uzbekistan are allowed to hold lease titles to land, but they are subject to different rules regarding the needed authorisation by the State in relation to leasing such lands: foreign investors and foreign-owned companies need the approval of the Cabinet Ministers, while domestic investors only need the approval of district and cities' <i>khokim</i> (governor).	Land code of the Republic of Uzbekistan of 30/04/1998 [google translated]
Horizontal	Other operational restrictions	Establishment of branches not allowed/local incorporation required [land acquisition related]	Foreign participation in the privatisation process of non-agricultural land is subject to local incorporation, as well as the acquisition by foreigners of previously privatised land.	Law of the Republic of Uzbekistan on privatization of non-agricultural land plots no. zru-552 of 13/08/2019 [google translated]
Manufacturing – Food and others Distribution – Retail Hotels & Restaurants – restaurants, cultural activities and other touristic services Transport – Air (air transportation) Transport – Water (inland water transport and services incidental to IWT, incl. terminal facilities, related cargo handling and other support activities)	Other operational restrictions	Establishment of branches not allowed/local incorporation required	<p>Foreign investment in the production of food and alcoholic beverages is subject to local incorporation.</p> <p>Foreign and domestic investment in shopping centres is subject to JV with the local government [foreign investors are subject to local incorporation].</p> <p>Foreign investment in travel agency and tour operator activities is subject to local incorporation.</p> <p>Foreign investment in air transportation is allowed subject to local incorporation for the registration of civilian aircrafts used in commercial aviation.</p> <p>Foreign investment in inland water transport is subject to local incorporation.</p>	<p>Decree cabinet of ministers of the Republic of Uzbekistan on approval of the regulation on the procedure for licensing the production of food and technical ethyl alcohol, alcohol products №707 08/23/2019 [google translated]</p> <p>Decree cabinet of ministers of the Republic of Uzbekistan about additional measures for ordering the activities of markets and trade complexes no. 253 of 08/28/2012</p> <p>Law of the Republic of Uzbekistan about tourism no.zru-549 of 07/18/2019 Decree cabinet of ministers of the Republic of Uzbekistan on approval of the regulation on the procedure for licensing tourist activities №189 of 04/06/2017</p> <p>Air code of the republic of Uzbekistan Decree of the cabinet of ministers of the Republic of Uzbekistan on approval of provisions on the procedure for entrepreneurs to go through licensing procedures in the field of civil aviation number 58 of 01/03/2016</p> <p>Decree cabinet of ministers of the Republic of Uzbekistan on approval of the statute of inland water transport of the republic of Uzbekistan no. 106 of 02/25/1997</p>



Legal basis for restrictions (2)

Sub-Sector	Type of restriction	Restrictions	Comments	Legal authority / official source
Electricity – Generation (non-renewable energy)	Foreign equity restrictions	No foreign equity allowed - startups and acquisitions	Foreign investment in the operation of nuclear facilities is not allowed	Law of the Republic of Uzbekistan on the peaceful uses of atomic energy no.zru-565 of 09.09.2019 [google translated]
Media – Radio & TV broadcasting (Total) Media – Other media (e.g. printed media)	Foreign equity restrictions	Foreign equity < 50% of total equity - startups and acquisitions	Foreign investment in mass media outlets (radio and TV broadcasting, and printed media) cannot exceed 30% of of their authorized capital.	Law of the Republic of Uzbekistan on introducing amendments and additions to the Law of the republic of Uzbekistan “on media”
Financial Services – Banking (Total)	Foreign equity restrictions	Foreign equity > 50% but < 100% of total equity - acquisitions	Foreign investors, unless foreign banks and other international financial institutions, cannot hold more than 50% of the voting capital of a bank established in Uzbekistan.	Law of the Republic of Uzbekistan on introducing changes and additions to the law of the republic of Uzbekistan “on banks and banking activities” no. zru-580 of 11/05/2019 [google translation]
Financial Services – Banking (Total)	Other operational restrictions	Establishment of branches not allowed/local incorporation required	Branches of foreign banks are not allowed.	Law of the Republic of Uzbekistan on introducing changes and additions to the law of the republic of Uzbekistan “on banks and banking activities” no. zru-580 of 11/05/2019 [google translation]
Financial Services – Insurance (Total)	Other operational restrictions	Establishment of branches not allowed/local incorporation required	Branches of foreign insurance companies are not allowed.	Law of the Republic of Uzbekistan on insurance activity no. 358-ii of 05/04/2002
Business Services – Legal Services (Total)	Foreign equity restrictions	No foreign equity allowed - startups and acquisitions	Foreign participation in law firms is not allowed.	Law of the Republic of Uzbekistan on advocacy no. 349-i of 27/12/1996
Real Estate Investment – Total	Other operational restrictions	Establishment of branches not allowed/local incorporation required	Foreign participation in the privatisation of non-agricultural land is possible only through local incorporation.	Law of the Republic of Uzbekistan on privatization of non-agricultural land plots no. zru-552 of 13/08/2019 [unofficial translation] Decree of the President of the Republic of Uzbekistan on the privatization of land occupied by buildings and structures of legal entities and citizens №up-3780 of 07/24/2006 [google translated]



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Expressed topics/questions of interest

1. Methodology:

1. “method of accumulation of input data? [sources of information]”;
2. “bias that may occur when legislation permits foreign investment but in reality, it doesn't work?” [implementation issues]

2. Policy issues:

1. “**Branching restrictions:** “the effect of lifting restriction on branches in manufacturing/ insurance? [...] “Impact on the overall index? [...] Advantages and disadvantages”
2. **Land ownership restriction** “countries that do not have any restriction for land ownership for foreign inventors?”
3. **Leasing of land:** “countries experience in renting land plots to enterprises with foreign investments, international associations and organizations, foreign individuals and legal entities. [...] Which country is leading in this procedure?”



Thank you!

Contact details

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For more information:

OECD FDI Regulatory Restrictiveness Index

www.oecd.org/investment/fdiindex.htm

OECD Policy Framework for Investment

<https://www.oecd.org/investment/pfi.htm>

OECD Investment Policy Reviews

www.oecd.org/investment/countryreviews.htm