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CORPORATE INCOME TAXES AND INVESTMENT INCENTIVES

A GLOBAL REVIEW

HIGHLIGHTS

- The tax competition to promote investment has led to declining corporate income tax (CIT) rates in all geographical regions and in most economies since the 1980s. The worldwide CIT rate more than halved, from 40 per cent in 1980 to 23 per cent in 2021.

- Beyond CIT reductions, the tax competition extends to various types of incentives. Of 100 countries that adopted investment measures related to taxation in the past decade, 90 lowered taxes, introduced new tax incentives or made existing incentives more generous, bringing down drastically the effective tax rate in many regions.

- More than one third of fiscal incentives were profit-based (mainly tax holidays and reduced CIT). Expenditure-based incentives, which tend to reward reinvestment (e.g. allowances or tax credits) constituted just over 1 in 10 new tax incentives.

- Globally, most new tax incentives targeted manufacturing and services investments, while those targeting the agricultural and extractive sectors concentrated in developing countries and LDCs.

- In only about 30 per cent of cases, incentives are granted on the basis of measurable criteria (such as the invested amount, the volume of employment generated or the location of the investment), and the majority are not time-bound.

- Investment promotion agencies play a key role in the provision of incentives, mainly as facilitators or advisors. In one-third of the cases, they are actively involved in allocation decisions.

- Most recent industrial policies entail the introduction of new tax incentives for investment (61 per cent), while only 15 per cent call for their review or streamlining.

- The most recurrent motivations for introducing tax incentives in industrial policies are reducing the cost of doing business, supporting innovation, stimulating local production and developing SMEs.

Introduction

Foreign investors base their decision to enter a country on many factors, including political stability, economic potential, natural resources, transparency and efficiency of regulatory regimes and the level of infrastructure and skills. The tax regime is also a factor in investment decisions, and although tax incentives are frequently far from being the most important one in comparison with factors such as political stability and security, a stable and transparent legal and regulatory environment and the quality of infrastructure and skills (World Bank, 2018; Freund and Moran, 2017), they have traditionally been one of the most widespread policy tools to attract and retain foreign investment. The pandemic has accentuated the importance of incentives and tax relief efforts as part of the economic recovery and resilience packages adopted worldwide (Kronfol and Steenbergen, 2020).

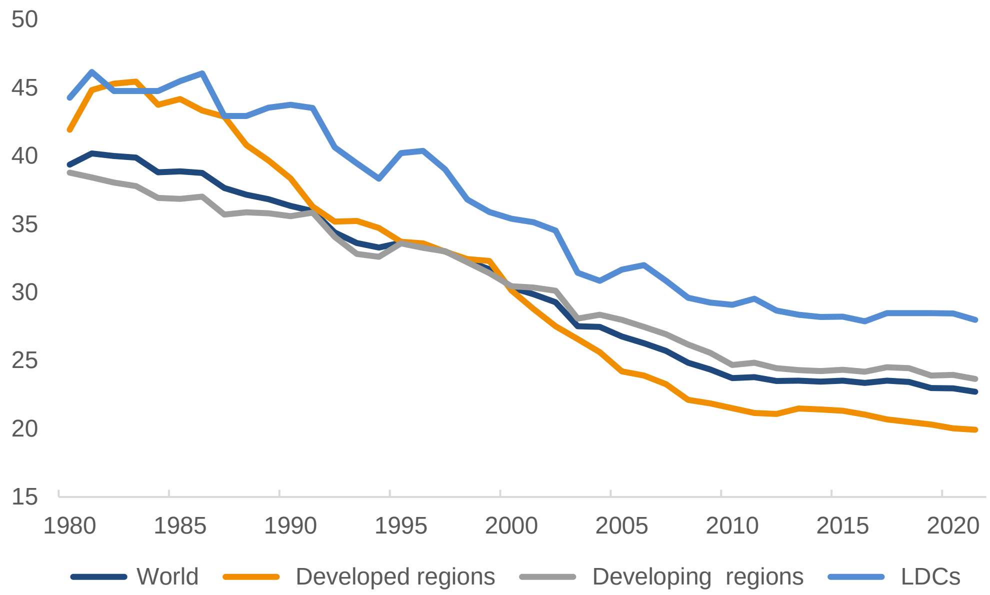
This Special Issue of the Investment Policy Monitor expands on the findings and analysis presented in the World Investment Report 2022: *International Tax Reform and Sustainable Investment* (UNCTAD, 2022). In the context of the ongoing reform of the international tax system, it highlights key trends in the taxation of investment by analyzing the evolution of corporate income taxes across the world (section A), as well as country efforts to attract investments through tax incentives (section B). It also highlights how, beyond engaging in tax competition for investment by lowering the statutory corporate income tax rates, countries rely heavily on investment incentives to attract investors to priority sectors or regions.

A. Evolution of Corporate Income Tax

In 1980, the worldwide CIT rate averaged 39.3 per cent, and 80 per cent of the jurisdictions for which data on CIT rates are available imposed rates of 30 per cent or higher. A steady decline was observed globally until 2010, when the number of economies charging CIT at or above 30 per cent decreased to 67 and the worldwide average CIT rate fell to 23.7 per cent. Since then, the average rate has practically stabilized at the current level of 22.7 per cent (figure 1). In 2021, fewer than one third of all countries applied CIT at 30 per cent or above.[1]

[1] The analysis carried out in this section is based on the data on the statutory CIT rate available at https://taxfoundation.org/publications/corporate-tax-rates-around-the-world/ for economies (sovereign States and other types of territorial units) included in the UNCTAD classifications of geographical groups and regional development status https://unctadstat.unctad.org/EN/Classifications.html. The list of economies included in the UNCTAD classifications may differ from the M49 standard of the Statistical Division of the United Nations Secretariat. The data set includes historic statutory CIT rates for 1980–2021.

Figure 1: Statutory CIT rates, regional and world averages, 1980-2021 (Per cent)



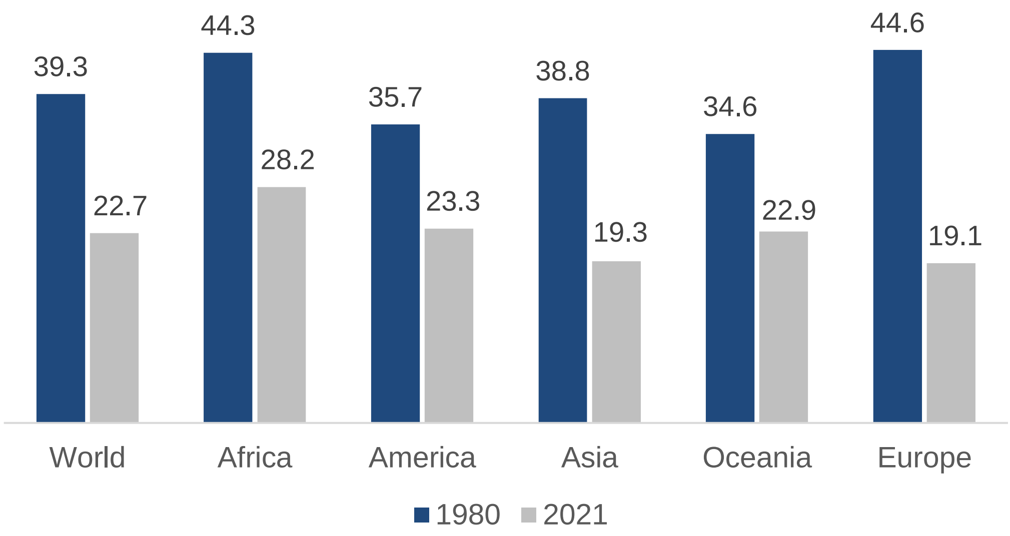
Source: UNCTAD, based on Tax Foundation

The largest downswing has occurred in developed regions, where the average CIT rate more than halved between 1980 and 2021 (from 41.8 per cent to 19.9 per cent) (see figure 1). The average rate for developing regions, which contain 75 per cent of the world's economies, has been very close to the worldwide average. Nevertheless, 105 developing economies (some 65 per cent) still have CIT rates above the world average. The average CIT rate for the least developed countries (LDCs) has followed the common downtrend but has been characterized by more volatility and the highest values among the three groups. Although the average rate in LDCs has dropped from 44.3 to 28 per cent over the last four decades, in half of these countries it remains at the level of 30 per cent or above. Whereas in many developing economies reducing the corporate tax became possible because of a shift from direct to indirect taxes in the structure of fiscal income, this was not the case for several LDCs, which rely much less on other sources of fiscal revenue than on CIT.[2]

In 2021, Europe, which has seen the largest reduction in CIT rates of all regions, had the lowest regional average rate, at 19.1 per cent, followed by Asia at 19.3 per cent. In contrast, Africa had the highest regional average statutory rate, at 28.2 per cent. Countries in Latin America and the Caribbean also tend to have higher corporate tax rates than do Asian and European economies, and in Oceania and North America corporate tax rates align closely to the world average at 22.9 and 23.3 per cent, respectively (figure 2).

[2] An analysis of a large pool of LDCs shows that unlike in developed countries, corporate rather than personal tax is the greater source of public finance for LDCs. It also highlights that although the corporate tax rate has been decreasing in LDCs, corporate tax revenues have been increasing as a share of total tax revenues and gross domestic product (Baker, 2018).

Figure 2: Average statutory CIT rate by region, 1980 and 2021 (Per cent)



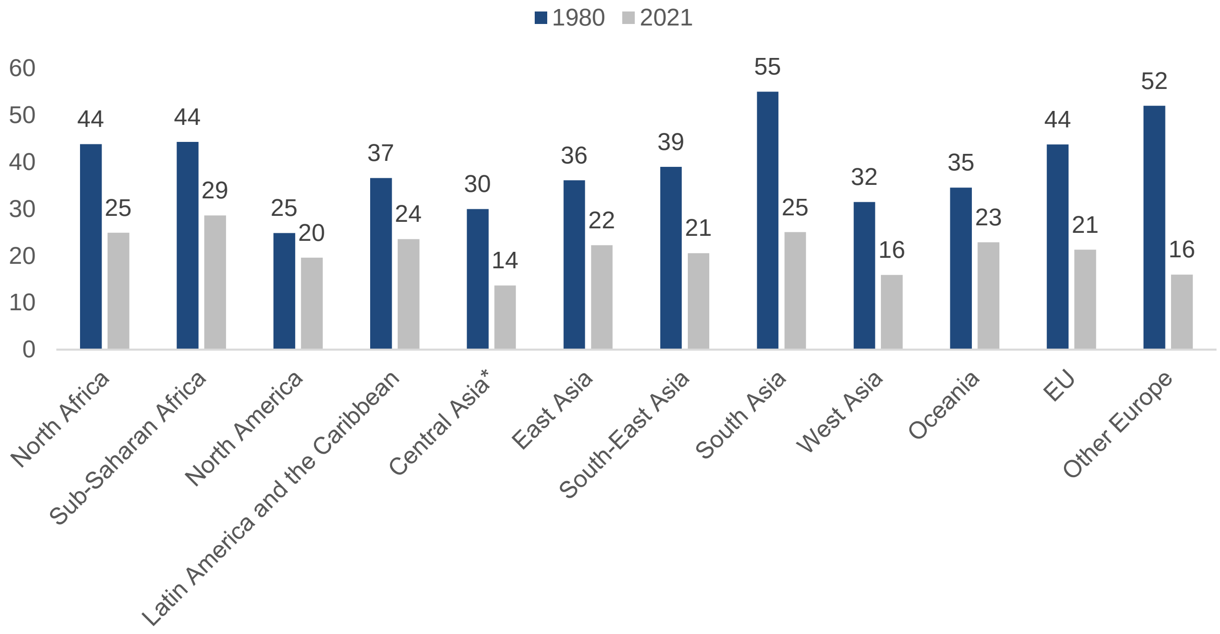
Source: UNCTAD, based on Tax Foundation

In 1980, Europe had the highest average rate among all regions – 44.6 per cent, which is attributed to the economies of West, North and partly South Europe.[3] Since then, most of these economies have lowered their rates by 25-40 percentage points.[4] Transition towards market-oriented economies in eastern Europe at the beginning of the 1990s had accelerated the downward trend as new EU member States and other East and South-East European economies adopted low CIT rates to attract investment. Already by the end of the 2000s, more than half of all European countries had adopted rates of 20 per cent or less. The average CIT rate among EU countries is 21.3 per cent, while the average rate among other European countries is 16 per cent (figure 3). Eleven European economies charge rates at or below 12.5 per cent. In general, larger and more industrialized European countries have higher CIT rates than smaller ones.

The average CIT rate in Asia has halved over the reviewed period (figure 2). Its current value, at 19.3 per cent, is very close to the European rate and is the second smallest among the five world regions. The largest decline in the Asian region was registered in South Asian countries, where the average rate dropped from 55 to 25.1 per cent (figure 3). The latter, however, remains higher than the worldwide and regional averages, mainly due to higher corporate income taxes imposed by India (30 per cent), Bangladesh (32.5 per cent) and Pakistan (29 per cent). In contrast, Central Asia has the lowest average CIT rate, at 13.7 per cent, and three out of the five countries in the region (Uzbekistan, Turkmenistan and Kyrgyzstan) are among the economies that levy the lowest non-zero corporate tax in the world (7.5, 8 and 10 per cent respectively).

[3] The data on other parts of the European continent are only available from the beginning of the 1990s onwards.
[4] For example, Finland reduced its CTR from 61.75 to 20 per cent, Sweden from 60.1 to 20.6, Ireland from 50 to 12.5 per cent, and Cyprus from 42.5 to 12.5 per cent to mention a few.

Figure 3: Average statutory CIT rate by subregion, 1980 and 2021 (Per cent)



Source: UNCTAD, based on Tax Foundation.
Note: * For Central Asia, data covers the period 1990 – 2021.

Corporate rates in West Asia averaged 15.9 per cent in 2021, with the highest rates found in the Syrian Arab Republic (28 per cent) and Israel (23 per cent). The lowest CIT rates in this group have been charged by the Gulf economies, except for Saudi Arabia. Over time, they have shifted to taxing corporations at or below 15 per cent, and two of them, Bahrain and the United Arab Emirates do not impose corporate income taxes.

East and South-East Asia's CIT rates tend to be close to the world average (22.2 and 20.6 per cent respectively). Within East Asia, rates in China, the Republic of Korea and Japan vary between 25 and 30 per cent, which is higher than in most industrialized and emerging Asian economies. At the subregional level, these rates, however, are counterbalanced by lower corporate income taxes in Hong Kong and Macao, Special Administrative Regions of China, as well as in Taiwan, Province of China. In South-East Asia, only Philippines taxes corporate profits at 30 per cent. In contrast, Timor-Leste falls under the list of countries with the world's lowest rates – 10 per cent. All other economies in the region apply rates around 20 per cent.

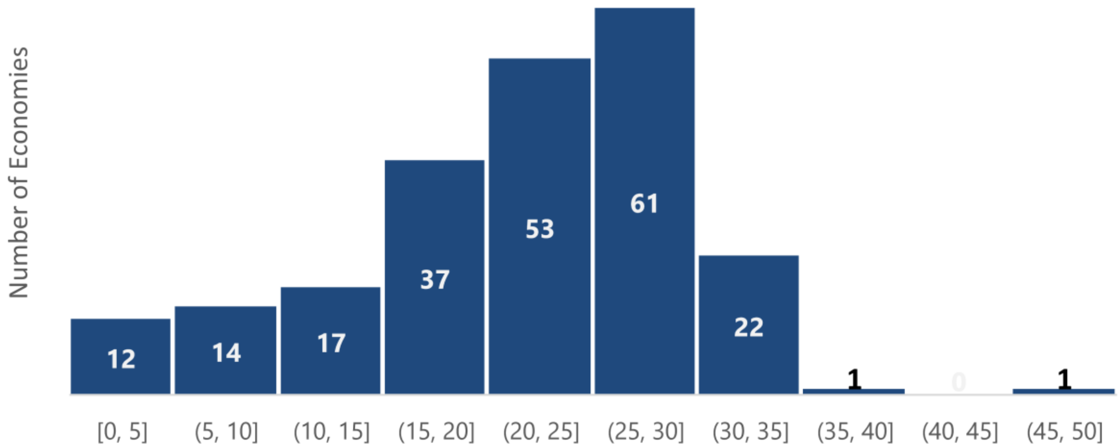
The average CIT rate in North America stood at 19.6 per cent in 2021. Over time, its decline has been driven by gradual lessening of the tax in Canada (from 50.9 to 26.1 per cent) and two tax cuts in the United States. The first one took place in the 1980s – early 1990s, when the rate fell by 10 percentage points and stabilized at nearly 40 per cent for the following 30 years. The second reduction was introduced by the 2017 fiscal reforms, when the statutory rate fell to 25.8 per cent, bringing the country closer to the middle of the worldwide CIT rate distribution. The rate in Greenland fluctuated between 35 and 26.5 per cent.

In Latin America and the Caribbean, the CIT averages 23.6 per cent, which is very much in line with the average for the entire American region (23.3 per cent). A notable difference exists, however, between the economies in the region. Forty per cent of them impose a CIT equal to or higher than 30 per cent. This comprises both large (Argentina, Brazil, Venezuela, Mexico, Colombia, etc.) and relatively small jurisdictions, including island States (Cuba, Suriname, Trinidad and Tobago, El Salvador, Nicaragua, Costa Rica, etc.). On the other hand, one fifth of the economies apply low (10 per cent or less) or no CIT. The remaining economies charge rates around 25 per cent. The financial centres in the Caribbean can be seen in all the three groups in nearly equal proportions.

Within Africa, North African countries have reduced the CIT rates to a 24.9 per cent average. This is 3.8 percentage points lower than in the sub-Saharan Africa. More than 50 per cent of African countries charge CITs at 30 per cent or above, and only two countries, Mauritius and Tunisia, apply rates under 20 per cent (15 per cent both).

In 2021, the median CIT rate over the world was 25 per cent. 133 economies out of 218 charged CITs at or below the median rate (figure 4). Among them 12 jurisdictions, mainly Caribbean or Pacific islands, had no CIT, and 31 economies had rates not exceeding 15 per cent. Among 85 economies imposing CIT above the median, 61 had a rate at or below 30 per cent and in 22 countries, CITs were above 30 and below 35 per cent. Only 2 countries, Comoros (50 per cent) and Suriname (36 per cent) charged CIT above 35 per cent.

Figure 4: Distribution of worldwide CIT rates, 2021 (Percentage intervals)



Source: UNCTAD, based on Tax Foundation
Note: Square bracket: number included; round bracket: number excluded.

B. Tax incentives for investment

The analysis of the tax incentives for investment in this section is based on the review of tax-related investment policy measures adopted worldwide in the last decade. This section also examines the treatment of tax incentives in investment laws, which often constitute the legal basis for their adoption; and in industrial policies, which generally provide their broader policy background or motivation.

Among the various incentives for investment (table 1), this section focuses primarily on tax incentives. For the purpose of this analysis, they are broadly categorized into CIT-based and other incentives. CIT-based incentives include:

(i) Profit-based incentives, i.e., those determined as a percentage of profit, including tax holidays, reduced CIT or loss carry forward or carry back to be written off against profits earned later

(ii) Expenditure-based (or capital investment-based), i.e., those that reduce the after-tax cost of capital investment expenditure, including investment allowance, accelerated depreciation, tax credits and the like[5]

Profit-based incentives provide tax relief based on earnings and not on new investment. In this regard, they are particularly attractive to mobile FDI. Expenditure-based incentives, by contrast, tend to promote re-investment and therefore further integration into the local economy. In addition, expenditure-based incentives typically target specific types of capital investments or activities that can be associated with countries' sustainable development objectives, such as skills development and the low carbon transition. Other tax incentives include reduced rates on indirect taxes (e.g. VAT, duties and tariffs), taxes on labour, land, social security contributions and other payments.

The analysis confirms that countries rely intensively on tax incentives for investment, and that profit-based incentives, i.e., those which are most likely to be affected by the international tax reforms, are among the most widespread and frequently adopted ones.

[5] For details on this classification, see UNCTAD (2000).

Table 1 Key investment incentives by type

Financial	
Investment grants	"Direct subsidies" to cover (part of) capital, production or marketing costs in relation to an investment project
Subsidized credits and credit guarantees	Subsidized loans Loan guarantees Guaranteed export credits
Government insurance at preferential rates, publicly funded venture capital participating in investments involving high commercial risks	Government insurance at preferential rates, usually available to cover certain types of risks (such as exchange rate volatility, currency devaluation and non-commercial risks such as expropriation and political turmoil), often provided through an international agency
Fiscal	
Profit-based	Reduction of the standard corporate income tax rate or profit tax rate, tax holiday, loss carry forward or carry back to be written off against profits earned later (or earlier)
Capital-investment-based (or expenditure/cost-based)	Accelerated depreciation, investment and reinvestment allowances, tax credits
Based on particular expenses	Deductions based on qualified expenditures (e.g. R&D, training, export marketing, etc.)
Sales-based	Income-tax reductions based on total sales
Value added-based	Income tax reductions or credits based on the net local content of outputs, granting income-tax credits based on net value earned
Import-based	Duty exemptions on capital goods, equipment or raw materials, parts and inputs related to the production process
Others	Reduced taxes on dividends and interest paid abroad, preferential treatment of long term capital gains; reduction of rates for expatriates etc.
Regulatory	
Exceptions and exemptions	Lowering of environmental, health, safety or labour standards Temporary or permanent exemption from compliance with applicable standards Stabilization clauses guaranteeing that existing regulations will not be amended to the detriment of investors
Market privileges	Preferential government contracts Closing the market to further entry or the granting of monopoly rights Protection from import competition
Subsidized infrastructure services	Subsidized dedicated infrastructure: electricity, water, telecommunication, transportation at less than commercial price. Subsidized services, including assistance in identifying sources of finance, carrying out pre-investment studies, information on markets, etc.
Foreign exchange privileges	Special exchange rates Special foreign debt-to-equity conversion rates Elimination of exchange risks on foreign loans Concessions of foreign exchange credits for export earnings Special concessions on repatriation of earnings and capital

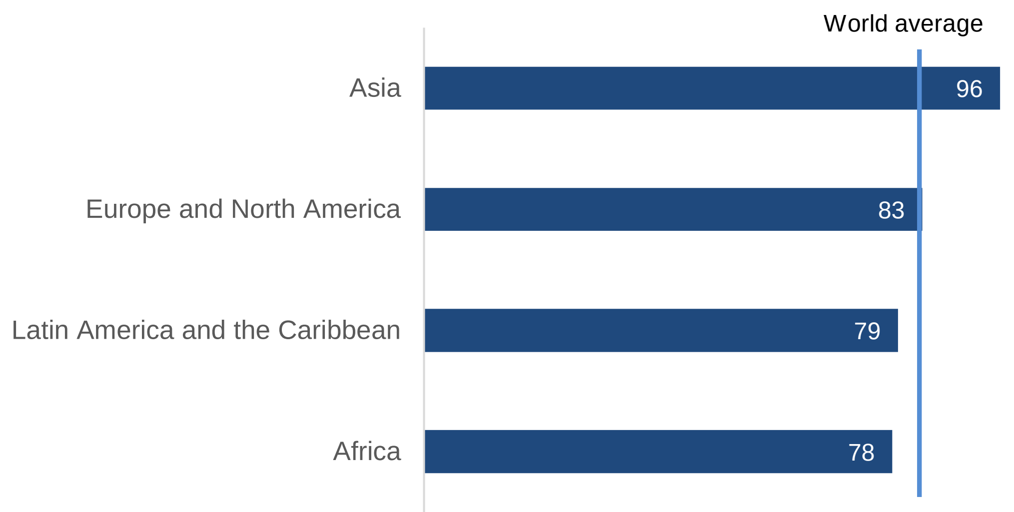
Source: Based on UNCTAD (2000 and 2004).

1. Recent trends in investment policy measures related to taxation

This section highlights key trends in the taxation of investment, on the basis of a review of headline investment policy measures related to taxation adopted worldwide from January 2011 to December 2021, as recorded by UNCTAD in its Investment Policy Monitor.[6] It reveals the continued and extensive use of tax incentive schemes by countries around the world as a tool for promoting and attracting FDI. In that period, of 100 countries adopting measures related to taxation, 90 lowered taxes, introduced new tax incentives or made existing incentives more generous. Of all tax measures adopted, only 17 per cent were specifically directed at foreign investors, while 83 per cent targeted both domestic and foreign investors.

Investment-related tax measures adopted globally during the last decade were overwhelmingly more favourable to investment – 83 per cent introduced new incentives or made existing incentives more generous across the economy or in selected sectors. This trend held for all levels of development (84 per cent in developing countries, 82 per cent in LDCs and 81 per cent in developed countries) and all regions, though it is particularly strong in Asia (figure 5).

Figure 5: Tax-related investment policy measures more favourable to investment by region (Per cent)



Source: UNCTAD, Investment Policy Monitor

Among tax measures less favourable to investment, three out of four consisted of an increase in tax rates (e.g. CIT or VAT) or the establishment of new taxes (e.g. mining royalties or other sector-specific taxes). The remainder involved the outright elimination of an incentive scheme. Almost half of all tax measures less favourable to investment were adopted in Africa

[6] For the purposes of this section, a measure is the enactment of an investment policy instrument (e.g. law, decree) that modifies either favourably or unfavourably the tax regime applicable to investment. Each measure may include the introduction of one or more new or revised incentives or their removal.

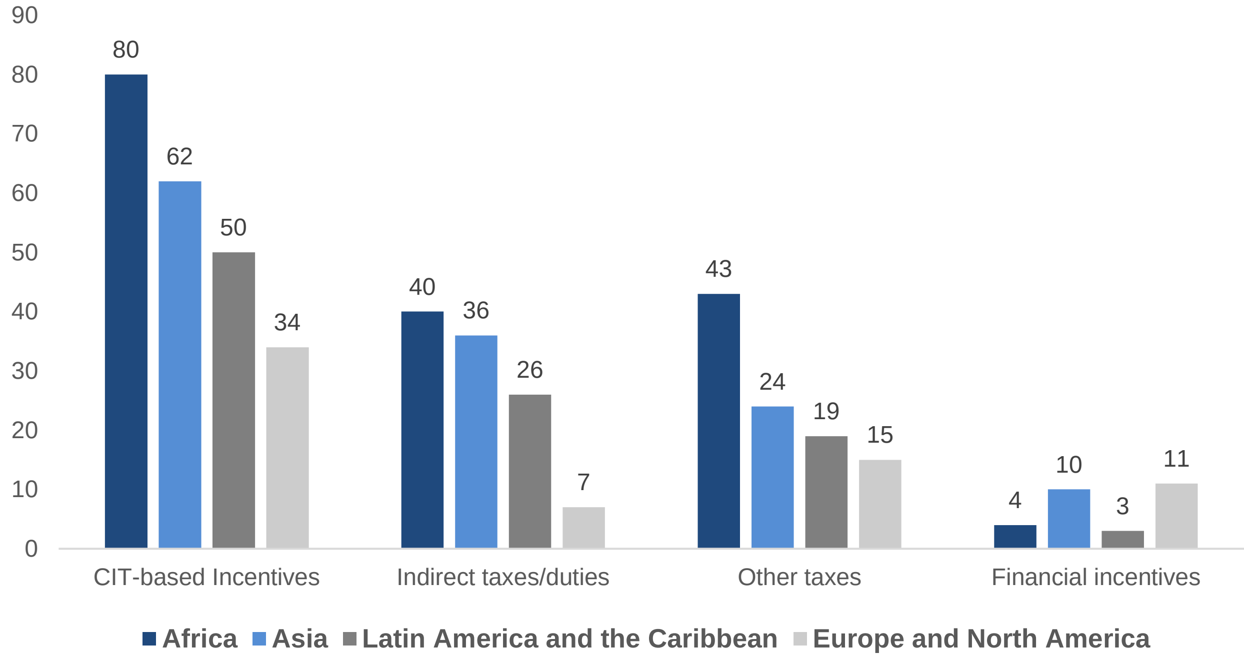
(19 measures), one third in Latin America and the Caribbean (12 measures), with the balance split between Europe and North America (7 measures in all) and Asia (2 measures).

(i) A strong reliance on profit-based tax incentives for investment

Jointly considered, CIT-based instruments are the most prevalent form of investment incentive introduced over the last decade across the globe (49 per cent of all new incentives) (figure 6). Their share in all investment incentives is evenly distributed between all regions (51 per cent in Europe and North America and Latin America and the Caribbean, 48 per cent in Africa, 47 per cent in Asia).

Figure 6: New investment incentives by main type and region, 2011-2021

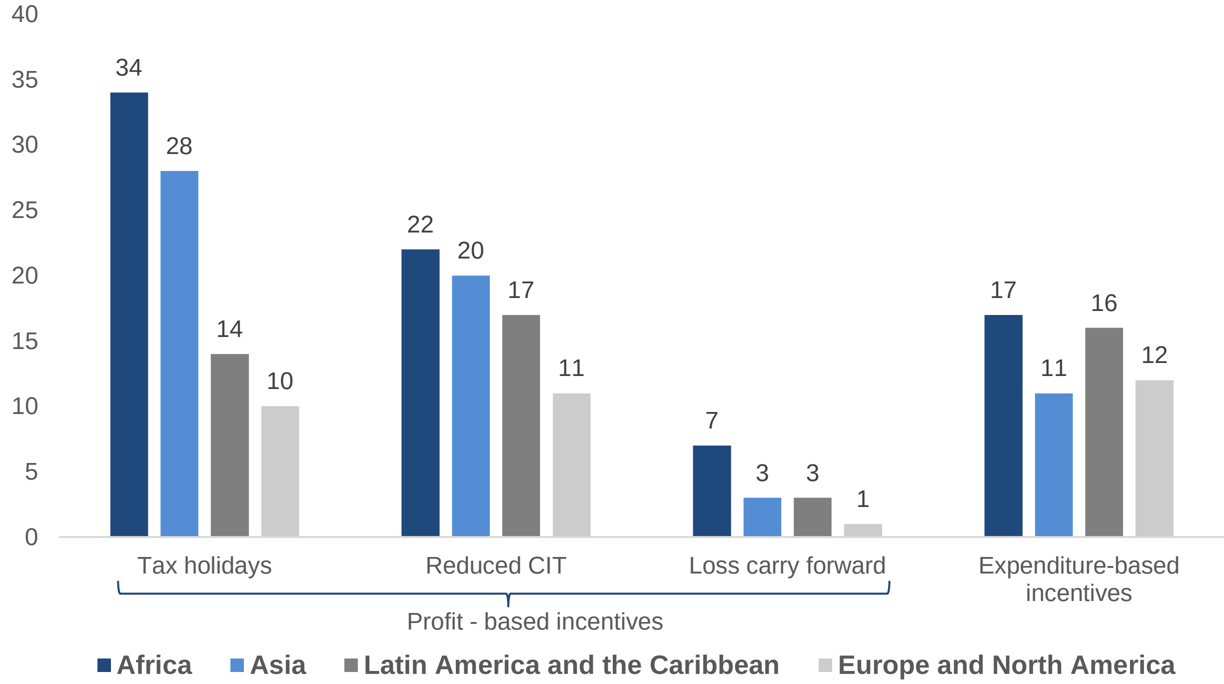
(Number of incentives)



Source: UNCTAD, Investment Policy Monitor

Focusing specifically on fiscal incentives, 39 per cent of those adopted globally since 2011 were profit-based. Tax holidays were used by the largest number of countries (55). By themselves, they represent about 20 per cent of all fiscal incentives introduced worldwide (22, 19 and 17 per cent of all incentives adopted respectively by LDCs, developing and developed countries). Tax holidays are also the main profit-based incentive used by African and Asian countries (accounting for 21 and 23 per cent of all tax incentives respectively), while reduced CIT is the most frequent profit-based incentive in Latin American and Caribbean countries (18 per cent) and European and North American countries (20 per cent) (figure 7).

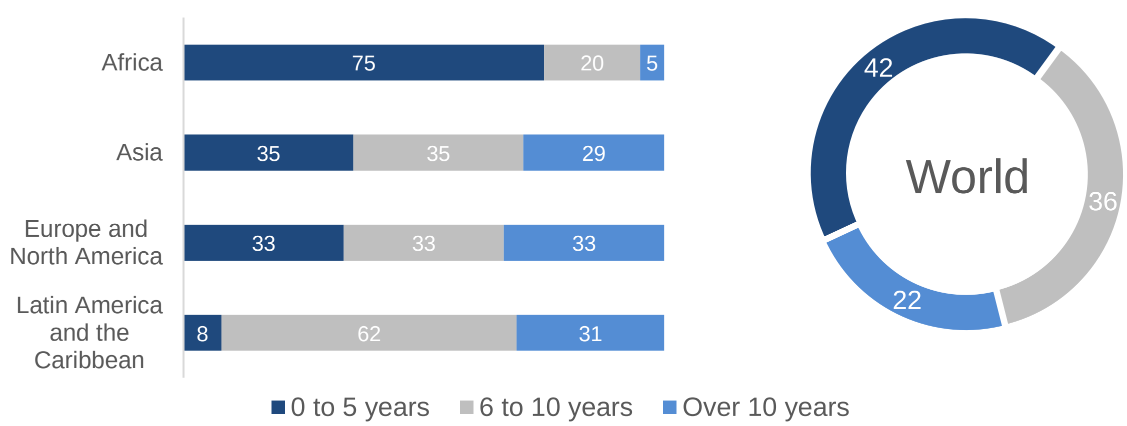
Figure 7: New CIT-based investment incentives by type and region, 2011-2021
(Number of incentives)



Source: UNCTAD, Investment Policy Monitor

Tax holidays of up to five years are the incentive most utilized worldwide (figure 8). This overall trend is largely influenced by African countries, which overwhelmingly favour the use of short-term tax holidays (75 per cent). By contrast, longer tax holidays of up to 10 years are the most common among countries of Latin America and the Caribbean (62 per cent). Tax holidays of over 10 years are much less common in developing countries (20 per cent) and LDCs (11 per cent), than in developed countries (40 per cent).

Figure 8: Investment-related tax holidays by duration, by region and world (Per cent)



Source: UNCTAD, Investment Policy Monitor

Reductions of the CIT rate (across all sectors or in selected sectors) accounted for 16 per cent of all tax incentives introduced worldwide since 2011 (42 countries). Its weight in the overall incentives landscape is higher in developed countries (21 per cent) than in developing ones (16 per cent) and in LDCs (14 per cent).

In contrast, the use of loss carry-forward provisions was much less widespread (accounting for 3 per cent of all new tax incentives). Almost 30 per cent of loss carry-forward provisions are included in incentive packages for SEZs.

(ii) With lower emphasis on expenditure-based incentives

Expenditure-based incentives represent 13 per cent of all tax incentives for investment introduced over the last decade. They mainly consist of schemes to provide accelerated depreciation for fixed assets, investment allowances and/or tax credit mechanisms. This type of fiscal incentive was adopted by 39 countries worldwide (14 in Africa, 10 in Latin America and the Caribbean, 8 in Asia and 7 in Europe and North America). Over 55 per cent of expenditure-based instruments were adopted in conjunction with a tax holiday or a CIT reduction.

(iii) And frequently in combination with other tax and non-tax incentives for investment

Both expenditure-based and profit-based incentives for investment are often combined with additional fiscal benefits in the form of tax breaks for indirect taxes and duties, such as VAT or import tariffs. These accounted for about 30 per cent of all tax incentives introduced in Asia and Latin America and in the Caribbean. They were also frequently utilized in Africa (24 per cent of all tax incentives), but far less common in Europe and North America (13 per cent). They can be found in virtually every tax scheme for the establishment of an SEZ across all regions.

Deductions and exemptions for taxes on labour and land and other payments are also used extensively as tax incentives for investment promotion. They accounted for over a quarter of all tax incentives in Africa and in Europe and North America (adopted by 25 and 11 countries respectively). They are also relatively frequently used in Asia and in Latin American and the Caribbean, where they represented 20 per cent of all new tax incentives in the past decade.

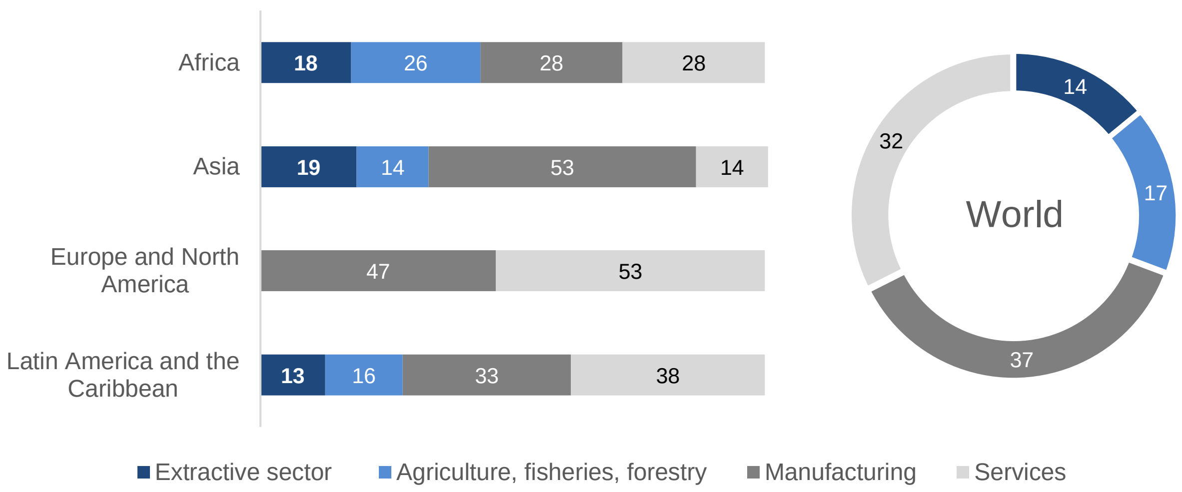
In addition, several non-tax instruments to promote investment were introduced jointly with the tax reform initiatives over the last 10 years. They include financial incentives (e.g., grants, loans or State subsidies supporting salaries or production output), relaxed restrictions on foreign ownership and business facilitation measures (such as simplified import and export procedures, single-window mechanisms for permits and licences, and streamlined procedures for employment visas). Business facilitation measures are particularly noteworthy and represent the most significant non-tax promotion instrument adopted in every region of the globe (62 per cent of all non-tax promotion instruments in Africa, 57 per cent in Europe and North America, 56 per cent in Latin America and the Caribbean, 46 per cent in Asia).

(iv) Target sectors change by region and level of development

Globally, 57 per cent of all tax-related investment policy measures more favourable to investment are sector-specific. In particular, developing countries (70 per cent) and LDCs (55 per cent) often implement reduced-CIT incentives that are based exclusively on sectoral requirements. In contrast, almost two thirds of reduced-CIT incentives adopted by countries in Europe and North America are granted fully or partially on the basis of minimum investment thresholds.

Most sector-specific tax incentives for investment introduced in the last decade target manufacturing and services (figure 9). Tax incentives for the services sector are particularly relevant in Europe and North America (53 per cent of all incentives), and Latin America and the Caribbean (38 per cent) and fairly relevant in Africa (28 per cent). In contrast, Asian countries adopted more tax incentives for investment in the manufacturing industry than for all other sectors combined (53 per cent). Notably, all tax incentives specifically targeting the agricultural and extractive sectors are concentrated in developing countries and LDCs.

Figure 9: Sectoral distribution of new tax incentives for investment, by region and world, 2011-2021 (Per cent)



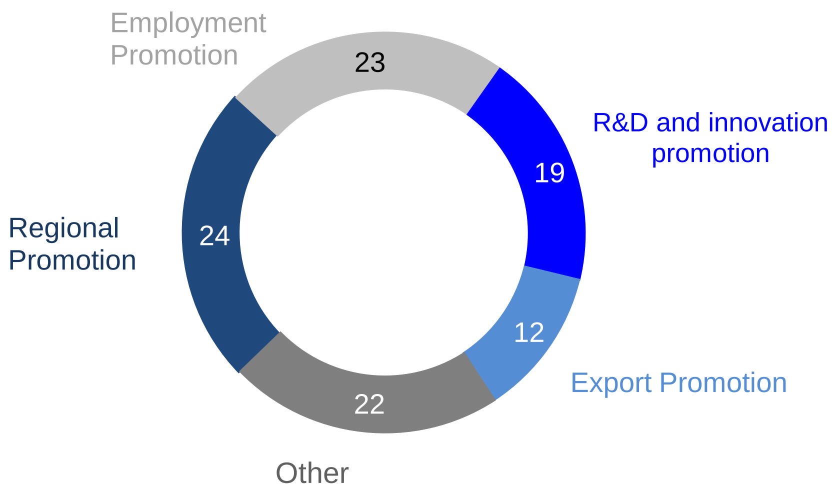
Source: UNCTAD, Investment Policy Monitor

Tax incentives that specifically target manufacturing industries for the most part have been designed to apply horizontally across all manufacturing activities (79 per cent). The balance reveals a substantial share of incentives aimed at the manufacturing of transport equipment (44 per cent), the production of computer and electronic equipment (33 per cent) and the production of pharmaceuticals (22 per cent). Zooming in on tax incentives that specifically target services, 73 per cent apply to the whole sector. The rest reflect a policy focus on information technology (32 per cent), tourism (27 per cent) and transport (22 per cent).

(v) Specific policy objectives are often associated with new incentives

Over 60 per cent of tax-related measures more favourable to investment introduced over the last decade are associated with the pursuit of one or more policy objectives, such as the development of specific regions within a country (e.g. priority development areas or rural areas), the promotion of exports, the reduction of unemployment or the upgrading of skills, the promotion of research and development and the transfer of innovative technologies (figure 10). Individually considered, tax incentives that aim at regional promotion are the most recurrent globally (24 per cent), in Africa (33 per cent) and in Asia (27 per cent). Among these incentives, 70 per cent aimed at promoting the development of an SEZ and 30 per cent targeted development of a specific location within the country. Employment promotion is the most recurrent policy objective associated with incentives in Europe and North America (35 per cent), and in Latin America and the Caribbean (33 per cent).

Figure 10: Policy objectives associated with new tax incentives for investment, 2011-2021 (Per cent)



Source: UNCTAD, Investment Policy Monitor

(vi) Only about half of new incentives worldwide and one third in Africa are time-bound

About half of all tax incentives for investment introduced worldwide over the last decade were time-bound (48 per cent), but the share is lower in Africa (35 per cent) and in Asia (40 per cent), with important implications in terms of forgone revenue, impact assessment and distortions in the market. Conversely, time-bound incentives are more frequently used in Latin American and Caribbean countries (60 per cent) and particularly significant in European and North American countries (79 per cent).

(vii) Investment laws are among the main instruments to introduce tax incentives for investment

Investment laws and the associated secondary legislation were the primary legal basis for the introduction of tax incentives in LDCs (55 per cent), followed by tax codes or budget laws (16 per cent), ad hoc decrees (10 per cent) and other policy instruments (19 per cent). African countries also enacted tax-related investment incentives mostly through introducing or revising national investment laws (39 per cent) or through enacting budgetary or taxation legislation (33 per cent). The use of ad hoc decrees for adoption of tax-related incentive schemes is minimal in Africa, whereas it is very significant in Latin America and the Caribbean (84 per cent of all measures) and in Europe and North America (71 per cent) and remains substantial in Asia (45 per cent).

2. Tax incentives in investment laws

Of 126 investment laws in UNCTAD's Investment Law Navigator,[7] 68 laws (54 per cent) dedicate a section to the treatment of tax incentives for investment. LDCs lead the trend, with three quarters of their investment laws including provisions on tax incentives, followed by developing and developed countries (46 and 36 per cent of all investment laws, respectively).

On a regional basis, almost two thirds of investment laws in Africa and Asia include a section on tax incentives. In other regions, the treatment of tax incentives in investment laws is less prominent (44 per cent in Latin America and the Caribbean, 42 per cent in Europe and 10 per cent in Oceania).

One third of the investment laws dealing with taxation selectively reproduce or illustrate incentives that are regulated by separate legislation (e.g. tax, customs or sectoral). This is the case, notably, for all developed countries that deal with incentives in their investment law (Bulgaria, Lithuania, Serbia), but also of some developing countries (the Plurinational State of Bolivia, Guyana, the Republic of Moldova, Qatar, Tajikistan, the United Republic of Tanzania and Turkmenistan). However, the remaining two thirds of investment laws (43 laws) are themselves the legal basis for the introduction of special tax regimes for investment. This includes almost 50 per cent of investment laws in Africa, 38 per cent in Asia, 22 per cent in Latin America and the Caribbean and 10 per cent in Oceania. These are the laws considered in the following analysis.

(i) Profit-based incentives are prevalent also in investment laws

Although there are significant differences in the range of incentives offered, over 80 per cent of all investment laws dealing with tax incentives utilize profit-based incentives to promote investment. In particular, tax holidays are offered in the investment laws of 31 countries (16 countries in Africa, 12 in Asia, 3 in Latin America and the Caribbean), and reduced CIT in those of 15 countries (9 countries in Africa, 4 in Asia, 2 in Latin America and the Caribbean).

[7] Most investment laws were adopted by developing countries (59 per cent), followed by LDCs (32 per cent) and developed countries (9 per cent).

Expenditure-based incentives can be found in more than 60 per cent of investment laws dealing with tax incentives (27 investment laws), including those of 17 countries in Africa, 6 in Asia, 3 in Latin America and the Caribbean, and 1 in Oceania, with an almost equal distribution among developing economies and LDCs (12 and 15 countries respectively).

Among incentives not based on CIT, the ones most frequently used are exemption from customs duties on goods imported and directly involved in realizing the investment (86 per cent), exemption from VAT (37 per cent), exemption from land taxes (26 per cent) and exemption from stamp duty (16 per cent).

(ii) Regional development is the most frequent objective of tax incentives in investment laws

Consistent with the findings of the analysis of investment tax measures introduced over the last decade, the development of specific regions within a country is the single most widespread objective considered in the granting of tax incentives. It features in almost 30 per cent of investment laws across all regions. In Africa, it is followed by the promotion of exports and innovation (23 and 17 per cent of investment laws respectively), while in Asia it is followed by innovation and export promotion (25 and 21 per cent respectively). In Latin America and the Caribbean, export promotion, employment promotion and innovation are more evenly balanced, with a similar number of laws promoting each objective.

Regional development promotion schemes include not only those specifically aimed at encouraging economic growth and poverty alleviation within specific areas, but also tax incentives for the development of SEZs (which are present in 24 per cent of investment laws with regional promotion objectives).

Other objectives pursued through incentives in investment laws, although less frequently, include the processing of local raw materials, environmental protection, construction of social housing and socio-economic infrastructure, and support of local craft enterprises.

(iii) The governance of incentives varies greatly across countries

In only about 30 per cent of investment laws, investors are automatically eligible for incentives based on measurable criteria, such as the invested amount, the volume of employment generated or the location of the investment. In all other cases, the provision of tax incentives and their scope and duration depend on the discretion of the authorities. These are often the ministries of finance, industry or both. The process of approval can also require an expert opinion of several governmental institutions (box 1). These findings were confirmed by the investment promotion agencies (IPAs) that responded to UNCTAD's Annual Survey of Investment Promotion Agencies for 2022. Of 126 respondents to the survey, only 29 per cent indicated that incentives in their country are granted automatically on the basis of objective criteria, whereas the large majority (63 per cent) indicated that incentives are allocated on the basis of an assessment process that involves criteria that may or not all be public. In all other cases, incentives are granted on an ad hoc basis through negotiation with investors (8 per cent).

Box 1 **Governance of tax incentives in investment laws** (illustrative list)

Incentives granted on the basis of automatic criteria

In *Algeria*, investments registered with the National Agency of Investment Development automatically benefit from the tax incentives described in the investment law, including exemption from custom duties, exemption from VAT and exemption from CIT for up to three years during the operational phase.

In *Mali*, depending on the amount invested, investment projects can automatically benefit from a set of tax incentives that include exemption from import duties and VAT, and reduction of CIT.

In *Rwanda*, a package of tax incentives is available to registered investors that meet the requirements set forth in the Annex to the Law on Investment Promotion and Facilitation. Such investors are entitled to preferential CIT rates or tax holidays of up to seven years.

Incentives subject to approval by the IPA

In *Kuwait*, investors apply to the Direct Investment Promotion Authority for all or part of the incentives described in the investment law. The Authority, in line with the approved general policy of the State and economic development plans, defines the value, type and duration of incentives and exemptions granted.

In *Libya*, the IPA may offer additional advantages beyond those applicable under the standard tax incentive regime, for those investment projects that contribute to the achievement of food security, regional development, environmental protection or the development of energy and water infrastructure.

In *Myanmar*, the Myanmar Investment Commission, in charge of investment promotion activities, is responsible for granting and defining the scope of available tax exemptions or relief for investors that apply for preferential treatment.

Under the investment laws of *Senegal* and *Togo*, the IPA defines the scope of the tax incentives and advantages granted. In case of refusal, the IPA is required to provide justification.

Subject to approval by other authorities

In *Burkina Faso* and *Niger,* the preferential tax regimes are granted by joint decree of the ministers in charge of industry and finance.

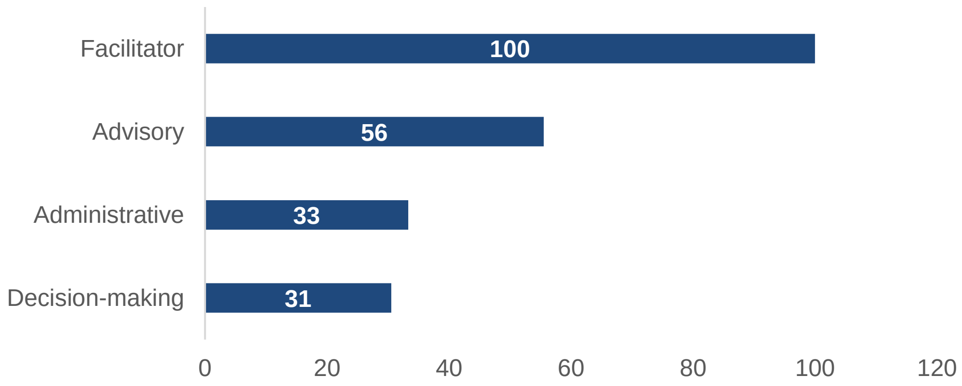
In *Benin*, approval for preferential treatment for investments is given by the Government on the proposal of the Minister of National Planning and following the opinion of the Technical Commission on Investments.

Cameroon may provide investors with tax incentives upon approval by the Minister in charge of private investment, with the assent of the Minister of Finance.

Source: UNCTAD, Investment Laws Navigator.

IPAs are also actively involved in the provision of tax incentives. Their role varies from facilitating investment to actively participating in the allocation of incentives (figure 11). All respondents to the UNCTAD survey stated that their agency provides information to investors on available incentives and the application processes. Most IPAs also act as advisory agents by issuing recommendations to decision-making entities. Another core function of IPAs is to support their clients in administrative tasks such as collecting and processing applications for incentives. Finally, almost one third of the IPAs actively participate in decisions regarding the allocation of tax incentives.

Figure 11: Role of IPAs in the provision of tax incentives (Per cent of respondents)



Source: UNCTAD

3. Tax incentives in industrial policies

Introduced under various names, such as strategic development plan, vision, industrial strategy, five-year plan or economic development policy, industrial policies remain widely employed around the world to impel long-term structural transformation and promote sustainable development objectives. Tax incentives are often a key element in the policy toolkit put forward by these documents.

Of 103 industrial policies implemented across the globe between 2011 and 2022 and reviewed by UNCTAD, 61 per cent mention tax incentives, 10 per cent mention only non-tax incentives (such as preferential loans, grants, export subsidies and credit guarantees), and 29 per cent do not refer to incentives at all. LDCs are more prone to utilize tax incentives in industrial policies (they appear in 68 per cent of them), followed by developing countries (61 per cent) and developed ones (56 per cent).

Unlike many investment laws, industrial policy documents are typically not the legal basis for the adoption of incentives, but they often provide a motivation for their introduction. As such, they are generally less detailed about the proposed nature of the tax incentives they contain, particularly in developing countries, where less than one fifth of industrial policies spell out the nature of the planned incentives, compared with one third of the industrial policies in developed countries.

One third of the tax incentives in industrial policies worldwide have no other policy objective than promoting investment by reducing the cost of doing business. The rest target one or more development goals. Chief among them are promoting R&D and innovation (24 per cent), promoting local production (19 per cent) and promoting SMEs and start-ups – also often considered an avenue for encouraging innovation (13 per cent), exports (13 per cent) and employment (9 per cent).

Other objectives pursued through tax incentives in industrial policies include goals as diverse as avoiding capital flight, promoting digitalization, developing e-commerce, increasing domestic savings or improving productivity, creating value, renewing equipment, taking countercyclical actions, promoting migration from the informal to the formal sector, and combating climate change.

Yet not all industrial policies call for the introduction of new incentives. About 15 per cent of them seek to review, streamline or ensure that the existing fiscal rebates produce the desired effects (box 2).

Box 2 **Industrial policies calling for streamlining and rationalizing incentives** (illustrative list)

Several countries have stressed the need to streamline, rationalize and review the tax incentives for investment in their industrial policy documents. Some examples:

Belize – Growth and Sustainable Development Strategy 2016–2019: “Action 4: The [Ministry of Investment, Trade and Commerce], in collaboration with the [Ministry of Economic Development], will lead efforts to review the incentive regime (tax and non-tax incentives) aimed at attracting investments, to take account of the need to minimize the provision of incentives to those who are not taking commensurate risks, balanced against the need to provide appropriate incentives on a timely basis in areas where they could be most effective" (p. 22).

Cameroon – National Development Strategy 2020–2030: “It will also have to do with strengthening the policy of mobilizing budgetary revenues by: (i) auditing tax exemptions in order to maintain only those with a proven positive impact on the economy” (p. 130).

Jordan – Economic Growth Plan 2018–2022: “Implementation of this policy requires: Adopting the principle of linking the increase in tax revenues to economic growth, addressing tax distortions, raising the efficiency of collections, and rationalizing unwarranted tax exclusions and exemptions” (p. 29).

Liberia – Industry for Liberia’s Future (2011): “Policy 8: The Government will use incentives to promote investment in industrial activities and capabilities, and it will track and measure the impact incentives granted have to ensure the use of incentives is done in a transparent manner and serves the Government’s strategic goals of generating investment, promoting sustainable economic growth, diversifying economic activities and expanding the private sector” (p. 26).

Malawi – National Industrial Policy (2016): “3.2.3 Taxation. The Government will: Monitor implementation of the Industrial Rebate Scheme to avoid misuse of the facility” (pp. 6-7).

Sri Lanka – Vision 2025: “We will rationalize the tax system by minimizing exemptions, holidays and special rates, towards a fair and effective tax administration” (p. 17.) “We will clarify and reform investment incentive policies to improve investment policy predictability. We propose to phase out tax holidays, which have been the main traditional incentive offered to investors, and switch to other forms of efficiency improving incentives” (p. 20).

Türkiye – The Medium-Term Programme 2022–2024: "8. Efforts to review tax incentives, exceptions and exemptions by considering the efficiency principle will continue."

United Republic of Tanzania – National Five-Year Development Plan 2016/17–2020/21: "The Government needs to close loopholes leading to revenue leakages (…). This will involve measures geared to: (…) (viii) Reviewing tax holidays, tax exemptions and tax relief systems as incentives to investors in order to minimize their abuse and thus increase tax collection. (…) efforts will further be directed at minimizing the application of tax exemptions, building on existing reforms" (p. 91).

Source: UNCTAD, based on the documents listed in this box.

C. Conclusion

The competition for investment relies heavily on CIT reductions and profit-based incentives. This highlights that the international tax reform in the BEPS context is likely to have a significant impact on the policy tools adopted by countries around the world to promote investment. As stressed in the latest World Investment Report (UNCTAD, 2022), the need to review the portfolio of incentives on offer to foreign investors provides an opportunity to rethink them wholesale. In recent years, UNCTAD has urged countries to engage in such review, with a view to shifting incentives towards the promotion of investments with better performance in terms of sustainable development – specifically linking incentives to the Sustainable Development Goals (SDGs). The shift from reduced rate incentives and exemptions towards incentives linked to real capital expenditures – which are affected less by the international tax reform – fits well with this objective, because investment in SDG sectors is often capital intensive and relatively low margin.

This review should go hand in hand with strengthening the overall governance of incentives, in any form (fiscal, financial or other). In particular, incentives should be granted on the basis of a set of pre-determined, objective, clear and transparent criteria. Their long-term costs and benefits should be carefully assessed prior to implementation, and they should be periodically reviewed to ensure continued effectiveness in achieving the desired objectives.

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