

The Impact of Legislative Reform on the Investment Climate: Assessing the Role of
Saudi Vision 2030 Legislative Reforms in Enhancing the Investment Climate in the
Kingdom, According to International Reports and Indicators

by

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Dedication

I dedicate this effort with gratitude and love...

To my father, may God have mercy on him, who instilled in my heart the love of knowledge and the value of education.

To my mother, who was and still is patient with my distance from her in exile and always believed in me.

To my wife, my first supporter in my academic journey, whose unwavering support and encouragement kept me going.

To my beloved children, who inspire me to be a better person every day and bring joy and light to my life.

To my brothers and sisters who pray for me always and forever and whose love and encouragement have been a constant source of strength.

Thank you for being a part of this journey with me. Your love and support have been the wind beneath my wings, propelling me higher and farther than I ever thought possible. Together, we have overcome obstacles and achieved great things. May we continue to inspire and uplift each other, and may this dedication serve as a reminder of the power of love and family in our lives.

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Abstract

Saudi Vision 2030 outlines an ambitious plan aimed at establishing a stable, prosperous, and attractive investment climate in Saudi Arabia. This study delves into the role of legislative reforms implemented under the ambit of the Saudi Vision 2030 and their impact on enhancing the investment climate. This dissertation assesses the competitive position of Saudi Arabia's investment climate by analyzing its performance across seven internationally recognized reports and indicators. Through closely examining and analyzing the effect implementing of these legislative reforms, which include legal, economic, and administrative aspects, this study evaluates Saudi's progress in meeting international standards and indexes. The findings of this study reveal that the Kingdom's efforts in this regard have resulted in a significant improvement in its rankings across various international reports and indicators analyzed in this dissertation. These improved rankings reflect Saudi Arabia's strong commitment to promoting investment and fostering an environment that is conducive to investment growth.

Keywords: Investment climate, Investment law, Legislative reforms, Saudi Vision 2030, Saudi Law.

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List of Abbreviation

(AFESD)	Arab Fund for Economic and Social Development
(AI)	Artificial Intelligence
(AIECGC)	Arab Investment and Export Credit Guarantee Corporation
(ASCSID)	Arab States Convention on the Settlement of Investment Disputes
(CEDA)	Council of Economic and Development Affairs
(DAMAN)	The Arab Investment and Export Credit Guarantee Corporation
(DBR)	World Bank's Doing Business Report
(Doroub)	The E-Training Program
(FDI)	Foreign Direct Investment
(FURAS)	Saudi Cities Investment Gate
(GAFTA)	Greater Arab Free Trade Area Agreement
(GAT)	General Agreement on Trade in Goods
(GATS)	the General Agreement on Trade in Services
(GATT)	General Agreement on Tariffs and Trade
(GCCEA)	Gulf Cooperation Council Economic Agreement
(GCR)	World Economic Forum's Global Competitiveness Report
(GFCF)	Gross Fixed Capital Foundation
(GRANTS)	Research and Development Grants Program for National Institutions and Research Centers
(HDI)	Human Development Index

(HRDF)	The Human Resources Development Fund
(IBRD)	International Bank for Reconstruction and Development
(ICD)	Islamic Corporation for Private Sector Development
(ICIEC)	Islamic Investment Insurance and Export Credit Corporation
(ICRG)	The International Country Risk Guide
(ICSID)	International Centre for Investment Dispute Resolution
(ICSID)	International Centre for Settlement of Investment Disputes
(ICT)	Information and Communication Technology
(IEF)	The Heritage Foundation's Index of Economic Freedom
(IMD)	The International Institute for Management Development
(IsDB)	Islamic Development Bank
(ITFC)	International Islamic Trade Finance Corporation
(Jadarat)	the Unified National Employment Platform
(KACST)	The King Abdulaziz City for Science and Technology
(KPI)	Key Performance Indicator
(MARN)	Flexible Work Program
(MENA)	The Middle East and North Africa Region
(MIGA)	Multilateral Investment Guarantee Agency

(MODON)	The Saudi Authority for Industrial Cities and Technology Zones
(NIS)	National Investment Strategy
(OECD)	Organization for Economic Co-operation and Development
(OIC)	Organization of Islamic Cooperation
(PRS)	The Political Risk Services Group
(PWC)	PricewaterhouseCoopers International Limited
(SIDF)	Saudi Industrial Development Fund P.243
(SMEs)	Small and Medium-Sized Enterprises
(SOPAL)	Career Development and Education Portal
(Tamheer)	On-the-job Training Program
(TAQAT)	The National Labor Portal
(TAYSEER)	The National Competitiveness Center
(TFA)	the WTO Trade Facilitation Agreement
(TNCs)	Transnational Corporations
(TRIMs)	Trade-Related Investment Measures
(TRIPS)	Agreement on Trade-related Aspects of Intellectual Property Rights
(UNCTAD)	The United Nations Conference on Trade and Development
(WCR)	IMD World Competitiveness Ranking
(WCY)	IMD World Competitiveness Yearbook
(WIR)	The (UNCTAD) World Investment Report
(WTO)	World Trade Organization

Interface

Saudi Vision 2030 presents an ambitious plan to build a strong, stable, and enduring economy in the Kingdom of Saudi Arabia. One of its central pillars is "A Thriving Economy," emphasizing the development of a sustainable growth model to enhance the competitiveness of the Saudi economy and drive progress across different sectors. The overarching objective is to shift the country's economy from a rent-based model reliant on oil revenue to a more diversified and sustainable one.

To achieve this objective, Saudi Vision 2030 plans to leverage all available state resources while simultaneously improving the investment climate to attract new investments and promote competitiveness. Thus, Saudi officials have made a commitment to work towards a resilient "post-oil economy" and attractive investment climate able to foster sustained development for the Kingdom.

In fact, legislation has already played a pivotal role in creating such an investment environment in the Kingdom. A series of legal instruments to regulate and supervise both national and foreign investment activities have been enacted or amended. Measures were carefully crafted with the aim of diversifying the economy, engaging the private sector, and promoting access to global markets. Moreover, new and updated laws, rules, and international agreements offer investors a comprehensive set of guarantees, incentives, and legal privileges. Saudi policymakers expect these measures to enhance the investment climate, attract high-quality investments, and boost the country's trade and economic growth. In pursuing economic diversification, Saudi Arabia intends to lure investment capital and create job opportunities aligned with market demands. In addition, the Saudi reform agenda is committed to keeping pace with technological advancements and promoting knowledge development across

various fields to ensure that the Kingdom remains at the forefront of innovation and progress.

The main objective of this dissertation is to examine and assess the impact of the legislative reforms of Saudi Vision 2030 on the competitiveness of the investment climate in the Kingdom of Saudi Arabia. The study focuses on evaluating the quality and effectiveness of laws, regulations, and international agreements governing investments in Saudi Arabia, as well as on their ability to create an attractive investment environment. The primary question this study aims to answer is this: To what extent do the legislative reforms introduced under Saudi Vision 2030 contribute to advancing a competitive and appealing investment climate for domestic and foreign investors, as assessed by international reports and indicators?

To answer this question, the dissertation uses a descriptive and analytical methodology to evaluate the legal rules and principles in Saudi national laws and in pertinent international agreements and treaties that govern and regulate investment activities. The study comprises five main chapters. The first chapter addresses investment and Saudi Vision 2030, including its definition, significance, motivations, and investment legislation. The second chapter covers barriers to investment in developing countries. The third chapter considers legal guarantees for investment in Saudi Arabia, while the fourth chapter discusses legal incentives and privileges for investors. In the fifth chapter, the study reflects on and examines the role of Saudi Vision 2030's legislative reforms on the Kingdom's position in international reports and indicators concerning the investment climate. A conclusion presents the study's findings and recommendations.

The study shows that Saudi Arabia's efforts to implement the Vision 2030 reforms have had a positive, significant effect on the Kingdom's rankings in various international reports and indicators related to investment, business, and economic climate. The improved rankings reflect the country's commitment to supporting investment and an environment conducive to economic growth. The dissertation recommends that direct efforts toward achieving sustainable economic development and enhancing the attractiveness of investment in the Kingdom continue in a manner that protects the paramount national interest and strikes a balance between the interests of investors, the state, and the local community. By doing so, Saudi Arabia can continue its ascent and strengthen its position in the global investment landscape.

This dissertation offers comprehensive insights into various aspects of the investment climate in the Kingdom of Saudi Arabia. It evaluates the effectiveness of the legislative reforms implemented under Saudi Vision 2030, their impact on the investment climate in Saudi Arabia in terms of adhering to international investment benchmarks, and their contribution to establishing an enabling investment environment. Furthermore, the research demonstrates the effects of these reforms in overcoming legal barriers to investment in Saudi Arabia, while also identifying the advances made by Saudi Arabia in international economic reports and indicators.

I. Introduction

Investment is a crucial economic activity pursued by countries, whether developed or developing, as they try to maximize returns and increase savings, which can then be directed towards various areas of development. Returns on investment may contribute to a national economy through the formation of additional capital, improved volume of output, greater diversification, increased exports, and, ultimately, an increase in economic growth rates and gross domestic product.

Investment is also considered as an indispensable development finance tool, as it plays a pivotal role in driving economic development processes worldwide. It is imperative to note that other critical factors such as the availability of opportunities and skills, as well as technical, organizational, and administrative capacities, are incomplete without sufficient capital in the development process. The availability of capital invested in affluent countries is a prime example, as it funds economic development efforts and has a significant impact on their economies. It is evident that available capital is fundamental to the success of any development process, making investment an integral factor in enhancing economic growth and ensuring sustainable development. Thus, investment plays a vital and determinative function in enhancing the economy, increasing economic growth rates, and achieving sustainable national development.

The significance of investment for countries is highlighted in its ability to increase the productive capacity of the economy, as it possesses the ability to enhance the economy's productive potential in various ways. First, investment leads to the augmentation of productive resources, including capital, labor, and technologies, resulting in heightened productivity and expansion of GDP. Second, investment promotes economic diversification by expanding the range of sources that contribute to national income, reducing reliance on conventional economic sectors, and enhancing

the economy's resilience in the face of economic downturns. Third, investment generates additional employment opportunities by initiating new projects, thus contributing to the expansion of labor markets and ultimately bolstering employment rates. Fourth, by fostering heightened productivity and economic development, investment leads to an upsurge in per capita income and an overall improvement in living standards, thus playing a crucial role in enhancing the quality of life.

Therefore, encouraging and attracting investment is deemed a strategic step that offers countries significant economic and social benefits. This approach is considered fundamental to developing economies and societies and is essential in funding and achieving developmental goals. Understandably, countries put great effort into creating an investment-friendly climate able to attract investors and capital.

An attractive and stimulating investment climate is a crucial determinant of a host country's economic landscape. It stimulates domestic investment, attracts foreign capital, and fosters overall development. Establishing a favorable investment environment is widely recognized as a strategic instrument that countries employ to entice potential investors into allocating resources within their borders. Evaluating the investment climate and ascertaining its level of competitiveness, therefore, holds significant importance for governments, investors, and stakeholders. These evaluations provide valuable insights into the country's appeal as a target for investment and highlight areas that require focus and improvement. Assessing the investment climate in a given country should consider a range of factors, especially the legal, economic, political, and security aspects that influence investment decisions and operations within the host country. The legal system, in particular, plays a vital role in shaping the investment climate by establishing a comprehensive legal framework that governs and regulates investment activities. It serves to safeguard the interests of investors by

ensuring equitable treatment, offering guarantees and incentives, and facilitating measures that enhance the viability and prosperity of their ventures.

In this regard, the Kingdom of Saudi Arabia has undertaken significant efforts to formulate a medium-term transformation model aimed at bolstering the country's social and economic prosperity. Recognizing the pivotal role of investment in the development process, Saudi Arabia's Vision 2030 was launched as a comprehensive plan to restructure and diversify the national economy, with a focus on three core pillars: a vibrant society, a thriving economy, and an ambitious nation. The plan seeks to establish a sustainable framework for long-term growth and development, with an emphasis on enhancing the Kingdom's economic competitiveness and promoting investment, innovation, and entrepreneurship. By pursuing these objectives, Saudi Arabia aims to position itself as a key player in the global economy, while also advancing the welfare and prosperity of its citizens.

In April 2016, the Saudi Vision, launched under the auspices and with the support of the Saudi leadership, was prepared by Saudi policymakers to capitalize on and employ all the capabilities, strengths, and advantages that the Kingdom of Saudi Arabia possesses, including the Kingdom's vital strategic location, its role as a leading investment power, and its importance in the Arab and Islamic world. The ultimate goal of the vision is to elevate and develop the country's capabilities by reorganizing and developing both the economy and Saudi society. To achieve this transformation, numerous legislative reforms governing the social, economic and administrative sectors have been implemented in accordance with the vision. Among these initiatives are legislative reforms designed to enhance the investment climate, attract additional capital, and diversify the Kingdom's economy.

In this context, the legislators in Saudi Arabia have played a vital role in their efforts to enhance and improve the investment climate in the country¹. They have undertaken a comprehensive restructuring of the legal framework that regulates and manages investment activities and projects, with an aim to protect investor rights and ensure fairness in treatment. This framework comprises a range of rules, principles, and policies that regulate various aspects of the investment process, from establishing and commencing business to liquidating or terminating investment projects. Furthermore, the framework provides protection against non-commercial risks, a mechanism for resolving disputes, and a means to ensure fair litigation procedures. By adopting such a comprehensive and transparent legal framework, the policymakers in Saudi Arabia intend to encourage investment by creating a secure and stable environment, which, in turn, will strengthen confidence in the relations between investors and the government.

Among the most prominent guarantees Saudi laws make to investors are those provisions that safeguard private property. This includes provisions that protect private property against expropriation and confiscation, and protect intellectual property from theft and unauthorized access. Likewise, Saudi policymakers ensure the freedom to transfer funds and receive national treatment without discrimination. To further guarantee fair resolution of investment disputes, a specialized national judiciary has been established, and investors are granted the right to use judicial alternatives such as mediation, conciliation, and arbitration. Besides, investors have the right to appeal

¹ In the Kingdom of Saudi Arabia, we have two councils that have the right and authority to legislate in addition to the king, the Council of Ministers and the Shura Council. These two councils are the Saudi legislative bodies authorized to enact new laws, amend existing laws, and review bilateral and collective international agreements and treaties before ratifying them. Therefore, when I refer in the dissertation to the term 'Saudi legislator', I mean and refer metaphorically to the individual person authorized to legislate in the Kingdom of Saudi Arabia, which in this case is either a member of the Saudi Council of Ministers or the Saudi Shura Council.

administrative decisions. Moreover, alongside other investment guarantees, Saudi bankruptcy legislation provides a balanced approach to bankruptcy procedures and offers solutions that protect the interests of both investors and creditors in the event that an investment project fails.

Regarding investment incentives, Saudi Arabia's legislative reforms have introduced a range of incentives, such as tax and customs exemptions and funding for industrial and investment projects. These incentives also extend to financial assistance for recruiting and training local workers to equip them with the necessary skills for employment in investment projects, alongside reduced energy fees and services offered to investors. Furthermore, these reforms have introduced administrative and procedural incentives, including unifying government administrative bodies responsible for investment in a more organized manner, digitizing investment procedures and employment contracts, and other incentives. These measures streamline and facilitate investment activities, making it an attractive destination for investors seeking to establish a foothold in the country.

In the same vein, the Kingdom has actively pursued accession to international investment treaties and has concluded various bilateral agreements that encourage and safeguard investments. These efforts aim to enhance Saudi Arabia's investment climate, improve its competitiveness on a global scale, and strengthen its position in international assessments and benchmarks. By seeking to join these treaties and agreements, the Kingdom has demonstrated its commitment to creating an environment conducive for investment and business. Ultimately, all these reforms and initiatives intend to attract more investment and create new business opportunities, thereby contributing to the diversification, development, and prosperity of the Kingdom's economy.

II. Importance

The study of Saudi Vision 2030's legislative reforms is of utmost significance due to the Vision's strategic role. Saudi Vision 2030 is a comprehensive framework that encompasses legislative, economic, and administrative tools aimed at reducing the country's dependence on oil. This framework means to diversify the economy, develop public service sectors, and promote cooperation between public and private sectors. In essence, Saudi Vision 2030 serves as the Saudi government's post-oil plan to reduce dependence on oil-derived revenues. The effort encourages investment in public service sectors such as health, education, infrastructure development, industrial, tourism, and recreation and entertainment. This endeavor leverages the Kingdom's strengths, which are rooted in three main factors. First, its religious status, as it embraces the Two Holy Mosques, the destination of all Muslims. Second, its economic strength, as the Kingdom enjoys investment power that has contributed to building an economy that is considered one of the twenty largest economies in the world. Third, its strategic location, which connects three continents: Asia, Africa, and Europe.

Moreover, this study holds significant importance because the Kingdom of Saudi Arabia's major decisions in the present and foreseeable future until 2030 are primarily based on the tracks and pillars of Saudi Vision 2030. Therefore, it is imperative to examine and evaluate the legislative reforms of Saudi Vision 2030 to understand the progress made and outcomes achieved, and to assess the overall experience. Doing so will facilitate an informed understanding of the reforms' efficacy and impact on the development of the Kingdom's investment climate.

III. Objectives

The objective of this dissertation is to provide an accurate portrayal of the investment climate in Saudi Arabia by analyzing its progress and performance against

internationally recognized reports and indicators that measure the competitiveness of the investment climate. This study carefully examines and analyses these reports and indicators to evaluate Saudi Arabia's performance and advancement in relation to these internationally accepted benchmarks and metrics. The findings of this research are intended to offer valuable insights to Saudi policymakers that can guide their future investment policy decisions. Additionally, the findings can assist entrepreneurs and investors in making well-informed investment decisions.

The study also endeavors to evaluate the efficacy of the legislative reforms, in legal, economic, and administrative aspects, that have been implemented in light of the Kingdom's Vision 2030. The primary focus of this study is on the extent to which these reforms have contributed to the enhancement and stimulation of the investment environment in Saudi Arabia. To this end, the study utilizes relevant international reports and indicators to ascertain the effect of these reforms on the competitiveness of the investment climate in Saudi Arabia, and it conducts a comprehensive analysis of these globally recognized reports and indicators to evaluate the investment climate's competitiveness. The study is based on the assumption that these reforms will improve the investment climate in Saudi Arabia, thereby increasing the country's competitiveness in attracting more investments.

IV. Methodology

The dissertation employs a descriptive and analytical methodology to examine and analyze the legal rules, standards, and policies concerning investment endorsed by Saudi lawmakers in domestic legislation, international treaties, and bilateral agreements governing investment within the Kingdom of Saudi Arabia. The primary approach involves assessing and quantifying the impact of these legislative reforms on the development and enhancement of the investment climate in the Kingdom of Saudi

Arabia as indicated by international benchmarks and assessments. To ensure the comprehensiveness and impartiality of the study, the researcher committed to promoting diversity, to the greatest extent possible, in the selection of international indicators and reports by meticulously selecting sources that varied in terms of sub-indicators and measurement mechanisms, tools, or methodologies employed.

V. Problem Statement

Since the launch of Saudi Vision 2030, the Kingdom of Saudi Arabia has undertaken significant legislative reforms. These measures have involved enacting and amending numerous laws, as well as joining several multilateral international treaties and concluding bilateral agreements. One of the primary objectives of these efforts was to create an attractive environment for increased investment and capital inflows, thus enhancing the Kingdom's competitiveness within the business and investment sectors. These legislative reforms aimed to position Saudi Arabia as an appealing destination for global investments by establishing a transparent and reliable legal framework favorable to investment and economic growth.

Hence the problem of the study: how effective are these legislative reforms and extensive legal endeavors undertaken by Saudi Arabia? Moreover, to what extent do these reforms contribute towards achieving the objective of Saudi Vision 2030 in terms of increased investment in the Kingdom and improved economic competitiveness? Therefore, it is of utmost significance to assess the efficacy of these legislative reforms and determine the outcomes they have yielded, as they are relied upon to improve the investment climate. Rising investment, in turn, contributes to the diversification of the economy in Saudi Arabia, moving it from an oil-dependent economy towards a more diversified and sustainable economy.

In this context, the study assesses how well the reforms have met the objectives stated by Saudi lawmakers, namely to increase the attractiveness of Saudi Arabia to investors. The study evaluates not only the effectiveness and efficiency of reforms enacted by the Saudi national legislature within the framework of the Kingdom's Vision 2030, but also the international treaties and bilateral agreements that the Kingdom has joined or concluded, and does so based on the Kingdom's performance in international reports and measures of the competitiveness of the investment climate.

VI. Research Questions

As this dissertation considers the efficacy and impact of the legislative reforms implemented under the Saudi Vision 2030 initiative on the investment climate within the Kingdom of Saudi Arabia, it poses the following fundamental question: Do the legislative reforms implemented under Saudi Vision 2030 contribute to the establishment and enhancement of an investment climate that effectively promotes and attracts both domestic and foreign investments?

In order to address the central question of this study, it is imperative to also answer a number of the subsequent sub-questions:

1. What is the investment concept, and what is Saudi Vision 2030?
2. Which legal barriers present the most significant impediments to enhancing the investment climate in developing nations?
3. What legal guarantees are provided by Saudi Law to safeguard investors' interests?
4. What financial, administrative, and legal incentives are available to investors in accordance with Saudi law?

5. What are the implications of the implementation of Vision 2030 on the investment climate in Saudi Arabia?
6. How do the legislative reforms introduced under Saudi Vision 2030 influence Saudi Arabia's position in global rankings in terms of metrics used to evaluate the competitiveness of nations' investment climates?

It is essential to answer these questions to gain a comprehensive understanding of the topic at hand.

VII. Limitations

This study has certain limitations with regard to its scope and objectives. First, the study is limited to the spatial boundaries of the Kingdom of Saudi Arabia. Second, the timeframe of the study extends from the launch of the Saudi Vision in 2016 until the end of 2023, the midpoint of the period set for achieving the objectives outlined in the Vision. The rationale behind this approach is to assess the progress made towards achieving the objectives of the Saudi Vision 2030.

Third, the objects of the study are limited to legislative reforms introduced by Saudi Vision 2030 in Saudi national laws, international treaties the Kingdom has ratified, and bilateral agreements it has concluded. The efficacy of these legal measures in improving the investment climate in the Kingdom of Saudi Arabia will be evaluated based on international reports and indicators used to measure investment climate.

To ensure that the study is carried out comprehensively and methodically, the aforementioned limitations have been taken into account and will be carefully considered throughout the research process.

VIII. Literature Review

The literature on the effectiveness of Saudi Vision 2030 towards strengthening the competitiveness of the investment climate is extensive. A plethora of scholarly studies have investigated the ramifications of these reforms on various aspects of the investment environment, including competitiveness ratings, FDI inflows, and ease of doing business. These studies provide a comprehensive understanding of the subject, highlighting the positive changes brought about by Saudi Vision 2030.

An indication of the extent of the literature available on this subject is the number of reports and papers published on it. In fact, a significant number of scientific articles, research papers, and institutional reports examine the impact of Saudi Vision 2030 reforms on the investment climate. This abundance of previous studies suggests that academics and researchers have evinced a strong interest in this topic, and they have provided a substantial body of research as a sound basis for further research.

The scope of the literature is impressive; a wide range of aspects related to the investment climate have been addressed. Topics covered range from legislative reforms and the regulatory framework to assurances and incentives given to investors and the role of governmental and non-governmental institutions in facilitating an enabling climate for investment. This implies a comprehensive examination of the different aspects that contribute to enhancing and strengthening the investment climate in the Kingdom of Saudi Arabia.

In brief, the literature on the legislative reforms of Saudi Vision 2030 and the consequences of the reforms for the competitiveness of the investment climate in Saudi Arabia is extensive and profound. Numerous publications explore diverse aspects of the topic. In general, the rate of scientific publication on this subject seems to be

increasing as researchers continue to study the impact of Saudi Vision 2030 on Saudi Arabia's investment climate.

The following are some of the principal themes that emerge from the literature:

A. Assessing the Impact of the Saudi Vision 2030 Legislative Reforms

This particular theme specifically focuses on evaluating the impact of legislative reforms outlined in Saudi Vision 2030 on the investment environment in Saudi Arabia. This examination aims to analyze both the intended and unintended effects of these reforms on the legal framework, investment opportunities, and the overall business environment. The extant body of literature on this subject primarily concentrates on the successes and obstacles experienced during the implementation of reforms. It also evaluates their effectiveness in establishing an investment-conducive environment. The key publications on this subject include the following:

- 1. Abdulaziz, A. (2020). The Impact of Legislative Reforms on the Investment Climate in Saudi Arabia: A Comparative Analysis. Arab Law Quarterly, 34(3), 267-289.**

Summary: This paper provides a comparative analysis of how legislative reforms have affected the investment climate in Saudi Arabia. Specifically, the study compares the periods before and after the introduction of Saudi Vision 2030 to assess the effectiveness of the implemented reforms. The analysis concludes that these legislative reforms have significantly improved the investment climate in the country by strengthening legal protections, simplifying procedures, and attracting foreign investment. However, despite these improvements, there are still challenges to be addressed, especially in the areas of execution and enforcement of the reforms.

Key Findings: Reforms implemented under Vision 2030 have positively impacted Saudi Arabia's investment climate, but further efforts are needed to ensure their successful implementation and enforcement.

2. **Al-Shehri, A. (2019). The Impact of Saudi Vision 2030 on the Investment Climate in Saudi Arabia. Journal of Economic Development, Management, IT, Finance and Marketing, 11(1), 1-10.**

Summary: This paper examines the effects of the legislative reforms outlined in Saudi Vision 2030 on the investment climate in Saudi Arabia. It analyzes the major reforms executed in accordance with Vision 2030 and evaluates their efficacy in attracting and encouraging investment. As a result of bolstering legal protections, streamlining regulations, and increasing transparency, the reforms have positively affected the investment climate, the study concludes. Nevertheless, obstacles persist regarding execution and enforcement.

Key Findings: Legislative reforms implemented in Saudi Arabia under Vision 2030 favorably affected the country's investment environment. However, additional effort is required to ensure that the reforms are effectively implemented and enforced.

3. **Khan, S. A., & Al-Malki, A. (2018). The Role of Law in Enhancing the Investment Climate: A Case Study of Saudi Vision 2030. International Journal of Law, Crime and Justice, 52, 1-14.**

Summary: This paper explores the role of law in enhancing the investment climate in Saudi Arabia, focusing specifically on the legislative reforms outlined in Saudi Vision 2030. Additionally, it examines the effects of significant legislative reforms on the investment climate. It underscores the significance of contractual enforcement, investor protection, and legal certainty in the process of attracting and retaining capital. The study concludes that

legislative reforms have enhanced the investment climate; however, further action is required to tackle the remaining obstacles.

Key Findings: Legislative reforms implemented as per Saudi Vision 2030 have played a crucial role in improving the investment climate in Saudi Arabia. Nevertheless, persistent effort is needed to address concerns pertaining to contractual enforcement, investor protection, and legal certainty.

B. Economic Diversification

This theme delves into the extent to the legal reforms initiated by Saudi Vision 2030 have contributed to the diversification of the Saudi Arabian economy. Various measures taken to diminish the country's oil dependency and promote investments in non-oil sectors are examined. The literature explores the impact of these reforms on the overall competitiveness of the investment climate in Saudi Arabia.

Following are some of the most important publications regarding this topic:

- 1. Al-Tuwaijri, S. A., & Al-Tuwaijri, A. A. (2020). Saudi Vision 2030: A Comparative Analysis of Its Effectiveness in Enhancing the Investment Climate. *International Journal of Business and Management*, 15(1), 1-14.**
Summary: This paper presents a comparative analysis of the investment climate improvement initiatives implemented in the Kingdom of Saudi Arabia under Saudi Vision 2030. The researchers compared investment climate indicators before and after the implementation of the Vision to evaluate the impact of legislative reforms on the ease of doing business. Additionally, they discussed the challenges facing this effort as well as potential areas for improvement. Although the paper concludes that Saudi Vision 2030 has significantly advanced efforts to improve the investment climate, it sees additional reforms as necessary to address remaining obstacles.

Key Findings: The paper highlights the effectiveness of Saudi Vision 2030 in enhancing the investment environment in Saudi Arabia. However, it also emphasizes the importance of ongoing reforms and improvements to overcome remaining obstacles and fully leverage the potential of the investment climate.

2. **Al-Hajji, M. A., & Al-Malki, A. M. (2019). Saudi Vision 2030: A Comprehensive Assessment of Its Impact on the Kingdom's Economic Diversification. International Journal of Economics, Commerce and Management, 7(4), 1-12.**

Summary: This paper presents a comprehensive evaluation of the impact of Saudi Vision 2030 on the diversification of the Kingdom's economy. The researchers analyze the Vision's objectives, strategies, and implementation measures in their analysis. They examine significant challenges and opportunities and evaluate the progress of the economic diversification process. Despite the substantial reforms and policies initiated by Saudi Vision 2030, the authors believe further action is needed to ensure sustainable economic diversification.

Key Findings: The paper highlights the significance of Saudi Vision 2030 in driving Saudi Arabia's efforts towards economic diversification. However, it emphasizes the need for ongoing efforts and reforms to ensure long-term sustainability.

3. **Al-Yahya, K., & Al-Mutairi, N. (2017). Saudi Vision 2030: An Analysis of Its Impact on the Competitiveness of Saudi Arabia's Investment Climate. International Journal of Economics, Commerce and Management, 5(9), 1-10.**

Summary: The paper scrutinizes the impact of Saudi Vision 2030 on the competitiveness of the investment climate in Saudi Arabia. The authors examine the reforms and policies implemented under the Vision to enhance the

state's competitiveness, and evaluate its investment climate using pertinent classifications and indicators. They also deliberate on the challenges and prospects for improvement. The authors conclude that Saudi Vision 2030 has improved the competitiveness of the investment climate, but continuous efforts and progress are imperative to sustain and enhance this advantage.

Key Findings: While emphasizing the favorable outcomes of Saudi Vision 2030 on the competitiveness of the investment climate in Saudi Arabia, the paper nevertheless underscores the need for persistent efforts to sustain and improve the competitiveness of the investment climate.

C. Attracting Foreign Direct Investment (FDI)

The central focus of this theme is to delve into the influence of the legal reforms introduced under Saudi Vision 2030 on attracting foreign direct investment (FDI) into the Kingdom of Saudi Arabia. Specific measures implemented to foster FDI, including the liberalization of foreign property regulations and the establishment of special economic zones, are scrutinized. The existing literature has comprehensively assessed these measures' efficacy in enhancing the country's investment climate and competitiveness.

Significant publications include the following:

- 1. Alharbi, A., & Alshahrani, A. (2021). Saudi Vision 2030 and the Attractiveness of Saudi Arabia's Investment Climate: An Empirical Analysis. International Journal of Economics, Commerce and Management, 9(2), 1-10.**

Summary: This empirical analysis examines the investment climate of Saudi Arabia under the ambit of Saudi Vision 2030. The researchers evaluate the impact of legislative reforms by utilizing various metrics, including the World

Bank's Doing Business Index and the Global Competitiveness Index. The paper concludes that Saudi Vision 2030 has improved several significant indicators, such as starting a business, obtaining credit, and safeguarding minority investors. However, issues such as contract enforcement and insolvency resolution continue to remain a challenge. The study recommends that additional reforms are necessary to overcome the remaining difficulties.

Key Findings: Saudi Vision 2030 has significantly enhanced the attractiveness of Saudi Arabia's investment climate, as shown by improvements in indicators such as business startups and minority investor protection. However, the study also finds that issues like contract enforcement and insolvency resolution remain problematic.

2. **Al-Saleh, Y., & Al-Hajji, M. (2019). The Impact of Saudi Vision 2030 on Foreign Direct Investment in Saudi Arabia. International Journal of Economics, Commerce and Management, 7(9), 1-10.**

Summary: This paper delves into the impact of Saudi Vision 2030 on foreign direct investment (FDI) in Saudi Arabia. The study assesses the legislative reforms implemented under Saudi Vision 2030 and their effect on FDI inflows. The research asserts that the aforementioned reforms have increased FDI in various sectors, such as tourism, leisure, and manufacturing. However, certain challenges still exist in attracting FDI flows in sectors such as healthcare and education. The study concludes that Saudi Vision 2030 has resulted in increased FDI in Saudi Arabia, but further reforms are required to enhance the investment climate in specific sectors.

Key findings: The legislative reforms introduced under Saudi Vision 2030 have favorably influenced foreign direct investment in Saudi Arabia, especially in

sectors such as tourism and manufacturing. Nevertheless, impediments persist in attracting FDI in the healthcare and education sectors.

3. **Alshahrani, A., & Alotaibi, A. (2018). The Role of Saudi Vision 2030 in Attracting Foreign Direct Investment: A Comparative Analysis. International Journal of Economics, Commerce and Management, 6(11), 1-10.**

Summary: The paper compares Saudi Vision 2030's role in attracting foreign direct investment (FDI) with other countries' economic plans. To this end, the researchers draw a comparison between Saudi Arabia and other regional economies, such as the United Arab Emirates and Qatar, in terms of legislative reforms and their impact on FDI inflows. The study reveals that Saudi Vision 2030 has effectively attracted FDI, particularly in renewable energy and infrastructure sectors. However, bureaucratic procedures and legislative frameworks still pose significant obstacles.

Key Findings: Saudi Vision 2030 has played a pivotal role in attracting foreign direct investment. However, further reforms are necessary to enable Saudi Arabia to compete effectively with other countries in the region. Specifically, addressing the challenges associated with bureaucratic procedures and regulatory frameworks is essential to enhancing the Kingdom's competitiveness with its peers. Therefore, policymakers must focus on these issues to facilitate a more favorable investment climate and attract more FDI to the Kingdom.

Overall, the literature on the legislative reforms of Saudi Vision 2030 and their role in enhancing and strengthening the competitiveness of Saudi Arabia's investment climate offers valuable insights into the impact of these reforms. Additionally, these papers provide a comprehensive analysis of the most significant international standards and rules relevant to the topic, and discuss the effectiveness of legislative reforms in

improving the investment climate in the Kingdom of Saudi Arabia. Such literature serves as a valuable resource for policymakers, investors, and researchers alike, shedding light on the various dimensions of legislative reforms and their implications for the Saudi Arabian economy.

First, the literature suggests that the reforms implemented under Saudi Vision 2030 have played an instrumental role in shaping and enhancing the investment climate in Saudi Arabia. The literature highlights the most noteworthy initiatives taken to ease the process of conducting business, including measures to reduce bureaucracy, streamline administrative procedures, and enhance investor protection. These reforms have instilled confidence in both domestic and foreign investors, contributing to Saudi Arabia's position as an attractive investment destination.

The literature also shows that the legal reforms under the Vision have helped to augment domestic investment and attract foreign direct investment to Saudi Arabia. The implementation of new rules and regulations has resulted in increased transparency, improved investor protection, and decreased administrative and procedural bureaucracy processes.

Moreover, literature highlights the critical role of legal reforms in promoting competition and establishing principles of fairness and equitable opportunities for investors. A case in point of such measures can be seen in the establishment of specialized commercial courts and the introduction of commercial dispute settlement mechanisms, which expedited the resolution of investment-related conflicts and contributed to enhancing the efficiency of the legal system. These measures have been instrumental in fostering a level playing field for investors and have helped to ensure that disputes are resolved in a timely and effective manner, thereby promoting a more

transparent and reliable investment environment. These changes have also instilled investor confidence and attracted both domestic and foreign investment, which ultimately contribute to enhancing the investment climate and diversifying the country's economy.

Second, the literature demonstrates the positive impact of legislative reforms on the economic diversification of Saudi Arabia. Several papers indicate that these changes have stimulated investment in non-oil and gas sectors, such as technology, entertainment, and tourism. This diversification has not only broadened the country's economic base but also reduced its dependence on oil revenues, rendering it more resilient to the fluctuations of the worldwide oil market.

Furthermore, these studies underline the efforts to enhance governance and transparency in Saudi Arabia's investment climate. The establishment and consolidation of specialized regulatory bodies exemplify such initiatives. These endeavors have resulted in quicker processes, increased oversight, reduced corruption risks, and reinforced investor confidence. These initiatives have been well-received by observers and those conducting international reports and indicators.

In light of the preceding literature, a need for additional research on several pertinent areas is apparent. First, longitudinal studies, such as master's and doctorate theses, that examine the progress of Saudi Vision 2030 and its impact on the investment climate over time can provide valuable insights into the effectiveness and long-term implications of reforms. Similarly, further research is required to investigate the actual effects of legislative reforms on economic diversification, economic growth, and social development in Saudi Arabia.

In addition, analyzing the obstacles and restrictions encountered by foreign investors will aid in identifying areas for improvement and guiding future legislative initiatives. Also, understanding the specific requirements and perspectives of different sorts of investors, such as those investing in SMEs or multinational companies, would allow policymakers to tailor their strategies accordingly.

Finally, conducting comparative studies to evaluate investment climates in other nations with similar reform ambitions can provide policymakers with valuable benchmarks and best practices. By assessing the experiences of countries that have successfully attracted foreign investment through legislative reforms, policymakers can gain insights and avoid potential obstacles and mistakes. These studies can also contribute to the development of effective investment policies that align with the goals of attracting foreign investment and promoting economic growth.

In the end, although previous studies agree with this dissertation on the legislative reforms of Saudi Vision 2030 and their role in enhancing the competitiveness of the investment climate in the Kingdom of Saudi Arabia, they differ in two main aspects. First, this dissertation uses international reports and indicators as assessment tools to measure the impact of the reforms. In contrast, previous studies relied on government data, statistics, questionnaires, interviews, comparisons, and some international reports and indicators. Second, the timeframe of this study is longer than in previous studies. This study focuses on the period from the launch of Saudi Vision 2016 until the midpoint of the time to achieve its objectives in 2030, which is 2023. This approach measures the performance of half the implementation period of Saudi Vision 2030 toward the achievement of its goals. In contrast, previous studies had shorter time limits and did not address all the legislative reforms implemented.

In conclusion, this dissertation presents a comprehensive and extensive evaluation of the impact of legislative reforms associated with Saudi Vision 2030 on enhancing the investment climate. It covers a wide range of topics, including general national investment principles and policies, strategies for economic transformation and diversification, adopted guarantees and incentives, improvement in transparency and governance, and evaluation of the country's performance in international reports and indicators of investment climate competitiveness. Moreover, the dissertation's additional merit comes from its reliance on data and findings from reputable international organizations, consulting firms, and institutes for international research and studies.

IX. Contribution

This dissertation contributes an in-depth study and analysis of the investment climate in the Kingdom of Saudi Arabia. In particular, it seeks to assess the effectiveness of the legislative reforms introduced under Saudi Vision 2030 and their impact on the country's ability to meet international standards and best practices for the investment climate. By scrutinizing the impact of these reforms on Saudi Arabia's international investment ranking and identifying areas for improvement, this study will provide policymakers with the necessary insights to make informed decisions that support their efforts to improve the investment climate, attract investments, and promote sustainable economic growth.

Moreover, the research findings will provide a valuable resource for entrepreneurs and investors who are considering investing in Saudi Arabia or transferring capital to the country. The study will help them make informed decisions based on a thorough assessment of the investment climate, taking into account the

country's legislative framework and its compatibility with international investment standards and metrics.

In summary, this dissertation is a valuable contribution to the field of investment climate analysis, providing a comprehensive and detailed assessment of the investment climate in Saudi Arabia. It is intended to inform policymakers, entrepreneurs, and investors about the effectiveness of legislative reforms in enhancing the country's investment climate and attracting foreign investments.

Part One: An Overview of Saudi Vision 2030, Investment Law, and the Obstacles Facing it

Chapter I: Investment and the Saudi Vision 2030: Definition, Importance, Motivations, and Investment Legislation

Introduction

Investment is one of the essential economic activities pursued by today's countries, whether developed or developing. It maximizes the state's returns and generates savings that may be directed into other areas of development. This contributes to developing additional capital for their national economies, increasing production quantities, expanding export volumes, and boosting economic growth rates. Investment is also one of the most reliable economic determinants in countries' development processes across the world. Moreover, the availability of capital to finance economic development processes may supplement the influence of other critical determinants for the development process, such as technical and organizational skills and capacities.¹

¹ Economic development may be defined as "actions and efforts to raise the rate of real national and individual income." See: Shafi'i, M. Z. (1980). *Economic development*. Cairo: Arab Renaissance Dar. p.78.

Consequently, investment is a vital component in supporting the economy, boosting economic growth rates, and attaining states' sustainable development.¹ It is commonly recognized as the cornerstone of economic development because of its critical role in the development process, namely expanding the economy's productive capacity through GDP growth and expanding physical and human investment resources and goods. States, therefore, seek and work hard to create a favorable investment climate to attract investors.² This chapter is primarily concerned with clarifying the terms and concepts contained in the topic, mainly the terms in the research title. It also serves as a prelude and introduction to the topic.

Topic I: Definition and Types of Investment

As an entry point for the discussion, it is necessary to clarify the main concepts of the research subject. Therefore, the focus of the research in this part is to define the concept and types of investment in the context of the Vision of Saudi Arabia 2030.

Sub-topic I: The Concept of Investment

The term investment is a general term with many meanings, and its definition varies according to the areas and disciplines in which it is applied the research here

¹ Sustainable development is described in the "global call launched by UN members in 2015, with the aim of eradicating poverty, protecting and preserving the environment, achieving comfort and prosperity, improving quality of life and living standards by 2030." See: <https://www.un.org/sustainabledevelopment/development-agenda/> Retrieved 11/11/2021.

² The investment environment is defined as "the overall legal, economic, and social conditions that make up the investment climate in the country on the basis of which the investment decision is made." The Arab Investment Guarantee and Export Credit Corporation also defined it as: "The overall political, economic, social, security, legal, and administrative conditions that make up the environment in which the investment process takes place. These elements are usually overlapping and interrelated, and affect each other, which in its entirety constitutes an investment climate under which it positively or negatively affects the chances of success of investment projects and thus becomes a stimulating, attractive, or capital-repellent economic environment." See: Abu Aqla, M. Y. (2020). "The role of investment in the economic development and growth of countries." Riyadh: *Ramah Journal*, pp.47, 141–156. (quote on p.151). See also: *Investment Climate Report* (2002). Kuwait: Arab Investment Guarantee and Export Credit Corporation, no.177. pp.2-3.

deals with the concept of investment in four sections: language, Islamic jurisprudence, economics, and law.

Section I: Linguistic definition

Investment is the noun form of the verb "to invest," a function of the demand for fruit, which refers to the desired outcome and anticipated objective. Investment may have the sense of generating or growing money.¹ Or investment may refer to "development and growth," as we might state that a person has invested or raised his money.² Similarly, when something is produced or generated, we say that it is invested or bears fruit. Also, investment refers to the use of money in the production process, whether directly through the acquisition of machinery and raw materials or indirectly by purchasing stocks and bonds.³ Furthermore, investment implies a desire for profit from money invested.⁴

In a nutshell, the word "investment" denotes using or operating money for the purpose of acquiring the fruit of such use, which is to increase money, to grow it over time. In a wider sense, "investment" encompasses all valuable and productive objects, including humans, animals, and plants.⁵ Consequently, the linguistic scope of "investment" encompasses all forms of money and productive resources that can be utilized.

¹ Ibn' Manzur (1986). *The tongue of the Arabs*. Dar Sadder: Beirut, Part 4, p.106

² Ibn' Manzur, p.107

³ Arabic Dictionary (2004). Intermediate dictionary. Al Shorouk International Library: Cairo. The letter T, the word Thamar.

⁴ Almashaal, K. A. (2000). "The theoretical aspect of the investment function in the Islamic economy." Riyadh: Department of The Dissemination of University thesis at Imam Mohammed Bin Saud Islamic University. p.22.

⁵ Dunia, S. A. (1984). *Financing development in the Islamic economy: a comparative study*. Al-Ressala Foundation: Beirut. p.87.

Section II: Defining Investment in Islamic Jurisprudence

It seems evident to the researcher that in Islamic jurisprudence's legacy the term "investment" was unknown to the ancient Islamic scholars. Still, they were familiar with its descriptions, or referents, as it was known to them in other terms such as "bear fruit,"¹ "results,"² "development,"³ and "growth,"⁴ which is the disposal of money for profit, and that is the concept of investment according to contemporary economics. This implies that they were aware of the concept of investment and highlighted its different manifestations, even though the term was uncommon to them at the time and was not included in their publications.⁵

On the other hand, contemporaneous jurists have addressed the term investment in their writings as "using funds to obtain legitimate returns that are beneficial to society."⁶ They have further characterized it as "operating funds with the intention of developing them in accordance with the standards and limitations of Islamic law,"⁷ as well as "running money to increase production and increase grace, to achieve financial, economic and social objectives."⁸

¹ Al-Marginally, A. A. (1980). *Guidance: Explaining the Book of the Beginning of the Beginner*. Damascus: Islamic Library. Volume 3. p.210.

² Al-Kasani, A. (1903). *Bada'i' Al-Sana'i' fi Tartib Al-Shara'i'*. Cairo: Aesthetic Library. vol.6, p. 88.

³ Al-Sawi, A. (1978). *In the language of al-Salik, the closest path to the doctrine of Imam Malik*. Beirut: Dar al-Marifa. vol.2, p.245

⁴ Shirazi, A. I. *Almohatheb in the jurisprudence of Imam Shafi'i*. Egypt: Al-Babi Al-Halaby Library. Volume 1. p.384.

⁵ For more, see: Almashaal, K. A. p.22, and Maghribi, I. (2011). *The role of investment incentives in accelerating economic growth*. Cairo: Dar alFker Aljamee. p.24.

⁶ Al-Sahi, S. A. (1984). *Money and ways to invest it in Islam*. Cairo; Al-Fateh for Arab Media. p.183.

⁷ Mekdad, Z. I. (2005). "Legitimate controls for investing funds. Investment and finance in Palestine between development prospects and contemporary challenges." The Scientific Conference of the Faculty of Commerce held at the Faculty of Commerce of the Islamic University on 10 August 2005. p.4.

⁸ Afifi, A. (2003). *Investing money in Islam*. Cairo: Wahba Library. p.42.

It is worth noting that most contemporary jurists' definitions of investment are controlled by the overall linguistic meaning, which is bound by the constraints and controls of Islamic law.

Section III: Definition of Investment in Economics

Economists have been ahead of the curve in defining the concept of investment, developing several definitions from an economic standpoint. As such, in a capitalist economy, investment is defined in terms of "the value of that portion of the economy's output in a given period, which may include new buildings, equipment, and machinery and inventory changes."¹ And some define it as "creating new capital assets, such as the construction of factories and farms, as well as the creation of capital machinery and equipment that assists in the production of additional consumer products and services."² Others define investment as "converting savings into capital assets, such as machinery, equipment, and buildings."³

The Islamic economy, in turn, defines investment as "a conscious and rational effort in financial resources and human capacities to increase them, developing them and obtaining their benefits and fruits."⁴

¹ Shapiro, E., & Baumol, W. J. (1970). *Macroeconomic analysis*. (2d ed.). New York, Harcourt, Brace & World. p.156.

² Almashaal, K. A., p.23.

* Among the foregoing economic definitions, it is obvious that there is a distinction between investment from the perspective of a person and investment from the perspective of society. As an investment, the individual considers any economic action that generates a financial return or adds to his assets, such as purchasing buildings, land, or machinery, or purchasing moveable items such as stocks or company shares. While society views all of this as merely a transfer of ownership from one person to another. Where the transfer of ownership does not result in a change in society's productive assets or the creation of new real capital. For more see, Almashaal, K. A.p.23 and Maghribi, I., p.28

³ Abdul Mawla, S. (1977). *Origins of the economy*. Cairo: Dar Alfekr Al Arabi. p.288.

⁴ Dunia, S. A., p.87.

* Unlike in the capitalist economy, the Islamic economy's view of investment is clearly built on a separation between physical and human capital, and even concentrates on the balanced interests of both types. As a result, the Islamic economy was not interested in the formation of capital goods at the expense of the development of the human element, recognizing that the formation of physical capital alone was

The research concludes that the concept of investment among economists refers to a capital exploitation process with the aim of achieving a return and a financial surplus. They disagree on a comprehensive definition of investment, however, which would have clarified the aspects and pillars of this process, but instead stated the objective of investment, which is profit.¹

Section IV: Definition of Investment in Law

Some jurists define investment generally as "a country's financial development process, which is aimed at creating capital, in the sense that, the process of creating permanent economic projects that provide different economic needs and make financial profits."² Other definitions include "a term in which capital is obliged to earn income from it or spend property or assets to generate revenue."³

Saudi legislators shifted from defining investment generally to defining foreign investment precisely as "employing foreign money in an activity licensed by the foreign investment statute."⁴

Sub-topic II: Types of Investment

Investment can be divided according to different considerations and criteria. This is due to the diversity of investment objectives, purposes, means, and returns. In

insufficient to play the required role in the process of economic development if the formation of human capital capable of developing and adapting physical investment in the manner it was achieved did not keep pace with the desired objectives. See, Almashaal, K. A., p.58 and Nassar, A. M. (2010). *Islamic investment operations*. Bahrain: General Council of Islamic Banks and Financial Institutions. p.9.

¹ Gharbawi, S. A. (2020). *FDI: Between international guarantee and legal protections for private foreign investment and its impact on economic growth in developing countries*. first edition. Cairo: Dar Alfekr Aljamee. p.16.

² Mohammed, B. (2011). "Financial law, investment laws." *Specialized Legal Encyclopedia*, Arabic Encyclopedia, Damascus: Contemporary Thought House. vol. 6, p. 377.

³ Garner, B. A. (2010). *Black's law dictionary*, abridged, 9th ed. St. Paul, MN: West. p.709.

⁴ Saudi Foreign Investment Law, issued by Royal Decree No. (M / 1) on 4/10/2000. Article 1.

this study, the research deals with the types of investments directly related to the subject of the study under the following criteria:

Section I: Types of Investment by Investment-Activity

In terms of its activity, investment can be divided into several types.

I. Investing in human capital

It is a process that aims to increase the ability of community members to work, by, for example, spending on education and training, raising the cultural level and improving the level of health, and increasing well-being by improving living conditions.¹

II. Productive investment

Some economists believe that depending on the impact of investment on the national economy, investment can be economically divided into direct investments in production and indirect investments in production,² which depend on the areas and activities invested in the host country.³ This can be explained as follows:

¹ Investing in human capital is defined as "All expenditures that improve the quality of human effort, thereby increasing its level of productivity and income, and its revenues, are the resulting increase in productivity and income, such as spending on education, health, and food." See: Kamel, S. M. (1977). "Education and human capital." Master's thesis presented to the Faculty of Economics and Political Science at Cairo University. pp.3-4. See also: Omar, H. (1992). *Economic Encyclopedia*. Cairo: Dar alfer Al Arabi. p.4.38.

² Abdul Azim, H. *Economic principles, economic problems, micro, and macro analysis*. Cairo: Dar alfer Al Arabi. p.2.

³ Nouri, K. N. (2005). "The role of foreign investment in developing countries." Bulgaria: *Journal of Human Sciences*, Faculty of Commerce, University of Velikoter. p.2.

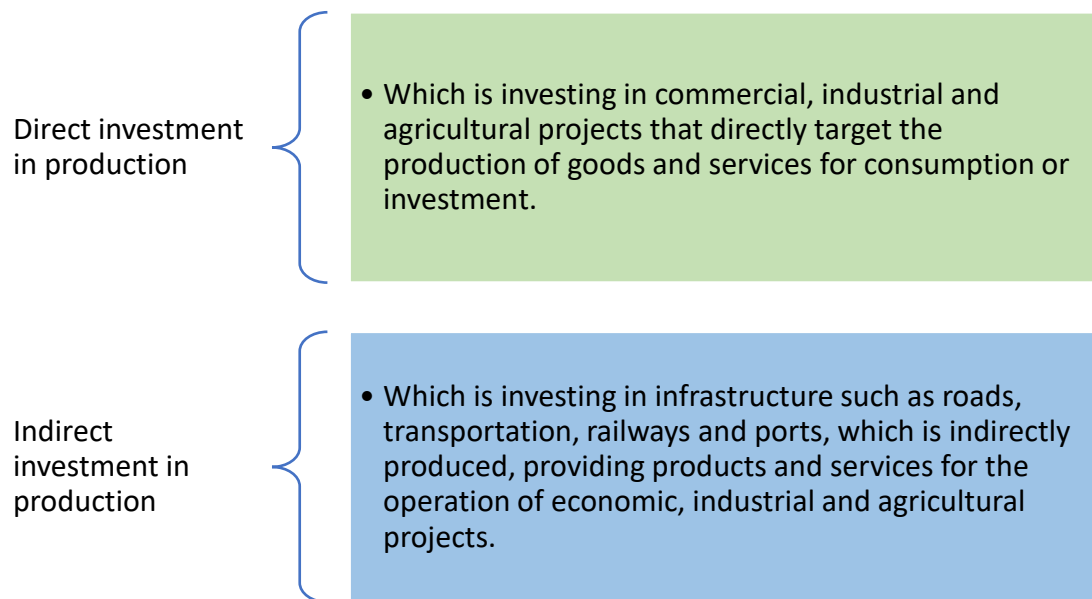


Figure (1) Types of productive investment

Section II: Types of Investment by Origin of Investment

I. Real investment

Real investment is when the investor is granted the right to hold a fixed or traded real asset. The real asset means every asset of economic value per se that appears in the form of possession of a commodity or service. In other words, real investment is the process of using goods and services to create new production capacities or to maintain the productive capacities that exist, and to increase the stock of commodities of raw materials, manufactured products, and finished products. The concept of real investment is based on the assumption that investing in real assets is what creates additional economic benefits, increases the investor's income, and lifts the national income.¹ Thus, the components of a real investment may entail investment in factories and projects, in construction, and in commodity inventories.²

¹ Al-Jawaani, A. (1974). *Macroeconomic analysis*. Cairo: Ain Shams Library. p.65. And see: Wood, R. M. & Abdul Qadir, M. *Macroeconomic theory*. Alexandria: Department of Economics, Faculty of Commerce, University of Alexandria. p.113.

² For more see: Almashaal, K. A., p.27.

II. Financial investment

Financial investment refers to the employment of funds in the stock market, whereby the investor acquires an “unreal” financial asset. This type of investment consists of the purchase of securities such as stocks, bonds, treasury bills, etc. In this sense, it is not a real addition to fixed assets but merely a transfer of ownership. However, a financial investment may lead to in-kind investment to finance new capital assets in the event of the issuance of new securities.¹

Section III: Types of Investment by Source of Investment Capital

I. National investment

This investment occurs within the national economy, and is carried out by individuals and private and national public institutions, i.e., these investment projects involve national capital, whether owned by the government sector or the private sector.²

II. Foreign investment

Foreign investment means those projects that the investor establishes outside the economy of his country of origin. Akin to this meaning, Saudi law defines foreign investment as "employing foreign money in an activity licensed by the foreign investment statute."³ The International Law Society defined foreign investment as "movements of capital from the investor's country to the beneficiary country without direct regulation."⁴ Others described it as "the movement of a factor of production

¹ Wood, R. M. & Abdul Qadir, M., p.113, see also: Abdullatif, A. A. (2002). “Ways of investing and financing in the transport sector.” *Scientific Journal of Economics and Commerce*, Ain Shams University, issue 3., p.273.

² Maghribi, I., p.38.

³ Saudi foreign investment law. Article 1.

⁴ International law association of the fifty-second conference. (1966). pp 820-839.

across international borders to contribute to economic exploitation directly or indirectly, intending to make a distinct profit."¹

Foreign investment often comes from outside the host state due to the mutual economic relations between the domestic and foreign economies. This type of investment may be made by individuals, a foreign private enterprise, foreign government institutions, or international and regional financing and lending institutions and funds.²

In this context, the researcher can differentiate between two forms of foreign investment, namely foreign direct investment and foreign indirect investment. The criterion for distinguishing between these two types of investment lies in the investor's ability to control the project and decide on management. To clarify further, the research will address this division as follows:

A. Foreign direct investment (FDI)

FDI is intended for an investment controlled by a foreign entity which owns all or most of its capital, enabling it to control the management of the investment project or at least to participate in its management. Accordingly, a foreign investor might be an individual, company, branch of a foreign company, or a private or foreign government institution. Some have defined FDI as "those projects that are established, owned, and managed by the foreign investor either because of their full ownership of the project or

¹ Onis, A. (2006). Foreign investment in SMEs; reality and prospects. A paper presented at the International Forum on "Requirements for the Rehabilitation of SMEs in Arab Countries." Algeria: Hassiba Ben Boali University in Balshlf, Faculty of Economics and Management Sciences, Laboratory of Globalization and North African Economics. p.252.

² Onis, A., p.252

their participation in the project's capital with a share that justifies the right to manage."¹ Others have defined it as "the process through which an enterprise invests in projects outside its home country to participate in economic projects actively and exert some influence on the operations of those projects."² The Organization for Economic Co-operation and Development (OECD) has defined FDI as "a category of cross-border investment made by a resident in one economy (the direct investor) to establish a lasting interest in an enterprise (the direct investment enterprise) that is resident in an economy other than that of the direct investor. The motivation of the direct investor is a long-term strategic relationship with the direct investment enterprise to ensure a significant degree of influence by the direct investor in the management of the direct investment enterprise."³

From the preceding definitions, it is apparent that FDI is distinct from other types of investments. It grants the foreign investor the power to entirely or nearly wholly control the project's activity in which they have invested. It frequently manifests itself in the form of founding or participating in the establishment of investment projects.⁴ It also includes granting a foreign investor permission to conduct business in the host country along with ownership and administration of the investment project.⁵

As a direct consequence, foreign investors favor this form of investment because it provides them control over investment projects, allowing them to focus on

¹ Zaghloul, K. S. (2004). Tax treatment for foreign investment in Kuwait. Research presented at the third annual scientific conference of the Faculty of Law in Banha: The legal and economic aspects of investment. p.4

² Parker, M. (1998). "FDI, and Middle East experience." Riyadh; *Saudi Economic Journal*, First Year, Issue (1), p.123.

³ OECD Benchmark Definition of Foreign Direct Investment. Fourth Edition. (2008). p.17. Available online at <https://www.oecd.org/daf/inv/investmentstatisticsandanalysis/40193734.pdf>

⁴ Mohammed, B., p.377.

⁵ Reza, Y. A. (1994). *Legal aspects of non-national companies*. Cairo: Arab Renaissance Dar. p.18.

projects in line with their own goals. On the other hand, developing countries are typically attracted to this type of investment because it often brings modern technology, technical experience, and organizational skills to the host country. Investments of this type have therefore proved critical to the economic and social growth of many countries.¹

It is significant to mention here that FDI is divided into three categories: private FDI, bilateral FDI, and multinational corporations. These modes of FDI are described below.

1. Private Foreign Direct Investment

In private FDI, the foreign investor reserves the right to own the investment project. This right guarantees them management and control of all operations of that investment project.² This type of investment is accomplished by establishing foreign company branches in the host country for production, marketing, or any other type of product or service activity. It is worth noting that many developing countries are opposed to this sort of investment, citing concerns about the adoption of these investment corporations, their lack of independence from their parent companies, and the potential consequences of their monopoly in domestic markets. However, some developing countries, such as South Korea, Singapore, Taiwan, and some Latin American countries, offer opportunities for foreign companies to own their branches to attract more foreign investment fully.³

2. Bilateral Foreign Direct Investment

¹ See: Abdul Mawla, S. *Origins of the economy*, p.6, and Gharbawi, S., p.36.

² Saqr, A. A. (1998). *Tax incentives to encourage investment in Egypt*. Cairo: Arab Renaissance Dar., p.14.

³ Abu Qahaf, A. (2003). *Different forms and policies of foreign investment*. Alexandria: University Youth Foundation. p.20.

Developing countries seek to balance the attraction of foreign capital with maintaining control over their national economy by stipulating in their domestic laws the need for the national public or private sector to participate in the capital of the foreign enterprise. With this integration, bilateral FDI takes two investment forms, namely joint ventures and international public corporations. For further clarification, the study shows these forms as follows:

a. Joint Ventures

Joint ventures are investments based on participation with national capital, and the participation rate of the project capital is determined in light of the domestic law of the host country. The ownership and management of the project are distributed between the foreign investor and the national public or private investor.¹

This type of FDI results from the host country's keenness to participate in investment projects coming to it from abroad. Such participation may be through national government or private national capital or distributed between public and private national capital. Accordingly, the principle of the involvement assumes that the investment project shares its ownership and management, both national and foreign capital, and thus the so-called joint venture arises.²

b. International Public Corporation

In an international public corporation, a foreign investor is a public body of a foreign government or the foreign government itself is involved with the host local government. In this case, the process is not that of a joint venture, but rather one of an

¹ Al-Akbabi, Y. A. (1989). *The legal system of technology transfer contracts*. Cairo: Arab Renaissance Dar., p.6.

² See: Abdel Aziz, S. M. (1988). *Modern entrances to economic development financing*. Alexandria: University Youth Foundation. p.422. Also see; Mabrouk, N. A. (2014). *Determinants and guarantees of :attracting foreign investment*. Cairo: Dar alfer Aljamee. p.18.

international public corporation. In the case of a joint venture, we are dealing with a project that results from an agreement between a government or a domestic investor on the one hand and one or more foreign investors on the other, whereby the parties jointly finance the project on the territory of the first party, or the first party takes ownership of the project and the second party takes over management and distribution services, and so on.¹

In an international public corporation, we have a project jointly established by two or more states to engage in economic activity. The legal form of the international public, usually by agreement between the parties involved in the project, might take the form of a national company with an international or quasi-international system, i.e., the company may handle the nationality of a state party and be subject to the provisions of the international agreement.²

¹ Shehata, I. (1975). "Joint Ventures under Arab cooperation." *International Policy Journal*, Cairo, issue 40, p.6.

² Amer, S. (1978). *International Public Project, analytical study*. Cairo: Dar alfer Al Arabi. p.18.

3. Multinational Corporation

Multinational corporations are "a group of companies with nationalities of different countries whose activity exceeds the borders of one country, and one of them, the parent company, exercises control and monitoring over other companies, called fledgling or subsidiary companies,¹ by contributing to the capital of the nascent company in a ratio that allows it to exercise this control, and the parent company manages those startups as part of a single global strategy."²

Therefore, multinational corporations are regarded as an economic grouping of several companies with different nationalities, linked by contributing capital to achieve a particular goal. The unity of purpose is achieved by the unit of control of the management of the group's members so that they are a single economic entity.³ It may also be defined as an international business with production centers endemic to more than one country.⁴

B. Indirect Foreign Investment

IFI is defined as "an investment that takes the form of a private loan to a government, public or private body in a foreign state or to foreign individuals or is in the form of an underwriting of the instruments and projects of those bodies, whether

¹ It is important to note a distinction between the fledgling company or subsidiary and the branch. The fledgling company is a subsidiary of a parent company established in another country and contributes capital to gain full oversight. It has a legal and personal entity separate from the parent company and has the nationality of the country in which it was founded. When the parent company opens a branch in another country, the branch does not have its own legal personality or nationality, but rather functions as an extension of the parent company. In a nutshell, if the parent company works abroad through non-independent subsidiaries, and is legally associated with but does not own the subsidiaries, we are dealing with a single international corporation that operates across numerous states, not a multinational corporation. See: Fares, Z. E. (1983). "State and multinational corporate activity." Cairo: *Egyptian Contemporary Journal*, no.393-394, p.149.

² Issa, H. (1990). *Multinational companies*. Beirut: Arab Foundation for Studies and Publishing. p.46.

³ Al-Sharqawi, M. S. (1975). "The multi-national project and the holding company as a means of its establishment," *Journal of Law and Economics*, Faculty of Law, Cairo University, no.3-4, p.59.

⁴ Hodgson, J. S., & Herander, M. G. (1986). *International economic relations*. Englewood Cliffs, NJ: Prentice-Hall. p.699.

through fixed-interest bonds or equities, provided that foreigners do not have the right to manage the project."¹

Thus, a foreign investor's role in this type of investment is limited to providing a financial contribution without exercising any control or management over the project. IFI frequently takes the form of foreign loans or credit facilities offered by private bodies or individuals, or the purchase of long-term government or international shares and bonds.²

Topic II: Saudi Vision 2030

Saudi Arabia's government has made every effort to build a medium-term transformation plan that aims to advance the Kingdom's social and economic prosperity. Saudi Arabia Vision 2030 is the result of this endeavor. It is an ambitious plan aiming at transforming Saudi Arabia into a lively society with a prosperous economy that is sustainable and productive.

The Saudi Vision was launched in April 2016 with the endorsement and sponsorship of the Saudi leadership.³ It is a vision developed by the Saudi Council for Economic Affairs and Development to invest in and exploit Saudi Arabia's strengths, capabilities, and features, whether they are related to its exceptional strategic location, leading investment capacity, or Arabic and Islamic depth. This vision strives to reform and develop both the economy and society to elevate the country's standing and capabilities.⁴

¹ Basim, E. (1972). *The legal system of private foreign investment in developing countries*. Cairo: Arab Renaissance House. p.6.

² For more see; Muhammad, B., p.377

³ Saudi Vision 2030 was adopted by the Saudi Cabinet in The Saudi Council of Economic Affairs and Development Resolution No. (3.31/37/S) on April 25, 2016.

⁴ Saudi Vision Document 2030. Available at; <https://www.vision2030.gov.sa/>

Sub-topic I: Definition of Saudi Vision 2030

Saudi Vision 2030 can be defined as a strategic framework to reduce Saudi's dependence on oil, diversify its economy, and develop its public service sectors. In other words, it is the post-oil plan developed by the Saudi Government to reduce reliance on oil derivatives revenues. The goal is to broaden the economy, improve investment in public services sectors such as health, education, infrastructure development, industrial, tourism, and enhance recreation. The plan calls on the Kingdom's strengths, which reside in three main factors: 1) religious status, the fact that the Kingdom includes the Two Holy Mosques, the focus of attention of all Muslims; 2) economic power, as the Kingdom has investment resources sufficient to build one of the top 20 economies in the world; and 3) its strategic location, linking Asia, Africa, and Europe.¹

Sub-topic II: Importance of Saudi Vision 2030

The importance of Vision 2030 is that it is a strategic plan originally designed to reduce the Kingdom's dependence on oil income. It also aspires to diversify the Kingdom's economy and promote public sector areas, including health, education, tourism, infrastructure, and technology. Moreover, it is forming the main focus of most of Saudi Arabia's decisions for the present and in the coming years to 2030. Indeed, it embodies an economic, social, and cultural turning point in Saudi Arabia. The Saudis believe that the plan will contribute to developing and promoting diversity in all economic fields.²

¹ Saudi Vision Document 2030, pp.6-13.

² Saudi Vision, p.7.

Sub-topic III: Saudi Vision 2030 Objectives

Saudi Arabia's Vision aims to reduce dependence on oil and diversify the country's economy. In doing so, the plan has adopted many programs and reforms in the economic and social sectors to serve this goal. Policymakers have benefited from the United Nations Development Program (UNDP), for instance, in setting development goals that promote the Kingdom's economy and encourage sustainable development.¹ To reach its desired outcomes, the Saudi Government has re-aligned its national programs, plans, and strategies with global development goals, indicators, and objectives.

Even though the Kingdom has achieved some of the Vision 2030 goals since the plan's launch in 2016, it still has a long way to go before attaining the complete transformation it wants by 2030. Here are the most important goals the Kingdom is pursuing for 2030:²

The most important objectives of Saudi Vision 2030	
1.	Raise the size of the economy and move from 19th to the top 15 in the world.
2.	Increase the proportion of non-oil exports from 16% to 50%.
3.	Increase the proportion of domestic content in the oil and gas sector from 40% to 75%.
4.	Increase the capacity to receive guests in Mecca and Medina from 8 million to 30 million pilgrims.
5.	Reduce the unemployment rate from 11.6% to 7%.

¹ UNDP sustainable development is a global agreement to promote sustainable development, and the Kingdom is one of the countries participating in the program. Available at <https://www.arabstates.undp.org/content/rbas/en/home/sustainable-development-goals.html>

² Saudi Vision 2030, Strategic Goals and Vision Achievement Programs., pp.10-37. Available at https://vro.moenergy.gov.sa/Arabic/DocLib/Vision%20Realization%20Programs%20Overview_AR.pdf

The most important objectives of Saudi Vision 2030	
6.	Maximize the value of the Saudi Public Investment Fund (PIF) to make it the largest investment fund in the world.
7.	Transform Saudi companies from regional to international companies able to influence global markets.
8.	Empower and support promising Saudi startups.
9.	Raise the private sector's contribution to GDP from 40% to 65%.
10.	Support the Saudi armed forces and the trend towards manufacturing military machinery locally, creating more career opportunities and improving the Kingdom's investment capacity.
11.	Raise the proportion of foreign direct investment in GDP from 3.8% to the global average of 5.7%.
12.	Strengthen the Kingdom's position in the logistics performance index from 45th to 25th globally and to first regionally.
13.	Move from 25th place in the Global Competitiveness Index to the top 10.
14.	Rank three Saudi cities among the best 100 cities in the world.
15.	Raise the contribution of SMEs to GDP from 2% to 35%.
16.	Allocate 20% of total financial institution funding for SMEs.
17.	Raise the savings rate of Saudi households from 6% of total household income to 10%.
18.	Increase the number of archaeological sites recognized by the UNESCO World Heritage Organization.
19.	Facilitate the movement of government transactions and expand the circle of electronic services.
20.	Adopt transparency and objectivity by establishing government performance measurement centers.

Table (1) Objectives of Saudi Vision 2030

Sub-topic IV: Themes of Saudi Vision 2030

Vision 2030 relies on three main themes: a vibrant society, a thriving economy, and an ambitious nation. These themes are integrated and consistent with each other to

achieve the objectives of the Saudi vision. To further highlight these themes, the research addresses them as follows:

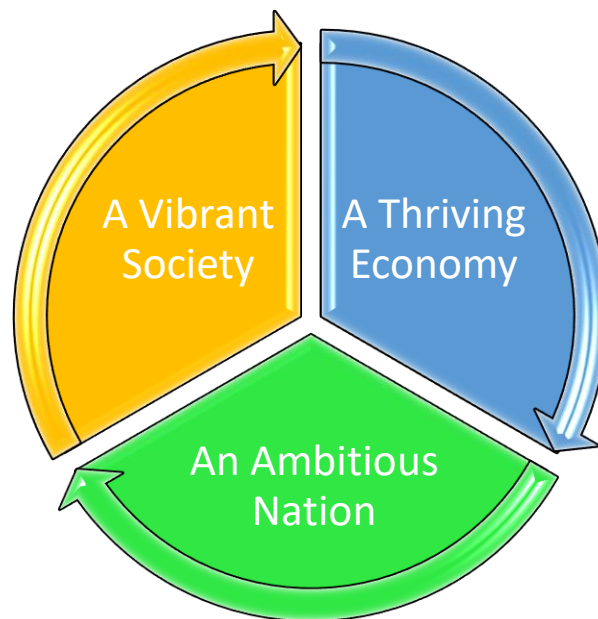


Figure (2) Themes of Saudi Vision 2030

I. A Vibrant Society

Saudi Arabia's Vision 2030 aspires to reach a vibrant society that provides every citizen and resident with a happy and satisfying life. In other words, it envisions a community that guarantees a healthy and safe environment for individuals and families and provides world-class education and health care. A vibrant society will provide a strong foundation for social and economic prosperity.

Within the vision framework, a vibrant society means a deep-rooted and solid structure based on the values and ideals of moderate Islam, attachment to the homeland, and pride in Islamic culture and Saudi heritage. At the same time, society should provide world-class entertainment options, a sustainable lifestyle, social solidarity, and

an effective health and social care system.¹ This theme focuses on several elements through which it seeks to achieve the Vision's objectives:

A. A Society with Deep Roots

Saudi Arabia's Vision 2030 confirms that the Kingdom is a country that has given many potential opportunities, natural resources, and diverse wealth, but that real wealth lies in the individuals and society of Saudi Arabia. Through the vital themes of society, the vision promotes and establishes many national and Islamic concepts and values on the ground.

B. A Society with a Strong Structure

This element aims to promote and revitalize social development to build a stable and productive society. This requires strengthening the role of the family in fulfilling its responsibilities. It also provides education aimed at making the social structure and establishing a social and health system that ensures empowerment for members of society.

C. A Society with a Flourishing Environment

Achieving happiness and prosperity for the citizens and residents of the Kingdom requires enhanced physical, psychological, and social health. The importance of the vision lies in building a society which offers a decent life, a healthy lifestyle, and a positive and attractive atmosphere.

The following table shows the most critical trends and means targeted by the Vision in the focus on a vibrant society:

¹ See: Saudi Vision Document 2030, a vibrant society, p.16, and Saudi's Vision 2030, Strategic Goals and Vision Achievement Programs, pp.10-19.

Theme	Trends	Means
A Vibrant Society	<ul style="list-style-type: none"> Promote Islamic values and national identity. 	<ul style="list-style-type: none"> Promote the values of justice and transparency.
		<ul style="list-style-type: none"> Promote the values of mastery and discipline.
		<ul style="list-style-type: none"> Facilitate the hosting of more pilgrims and visitors and enrich their religious and cultural experience.
		<ul style="list-style-type: none"> Instill national principles and values; preserve its heritage and the Arabic language.
	<ul style="list-style-type: none"> Enable a healthy life. 	<ul style="list-style-type: none"> Upgrade health services.
		<ul style="list-style-type: none"> Develop the educational environment.
		<ul style="list-style-type: none"> Create an environment suitable for innovation and creativity.
		<ul style="list-style-type: none"> Ensure environmental sustainability.
		<ul style="list-style-type: none"> Support cultural and recreational efforts.
		<ul style="list-style-type: none"> Improve the quality of life in cities.

Table 2 Trends and means targeted by the vision in the focus of a vibrant society

II. A Thriving Economy

One of the main pillars of Vision 2030 is to provide an environment that unlocks business potential, expands the economic base, and provides jobs for all Saudis. The vision seeks to achieve this by taking advantage of the Kingdom's unique location and

potential, attracting the best scientific talent and skills, and more global investments.¹

The vision for "a Thriving Economy" focuses on four main themes, as follows:

A. Productive Opportunities

The vision considers the skills and capabilities of the people of the Kingdom as one of its most important resources and value. The Kingdom will strive to make the most of its potential by adopting a culture of appreciation, providing opportunities for all, and giving them the necessary skills to pursue their goals. To this end, the Kingdom will enhance the economy's ability to generate various jobs and open a new chapter in attracting global competencies and talents.

B. Advantageous Site

Saudi Arabia is at the crossroads of international trade between Asia, Europe, and Africa. The vision seeks to exploit this unique geographical location, forge new strategic partnerships to develop the Kingdom's economy, and help Saudi companies increase their exports. It will also leverage available energy sources and promising logistics capabilities to stimulate a new phase of industrial transformation and booming trade.

C. Attractive Competitiveness

The Kingdom's openness to trade and business will enable the Kingdom to increase production and facilitate its path to becoming one of the largest economies in the world. The Kingdom will work to improve the business environment, restructure

¹ See: Saudi Vision Document 2030, a thriving economy, p.36, and Saudi's Vision 2030, Strategic Goals and Vision Achievement Programs, pp.20-30.

the economy of cities, establish special zones, and liberalize the energy market, thereby increasing the country’s competitiveness globally.

D. Active Investment

Believing that diversifying the economy is one of the most sustainable components, the Vision has developed long-term plans to upgrade the Kingdom to become one of the most advanced among the world's 20 strongest economies by 2030. Even in the face of a global economic slowdown, the vision expects to expand investment and apply ample resources towards diversifying the economy, unlocking the potential of new and promising economic sectors, and allocating several government services to improve the Kingdom’s competitive position among the world's nations.

The following table outlines the most important targets addressed by the Vision on the theme of a thriving economy:

Theme	Trends	Means
A Thriving Economy	<ul style="list-style-type: none"> Develop and diversify the economy. 	<ul style="list-style-type: none"> Develop the contribution of the private sector to the economy.
		<ul style="list-style-type: none"> Develop non-oil exports.
		<ul style="list-style-type: none"> Maximize the assets and role of the PIF as an engine of growth.
		<ul style="list-style-type: none"> Establish the Kingdom's position as a global logistics center.
		<ul style="list-style-type: none"> Develop the mining sector.
		<ul style="list-style-type: none"> Privatize specific government services.
		<ul style="list-style-type: none"> Develop the renewable energy market.
		<ul style="list-style-type: none"> Attract foreign investment.

Theme	Trends	Means
		<ul style="list-style-type: none"> Develop of oil and gas-related industries.
		<ul style="list-style-type: none"> Localize of military industries.
		<ul style="list-style-type: none"> Develop the digital economy.
		<ul style="list-style-type: none"> Develop the tourism sector.
	<ul style="list-style-type: none"> Increase employment rates. 	<ul style="list-style-type: none"> Develop human capital to suit the needs of the labor market.
		<ul style="list-style-type: none"> Facilitate businesses.
		<ul style="list-style-type: none"> Increase the contribution of SMEs to the economy.
		<ul style="list-style-type: none"> Attract foreign scientific expertise.
		<ul style="list-style-type: none"> Improve basic education outcomes.
		<ul style="list-style-type: none"> Expand vocational training.
		<ul style="list-style-type: none"> Promote and support a culture of innovation and entrepreneurship.
		<ul style="list-style-type: none"> Provide job opportunities for all.

Table (3) Trends and means targeted by the vision in the focus of a Thriving Economy

III. An Ambitious Nation

The changes entailed in Vision 2030 will lead to an effective, transparent, and accountable high-performance government that enables citizens, the private sector, and non-profit organizations to take the initiative in exploring opportunities to achieve Vision goals. The essential elements of achieving this theme are as follows:

A. Effective Government

The role and requirements of the government have grown dramatically since the founding of Saudi Arabia. It, therefore, needs continuous development to remain able to meet changing aspirations and hopes and face new challenges. This element prompts

the commitment to operate following high standards of transparency and accountability, cultivating efficient management of financial resources, establishing flexible government institutions, and adopting effective performance control systems.

B. Responsible Citizen

The Vision urges the people of Saudi Arabia to complete nation-building based on national collective efforts. Depending on their location and role, all citizens contribute whether they work in public, private, or non-profit sectors. This desired work will be an ongoing collective action to realize the nation's hopes as people assume their responsibilities towards the State and society.¹ The following table lists the most critical objectives addressed by the Vision on the theme of an ambitious nation:

Theme	Trends	Means
<p style="text-align: center;">An Ambitious Nation</p>	<ul style="list-style-type: none"> • Enhance the effectiveness of the government. 	<ul style="list-style-type: none"> • Enhance the effectiveness of financial planning and the efficiency of government spending.
		<ul style="list-style-type: none"> • Balance public budgets
		<ul style="list-style-type: none"> • Diversify sources of government revenues.
		<ul style="list-style-type: none"> • Develop methods of e-government.
		<ul style="list-style-type: none"> • Promote transparency in government sectors.
		<ul style="list-style-type: none"> • Improve the performance of the government apparatus.
		<ul style="list-style-type: none"> • Ensure the development of food security.

¹ Saudi Vision Document 2030. The theme of an ambitious nation., p.60; Saudi Vision 2030, Strategic Goals and Vision Achievement Programs., pp.30-37.

Theme	Trends	Means
		<ul style="list-style-type: none"> • Ensure sustainable benefits from financial resources.
	<ul style="list-style-type: none"> • Enable social responsibility. 	<ul style="list-style-type: none"> • Strengthen and enable financial planning.
		<ul style="list-style-type: none"> • Urge companies to take social responsibility.
		<ul style="list-style-type: none"> • Promote corporate interests in sustainability of the national economy.
		<ul style="list-style-type: none"> • Support the growth of the non-profit sector.
		<ul style="list-style-type: none"> • Encourage volunteerism.

Table (4) Trends and means targeted by the vision in the focus of An Ambitious Nation

Sub-topic V: Vision Realization programs

It is pointless to discuss Saudi Arabia's Vision 2030 without mentioning the Vision Realization programs designed to bring this vision to fruition. So, in this section, the researcher will explain these programs in more detail.

These programs were announced at various periods after Saudi Vision 2030 was launched in 2016. However, some programs have been restructured and new ones added to reflect the state's desires and capabilities to realize Vision 2030 fully. The Council of Economic and Development Affairs (CEDA) has established fourteen programs to date to realize Saudi Vision 2030.¹

To provide further clarity, the following table details the definition and objectives of each of the Saudi Vision 2030 Realization Programs:

¹ See also, Saudi Vision Document 2030. Vision Realization programs. p.75, and Saudi's Vision 2030, strategic objectives, and Vision Realization programs., pp.39-76.

	Programs	Definition and objective
1.	Quality of Life Program	Strives to improve the individual and the family's quality of life by providing the environment needed to support and create new opportunities, and encourage citizens, residents, and visitors to participate in cultural, recreational, and sporting activities. In addition to generating jobs and expanding economic activity, all these activities will help to increase the rank of Saudi cities among the greatest cities in the world.
2.	Financial Sector Development Program	Supports the Saudi economy by helping to diversify sources of revenue for the Saudi economy by encouraging savings, finance, and investment, and by facilitating the development of financial sector institutions and Saudi financial markets. Banks, insurance, investing, and stock markets are among the areas covered by the program.
3.	Housing Program	Provides housing solutions and finance choices to enable Saudi households to get suitable housing via ownership or a utilization system. Also gives specialized housing programs to society's most vulnerable groups and works to improve the housing sector's legislative and regulatory environment to boost its economic impact, attract private investment, and create local content. This role contributes to creating job opportunities in the sector and increases its contribution to the GDP.
4.	Public Investment Fund Program	Strives to strengthen the PIF's role as an active driver of the Kingdom's economic variety and grow specific priority sectors through developing and maximizing the impact of the Fund's investments. Aims to become one of the world's most outstanding sovereign wealth funds and build strong economic relationships to strengthen the Kingdom's influence and role in the regional and global landscape.

	Programs	Definition and objective
5.	Fiscal Sustainability Program	Monitors financial performance to maximize revenue and improve the efficiency of government spending. Acts as a medium-term financial planning tool designed to sustain state finances and attain a balanced state budget.
6.	National Transformation Program	Focuses on achieving excellence in government performance, supporting digital transformation, contributing to private sector development, developing economic partnerships, promoting community development, and ensuring the sustainability of vital resources. Aims to develop the infrastructure necessary to create an environment in which the public, private, and non-profit sectors can flourish.
7.	Privatization program	Intends to strengthen public-private partnerships, improving the quality of offered services and reducing their cost. Also targets foreign direct investment.
8.	National Corporate Entrepreneurship Program	Aims to elevate the level of local enterprises to that of regional and global companies, thereby boosting Saudi Arabia's economic reputation, attracting foreign investment, and providing job opportunities.
9.	Strategic Partnerships Program	Aims to raise the country's global profile and strengthen GCC cooperation through various strategic partnerships in multiple fields.
10.	National Industry and Logistics Development Program	Leverages the potential of the mining and energy sectors in an effort to convert the Kingdom into a leading industrial powerhouse and global logistical hub. Focuses on local content and the Fourth Industrial Revolution, while also contributing significantly to maximizing and broadening the economic effect of the target industries, sustaining their growth and leadership, and establishing an appealing investment climate.
11.	Pilgrims Service Program	Acts to fully enable as many Muslims as possible to participate in the Hajj and Umrah. Also seeks to broaden

	Programs	Definition and objective
		and enrich their experience by preparing the Two Holy Mosques, disseminating Islam's universal message, and developing tourism and cultural attractions. Likewise, provides the best possible services before, during, and after pilgrims visit Mecca and Medina, nourishes religious feelings, and shows the Kingdom's honorable and civilized image through service to the Two Holy Mosques and God's guests.
12	Human Capacity Development Program	Promotes values, improves basic and future skills, and expands knowledge, thus increasing the level of citizen education so the Kingdom can compete globally. Offers several educational programs as well as modern contemporary training options that match the needs of the labor market and the criteria of the Fourth Industrial Revolution.
13	National Personality Enhancement Program	Aims to strengthen Saudi Arabia's national character, founded on a set of inherited Saudi and Arab values, by providing a modern and distinctive methodology in its approach to young Saudis.
14	Health Sector Transformation Program	Plans to transform the Kingdom's health sector into a comprehensive, practical, and integrated health system that promotes individual and societal health.

Table 5 The Saudi Vision 2030 Realization Programs

Topic II: The Importance and Motivations of Investment

This section of the research will shed light on the importance of investment, its impact on economic development, and its motivations. as follows:

Sub-topic I: Importance of Investment

Most countries value investment, whether domestic or foreign, since it might play a significant role in their economic development. Investment allows countries to exploit their natural resources and build infrastructure, such as roads, ports, and

airports. Investment also helps to train local workers and develop and grow numerous sectors through various assets, including capital, technology, management competencies, skills, and connection to overseas markets. It also promotes the expansion of the technological capacity needed within the local economy for production, innovation, and entrepreneurship.

Consequently, one of the essential characteristics of contemporary economic policy, particularly that of emerging countries, is their apparent desire to attract investment that can further their economic development. Recognizing the importance of investment, most governments are eager to provide favorable and encouraging investment circumstances in their territory, competing with one another to attract investors by providing a suitable investment climate. In addition to economic and political factors, this climate encompasses establishing a legal framework for investment, a significant factor in determining whether or not the investment climate is appropriate for investors.¹

Investment is known to play an essential role in shaping physical and human assets. It impacts the formation of fixed money, leading to a direct increase in production capacities, such as land reclamation or factory construction, or an indirect increase in production capacities through improvements in roads, dams, and other infrastructure. Education and training, labor rehabilitation, and investment spending on scientific research and studies also affect the human element.²

¹ See: Al Qadi A. (1982). *Introduction to the development and economic planning*. Alexandria: Egyptian University Dar., p.355; Omar, H. (1991). *Principles of Economics: Economic Problem and Good Behavior: Partial and Holistic Analysis*. Cairo: Dar alfer Al Arabi. p.363.

² Maghribi, I., p..29.

The importance of investment in terms of its impact on the economic growth process is substantial. Governments adopt policies to ensure increased savings in their national economies, mobilize and direct those savings toward various investment areas, and thereby select tools that contribute to real added value creation for the economy. The impetus to maximize investment returns may involve increasing the volume of production and export, creating jobs, eliminating unemployment, and raising the standard of living of individuals, hence raising the rate of economic growth.¹

Investment is, therefore, one of the most important variables in the development and growth of states, and the success of states in achieving development may depend on their ability to increase investment rates. This has produced one of the most important issues facing state governments and economic officials worldwide: finding strategies to encourage and promote investment. Therefore, many countries are moving towards comprehensive economic reform programs aimed at attracting national and foreign capital, as is the case with Saudi Arabia's Vision 2030.

As a type of investment, foreign investment is among the key economic factors on which most countries' economic development is dependent. This is mainly because foreign investment can supply technical and organizational skills and capacities, as well as capital, all required to support the economic growth process.

Therefore, we can safely conclude that investment is a critical pillar in supporting national economies and promoting state economic development. Investment supports important functions and exerts a significant influence on the economy of its recipients. Understandably, most countries around the world work hard to create the

¹ Abu Aqla, M. Y. *The role of investment in the economic development and growth of countries*. p.142.

optimal investment environment for attracting investment. The following figure shows the most important elements of investment's effect on the economy:

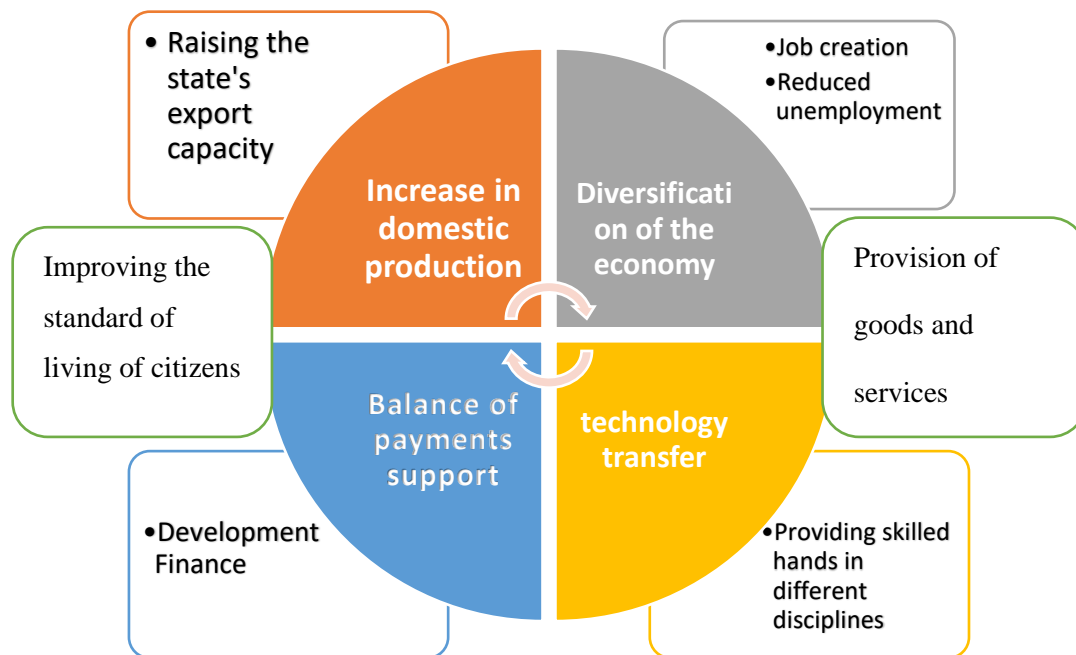


Figure (3) The most important roles of investment in economic

Sub-topic II: Investment Motives

Investment motive refers to the incentives or factors that encourage or inspire the investor's desire to make an investment decision.¹ No doubt, both the investor, national or foreign, and the state have a number of motives that make each other seek to work with the other party to achieve their objectives and obtain the greatest possible benefit from the investment.

The following sections discuss the primary motivations for each of the investment process's participants.

¹ Al-Nimri, K. S. (2000). *Investment companies in the Islamic economy*. Alexandria: University Youth Foundation. p.31.

Section I: Investors' Motivation

I. National Investors' Motives

As with other investors, the primary motivation of the national investor is to produce profits and build wealth from the invested capital. In addition, the national investor seeks to take advantage of incentives and facilities provided by the State to its citizens to advance development. The investor's orientation towards investing in his country is undoubtedly one of the essential interests targeted by States, with States paying full attention to encouraging their citizens to invest in their home countries in order to maintain the sustainability and non-migration of national capital. A manifestation of this interest is the provision of the necessary information on investment possibilities and opportunities, and the provision of financing facilities, in addition to establishing many systems and measures that preserve their rights.¹

For example, the Kingdom, represented by the Ministry of Investment, is eager to maximize national investors' motives and persuade them to invest in the country, primarily by directing and expanding investment options and providing facilities and services to national investors.² The following table summarizes the most important actions mentioned above:

	Public investment incentives for the national investor
1.	Conduct market economic analysis, whether by providing specialized and standard information or by providing reports and case studies, sharing this information on databases, and assisting in feasibility studies.

¹ Saudi Vision 2030 Document, pp.36-42.

² See: Unified National Platform, National Investment. Retrieved 10/27/2021. Edited. Available at: <https://www.my.gov.sa/wps/portal/snp/aboutksa/investinginksa> See also, the Saudi Ministry of Investment website: <https://www.misa.gov.sa/en/>

	Public investment incentives for the national investor
2.	Build partnerships and connect government firms and industry with local businesses with the goal of potential future collaborations.
3.	Process investor field visits, logistics, bookings, and meetings, coordinating with government agencies and connected parties.
4.	Provide all help linked to the start-up of a project, including the search for an appropriate location, legal advice, and coordination with required authorities.
5.	Provide legal support and financial solutions.
6.	Facilitate business practices and address investors' operational problems.

Table (6) Public investment incentives for national investor

II. Foreign Investors' Motives

Foreign investors typically seek to invest in new markets outside their home country for various reasons, motives, and objectives. The most important motivations may be the desire to take advantage of the benefits, facilities, and exemptions offered to foreign investors by developing countries or to expand and open up to new markets rich in material and human resources, where competition is less intense than in their home country.

It should be highlighted that the interest of foreign investors in investing overseas is no longer solely for their own benefit but rather for the benefit of the public interest in capital-exporting countries, which has become a subject of interest and a foreign policy objective. One aspect of this trend is how capital-exporting countries offer and promote investment opportunities in host countries to their investors. Furthermore, they offer a special tax transaction for profits earned abroad, along with

negotiating treaties and agreements with investment-hosting countries to protect investors' rights.¹

In addition, foreign investors may have a variety of other motives they seek to achieve through investment in developing countries, as outlined below:²

Foreign investors' motives	
1.	Take advantage of the benefits, facilities, and exemptions granted by developing countries to foreign investment to attract investment, which may not be available at the same level in developed industrialized countries.
2.	Exploit limited competitiveness in terms of cost and quality in developing countries. Foreign companies' acquisition of advanced technology and the abundance of capital and experience may allow foreign investors to enjoy a competitive advantage for a long period.
3.	Realize greater profitability in developing countries as compared with more-developed countries.
4.	Utilize the availability of raw materials and their usage in industry and production in developing countries.
5.	Create new export markets, thus establishing and expanding economic relationships with other countries.
6.	Leverage the protections and guarantees offered by developing countries to foreign investors against non-commercial hazards, such as money transfer and flow concessions, etc.
7.	Create new markets for foreign investment products and goods, and market surplus stagnant goods that do not find a market in the country of the original foreign investor.

¹ Khaled, H. (1980). "Towards a general theory of foreign investment guarantee, a comparative study." Cairo: *Contemporary Egypt Journal*, Egyptian Society for Political Economy, Statistics and Legislation, year 71, issue 279, p.198.

² See also, Ta'an, Hatem Fares (2007). "Investment, objectives and motives." Baghdad: *Journal of Baghdad College of Economic Sciences University*, vol. 14, pp.13-37. (p.10); Al-Nimri, K. S. "Investment companies in the Islamic economy," pp.31-33; Onis, A. "Foreign investment in SMEs," p.252; Mabrouk, N. "Determinants and guarantees of attracting foreign investment," pp.44-45.

Foreign investors' motives	
8.	Take advantage of the relatively low cost of other factors of production in investment host countries, such as land rent and workers' wages, compared to the high levels prevailing in developed industrialized countries.
9.	Exploit the local material and human resources that developing countries have available.

Table (7) Foreign investor's motives

Section II: State Motives

Investments are one of the essential sources for financing a country's economic development. Numerous developing countries are unable to achieve their development objectives due to insufficient government resources and budget deficits. This is due to a shortage of capital, i.e., cash flow, in-kind capital, such as high-quality machinery and equipment, or technical capital, such as modern technology, management expertise, and organizational competence. Developing countries need to bring in cross-border investments because of their advantages, such as abundant capital, machinery, quality equipment, and advanced technology and expertise. As a result, a developing country will try to provide many privileges, incentives, and guarantees to foreign investors in order to entice them to relocate there, owing to a set of reasons and purposes that States seek from such investments.¹ The following are the most important of these motivations:

¹ See: Longani, P. & Razin, A. (2001). "How Beneficial Is FDI for developing countries?" *Finance and Development Journal*, IMF, vol.38, no.2, p.7; Ahmed, M. & Khudhair, H. S. (2010). "Foreign investment and its impact on the economic environment, a calendar view of Iraqi investment law." Mosul: *Journal of Management and Economics*, Faculty of Management and Economics, Mosul University, 80th issue, pp.142-143; Onis, A. "Foreign investment in SMEs," p.453.

I. Advancing Development

One of most fundamental investment motivations for governments is the drive to finance development, as capital accumulation and advancement in investment-induced production are two of the essential components of the development process. By contrast, poor investment volume and meager capital accumulation are significant impediments to economic progress. As a result, states, particularly those that are still rising, place a high value on investment. Therefore, developing countries compete with the rest of the globe in attracting foreign investment to fund their development processes, as these investments constitute a vital asset and source of funding for such countries. Foreign investments may take the form of capital, sophisticated machinery and equipment, or advanced technology required for development projects. This investment raises the capital rate and broadens the productive base, which usually leads to increased domestic income, and builds an industrial base, which acts as a foundation for development in those states. Moreover, these investments aid in economic and social development generally, greater investment must result in an increase in national output, hence accelerating the rate of economic development.¹

II. Balance of Payments Support

Countries want to improve their balance of payments by attracting investment, and such investments can positively shift the balance of payments in developing countries, as long as the flow into these countries exceeds the value of exports of its profits abroad. This is demonstrated by the flow of foreign capital and the increase in capital in the host State. International corporations sell their foreign currencies in order

¹ Sadakh, O. H. (2010). *Guarantees of foreign investments in international law*. Alexandria: Dar Alfker Aljamee. p.21.

to get the national currency required to make domestic payments. On the other hand, foreign funds help developing countries obtain the foreign exchange they require to meet their economic growth needs.¹ These investments also help minimize government spending and lending, reducing the budget deficit and debt-to-GDP ratio, thus allowing the host country to redirect its economic resources to vital sectors that the private sector cannot implement.²

III. Discovery of Natural Resources and Wealth

Undiscovered natural resources, wealth, and untapped human potential abound in developing countries. However, they suffer from the scarcity of elements necessary to discover and exploit these resources and energies, such as modern technology and expertise, scientific knowledge, and technical and administrative staff capable of using and operating modern machinery and equipment necessary for the development discovery process.³ They, therefore, seek to attract investments capable of helping to discover the non-traditional sectors of host countries and exploit untapped resources.

IV. Strengthen Public and Private Partnerships

By supporting the Public-Private Partnership, states seek to shift the focus of government activity away from the operation of infrastructure and public services, focusing on policy development and strategies for the infrastructure sector and monitoring of service providers to upgrade them. Furthermore, a partnership strives to use the private sector's administrative, technological, and financial strengths to engage in risk-taking.

¹ Shafi'i, M. Z. "The role of investment in economic development," p.9.

² Lotfi, K. H. (2021). *Legal mechanisms for resolving disputes of international investment contracts*. Alexandria: Dar Alfker Aljamee. p.68.

³ See: Basim, E., p.5.

The public-private partnership is also a sophisticated business model that enables the private sector to expand investment opportunities in all economic and social activity sectors to meet society's requirements for goods and services in novel ways and approaches. One of the primary motivations for adopting this method of partnership, particularly in developing countries, is that governments cannot achieve sustainable development on their own, given their limited potential and financial, human, and technological resources. Given the wide range of areas and projects undertaken by those governments, collaboration with the private sector reduces the proliferation of public sector commitments in these areas through mutual obligations.¹

There is no doubt that the private sector often possesses the expertise, knowledge, modern technology, and regulatory environment that the public sector lacks. The availability of successful partnerships between these two sectors will be led to the transfer of this expertise and knowledge from the private to the public sectors. This contributes to development by providing individuals with these experiences and knowledge, resulting in the creation of jobs that are compatible with their acquired knowledge and skills through partnerships.

Through these partnerships, States also seek to achieve a balance between the private sector's and society's objectives, which is critical for the success of the establishment of institutions founded on a genuine partnership between the private and public sectors. This can be achieved by involving the private sector in social development programs and solving society's problems in the areas of infrastructure,

¹ Lindsay, Colin (2000) "Employment Through Partnerships: The Case of the New Deal for Young People," in L. Montanheiro et al, eds., *The 6th International Conference of Public and Private Sector Partnerships: The Enabling Mix*, Sheffield University Press, U.K., pp.365-375; See also: Aljamel, H. M. (2016). "Public-private partnership as a tool for sustainable development." *Journal of the Faculty of Sharia and Law in Tanta*, Al-Azhar University, Faculty of Sharia and Law, pp.1686-1748 (see p.1711).

education, health, and others. The private sector can also contribute to strengthening the status of housing, schools, hospitals, and other social areas, thereby developing society and contributing to national development.¹

V. Encourage Exports

The proclivity of countries for investment is one of the most important routes via which emerging countries boost domestic exports by extending their markets and introducing new products. Foreign corporations contribute capital, skills, technical competence, high-tech manufacturing methods, advertising and marketing expertise, and an understanding of worldwide market-connecting channels. As a result, developing countries attempt to attract foreign investment in order to gain a share of the global market by increasing export volumes, diversifying their export investment strategies, and promoting foreign investment projects for their products.

Foreign investors facilitate increased exports to international markets because of their capabilities, knowledge of the worldwide market, and high marketing skills, which enable them to execute export contracts overseas easily and professionally. Thus, these advantages enjoyed by foreign investment firms reflect positively on domestic companies in the host country, through the transfer of modern technologies and technical and marketing expertise to the local competitors' productive structures, as well as import substitution, enhanced export capacity, stimulating and supporting economic growth in general.²

¹ See Aljamel, H. M., pp.1731-1737.

² Jabbari, S. (2015). "Impact of FDI on economic growth, Case study of Algeria," Doctoral thesis in Economic Sciences, Specialization of Development Economy, Faculty of Economics, Trade and Management Sciences, University of Al Arabi Ben Mehidi, Um Al Bouake. p.145.

VI. Technology Transfer and Knowledge

Foreign investment plays an essential role in the transfer of advanced technology to developing countries. It also provides expertise and technical knowledge by training national cadres. In addition, foreign investors frequently bring a high level of technology, enabling emerging countries to profit from this technological advancement in the process of economic development. Technology can be transferred directly when foreign companies license domestic companies to use their technology or indirectly through joint ventures between foreign and domestic companies. Local enterprises are forced to strengthen their technological capabilities due to increased competition from foreign companies.¹ As a result, developing countries are making a concerted effort to benefit from industrialized countries' technological and administrative advancements through the use of foreign investment. It becomes a critical means of transferring industrial technology, skills, innovative capabilities, and organizational and administrative processes, enabling developing countries to strengthen their industries, encourage domestic production, and acquire management expertise.

VII. Increase Production and Employment Opportunities

Increased production and employment of the domestic workforce are two of the main motivations for attracting both national and foreign investment, as they are directly related to the host country's economic growth rates. Consequently, developing countries aspire to minimize unemployment by creating jobs and employing as many national workers as possible in projects created by investments. Foreign investment

¹ Abdeslam, R. (2002). "Determinants of FDI in the age of globalization," studies submitted to the Faculty of Law of Mansoura University, p.37.

also plays a significant role in reshaping the host country's economic structure by increasing the volume of locally produced goods and services, thereby increasing the local economy's capacity to generate income and production, introduce new methods of production, and promote and develop local industry and production.¹

Topic III: Investment Legislation

Creating the appropriate legislative environment is critical for attracting and localizing investments. This legislative effort, namely the enactment of investment legislation and regulations, typically improves the investment climate, stabilizes transactions, and boosts trust in the overall advantages of the State's economic system. Furthermore, investors are given a perception of the actual stability required for any long-term investment in any host country. Thus, investment regulation necessitates a sophisticated legislative system in the host country able to create the groundwork for ensuring the flow in a way that benefits the national interest by taking significant steps toward progress and economic prosperity. Encouraging foreign investors to invest in this or that country requires that the suitor country market its investment opportunities and advantages, and advises potential investors of the legal situation to ensure that there are no non-commercial risks.

Accordingly, one of the essential factors influencing the establishment of an investor-friendly investment environment is fair investment legislation. Lack of clarity or legislative instability, on the other hand, creates an uncertain and risk-taking investment climate. As a result, investors are hesitant to make new investments or focus

¹ Al Salhi, M. (2002). *Investment and economic globalization*. Yemen: Yemeni Center for Studies and Research. p.15.

solely on high-yielding investments for themselves, while the host country receives a low return on its hoped-for development.

Investment laws typically comprise a variety of advantages, incentives, and guarantees intended to attract and encourage investments, introduce contemporary technology, and stimulate the participation of the private sector, both domestic and foreign. Consequently, increasing the volume of exports and improving the national economy's competitiveness supports political, social, and economic plans. From an investor's standpoint, investment laws serve two objectives: one is to create a sound investment environment by establishing specific rules for dealing with the investment process, including some benefits and incentives, and the other is to protect such investments from non-commercial risks.

Accordingly, we can define investment legislation in the host country in general terms as "a collection of national legislation, bilateral and international treaties, which govern domestic or foreign investment activity in host countries." Thus we can say that investment-regulating legislation is typically limited to national legislation, bilateral agreements, international treaties, and conventions. A detailed discussion of the types of investment legislation follows.

Sub-topic I: National Investment Legislation

Over the last few decades, foreign investment in the host country has grown in prominence. This is because the gap between available domestic resources and development funding and technological requirements continues to increase, necessitating the infusion of foreign resources to cover the gap. Furthermore, foreigners' economic activity is no longer isolated from local economic and social development. The regulation of this is also no longer limited to the rules governing such

activity within the framework of what is commonly referred to as the status of foreigners under private international law. That activity has evolved into a vital component of the State economy, however, necessitating regulation under the legal rules controlling national economic activity, in the form of legal regulations governing its conduct and reflecting regulated economic policies. Hence, special legal rules controlling this sort of economic activity have developed, resulting in a collection of legal norms that come under more than one category of law, all included inside a particular legal framework, the Investment Law, which may be referred to by other names, depending on the lawmakers' motivations and objectives, such as the Investment Protection Law, the Investment Promotion Law, or the Investment Guarantees and Incentives Law. Consequently, the term "National Investment Law" refers to a collection of rules, regulations, and laws governing investment behavior in a particular country, as issued by its legislature.¹

Investment laws differ between countries due to a variety of factors determining a country's investment orientation. The most critical of these factors is the host country's current economic situation, which includes the country's requirement for foreign capital or technology, the availability and demand for natural resources, the size of the domestic market, its capacity to absorb investment project products, and its technical and financial capacity to export these products. In conjunction with the state's current political and economic climate, all of the factors mentioned above typically influence the shape of the state's legal policies toward investment.²

¹ See: Al-Faruki, A. (1984). *The legal lexicon*. Beirut: Library of Lebanon., p.22; Karimi, A. (1990). "The legal system of capital transfer between Arab countries, series of doctoral theses No. 16." Beirut: Publications of the Center for Arab Unity Studies. pp.73,130.

² Muhammad, B. *Financial law, investment laws*, p.377.

The Saudi legislator, for his part, recognizes the significance of investment and its impact on the economic sector, including foreign investment, due to its strong connection to economic development. This is demonstrated by Saudi Arabia's role in creating a number of foreign investment regulations and legislation during the previous four decades, which is regarded as an acknowledgment of the value of an investment and its contribution to economic and social advancement. While these laws included a variety of guarantees and incentives aimed at attracting foreign investment, they fell short of the assurances and incentives offered by emerging countries competing for foreign investment. As a result, the Kingdom's pace of foreign investment growth has been modest and lower than expected.

Saudi Arabia's decades-long experience with foreign investment regulation has also seen the regulation of several significant legal and administrative stages in the organization of foreign investments; all of those stages included the enactment of new investment law, and the amendment and development of previous regulations, as detailed below:

Phase I: Issuance of the Foreign Capital Investment Law (1956)

Saudi Arabia enacted the country's first foreign investment law in 1956, dubbed the "Foreign Capital Investment Law Project."¹ This project included twenty-three articles discussing what foreign capital is, the areas in which foreign investment is permitted to operate, and the rules and processes for establishing foreign corporations and enterprises.

¹ Saudi Foreign Capital Investment Law Project (1956). Issued by The Royal Decree of Saudi Arabia No. (80). Mecca: Government Printer.

It is worth noting that this legislative effort is more akin to a project or a proposal for a system, as the Saudi legislator described it, than to an integrated law that regulates foreign investment projects. At the same time, the law contains a plethora of legal loopholes that impede foreign investment and encourage foreign investors to exercise caution before making any investment choice in the Kingdom.¹

The first phase of foreign investment legislation in Saudi Arabia was also marked by extensive precautionary measures, fearing foreign capital would dominate companies and investment projects. This is interpreted as a tightening of the country's foreign investment policy, as shown in the regulatory requirements of the system. For example, the Saudi legislation requires foreign investors to contribute no more than 49 percent of total capital. Likewise, it stipulated that the number of Saudi employees must not be less than 75% of the total number of employees at the establishment. Moreover, foreign investors were not permitted to transfer their capital from the investment institution's surplus liquidation or profits until many years later. This law also made no provision for tax or customs exemptions.²

Phase II: Issuance of the Foreign Capital Investment Law (1963)

The Foreign Capital Investment Law,³ established in 1963, bears the same name as its predecessor but is deemed more receptive to foreign investment. The second law consisted of thirteen articles and was characterized by simple and basic investment procedures, regarded as a phase of conservative foreign investment attraction. This law

¹ See: Al Zahrani, B. S. (2004). "Foreign direct investment and its role in economic growth in Saudi Arabia" (standard study for the period 1970-2000), Master's thesis, Faculty of Management Sciences. Riyadh: King Saud University, p.2.

² Saudi Foreign Capital Investment Law Project, articles 6,7,10.

³ Saudi Foreign Capital Investment Law (1963). Issued by The Royal Decree of Saudi Arabia No. (35). Mecca: Government Printer.

included numerous incentives for foreign investors, but none of those incentives constituted considerable privileges.

The following figure shows the most important measures adopted by the Foreign Capital Investment Law (1963):

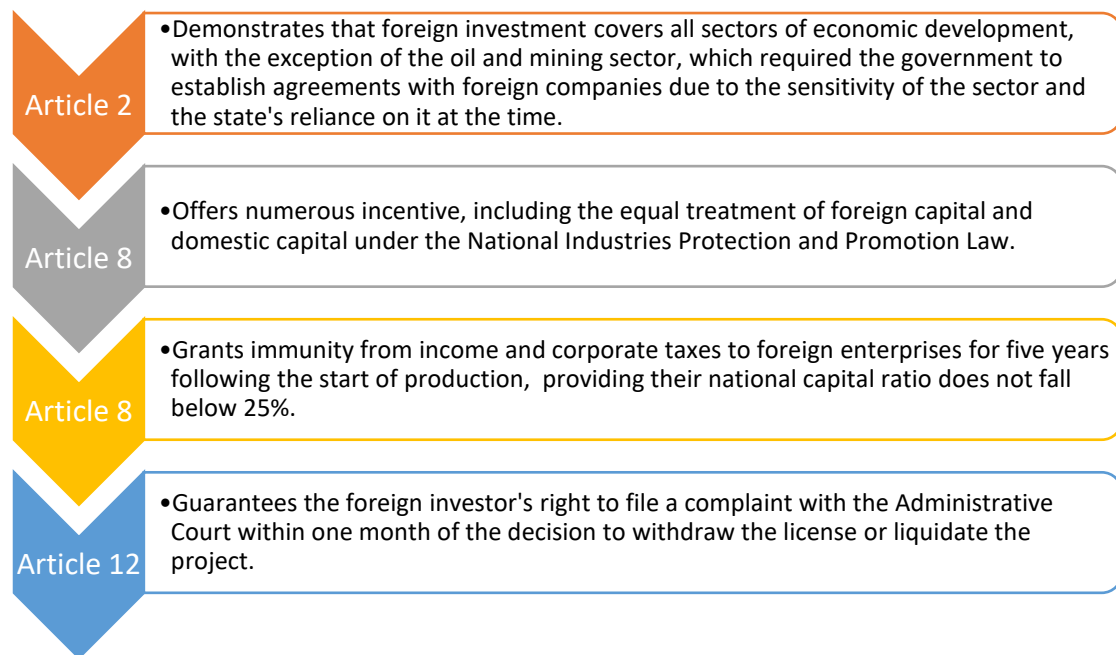


Figure (4) The most important measures adopted by the Foreign Capital Investment Law (1963)¹

Phase III: Issuance of the Foreign Capital Investment Law (1979)

The Foreign Capital Investment Law was enacted in 1979,² sixteen years after the preceding Law. It consisted of twelve articles attached to the implementing regulation, which were explained and interpreted in twenty-six articles. This law appears similar to previous one, with a bit of update; however, it contains specific additional incentives and benefits for foreign investments. Furthermore, the law imposed a constraint by requiring that foreign enterprises be included in the Saudi

¹ See: Foreign Capital Investment Law, Articles 2, 8, 12; also, The Saudi National Industries Protection and Promotion Law (1962). Issued by Royal Decree No. (M/50).

² Saudi Foreign Capital Investment Law (1979). Issued by Royal Decree No. (M/4). Riyadh: Government security printer.

Economic Development Plan and be accompanied by expertise. The following figure illustrates the most significant clauses not included in the prior law:



Figure (5) The most important new provisions in the Foreign Capital Investment Law (1979)¹

Phase IV: Issuance of the Foreign Investment Law (2000)

This is the current phase, which began with the issuance of the foreign investment system (2000), containing eighteen articles and regulating foreign investment in the Kingdom comprehensively in terms of requirements, procedures, incentives, and guarantees. Additionally, the law has been accompanied by a significant legal evolution over the last two decades, with the objective of attracting the largest amount of foreign direct investment possible in the midst of fierce global competition for it. This legislative evolution involves the issuance of a foreign investment law and

¹ Saudi Foreign Capital Investment Law, Articles 2, 6, 7.

the formation of a particular ministry responsible for investment affairs in general, and the legislation and reform of numerous national laws addressing investment issues.¹

Given the historical approach of Saudi legislation to foreign investment, we observe that it chose a cautious approach in order to safeguard Saudi legal sovereignty and prevent the kingdom from becoming dependent on foreign countries. This is evident in the legislation's restrictive provisions, such as conditions limiting investor capacity, narrowing investment areas, and erecting tax barriers. However, the Saudi legislature later returned and adopted an open approach toward the world economy, as indicated by the legislation of several guarantees, incentives, tax exemptions, and various other measures to attract domestic and foreign investment.

Sub-topic II: International Investment Agreements

National governments have been keen to expand investment opportunities and redouble efforts to reassure investors and persuade them to invest in a preferred investment location by establishing obviously identified strategic frameworks. Their efforts did not end with enacting domestic laws and legislation regulating investment activity or incorporating investment schemes into their development strategy, but they extended to international commitments. International arrangements involve entering into a number of bilateral and multilateral agreements and becoming a member of regional and international organizations. These agreements frequently address issues such as equitable treatment of foreign investors, reciprocity in their protection, and the incorporation of international arbitration as a mechanism for resolving any conflicts.

¹ The research will address the issues of legal guarantees and incentives in Saudi law in both chapters 3 and 4, respectively.

This international endeavor is one way to strengthen the relationship between investors and host countries, build a mutual sense of trust, and eventually increase each partners' share of global foreign investment. In their efforts to protect their citizens' investments abroad, the transition of States to international commitment is also one of the most effective ways to ensure such protection. It might be achieved through international mechanisms of bilateral and collective international conventions, whose purpose is to simultaneously identify, regulate, maximize, and protect investment flows. Given the significance of these two forms of international treaties, bilateral and multilateral, the research examines the following points in detail:

Section I: Bilateral Agreements

It is apparent that the number of bilateral agreements between countries to promote and protect investment is growing. This is because these treaties are attempting to fill a void left by the failure of national legislation and multilateral conventions to establish comprehensive and equitable standards of protection for international investments or because they require the addition of some special standards to their bilateral agreement. This is shown in the provisions of bilateral investment treaties, which confirm investor and investment treatment standards as well as provide a clear framework for the international legal laws governing investment in contracting countries.

Bilateral treaties enshrine many international rules and principles that have protective implications for investors, such as national treatment, most favored nation treatment, fair and equitable treatment, and comprehensive and reliable protection. Treaties also identify obligations arising from the protection of invested assets, namely, the confirmation of investor protection guarantees against risks of expropriation or nationalization and dispute resolution procedures between state parties or between the

host state of investment and investor; moreover, the embodiment of international arbitration is a method of settling potential disputes.¹

Bilateral investment agreements, in general, seek to encourage and protect investments between two states, one the exporter of such investments and the other the host. This type of agreement is typically made between a developed country or a country with a rising economy and a developing country, demonstrating the growing importance of this type of international agreement, which reflects the breadth and diversity of the range of interests and exchanges on investment and capital movement throughout the world.² Bilateral agreements in the area of encouraging and protecting investment also constitute a set of obligations and duties under which the parties to the Convention agree to uphold the terms and provisions of the Convention in the face of investments made by natural and legal persons from the two countries. These conventions are usually based on three basic concepts: treatment, protection, and warranty.

Elements of the Formation of Bilateral Agreements

The following section covers a range of the components that constitute the general structure of any structured bilateral agreement for investment and capital movement, as follows:

I. Rules of Treatment

International trade agreements, in general, and bilateral agreements in particular, typically include a commitment on the part of states parties to ensure fair

¹ Sadiq, H. (2003). *The Arab system of investment guarantees against non-commercial risks*. Alexandria: University Publications Dar. p.14.

² Sadakh, O. H., *Guarantees of foreign investments in international law*, p.93 and beyond.

and equal norms and principles for foreign citizens and property. The most critical of these laws and concepts included in international treaties between governments are as follows:

A. Principle of National Treatment

This is one of the most permissive approaches to foreigner treatment since it seeks to equate foreigners with domestic citizens, thereby encouraging them to come to the host State and conduct business. The principle of national treatment, also known as equal treatment, means that a contracting State promises to protect the funds and investments of citizens of the other contracting State as well as the funds of companies and legal persons with that State's nationality. In the same manner, its citizens' and companies' investments and funds are protected under the first State's internal legislation.¹ In other words, states should strive to facilitate economic activity for all, citizens and non-citizens alike.

B. Principle of Most Favored Nation Treatment

This principle means that the State committed, under international institutes, to enable nationals of the beneficiary State to obtain the best treatment decided by the a third State committed to the principle. This principle assumes the existence of three states: the two treaty parties and a third non-party state, the most caring state, whose citizens enjoy the finest treatment of foreign nationals in the state committed to it.²

¹ For more detail see: Al Moji, H. (1992). *The role of bilateral agreements in the development of the international legal system for private foreign investment*. Cairo: Arab Renaissance Dar. P.64 and beyond. Also, see: Sadiq, H. A. (2002). *International protection of foreign money*. Alexandria: Dar alfer Aljamee. p.203.

² Sadiq, H. *International protection of foreign money*. p.14.

C. Principle of Fair and Equitable Treatment

This principle falls under the conditions of unconditional treatment provided for in international treaties, the content of which varies from case to case. This principle is ambiguous and difficult to define, as it is a broad and vague standard comprising various components, such as the principle of non-discrimination and the standards of minimal treatment for foreigners.¹

II. Freedom of Transfer Funds Abroad

The primary concern of an investor wishing to transfer funds and interest, as well as funds resulting from the liquidation of his project, in addition to the wages and benefits of his employees, is the content of the host country's internal investment laws and the availability of bilateral agreements ensuring the transfer on reasonable economic and financial terms. States may impose restrictions on the transfer of foreign cash in order to safeguard their balance of payments and maximize the use of the available foreign exchange. Additionally, a State may use exchange transfer control to accomplish financial goals such as inflation management or economic goals such as safeguarding and strengthening the domestic industry. Therefore, the articles of international agreements include provisions critical to foreign investors in this context, such as the right to transfer foreign investment capital outside of the host country.²

III. Protection Against Non-commercial Risks

Bilateral agreements have become one of the most important legal mechanisms for protecting foreign investment on an international level. Foreign capital exporters

¹ Al Moji, H., p.64 and beyond.

² See: Shehata, I. (1981). *International guarantee for foreign investments*. Cairo: Arab Renaissance Dar. p.75; Basim, E., p.137.

aim to protect their nationals against non-commercial risks to their investments in host nations through these agreements. This principle represents a fundamental safeguard that protects foreign money against expropriation procedures such as nationalization, expropriation, requisitioning, and other comparable actions justified in the public interest. However, this principle is not absolute, as bilateral agreements have incorporated the host state's right to expropriation, within narrow limits and in accordance with general non-discriminatory local laws, with the requirement to pay urgent, fair, and effective compensation, which is a condition for balancing the foreign investor's interest against that of the host state.¹

IV. Means of Resolving Investment Disputes

The issue of resolving trade disputes for foreign nationals is a critical component of bilateral agreements, particularly investment promotion agreements, because providing mechanisms for resolving disputes between foreign investors and the host country is one of the most important legal guarantees foreign capital exporters seek. Since adopting particular provisions for the protection of foreign investments in national legislation is insufficient to guarantee the foreign investor, the parties to these agreements typically attempt to provide a fair and unbiased judicial environment for their citizens by allowing their nationals to participate in the choice of the means of conflict resolution, whether by friendly means, national or international jurisdiction, or arbitration, and by allowing them to participate in the makeup of the judicial body in the arbitration option.²

¹ Melhem, A. H. (1998). "The role of international treaties in protecting private foreign investment in developing countries," Ph.D. thesis, Cairo University. p.154.

² Sadiq, H. A. *The Arab system for ensuring investments against non-commercial risks*, p..24.

In this regard, and in light of its efforts to improve its investment climate, Saudi Arabia has signed over twenty-four bilateral agreements to promote and protect foreign investment.¹

Section II: Multilateral Agreements

International cooperation has resulted in a collection of global collective agreements that serve as the foundation for the international economy. The significance of these conventions rests in their inclusion of legal standards and principles that have become universally binding and undeniable as "accepted international law," as well as in their establishment of international organizations and agencies dedicated to securing foreign investments. Additionally, an increasing number of states are embracing and ratifying these treaties' provisions.²

In this context, the International Treaty is defined as "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."³ Some jurisprudence also defined it as "agreement of will between two or more legal persons in order to accomplish particular legal consequences in accordance with the rules, customs, and principles of international law."⁴

The study of international treaties and conventions for the protection and guarantee of investment necessitates the discussion of a few topics, including the historical role of those agreements, the most important international investment

¹ Bilateral agreements between Saudi Arabia and countries, Saudi Ministry of Investment website. Available at: <https://www.misa.gov.sa/en/e-services/international-investment-agreements/>

² Melhem, A. H., p.306.

³ Vienna Convention on the Law of Treaties (23 May 1969). Part I, Article 2, Paragraph 1. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331.

⁴ Alwan, A. (2009). *Mediator in general international law*. Amman: Culture Publishing and Distribution Dar. p.258.

guarantee agencies and institutions, and the types of international investment agreements. Hence, the research deals with them as follows:

I. The Historical Role of International Investment Guarantee Agreements

Following the end of World War II, the Bretton Woods Conference was held in the United States of America in July 1944, with delegates from forty-four countries participating, and concluded with the signing of the Bretton Woods Agreement, which is regarded as a declaration of the new global monetary system. Following that, the Agreement resulted in establishing the International Bank for Reconstruction and Development (IBRD), one of whose objectives was to encourage foreign private sector investment by providing guarantees, contributing loans, and consulting and promoting global trade growth in general.¹ This international legislative effort was the initial step toward protecting foreign investment, and it was followed by international conventions, the most notable of which are described below.

A. New York Convention (1958)

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards was among the first international treaties to protect investments. It accepted foreign arbitral awards as an internationally recognized method of resolving disputes. It became a pillar of international law in the area of international arbitral award enforcement when it decided to recognize and thus enforce arbitral awards made from the territory of a State other than the State whose provisions it had to recognize. The Convention also sought non-discrimination against foreign and non-domestic arbitral awards, requiring State parties to ensure that such awards, like domestic arbitral awards,

¹ Al Badrig, Y. A. (1998). *International policies in public finances*. Alexandria: University Publishing and Distribution House., p.48.

are recognized and enforceable in their jurisdictions, similar to domestic arbitration decisions.¹

B. Washington Convention (1965)

The Agreement on The Settlement of Investment Disputes between Countries and Citizens of Other Countries is a significant agreement aimed at encouraging private international investment in developing countries.² Additionally, it strives to reassure foreign capital owners in developed nations by ensuring that their finances and investments are protected from measures taken by certain host countries that might confiscate their funds. The International Centre for Investment Dispute Resolution (ICSID) was established under this agreement,³ which conferred significant powers on it, including the binding status of its rulings as if they were final national judgments issued by its internal courts, which can be implemented without obtaining an executive order. This agreement has been endorsed by the majority of countries exporting capital or aspiring to attract foreign capital. It has been signed by 154 countries in recognition of its significance in establishing a clear and binding mechanism for resolving investment disputes and establishing the International Dispute Resolution Centre.⁴

C. Agreement Establishing the World Trade Organization (WTO)

The World Trade Organization is an extension of the organizational framework established by the General Agreement on Tariffs and Trade (GATT), from the Geneva

¹ Convention on the Recognition and Implementation of Foreign Arbitration Awards (New York Convention 1958). Adopted by a United Nations diplomatic conference on 10 June 1958 and entered into force on 7 June 1959. See: Introduction, Goals, Articles (1, 3).

² Convention on the Settlement of Investment Disputes between States and Citizens of Other Countries (Washington Convention 1965). Entered into force on 14 October 1966.

³ Convention on The Settlement of Investment Disputes (1980), which established the International Centre for Settlement of Investment Disputes in 1980 (CIRDI) with 157 members, including 18 Arab countries, was ratified by Saudi Arabia on 8 May 1980.

⁴ Mohammedin, J. W. (2002). *Settlement of international disputes under the GATT*. Alexandria: New University House., p.62.

Round (1947) through the Uruguay Round (1994) and the subsequent foundation agreements upon which the World Trade Organization was founded.¹ As the world's largest economic organization dealing with international trade between countries, the World Trade Organization is today one of the most important pillars of the new world economic order. The organization was established to accomplish a set of shared objectives among its members. In order to accomplish these goals, the organization adheres to a number of rules and principles agreed upon by members and follows them when carrying out its terms of reference.² The most critical of these goals and objectives are as follows:

WTO Top Targets	
1.	Liberalize international trade in goods and services.
2.	Ensure that developing countries receive a fair share of international trade.
3.	Establish a permanent and integrated international trading system more responsive to the requirements of life.
4.	Take all measures needed to resolve disputes that may arise between States parties
5.	Encourage international capital movements and associated increased international investment.
6.	Raise living standards in the Member States.

Table (8) WTO Top Targets

D. Agreement on Trade-Related Investment Measures (TRIMs)

The multi-party trade negotiations in the Uruguay round resulted in various agreements, including (TRIMs), one of the most important agreements signed at the

¹ The World Trade Organization (WTO) is a global organization that officially began its work on 1 January 1995, pursuant to the Marrakesh Agreement of 1994, replacing the General Agreement on Tariffs and Trade (GATT) established in 1948. It is the world's largest international economic organization, with 164 members. Saudi Arabia joined the WTO after the House of Commons ratified the WTO at its special session on accession documents on 11 November 2005, and signed the WTO Agreement on the same day, becoming the 149th member of the World Trade Organization.

² See: Yousef, M. S. (2004). *International organizations*. Cairo: Arab Renaissance House., p.218.

end of the discussions dealing with FDI, one of the topics first introduced in the negotiations in this round. Trade-related investment procedures are laws and regulations, as well as rules and procedures, governing the treatment of foreign direct investment when it has an impact on international trade or vice versa.¹ TRIMs define the procedures in the Agreement as the conditions placed by local governments on foreign investors wishing to operate inside their territory which impede global commerce and investment movement across international borders. This Agreement is extremely important to a large number of economists and investors interested in international trade and capital flows, as it has significant implications for host countries' relationships with multinational corporations. In the broadest sense, it is also one of the core components of international trade agreements, referring to worldwide initiatives to extend international exchange by adding concepts and drivers of international capital mobility and subjecting them to the same GATT standards.²

E. The Unified Agreement on Arab Capital Investment in Arab Countries (1980)

At the regional level, as part of the Arab League's efforts to achieve economic unity among Arab countries, all Arab League members agreed to a unified Arab Capital Investments Agreement.³ This economic agreement is one of the most significant in the Arab world since it regulates all aspects of Arab investment relations and establishes a variety of rights, guarantees, and incentives for Arab investors. It also addressed dispute resolution by establishing the principle that arbitration provisions are not subject to domestic legislation or other international conventions. Additionally, the Agreement

¹ Issa, A. (1995). "Agreement on Trade-Related Investment Measures under the GATT," Sixth Arab Business, and Investor Conference. Alexandria: Union of Arab Chamber., p.315.

² Ibrahim A. (1997). *World Trade Organization Round Uruguay and Legalizing World Looting*. Cairo: Arab Renaissance House., p.125.

³ The Unified Agreement on Arab Capital Investment in Arab Countries (1980). Entered into force on 26 November 1980. Amended in January 2013.

contained a flexible mechanism for resolving investment disputes through conciliation, arbitration, or the Arab Investment Court. This aims to protect inter-Arab investments and to provide an environment conducive to the establishment of investments by investors from Arab countries based on their territory, thereby contributing to closer Arab economic cooperation and stimulating and promoting inter-Arab investment activities.¹

V. International and Regional Investment Guarantee Agencies and Organizations

A. Multilateral Investment Guarantee Agency (MIGA)

The Multilateral Investment Guarantee Agency was founded as a result of an agreement between many World Bank member nations to promote foreign investment in developing countries, primarily to boost economic growth, reduce poverty, and improve living standards.² The Agency's primary objective is to promote the flow of investments for productive purposes among the member states. The Agency grants non-commercial risk guarantees in support of investments among the member states, including involvement in insurance and reinsurance and engaging in complementary activities targeted at promoting investment in its developing member states. In addition, the Agency conducts research and initiatives to promote investment and disseminate information about investment opportunities in developing member states, with the goal of improving the environment for foreign investment in those nations. Similarly, the Agency encourages amicable resolution of disputes between investors and host

¹ See: Investment Climate in Arab Countries (2011). Kuwait: Periodic report issued by the Arab Investment Guarantee and Export Credit Corporation., p.161; Melhem, A., p.291.

² The Multilateral Investment Guarantee Agency (MIGA) was established by an agreement called by the World Bank Board of Governors on 10 November 1985, entered into force in 1987, and began operation on 4 December 1988. The Foundation currently has 179 member states, including 154 developing countries, and the agency is headquartered in Washington, D.C..

countries and encourages and facilitates the signing of agreements between the member states on the promotion and protection of investments.¹

B. International Centre for Settlement of Investment Disputes (ICSID)

According to the Investment Disputes Convention, the International Centre for the Settlement of Investment Disputes (ICSID) was established according to the Investment Disputes Convention between States and Nationals of Other States. The Centre is a branch of the International Bank for Reconstruction and Development (IBRD). It is dedicated to adjudicating disputes between investment-hosting states and nationals of other states who base their investment projects in the host state. Although the International Centre is a branch of the World Bank, it is an independent international organization. The Convention grants the Center an independent legal personality, endowing it with authority to conclude legal acts, acquire rights, and assume obligations. Additionally, the Centre enjoys the necessary diplomatic immunity and privileges with respect to the Contracting States' territories.²

The Centre is the world's most specialized organization for settling disputes between investment-hosting states and foreign investors. Its jurisdiction extends to all types of disputes arising directly from investment between a Member State and an investor who is a national of a Centre Member State. Still, the Centre's competence to settle a dispute requires that the parties accepted the Centre's jurisdiction in writing when the dispute is referred to conciliation or arbitration.

¹ See; Multilateral Investment Guarantee Agency Website, at: <https://www.miga.org/> Also see: Annual Report (2012), Multilateral Investment Guarantee Agency (2012), pp.13-17.

² Mohammed, S. J. (1997). "Opinions on the law applicable to economic development contracts in accordance with article 42.1 of the International Centre for Economic Development Convention." Egypt: *Faculty of Law Journal*, Tanta, Al-Azhar University, no.8., p.612.

To maximize the parties' flexibility and to provide the proper framework for settling their conflict, the framers of the ICSID Convention took the initiative of giving the parties to the dispute extensive flexibility in determining the applicable law and the processes to be followed in resolving the disagreement. By contrast, the Centre stipulates that the parties to the dispute cannot waive the Centre's jurisdiction if it is expressly provided for in the parties' investment contract or in a bilateral international convention between the two States parties to the dispute. Acceptance by the parties to the dispute of the Centre's competence to arbitrate the resolution of the investment dispute entails an agreement to exclude all other methods of resolution, whether national or international unless the State expresses a prior reservation regarding the Centre's jurisdiction or the subject matter of the dispute.¹

C. The Arab Investment and Export Credit Guarantee Corporation (AIECGC)

The AIECGC is one of the first regional and international guarantee institutions established in accordance with international law. It was signed in Kuwait on 2 May 1971, initially by five Arab states and thereafter by all Arab states. The Corporation accepts mainly the guarantee of Arab investment from exporting and importing countries. It is characterized by the participation of States with varying rates of growth and political systems, allowing for economic cooperation and integration.

The AIECGC's mission is to enhance the investment climate in member states, facilitate the flow of Arab capital between contracting nations, and promote Arab exports to other parts of the world. This is accomplished by guaranteeing Arab investors and compensating them for losses incurred as a result of non-commercial risks

¹ Convention on the Establishment of the (ICSID), Articles 25, 26/1, 26/2, 42/1. See also: Mohamed, S. J., p.613; Muhammad, A. I. (1998). *Investment guarantees in Arab countries in the light of the provisions of the Arab Investment Guarantee Corporation*. Cairo: Arab Renaissance House., p.275.

associated with an investment in Arab countries. Additionally, the AIECGC guarantees Arab export credit destined for all parts of the world against commercial risks such as debtor failure, insolvency, or bankruptcy. It guarantees non-commercial risks preventing the exporter from fulfilling its obligations, such as wars, civil unrest, transfer prohibition, or non-fulfillment of the insured debtor if it is a governmental entity.¹

VI. Types of International Investment Guarantee Agreements

International conventions and treaties protecting foreign investment vary. Bilateral and multilateral treaties protect and promote investments and other general trade treaties serving the same goal. Among the most notable of these treaties are the treaties of friendship, commerce, and navigation, the treaties of investment protection, the treaties of cooperation and friendship, and the treaties of double taxation avoidance.² The following section highlights the major types of international investment treaties.

A. Treaties of Friendship, Trade, and Navigation

Treaties of friendship, trade, and navigation were among the first international agreements signed by capital-exporting countries to safeguard foreign investment. Such agreements trace all the way back to the eighteenth century, most notably the 1778 Treaty of Friendship, Trade, and Navigation between the United States of America and France, the first treaty of this type to be concluded by a member of the international community. Between Second World War and the late 1960s, treaties established by the

¹ See: Shehata, I. *The Arab guaranty system*, p.75.

² Salacuse, J. W. (n.d.). "BIT by BIT: The Growth of Bilateral Investment Treaties and Their Impact on Foreign Investment in Developing Countries." *SMU Scholar*. Also see; Gharbawi, S., p.267.

United States, Japan, and Western Europe constituted the bedrock of foreign investment protection throughout that period.¹

B. Investment Guarantee Treaties

Investment guarantee treaties are agreements between capital-exporting and capital-importing countries for the implementation of their respective national systems of investment guarantees with respect to investments made by their nationals in the territory of the other state. The insurance policy received by investors from the National Investment Guarantee Agency serves as investment protection under these agreements.

C. Treaties of Cooperation and Friendship

This type of treaty represents the desire of two or more States to strengthen friendship and cooperation through increased economic cooperation for the advancement and well-being of their peoples. They seek to conclude an international Treaty containing facilities and privileges that encourage the nationals of each country to work in the territory of the other State.

D. Investment Protection and Promotion Treaties

This type of international treaty is primarily concerned with the protection of foreign investment, with States negotiating such treaties as a primary tool of their foreign policy. Through these treaties, States seek to establish an effective international legal framework for regulating their nationals' investments in the territory of other States, from the initial entry of a foreign investor into the host country's territory to the liquidation of the investor's project and the transfer of capital and profits abroad.

¹ The United States of America and Japan were pioneers in establishing such treaties, with the US finalizing around 22 such treaties between 1950 and 1968. Japan has also signed similar treaties with a number of countries, including India (1958), Malaysia (1960), Peru (1961), and the Philippines (1979). See: Kohona, P. T. B. (1987). "Investment protection agreement: an Australian perspective." *Journal of World Trade Law*, vol. 21, no. 2, pp.79-103. (p.81).

Chapter II: Barriers to Investment in Developing Countries

Introduction

Developing countries seek to increase investment by creating a favorable and appealing investment climate that attracts both domestic and foreign capital to support their development projects. They believe that investment is a fundamental pillar of economic and social development. It stimulates economic growth and raises living standards. It solves many of the problems associated with poverty and unemployment and their social consequences.

There is no doubt that the trend of investment in a particular country depends on the host State's ability to provide a variety of facilities and incentives to attract it on the one hand and overcome and remove the barriers and obstacles that stand in its way on the other. If obstacles block the path to investment, providing incentives and facilities alone will not suffice; the obstacles must be mitigated or removed as much as possible. These barriers typically differ from country to country, depending on the investment procedures and policies in place in each country.

In the light of this process, developing countries face a number of challenges in achieving their investment-attractive objectives. The most significant of these obstacles is the lack of key factors that shape the investment climate in these countries, such as political and security stability, adequacy of investment legislation, economic policy conditions, poor infrastructure, and administrative and procedural investment obstacles. These barriers may vary by country, but they are more often reflected in investment activity circumstances, which is the sum of the factors and regulations imposed on investment activity or investors that impede investment projects. These factors are frequently under the control of the host country, which can alter them to encourage and

attract investment while competing with other countries in this competitive environment. A detailed discussion of these obstacles to investment follows.

Topic I: Political and Security Obstacles

Introduction

The political and security situation of a country is one of the first factors influencing the decision to direct investment in one direction or another. This is because capital is often cautious, perhaps overly so, and investors carefully consider all of the factors that surround their investment, the most important of which is the political and security stability of the country in which they wish to invest. This is evident in many investors' willingness to move their money and invest it in more stable countries, particularly in terms of politics and security. Because these stable countries are capital attractions all over the world, the more politically stable and secure a country is, the more appealing it is to investors. As a result, the first step in creating an attractive and stimulating investment climate is to work to establish a stable political and security system. This will boost investor confidence and make investors feel more secure about their assets and funds invested in the host country. A stable political and security system and its role in creating good relations with other countries opens up significant potential for economic cooperation among countries, directly affecting the promotion of domestic investments and attracting international investments.

Sub-topic I: Political Stability

One of the most important factors influencing the investment climate in developing countries is political stability. The presence of a stable political system based on establishing justice, guaranteeing rights, and protecting funds through the empowerment of independent judicial institutions, enforcing laws, and working to control and combat corruption is usually reflected in the state of economic stability. It

is also considered a necessary condition for encouraging domestic investment and attracting foreign investment. Until investors are satisfied with a country's current political system and the prospect of its stability, they will not invest in it. As a result, we do not expect an investor to establish projects in a politically and economically unstable country surrounded by unrest, war, or successive coups d'état. Furthermore, countries lacking a reasonable level of political stability face a high level of non-commercial risk in the investment process and, as a result, move away from domestic and foreign investment flows, regardless of the opportunities and concessions they offer to investors.¹

Due to internal disputes and turmoil, the absence of a stable political atmosphere in some developing countries unquestionably affects the state's ability to attract domestic and foreign capital for future investment projects. This is because the likelihood of these investment projects failing or their assets being lost is exceptionally high. Many domestic investors are typically unwilling to invest their capital in their country in such circumstances and migrate in the opposite direction, seeking a tranquil investment climate that offers security and stability.²

Particular investments may originate in times of political instability, but they frequently have their distinct characteristics. They are either made in high-yielding operations that do not involve significant risk, such as investments in buildings, real estate, and so on, or in simple consumer sectors. When it comes to investing in productive industries, the choice is sometimes delayed due to the lack of political

¹ Hernández-Catá, Ernesto. (2000). *Raising growth and investment in Sub-Saharan Africa: what can be done?* [Washington, D.C.], International Monetary Fund, African Department, pp.30-33 (p.31).

² Shams, M. M. (2019). "Obstacles to investment in developing countries." *Journal of Islamic Economics*, Dubai, Dubai Islamic Bank., vol.39, p.451.

stability in the host country, the enormous capital necessary, and the anticipated length of the construction period until the investment reaches net returns.¹

Additionally, many international indicators of the investment climate in developing countries place a premium on political stability in their periodic results, based on their conviction that political stability has a positive effect on economic and investment stability in those countries. When we consider the political criterion, we discover that many developing countries score low on these measures due to their volatile and uncertain political environments. On the other hand, we observe that a country such as Singapore ranks first in these measures due to its low political and non-commercial risks, resulting from a variety of factors, including political stability. This resulted in high rates of foreign investment and contributed to Singapore's economic revival. The success of Singapore demonstrates the critical role of political stability in the investment process, both in terms of its impact on the state's investment climate and its role in attracting more investments, domestic and cross-border investments, especially for developing countries that aspire to be a magnet for international investment.²

Sub-topic II: Security Stability

Investment decisions are among the most sensitive to the low level of security stability in the countries that host investments. The degree of security stability in the investment host country and the growth rate in investment volume directly correlate.

¹ See: Hassanein, J. H. (1990). *The Islamic Method of Capital Formation and Economic Development*. Alexandria: Egyptian Universities House., p.44.

² See: Albeblawi, H. Akoum, I. & Bernia, M. Y. (2005). *Arab financial institutions and financing of development and investment in the Arab world*, a study prepared for the Economic and Social Council of the Arab League. Abu Dhabi, Arab Monetary Fund., p.235. And see: Shandi, O. A. (1998). *The renaissance of the Singaporean economy and the lessons learned*. Cairo: Economic Bulletin, Bank of Egypt, issue 1, p.109.

They are two sides of the same coin, with parallel paths going up and down in the same direction. When a country's security situation improves, investment prospects improve; when the country's security situation deteriorates, investment growth potential decreases. As a result, security instability, a lack of the rule of law, a lack of property protection, and widespread corruption all contribute to a decline in the proportion of developing countries in investment flows.

Sub-topic III: Corruption

In addition to political and security instability, corruption is one of the most significant impediments to boosting the investment climate in developing countries. Corruption is a complex negative phenomenon that consists of several different factors intertwined with a common factor, namely the achievement of an illegitimate result through the exploitation of the power bestowed on the holder of public authority. Corruption usually arises in a climate of several factors, including political factors such as low civic participation, low political transparency, monopoly and government competition, obstruction of justice, weak accountability and oversight, and government bureaucracy. Economic factors include financial crises, economic insecurity, and increased unemployment, and social factors include poverty, a lack of societal awareness, and a lack of knowledge of one's rights.¹

According to Transparency International, corruption is "the abuse of entrusted power for private gain."² So, as defined, corruption has a detrimental effect on both

¹ Abdel Hamid, S. A. G., & Aljazar, F. F. E. (2018). "The relationship between corruption and foreign direct investment: An applied study on the Egyptian economy (1996-2016)." *The Scientific Journal of Commercial Research, fifth year* (3), pp.143-175 (p.150 and beyond). And see: Abdel Hussein, Z. E. M., & Siwan, H. K. (2012). *The relationship between administrative corruption, money and foreign direct investment: A case study of Iraq using regression analysis*. [Master's Thesis, College of Political Science, Al-Nahrain University]. Results.

² Transparency International, Definition of Corruption. Retrieved on 3/2/2022. Available at: <https://www.transparency.org/en/what-is-corruption>

domestic and foreign investments. It is deemed to have additional costs that the investor must pay for the public official to perform or expedite the legal service assigned, thus deducting a portion of the investor's profits.

While the causes of corruption vary by country, their prevalence is typically due to the nature of the political system, the adequacy of legislation and regulations, the means by which they are implemented, and the powers conferred on public officials. One of the most significant causes of corruption in the investment sector is political and security instability, which serves as a gateway to widespread corruption in developing countries and contributes significantly to the decline in transaction transparency. As a result, confidence in their institutions, which are supposed to ensure the economy's stability and continued growth, deteriorates. For instance, a lack of transparency in transactions involving significant investments in developing countries is common. Failure to disclose specifics about these investments and a lack of transparency are two practices that indicate the prevalence of investment-repellent corruption. Transparency is a critical element in creating an investment climate and a critical factor in decisions by foreign investors and multinational companies looking to invest in developing countries.¹

A major cause of corruption is the lack of clarity or efficiency of laws and legislation in developing countries, which leads to not addressing significant problems such as corruption. Because of this ambiguity or lack of legislation, legal texts can be interpreted and circumvented in order to avoid the penalties and sanctions imposed by those laws. Consequently, these laws become distorted, ineffective, and do not fulfill

¹ Lamari, W. (2011), *Legal Incentives and Barriers to Foreign Investment in Algeria*, [Master's Thesis, Faculty of Law at the University of Algiers], p.98.

their intended purpose. In other words, the existence of corruption is a direct reason for the perversion of justice; it affects critical legal principles, namely, the administration of justice, the guarantee of rights, and the affirmation of the principle of equality before the law, so that no one is above the law. One type of corruption in the investment environment is a lack of clarity in the state's tax policy and transparency in its tax laws and procedures. It is usually accompanied by a lack of strict control over employees working in tax procedures and is a significant entry point to corruption. The lack of strict control over tax officials' actions and fee collection by the State supervisory authority, while granting them substantial powers, allows them to use their influence and authority to further their personal interests.¹

The monopolization of certain investment-related activities or services by developing-country governments may also open the door to corruption. This may enable political leaders or senior government officials to intervene directly in their economies in order to advance their personal interests. For example, when public officials may intervene in investment contracts and transactions by imposing restrictions and complicating government actions in order to discourage the creation of new or foreign investment projects. It may also occur if they monopolize essential services required by investment projects. This is to compel investors to include them in their investment projects or to pay bribes in the form of "commissions" to expedite investment project procedures. This intervention is also reflected in implementing economic policies that do not support foreign investment, such as industrial policy, productivity, and the associated government support for national industry and price control. Government intervention may also take the form of government competition

¹ Abdel Hamid, S. A. G., & Aljazar, F. F. E., p.145.

for other investments with similar projects, or control over significant State development projects. That is because of the disparity in opportunities between the parties and the unilateral availability of authority and powers, namely, the governmental party. So, the existence of such conditions and competition in investment-hosting States is an indication of an unjust investment climate, thus alienating investors from such circumstances.¹

On the other hand, there are indirect causes of corruption in developing countries, such as low incomes of public officials and low community awareness. This may lead some public officials to resort to illegal methods of gain, such as bribery and misappropriation of public funds, in order to increase their paltry incomes. Therefore, having a plethora of investment projects with very high values may cause some ambitious employees to try to make quick, big profits. This may occur by accepting bribes to facilitate or speed up the procedures for such projects, unless the governments of developing countries tighten control over their public officials.²

Topic II: Legislative and Judicial Obstacles

In light of the increasing intensity of international competition to attract investment, developing countries are attempting to establish an appropriate legislative framework for investment that is free of obstacles and barriers. This is important for improving the investment environment, stabilizing transactions, and increasing confidence in the host country's economic system's efficiencies. Legal frameworks and

¹ See: Mauro, P. (1995), "Corruption and Growth," *The Quarterly Journal of Economics*, vol. 110(3), pp.681-712.

² Aboud, A. S. (2010). "Analysis of images and causes of financial and administrative corruption: a survey of a selected sample in Diwaniyah Governorate." *Al-Qadisiya Journal of Administrative and Economic Sciences*, vol. 12(1), pp. 138-119. Al-Qadisiya University - Faculty of Administration and Economics. 140.

essential conditions for attracting investment include investment legal protection and transaction and procedure facilitation. A good legal framework usually encourages capital accumulation, reduces unnecessary routine transactions, and contributes to giving investors the sense of stability required by long-term investment.¹

Historically, the dominant narrative was that domestic and foreign enterprises and investors battled for the satisfaction of host countries and for gaining the right to operate and invest in these countries, owing to the lack of investment opportunities at the time. However, this image has shifted, with host governments vying for domestic and foreign investments and doing everything possible to create an appealing investment climate conducive to attracting these investments to their markets. This is due to the rising competitiveness among states and their need for capital to support economic growth and contribute to the execution of their development goals.² One of the preparations for this race among developing countries is their tireless work to modernize their national legislation. It is done by enacting or amending their investment legislation and laws to achieve advanced positions in international competitiveness indicators so that they can compete successfully with counterparts from other countries in attracting foreign investment and capital.

In the following sections, the research addresses the most critical legislative obstacles that have a direct impact on the investment climate in developing countries.

¹ Shehata, I. (1996). *The Legal Framework for Economic Reform in Egypt*. Cairo: Egyptian Centre for Economic Studies. P. 5

² Alissawi, I. H. (1976). How realistic are the hopes placed on the flow of foreign investment and its contribution to development in Egypt, the first annual scientific conference of Egyptian economists, Cairo: The Egyptian Society for Political Economy, Statistics and Legislation. P. 15

Sub-topic I: Legal Conduct of the State

One of the essential tools developing countries use to create an acceptable and competitive investment climate is the legislative instrument. Clearly, the more developing countries succeed in developing a legal approach that is acceptable and credible to investors, the more this is reflected in future investment expansion. The enactment of investment protection legislation and a clear legal framework for the investment process is essential. As a result, how developing country legislatures deal with the regulation and protection of investment activity directly informs the rate of investment growth and the competitiveness of the climate in which they operate.¹

Therefore, the presence of elements of the composition of the investment climate, such as the availability of natural resources, the expansion of the market, and the rehabilitation of regulatory and administrative structures, are necessary conditions. However, these elements are not sufficient in themselves to increase the attractiveness of a country's investment climate. The presence of ambiguities or uncertainty surrounding the State's legal conduct in such a climate, such as the lack of clarity in national legislation governing the investment process and the failure to adopt adequate safeguards, undermines the expansion of investment. Uncertainty about policy continuity and the anticipated repeal of existing legislation is also a significant barrier to investment growth.²

Therefore, regulation of the investment process necessitates a well-developed legal system in the host country, which lays the groundwork for ensuring the flow of

¹ See: The Arab Investment Guarantee & Export Credit Corporation. (1995). Twenty-first annual report. p. 6., See also: AlHaddad, M. O. (2015). *Legal rules regulating the attraction of foreign investment*. Alexandria: New University Dar., p.81 et seq.

² AlHaddad, M. O., p.98.

investments to foster the national interest in making straightforward strides toward progress and growth. Promoting investor interests by adopting legislative safeguards that protect investors' rights encourages national and foreign investors. The government should promote investment opportunities and advantages, informing investors of favorable legislative and legal conditions, and making investors more certain about the efficiency of the host country's laws and the protective safeguards for their investments against non-commercial risks.¹

Accordingly, one of the most important aspects influencing the composition of the investment climate in which the investor operates is the State's legislative activity. Inadequate, unstable, imprecise, and opaque law creates an uncertain investment climate and increases investment risk. Consequently, investors are hesitant to make new investments in such an environment. They may focus on projects that provide high and rapid profits to themselves while providing low development benefits to the host State, or migrate to other countries that are legislatively stable.

Section I: Adequacy of Investment Legislation

The adequacy of the legislation governing the investment process and the extent to which it contributes to an attractive and stimulating environment for the initiation of investment projects are of particular importance to investors in investment-hosting countries. The adequacy of this legal framework for the investment process gives the investor a complete picture of the stages of their investment venture. Legal guarantees and incentives for investors and procedures and means for settling disputes between investors and government agencies are among the most important mechanisms, in

¹ Abdul Salam, S. (2002). *Tax incentives and their impact on investment and development in Egypt*. Cairo: Arab Renaissance House., p.22.

addition to the mechanisms governing investment entry into the host country and those determining the permissible legal form of such investment.¹

In addition to the preceding, one of the most critical factors that make a foreign investor reluctant to invest in a country, and one of the first legal obstacles, is a lack of adequate legal protection for non-commercial risks, such as nationalization, confiscation, and expropriation of public interest, restrictions on freedom of capital transfer, the recognition of intellectual property rights, and guarantees of contract enforceability in the State. Also important are excessive enactment of restrictive administrative regulations and investment work regulations, and extremely slow litigation.²

To summarize, the effort by developing countries to ensure that all previous legal determinants in national investment legislation are guaranteed is crucial to attracting and boosting their investment climate. In contrast, the absence of such determinants or the failure to ensure the investor in national legislation will impede both domestic and foreign investment in the host country.

Section II: Stability of Investment Legislation

One of the barriers to investment flows in developing countries is the instability of investment legislation. Changes and legislative transitions frequently perplex investors, who are unsure how the amended legislation affects the prior guarantees or incentive. A large number of investment laws and frequent amendments to them at short

¹ Mabrouk, N. A. (2013). *Economic implications of foreign investment*. Alexandria: University Thought Dar. p.91.

² See: Arab Investment Guarantee & Export Credit Corporation. (2014). *Investment climate in The Arab countries*. Kuwait: periodic report. p.159.

intervals indicate that the host country's investment climate is unstable and unreliable, which is a repellent factor for investments.

Several studies have found that creating an appropriate legal environment for investment requires the smooth and harmonious functioning of political, legislative, and judicial systems. There should be no conflict between those authorities by enacting laws and decisions that impede and restrict investment-related transactions. Furthermore, legislative stability must be sought by refraining from making further changes to investment legislation. Failure to ensure the continuation of policies, or the expectation that some of the laws in place will be repealed, is a significant impediment to investment expansion.¹

Frequent changes to tax laws, for example, make investors, and foreign investors in particular, uncertain about the future of their investment projects. Foreign investors need to know how much tax they will have to pay on the money they make in one country or another. Hesitancy occurs if the law changes significantly or is not stable at all. Investors may stop believing in the country's tax policy and move their money to invest it in a more stable country.²

Section III: Clarity and Fairness of Investment Legislation

A good investment climate necessitates clear, consistent, and compatible legislation that is stable and applied without discrimination between national or foreign investors. Investors are typically interested in the availability of legislation that clearly and transparently guarantees their rights in the host country, such as those that ensure

¹ Abdul Ghani, Y. (1998). "Investment incentives under economic reform with an analytical study of tax incentives in financial reform. 3rd Scientific Conference," Faculty of Commerce in Banha, Zagazig University., p.491.

² Ghani, p.491.

protection against non-commercial risks, in other words, ensuring that private property is not nationalized or confiscated or that fair and immediate compensation is provided in the event of confiscation. Also important is guaranteeing the right to use international arbitration to settle investment disputes should the investor need it.¹

An appropriate legal framework free of investment barriers must increase benefits and incentives and reduce potential risks. It should also instill confidence in investment relations, ensure equity for all, and ensure transparency in the disclosure of information, procedures, and decisions--all clearly available to investors. To prepare a good feasibility study, investors need correct and accurate information and data, which allows them to understand the current situation and forecast the future.

Transparency includes the clarity of legislation, its implementing regulations, interpretations, and trends in their application, particularly for laws directly related to investment activity, such as investment law, taxation, import, export, and customs. Because these laws play an essential role in fostering a suitable investment climate, most host countries, particularly developing countries, are revising them to advance their investment objectives. The revisions begin with licensing and registration procedures for investment projects, move to guarantees and incentives, and conclude with settling investment disputes and transferring capital abroad.²

In terms of regulation, administration, and dealing with investors, it is advisable to identify an independent government agency, under the rubric of a ministry, authority, or agency, to organize and guide investors, as many countries have done. This

¹ Basim, E. M., p.244.

² See: Labiba, J. (2015). *The Impact of investment policies on attracting FDI in The Arab countries. Comparative study: Algeria, Egypt and Saudi Arabia*. [Doctoral thesis, Faculty of Economic and Commercial Sciences, Mohamed Khidir University], Algeria. p.160.

simplifies and standardizes regulatory processes related to investment, such as obtaining permits and licenses. This also prevents investors from bearing the burden of asylum or contacting several relevant government ministries and agencies, including the ministries of finance, labor, trade, energy, transport, and health.¹

Sub-topic II: Settlement of Investment Disputes

Investment disputes are distinctive due to the characteristics of the parties involved, namely a host State and a foreign investor, or a national investor and a foreign investor. or in distinguishing the subject matter of the dispute, which is the investment project and its connection to the host State's vital interests. Dealing with such disputes also necessitates effective means consistent with their specific nature and which take into account fairly and independently the interests of the parties. This emphasizes the importance of regulating the means of resolving investment disputes between the host country and the national or foreign investor in order to improve the host country's competitiveness in attracting investments. This right can be guaranteed to the disputing parties by providing one or more modes of litigation, either through the host State's national jurisdiction or by ensuring the right to resort to competent international arbitral tribunals in the resolution of investment disputes.²

Investors, particularly foreigners, are thus keen to ensure that fair judicial means are available in countries where they wish to invest. Providing that investment legislation in investment-hosting countries guarantees the right to litigate and settle

¹ See: Borawi, S. (2008). *Incentives Granted to Foreign Direct Investment in the Arab west Countries, A Comparative Study*. [Master Thesis, Faculty of Economics, University of Batna], Algeria. p.49.

² See: Lotfi, K. H., p.118 and beyond; Labiba, J., p.102.

investment disputes through channels they trust, such as international courts or arbitration centers.

The issue arises when developing countries invoke the inherent competence of their national jurisdiction to adjudicate investment disputes in their national legislation. This is due to the fact that investment projects are frequently linked to development projects, and they intersect with the principle of the State's sovereignty and independence over its territory, so long as the conflict occurs within its territory. Many developing-country investment laws established national courts' jurisdiction over investment disputes. Some of these laws went even further, establishing that only national courts could hear investment disputes between foreign investors and the host country. This restricts investors' ability to choose the method of dispute resolution that they deem appropriate for them, as investors frequently feel uneasy with a national judiciary that may be an independent and unfair option.¹

For a variety of reasons, many foreign investors are refraining from investing in countries that implement such policies. One concern is the different legal positions of the parties in an investment dispute in which the host State is a party. Because a State is considered a sovereign party in such a dispute, and the investor, in this case, is a private person or a foreign company, the State is the only party considered a subject of international law. As a result, it is difficult to equate the parties in a dispute who have different legal positions before the host State's national courts. According to the

¹ Alasaad, B. M. (2006). *Investment contracts in private international relations*. Beirut: AlHalabi Publications. p.326; Lotfi, K. H., p.119.

investor, this ultimately results in the investor losing his right to a fair trial, making it difficult to reassure him of the desired outcome of such a means of resolution.¹

One such primary consideration is the investor's fear of applying the principle of judicial immunity of the host State, which could prevent the domestic judiciary from hearing disputes in which the host State is a party. Or, following the trial, encounter the impediment of immunity from execution, which the investment host country may use if the investor obtains a ruling against it. This may result in the investor being unable to implement the sentence, given the decision of national legislation not to enforce public funds.²

Based on previous considerations, it can be argued that limiting the settlement of investment disputes arising on their territory to national courts is a significant barrier to attracting investment in some developing countries. This is because of the difficulties mentioned earlier that an investor might face when resorting to national jurisdiction, which will leave him utterly dissatisfied with the judgments handed down by the host country's national courts.

As a result, developing countries must provide all possible means of settling investment disputes in ways that reassure investors, such as recourse to international courts or international arbitration centers. Investors consider these means to be one of the most significant guarantees that ensure their rights, a protection against the host country's authority and influence as a sovereign authority. Such means also motivate and attract investors to host countries.

¹ Sadiq, H. *The Arab system of investment guarantee against non-commercial risks.*, p. 24 and beyond.

² See: Melhem, A. H., p.216.

Sub-topic III: Legal Restrictions

Certain practices related to the investment process may be restricted in some developing countries under investment legislation. These restrictions differ depending on whether they are direct or indirect to investment activity. Some direct restrictions prevent foreign investors from exercising one of their most fundamental rights, namely the right to manage and control the investment project, by requiring them to involve a national party in its ownership and management. Or impediments may inhibit the free movement of capital invested. Other indirect restrictions that developing-country investment legislation may impose on investors include those that prevent the investor from disposing of his investment project if part or all of the project's capital is sold or transferred to another owner, or restrictions on foreigners' work and residence in the host country, or preventing him from owning property and land for his investment project entirely. Because of the significance of these legal constraints on the investment process and its climate in the host country, the researcher discusses them in some detail as follows.

Section I: National Partnership Restrictions

In accordance with the principle of sovereignty, some investment legislation in developing countries subjects foreign investors to national partnerships in investment projects that arise on their territory. The justification for this trend is that legislators in countries that adopt this restriction believe that control of ownership by foreign investors of investment projects in their countries may harm the national public interest and undermine the state's national sovereignty. The mechanism for enforcing this restriction is that the national legislator requires the foreign investor who wishes to establish the investment project to establish a partnership framework with the national capital. Moreover, the legislature may impose a minority contribution ratio of 49

percent for the foreign investor and 51 percent for the national investor, or something similar. The licensing of foreign investors depends on the fulfillment of the minority participation requirement, which allows the national investor to take effective control of the project. Such legislation may permit the national contributing partner to be a natural person, depending on the nationality criterion; namely, the contributing partner must be a national of the investment project's host country. The national contributing partner may also have a legal personality; the partner investor's legal entity may be of the host country's nationality.

This restriction is one of the most significant impediments to foreign investment in countries that impose such a restriction. This is due to a variety of factors, including the foreign companies' unwillingness to relinquish management and control of the investment project. It's also challenging to find a competent national partner, especially given that the majority of partnerships in this context involve a public institution, governmental or quasi-governmental in nature. Departments operating in the public sector are frequently less professional than their private sector counterparts. As a result, this restriction does not incentivize foreign companies and investors to form joint projects and thus increases investment barriers in developing countries.¹

Section II: Restrictions on Capital Movement

One of the most significant factors attracting investment is the unrestricted free movement of foreign capital which, without a doubt, contributes to increased investor confidence and provides positive indicators of the host country's investment climate.

¹ Ismail, H. S. A., p.64 and beyond.

However, some developing-country legislation restricts the free movement of invested capital or the re-transfer of investment returns, which is one barrier to the flow of foreign investment. Some policymakers in developing countries believe that this is a sovereign measure to control the capital accumulation and preserve the state's financial resources. The association of capital movement with the state's monetary and financial policy and its impact on the balance of financial flows and balance of payments justifies such a precautionary measure.¹

Section III: Restrictions on the Right to Dispose of the Project

Along with previous restrictions, some investment legislation establishes the priority right of the state or one of its institutions to purchase the investment project if the investor wishes to sell it or if it is liquidated. Many consider such behavior to be one of the constraints on the investor's right to dispose of his investment project. It is a measure that unequivocally demonstrates the interference and control of the public authority, the host State, over the investment process. This means that the host country takes the investor's place by purchasing the investment project or its shares. The legislators of this right and its supporters may argue that the state's exercise of the right of priority in the field of investment is part of the state's right to preserve funds and investments on its territory. It also provides the national alternative to encourage and support the national investor over the investment sector, thus protecting the national economy and realizing its strategic interests and objectives.²

¹ See: AlHaddad, M. O., p.144; Ismail, H. S. (2015). *Legal Status of Foreign Investor, Comparative Analytical Study*. Alexandria: New University Dar., p.43.

² See: Shehata, I. *International guarantee for foreign investment.*, p.75; Haruri, S. H. (2018). *Legislative guarantees for foreign investment*. Alexandria: University Thought Dar., p.123; Ismail, H. S., p.69.

Section IV: Labor and Residency Restrictions on Foreigners

Labor and residency laws in the investment host country have a significant effect on the investment process. Labor laws govern the relationship between workers and employers and between employers, workers, and the host State. Residence laws also affect the lives of foreign investors and foreign workers. Investment project managers frequently seek to attract skilled and trained, or even cheap, labor in specific industries that may not be available in the host country. As a result, workers from various nationalities have typically been involved in investment projects.¹

However, some legislation in developing countries imposes numerous restrictions on foreign workers in labor laws. Some labor laws require the management of foreign enterprises to have the majority of the workers in the project be citizens or require the investment establishment to localize jobs within specified time periods after the start of the investment project. Also, when requesting residence visas for new foreign workers, foreign labor attracted to the investment project may be required to be highly experienced or skilled in rare qualitative specializations.²

Restrictions on foreigners' ability to reside in the host country for the purpose of investing are another legal impediment to attracting foreign investment. The more restrictions imposed on foreign investors and workers, the less efficient and productive they will be. On the other hand, the more flexible and lenient the legislation is regarding foreign investors and worker residency, the more comfort, reassurance, and stability they have in better planning their investments, and the more options they have for

¹ ALmashaal, K. A., p.124 and beyond.

² Haruri, S. H., p.240.

attracting skilled workers. As a result, the host country benefits from investment and increases its competitiveness in attracting foreign investments.¹

Section V: Restrictions on Alien Ownership

Some developing-country investment legislation restricts foreign ownership of investment projects and real estate. This is achieved by allocating to the foreign investor a stake of not more than 50 percent, or something close to that, of the venture capital or land and real estate ownership. It is viewed as an impediment and a negative factor by foreign investors, limiting their activity within the host country. Conversely, countries that facilitate the foreign ownership of investment projects or land and real estate, particularly those required to begin and facilitate their investment activities, enable investors to operate with confidence and feel assured of their investment assets in the host country. This is considered an attraction for additional investment and a catalyst for the investment climate.²

Topic III: Economic Barriers

The economic conditions of the host country are critical aspects of its investment climate. Those varieties of economic factors typically influence the decision to invest domestic or foreign capital. In addition, the appropriateness and efficiency of the tax and customs treatment imposed by the country's economic policy also influence investment. This policy can determine the investor's decision to invest in one country over another. As a result, stable economic, tax, and customs factors that encourage investment are critical to attracting investment and foreign capital. At the same time, it sends a positive signal to investors about the economy's quality. After all, an investors

¹ Ismail, H. S. A., p.57.

² Abu Qahaf, A. (2001). *Business economics and international investment*. Alexandria: Radiation Library., p.527; Ismail, H. S., pp.64-84.

ultimate goal in examining these factors is to determine the viability of the economic climate in which they will operate.

The following sections discuss the main economic, tax, and customs factors affecting the investment climate in developing countries.

Sub-topic I: Economic Factors Affecting the Investment Climate

Economic factors in developing countries play an important role in attracting and directing investment. The most important of these factors that have a direct impact on stimulating the host country's investment climate are economic policy stability, competitiveness and the degree of openness of the economy, monetary and exchange rate policies, and the availability of investment resources and opportunities. The following factors are addressed in detail in the research.

Section I: Stability of Economic Policy

The concept of economic stability in developing countries refers to the extent to which those countries can achieve several economic indicators, such as the country's ability to advance toward economic development and maintain economic growth rates. It can also be achieved through the logical operation of human, material, and financial resources while maintaining appropriate price and monetary stability, which allows for continued development without internal or external economic pressures.¹

Economic instability in the country can be measured by observing the volatility and changes in the country's economic policy and its lack of commitment in a single direction. Investors regard countries governed by stable, clear economic regulations and

¹ Zaki, R. (1981). *Public spending and economic stability in Egypt*. Planning and Development Issues Series in Egypt, No. 16. Cairo: National Planning Institute., p.1 and beyond.

laws as better and more investment-friendly than those characterized by frequent changes in their economic policies, such as those whose economic policies respond directly, even dramatically, to changes in government leadership like a new head of state. The objective of investors is to understand the economic climate and market conditions in which they are operating, and they would be unable to do so if the host country lacked economic stability. So, changes or backtracking in the state's economic policies can undermine the state's credibility. As a result, investors are in a highly unpredictable position and fear that future policymakers will reverse laws and economic agreements. Since investing in fixed assets is a long-term process, the credibility of investment hosts is an essential factor in attracting such investments.¹

It should be noted that a variety of factors influence economic stability and have a significant impact on the flow of investment to developing countries. The most important factors are the state budget's ongoing deficit, the balance of payments, and the dysfunctional monetary policies that accompany it. Large and unexpected changes in inflation rates, which disrupt information on the relative price structure and raise the risk of long-term investment, are also problematic. Restrictive import and export policies and unrealistic exchange and interest rate policies also play a role. All these factors have a weakened confidence in the country's economy, both domestically and internationally, which is a factor that drives away domestic and foreign investment.²

¹ See: Mabrouk, N. A. *Determinants and guarantees of attracting foreign investment*, p.28.

² See: Shehata, I. (2001). *My will to my country*. Cairo: Family Library, Egyptian General Book Authority., p.199. See also: Awed 'Allah, S. A. (2006). "World Trade Organization and FDI: An analytical study of the potential effects of the 'TRIMS' Agreement on the evolution of FDI movement to developing countries." *Journal of Security and Law*. Dubai: Dubai Police Academy., p.18 and beyond, pp.121-214.

Thus, the host country's economic policy influences the growth rate or contraction of investment in both positive and negative ways. The more stable and consistent a country's economic policy is, and how well it aligns with economic changes and transformations at the macroeconomic level of the country and at the level of international developments, the more appealing the country becomes to investors, and vice versa.

Section II: Competitiveness and the Degree of Openness of the Economy

I. The Competitive Strength of the Economy

One of the most critical factors in attracting investments is the competitiveness of the investment host nation's economy. The higher a country's economy ranks on the scale of international investment competitiveness indicators, the higher the quality of the country's investment climate and the higher the investment inflows. Perhaps this is due to this economy's growing strength and ability to cope with and absorb the surrounding conditions, which is a positive indicator of the state economy's strength and competitiveness, encouraging more investment opportunities which look likely to deliver the required profitability the investor seeks. Among the several indicators which demonstrate the economy's strength and competitiveness, the most important are the rate of economic growth, the growth of production in the country, the degree of export progress, and the prospects for prosperity.¹

The purchasing power of the host country of investment is another factor affecting the economy's competitiveness, and one that potential investors consider. By

¹ Izz alarab, M. (1988). "Foreign investments, a comparative study to determine Egypt's competitive position." *The role of private investment in achieving the goals of development plans, the 13th annual scientific conference of Egyptian economists*. Cairo: Egyptian Society for Political Economy, Statistics and Legislation, November 24-26, p.97.

purchasing power, we mean the ability of the consumer in the host country to spend, and high domestic consumption favors investment. The depreciation of prices, or the local currency's appreciation relative to other foreign currencies, is a primary cause of an increase in a country's consumer purchasing power. In the event of inflation in the country's economy, on the other hand, purchasing power decreases.¹

II. The Degree of Openness of the Economy

Investment typically shifts away from closed economies and toward open economies. Economic openness indicates that the country is prepared to deal with the outside world, with no restrictions on the movement of trade or production elements. This ensures that economic efficiency is well-directed and that market imbalances or supply problems are absent. Because investors seek the highest possible profit, they prefer open and economically efficient markets over closed economies that impose restrictions and closures on their production and exports. The ratio of a country's exports to its national product is one of the most important indicators for determining its economic openness. A high proportion of exports in the country's national product indicates that the country's output is dependent on exports, leading to efforts to increase them rather than impose restrictions on or obstacles to them.²

Section III: Monetary Policies and Currency Exchange Rate

I. Monetary Policy

Monetary policy is the set of actions a central bank takes to achieve monetary stability in an economy. Monetary policy is inextricably linked to changing interest rates and influencing the amount of money in circulation. Monetary policy also aims to

¹ ALmashaal, K. A., p.196.

² ALmashaal, K. A., p.97 and beyond.

influence market interest rates by stabilizing prices, controlling inflation, strengthening the banking system, and promoting economic growth.

The inefficiency of these monetary policies in developing countries is a barrier to attracting investment, as higher interest rates raise operating costs, reduce future expansions, and may convert a long-term investment into a short-term investment.

Monetary policy can be implemented in two ways. The first is deflationary policy, which involves reducing the money supply while raising interest rates and selling securities in the open market in order to reduce the rate of inflation. The second is expansive monetary policy, which is the policy of increasing the money supply while lowering interest rates to a minimum and purchasing securities to reduce unemployment and economic stagnation and increase liquidity.¹

The host country's monetary policy is also important for its role in addressing inflation issues, as inflation rates directly impact pricing policies, profit margins, and thus capital movements. Inflation also fuels the high production costs of investment projects.

The most visible effect of the negative relationship between high inflation and investment is the impact on market profitability, which investors fear. Rising inflation causes a real decline in the value of their investment-related funds and the value of the returns they expect from their investments, as well as a heightened risk of unfavorable policies. As a result, low inflation rates in developing countries make their economies more appealing to investors, whereas high inflation rates render the investment climate

¹ Amadeo, Kimberly. "What Is Monetary Policy? Monetary Policy Explained." Retrieved on 17 Feb. 2022 from <https://www.thebalance.com/what-is-monetary-policy-objectives-types-and-tools-3305867>

unsuitable. As a result, investors typically shun high-inflation countries in order to avoid the additional costs associated with higher inflation.¹

II. Currency Exchange Rate

One of the most significant obstacles to international commercial transactions, and transactions involving foreigners residing in different countries, is determining the value of such transactions and determining how the value is settled. The settlement of such international transactions and payments necessitates the use of an adjustment tool and a value measure. Because international trade takes place between many different countries, and each country has its own national currency, a comparison of currencies is required. In economics, this is known as the "exchange rate," which is defined as the ratio at which national monetary units are exchanged for foreign monetary units.²

Therefore, the stability of the local currency exchange rate in the host country is an important factor in the investment climate. Domestic and foreign exchange rates frequently affect export-oriented investment projects because they affect the rate of profitability of investment projects. If the host country's currency depreciates, the investor suffers a decline in the value of profits and possibly of some invested capital. But if the local currency exchange rate in the country of investment rises, the investor benefits from an increase in the value of profits.

The exchange rate policy aims to reduce spending on one hand while reallocating community resources on the other. As a result, it affects both the supply and demand sides of the country, affecting the flow of investment opportunities to

¹ Mabrouk, N. A. *Determinants and Guarantees of Attracting Foreign Investment*, p.27.

² See: Nasiri, N. (2011). *Impact of the exchange rate on the foreign direct investment aspect of developing countries, case study of Algeria*. [Master's thesis presented to the Faculty of Economics, Management and Business Sciences, Abu Bakr Belkaid University, Tlemcen]. p.60 and beyond.

developing countries in various ways. In terms of demand, the impact of exchange rate depreciation on investment is apparent: it has a negative effect on the volume of domestic demand due to the appreciation of the local currency in the general level of prices, reducing the real value of individual financial assets. As a result, individuals cut back on spending, lowering their demand for various goods and services. Under these conditions, it is only natural for investment projects to limit the size of their future investments.¹

As a result, a country with a low exchange rate and the relatively high inflation rate will see its currency depreciate externally. Any increase in the level of domestic exchange rates that is not accompanied by an increase in the level of foreign exchange will also result in a decline in domestic exchange rates, the currency's external value. Therefore, the country's competitiveness in international markets will deteriorate, resulting in a slower investment growth rate. Conversely, suppose a country's exchange rate is high, and its inflation rate is relatively low compared to foreign exchange rates. In that case, the products and services it produces will be less expensive, boosting the volume of its exports as imports fall due to the higher value of foreign goods compared to domestic goods. Consequently, the balance of payments is in surplus, and the currency appreciates. Thus, the country's competitiveness in indicators of international investment competitiveness is enhanced.

¹ Maghribi, I. H., p.391.

Section IV: Availability of Resources and Investment Opportunities

I. Availability of Resources

The resources targeted by investment in host countries vary according to areas of investment and the factors surrounding them, the most important of which are the following:¹

A. Geographical Location

The more a host country has a privileged geographical position that allows the investor easy access to regional and international markets, the more appealing it is to national and foreign investments, compared with more expensive markets for connectivity, export, and shipping to other global markets.

B. Workforce Cost and Efficiency

The investment process necessitates skilled and productive labor that can be relied on to run investment projects. The host country's ability to provide efficient, productive, low-cost, high-skilled employment is one of the incentives for investment. As a result, the greater the labor force efficiency and productivity in the investment host country, the greater the opportunities to attract investment. Conversely, the more untrained and unproductive the labor force, the more it becomes a barrier to investment flow.

C. The State's Economic and Financial Strength.

The size and strength of the domestic market of the investment host country can be a draw for foreign investors and a source of encouragement for domestic investors. A domestic market with healthy breadth and strength encourages investment projects

¹ See: Shehata, I. *My will for my country*, p.166 and beyond.

to expand and increase production, responding to a robust market and increasing production for international export. In addition, the investor prefers a low return and a large and continuous production over a high return in a narrow and limited market. Since strengths and prospects for progress vary among national economies, investments are frequently directed towards strong and large economies and away from weak and small economies with dwindling prospects for future improvement.¹

The following is a breakdown of the most important resources targeted by national and foreign investments in developing countries:

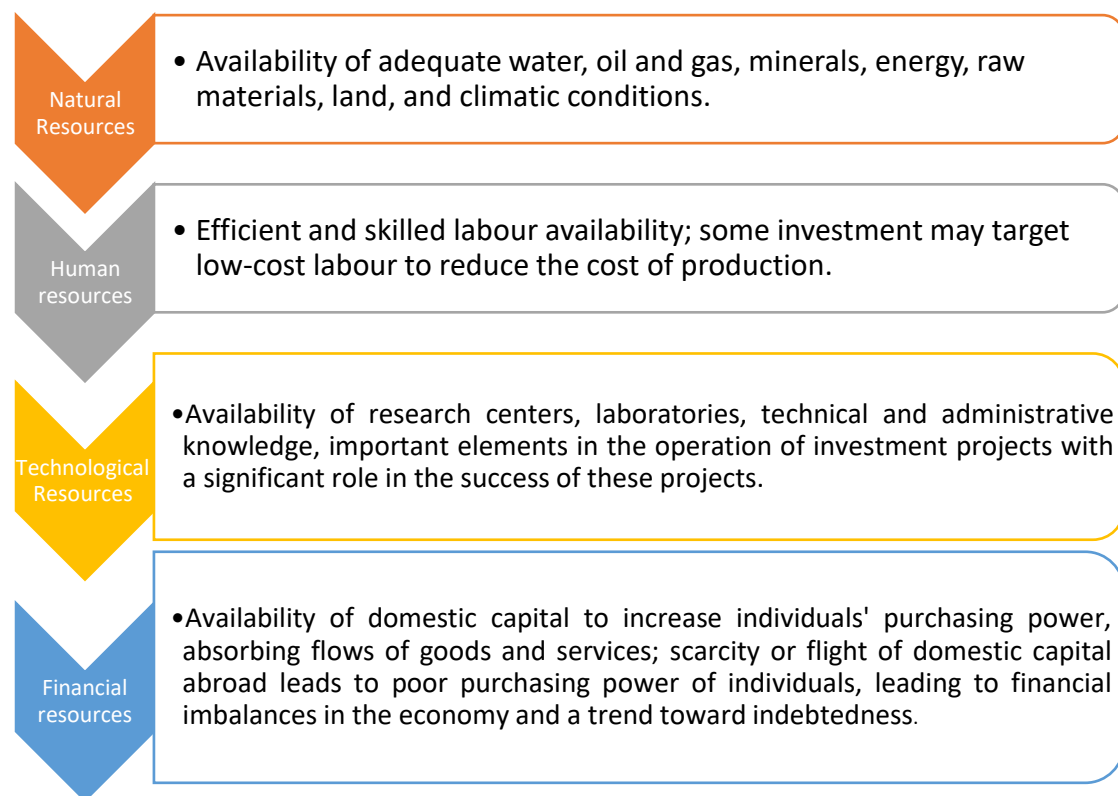


Figure (6) The most important resources targeted by national and foreign investments

II. Availability of Investment Opportunities

The investment opportunities offered by investment host countries are one of the critical factors in deciding where investments will be made. Ultimately, the investor

¹ See: Izz alarab, M., p.100

will allocate his funds to the best available investment initiatives and projects, the ones that look most likely to produce the highest expected returns or at the very least meet the profit criteria set forth by the investor. Clearly, developing countries need to highlight investment opportunities; they need to create or discover new opportunities, and they need to develop and market these opportunities. The goal is to allow investors to see the opportunities when making investment decisions, thereby improving the competitiveness of developing countries in the international investment market.¹

Sub-topic II: Tax and Customs Treatment

The tax and customs treatment that an investor receives in the investment host country is crucial in stimulating the investment climate and directing investments. Tax and customs treatment is one factor influencing the rate of profitability of investment projects. The rate of growth of investments in countries tends to rise as profit opportunities increase and to decrease as profit opportunities fall. As a result, developing countries frequently use their tax and customs policies to improve their investment climate in order to attract as many domestic and foreign investments as possible. Some governments also use such policies to direct investments into a specific economic sector in their respective countries. This is accomplished by establishing excellent tax treatment for priority activities in order to encourage and support them, and possibly instituting restrictive tax treatment for non-priority activities.

While tax and customs policies have the potential to exert a substantial positive effect on the flow of domestic and foreign investment in developing countries, they also might produce a negative, restrictive effect on the investment flow in some

¹ See: Hatem, S. A. (1992). *New societies are a path to economic development*. Cairo: Egyptian-Lebanese House., p.184.

circumstances. The research examines the most significant impediments posed by developing countries' tax and customs policies, as follows:

Section I: Tax Treatment

By tax treatment of investment, we mean all State programs that employ all actual and potential sources of tax on investment to create desirable economic, social, and political effects while avoiding undesirable effects in order to achieve the State's economic development objectives.¹

Investment legislation in developing countries differs in terms of the tax treatment of investments, as they have taken a variety of steps to improve their investment climate. Some have decided to permanently introduce exemptions or tax reductions, in whole or in part, for a set period of time. Others have limited these tax breaks to new investment projects included in development plans, while others have extended them to existing or expanding projects.²

This has led many developing countries, regardless of their political systems, to include many benefits, grants, and tax exemptions in their legislation in order to increase the profitability of investment projects or to facilitate their activity by easing some of their burdens, as an important incentive to attract such investments. These countries recognize the importance and effectiveness of such actions in stimulating the investment climate. As a result, tax treatment is one of the factors that attracts or repels domestic and foreign investment.

¹ Alsayed, H. M. (1998). *Tax systems between theory and practice*. Alexandria: The University House., p.145.

² Mabrouk, N. A. *Economic implications of foreign investment.*, p.185.

Tax breaks, particularly in the early stages of an investment project, are an attractive feature for investments. Strict tax treatment of investment projects, however, erects a barrier to attracting investments and has a negative impact on the country's investment climate. Domestic and foreign investors may be reluctant to invest in countries with stringent tax policies because they reduce investment opportunities or lower the expected return on capital exploitation in the host country.

When making an investment decision, an investor, particularly a foreign investor, prefers to invest in a state that holds the promise of higher profit rates compared with what looks possible in the home country or another country. As a result, investors frequently examine factors that affect the expected level of target profits in potential investment countries. The tax treatment established in investment-hosting countries a factor determining profit, as it affects the cost of production and the net return on the investment project. And, because taxation reduces the return on investment, particularly the tax on profits, an exemption or tax cut increases the likelihood of a higher return than an investor might expect. Thus the role of the tax treatment of investments by developing countries is clear. It is an important factor in stimulating the investment climate, helping to encourage and attract investment.¹

¹ See: Sharfuddin, A. (1984). "The role of tax treatment in encouraging and directing foreign investment." *Egyptian Journal of International Law*. Cairo: Egyptian Society for International Law., vol.40, p.238 and beyond.

- It should be noted here that, while some economists consider tax treatment to be a factor that can affect the rates of profit that an investor expects when making an investment decision, it is not the only or primary factor in determining the level of profit target. Their impact is also reflected only in their interaction with other variables influencing the investment climate in the host country. See: Mabrouk, N. A. *Economic implications of foreign investment.*, p.171.

Section II: Double Taxation

The origin of the investment project tax is that it is a one-time tax on the taxpayer, for the same tax base, for the duration of the tax, and in the territory where their project is located. The repeated imposition of taxes, whether in the same territory or in another region related to the investment project or on the investor who owns the project, is a form of double taxation. Double taxation may also occur in the same territory as the investment project if more than one tax is imposed on the same taxpayer and tax base in the same period, or if the central government imposes a specific tax and local governments impose the same tax on the same taxpayer and tax base. It is also possible that international double taxation will be charged on the same terms in two or more countries. For example, suppose a state other than the state where the project is located taxes the proceeds of the investment project for the same taxpayer, base, and duration. In that case, double taxation is typically based on the principle of legal dependency of taxpayers on their home country or countries of residence, namely, who enjoy state nationality or residence status. International double taxation usually occurs as a result of a conflict between a state's tax sovereignty and its independence in imposing its tax policy.¹

Because it raises the tax burden on invested funds, double taxation is unquestionably an impediment to investment and even a significant impediment to international economic linkages and the free flow of international trade. Many states

¹ By "tax territoriality," we mean the principle derived from the principle of the state's independence and sovereignty over its territory. As a necessary consequence, every State has the right to tax its territory on the basis of its sovereignty over it. Countries regard this as an act of sovereignty that no other State can contest. In order to impose it, the State may use more than one form of tax rule of law, as it may impose it on all commercial activities of citizens and foreigners residing in its territory. It can also impose them in accordance with its own tax code where its authority and mandate extends, such as taxing its citizens' income from sources outside its territory. See: Abdul Mawla, A. (1990). *Tax treatment of foreign investments*. Cairo: Arab Renaissance House., p.14.

believe they have the right to tax these funds, so the investments may be subject to more than one tax at the same time. As a result, double taxation will reduce the return that the investor expects to receive, causing the investor to be reluctant to make such investments in countries adopting double taxation policy.¹

Furthermore, double taxation results in an unequal distribution of the tax burden between individuals earning income and profits outside their home countries and those whose revenue and profits are limited to the borders of their home country. The tax burden borne by investors who live in their state but earn income and gains from abroad as a result of investing their capital in another state is greater than the tax burden borne by individuals whose activity is limited to their home country. As a result, double taxation is a significant barrier for investors in developing countries.²

Section III: Tax Discrimination

As previously stated, the investment host State has broad authority to levy various taxes on the funds and incomes of citizens and foreigners residing on its territory at whatever rates it deems appropriate. It also has the authority to levy general or custom taxes on foreigners that are higher than those levied on citizens. Clearly, such tax disparities between citizens and foreigners, and sometimes between foreigners themselves, while legal, may be an impediment to the flow of foreign investment to capital-receiving countries with discriminatory tax policies. This is due to foreign

¹ See: Mabrouk, N. A. *Economic impacts of foreign investment*, p.230; Abdul Mawla, A. *Tax treatment for foreign investments*, p.15.

² Mustafa, M. H. (1999). *Principles of Public Finance (1st Ed.)*. Cairo: Arab Renaissance House., p. 495.

investors' refusal to accept such inequitable and discriminatory policies and their fear of incurring significant financial burdens as a result of these taxes.¹

Tax discrimination may extend to regions and investment activities as well. This is accomplished through the host country's report on favorable tax treatment for areas or investment activities that should be promoted qualitatively or geographically and strict tax treatment for activities and areas that should not be encouraged. In other words, some states may use tax instruments to influence the structure of investments or to direct them to specific investment activities and areas by distinguishing these activities and areas from others in their tax treatment.²

Some economists argue that tax discrimination, whether based on taxpayer nationality or investment zones and activities, has a negative impact on the investment climate in countries that import foreign investment. Investors view tax inequality critically, and it restricts the flow of investments to countries which levy taxes differently for domestic and foreign investors. As a result, this distinction drives foreign capital away from such discriminatory investment markets, as investors believe they will be burdened by constraints that harm the investment return or the project's economics.³

Section IV: Tax Instability

One of the barriers to attracting investment is that tax legislation in developing countries is frequently amended. These amendments are contrary to the concept of tax certainty, which is one of the fundamental principles upon which the modern tax system

¹ Alsamarrai, D. M. (2006) *Foreign investment; legal impediments and guarantees, (1st. ed.)*. Beirut: Center for Arab Unity Studies., p.128.

² Saqr, A. A., p.113.

³ Saqr, p.113 and beyond.

must be based. Because of the uncertainty caused by these adjustments, taxpayers, particularly in countries where their tax systems are still uncompleted, cannot keep up with such new changes in order to determine how much tax they are obligated to pay. As a result, they are unable to comprehend and comply with the new laws, resulting in intentional or unintentional tax evasion, resulting in inequality, and a shift in the balance of justice among taxpayers.¹

Therefore, when amending tax legislation, developing countries are always advised to do so gradually in order to avoid abrupt changes in systems that taxpayers have become accustomed to and whose provisions and circumstances have been established. The abrupt transition from one system to another creates uncertainty for taxpayers as well as risks to their economic positions.²

Consequently, repeated amendments to tax legislation make tax collection a confusing process for investors and even for individuals in the tax collection profession in developing countries. Investors are of course interested in knowing which host country's tax system their profits will be subject to. If the tax system is not stable and clear but rather characterized by instability, investors will lose confidence in the country's tax system and prefer to move away from by investing in a country whose investment climate is characterized by tax stability.

Section V: Customs treatment

Customs facilities provided by host countries for investments are one of the channels used to facilitate economic growth and development in various investment sectors. In fact, this is one way to address the decline in investment demand in

¹ Mabrouk, N. A. *Economic impacts*. p.256.

² Tawfiq, A. M. (1997). *Principles in Comparative Tax Systems and Tax Policy*. (n.p.). p.227.

developing countries. Government exemptions from customs duties on imports of investment projects, such as equipment, machinery, and necessary supplies, are an important incentive in the process of developing investment in targeted development areas. Furthermore, an exemption from customs duties on export and production will increase the possibility of exporting domestic industry products to foreign markets. By reducing the investment costs that fall on the investor's shoulders, these exemptions stimulate the flow of investments to these areas in the host countries.¹

These investment-related economic policies play an important role in the process of restricting or encouraging investment in a variety of investment fields. This is accomplished by tightening or easing customs treatment for investment in host countries, imposing high customs duties, or reducing and exempting them. As a result, customs exemptions are widely used in most developing countries as an effective means to stimulate their investment climate, which leads to an increase in their share of global capital flows.

Topic IV: Infrastructure Barriers to Investment

Infrastructure, its availability, development, and modernity are of great importance to each country. This significance extends to the host country's investment climate, where the quality of infrastructure significantly influences any future investor's investment decision. Good infrastructure can streamline business activities and eliminate routine roadblocks that might cause the business to be disrupted or delayed.

Infrastructure contains critical components that must be present in order to conduct business. One of the most important of these elements is the availability of a

¹ See: Mabrouk, N. A. *Economic implications of foreign investment*, p.197; Almashaal, K. A., p.144; Abdul Mawla, A. *Tax Treatment of Foreign Investments*, p.147.

social and cultural structure receptive to investment. In other words, the social and cultural aspect of human capital that interacts with the investment process is an essential factor in shaping the investment climate in the host country. In addition, basic services infrastructure is required to start and operate projects, such as the availability of land, sea, and air transport lines, services such as electricity, water, and gas, and communication lines such as telephone and internet. A third essential component is the information infrastructure, which includes all information, systems, and data on investment activities available in the host country as well as details on the investment climate surrounding it. The following important types of infrastructure are discussed in detail below:

Sub-topic I: Social and Cultural Structure

The social and cultural component of the investment host country is one variable that influences the long-term rate of investment volume growth. The investor pays close attention to this component, often on two aspects: the first is the age and composition of local employment from a scientific and technical perspective. The workforce's average age and their level of education and training will affect the quality and productivity of an investment project. Moreover, the cost of local labor will contribute directly to the production cost of the investment project. A second important sociocultural aspect is the availability of educational, medical, recreational, and cultural services along with everything else needed to provide stable housing and comfortable living for the investor, his family, employees, and workers.¹

¹ Saqr, p.124.

Cultural and scientific preparation in developing countries also significantly shapes society's acceptance and management of foreign investment, as it prepares society to open up to other global products and markets. Furthermore, the development of vocational education in a country usually provides the skilled labor needed for employment in industry and manufacturing, which in turn increases the rate of productivity growth and the quality of exports, thus raising expectations for profitability. Should cultural isolation and educational backwardness prevail, however, a potential investor may encounter barriers such as society's intolerance and sensitivity to foreigners, a lack of skilled and trained labor, and a labor force generally inadequate to meet the needs of employers.¹

The size of the host country's population and its demographic structure is another critical social factor that significantly informs the investment climate. Investors anticipate that demand will increase in the future as the population grows. Rapid population growth may result in the development of new areas, as it encourages businesses to make new investments to increase their future returns as a result of the anticipated increase in demand for transportation, housing, education, and other essential goods and supplies. As a result, investment in new residential, educational, and service buildings increases. Additionally, investment in transportation, telecommunications equipment, and the machinery used to manufacture consumer goods increases.

In comparison, low population growth rates, educational underdevelopment, or cultural isolation have the opposite effect, whether for political, social, or health reasons. The drawbacks of underdevelopment are reflected long-term in lower rates of

¹ Saqr, p.124.

return on capital due to expectations of future lower demand and thus lower profit margins.¹

Sub-topic II: Basic Service Infrastructure

One of the primary factors that attract or repels national and foreign investment in host countries is the availability of adequate basic infrastructure. The availability and quality of infrastructure in the host country can reduce operating costs by facilitating production, transportation, and distribution. Modern transportation lines of various types, for example, can enable reliable access and transportation to and from the host State's territory or beyond its borders to the outside world. In contrast, without basic infrastructure in place to begin an investment project, the cost to the investor doubles.²

Because one reason for low investment demand in developing countries is a lack of infrastructure, many of these countries are forced to embark on development projects to build the basic infrastructure for services required to attract investment, as these services are critical in shaping their investment climate. The following are examples of the infrastructure and essential services that any country seeking investment must provide:

- I. Availability of roads, transportation, ports, and airports: The availability and quality of these services determine an investor's ability to move and communicate easily both locally and externally, allowing quick reaction to market conditions.

¹ See: Almashaal, K. A., p.139.

² See: Shehata, I. *My will for my country*, p.168; Mabrouk, N. A. *Economic implications of foreign investment.*, p.106.

II. Availability of energy, water, and land for the establishment of projects and factories: These critical services must be available in any commercial environment, particularly investment, as they play a vital role in the development process.

III. Availability of means of communication:

The presence of highly efficient communication technology allows for easy and rapid communication between the investment project and the market, or between the branches of a multi-branch company and the main center in the home country if the investment is foreign, as well as the exchange of data and information between branches and the main center.

Because such services serve as a foundation for other projects, the availability of service infrastructure for investment in host countries is a critical component in the process of preparing their investment climate. Any distinction or deficiency in infrastructure, therefore, must have an impact, either positively or negatively, on any projects dependent on it.¹

Sub-topic III: Information Infrastructure

Providing investors with complete information on all issues related to the investment areas available in the host country is an important factor in the host country's investment flow. The lack of information may hinder an increase in the volume of investments. Reasons for the lack of information include the unwillingness of some government agencies to provide investors with certain information on the basis of confidentiality, a lack of clarity regarding procedures required for obtaining the data,

¹ See: Saqr, p.124; Almashaal, K.A., p.143.

or a simple absence of necessary information on investment opportunities. As a matter of fact, this information shortcoming is a feature of some developing countries, as opposed to developed countries, which provide investors with all of the information required for investment. As a result, developing countries must work to encourage and enhance investment by communicating all information that can contribute to the flow of investment, and they must disseminate information and investment opportunities in all possible ways so that investors have easy access.

In this context, it is worth noting the successful experiences of industrial cities in investment-hosting countries. These specialized economic zones play a significant role in providing all of the information necessary for industry and the production process at a nominal cost, which has aided in attracting investments. The key factor is that these cities are run by a mandated, unified central administration, one that realizes the importance of providing information and expanding opportunities for investors. These industrial cities are usually distinguished by the availability of clear and easily accessible information, which the investor can handle quickly and easily. This has resulted in a more project-friendly business environment and an increase in the competitiveness of investment companies.¹

Assisting potential investment projects with technical assistance is one way to encourage investment. On the other hand, a lack of technical information for investment projects is a shortcoming in the investment climate, as investors, particularly foreign investors, are unaware of the domestic market's nature and require immediate guidance and technical information in order to begin their activities. Indeed, this process entails two distinct types of assistance. First, government agencies in host countries should

¹ Almashaal, K. A., p.141.

conduct studies on significant investment opportunities, make them available to private investors, and assist them in making investment decisions. The second type of initial assistance provided to investors is financial assistance in the form of loans or grants to enable investors to conduct technical and economic feasibility studies for new projects. Pre-investment assistance from the government is a tremendously beneficial way to overcome one of the most significant barriers to the selection of appropriate projects by investors in investment-importing countries.¹

Topic V: Procedural and Administrative Barriers

Administrative and procedural complexities faced in the investment project are an impediment to investment because as they blunt the host country's ability to attract investment applications. The most significant of these administrative obstacles are slow procedures, a diversity of decision-making centers, and management and staff ill-equipped to deal with investors' wishes and inquiries. The problem lies in the widespread bureaucracy, the daunting quantity of red tape, and various impediments in most of the government bodies and agencies interacting with the domestic or foreign investor. As a consequence, widespread corruption and bribery among investment stakeholders is unsurprising, imposing a new burden and cost on investors.² These include actions that an investor may face at the start of their project, such as the difficulty of obtaining investment activity licenses, building permits, and workers. During the project's operational phase, hurdles include tax and customs procedures, project expansion, production, exporting, and permit and license renewal. In addition,

¹ See: Abdul Wahid, A. A. (1993). *The role of fiscal policy in achieving economic development, equitable distribution of income, social development, inflation control*. Cairo: Arab Renaissance House., p.270 and beyond; Almashaal, K. A., p.142.

² See: Abu Qahaf, A. (1992). *Economics of Management and Investment*. Beirut: University House., p.496.

the closing procedures at the end of the investment project include money and profit transfer procedures and the termination of permits and licenses.

Sub-topic I: Bureaucracy of Administrative Procedures

Administrative bureaucracy is one of the most significant organizational barriers to investment in developing countries. Whereas the simple and straightforward administrative procedures in the host country underlying a single specialized management body involving and dealing with all investment and investor procedures are an attraction and incentive for investors to come and invest in this country. In comparison, the country's slow, complex, and ambiguous administrative procedures, implemented by multiple administrative bodies and bodies, impede the flow of investment into that country. So, Investors find themselves in such a bureaucratic environment, waste a lot of time, and shoulder a lot of burdens. Their requests to the administrative authorities of the host country take a long time because they must complete the data and submit multiple documents to different entities whose decisions vary. Or when they are required to obtain licenses from various administrative bodies. They may also face additional financial burdens when dealing with corrupt administrative agencies that force them to pay bribes to do their jobs. All of these effects of bureaucracy and administrative slowdown in developing countries are driving national and foreign investors to flee to another country with administrative procedures that are simple, transparent, and equitable.¹

¹ Siddiq, R. (1998). *Legal guarantees and tax incentives to encourage investment, a comparative study in the light of the opinions of jurisprudence and the provisions of the judiciary*. Cairo: Arab Renaissance House., p.40 and beyond.

Sub-topic II: Multiple Decision-Making Positions

One of the impediments to the flow of investment is the diversity of government agencies overseeing investment in developing countries. The involvement of numerous government decision-making centers usually results in conflicting decisions and interference in the competence and authority of each party, to the extent that the implementation of those departments' actions becomes overly complicated. As a result, the ability of investors to move forward with their projects is hampered. This administrative plurality of government agencies overseeing investment necessitates the a welter of measures and decisions, creating a bureaucratic nightmare that disrupts the investment process and dampens investors' enthusiasm and willingness to invest. The ordeal starts with project approval procedures, moves on to procedures for obtaining entry visas from the State, plus residence and work permits, and, finally, the procedures for issuing licenses and permits for the project. Furthermore, the whole is complicated by the lack of managerial and technical competencies of government investment agencies incapable of dealing with project stakeholders with the required efficiency.¹

It should be noted that all of these measures imposed on investment as a result of a bureaucracy that impedes the flow of many investments can be avoided by establishing a unified and specialized government agency to overcome the obstacles confronting the investor and all phases of the investment project. This body would study the proposed projects, issue the necessary licenses, and provide investors with the information needed on national investment legislation so that they are aware of the situation. The agency would also make the essential decisions to accommodate investors, their employees, and foreign workers for the investment project. The best

¹ Mabrouk, N. *Determinants and guarantees of attracting foreign investment*, p.36.

benefit of this entity's existence, without a doubt, would be that investors would have to deal only with it and not have to navigate the complex requirements imposed by various ministries and government agencies. Although simple in concept, this step would offer a way to facilitate and clarify the investment process, a strong incentive, and save the investor a significant amount of time and effort. A foreign investor confronting a different language and culture would certainly welcome a simplified, straightforward process.

Clearly, developing countries need to establish a specialized and accredited investment management entity so that investors can deal with it directly. This would allow this entity to receive investor requests and provide them with the information they need to assess the economic viability of their projects. This procedure would also simplify the investor's work by removing the complexities of red tape, as well as the process of obtaining the necessary licenses and understanding all of the laws and provisions that apply to his activity. Governments in developing countries should therefore expedite the formation of such bodies in order to facilitate the start-up of investment projects.

Sub-topic III: Efficiency of Administrative Regulations and Administrative Bodies

Administrative complications may also arise due to a lack of clarity in administrative regulations and decisions governing the investment business or from the incompetence of the staff in charge of those departments and their lack of understanding of investment regulations and regulations. As a result, the ambiguity of regulations and administrative decisions on investment may afflict managerial procedures and

transactions, transforming them into opaque bureaucracy and administrative corruption, ultimately raising the investor's investment costs.¹

The ambiguity and multiplicity of investment administrative regulations and decisions also serve as an entry point and source of administrative corruption. Frequently, corrupt practices take advantage of deficiencies in legal language, in form and subject matter, such as contradiction, misinterpretation, deficiency, and conflict between laws. Likewise, frequent amendments to these regulations also open a door to corruption. All of this results in an imbalance in the legal regulation of administrative work related to investment activity, impairing the administration's ability to combat administrative corruption, which may be exacerbated as a result of this imbalance. Either due to a lack of clarity or as a result of misinterpretation and application, administrative justice among investors may vary widely and unfairly.²

In fact, the ambiguity in texts regarding regulations and administrative decisions represents a form of uncertainty in the host country's investment policy, which leads the investor to question the administrative authority's seriousness about the strategy to be followed in the investment sector. These complexities in investment regulations can sometimes result in contradictions, which complicate the investment relationship and discourage the investor or undermine the efficiency and integrity of the employee in the administrative authority supervising investment regulation.

¹ See: Lamari, W., p.95; Mabrouk, N., *Determinants and guarantees of attracting foreign investment*, p. 34.

² Siddiq, R., p.40 and beyond.

Sub-topic VI: Balancing the Interests of the State and Investors

National investment legislation is one of the most important instruments for helping to regulate the investment process and foster a favorable environment for investors. Maintaining an equilibrium between the interests of the state and investors is one of the most significant challenges of national investment legislation. On the one hand, the state seeks to attract more investment and create new employment opportunities; on the other, it is keen to safeguard its national interests and ensure that investment does not negatively affect the local economy and society.

Achieving an equilibrium between the interests of the state and of investors during the investment process requires unambiguous and equitable legislation that safeguards the rights of investors and upholds the interests of the state. The establishment of an appropriate investment climate may be achieved through enacting legislation that furnishes guarantees and incentives to investors, as well as guarantees that promote and achieve the higher interests of the state.

However, many countries that host investments have a tendency to put their own interests ahead of those of investors, resulting in the enactment of numerous restrictions and requirements within investment laws. For example, some countries restrict the investment sectors open to investors or mandate the presence of a national partner in the investment venture as a primary requirement for obtaining a license for the enterprise.

Clearly, this restrictive practice can reduce the flow of investment into host countries, slowing the economy and the development of these nations. Therefore, preserving a balance between the interests of the state and of investors in national investment legislation is essential for achieving economic and social development in

the host countries. This would contribute to increasing the rate of investment and would benefit all parties.

We can conclude that the most important mechanisms that work to achieve a balance between the general interests of the state and of the investors, and which protect the higher interests of the state in the face of investor interests, must be addressed in national investment legislation designed to create and maintain this balance of interests.

The following two sections elaborate:

Section I: The Most Important Public Interests of the Investor and the State

1. Develop clear and transparent legislation to reduce uncertainty and ambiguity in investment laws and regulations.
2. Adopt the principle of investment protection and the provision of guarantees, incentives, and other advantages that encourage attracting investment to the host country.
3. Encourage local and foreign investors to invest in vital economic development projects that will strengthen the local economy and provide job opportunities.
4. Provide a qualified local workforce and develop the infrastructure necessary to improve the investment environment in the country.
5. Enact labor legislation, ensure the application of fair labor laws, and protect the rights of local and foreign workers.
6. Educate the national workforce and train them to work in investment projects.
7. Regulate fair and legal competition among investors and ensure respect for the rules of fair competition.

8. Monitor and review investment contracts to ensure respect for applicable laws and regulations.¹

Typically, the state assumes responsibility for establishing a conducive and competitive investment climate for potential investors. Furthermore, fostering positive relationships between the host country and investors and their states is crucial to bolstering mutual trust and cooperation.

Section II: Mechanisms for Protecting the State's Higher Interests in the Field of Investment:

- I. Banning Foreign Investments from Controlling Public or Sensitive Sectors or those with a Significant Social Impact.

Although foreign investment is acknowledged essential for the economic development of nations, the host country must exercise extreme caution before allowing foreign investments in certain public or sensitive sectors or with a significant impact on society, so that these investments do not control an entity considered to be sovereign of the state.

Allowing foreign investment in these sectors necessitates granting investors special rights and privileges, such as complete possession or absolute management of their projects. These include, for instance, foreign investment in banks, the oil industry, or fundamental service sectors such as energy. Thus, privileges granted to foreign investment in crucial sectors can result in their conversion to foreign ownership, jeopardizing the sovereignty of the state.

¹ ALmashaal, K. A., p.210 and beyond.

Therefore, countries wishing to attract foreign investment should meticulously regulate the foreign investment market and identify sectors suitable for investment. Furthermore, foreign investors should not be permitted to invest in sensitive sectors which may have a significant impact on society, such as the military, security, and health sectors. If foreign investors are permitted to invest in these sectors, strict controls must be in place to safeguard state sovereignty and the rights of citizens. These controls may be implemented by limiting the proportion of foreign ownership in these investments or by preserving the right of government intervention in the direct administration of these investments.

In numerous countries, a fundamental principle safeguarding the sovereignty of the state and the interests of its citizens is the prohibition of foreign investors from investing in public or sensitive sectors or those with significant societal impact. Notwithstanding, certain nations may opt to permit foreign investors to invest in crucial public sectors as a means of effecting economic reform within their respective countries. These countries aim to attain several economic objectives, including the mitigation of financial and administrative encumbrances on the government in delivering services, as well as the attainment of optimal efficiency and the acceleration of economic expansion. Nevertheless, apart from the previously stated benefits that could potentially coincide with these measures, several drawbacks may arise, encompassing practical, ethical, or social disadvantages.¹

Public sectors are entities with public benefit as a feature, and their acquisition by the private sector, represented by foreign investment, could cause harm to

¹ Ben Awang, M. S. (2000). "Privatization, transfer of public ownership in the light of Islamic law." Master's thesis, Yarmouk University. Jordan, Dar Al-Nafais, first edition. pp. 90-99.

consumers, for instance, by increasing prices or monopolizing products and services. In addition, the social function of these public sectors, which the state performed before relinquishing them to the private sector through privatization and other means, may no longer exist. Social considerations, after all, may be a secondary or marginal matter for the private sector.¹

The post-privatization period is often associated with negative economic effects resulting from private sector domination of the public sector, as evidenced by high levels of unemployment and price inflation. The private sector's rush to cost-effective production often reduces employment and resists job creation. Moreover, the high level of price escalation can be attributed to the profit maximization theory adopted by the private sector.²

The researcher's objection to the above is that the control of such sectors pertaining to sovereign, social, security, defense, and other vital sectors must remain under the control of the state. Control by the private sector is deemed to be in opposition to the principle of national sovereignty of the State over its public and vital sectors, and would potentially result in harm to individuals, society, and the State.

II. Preventing the Foreign Investor from Investing in Activities Covered by the Domestic Investor.

One of the justifications behind setting such a norm is to protect national investors from unequal competition with foreign investors. As a consequence, countries intentionally exclude certain foreign investment activities from their

¹ Awang. p.31.

² Dagestani, A. (2000). *Privatization is an economic vision in curricula and application*. Riyadh, King Faisal Center for Studies and Research, first edition., p.30.

investment legislation. This is upheld by the General Agreement on Tariffs and Trade (GATT) in its section on trade-related investment measures (TRIMs), which allows countries to restrict the manufacture of particular products to nationals.¹

III. Preventing Investment in Low-return Products and Services

An essential motivation for attracting foreign investment is to effectively contribute to the growth of the nation's gross domestic product, which requires a high level of productivity provided by foreign investment in the host country. Therefore, when making investment decisions, foreign investors must achieve a balance between their investment objectives and the objectives and aspirations of the host nation.

It can be achieved by conducting feasibility studies and identifying investment opportunities that align with state and investor objectives. Profit and cost-recovery should not be the solitary objective of their investment; they must also consider the benefits that will accrue for the state and society. Low returns on foreign investment projects will have repercussions for the host country, as the value of its investments will decrease as a result of low returns on investment flows, thereby increasing the cost of investment.²

Hence, it is imperative for countries receiving foreign investment to mandate that the foreign investor and investment regulators undertake feasibility studies of proposed projects. Such studies should evaluate the opportunity cost and potential for achieving high investment returns while also assessing feasibility and the impact of foreign investment on the local economy.

¹ Business Guide to WTO Agreements. (1995). Geneva, International Trade Centre (UNCTAD)., p.208.

² Heikal, A. F. (1985). *Methods of valuation of investments*. Beirut, Dar al-Rawdat al-Jami'iyya, [n. e]. p.63.

IV. Preserving the Integrity of the Environment

One of the major measures stipulated in the investment legislation of the host countries is the preservation of the integrity of the environment. The primary objective of this mechanism is to protect the health of the environment and the host country's environmental interests in the face of the interests of investors.

Indeed, industrial investment projects sometimes necessitate carrying out activities or operations that directly or indirectly affect the surrounding environment. This can harm the local environment and residents' safety in the places where the investment is undertaken. Thus, conserving the integrity of the ecosystem aids in protecting and preserving these communities' interests.

Investors are typically required to conform to a set of environmental controls and regulations outlined in investment law. These requirements include, for instance, environmental protection measures, an evaluation of the impact of an investment on the environment, and the implementation of environmental monitoring and reporting procedures.

In general, one of the principal approaches used to preserve the environment and defend environmental interests in the face of investor interests is the adoption by investment laws of environmental standards and requirements . This approach might be considered essential to maintaining environmental sustainability and economic development in areas where investment occurs.

Chapter II Summary

It is clear from the previous sections of this chapter that developing countries that host investment face a large number of challenges that can impede investment flows. Therefore, these countries are making great efforts to overcome these obstacles

and are working to create a favorable investment climate in which they can compete for investments with their counterparts from other countries. Five of the most critical factors affecting the investment climate in the host country in this regard are 1) political and security stability, 2) the effectiveness of national legislation in guaranteeing investment and enhancing the investment climate, 3) stable economic policies open to global markets, 4) the availability of investment infrastructure, and 5) the importance of creating a flexible and transparent administrative work environment that facilitates the investment process.

As a necessary consequence, developing countries must provide and promote these critical elements that shape their investment climate. They are the basic foundations required by any investment climate and serve as the engine of investment direction, encouraging domestic investors and attracting foreign investors. A country inviting investment should work to remove all barriers to the promotion of domestic investment or the attraction of foreign investment, whether those impediments are related to the host country's political and security aspects, economic and financial factors, or legislative, regulatory, administrative, and procedural factors, as well as those related to the host country's basic infrastructure.

From the preceding discussion, we can see the importance of whatever incentives and guarantees are provided in the host country in order to encourage and stimulate its investment climate, as well as any other positive characteristics relevant to investment that the host country might have. We are referring to characteristics such as a privileged geographical location, abundant natural resources, high purchasing power, or the availability of skilled and trained labor. All of the incentives, guarantees, and benefits that may be provided to investors will only contribute to the country's success in strengthening its investment climate if the five elements affecting the aforementioned

investment climate are available, especially as global competition to attract investment heats up. Consequently, the absence of any of these components of the investment climate in developing countries is a significant impediment to stimulating the investment climate in the host country, reducing its options and opportunities to attract investment.

Part Two: Attractive Factors for Investment: Legal Guarantees and Incentives

Introduction

The provision of additional guarantees and legal incentives that stimulate and enhance the country's investment climate is one of the most important factors for attracting national and foreign investments. As these factors play a significant role in enhancing the competitiveness of the investment climate at the global level, the research focuses on the essential legal guarantees and incentives that enhance the investment environment in the Kingdom of Saudi Arabia, one of the countries seeking to attract more investment, as follows: Chapter III: Legal Guarantees for Investment; Chapter IV: Legal Incentives for Investment.

Chapter III: Legal Guarantees for Investment

This chapter introduces the concept of legal guarantees granted for investment in Saudi Laws, or as some refer to them, investment guarantees, which function to mitigate the non-commercial risks to which national and foreign investment in host countries is exposed. The purpose of this chapter is also to monitor the most significant policies, general principles, and guarantees adopted by the Kingdom of Saudi Arabia that pertain to investment guarantees or those from which the legal guarantees of investment derive their effectiveness and legal value.

One of the most significant barriers to the flow of capital to host countries, particularly developing ones, is the non-commercial risks investments in those countries face. This presents a considerable challenge for nations looking to attract more investment. As a result, the need to provide guarantees by the host countries to investors arose. Through these guarantees, the host countries promise to ensure that the investors' funds and assets are protected from all non-commercial risks that could affect the investment process.

By legal guarantees of investment, we refer to those mechanisms and policies whose subject matter adopts a legislative obligation on the part of the host State. That includes ensuring the rights of national and foreign investors within the framework of the regulation of the investment exercise process through legal guarantees to protect the investment from all potential non-commercial risks to its territory.

This chapter considers the most critical legal guarantees for investment in the Kingdom of Saudi Arabia by examining the legal sources, "Legislative and Convention" adopted by the Saudi legislature and which deal with the protection of the

rights of investors, national or international. We begin with general investment policies and principles:

Topic I: Saudi Arabia's General Investment Policy

Since one of the overarching goals of Vision 2030 is to develop and diversify the economy, and Vision 2030 aims to make Saudi Arabia one of the 15 largest economies in the world, Saudi lawmakers assert that the Kingdom must seek to attract and make substantial investments in excess of 12 trillion Saudi riyals. These investments will accelerate and diversify the domestic production base, including the digital and green economies, increase private sector participation to 65 percent of GDP by 2030, and encourage foreign direct investment to reach 7.5% of GDP. In a broader sense, these investments will sustainably improve the competitiveness of the kingdom.¹

These characteristics of the Saudi General Investment Policy are reflected in the National Investment Strategy and Investment Principles adopted by the Saudi government, which are discussed below.

Sub-topic I: National Investment Strategy

Numerous nations have been able to distinguish themselves on the global map due to their growing interest in strategic planning. It is common knowledge that no country can pursue a brighter future without adopting a strategic plan that defines its policies. Planning, as a scientific activity, necessitates administrative intervention by a central body in the context of economic, educational, pedagogical, and administrative matters to influence and push them along the intended path to achieve specific goals.

¹ Saudi National Investment Strategy. (2021). Issued by the decision of the Saudi Council of Ministers no.134 on 10/5/2021., p.5. Available at: https://nis.investsaudi.sa/211012_NIS_Brochure_October_2021_english.pdf , Retrieved 11/10/2022.

In light of these facts, the Kingdom's interest in planning grew, reaching a wider circle with the advent of Vision 2030, where the effort of Saudi policymakers to develop organizational and strategic planning trends became evident. Indeed, the Saudi government has elevated this process to a high-priority status. Policymakers need to monitor the future and predict the challenges that the Kingdom may face, particularly in the investment fields, due to the launch of many enormous investment projects.

Launched in 2016, Saudi Vision 2030 seeks to develop and diversify Saudi Arabia's economy by implementing a series of unprecedented structural, regulatory, economic, and social reforms. In order to realize this goal, the Kingdom has, over the past few years, initiated several diverse programs centered on the processes of developing, enhancing, and strengthening strategic sectors in an integrated approach to facilitating investments. This demonstrates that the issue of investment occupies a prominent position in the Kingdom's Vision 2030, which provides expanded opportunities for the private sector in all regions of the Kingdom and in nearly all economic sectors, as well as targeting all types of investors.

This trend culminated in the launch of the National Investment Strategy by the Saudi Council of Economic and Development Affairs, one of the critical enablers for achieving Vision 2030's goals. The strategy has focused heavily on the investment sector, which is important because the Kingdom has one of the largest free economic markets in the Middle East. In order to attract more investment, the Saudi strategy has provided significant incentives to invest in strategic sectors where Saudi Arabia has clear comparative advantages. It has also granted tax exemptions to several less-developed regions of the kingdom.

The most crucial component of the strategy is to demonstrate that the Kingdom has worked hard to ensure a stable investment environment and provide all guarantees to investors, which, in addition to its commitment to continuous development, is an attractive factor for domestic and international investments.

Section I: National Investment Strategy Objectives and Goals

Based on the Kingdom's current strengths and competitive advantages, the National Investment Strategy's overall objective revolves around three primary objectives:

1. Enhance the quality and quantity of investments within the Kingdom. This will assist in driving economic development in accordance with Vision 2030 in all priority sectors while supporting the national and foreign private sectors in playing a more vital role.
2. Support the required investment volume, narrowing the performance gap between current and desired levels by promoting government agency improvements and integrating policies, institutional capacities, and capital attraction programs.
3. Identify and develop sectors of particular importance in addition to traditional sectors, such as green energy, technology, healthcare, biotechnologies, advanced transport, and logistics methods, as well as innovative startup and entrepreneurial activities.

The strategy seeks to accomplish this through three comprehensive axes that directly contribute to the achievement of the Kingdom's Vision 2030 objectives:



Figure (7) Axes for achieving the national investment strategy's objectives

As for the level of particular objectives, the National Investment Strategy aims to achieve the following investment objectives by 2030:

1. Triple investment volume (as measured by Gross Fixed Capital Foundation (GFCF) to SAR 2 trillion by 2030 (equivalent to 30% of GDP).
2. More than double the overall domestic investment component of GFCF to SAR 1.65 trillion (average annual growth rate of ~9%).
3. Increase FDI approximately twenty-fold by 2030 (to 5.7% of GDP by 2030).¹

According to the strategy, current estimates indicate that achieving the goals of Vision 2030 will require annual investments to be tripled, resulting in cumulative investments exceeding 12.4 trillion riyals, as shown in the table below:²

Target Program	Value (Trillion Riyals)	Percentage of Total
Partner Program (Shareek)	5.0	40

¹ Saudi National Investment Strategy. (2021). p.11.

² Saudi National Investment Strategy. (2021). p.13.

Target Program	Value (Trillion Riyals)	Percentage of Total
Public Investment Fund	3.0	24
Other local investments	2.6	21
Foreign Direct Investment	1.8	15
Total	12.4	100%

Table (9) Targeted programs of the national investment strategy.

Based on the preceding, the launch of the National Investment Strategy demonstrates the Kingdom's resolve to move forward with its plans to diversify the national economy and its sources of income, to localize advanced knowledge and expertise, and to develop investments in promising and emerging sectors such as advanced industries, renewable energy, transport and logistics, tourism, digital infrastructure, healthcare, biotechnology, and green technology.

The strategy also represents a common link between many new initiatives and some existing initiatives, such as the Partner Program “Shareek” and the Attracting Regional Headquarters Program for International Companies and Trade Organizations. This is within a comprehensive and integrated plan between the investment system and all relevant government agencies to develop and maximize the benefits of high-quality investment opportunities and increase the Kingdom's regional and global competitiveness, in addition to creating a conducive environment for foreign direct investment and ensuring a prosperous future for generations.

According to the Strategy's objectives, the National Investment Strategy is expected to contribute to GDP growth and provide quality employment opportunities for citizens by improving human resource skills and expertise and facilitating the transfer and localization of knowledge. The strategy also paves the way for the

contributions of entrepreneurs and SMEs by opening access to new investment opportunities.

Section II: Key Pillars of the National Investment Strategy

The National Investment Strategy is intended to be a comprehensive reform package for the national investment ecosystem, the achievement of which requires the active participation of all relevant parties and is founded on four strategic pillars as well as a fundamental modernization of the investment system's governance. Each strategic pillar has a comprehensive objective linked to initiatives and programs that contribute to attaining the strategy's objectives. The pillars are the following:¹

- I. Pillar 1: Investment opportunities, with an objective of realizing Saudi Arabia's full investment potential by developing and accelerating strong and diverse investment opportunities across the economy through targeted programs.
- II. Pillar 2: Investors, with an objective of increasing the contribution and harmony of various investors (domestic and international, public and private, large enterprises and SMEs) in the investment ecosystem.
- III. Pillar 3: Funding, with an objective of diversifying funding options for investors by deepening capital markets and introducing new funding instruments and financing platforms.
- IV. Pillar 4: Competitiveness and enablers, with an objective of improving the Kingdom's competitiveness for domestic and international investors through adopting best-in-class laws and regulations processes centered on private sector engagement and transparency, among other levers.

¹ Saudi National Investment Strategy. (2021), pp.14-15.

In addition to developing the four strategic pillars, the Saudi policymaker has taken great pains to identify the elements required to enable the investment ecosystem, which will serve as the foundation for better serving investors and investment stakeholders. In light of the current investment climate and the disparity between investment opportunities and necessary reforms, the National Investment Strategy intends to implement its objectives via two parallel tracks:

- A. The first track consists of short- to medium-term initiatives to expeditiously stimulate investment and address the most critical and urgent challenges.
- B. The second track consists of sustainable and long-term programs, such as radical solutions to structural challenges and the growth of the investment system and the economy as a whole. These programs will focus on improving the investment climate in Saudi Arabia so that it is more supportive and attractive to local and foreign investors, thereby enhancing the competitiveness of the Kingdom of Saudi Arabia and reforming the system of investment-related policies and laws.

Section III: The National Investment Strategy's Enabling and Governance Factors

The involvement and empowerment of key government and private sector stakeholders will undoubtedly aid in effectively increasing their participation in the successful implementation of the National Investment Strategy's objectives. As a result, roles have been clearly defined, and an effective governance model has been developed to ensure collaborative work, transparent communication, and the smooth

implementation of initiatives and programs under the national investment strategy. The following are the most important of these factors:¹

A. The first factor: reshaping and restructuring the governance of the investment

ecosystem: The National Investment Strategy incorporates the governance of the national investment ecosystem via a group of three committees and a council of support. The focus of these committees is the Higher National Investment Committee, which directs and oversees the other two committees and the Council, namely:

1. Establish a committee to identify and develop investment opportunities, replacing the committee for unifying and coordinating marketing efforts and attracting investments, and reformulate the committee's objectives to align with the objectives of the national investment strategy.
2. National Incentives Committee.
3. The Investors Council ensures direct and institutional communication between investors and government decision-makers regarding the development and challenges of the investment system, thereby aiding long-term efforts to improve continuously.

B. The second factor: defining roles and responsibilities and correlating them

with the phases of the investment cycle: This includes the Ministry of Investment's role relative to those of other government agencies and other stakeholders at each stage of the investment cycle. This action is especially important given the numerous challenges the investment ecosystem faces at various stages. The investment cycle consists of eight steps, the first of which is the

¹ Saudi National Investment Strategy, pp.15-20.

development of national and sectoral investment strategies that highlight investment priorities and gaps that must be translated into clearly defined investment opportunities. This is followed by the effective promotion of opportunities and the enhancement of their credibility through investor communication and opportunity feasibility studies. With subsequent services, the Ministry of Investment will assist investors in concluding deals and preparing to begin operations in the Kingdom, including discussing the provision of specific incentives as needed.

In sum, there is no question that the National Investment Strategy's launch is a significant occasion. On the one hand, the strategy is a crucial tool for achieving Vision 2030's objectives. On the other hand, it serves as a solid foundation and a strong starting point for the Kingdom's bright future in the investment sector. In light of this, some people think that the national strategy will contribute to the accelerating growth of the national economy while diversifying its sources. Additionally, it will strive to achieve a number of objectives, such as boosting the GDP contribution of the private sector and promoting foreign direct investment. According to experts, the strategy is a trend that can spur, reassure, and motivate Saudi and foreign investors, especially in the context of a confident drive toward positive economic growth.

The National Investment Strategy will also usher the Kingdom into a new era of investment concepts. Tremendous investment opportunities are anticipated in the near future due to the strategy's financing solutions to several obstacles that investors and the Saudi economy may face. It is also anticipated that the Saudi economy will become substantially more competitive based on the notions of total quality in products and services. As previously mentioned regarding the need to transform the relationship between the public and private sectors from competitive to cooperative, implementing

this strategy will regulate and enhance investment mobility and increase the efficacy of the partnership between the public and private sectors. This will ensure the short- and long-term achievement of the ambitious investment objectives of the Kingdom, the focus of the investment strategy.¹

Sub-topic II: Principles of Investment

According to Vision 2030, the Saudi legislators have adopted seven investment principles that will foster and develop a competitive investment environment for the country. The Saudis hope that these principles will encourage domestic and international investment, thereby increasing GDP and achieving the desired economic diversification. These principles will serve as guidelines for the rules and regulations governing the investment process, which are based on global best practices.

Among the most prominent topics addressed in the principles are ensuring equality between Saudi and foreign investors, protecting investments from non-commercial risks under Saudi law, enabling the sustainability of investment, and maintaining transparency when dealing with investor complaints. The Saudi investment policymaker was also eager to provide equal opportunities for investment incentives and to implement transparent and nondiscriminatory eligibility standards. In addition, social and environmental standards are to ensure that investors comply with Saudi environmental health and safety regulations and international environmental agreements signed by Riyadh. These principles also make it easier for foreign workers and their families to enter the country, ensure robust knowledge and technology transfer, and enhance Saudi human capital. The statements of principle are as follows:

¹ National investment strategy document., p.5 and beyond.

1. Ensure equality between Saudi and non-Saudi investors and among non-Saudi investors.
2. Ensure the protection of investments in line with the Kingdom's regulations.
3. Enhance the sustainability of investments and deal with investor complaints in a transparent manner.
4. Provide investment incentives when needed and ensure full transparency when granting. And provide a list of investment incentives and grant them in accordance with general, clear, and non-discriminatory criteria.
5. Maintain environmental and social standards in order to ensure that Saudi and non-Saudi investors comply with regulations regarding labor, health, and environmental safety in accordance with national regulations and policies and the international conventions in which Saudi has acceded.
6. Facilitate entry procedures for non-Saudi employees, including technicians, administrators, and their dependents. Arrange their residency in the Kingdom to facilitate their participation in activities related to foreign investments in accordance with the Kingdom's regulations and its international obligations.
7. Transfer and localize science and technology resulting from foreign direct investment in accordance with the Kingdom's international obligations.¹

Topic II: Saudi Legislative Guarantees

As we have previously determined, it is common knowledge that capital invested around the world will not flow to host countries unless the legal status of these countries is evaluated in terms of providing legal guarantees and privileges that protect

¹ Investment Principles and Policies in the Kingdom. Retrieved (07/22/2023). Available at: <https://misa.gov.sa/en/investment-principles/>,

and guarantee investors' rights. Foreign investors have numerous options to choose from among the countries that wish to attract them, and they are free to make that choice.

As a result, the host nations for the investment work to draw any investment that advances their development goals by providing these investments with legal, economic, and procedural guarantees in the form of legal texts that protect and uphold the investor's rights. Clear legal protection will reassure the investor about his upcoming investment project. It will also serve as a motivator to encourage the investor to feel confident that his primary goal, profit, will be realized within the confines of an equitable and well-coordinated legal system in the country that will be receiving his investments.

The concept of legal protection and the guarantee by which it is attained is one of the most important factors influencing an investor's choice of an investment destination. The main objective is to provide the investor with legal protections against any non-commercial risks to which his investment project in the host nation may be exposed. By legal guarantees, we refer to those legislative texts, statutes, and rules in which the concept of protection against non-commercial risks is realized.

These risks are typically attributed to shifts in political and security conditions affecting the host country's economy. Examples include the risks of expropriation or confiscation and nationalization of the investment project, the prevention of the transfer of profits or investors' capital abroad, discriminatory treatment, and the absence of an independent and impartial judiciary, among others. All of the risks mentioned above are considered to be unrelated to trade and are not factored into the expectations of

investors. If such risks were to occur, they would be damaging to the investor's interests, and a greater harm would extend to the interests of international trade.

Therefore, ensuring protection from these risks keeps investors secure against them, maintains the integrity of their legal position should a risk occur, and keeps the environment of investment projects safe and stable. As a result, most national investment systems in developing countries include numerous guarantees and rights granted to investors in order to entice them to invest. These guarantees take various forms, such as legal mechanisms that guarantee the rights of national and foreign investors and those that provide alternative options for resolving investment disputes. In addition, legal mechanisms aim to remove all obstacles that prevent national investments and the flow of capital and foreign investments into the host country.

In fact, the internal Saudi legal system dealt with many of these legal mechanisms and provided many of these guarantees and rights to both domestic and foreign investors, as follows:

Sub-topic I: Protection of Private Property in Saudi Law

When making an investment decision in a country, one of the factors most appealing to the investor is the country's attitude toward private ownership.¹ The laws that protect private property adopted by the countries hosting the investment are among the most important guarantees that reassure the investor and entice him to invest. For example, an investor may be guaranteed right to own the investment project as well as the real estate required for it. In addition, guarantees may ensure that the investment

¹ Private ownership is defined as: the fixed ownership of real estate or a real estate unit with a deed of legal ownership held by a non-governmental natural or legal person or the return of its ownership to the state in its entirety, including suspended property. See; Saudi Real Estate Ownership Law Draft. (2021). dated 08/10/2021. Article I.

project is not expropriated, confiscated, or nationalized except within narrow limits, by judicial order, and in exchange for fair compensation.

In this regard, the Saudi legislator ensured the protection of private property in the Basic Law of Governance. It decided that the state must guarantee the freedom of private property, affirmed its inviolability, and declared that no one may be deprived of his private property unless it is in the public interest and the owner is compensated equitably. In addition, it prohibited the general confiscation of property and private funds and restricted the imposition of the penalty of confiscation on private property to the judiciary so that it could only be imposed by court order.¹

Moreover, Saudi policymakers did not overlook the protection of property rights within the context of investment activity, as these rights were addressed and protected in multiple places within Saudi law. This is described in detail below:

Section I: Guaranteeing the Ownership Right of the Investor

One of the most important factors that investors consider when deciding where to invest is the government's attitude towards private property, whether the investment project or other property required by the project, including real estate and other real property. This is of utmost importance for foreign investors. In this regard, Saudi law has regulated and guaranteed these aspects for the investor, with the following being the most critical guarantees regarding private ownership of investment projects under Saudi law:

¹ Basic Law of Governance. (1992). Issued by Royal Order No. (A/90). dated 03/01/1992. Articles 18 and 19.

I. Possession of the Investment Project

Saudi law guarantees the right of both national and foreign investors to take full ownership of the invested project, allowing the investor to own the project in its entirety and not requiring the participation of a national partner or government institution. This comes as part of the effort to provide an attractive investment climate for foreign investment in the Kingdom, which has been added by legislative reforms in the Kingdom's Vision 2030. Investors also have the freedom to manage, sell, and dispose of the economic project, to own the property required for the economic project's execution, to enter into commercial contracts, and to acquire, dissolve, or sell any company.¹

II. Property Ownership

The Saudi legislator stipulated, in the Investment Law, the investor's right to possess the real estate required for the implementation of an economic project.² This clause guarantees investors in the Kingdom, regardless of their nationality, the right to own property in the territory of the Kingdom of Saudi Arabia once the investment project license has been obtained. It also represents a significant advantage for investment projects. Without the right to own property, the investor would face additional costs, making it difficult to localize investments and threatening the stability and even the possibility of an investment-friendly climate.

The Saudi lawmaker also stipulates that “a non-Saudi investor of natural or legal capacity licensed to practice any professional, artisanal, or economic activity may own the property necessary to practice that activity, including the property necessary for his

¹ Foreign Investment Law. (2000) Issued by Royal Decree No. (M/1) dated 04/10/2000. Article 5-7. & Saudi Investment Law Draft (2022). dated 01/09/2022. Article 4, paragraph II, b.

² Foreign Investment Law. Article 8. & Saudi Investment Law. (2022). Article IV, paragraph II, b.

residence and the housing of his employees, with the approval of the authority that issued the license,” and that the foreign investor may as well “rent the property to carry out his investment activity.”¹

Section II: Guaranteeing that the Investment Project will not be Expropriated

Comparative law specifies different names and forms for the confiscation of private property by some countries that host foreign investment. This is accomplished by removing individuals' control over their investment projects and placing them under the general control of the state. All forms of such interference are termed expropriation by the law. Regardless of the legal system under which expropriation is carried out, whether property is confiscated, nationalized, or expropriated for reasons of public interest, it results in the investor's dispossession and loss of control over his/her invested funds or investment project in whole or in part.²

The differences in forms of expropriation of an investment project reflect the different legal visions adopted by countries implementing the expropriation procedure. Despite differences in legal systems regulating this procedure, all forms of expropriation have the same effect of depriving the investor of ownership of his investment project, or affecting his ownership or complete control over the project. Expropriation procedures share the trait of being governed by a legal provision that justifies expropriation and grants the right to transfer ownership from a private person to the state or one of its institutions.

¹ Non-Saudis owning and investing in real estate law. (2000). issued by Royal Decree No. (M/15) dated 04/06/2000. Article I, paragraph A.

² Alsamarrai, D. M., p.109.

Since it is critical to distinguish between types of expropriation and to know the guarantees provided to investors in the face of them, the research focuses on the following types in greater definition and detail:

I. Confiscation

Within the context of investment regulation, confiscation refers to an action taken by the host country to seize ownership of all or a portion of private property without compensation. In this sense, confiscation generally refers to the punishment inflicted on a specific individual or individuals under which the state seizes all or some of the funds and assets owned by these individuals without performing any compensation.¹

The right to impose the penalty of confiscation derives from the State's enjoyment of the principle of sovereignty, but the State is constrained in taking such action by adhering to the limits of the violator's violation of the law; otherwise, the confiscation procedure is considered an unlawful act for which compensation is required.² In accordance with the prevalent view of contemporary international law, confiscation must be compensated when it is arbitrary or violates due process.³

Confiscation may take either a judicial or administrative form; it is classified as judicial confiscation if it is imposed as a penalty by the court. When administrative confiscation is a measure taken by the executive branch of the host nation in response to an administrative infraction, it is considered an administrative measure.

¹ Alsamarrai, D. M., p.109.

² Alfar, A. M. (1979). *International cooperation provisions*. Cairo: The World of Books., p.115.

³ Shendi, W. (1978). *Economic Benefits of Foreign Investments, Studies on Investment Guarantees*. Cairo: Institute of Arab Research and Studies, p. 459.

Judicial confiscation is a judgment handed down by the courts as a legal punishment. For example, if the investor is involved in cases and acts affecting the security and safety of the host State with the intent of destabilizing its economic, political, or social system, or if the investor commits acts of sabotage, confiscation may ensue. As a form of punishment, the host state confiscates. In contrast, administrative confiscation is either an action taken by the executive branch of the host State on the basis of a law that entitles it to carry out confiscation, such as the imposition of a confiscation penalty on persons who commit offenses prohibited by law. Or confiscation could involve preventive precautionary measures taken by the administration to protect the state's supreme interests. In the latter two cases, the imposition of the confiscation penalty takes the form of an administrative procedure that does not require judicial rulings.¹

In this context, the Saudi legislators, as part of their efforts to enhance the state's investment climate, ensured that an investment project would not be confiscated. The Investment Law states clearly that "direct investments may not be confiscated in whole or in part except by a court ruling."²

According to this stipulation, the confiscation procedure is limited to the judiciary only, in the sense that confiscation is only permissible by judicial decision. There is no doubt that this provision is entirely in the investor's best interests, as

¹ Sadiq, H. A. International protection of foreign money., p.20.

² Saudi Investment Law (2022). Article IV, paragraph III. Also see: Foreign Investment Law (2000). Article XI.

- At the international level, states typically base their resolutions on the nationalization of investment projects on Resolution 1803 of the United Nations General Assembly, which was adopted on December 14, 1962, under the title "Permanent sovereignty over the wealth of nature." This trend is also supported by the Charter of Economic Rights and Duties of States promulgated by Resolution No. 328, adopted by the United Nations General Assembly on December 12, 1974.

confiscation in this form poses no risk to him. Judicial confiscation is known to be of a penal nature, which means that it is only carried out as a result of unlawful acts committed by the person against whom the action was taken. In other words, this law ensures that the investor's ownership of his investment project is protected from confiscation and obligates the State to not confiscate investments through political decisions or other covers for the seizure of investment projects.

II. Nationalization

Nationalization refers to the sovereign act by which a state transfers the ownership of a significant private enterprise into public property managed by public institutions or in the form of a company whose shares are owned by the state. The government acts to bring about economic reform of the state and remove the capitalist ideology from everything associated with the exploitation or management of vital projects in the state, whether public facilities or private projects that perform basic services.¹ The Institute of International Law defines nationalization as "a process related to the supreme policy carried out by the state in order to change its economic structure in whole or in part, so that the private sector ceases to hold some important industrial or agricultural projects, to be included in the public sector to serve the nation's interests."²

In terms of the preceding context of expropriation, based on the researcher's examination of the laws, regulations, and judicial precedents, the Saudi legislator has not addressed nationalization directly. However, the texts by which the Saudi legislator dealt with the issue of confiscation, which we have already discussed, regulate the issue

¹ Altamawi, S. M. (1984). *Brief on Administrative Law*. Egypt; House of Arab Thought., p.389.

² Alsamarrai, D. M., pp.112-113.

of nationalization if we view nationalization in the general sense of expropriation of private property and if we assume it is a form of confiscation of private property.

III. Expropriation in the Public Interest

Expansion of expropriation procedures for the public benefit in countries hosting investment is a non-commercial risk that reduces the investor's desire to invest in these countries, particularly if the host country cannot guarantee that the investor will not be exposed to this risk. As a result, many states became interested in organizing expropriation for the public good as an intervention to improve their investment climate.¹ Expropriation for the public benefit is defined by Saudi law as "the forced appropriation of real estate, other than state-owned real estate, in whole or in part for the public interest."²

In the context of our discussion of investment regulation, the term expropriation for the public benefit refers to the administrative procedure that seeks to deprive investors of their real property in exchange for fair compensation. In other words, it is a procedure that deprives the investor of ownership of their property against their will for the purpose of public benefit in exchange for fair compensation. This exceptional measure applies to real estate and may only be used in accordance with the law and provided that it is done to achieve the public benefit with fair compensation paid to the property owner.

Although this measure is limited to property without affecting the investment project's ownership, it does not negate the nature of the non-commercial risks posed by

¹ Alfar, A. M., p.114.

² Executive Regulations of the Law of Expropriation of Real Estate for Public Benefit and Temporary Seizure of Real Estate. (2015). Issued by the Saudi Council of Ministers Resolution No. (M/54). Date 12/11/2015. Article I.

the procedure, which unquestionably threaten the investment project's stability, especially if we are aware that real estate is crucial to investment operations and that its availability is a significant factor in the success or failure of these operations.

The administrative decision through which expropriation occurs is described as an expression of the state's sovereignty and one of its rights exercised within the limits of its territorial jurisdiction. It is, therefore, applicable to both citizens and non-citizens without discrimination, and the owner must be compensated in accordance with the laws in effect in the host country.

In this regard, the Saudi legislator has regulated the procedure for expropriating the investment project in the public interest as follows: “Direct investments may not be confiscated in whole or in part except by a court ruling, and they may not be expropriated in whole or in part except for the public benefit and in return for fair compensation in accordance with the laws and regulations in force in the Kingdom.”¹ With this stipulation, the Law guarantees that the real estate and property of the investment project will not be expropriated from the hands of its owners unless there is a public interest that requires such expropriation, and that such expropriation will be accompanied by the payment of fair compensation.

Consequently, if the public benefit is the intended purpose of the expropriation procedure and its absence renders the expropriation procedure invalid, what is the public interest in this context?

The Saudi legislator responded to this question by defining public interest in this context as follows: “Public interest intends to any development or prosperity that

¹ Foreign Investment Law (2000). Article XI. & Saudi Investment Law (2022). Article IV, paragraph III.

achieves a public benefit in which the interest of society prevails over any private interest of a natural person, legal person, or government entity, and all that pays public damage, such as from natural disasters, epidemics, and similar occurrences. This encompasses any of the following actions:

1. Construction of roads, streets, transportation lines, and public transportation facilities on the land, sea, and air.
2. Urban planning projects, the construction of mosques, gardens, and social, educational, and health services buildings, etc.
3. Developing the facilities of the Two Holy Mosques and related to the Hajj or Umrah rituals and visitation.
4. Projects of power generation, water, electricity, natural gas, petroleum, sewage, flood drainage, telecommunications, and government radio and television transmission.
5. Drilling, exploration, mining, and similar endeavors.
6. Projects to preserve the state's cultural, historical, and human heritage, environmental reserves, and wildlife.
7. Projects related to internal security and the establishment of military installations.
8. Other acts deemed to be in the public interest by other laws.
9. Other acts determined to be in the public interest by a Council of Minister's decision.”¹

¹ The Executive Regulations of the Law of Expropriation of Real Estate for Public Benefit and Temporary Seizure of Real Estate. (2015). Article I; 3,5. Article III. & The Draft of a new Executive Regulations. Article V.

From this, it is clear that Saudi law guarantees the investor protection from one of the non-commercial risks to which his investment project may be exposed by ensuring that the investment project's property is not confiscated. It also restricts the expropriation of investment projects in the public interest to very narrow cases, in exchange for fair compensation and on the condition that the public interest is available. It stipulates the content of this in the Basic Law of Governance, in articles XVIII and XIX, and establishes the same legal content in the Investment Law, in Article IV.

Sub-topic II: Ensuring the Stability of Investment Legislation

The principle of legislative stability in national investment laws is defined by jurisprudence as those provisions contained in the foreign investment laws of the host country, which will conclude an international contract or agreement with a foreign person, according to which the State undertakes to the other party not to repeal or amend the laws applicable to the contract.¹

The principle of legislative stability is one of the most important legislative guarantees that the investor seeks, given that the mechanism for changing investment regulations may result in the modification or elimination of the rights and responsibilities accorded to him. Since the State has absolute freedom to change and amend its laws, failure to guarantee the principle of legislative stability for the investor may result in the deprivation of certain rights guaranteed to him by the repealed or amended law. It also may impose new obligations to which he was not subject under the repealed or amended law. Therefore, the principle of legislative stability is a major

¹ Salameh, Ahmed. (1978). "Conditions of Legislative Stability in Investment and International Trade Contracts," *Egyptian Journal of International Law*, vol.43, p.70.

guarantor of the investor's rights against any modification or repeal of investment laws in the host countries of investment.

Based on Saudi Arabia's desire to encourage foreign investments and provide the highest level of guarantee and protection for investors, the Saudi legislator adopted the principle of legislative stability in the Investment Law. The inclusion of this principle within the provisions of the Investment Law reads, “The provisions of this Law shall not amend or cancel the licenses, acquired rights or privileges granted to direct investments in force prior to the entry into force of this Law.”¹

The preceding text clearly shows that the Saudi legislative authority has ensured the protection and maintenance of all rights acquired by the investor under the investment law in the event that these texts are amended or repealed. This means that any of the investment rights and guarantees the Law grants to the Investor will not be affected if they are amended or canceled by the issuance of a new investment law or the amendment and cancellation of articles thereof, but the investor has the right to preserve and enjoy them in the event of the issuance of a new law that does not include them, or should those rights and guarantees be amended or cancelled. This does not apply to any new investors who invest in the Kingdom after the new law enters into force or the previous law is modernized; they will not have the same right to obtain these rights, but the new law's provisions will apply to them.

Sub-topic III: Ensuring Non-discrimination between National and Foreign Investors

The principle of non-discrimination between domestic and foreign investors is founded on the notion of equality between investors in the host country's territory by

¹ Saudi Investment Law (2022), Article XIV, paragraph II; Foreign Investment Law (2000), Article XVI.

facilitating the exercise of economic and commercial activity for all persons, regardless of nationality. This principle is regarded as one of the most generous when it comes to the treatment of foreign investors due to the equality of treatment between them and national investors. That is, all transactions and procedures relating to an investment in the host country are subject to the equality principle, with equal rights and duties toward all.¹

The principle of non-discrimination in treatment is derived from international investment laws, which require the host State to not favor its national investor over a foreign investor. It means that the foreign investor, the national investor, and all forms of investment must be subject to uniform standards based on equal treatment.²

At the Saudi level, the Investment Law adopted this principle and treated foreign investments as national investments when it stated: “Local and foreign investors shall be treated similarly with regard to their direct investments in the Kingdom, except as otherwise provided in this Law or other laws and regulations in force in the Kingdom.” Additionally, it was determined that “the investor shall enjoy the following rights and guarantees: a- Treatment that is impartial and nondiscriminatory...”³

The Saudi legislator has also guaranteed that a foreign enterprise licensed under Saudi Arabia's investment legislation enjoys all the benefits, incentives, and guarantees enjoyed by the national enterprise in compliance with the laws and instructions and any amendments to them. This is stated in the Implementing Regulations of the Investment

¹ Riyadh, F. (1966). *Nationality, status of aliens and conflict of international jurisdiction*. Cairo: Arab Renaissance House, p.332.

² Sadiq, H. A., *International protection of foreign money.*, pp.203, 214-241.

³ Saudi Investment Law (2022). Article IV, paragraphs (II,III).

Law, which reads:¹ “Foreign Investment projects shall enjoy all the benefits, incentives and guarantees extended to national projects, including the following:

1. The incentives stipulated in the Protection and Promotion of National Industries Act issued by Royal Decree No. 50 dated 23.12.1381 H.
2. Ownership of real estate required to carry out the investor’s licensed activity or for his residence and his staff housing according to the provisions of the Regulation of Ownership and Investment in Real Estate by Non–Saudis issued by Royal Decree No. M/15 dated 17.04.1421 H.
3. The benefits ensuing from agreements of avoiding double taxation and agreements of promotion and protection of Investment which are signed by the Kingdom.
4. Prohibition of any full or partial confiscation of investment without a court order or subjecting them to expropriation wholly or partly except for the public interest and against fair compensation.
5. Foreign investors are entitled to repatriate their share derived from the sale of their equity, from a surplus of liquidation or the profits generated by the entity and to dispose of it by any legal obligations. He is also entitled to transfer the required amounts to fulfill any contractual obligations in respect of the project.
6. Shares can be freely exchanged amongst partners and others.
7. The licensed entity is entitled to sponsor the foreign investor and his non–Saudi staff.

¹ Executive Regulations of the Foreign Investment Law. (2014). Issued by the decision of the Board of Directors of the General Investment Authority, no.2/74, dated 03/13/2014. Article V.

8. The licensed entity is entitled to obtain industrial loans in accordance with the regulations of The Saudi Industrial Development Fund.
9. The losses incurred by the entity may be carried forward to the following years and will not be calculated at tax settlement of the years during which the entity reaps profits.”

It is evident from the previous texts that the Saudi policymaker has adopted the principle of investor nondiscrimination. In addition, all types of direct investments are enabled to profit from this regulation. In other words, these provisions ensure that all foreign direct investments based on the Kingdom's territory enjoy the same incentives and benefits as national investments, without favoring one sector over another, except in cases where the Investment Law and the Executive Regulations specifically stipulate to restrict.

The current Investment Law, in particular the texts mentioned above, is more comprehensive and open than previous systems, as the majority of previous laws of investment in Saudi Arabia placed restrictions on foreign investors while providing exceptional incentives and benefits to national investors. In addition to his study of and adoption of the best international experiences and practices in the field of attracting foreign investments, this move by the Saudi policymaker demonstrates his growing interest in boosting the growth rate and development of the national economy in all of its aspects.

Sub-topic IV: Protection of Intellectual Property and Patents

The availability of legal guarantees protecting intellectual property rights are a crucial component of the formation of intellectual capital, which is one of the most important factors of production today. These guarantees include all rights associated

with literary, scientific, and inventive works. Therefore, the existence of clear laws to protect inventions, scientific discoveries, patents, industrial designs, trademarks, service marks, and similar intellectual property is an incentive for investors to conduct their activities in a market that safeguards them from any encroachment or violation of their intellectual property. When determining where to invest and whether or not to invest, the protection of intellectual property rights is also a major consideration.

Multiple studies have demonstrated that ensuring intellectual property protection is a crucial factor in the transfer of high-tech industries to countries that host investment. The number of registered inventions and patents also increases as a result of ensuring the application of intellectual property protection systems. In addition, many foreign companies pledge to increase the conduct and development of applied and technical research within their investment projects if their host countries guarantee intellectual property protection for these efforts.¹

The adoption of guarantees that protect intellectual property in national legislation is a factor that attracts foreign investments. One study indicated that the protection of intellectual property is a factor that attracts foreign investments and gave it (47%) importance among other factors.² In contrast, investors view the absence of intellectual property protection measures or their lax application as an impediment to investment.³

In turn, the Saudi policymakers did not neglect the aspect of regulating intellectual property protection, as they referred to "moral rights, which include

¹ *Business Guide to the WTO Agreements*. (1995). International Trade Center (UNCTAD), p.343 and beyond.

² Parker, M., p.134.

³ Awad, T. (1999). "Obstacles to foreign investment in Jordan." *Journal of industrial cooperation in the Arabian Gulf*. Gulf Organization for industrial consulting, 20(76). p.33.

intellectual property rights such as copyrights, patents, industrial designs and design plans of integrated circuits, technical knowledge, confidential commercial information, and trademarks." They also provided for the protection of intellectual property within the scope of investment activity in the Saudi Investment Law, as it is one of the rights guaranteed by the Law to investors.¹

In addition to regulating intellectual property protection, the Saudi legislator has enacted deterrent penalties for the offense of intellectual property infringement in multiple laws. Examples of such legislation include the GCC Patent Law, the Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties, and Industrial Designs, the Trademark Law, the Trade Names Law, and the Anti-Commercial Fraud Law. Due to the significance of these guarantees addressed by the Saudi legislator in the context of intellectual property protection, the researcher will highlight the most important ones here:

Section I: Protection of Patents and the Like

The Saudi legislator guaranteed the right of the inventor to prevent third parties from using or exploiting his invention without consent in the Patents Law of the Cooperation Council for the Arab States of the Gulf, which states: "Where the Patent subject is a product, the Patent owner shall have the right to prevent others from manufacturing, use, sale, offering for sale, or import of the product for such purposes, without his prior consent. However, where the patent subject is an industrial process, he shall have the right to prevent others from the actual use of the process. He shall also have the right

¹ Saudi Investment Law (2022). Article IV, paragraph E.

to prevent others from using, and offering for sale, sale or import of at least the products directly obtained by using such process, for such purposes, without his prior consent.”¹

The Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties, and Industrial Designs clarified the forms of infringement of intellectual property protection in the topics addressed by the law, as well as the mechanisms of protection, as follows: “It is considered an infringement on the subject matter of protection to carry out any act of exploitation stipulated in the special provisions for each subject matter of protection carried out by any person in the Kingdom without the written consent registered in the Department by the owner of the protection document. At the request of the document's owner or any interested party, the committee shall order the prevention of infringement and the payment of the necessary compensation. The committee may fine the infringer up to one hundred thousand riyals, and the maximum fine will be doubled if the offense is repeated. If the committee determines that the infringement requires a prison sentence, the infringer is first referred to the administrative court, known as the Board of Grievances. The committee may take whatever immediate action it deems necessary to avoid the damages caused by the infringement. The committee's decision, in this case, shall be published at the expense of the convict in the Official Gazette, the Bulletin, and two daily newspapers, and the provision of this article shall not prejudice any harsher penalty stipulated in any other law.”²

¹ Patents Law of the Cooperation Council for the Arab States of the Gulf (2001). Promulgated by Royal Decree no. M/28, dated 3/26/2001. Article XII, paragraph II.

² Law of Patents, Layout Designs of Integrated Circuits, Plant Varieties, and Industrial Designs (2004). Promulgated by Royal Decree no. M/27, Dated 07/17/2004. Article 34.

Section II: Protection of Trademarks

The Saudi legislation in the Trademark Law ensures trademark infringement protection. It also imposes deterrent penalties on anyone who violates this regulation, as follows, “Without prejudice to any more severe penalty, the following shall be punished by imprisonment for not more than one year and a fine of not less than fifty thousand riyals and not more than one million riyals, or by either of these two penalties:

1. Anyone who forges a registered mark or imitates it in a way that misleads the public, as well as anyone who uses a forged or imitated mark with bad intent.
2. Whoever, with bad intent, places a mark owned by others on his products or uses a mark owned by others in connection with his services.
3. Anyone who knowingly offers, offers for sale, sells, or acquires products bearing a counterfeit, imitated, placed, or used mark, as well as anyone who knowingly offers services under such mark.”¹

It also guarantees all those affected by a violation of this law the right to compensation as follows, “Anyone who suffers damages as a result of someone committing one of the violations stipulated in this system may file a claim against the person responsible for this violation for appropriate compensation for the damages suffered.”²

Section III: Protection of Trade Names

The protection of the trade name of companies and investment projects is one of the rights protected by Saudi law in the Trade Name Law, which regulates the

¹ Trademark Law (2002). Promulgated by Royal Decree no. M/21, dated 03/15/2002. Article 43.

² Trademark Law (2002). Article 48.

intellectual property rights of companies and commercial projects. Specifically, it states: "If the trade name is used by other than its owner or is used by its owner in a way that violates the law, those concerned may request the Minister of Commerce to prevent its use or strike it off the Commercial Register if already registered. They may also resort to the Board of Grievances for compensation if appropriate."¹

It also approved penalties for violating any of the law's provisions with the following language: "Without prejudice to any more severe penalty provided in another law, any person who uses a trade name in violation of the provisions of this Law shall be liable to a fine not exceeding SR 50,000. The penalty may be doubled if the offense is repeated. The decision may include the publication of its summary at the expense of the violator in a local newspaper, or in any other appropriate manner, depending on the type of offense committed, its severity and its impact on society, provided that the publication of the decision after it has been fortified by the prescribed period or supported by the competent court."²

Section IV: Combating Commercial Fraud

Infringement of intellectual property rights is a type of commercial fraud that deceives and harms consumers. It also has an impact on investment projects and entities, causing sales to fall and damaging reputations due to the exploitation of brand name and character. This type of violation also results in the utilization of counterfeit goods, products, and materials that are of lower quality than their original counterparts. Many investors who practice manufacturing in their investment projects in host countries rely on the legal systems of those countries to protect their products. This is

¹ Trade Names Law (1999). Promulgated by Royal Decree no. M/15, dated 04/17/1999. Article 11.

² Trade Names Law, Article 12.

reflected in the rules for protecting intellectual property rights and combating commercial fraud. These rules give producers confidence that their products and businesses will not be copied, imitated, or pirated. It also indicates the presence of a sound and appealing legal environment for foreign companies and projects looking to invest in these countries.

In turn, the Saudi regulator addressed this issue in the Anti-Commercial Fraud Law, tightening the noose around intellectual property rights violators by defining the adulterated product as "any product subjected to any form of tampering or alteration that led to the decrease of its material or moral value, whether by addition, deducting, fabrication, or otherwise, and whether with regard to its substance, nature, type, species, form, elements, characteristics, requirements, specifications, source, or measurement (whether weight, size, quantity, capacity, or calibration)."¹

The Law also specifies the types of violations that constitute commercial fraud, as follows: "Following acts shall be considered offenses against this Law:

1. Deception or attempted deception in any of the following issues:
 - a. The product itself, its nature, type, species, elements or substantive characteristics.
 - b. Source of the product.
 - c. Measurement of the product, whether by weight, measure, quantity, capacity, or caliber.
2. Adulterate or attempt to adulterate a product.
3. Sells or offers for sale an Adulterated Product.

¹ Anti-Commercial Fraud Law (2008). Issued by Royal Decree no. M/19, dated 04/23/2008. Article I, paragraph A.

4. Possesses an Adulterated Product for trade.
5. Manufactures, produces, possess, sells, or offers products not compliant with the approved standards.
6. Uses containers, packs, wraps, packages, or stickers not compliant with the approved standards in the preparation or setting up of products designated for sale.
7. Packs, bundles, ties, distributes, stores, or transports a product in violation to the approved standards.
8. Imports, manufactures, prints, possesses, sells, or offers for sale packs, wraps, or printed materials used in adulteration.
9. Imports an Adulterated Product.”¹

The law imposes deterrent penalties on anyone who violates its provisions, beginning with financial fines ranging from 50,000 to one million Saudi riyals, or imprisonment for a period of not less than six months and not more than two years, or both, and the penalty is doubled in the event of a repeat violation.² The law also addressed some effective methods of reducing commercial fraud. For instance, the law drafted articles that allowed defamation of violators by publishing their names, the names of the entities to which they belonged, and the details of the violation in national newspapers to deter them. Besides, all this helps raise awareness and assist consumers in exploring and reporting products that violate Saudi specifications and standards.³ The law also guarantees the right to compensation for those who have suffered damage due to violations of the law's provisions.⁴ To encourage the general public to report any

¹ Anti-Commercial Fraud Law. (2008). Article II.

² Anti-Commercial Fraud Law. (2008). Chapter IV (Penalties). Articles (16-27).

³ Anti-Commercial Fraud Law, Article 25.

⁴ Anti-Commercial Fraud Law, Article 13.

violation or suspicious product, the Ministry of Commerce has also worked on allocating several ways to report cases of commercial fraud in the Kingdom.

Sub-topic V: Ensuring the Free Flow of Investment Capital and Profits

Investment is a critical component for attracting capital and one of the most important pillars on which developing countries rely to achieve economic development. As a result, the Saudi legislator has sought to attract foreign investment while also encouraging domestic investment by including various guarantees and incentives in investment laws in order to attract the greatest possible number of national and foreign investors.

Attracting foreign investment, however, is a difficult process dependent on the availability of a variety of factors to attract investment, as well as the availability of guarantees provided by the host country. Thus, countries are working to make their investment climate more favorable and stable, as well as to increase investor confidence in their national legislation in order to serve the interests of both domestic and foreign investors. One of the most important requirements for attracting investment projects is the guarantee of the free transfer of capital and its returns. The Kingdom of Saudi Arabia has installed this guarantee within its national legislative frameworks.

Therefore, one of the most important guarantees that encourages the flow of foreign capital to any host country is the freedom to transfer invested capital. This is because an investor will not decide to invest capital in a foreign country's territory until they are certain they can recover their money and the profits generated from it if they wish to transfer it outside the host country.¹

¹ See: Alhaddad, M. O., p.144.

The term freedom of investment capital transfer means ensuring that the host country has no restrictive and specific conditions on the process of transferring invested capital. Clearly, granting foreign investors the right to transfer capital and profits abroad is an important guarantee. However, it imposes a significant burden on host countries, particularly developing ones, due to their need to hold investment capital to support their foreign exchange treasury. As a result, many countries do not give the investor complete freedom in the process of transferring capital.

Although many states recognize this guarantee for foreign investors, they limit this transfer by subjecting the transfer process to arbitrary measures. In some developing countries, these measures amount to distorting the characteristics of investment laws relating to capital transfers and profits. This occurs when the host State takes action that imposes direct or indirect restrictions on the investor's ability to transfer the capital with which the investment was made or the benefits derived from it. Examples of such capital transfer restrictions include, but are not limited to:

I. Direct Measures

One of the direct restrictive measures on the transfer of invested capital that an investor may encounter in host countries is the express refusal of transfer. This can occur by the Law stipulating that the transfer of invested funds abroad is prohibited until a certain time after the start of the investment project, or imposing a discriminatory exchange rate for the foreign investor, or imposing an exchange rate that includes a burden on the foreign investor.

II. Indirect Measures

Indirect restrictions on the free movement of capital can take the form of requiring prior authorization from a competent authority for the transfer, stipulating a

period during which the transfer is prohibited, or mandating that the transfer be made in installments over a number of years. As a result of the emergence of a financial crisis affecting the budget balance of the host state, some regulations may also provide for the temporary suspension of the transfer of funds overseas. Host states may also enact general regulations that influence the movement of capital and the profits derived therefrom, particularly developing countries, in an effort to control their economic potential and preserve their foreign currency based on their sovereign right over their territory.

In the Kingdom of Saudi Arabia, the legislator guarantees, within national legislative frameworks, the investor's right to transfer investment capital and profits, as evidenced by the following:

Section I: Ensuring the Transfer of Capital and Investment Profits in Saudi Law

Saudi Arabia's investment legislation provides one of the most critical investment guarantees as well as one of the most important incentives for attracting investment: the investor's right to transfer his share and net profits abroad or dispose of them in any safe and legal manner, in addition to the unrestricted transfer of the amounts required for the investor to contract for his project. The Saudi Investment Law stipulates that the investor has the right to "transfer funds from within and outside the Kingdom, including the transfer of revenues and profits of the economic project, as well as its sale and liquidation, through legal channels using any currency recognized within the Kingdom, or dispose of it by any other legitimate means."¹

¹ Investment Law (2022). Article IV, paragraph II, B.

The Executive Regulations of the Foreign Investment Law also stipulate the investor's right to transfer his invested capital as one of the benefits, incentives, and guarantees granted to him and guaranteed by the law. It was determined that the project licensed under the Foreign Investment Law should enjoy the same benefits, incentives, and guarantees as the national project in accordance with the regulations and directives in effect in the Kingdom. The Executive Regulations refer to the free flow of funds into and out of the Kingdom as follows: “Foreign investors are entitled to repatriate their share that is derived from the sale of his equity, from the surplus of liquidation or the profits generated by the entity and to dispose of it by any legal obligations. He is also entitled to transfer required amounts to fulfill any contractual obligations in respect of the project.”¹

It is clear from the preceding that the Saudi legislator has guaranteed the investor the freedom to transfer investment capital and profits through various legal texts in Saudi investment legislation. Nonetheless, these texts have been criticized for neglecting to regulate the mechanisms for transferring investment capital and profits, with the mechanisms characterized as inaccurate and ambiguous. However, the Saudi legislator has addressed this by regulating these mechanisms in bilateral investment protection agreements between Saudi Arabia and a number of other countries.²

Section II: The Right to Increase Investment Capital

In addition to ensuring the right to transfer invested capital abroad, the Saudi legislator allowed the investor to enter additional capital by buying local or foreign investment facilities or shares in them. The Foreign Investment Law's executive

¹ The Executive Regulations of the Foreign Investment Law (2014). Article V, paragraph V.

² The research dealt with the organization of mechanisms for transferring funds invested in the Kingdom and their profits in bilateral international agreements, under the topic of guarantees agreement, on p.200.

regulations state that “a foreign investor may purchase local or foreign investment establishments or shares therein.”¹

This aspect of the law is consistent with the investor's need to expand or reduce production costs, as an investor may want to purchase a facility directly related to his production, such as a project that supplies him with raw materials, or to expand his production by including other facilities, or to diversify his production. So this encourages the foreign investor to increase and diversify his investments, which is the demand of every investor committed to the success of his venture.

Sub-topic VI: Bankruptcy Regulation

The investor is exposed to two types of risks: non-commercial risks, which we have previously discussed, such as expropriation, nationalization, confiscation of the investment project, and others, and commercial risks, which include bankruptcy, inability to pay debts, and other business-related risks.² The focus of our research in this section is the regulation of bankruptcy in Saudi law, as follows:

The Saudi Bankruptcy Law is one of the legislative reforms that the Saudi legislator worked on to improve the country's investment climate as part of Saudi Vision 2030. The law enhances the competitiveness of the investment climate in the Kingdom of Saudi Arabia by bolstering investor confidence in the financial transactions of the Saudi market, where the law is developing its efficiency and efficacy and achieving transparency.

¹ The Executive Regulations of the Foreign Investment Law. (2014). Article Thirteen.

² Alahdab, A. (1982). The legal system of petroleum in the Kingdom of Saudi Arabia. Beirut, Dar Nofal for Publishing and Distribution. p.197

In this new law, the legislator worked to balance the interests of investors and creditors in the event of the investment project's bankruptcy, providing legal solutions to financial difficulties, including the option of liquidating assets without jeopardizing the rights of investors or creditors. The Bankruptcy Law also allows the bankrupt investor to organize his funds when he fails to pay his financial obligations. In addition, the defaulting investor may maximize the value of assets by selling them at the highest price when the opportunity to continue the investment activity is no longer available. The Bankruptcy Law also allocates procedures commensurate with the size of small investors' investments, with shorter periods and simpler procedures, increasing efficiency on the one hand and lowering costs on the other. The law also aims to allow a bankrupt or defaulting debtor to resume his activities, thus boosting confidence in the credit market and financial transactions. At the same time, the law seeks to improve the Kingdom's ranking in the bankruptcy settlement index.

Topic III: Investment Guarantees in Agreements

Many countries have concluded international agreements pertaining to the promotion and protection of investment, as well as bilateral agreements pertaining to the promotion and protection of bilateral investment, in order to overcome impediments to attracting investment. Moreover, a number of these countries have also acceded to international conventions pertaining to the enforcement of foreign arbitral awards and agreements pertaining to arbitration in investment cases for the same purpose.

Foreign investors usually believe that investment guarantees provided by host country legislation are inadequate and fail to give full reassurance to investors. They are also concerned about the extension of the host State's authority over investment project activities, as well as the potential impact of this influence on domestic judicial institutions in the event of an investment dispute. These concerns prompted investors

and exporting and receiving countries to search for international guarantees in the form of international agreements that protect investments and impose the authority of these agreements on parties to the investment process. Achieving a balance based on meeting the interests of the investment parties, the host country, and the investor, which ultimately leads to the creation of a low-risk investment climate, is a key factor in strengthening the interests of international trade.

In this context, the Kingdom of Saudi Arabia has paid close attention to adhering to a large number of international conventions. This is to encourage and improve the competitiveness of its investment climate in the midst of fierce global competition to attract investments. Among the most significant of these agreements are the Agreement on Trade-Related Investment Measures (TRIMS, 1994), namely Annex (I) to the Agreement Establishing the World Trade Organization (WTO), the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, 1998), the Greater Arab Free Trade Area Agreement (GAFTA, 1998), the Gulf Cooperation Council Economic Agreement (GCCEA, 2002), and, most recently, the WTO Trade Facilitation Agreement (TFA, 2017).

The Government of the Kingdom of Saudi Arabia has also ratified several bilateral investment promotion and protection agreements with many countries in the region and around the world in order to protect the mutual investment interests of its citizens and the citizens of those countries. These conventions contain a number of guarantees, with the following being the most significant:

Sub-topic I: Ensuring Non-discriminatory Treatment Between Investors

As a member of the WTO, the Kingdom of Saudi Arabia adheres to a set of fundamental principles. These principles serve as the main framework for the

Organization's work and are a recurring theme throughout most agreements that govern their implementation, whether they are the general agreement on trade in goods (GAT), the general agreement on trade in services (GATS), or the agreement on trade-related aspects of intellectual property rights (TRIPS).¹

One of the principles contained in WTO agreements is the most-favored-nation principle. In accordance with this principle, a Member State grants all powers or privileges that have been granted to a particular State to all Member States, and each Member State offering any preferential advantage in its dealings with another State is required to offer the same preferential treatment to all Member States of the Organization in order to achieve the principle of non-discrimination in bilateral trade transactions. According to the agreements, mutual benefits within the framework of customs unions and free trade zones are prohibited, as well as preferential treatment granted by some industrialized countries to some developing countries.

In addition, the principle of national treatment is one of the principles enshrined in WTO agreements. Basically, this principle stipulates that domestic products shall not be treated differently than similar products from the importer in terms of local duties, taxes, or standard specifications, and that the state shall not treat imported goods and services differently than domestic goods and services.

Multiple bilateral investment promotion and protection agreements ratified by the Kingdom with other states also guarantee the non-discriminatory treatment of investments made by nationals of the contracting states. For instance, the provisions of

¹ See: Dimashkieh, N. K. & Sabih, T. (2010). Comprehensive Guide to WTO Agreements. Trade Policy Development Project and Preparation for Accession to the World Trade Organization. Syria; Ministry of Economy and Trade. p.23 and beyond.

the Agreement on the Promotion and Protection of Investment between the Government of the Kingdom of Saudi Arabia and the Government of the Republic of South Korea regarding the guarantee of non-discriminatory and non-arbitrary treatment states: “The investments of investors of any Contracting Party to the Agreement shall enjoy full protection and security in the territory of the other Contracting Party, and neither Contracting Party shall in any way take any arbitrary or discriminatory measures that would impair the management, maintenance, use, enjoyment or disposition of investments by investors of the other contracting party on its territory.”¹

These agreements also guarantee and bind Saudi Arabia and its parties to the principle of treatment no less favorably than that accorded to third-country investments, also known as the principle of treatment according to the most-favored-nation. Some of these agreements stipulate, for instance, that “each Contracting Party shall accord investments and their returns to investors of the other Contracting Party no less favorable treatment than that accorded to investments and returns on investments of investors of a third State.”²

¹ Agreement on the Promotion and Protection of Mutual Investments between the Government of the Kingdom of Saudi Arabia and the Government of the Republic of South Korea (2002). Ratified by Royal Decree No. (M/42), dated 2002/04/04. Article II, paragraph II. The principle of non-discriminatory and non-arbitrary treatment is also guaranteed in several bilateral conventions ratified by Saudi Arabia, including, for example, the following:

1. Agreement on the Promotion of Mutual Investments between the Government of the Kingdom of Saudi Arabia and the Government of the Federal Republic of Switzerland. (2008). Ratified by Royal Decree No. (M/18) dated 04/08/2008. Article III, paragraph III.
2. Agreement on the Promotion and Protection of Mutual Investment between the Government of the Kingdom of Saudi Arabia and the Government of the Republic of France. (2003). Ratified by Royal Decree No. (M/1) dated 03/24/2003. Article II, paragraph II.
3. Agreement for the Promotion and Protection of Mutual Investments between the Government of the Kingdom of Saudi Arabia and the Government of the People's Republic of China. (1997). Ratified by Royal Decree No. (M/20) dated 04/01/1997. Article II, paragraph II.
4. Agreement on the Promotion and Protection of Mutual Investments between the Government of the Kingdom of Saudi Arabia and the Government of Japan. (2016). Ratified by Royal Decree No. (M/53) dated 05/24/2016. Article IV. (Implied meaning).

² Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and South Korea. Article III. The principle of Most-favored-nation treatment is also guaranteed in several bilateral agreements ratified by Saudi Arabia, including the following:

These agreements also bind Saudi Arabia and the contracting parties to accord investments no less favorable treatment than that accorded to their own nationals or the so-called principle of national treatment. Some of these agreements stipulate, for instance, that “each Contracting Party shall treat the investments and returns on investments of the investors of the other Party no less favorably than it treats its own investors' investments and returns on investments.”¹

Some conventions also provide for the fair and nondiscriminatory treatment of nationals of Contracting Parties with regard to the handling of losses caused to investments by nationals of Contracting Parties on the territory of the other Contracting Party as a result of war, armed conflict, disturbances, seizure, or destruction of property of the investment enterprise by the forces or authorities of the host State, in terms of compensation for damage or loss.²

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1. Agreement on the Promotion and Protection of Investment between the Kingdom of Saudi Arabia and the Republic of Singapore. (2007) Ratified by Royal Decree No. (M/64) dated 08/01/2007. Article II, paragraph II.
 2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. Article IV, paragraph I.
 3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article III, paragraph I.
 4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article III, paragraph I.
 5. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article III, paragraph I.

¹ Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and South Korea. Article III. The guarantee of treatment by the principle of national treatment is also stipulated in several bilateral agreements ratified by Saudi Arabia, including the following:

1. Agreement on the Promotion and Protection of Investment between Saudi Arabia and Singapore. Article II, paragraph III.
2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. Article IV, paragraph II.
3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article III, paragraph II.
4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article III, paragraph II.
5. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article II, paragraph II.

² Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and South Korea. Article III. Compensation for losses resulting from disturbances, wars or states of emergency is also guaranteed in several bilateral agreements ratified by Saudi Arabia, including the following:

Sub-topic II: Ensuring Protection from Expropriation

The vast majority of bilateral investment promotion and protection agreements include protections against expropriation that might impact the investments of contracting parties' nationals. In a number of these agreements ratified by the Kingdom of Saudi Arabia, provisions were made to ensure that investments made by investors from either contracting party would not be expropriated or confiscated. Besides this, they shall not be subject to any procedures having the same effect as confiscation by the other Contracting Party, except for the public benefit of that Contracting Party and in exchange for prompt, adequate, and effective compensation, provided that such procedures are in accordance with local laws of general application and are not discriminatory and that the compensation is equivalent to the market value of the investment confiscated immediately before the date of confiscation or the date on which it is generally known that the direction is made, whichever date is first.

The mechanisms by which compensation is paid in the event of expropriation of investments in the public interest are also specified in these agreements. They are as follows: "Compensation shall be paid without delay and shall include a rate of return determined on the basis of the return prevailing in the market from the date of confiscation until the time of payment, and this compensation shall be convertible into cash and transferable abroad without restrictions, and the text of the confiscation shall

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1. Agreement on the Promotion and Protection of Investment between Saudi Arabia and Singapore. Article V.
 2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. Article V, paragraph II.
 3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article IV, paragraph III.
 4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article IV, paragraph IV.
 5. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article X, paragraph I.

be formulated in an appropriate manner at the time of confiscation or before it in order to determine and pay such compensation."¹

Sub-topic III: Ensuring the Freedom to Transfer the Capital and Profits

In several investment promotion and protection agreements, the Kingdom has committed to ensuring the free transfer of payments related to investments and their proceeds held in the Kingdom's territory to investors from the other contracting party. The texts of these conventions mention the types of transfers covered by the principle of freedom of transfer, which include, but are not limited to:

1. Basic and additional amounts for investment maintenance or expansion.
2. Proceeds.
3. Amounts paid to repay loans
4. Revenues derived from the liquidation or sale of all or a portion of the investment.
5. Compensation and allowances for nationals of the other contracting party who work in connection with an investment in either contracting party's land.

¹ Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and South Korea (2002). Article IV, paragraph I. The guarantee of non-expropriation, confiscation, or nationalization of the investments of the contracting parties and the mechanisms of expropriation in the public interest is also stipulated in several bilateral agreements ratified by Saudi Arabia, including the following:

1. Agreement on the promotion and protection of investment between Saudi Arabia and Singapore. Article IV.
2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. (2008). Article V, paragraph I.
3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article IV, paragraph II.
4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article IV.
5. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article IX.

6. Compensation for damages and losses caused by its own power or the authority of the other contracting party to the agreement.¹

Some of these agreements also regulate the mechanisms for the transfer of investment assets and profits as follows: “First, transfers are made without delay, at the prevailing exchange rate, and in a freely convertible currency that is widely used to make payments for international transactions on the major international exchange markets. Second, the exchange rate is either the market exchange rate on the date of the transfer request or the exchange rate for converting currencies to SDRs on the date of the transfer request, whichever is more advantageous to investors.”²

Sub-topic III: Ensuring Trade-Related Intellectual Property Protection

Due to its membership in the WTO, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) makes Saudi Arabia obligated to provide all WTO members with the guarantees included in the agreement. These safeguards include the protection of intellectual property rights, such as copyrights, trademarks, patents, geographical marking of goods indicating the place of manufacture and high quality of the product, industrial and integrated circuit designs, and trade secrets.

¹ Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and the Republic of Korea. Article V. The free transfer of investment assets, profits and mechanisms of such operations is also guaranteed in several bilateral agreements ratified by Saudi Arabia, including the following:

1. Agreement on the promotion and protection of investment between Saudi Arabia and Singapore. Article VI – VIII.
2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. Article VI, VII.
3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article V.
4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article V.
5. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article XII.

² Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and the Republic of South Korea (2002). Article VII.

The Convention also specifies that the minimum term for protecting intellectual property rights is fifty years in the case of copyright, twenty years in the case of patents, and seven years in the case of trademarks. There is no obligation to implement the Agreement before one year has passed since the establishment of the World Trade Organization (1995). Depending on the protection themes, the grace period for developing countries could be extended to five years, and ten years for least developed countries.¹

The Kingdom has also pledged to implement measures to protect intellectual property through local legislation and deterrent measures against those violating these rights, including civil and criminal procedures.²

Sub-topic V: Ensuring the Availability of Means of Dispute Settlement

Several agreements of promotion and protection investment ratified by the Kingdom govern the manner in which investment-related disputes are settled. This is accomplished by the agreement's adoption of the means and settlement mechanisms applicable to the parties. Many of these agreements have been structured in such a manner that investment-related disputes between a contracting party and an investor who is a national of the other contracting party are resolved as amicably as possible. If the dispute cannot be settled amicably within the time period specified by the Convention, it shall be submitted to the competent court of the Contracting Party on whose territory the investment is located; otherwise, it shall be submitted to

¹ TRIPS: Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994) [hereinafter TRIPS Agreement].

² The researcher discussed with the guarantees towards intellectual property rights in Saudi legislation, which dealt with the rights guaranteed to the investor and the penalties for violators, in some detail on pp.149-156 of this research.

international arbitration for the settlement of investment disputes between States and nationals of other States.¹

Sub-topic VI: Ensuring the Avoidance of Double Taxation

International double taxation is one factor that impedes the movement of investments and capital and negatively impacts the global economy's prosperity and growth. As a result, the United Nations has worked to develop and strengthen agreements for the avoidance of double taxation among the nations of the world, making it the preferred option for bilateral agreements among the majority of countries. This has stabilized the fundamental principles for drafting agreements to avoid double taxation. In pursuit of avoiding double taxation, Saudi officials spared no effort in signing a multitude of bilateral and multilateral agreements. In fact, Saudi Arabia has signed more than 69 bilateral agreements to prevent double taxation in order to strengthen its investment climate.²

This effort has surely benefited the investment climate in the Kingdom of Saudi Arabia. Activating these bilateral agreements has increased the flow of funds and investments, prevented their weakening, and eliminated potential obstacles and

¹ Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and the Republic of South Korea. (2002). Article XI. The provision for the provision of mechanisms for settling investment disputes was also provided in several bilateral agreements ratified by Saudi Arabia, including the following:

1. Agreement on the Promotion and Protection of Investment between Saudi Arabia and Singapore. Article IX.
2. Agreement on the Promotion of Mutual Investments between Saudi Arabia and the Federal Republic of Switzerland. Articles X and XI.
3. Agreement on the Promotion and Protection of Mutual Investment between Saudi Arabia and the Republic of France. Article VI – VIII.
4. Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and China. Article VIII.
5. 5Agreement on the Promotion and Protection of Mutual Investments between Saudi Arabia and Japan. Article XIV.

² See the double taxation avoidance agreements that the Kingdom of Saudi Arabia has ratified. Refer to the website of the Zakat, Tax and Customs Authority at: <https://zatca.gov.sa/en/RulesRegulations/Agreements/Pages/default.aspx> Retrieved 11/18/2022.

difficulties. When deciding whether or not to invest in a country, an investor considers these agreements as one of the most important guarantees to avoid additional costs on investments.

Topic IV: Judicial Guarantees

Judicial guarantees provided by the host country for investment are one of the most important factors influencing investment flows in that country. These guarantees contribute to the preservation of the map of rights and obligations of each party to the investment process.

The judicial guarantees for investment granted by Saudi law are to ensure the provision of a specialized judiciary for investment disputes, the right to appeal against government administrative decisions, and the adoption of alternative options for the settlement of investment disputes in national investment legislation. These guarantees contribute to reassuring investors of their invested assets by guaranteeing the protection of their rights. Investors have the right to participate in choosing the method of settling a dispute, whether the parties to the dispute choose one of the amicable ways to resolve the dispute, or if they choose the members of the litigation panel if they decide to resort to arbitration to settle the dispute. The provision of judicial alternatives to investment disputes in national legislation also indicates the existence of an impartial and independent litigation environment in the event of a dispute, providing investors with excellent safety and reassurance regarding their investments.

However, the provision to ensure alternatives to investment disputes does not negate the national jurisdiction's inherent right of jurisdiction over investment disputes that occur in the territory of the host State. Nonetheless, this is a departure from the original and a waiver from the Saudi policymaker to encourage the country's investment

climate should one of the parties to the dispute wish to switch to other judicial options to settle the dispute, such as international jurisdiction or arbitration.

In Saudi law, the legislator adopted this principle and guaranteed national jurisdiction over all disputes arising on Saudi territory, including investment disputes. This is the case if one of the disputing parties is a Saudi or if one of the disputing parties is a foreigner with a permanent or chosen place of residence in Saudi Arabia. This legislation states that “the courts of the Kingdom shall have jurisdiction to hear lawsuits filed against a Saudi even if he does not have a public or chosen place of residence in the Kingdom, with the exception of cases involving real property outside the Kingdom.” It also states that “the courts of the Kingdom shall have jurisdiction to hear lawsuits filed against a non-Saudi who has a general or chosen place of residence in the Kingdom, with the exception of real estate lawsuits filed outside the Kingdom.”¹

Evidently, the origin of jurisdiction in consideration of investment disputes in the Kingdom of Saudi Arabia is the Saudi judiciary; however, the Saudi legislator has guaranteed the investor's right to resort to alternative means of settling investment-related disputes in order to reassure investors, encourage investments, and attract business to the Kingdom. The research demonstrates how the Saudi legislator dealt with judicial guarantees for the settlement of investment disputes as follows:

Sub-topic I: Providing a Specialized National Judiciary

Living in a time when the world has become a village has facilitated the transition between its closed markets, prompting nations to open their markets to investors from all over the globe in order to attract capital to support their economies.

¹ The Sharia Procedural Law (2013). Issued by Royal Decree, no. M/1, dated 11/25/2013. Articles 24 and 25.

Therefore, economic relations have become one of the most important pillars upon which international relations are built, and the Kingdom is not immune to this trend. This has also led to the emergence of previously unheard-of complex business transactions, such as direct investment transactions and international investment contracts. As a result, the need arose for a specialized commercial judiciary able to comprehend and handle this privacy. The establishment of a specialized judiciary in these new commercial transactions occurred to ensure that a judge ruling on a dispute would be familiar with the nature and mechanism of the action at issue.

The provision of a specialized judiciary commensurate with the specificity of commercial disputes pertaining to investment is one of the legal safeguards for investment protection, as these disputes typically have characteristics that distinguish them from other disputes. As a result, the Saudi legislator adopted the establishment of a specialized judiciary for the commercial judiciary, with the goal of achieving rapid and effective justice, which is a pillar of the development process and investment encouragement. Since its inception, the Saudi commercial judiciary has played a crucial role in resolving such disputes, both in terms of speed of completion and quality of judgments.

This transformation was part of a series of legislative reforms spearheaded by Saudi Vision 2030 in early 2016. It established specialized commercial courts in the Kingdom in order to promote trade and business and instill maximum confidence in both local and foreign investors looking to invest in the Kingdom. In fact, several investment-related laws have been issued and amended, paving the way for a new era in the fields of trade and investment in Saudi Arabia, and aiming to take advantage of the possibility of injecting new funds to assist the national economy in diversifying and growing.

The new laws include the Commercial Courts Law,¹ Investment Law, Companies Law,² and Bankruptcy Law. These laws were enacted with the intention of increasing judicial efficiency and capacity by establishing a specialized judiciary and bolstering the Saudi legal arsenal and its sources of reference by regulating all commercial fields associated with economic and investment activities.

To improve the performance of its judicial institutions, the Kingdom has also adopted the best practices of legal systems across the globe, by approving the establishment and development of a specialized judiciary, working on completing investment legislation, and urging the speedy adjudication of commercial cases due to their privacy, thus achieving complete and prompt justice as the ultimate objective.

Since investment is considered an aspect of commercial activity, Saudi law has entrusted the jurisdiction of investment-related disputes to the system's competent court, namely the commercial courts, defining the jurisdiction of commercial courts as follows: “The commercial courts shall have jurisdiction to consider the following:

1. All original and dependency commercial disputes that occur between traders.
2. Lawsuits filed against the merchant because of his original and dependent business.
3. Disputes that occur between partners in companies.
4. All lawsuits and violations related to commercial regulations, without prejudice to the jurisdiction of the Board of Grievances.
5. Bankruptcy lawsuits and attachment of bankrupt persons and lifting it on their behalf.

¹ The Commercial Courts Law (2020). Issued by Cabinet Resolution no. 511, dated 08/04/2020.

² The Companies Law (2022). Issued by Royal Decree no. M/132, dated 06/30/2022.

6. Other commercial disputes.”¹

In addition, Saudi law confirmed the jurisdiction of commercial courts in commercial disputes as follows: “The court shall have jurisdiction to consider the following:

1. Disputes that arise between merchants due to their original or dependency business.
2. Lawsuits filed against the merchant in commercial contract disputes when the value of the original claim in the lawsuit exceeds one hundred thousand riyals, and the Council may, if necessary, increase this value.
3. Disputes among speculative company's partners.
4. Violation lawsuits arising from the application of the provisions of the Companies Law.
5. Lawsuits and violations arising from the application of the provisions of the Bankruptcy Law.
6. Claims and violations arising from the application of intellectual property law.
7. Claims and violations arising from the application of other commercial regulations.
8. Lawsuits and requests related to the receiver, trustee, liquidator, expert appointee, etc., when the dispute is related to a lawsuit that the court has jurisdiction to hear.
9. Claims for compensation for damages arising from a lawsuit that has already been heard by the court.”²

¹ The Sharia Procedural Law (2013). Article 35.

² Commercial Courts Law (2020). Article 16.

In addition to establishing specialized commercial courts, the researcher believes, the Saudi legislature is now more than ever required to expand the private judiciary's presence in the Kingdom in order to hear commercial disputes. Moreover, opening up international practices through communication and benefiting from comparative judicial experiences would help to develop commercial judicial work mechanisms. Thus, finding appropriate solutions to commercial issues pertaining to investment and constructing a professional judicial environment are aspects essential to fostering an attractive economic climate marked by security, confidence, and stability.

To encourage investment and contribute to the revival of economic activity, the specialized commercial judiciary must ensure the security of investors' assets and funds, as well as their rights under the rule of law and the independence of the judiciary, whether citizens or foreigners, as the judiciary has become a key partner in development.

As trust and speed are critical components of a business, they are also cornerstones of commercial disputes arising from investments. The speed with which such cases are adjudicated, with court rulings that inspire confidence in the existence of the rule of law, contributes to the spread of a good reputation for the climate of justice in the host country of investment. As a result, the need to establish a specialized commercial court system, public and private, is imposed by any country's public interest and development requirements, which is clearly reflected in its ability to support the economy and stimulate the investment environment.

Sub-topic II: Ensuring the Right of Appeal Against Administrative Decisions

The Saudi legislator did not overlook the investor's right to appeal decisions and penalties imposed by the Ministry of Investment, which oversees investment activities in the Kingdom. Instead, he established this right through legislation that states, “A committee shall be formed by a decision of the Minister to consider grievances against decisions issued in accordance with the provisions of this system, and the regulation shall specify the procedures and periods necessary to consider grievances.”¹ The Law also guarantees the investor's right to appeal against the final decision and penalties decided by the Investment Law and issued by the Ministry before the competent court, which is the Administrative Court’s “Board of Grievances,”² where it may consider cases of cancellation of administrative decisions under the Law, as follows; “Decisions issued in accordance with the provisions of this Law may be appealed before the competent court,”³ which is the Administrative Court’s “Board of Grievances.”

Sub-topic III: Ensuring the Availability of Judicial Alternatives to Investment Disputes

The Saudi legislator regulated the methods of resolving investment disputes by allowing investors to choose between going to the competent national court or seeking alternative means of resolving investment disputes. In addition, he urged the Ministry of Investment to promote the use of alternative dispute resolution mechanisms mandated by law, such as arbitration, mediation, and conciliation, for the resolution of investment disputes. The resulting decision was as follows:

¹ Investment Law (2022). Article 12, paragraph I.

² This is in accordance with the jurisdiction prescribed for administrative courts in the system of the Board of Grievances. For more see the Board of Grievances Law (2007). Issued by Royal Decree no. M/78, dated 10/01/2007. Article 13.

³ Investment Law (2022). Article 12, paragraph I. The same content also appears in Article 12, paragraph V of the Foreign Investment Law (2000).

- 1- “An Investor involved in a dispute, including a dispute with any of the Competent Authorities, shall have the right to resort to a competent court or other alternative disputes resolution in a manner that does not conflict with the laws and regulations in force in the Kingdom.
- 2- A Competent Authority may, after obtaining the necessary approvals in accordance with the laws and regulations in force in the Kingdom, resort to international arbitration in respect of a Direct Investment as provided under a contract between the Competent Authority and an Investor prior to the dispute arising, or according to terms agreed upon by the parties at the time of, or subsequent to, the dispute.
- 3- Subject to the laws and regulations in force in the Kingdom, the Ministry will promote alternative dispute resolutions, including arbitration, mediation, and conciliation.”¹

It is notable that the new regulation for the settlement of investment disputes in the new investment law is more straightforward than its previous versions in the law governing foreign investment. Specifically, it stipulates the investor's right to choose between recourse to the competent national court or recourse to the alternative legal means specified by law. In addition, it identifies alternative dispute resolution methods, such as arbitration, mediation, and reconciliation, whereas the previous foreign investment law was limited to stating that investment disputes should be settled as amicably as possible, and, if not possible, the dispute shall be resolved in accordance with the law, i.e., recourse to the appropriate national court. The prior Foreign

¹ Saudi Investment Law (2022). Article 10. The same meaning is emphasized in Article IV, paragraph (g) of the same Law.

Investment Law contained the following language: "Without prejudice to agreements in which the Kingdom of Saudi Arabia is a party: Disputes arising between the government and the foreign investor in relation to its investments licensed in accordance with this Law shall, as possible, be settled amicably. Failing such a settlement, the dispute shall be settled according to the relevant laws. Disputes arising between the foreign investor and his Saudi partners in relation to its investments licensed in accordance with this Law shall, as far as possible, be settled amicably. Failing such settlement, the dispute shall be settled according to relevant laws."¹

From the preceding, it is clear that the Saudi legislator has deviated from the general principle in regulating the issue of investment dispute settlement, which is to grant competent national court jurisdiction, in the first place, in consideration of investment disputes. This represents a departure from the principle of exhaustion of internal litigation methods guaranteed to national courts, which has traditionally been followed in many countries around the world, and a shift to other amicable judicial alternatives. Furthermore, the Saudi legislator has granted the investor the freedom to choose between the legal means of resolving investment disputes, recourse either to competent national courts or alternative means of an amicable settlement. This step has been taken with the approval of Saudi policymakers in an effort to improve the investment climate in the Kingdom by providing the most comprehensive judicial guarantees possible, thereby attempting to make the investor feel safe and reassured in his decision to invest in the Kingdom.

On the basis of the foregoing, it appears that the means of resolving disputes--mediation, conciliation, and arbitration--are alternative means decided upon by the

¹ Foreign Investment Law (2000). Article 13.

Saudi legislator as methods for resolving investment disputes, in addition to the original means, which is to resort to the competent commercial courts in commercial disputes arising in the territory of the Kingdom. As a result, the research delves deeper into these methods in the following:

Section I: Mediation

Mediation is one of the most significant alternative methods to resolving investment-related disputes. It is an attempt by two or more disputants, with the assistance of a neutral third party, the mediator, to reach an amicable settlement. An agreement for the amicable resolution of an investment dispute may be reached between a foreign and domestic investor, or between one of them and a government administration. The parties to the mediation process determine the outcome of the settlement, as opposed to accepting what others may impose on them through the decisions of commercial courts or arbitral tribunals.

Mediation differs from other forms of amicable settlement in that a neutral third party, the mediator, is used to mediate an investment dispute between the parties in order to achieve reconciliation and restore the relationship. The mediator cannot impose his opinion on the parties and has no authority to make a decision or judgment on the settlement; instead, it is the mediator's responsibility to present a neutral perspective of the dispute to the parties in an effort to assist them in reaching an amicable resolution.¹

Mediators use appropriate skills and abilities to improve disputants' discourse behavior and communication, with the goal of assisting the parties in reaching an

¹ See: Moses, M. (2005). *International trade conciliation and changing perceptions of settlement in international trade disputes*. Alexandria: New University House. p.27; Mabrouk, A. (2002). *Towards an attempt to reconcile opponents*. Cairo: Arab Renaissance House. p.17.

effective and appropriate agreement on the subject matter of the dispute. Mediation in investment disputes also has characteristics that set it apart from other methods of resolving investment disputes, which are as follows:

1. Mediation is a positive process that aims to preserve business relationships and communication between its participants, as opposed to the unavoidable negativity of litigation or arbitration.
2. Mediation eliminates any ambiguity or uncertainty in the settlement agreement that the parties may object to. In other words, the parties determine the conditions under which the dispute is resolved, as opposed to litigation or arbitration in which the judgment is rendered outside of the parties' control.
3. Mediation is a successful method of conserving resources, as it is significantly less costly in terms of time and money than litigation and arbitration.¹

Therefore, the inclusion of mediation as one of the options for resolving investment disputes in Saudi Law is a crucial aspect of the Kingdom of Saudi Arabia's favorable investment climate. In some situations it has become necessary to raise awareness of the benefits of mediation between investors and government agencies as one of the most effective and least expensive means of resolving investment disputes. In order to make the investment climate more flexible for domestic and foreign investors and to ensure the enforcement of investment contracts, this is being done. In addition, it is necessary to instill investors with confidence in the Saudi investment climate in order to persuade them to invest more money.

¹ Khaled, H. (2004). *Priorities of International Commercial Arbitration*. Alexandria: University House., p.56.

Section II: Reconciliation

Reconciliation is one of the amicable ways in which disputes between investors or between the investor and a government entity in the host country can be resolved. Here the term "conciliation" refers to a legal agreement in which the parties to the conflict or their legal representatives settle their differences amicably by waiving certain rights or claims asserted at the outset of the dispute. In this way, reconciliation, along with recourse to the courts, is an alternative method of resolving investment disputes.¹

The concept of reconciliation is based on the negotiated resolution of a dispute by the parties involved without the intervention of a third party. Furthermore, there are no specific reconciliation mechanisms or procedures that conflicting parties must follow in order to resolve the conflict. Conciliation can take place at the request of the disputants or at the request of the judge or arbitrator hearing the case. However, reconciliation is a consensual process that may succeed or may fail if the parties cannot reach a satisfactory settlement and end the dispute, in which case they resort to arbitration or the judiciary to settle the dispute.

Conciliation in the field of investment dispute resolution differs from other alternative methods of investment dispute resolution on account of the following distinguishing characteristics:

1. Reconciliation is an agreement between the parties to an investment dispute or their agents that provides for the settlement of the dispute through the relinquishment of some of the claims or rights that disputants have clung to.

¹ Mahsoob, M. (2003). *International Trade Law Theory*. Alexandria: New University House., p.21.

2. The subject of the reconciliation contract is the settlement of the investment dispute between the parties by waiving a portion of their claims, thereby allowing a reconciliation agreement to be reached.
3. The investment dispute in reconciliation is resolved by mutually agreeable waiver from both disputants.
4. The conciliation contract is not enforceable unless it is entered into in the form of a contract or before the court or arbitral tribunal to which the dispute was submitted prior to the conciliation.¹

Section III: Arbitration

Although initial jurisdiction in investment disputes was vested in the host country's national jurisdiction, countries such as Saudi Arabia recognized the necessity of having other legal means of resolving investment disputes to boost confidence in its investment climate for both domestic and foreign investors and improve competitiveness on a global scale. Despite the availability of these alternatives, arbitration has arguably emerged as the preferred method of resolving investment disputes because most investment contracts are no longer concluded without an arbitration agreement that refers disputes arising from these contracts to arbitration, thereby avoiding national jurisdiction in the first place. Host countries make a concession and accept this condition in order to make their investment climate more appealing and stimulating to investors.

For several reasons, investors, particularly foreign investors, do not turn to national jurisdiction to settle disputes relating to their investment. Among these reasons

¹ Mohammedain, J. W. (2001). *Arbitration between the foreign investor and the host State of investment before the International Centre for Settlement of Investment Disputes: rules - procedures - recent trends*. Alexandria: New University House for Publishing., p.64.

are, first and foremost, investors' concerns about difficulties that may arise due to the dispute's differences in legal positions between the investor and the State party, when one party is a sovereign State and the other a natural or legal person subject to private international law. Second, some investors may be fearful of resorting to national courts because they are unaware of the local judicial proceedings or because they believe the national judges will be influenced by the ideology prevalent in some host countries and biased in favor of their country. Furthermore, some investors are concerned that the host country's judicial system is not specialized or qualified to deal with highly complex technical and legal issues in the field of investment. Or the host country's law is backward and does not comply with the requirements for handling investment disputes, a jurisprudence which has become expeditious and specialized and not usually available in developing-country domestic jurisdictions.

Therefore, all of these factors and the reasons stated above have contributed to making the investor prefer arbitration to resolve investment-related disputes over other judicial means provided by the investment's host country.

As a result, arbitration as a means of resolving investment disputes is one of the most important pillars of any country's commercial justice system. Countries are eager to assist in its institutionalization and raising the quality of its outputs, which is reflected in gaining the trust of local and foreign investors and improving and developing the investment environment. The Kingdom of Saudi Arabia has made significant efforts in this regard, most notably with the adoption of Council of Ministers Resolution No. 257 in 2014, which established the Saudi Center for Commercial Arbitration as the official start of the Kingdom's institutional arbitration era.

In light of this historic shift witnessed by the Kingdom with the launch of Vision 2030 and the National Transformation Program 2020, the Saudi Center for Commercial Arbitration has been assigned an important role in achieving the Vision: to provide efficient and effective dispute resolution alternatives in accordance with best international practices in order to contribute to the best business environment able to attract investment at both local and international levels, and to work on integrating with the judiciary and improving the judicial environment in the Kingdom.

Prior to discussing the organization of the guarantee of the investor's right to resort to arbitration in investment disputes in the Kingdom of Saudi Arabia, it is necessary to define the concept of arbitration and the most important feature that distinguishes it from other methods of resolving investment disputes, which is addressed in the research as follows:

I. The Concept of Arbitration

Arbitration may be defined as “an agreement between two or more parties to refer to arbitration all or some of the specific disputes that have arisen or may arise between them in respect of a specific statutory relationship, whether contractual or non-contractual, whether the arbitration agreement is in the form of an arbitration clause contained in a contract, or in the form of an independent arbitration clause.”¹ Some have defined it as “one of the means by which disputes are settled, and the disputants choose it to settle the dispute arising between them by submitting the dispute to a specific person or persons, ‘arbitrator or arbitrators,’ to decide on it without resorting to the authority originally competent to settle such disputes, and in the case of choosing

¹ Arbitration Law (2012). Promulgated by Royal Decree no. M/34, dated 4/16/2012. Article I.

more than one person, their number must be odd.”¹ Others see arbitration as “a special judicial system in which the parties voluntarily choose their judges and entitle them by written agreement to adjudicate disputes that have arisen or may arise between them in respect of their contractual or non-contractual relations in accordance with the principles and provisions of law and justice by issuing a binding judgment to settle the dispute.”²

An investment arbitration agreement is “a contract in which the contracting parties, who are disputing the issue of an investment dispute in this case, agree to refer the dispute arising from the contract concluded between them or any dispute that may arise in connection with this contract, to a specific person or persons, ‘arbitrator or arbitrators,’ to decide on this dispute without resorting to the judiciary originally competent to settle this dispute.”³

II. Arbitration Distinguished from Other Methods of Dispute Resolution

The concept of arbitration differs from other methods of resolving friendly disputes, such as mediation and reconciliation, that are recognized for resolving investment disputes. Fundamental differences set them apart from each other, as described below.

1. In arbitration, disputants must appoint arbitrators who are not related to the dispute. In the case of a mediation agreement, the disputants select the mediating party in addition to negotiating the mediation agreement themselves.

¹ Albajad, M. N. (1999). *Arbitration in Saudi Arabia*. Riyadh: Institute of Public Administration, Center for Research and Administrative Studies., p.18 and beyond.

² Ghallab, S. (2012). *Management of arbitration procedures and legal and practical aspects in the arbitration judiciary, arbitration case*. Cairo: Arab Renaissance House., p.24.

³ Albajad, M. N. (1999). *Arbitration in Saudi Arabia*., p.18.

In the case of reconciliation, the disputants or their representatives must waive some of their demands and rights in order to reach a reconciliation agreement.

2. In arbitration, the arbitrator must have no vested interest in the outcome of the dispute. The Saudi legislators confirmed this in the Arbitration Law, when they stated, “the arbitrator must not have an interest in the dispute, from the time of his appointment and throughout the arbitration proceedings, and he must declare in writing to the parties to the arbitration all circumstances that would raise justifiable doubts about his impartiality and independence unless he has previously informed them of them.”¹
3. There are no specific procedures or mechanisms for completing an agreement in mediation or conciliation. In contrast, the arbitration procedures specified in the arbitration agreement between the parties to the dispute and those specified in the law must be followed.

III. Arbitration as a Means of Settling Investment Disputes in the Kingdom

Lawmakers in the Kingdom of Saudi Arabia have allowed investors to resort to arbitration in any particular dispute, whether the arbitration agreement was before, during, or after any dispute arising as a result of the performance of a specific contract, as stipulated in the following: "An Investor involved in a dispute, including a dispute with any of the Competent Authorities, shall have the right to resort to a competent court or other alternative disputes resolution in a manner that does not conflict with the laws and regulations in force in the Kingdom."² Competent government authorities are allowed to resort to arbitration as follows: "A Competent Authority may, after obtaining

¹ Arbitration Law (2012). Article 16.

² Investment Law (2022). Article X, paragraph I.

the necessary approvals in accordance with the laws and regulations in force in the Kingdom, resort to international arbitration in respect of a Direct Investment as provided under a contract between the Competent Authority and an Investor prior to the dispute arising, or according to terms agreed upon by the parties at the time of, or subsequent to, the dispute."¹ In addition to permitting the arbitration agreement to be in the form of a separate contract or incorporated into another contract, the law stipulates: "The arbitration agreement may be concluded prior to the occurrence of the dispute whether in the form of a separate agreement or stipulated in a specific contract. The arbitration agreement may also be concluded after the occurrence of a dispute, even if the such dispute was the subject of an action before the competent court. In such a case, the agreement shall determine matters included in the arbitration; otherwise, the agreement shall be void."²

The arbitration proceedings shall begin with a notification from the party wishing to arbitrate with the other party to the dispute, indicating the nature of the dispute, the decision to be issued therein, and the name of the arbitrator appointed by him. In exchange, the other party must notify the applicant of the name of the arbitrator appointed by him within fifteen days of receipt of such notice. The arbitrators shall then, within fifteen days of the appointment of the last arbitrators, select a probable arbitrator who shall be the presiding judge of the arbitral tribunal and who shall have a casting vote when the views are equal. The arbitral tribunal's decisions will ultimately be rendered by a majority vote, including the reasons for each decision. The award must be signed by a majority of the members of the arbitral tribunal, and a signed copy must

¹ Saudi Investment Law (2022). Article X, paragraph II.

² Arbitration Law (2012). Article IX, paragraph I.

be delivered to each party. It should be noted that the Saudi legislator stipulated in the Arbitration Law that the award must be in writing and accompanied by an explanation.¹

In conclusion, two points should be made. First, while arbitration is considered an alternative means of dispute resolution, which is a departure from the principle of submitting disputes to the competent national judiciary, arbitration derives its legitimacy and strength from the text of the law and the arbitration agreement signed by the parties to the dispute.² It should also be noted that arbitration is based on the principle of autonomy of will, which means that the parties have complete freedom to select the arbitrator, which is consistent with the general trend in international arbitration jurisprudence that emphasizes the freedom of the parties to choose.³ This international practice has been followed by the Arab States Convention on the Settlement of Investment Disputes (ASCSID).

Chapter III Summary

As part of Vision 2030, Saudi Arabia is developing and expanding its investment climate. The legislative reforms that have been completed for many laws and regulations governing investment activity in the country are one of the mechanisms of this trend. This is based on Saudi policymakers' belief that increasing investment rates is a critical pillar in achieving the country's economic and social objectives. The Saudi government's adoption of the National Investment Strategy and Investment Principles is one of the most visible manifestations of this trend.

¹ See: Arbitration Law (2012). Articles 7, 13, 15, 39, 42, and 43. See also, The executive regulations of the arbitration law (2017). Issued by Cabinet Resolution no. 541, dated 05/22/2017. Article 9.

² Alhumairi, A. (2004). "Appealing Commercial Arbitration Awards". Unpublished Master's Thesis. Amman, University of Jordan, Faculty of Law., p.42.

³ Alqassas, E. (2007). *Arbitral Provision*. Cairo; Arab Renaissance House., p.158.

It has also worked to provide the most critical legislative guarantees for investment through its approval of the Kingdom's Vision 2030 legislative reforms. These are the legal guarantees against non-commercial risks to which investment projects may be exposed in the Kingdom of Saudi Arabia. These guarantees include, but are not limited to, ensuring private property protection, such as ensuring that the investment project is not expropriated, confiscated, or nationalized, as well as ensuring intellectual property and patent protection. The reforms also ensured that investors' profits and capital may be transferred abroad without restriction, and that investors are treated fairly and non-discriminatory. In addition, the reforms provide specialized, independent, and impartial judiciary and judicial alternatives for resolving investment disputes, such as arbitration, mediation, and conciliation.

Chapter IV: Saudi Legal Incentives for Investment

Introduction

Giving legal guarantees is not enough to encourage and attract venture capital to invest in countries that are still developing, because investors are usually concerned with the size of the return they will receive from their investment project compared to the liabilities entailed. One of the most influential factors is the magnitude of the facilities, incentives, and exemptions offered by the host country in exchange for the investment, such as tax and customs exemptions, monetary incentives, and procedural facilities.

As a result, host countries frequently resort to granting and supplementing various other incentive facilities that are no less important than investment guarantees, for example, tax incentives such as tax exemptions, cash such as industrial financing

projects, and administrative incentives that facilitate managerial procedures for the work of the investment project.

Therefore, incentives and facilities offered by countries in the field of investment, along with legal guarantees, are among the most significant factors that actually contribute to the influx of investments into those nations. Providing such incentives increases investors' profit margins, luring investors to relocate and invest in countries that offer the most substantial incentives and facilities. Typically, these incentives play a positive role and in encouraging domestic investment and attracting foreign investment.

According to the interests of countries and the requirements of investors, incentives and facilities for investment vary. The most well-known of these incentives include tax and customs exemptions, loans, and financial incentives that facilitate investment work, in addition to procedural conveniences.

By legal incentives, we mean here the comprehensive description of all legal tools related to the organization of investment in its financial, service, and procedural aspects, which are used to attract and encourage investments and enhance the role of relevant sectors of all types to achieve economically feasible goals for the Kingdom.

Against this backdrop, the Kingdom of Saudi Arabia has attempted to be an appealing and stimulating investment location. It has been eager to provide numerous incentives and facilities to investors in order to promote investments that will diversify and improve the Kingdom's competitiveness. The Kingdom also provides special incentives and support to foreign company branches that wish to establish regional offices in the Kingdom in order to market and combine investment activities, ensure

knowledge transfer, and contribute to promoting the growth of national skills and competencies in the Kingdom.

In general, the Gulf lawmaker alluded to encouraging and motivating Gulf national enterprises to participate in the most important industrial projects planned by the GCC countries and providing them precedence in gaining benefits and exemptions.

These are the investment projects:

Industrial projects targeted by the GCC countries	
1.	Projects that produce goods for local consumption and replace or compete with foreign goods.
2.	Projects that produce goods for export.
3.	Industries that are based on the exploitation and development of natural resources available in the GCC countries.
4.	Projects that are set up in areas specified by the State for the purposes of their promotion.
5.	Projects of special economic importance, or that are included as such in the country's development plan.
6.	Industries that contribute to achieving Gulf industrial integration through joint investment in industrial projects.
7.	Projects that work to protect the environment.
8.	Projects that lead to the development and localization of technology.

Table (10) The most important projects targeted to the Arab Gulf countries in accordance with the Gulf Industrial Regulation Law¹

Consequently, this chapter discusses the most important legal incentives included in the Saudi Investment Law and related laws and its executive regulations in this regard, as follows:

Topic I: Tax and Customs Incentives

Tracking the various concepts of tax incentives reveals that they all revolve around viewing them as a system designed within the framework of the country's fiscal

¹ Unified Industrial Regulation Law of the Cooperation Council for the Arab States of the Gulf (2006). Issued by Royal Decree no. M/20, dated 05/02/2006. Article 16.

policy to encourage savings or investment in a way that leads to the growth of national productivity, increased absorption and capacity of the national economy, and increased national income as a result of establishing new projects or expanding existing projects.

According to this notion, tax incentives are the use of taxes as a policy to stimulate investors to engage in a specific behavior or activity that helps a country achieve its goals. States' tax policies can encourage investment and savings in a variety of ways. These include imposing a certain tax, setting the tax base and price level, awarding permanent or temporary tax exemptions, allowing loss carry-over, determining the period of time during which depreciation is permitted, or permitting tax installments.

These tax breaks are intended to have a favorable impact on national and foreign investors, enticing them to make an investment decision in the country that provides these exemptions.¹

Tax and customs facilities and exemptions are among the essential financial facilities sought by investors since they result in beneficial financial savings and the likelihood of greater financial gains. The Investment Law shows the Saudi legislator eager to encourage national and foreign investments through executive regulations, and regulations connected to many facilities and incentives that ensure attractive investment projects. The research will address this topic in the following discussion.

¹ Lutfi, A. E. A. (1997). *Analyzing and evaluating incentives and tax exemptions with a proposed approach to measuring their returns and costs*. Cairo, Arab Renaissance House. p. 1.

Sub-topic I: Tax Incentives

First, it is essential to note that the provisions of the Saudi Income Tax Law and the Implementing Regulations of Income Tax law apply to resident capital companies concerning shares of non-Saudi partners, whether they are resident or non-resident natural or legal persons. The provisions also apply to shares owned directly or indirectly by whoever is either directly or indirectly involved in the production of oil and hydrocarbons, whether natural or legal persons, resident or non-resident. In addition, the provisions apply to natural or legal nonresident persons, whether Saudis or non-Saudis, who conduct business in the Kingdom through a permanent establishment or who generate income within the Kingdom.

The provisions of the Saudi Income Tax Law and the Implementing Regulations of Income Tax do not apply to shares of non-Saudis held for speculation purposes through trading shares of joint stock companies in the Saudi Stock Exchange, however. Shares of non-Saudis in mixed companies which are partners in resident capital companies are not considered Saudi shares, and the provisions of this Law do not apply to them.¹

Concerning details of the Income Tax Law, the Saudi legislator has set the tax rate on corporate profits as follows:

- A. “The tax rate on the tax base is twenty percent (20%) for each of the following:
1. Resident Capital Company.
 2. A non-Saudi resident natural person who practices the activity.

¹ See the Executive Regulations of the Income Tax Law (2004). Issued by Saudi Cabinet Resolution no. 1535, dated 2004/28/07. Article I.

3. A non-resident person as a result of an activity practiced in the Kingdom through a permanent establishment.
- B. The tax rate on the tax base for a taxpayer working in the field of natural gas investment is only thirty percent (30%).
- C. The tax rate on the tax base of a taxpayer working in the production of oil and hydrocarbons is eighty-five percent (85%).
- D. The tax due by a person working in the Kingdom in the field of oil production, hydrocarbons, and natural gas investment together shall be the total tax due on the tax holders of that person under paragraphs (B) and (C) of this Article.”¹

Section I: Tax Exemptions

The term tax exemption implies the State's waiver of all or a portion of the amount of taxes owed by taxpayers in exchange for their commitment to engage in a specific activity under certain conditions. These exemptions differ according to the activity's importance, magnitude, geographical location, and scope. This exemption may either be partial or total and permanent or temporary.²

To encourage and enhance the Kingdom's economic and investment climate, Saudi lawmakers have offered several tax breaks for foreign businesses residing in the Kingdom. They decided to exempt from income tax certain sorts of gains and payouts received by these corporations, which fall into three categories:

1. Capital gains obtained by a foreign company on the sale of shares or traded securities provided that they are trading on the Kingdom's stock exchange.

¹ Saudi Income Tax Law (2004). Issued by Royal Decree no. M/1, dated 06/03/2004. Article VII.

² Abdullah, M. A. (2005). *Foreign investment in Islamic countries in light of the Islamic economy*. Jordan: Dar Al Nafais., p.80.

2. Profits made by a foreign company from the sale of its property provided that it is not an asset of the activity.¹
3. Dividends and distributions gained by a foreign investment entity through its investment in a resident firm, whether in cash or in kind, if two conditions are met: first, the foreign entity's contribution rate in the resident company should not be less than (10%). Second, a foreign company's ownership period should not be less than one year.

When he regulated the exemption of some incomes from income tax in the executive regulations of the income tax system, the Saudi policymaker decided as follows:

1. “Capital gains from the disposal of securities traded on the financial market in the Kingdom, whether by selling, trading, or other means, are exempt from income tax under the following regulations:
 - a) If the disposal is carried out in accordance with the Capital Market Law in Saudi Arabia.
 - b) The investments that have been disposed of shall not exist before the effective date of the tax system specified in Article (74) of this Regulation.
2. Capital gains from the sale, exchange, or other disposition of securities traded in a financial market outside the Kingdom are also exempt from taxation under the following regulations:
 - a) If these securities are traded in the Kingdom's stock market.
 - b) The investments that have been disposed of shall not exist before the effective date of the tax system specified in Article (74) of this Regulation.

¹ The Executive Regulations of the Income Tax Law (2004). Article VIII, paragraph II.

3. Cash distributions are exempt, as well as in-kind distributions (such as stock distributions or free shares, for example) due to the investments of a resident capital company in resident or non-resident companies, provided that:
 - a) The investments of the resident capital company in the invested capital are 10% or more during the years for which the distribution was made; and
 - b) The resident capital company's investments in the invested capital are (10%) or more during the years for which the distribution was made.
 - c) The ownership of these investments, which is specified at a minimum of ten percent, must be maintained for at least one year during the distribution year."¹

Therefore, if a foreign investment business receives any of these sorts of distributions or gains and meets the aforementioned standards, it is exempt from income tax. This means that these gains and dividends are not included in the foreign institution's tax base.

The Saudi policymaker has also expressed a desire to grant tax breaks to investors who set up projects in certain regions of the Kingdom for a period of ten years from the start of their projects. These tax breaks are meant to favor the formation of economically viable cities in less-developed areas. By encouraging domestic and foreign capital and directing it to these places, the Kingdom hopes to broaden the circle of investment to cover all regions rather than concentrating it in a few. As a result, a new model integrates industrial components and special economic zones to construct integrated civilized cities. Among these tax breaks are the following:

¹ The Executive Regulations of the Income Tax Law (2004). Article VII.

1. Projects in Hail, Northern Borders, Jazan, Najran, Al-Baha, and Al-Jowf are eligible for the following tax breaks:
 - a) A (50%) tax break on annual training fees for Saudis.
 - b) A tax deduction of (50%) of the annual salary paid to Saudis if no tax may be deducted after applying the previous paragraph of the resolution.¹
2. The investor receives further discounts if the invested money exceeds one million Saudi riyals and more than five Saudi citizens are employed at the establishment for at least one year in technical or administrative professions.²

An investor in the Kingdom of Saudi Arabia may benefit from these tax breaks if his investment project fits the following criteria:

1. The project shall be based in one of the following areas: Hail, Northern Borders, Jizan, Najran, Al-Baha, and Al-Jowf, including the economic and industrial cities established in those areas.
2. The project must be licensed by the Ministry of Investment, and the paid-up capital, whether in cash or in kind, must be at least one million riyals.
3. The project accounts must be legitimate and audited by a licensed local public accountant.
4. If the project established in the six regions represents a branch of a company or institution based in another region. In this case, it must be an independent project with independent capital, keep independent accounts audited by a public accountant for this project, and submit them with an independence declaration

¹ Saudi Cabinet Resolution no.359, dated 11/24/2008. To grant tax exemptions for investment projects established in some regions of the Kingdom. Article I, paragraph I.

² Saudi Cabinet Resolution no.359. Article III.

in addition to the unified declaration of its activity. And tax breaks do not apply to related ventures formed in areas other than those stated in the decision.

5. The investor must complete the application form for tax incentives for projects established in the areas specified by the Cabinet decision and submit it, along with the project's annual tax return, to the Zakat and Income Authority with all required statements and clarifications to determine the project's eligibility to receive these incentives.
6. The terms of this resolution apply to all projects formed in the specified areas, whether existing or created after the decision of the Council of Ministers.
7. Applying the tax benefits indicated in the resolution beginning with the year in which the project obtained any of these incentives and continuing for a period of ten years to tax years beginning on or after the date of issuing of the Cabinet decision.¹

The Saudi legislature has not been satisfied with the set of tax benefits and incentives stipulated in the Investment Law and other related regulations but has resorted to granting international tax incentives through the international conventions it has ratified in the field of taxes and investment. This is in order to elevate the promotion of international investment between countries, whether in bilateral or multilateral agreements, which have focused on avoiding and preventing double taxation. As a result, it should be emphasized that foreign investors enjoy the benefits and tax incentives resulting from double taxation avoidance agreements and investment

¹ Saudi Cabinet Resolution no.359, Article III.

promotion and protection agreements completed or concluded by the Kingdom with the investor's home country.¹

Section II: Tax Reductions and Facilities

Tax reductions and facilities take the form of subjecting the taxpayer to special tax rates or rates lower than the prevailing rates, or reducing the tax base owed, in exchange for complying with certain requirements, such as reinvesting profits. That is, tax breaks or reductions are employed according to specific economic and social policy objectives.

Saudi lawmakers have established tax facilities for corporations in times of default or losses by transferring losses or setting installments of tax obligations. This allows corporations to recoup losses before paying taxes, allowing investment projects to compensate for operating losses in subsequent years. For further explanation, the research demonstrates the following tax reductions and facilities:

I. Carry-over of Operating Losses

The carryover of operating losses is a means of absorbing the effects of losses in a certain year or years by charging them to subsequent years in order to prevent the erosion of capital in the investment project.

In this regard, the Saudi legislator has granted the right to the taxpayer to carry over operating losses, in accordance with the Income Tax Law and its implementing regulations, for tax purposes to the tax years following the year of loss. Reducing the profits of the following years continues until the full recovery of accumulated operating losses, without complying within a specific period. According to the taxpayer's

¹ This topic was dealt with in detail in the third chapter of this research, P. 203 and beyond.

declaration, the maximum deduction allowed in each tax year shall not exceed (25%) of the annual profit.

The provisions of the regulations on carrying over operational losses, however, do not apply to operating losses in the following cases:

1. Operating losses suffered by the taxpayer prior to the effective date of Cabinet Resolution No. (3), dated 5/1/1421 H, corresponding to 10/4/2000, or during the tax exemption period.¹
2. Operating losses incurred as a result of the exercise of aspects of activities that were not originally subject to tax under the Income Tax Law if the taxpayer has portions of the activities that are taxed and others that are not, where the taxpayer cannot carry these losses forward.
3. Losses that are not documented in legal accounts audited by a licensed public accountant in the Kingdom are not permitted to be carried forward.
4. Losses may not be carried over to a capital company whose ownership or control has changed or been modified by 50% or more, with the exception of losses incurred after a change in ownership, for which loss carry-over regulations apply.
5. In the case of a natural person, the operational loss is the difference between the activity's income and its expenses.²

¹ Saudi Cabinet Resolution no. 3, dated 1421/1/5 H, corresponding to 04/10/2000 was issued. Decided as follows:

1. Agree that the state will bear (15%) of the taxes imposed on the profits of companies that exceed one hundred thousand riyals per year.
2. Approval of the principle of carrying over losses for years to come without specifying a specific period.

² The Executive Regulations of the Income Tax Law (2004). Article 11.

II. Tax installment

The Saudi tax policymaker was not limited to the previous tax facilities but also granted the taxpayer the right to request installments of tax burdens, as follows:

1. “The taxpayer has the right to request that the sums owed from taxes and fines be paid in installments in accordance with the following regulations:
 - a) Submit a written request to the Zakat and Income Authority stating the value of the tax liability, the financial period or periods related to it, and the reasons for the taxpayer's inability to pay the tax liability on the due date or dates, as well as supporting documents, including the taxpayer's request for the number of installments, the value of each installment, and any advance payments. And the Authority must investigate the request and respond to the taxpayer within thirty days.
 - b) The time frame for making installments shall not be longer than the number of years for which the accumulated tax obligations are due.
 - c) Installments do not include taxes and fines deducted by the taxpayer from the source which the taxpayer has committed to providing them to the Public Treasury, according to Article (68) of the Law.
 - d) The installment decision becomes invalid in the event of stopping the payment of two consecutive installments or if it is found that the public treasury's rights are subject to lose. Then the taxpayer shall be warned to cancel the installment decision by an official letter from the Authority. In this case, the taxpayer shall immediately pay the full tax liability due to him.
2. A delay penalty shall be imposed on installment taxes from the due date, in line with paragraph (a) of Article (77) of the Law.

3. First, the tax due by the taxpayer is collected from any amounts collected, and then any fines due will be collected. This applies to any other payments under the account.
4. The Director General of the Zakat and Income Authority has the authority to allow the taxpayer to pay the due and final amounts of taxes and fines that do not exceed one million riyals in installments.¹

Based on the previous text, it is evident that the Saudi legislator was keen to encourage attracting investors to Saudi Arabia by providing a tax incentive that may help them arrange their financial affairs, especially in the project's early years. Simplifying the methods of paying taxes in alternative ways, as with installments, does not violate the rights of the state treasury.

Section II: Customs Incentives

Along with the importance of incentives and tax breaks for investors, incentives and customs exemptions are just as essential in increasing the profits of projects in the countries hosting investment. Therefore, the Kingdom of Saudi Arabia has readily granted many exemptions from customs charges on the imports of investment projects formed in the Kingdom. In the economic legislation connected to investment, for example, customs concessions are allotted to equipment and machinery imported by investors and employed in investment projects. This is done to encourage capital to invest in the Kingdom and boost the Kingdom's investment climate.²

¹ Executive Regulation of the Income Tax Law (2004). Article 65.

² Customs duties are the amount of indirect tax imposed by the government on goods exported or imported from abroad, as it has the right of sovereignty over its territory. See Hussein, O. (1979). *Encyclopedia of Economic Terms*. Jeddah: Dar Al-Shorouq, third edition in 1399 AH., p.117.

It is important to note that, as previously indicated in a different context, the Saudi legislature has determined that investment projects established on Saudi Arabia's territory shall be treated as national projects. That is, all investment projects founded in Saudi Arabia, regardless of the nationality of their owners, should be treated equally with regard to the rights and privileges they are granted. This includes the decision by Saudi policymakers to grant projects established in the Kingdom the same benefits, incentives, and guarantees as national projects, when they stated: "Foreign investment establishments enjoy the same benefits, incentives, and guarantees as national enterprises, such as the incentives specified in the system for the protection and promotion of national industries."¹ The Law of the Protection and Promotion of National Industries also stipulates: "The project licensed under this law shall enjoy all the benefits, incentives, and guarantees enjoyed by the national project in accordance with the regulations and instructions."²

Consequently, it is evident that the Saudi legislature has ensured that all investment projects established in the Kingdom receive the same incentives and guarantees as national projects pursuant to the applicable regulations in effect in the Kingdom. Among these incentives and advantages guaranteed by the system to investors in the Kingdom's regions are exemptions and customs protection. The explanations are as follows:

I. Customs Exemptions

Among the customs incentives determined by the Saudi National Industries Protection and Promotion Law are the exemptions specified in the following article:

¹ Executive Regulations of the Foreign Investment Law. Article V.

² Foreign Investment Law. Article VI.

"Imported machines, tools, devices, and spare parts are exempt from customs duties for new industrial enterprises, for the expansion of existing industrial enterprises, and for the mobilization of production. The categories and quantities of the objects mentioned in this article shall be determined by a decision of the Minister of Commerce and Industry, based on the advice of the Industrial Technical Office of the Ministry."¹ The Saudi legislator also decided that "raw and semi-manufactured raw materials, bags, cans, and packaging cylinders necessary for industrial enterprises shall be exempt from customs duties, provided that it does not have an existing and sufficient instance in the Kingdom. This shall be determined by a decision of the Minister of Commerce and Industry based on the advice of the Industrial Technical Office of the Ministry."²

Exemptions also include what was stipulated in the provisions of the Cooperation Council for the Arab States of the Gulf's Unified Industrial Regulation Law, which regulates the mechanism for awarding customs exemptions for industrial projects in the Gulf countries, as follows: "The Minister or his authorized representative may follow the appropriate procedures to grant all or some of the following exemptions to the industrial project:

1. Exemption from customs duties on project imports in full or in part, in accordance with the regulations (Exemption of Industry Inputs) agreed upon within the scope of the Cooperation Council.
2. Exemption from all taxes, including income tax, in line with each country's legislation.

¹ Law of Protection and Promotion of National Industries (1961). Issued by Royal Decree no. 50, dated 1961/14/06. Article IV.

² Law of Protection and Promotion of National Industries (1961). Article V.

3. Exemption from export taxes and duties for industrial project exports.
4. Any other exemptions agreed upon within the GCC framework."¹

In a different context, the Saudi Mining Law states that "all imported equipment, machinery, and spare parts needed to carry out any licensed mining activity shall be exempt from customs duties based on data and lists approved by the Ministry."²

Consequently, as mentioned earlier, the Saudi legislature has made customs exemptions available for industrial ventures invested in the Kingdom, provided that the following conditions are met:

1. The investment initiative seeking exemption from customs duties must be licensed in the Kingdom of Saudi Arabia.
2. The supplies and instruments that are exempt from customs duties must be utilized for the licensed investment project.

II. Customs Protection

In addition to the above-mentioned customs exemptions, the Saudi legislature was eager to encourage national investments and attract foreign investments to the Kingdom by granting the products of these investment projects the benefit of "national product protection" or so-called customs protection, as one of the benefits offered to investors in the Kingdom.

By customs protection, we refer to a set of laws that aims to encourage the establishment of a national industry. These are laws that impose duties on imported

¹ Uniform GCC Law of Industrial Regulation (2006). Issued by Royal Decree no.M20, dated 2006/05/02. Article 17.

² Saudi Mining Investment Law (2020). Issued by Royal Decree no.M140, dated 06/11/2020. Article 53.

goods and products that are similar to or substitutes for national products, or those that impose duties on import quotas for some imported goods, or those that reduce the number of goods that can be imported in contrast to the local goods. In addition, these laws exempt local products exported abroad from export duties to make them a competitive commodity on foreign markets and thus support and encourage the local product.

Customs protection is represented by mechanisms that create the appropriate conditions for the emerging national industry to be able to face foreign products and compete with them on the local market, as well as encourage them to effectively contribute to meeting society's rising commodity needs, especially considering that these requirements consume a substantial portion of the country's resources, which takes the form of continuing expenditures to finance foreign imports. Therefore, national products and goods will be unable to compete with foreign goods that pose a threat to the national economy unless emerging national industries are given the opportunity, time, and protection to develop.

As part of Saudi Arabia's efforts to strengthen its industrial sectors in order to add more balance to its national economic structure, we find that Saudi policymakers have worked to issue a set of laws and regulations that require the imposition of customs protection for a variety of different local goods in order to protect the local industry. This provides an opportunity for local products and goods to establish their presence and obtain expertise and abilities that will allow them to stand on an equal basis with foreign competitors.

The Saudi National Industries Protection and Promotion Law has determined that temporary protection may be put on local industry products without

prejudice to consumer interests. The Law states that “the Ministry of Commerce and Industry recommends to the Council of Ministers to take the means or means deemed appropriate to protect local production, within the limits of the provisions of this regulation and other applicable regulations. And the procedure utilized to protect local production takes into account its adequacy in terms of quantity and quality, as well as the consumer's interests. Among the methods used to protect local production are the following:

1. Determine the quantity of foreign imports similar to local production or prevent them.
2. Raising customs duties on similar foreign imports.
3. Providing various financial assistance to industrial enterprises.”¹

In a related context, Saudi legislation states: “Products destined for export may be exempt from export duties and other taxation. This is accomplished through a royal decree based on a decision by the Council of Ministers.”²

Thus, we may conclude that the Saudi lawmaker has granted enough customs protection for commodities and products produced domestically as a result of investment projects. As a consequence, local production has gained two advantages at the same time: first, local superiority, and second, the ability to compete in worldwide markets. Saudi policymakers also focused on exempting all that promotes manufacturing and supports its progress and development in the country in terms of machines, raw materials, and other essential components related to the industry in order to boost the industry in its field. Additionally, this matter will help the investor generate

¹ Law of Protection and Promotion of National Industries (1961), Article VII.

² Law of Protection and Promotion of National Industries (1961), Article VIII.

profits by lowering manufacturing costs and enhancing the local producer's capacity to compete in both domestic and international markets.

Topic II: Incentives and Monetary Facilities

Incentives and monetary facilities, in this context, refer to all of the means, instruments, and financial assistance provided by the state to encourage the completion and implementation of investment projects on its territory. Especially important are those incentives and financial facilities geared toward establishing industrial projects and sustaining infrastructure costs required to complete the investment project, such as loans. This also includes the favorable financial treatment provided for the purchase or lease of real estate and public property on which the project is constructed, in addition to the assistance provided to reduce services and energy costs. Investment projects also benefit from incentives designed to encourage the employment and training of personnel.

Sub-topic I: Financing Industrial Projects

Saudi Law provides investors in the Kingdom's territory the right to take advantage of the easy financing solutions provided to industrial investment projects as part of the benefits and incentives for investors. In this way, both domestic and foreign investors are treated equally.¹

This keenness stems from the Saudi government's desire to encourage the private sector to participate in projects that will help the country improve its economy and promote its comprehensive development. To that purpose, the Saudi government has established a number of funds and lenders to provide specialized loans that are

¹ Executive Regulations of the Foreign Investment Law (2000). Article V. See also, Investment Law (2022), Article V, paragraph 1 and paragraph 2(a).

either interest-free or have low and encouraging interest rates. It targeted all beneficiaries who had industrial investment projects licensed in the Kingdom's territory under the Saudi system in the many economic sectors emphasized by the country.

The following are the most important entities and funds aimed at financing investment projects in the Kingdom of Saudi Arabia:

Section I: Saudi Industrial Development Fund (SIDF)

The fund was established per the Saudi Industrial Development Fund Law with an initial capital of 500 million Saudi Riyals provided by the Saudi Ministry of Finance. The Law authorized it to increase by a decision of the Council of Ministers. The fund's purpose is to support industrial development in the private sector of the Saudi Arabian economy in accordance with an approved and integrated vision and strategies targeted at creating and developing industrial investment opportunities in the local industrial sector.¹

Following are the primary objectives the fund aims to accomplish:

1. Providing funding to private enterprises based in the Kingdom that operate in the fields of industry, mining, energy, industrial services, support services, logistics, technology, and infrastructure development in order to establish new projects, expand their activities, manage their operations, replace their equipment, and introduce modern methods; or acquiring facilities outside the Kingdom working in these fields in order to transfer technology or integrate it into the private sector.

¹ The Saudi Industrial Development Fund Law (1974). Issued by Royal Decree no. M/3, dated 1974/20/03. Articles I,V. It should be noted that the fund's capital has been increased several times, most recently by Royal Decree no. M/81, dated 11/24/1975.

2. Providing funding to establishments located outside the Kingdom that operate in the fields referred to in paragraph (1) of this Article and are owned or contributed to by Saudi investors for the purpose of technology transfer or integration with the national industry, in accordance with regulations set by the Fund's Board of Directors.
3. Providing economic, technical, or administrative advice to establishments functioning in the domains referred to in paragraph (1).
4. Offering guarantees of no more than 10% of the fund's paid-up capital.
5. Establishing and running specialized academic training centers in the domains of finance, industry, energy, technology, mining, and logistics, as well as delivering specialized training programs in these fields in compliance with the statutory requirements.
6. Lending and other types of funding.
7. Accepting mortgages and other forms of fulfillment guarantees.
8. Having money of any type, whether moveable or real estate and selling and mortgaging it.
9. Borrowing and issuing instruments, bonds, and other debt instruments in agreement with the Ministry of Finance.
10. Carrying out any other activity or action authorized by the Fund's Board of Directors in order to fulfill the Fund's objectives and in alignment with the nature of its operation.¹

Therefore, the Fund plays an active role in promoting industrial investment opportunities, developing local industry, and raising economic performance by

¹ The Saudi Industrial Development Fund Law, Article III.

contributing to the establishment of industrial sectors, developing competitive institutions and supporting strategic initiatives.

SIDF continues to play a leading role in promoting the local industrial sector, keeping pace with developments through cooperation with government agencies, and expanding its support to include a number of promising sectors such as industry, energy, mining, and logistics. The Fund's financing services provide an advantage and incentive for both local and foreign investors to invest in the Kingdom, which is considered a vital incentive, as it provides numerous financing solutions for industrial projects that can reach (50%) of the total project cost. The Fund's Board of Directors may increase this percentage to 75% in less developed regions or cities and in strategic initiatives.¹ In addition, it provides economic, technical, and administrative guidance for these initiatives.

As a result, the Fund is one of the most important and prominent industrial finance institutions in the Kingdom that aims to support industrial investment projects, as it enables investors to benefit from medium or long-term loans in establishing new industrial facilities in the Kingdom. In addition, the Fund provides medium or long-term loans to existing private industrial enterprises to expand their operations, modernize or replace equipment, and implement contemporary and innovative operations. The Fund also provides, when necessary or possible, economic, technical, or administrative advice to industrial establishments in the Kingdom.

¹ Saudi Industrial Development Fund Law, Article V.

Section II: The Arab Fund for Economic and Social Development (AFESD)

The Arab Fund for Economic and Social Development is an Arab regional financial institution with a capitalization of 100 million Kuwaiti dinars.¹ Headquartered in the State of Kuwait, its purpose is to fund initiatives that contribute to member states' economic and social well-being. To accomplish its goals, the Fund finances economic and social development projects with loans that come with lenient terms for governments, public bodies, and institutions while giving priority to vital economic projects of Arab entities and joint Arab projects. In addition to providing expertise and technical assistance in various areas of economic development, the Fund also encourages either the direct or indirect employment of public and private funds to guarantee the development and growth of the Arab economy.

The Board of Governors of the Fund decided in 1997 to amend the Fund's Establishment Agreement to authorize the Fund to contribute to financing private sector development projects in Arab countries in response to the growing need to increase the private sector's role in the implementation of development projects. The Fund's contributions in financing private sector initiatives take various forms, including capital participation, lending, loan guarantees, and credit lines, in addition to providing institutional support and technical assistance.

The terms of the loans provided by the Arab Fund to member states are flexible, taking into consideration the provision of financing on favorable conditions to assist

¹ Agreement establishing the Arab Economic and Social Fund. Approved by the Economic Council of the League of Arab States by its resolution no. 345 at its meeting held on Thursday, May 16th, 1968, the implementation of which was announced by the General Secretariat of the League of Arab States on 12/18/1971.

Arab countries in implementing their development plans. In this context, the Fund has been eager to increase and develop the degree of ease in its loans by reducing interest rates to 2.0% for low-income Arab countries and 2.5% for other Arab countries, increasing grace and repayment periods, which range from 22 to 30 years, and providing non-refundable aid and grants that contribute to various fields such as technical and economic studies, institutional support, and training, as well as projects that are supporting emergency situations and conditions experienced by some member states.

As a regional fund, the Arab Fund contributes to the financing of public and private initiatives that promote economic and social development in Arab nations through the following measures:¹

The most important contributions of the Arab Fund for Economic and Social Development:
1. Financing public economic projects with soft loans.
2. Financing private sector projects.
3. Contributing to capital.
4. Establishing and managing special funds to achieve specific purposes.
5. Encouraging the employment of public and private capital.
6. Providing expertise and technical assistance to member states.
7. Financing small and medium enterprises.

Table 11. The most important contributions of the Arab Fund for Development

Section III: Arab Trade Finance Program

The Arab Trade Finance Program is a joint Arab financial institution whose mission is to promote the growth of Arab trade and increase the competitiveness of

¹ For more information, see the website of the Arab Fund for Economic and Social Development. Retrieved on 2023/04/22. Available at: <https://www.arabfund.org/default.aspx?pageId=10&mid=61>

Arab exporters. The program was established in 1989 with a paid-up capital of one billion dollars contributed by 53 Arab institutions, including the Arab Monetary Fund, the Arab Fund for Economic and Social Development, joint Arab financial bodies, public and private financial institutions, financial institutions in Arab countries, and joint Arab and foreign financial institutions.

In an effort to develop areas of trade and investment in Arab countries, the program offers its financing services through national agencies approved by banks and financial institutions operating in Arab countries as well as some foreign countries that have been designated for this purpose in coordination with the monetary authorities of their respective countries. Through these designated national agencies, the program offers refinancing services for eligible business transactions involving commodities of Arab origin and related services at an appropriate cost and over an appropriate period of time. It provides medium- and long-term loans to individuals and businesses to facilitate international commerce and finance private-sector transactions.¹

Section V: Islamic Development Bank (IsDB)

The Islamic Development Bank is a multilateral development bank whose mission is to collectively and individually support the economic development and social progress of the people of OIC member states and the Islamic communities in non-member countries in accordance with the principles of Islamic law. Through public-private partnerships, the Bank also works to establish partnerships between governments, the private sector, and civil society. Additionally, the bank contributes to

¹ For more information, see the website of the Arab Trade Finance Program. Retrieved on 2023/04/22. Available on: <https://atfp.org.ae/>

financing investments in urban and agricultural development, development projects, and energy and transportation requirements in areas where it has provided financing.¹

The Bank administers a number of subsidiary institutions that complement the Bank's role in promoting the economic and investment environment in member states, as well as developing the private sector's role in order for it to become one of the means of economic growth and sustainable development. The following are the most important of these institutions:

1. Islamic Corporation for Private Sector Development (ICD).
2. International Islamic Trade Finance Corporation (ITFC).
3. The Islamic Investment Insurance and Export Credit Corporation (ICIEC).

Additionally, the Bank contributes equity and debt financing for member institutions and production initiatives. It provides a number of financing options to support venture capital for initiatives. It also provides loans to businesses and productive initiatives and accepts deposits to mobilize financial resources in accordance with Islamic law's provisions and principles.²

Sub-topic II: Employment and Training Support

The Kingdom, represented by the Ministry of Human Resources and Social Development, has labored to enhance the public and private sectors' role per the

¹ The Islamic Development Bank is an international financial institution whose mission is to support and advance the economic and social development of its member states. With a capitalization of two billion Islamic dinars, it was founded. The Islamic dinars is a bank accounting unit equal to one unit of special drawing rights from the International Monetary Fund. Its capital was enhanced several times until it reached thirty billion Islamic dinars on May 31, 2005. In accordance with the December 1973 Statement of Resolve issued by the Conference of Finance Ministers of Islamic Countries convened in Jeddah, the bank was established. In July 1975, Riyadh played host to the first meeting of the Board of Governors. On October 20, 1975, the bank was formally inaugurated.

² For more information, see the website of the Islamic Development Bank. Retrieved on 04/22/2023. Available at: <https://www.isdb.org/>

objectives and principles of Vision 2030 and to develop its human capital as a pillar of the future. Since the government of the Kingdom consists of several central government departments that occupy different job classifications, the Saudi leadership has endeavored to fill these positions by providing numerous employment opportunities in various ministries and government agencies. Developing the skills of these employees through training and assistance will enable them to obtain the appropriate qualification in accordance with modern scientific principles. To empower citizens and achieve the Kingdom's Vision 2030, the government has launched several initiatives to qualify and train Saudis in the government sector, the private sector, and the non-profit sector according to the needs of the labor market in order to enhance and develop their skills.

Section I: Supporting Employment in the Government Sector

The launch of the Unified National Employment Platform (Jadarat) is one of the most significant efforts of Saudi support for government employment. It is a digital job-search portal that connects job seekers to opportunities in the Kingdom's public sector. This process is accomplished by thorough digital alignment of all parties involved in the employment process in order to promote effectiveness, accuracy, and transparency in locating suitable job prospects for job searchers. The platform also offers a comprehensive database of job vacancies in the public sector and all of the information needed to assist job searchers in the process of finding and applying for positions. The platform's second iteration is expected to provide private sector businesses with the capacity to promote job openings and manage job applications.

Section II: Supporting Employment and Training in the Private and Non-Profit Sectors

In the Kingdom of Saudi Arabia, the establishment of the Human Resources Development Fund (HRDF) is one of the most significant contributions to employment

support.¹ It seeks to support efforts to qualify and employ the nation's labor force in the private and non-profit sectors.²

HRDF focuses on enhancing the skills of the national workforce by providing individuals with knowledge and qualifications and then supporting their suitability to the labor market requirements and available jobs. In addition, the Fund is working to adopt an approach that makes the employment and training outcomes for the beneficiary one of the most important aspects of designing programs and delivering services. Furthermore, the HRDF strives to improve the human resources employment system throughout the Kingdom of Saudi Arabia. The Fund predicts future labor market trends and provides services to beneficiaries within a targeted program package that takes into consideration the beneficiary's needs and satisfies both his and the labor market's requirements.

To fulfill its objectives, the Fund offers numerous products and programs to develop and qualify the national workforce in the Kingdom of Saudi Arabia, including the following:

1. Subsidizing the rehabilitation, training, and employment of national labor forces in the private and non-profit sectors.
2. Participating in the rehabilitation costs of national labor forces and training for positions in the private and non-profit sectors. The Fund's Board of Directors

¹ The decision to establish the Human Resources Development Fund. Issued by Saudi Cabinet Resolution no. 107, dated 07/31/2000.

² Organizationally, the Fund is attached to the National Development Fund, which was established by Royal Order no. A/13 on April 10, 2017. It possesses legal personality, financial and administrative autonomy, and organizational links to the Prime Minister. The National Development Fund aims to improve the performance of its associated development funds and banks in order to achieve the goals of their establishment and keep pace with what best serves development priorities and economic needs in light of the objectives and pillars of the Kingdom's Vision 2030.

selects the amount of its participation, and the remaining percentage is paid by the employer who benefits from the rehabilitation of the trainee.

3. Paying a percentage of the salary of individuals engaged in the private and non-profit sectors, after qualification and training, as well as those employed in these enterprises through a partnership with the Fund. The employer pays the remaining proportion of the wage, and the Fund will carry its percentage for a period of no more than two years, during which time the Fund Board of Directors will set up the required conditions for its disbursement.
4. Assisting in the funding of field programs, initiatives, plans, and research focused on employing Saudis and replacing expatriate labor.
5. Providing loans to institutions for the rehabilitation and training of private national labor forces established in the Kingdom, as well as existing enterprises, for the purpose of extending their activities or bringing contemporary methods to them.
6. Conducting research and studies linked to the Fund's actions in the sphere of qualifying, training, and employing national labor, as well as offering technical and administrative assistance to institutions for the rehabilitation and training of national manpower.

The following are some of the most important programs offered by HRDF to assist with national workforce recruiting and training:

I. [Employment Support Programs](#)

The Human Resources Development Fund (HRDF) works to boost job opportunities by matching job seekers with suitable job opportunities. At the same time, one of the most significant responsibilities of the Fund is to bear a portion of the financial burden on the private sector through paying a portion of the wage of a citizen

employee for a period of 36 months. In an overview, the Fund pays up to 30% of the Saudi employee's monthly salary for the first year, 20% for the second year, and 10% for the third year. An additional percentage of support is also applied when the institution hires women and individuals with disabilities, or when it is hiring in small towns and villages, or if the size of the company is fewer than 50 employees. According to the regulations of each program, 70% of the Fund's funding goes toward employment and 30% toward training. Furthermore, the minimum wage for support is four thousand rials, and the maximum wage is ten thousand rials. The Fund's programs provide employment support in four different aspects: first, assist unemployed graduates in finding labor; second, support employment in low-population-density cities and towns; third, support the employment of women and individuals with disabilities; fourth, support employment in small and micro businesses.¹

The most essential of these programs aimed at employment and training are as follows:

A. Employment Support Program

This employment support program is provided by the Human Resources Development Fund to assist male and female job seekers in the private sector. The Fund bears the responsibility for a portion of the employee's salary, which provides assistance for all full-time positions in the private sector.

The program provides additional assistance for employment in areas and communities with fewer job opportunities, for the employment of women and people

¹ For more information, see the website of the Human Resources Development Fund (HRDF), Programs and Services. Retrieved on 04/23/2023. Available on: <https://www.hrdf.org.sa/Hadaf>

with disabilities, and for small, medium, and micro-enterprises, in addition to the Fund's campaigns targeted at economic sectors or job titles.

Thus, businesses that employ Saudis and participate in the program will receive financial support benefits, namely, the payment of a portion of the salaries of Saudi men and women engaged through the program. The Fund has designated the 28th of each month as the date for program support to be deposited into the enterprises' bank accounts.

B. Employment Support Program (Industrial and Tourism Employment Pathways)

These two paths enable the private sector to take advantage of the Human Resources Development Fund's enablers and programs, which support the training and employment of national cadres in the industrial and tourism sectors. The program is the result of two employment localization initiatives in these two sectors. Several government agencies are working on it in order to increase the sector's localization rates, encourage the growth of industrial and tourism investments, and achieve Vision 2030 objectives in this field.

C. The SAED Program for Job Seekers (for high school students and below)

This electronic service is provided by the Ministry of Human Resources and Social Development to allow job seekers with a high school diploma and below to register their personal data, qualifications, and practical experience in order to make their information available to specialists in the Ministry of Civil Service to build a database for supporting jobs.

D. The National Labor Portal (TAQAT)

The portal provides a comprehensive electronic employment platform for the labor market, both governmental and private, as well as employment service providers.

It connects job seekers with companies, allowing for the efficient and effective provision and exchange of employment and training services. The goal is to improve the stability and development of the workforce in the Saudi labor market and contribute to the equitable distribution of job possibilities.

E. Temporary Work Program - Direct Contracting

This program facilitates access to the workforce by allowing individuals wishing to work for businesses to register on the "AJIR" Program website and publish their CVs for direct contracting on the labor market. Establishments can benefit by submitting offers to job seekers and contracting with them based on their requirements.

F. Flexible Work Program (MARN)

This program enables the Saudi job seeker and the employer to contract flexibly so that the wage is paid on an hourly basis, the lowest wage unit, without any commitment to other perks, such as paid leave or end-of-service benefits. Furthermore, applicants to the program are not required to have a period of experience or training.

The flexible work program is a Ministry of Human Resources and Social Development initiative aimed at expanding employment choices for the country's young men and women. The Ministry is attempting to accomplish this by promoting job localization, lowering unemployment rates, and addressing the needs of the private sector for national cadres.

The application also offers an enhanced option for electronically documenting a flexible work contract between firms and workers, thus accommodating workers choosing a flexible schedule while also increasing the degree of safety and credibility among contractors. This effort aims to utilize technology in the workplace, support the available workforce, and meet companies' needs for skilled and trained workers.

II. Training Programs

The Saudi Human Resources Development Fund has also sponsored and provided many vocational and employment-related training programs for businesses and individuals in order to boost the national labor force through qualitative qualifying for work. The following are some of the most notable programs aimed at training Saudis and preparing them for the labor market:

A. HRDF Leadership Program

An educational and training academy founded in 2020 by the HRDF to develop and train young Saudis from the private and non-profit sectors to lead important enterprises and sectors in the Kingdom in the future, helping to realize the Kingdom's Vision 2030. The program focuses on developing local leaders who are capable of planning creatively and innovating. The Academy also seeks to provide participants with a wide range of knowledge, techniques, and capabilities required to meet the demands of the twenty-first century and achieve optimal human investment for national facilities. Moreover, the Academy works to transfer global expertise and activate the principles of effective and influential leadership through the use of many scientific and guiding cases, projects, best practices transfer, and direct follow-up and simulation with globally distinguished experts in leadership development.

B. Career Development and Education Portal (SOPAL)

This portal seeks to enable all Saudis to make better educational and career choices by building an integrated education and career counseling service system for high school students, university and institute students, job seekers, and employees.

C. Professional Certification Program

The Human Resources Development Fund created the program to encourage and motivate national human resources, business organizations, and job seekers to acquire accredited professional certificates in order to develop their skills and experience in the specialized fields demanded by the labor market. This is accomplished through the Fund's provision of financial compensation to beneficiaries for the cost of training and exam expenses following the attainment of the professional certificate.

D. Skills Program

This support mechanism enables the implementation of training programs in general skills and specialized professional skills in collaboration with training bodies certified by the Kingdom's competent authorities. The program is intended for job searchers and employees in the private sector. This initiative aims to improve the skills of target groups, expand their employment options in the private sector, and boost their job stability. This is accomplished by narrowing the gap between the abilities and skills required for the work and the skills and abilities of the job applicant or employee. To ensure retention, the program also intends to train and qualify new employees in the private sector who have not yet completed a year in the job .

E. On-the-job Training Program (Tamheer)

The on-the-job training program "Tamheer" seeks to develop the skills of graduates of Saudi and foreign universities, institutes, and colleges, whether they are recent graduates or have worked previously. The program intends to train participants in government institutions and prestigious companies in the private or non-profit sector, assisting them in acquiring the experience and skills necessary for employment and for participation in the labor market.

F. Summer Program

Directed at Saudi youth, male and female students above the age of 17, the program aims to equip them with fundamental skills that qualify them for the labor market and allow them to invest their leisure time for their own profit and benefit.

G. The E-Training Program (Doroub)

This national e-training platform offers numerous free training programs in a variety of tracks, fields, and topics to meet the Saudi labor market's requirements. The platform offers training programs designed to develop and improve the fundamental employment requirements of the Saudi labor market. The platform provides access to the training anytime and from anywhere, and electronic certificates are issued upon completing seventy percent of the training program's requirements.

Sub-topic III: Subsidizing Energy Fees and Utility Services

In an effort to entice investors to invest in the Kingdom of Saudi Arabia, the Saudi legislature has provided investors with a number of essential services at nominally discounted rates. This includes providing energy and fundamental services for investment projects, such as land and facilities for project establishment, at discounted and competitive prices. In addition, thirty-six industrial cities and technical zones with complete services and infrastructure have been established and are prepared to launch industrial projects across the Kingdom. The subsidies and services are discussed in detail as follows:

Section I: Reduction of Fees for Energy, Public Utility Services, and Land Required for Investment Projects

The Saudi lawmakers recognized early on that one of the most important incentives for investors is to lower the cost of manufacturing and production in

investment projects. As a result, they made an effort to contribute to the reduction of production expenses in projects being established in the Kingdom by offering numerous fundamental services, such as energy services, public utility services, and land rent required to build investment projects at reduced and competitive nominal prices.

This decision appeared in the Protection and Promotion of National Industries Law, instructing that “the State shall provide the land necessary for the construction of factories and housing for workers and employees at a nominal rent for industrial enterprises, and the area of land necessary for this shall be estimated by the Ministry of Commerce and Industry...”¹

The Unified Industrial Regulation Law of the Cooperation Council for the Arab States of the Gulf additionally states that “the Minister, his delegate, or the competent authorities in the State may grant the industrial project all or any of the following advantages:

1. Allocate a suitable plot of land.
2. Renting the industrial buildings required for the industrial project on favorable terms in the government-established industrial zones.
3. Providing electricity, water, fuel, energy, and other amenities required for the industrial project at promotional pricing.”²

Section II: Establishment of Industrial Cities

In light of the Saudi government's desire to achieve its economic development goals, its interest in industrial development has increased, as industry can provide a

¹ Law on the Protection and Promotion of National Industries (1961). Article VI.

² The Unified Industrial Regulation Law of the Cooperation Council for the Arab States of the Gulf (2006). Article 18.

fundamental and sustainable source of national income. This has led the Saudi government to take the initiative to consider localizing industrial projects and factories in industrial cities that operate as integrated industrial clusters. These cities are established with all the elements of the primary industry needs, such as services, equipment, and basic infrastructure, while also considering safe and healthy workplace conditions and safety requirements. This, in turn, will contribute to the equitable distribution of development initiatives and opportunities throughout the Kingdom, thus reducing migration to major urban areas by creating job opportunities in outlying areas.

The Kingdom's need for industrial cities arose in reaction to local and worldwide changes in the industrial field. This includes the growing need to create a basic environment for industrial development in the Kingdom as well as provisions for future needs. In addition, there is a need for the private sector to play a more significant part in the development, such as building, operation, and management of infrastructures and services. Furthermore, the private sector needs to engage in competition in supplying services and facilities for industrial projects in preparation for the Kingdom to enter the period of privatized public utilities and services, keeping up with global advances, and opening foreign markets to domestic business.

As a result, the Saudi Cabinet decided to issue the "Regulation of the Saudi Authority for Industrial Cities and Technology Zones," which allowed the establishment of a public body with an independent legal personality and managed by a board of directors led by a competent minister and comprised of representatives from ministries and related sectors, along with six members representing the private sector.¹

¹ Regulation of the Saudi Authority for Industrial Cities and Technology Zones. Issued by Cabinet Resolution no. 235, dated 03/26/2001.

Since its inception in 2001, the Saudi Authority for Industrial Cities and Technology Zones "MODON" has focused on the development of industrial land and integrated infrastructure. In addition to overseeing private industrial complexes and cities, it currently oversees 36 extant and developing industrial cities throughout the Kingdom. MODON increased the amount of developed industrial land to approximately 200 million square meters by March 2023. At the same time, the extant industrial cities include more than 4,000 factories, including those under construction and incorporation, as well as 6,587 industrial, investment, service, and logistics contracts. The industrial sector also employs 517,242 individuals, of whom 211,130 are Saudi nationals.

MODON implemented a well-defined strategy with specific objectives to maximize the benefits of the government sector's partnership with the private sector. As a result, it has been able to offer many advantages and incentives that distinguish its industrial cities. This has attracted global leaders in the industrial sector as well as numerous foreign investments with a positive impact on the Saudi industrial sector. The country is additionally taking significant strides in its external partnerships by making substantial progress in internal partnerships and attracting investments in excess of 370 billion riyals by 2023.

In the midst of the global industrial transformation, MODON has developed numerous mechanisms to encourage the participation of small and medium-sized enterprises and entrepreneurs in industrial development. This is in addition to the vital role of the significant domestic corporations that contribute to Saudi Vision 2030 in terms of industrially diversifying the national economy.

MODON's strategy to empower industry and increase local content is based on developing more services and products in accordance with an innovative vision that keeps pace with the needs of private sector partners and enhances its role in diversifying the national economy within the context of Saudi Vision 2030. In this way, it contributes with its initiatives to the National Industry Development and Logistics Program (NIDL).¹ And it provides numerous products, such as industrial lands developed for infrastructure and services, service lands designated for investment in the development of facilities and services, ready-made factories of various sizes from 700 to 1500 square meters, and logistical solutions products distributed throughout the country. MODON offers "land and industrial loan" and "factory and loan" in partnership with the Saudi Industrial Development Fund and the Social Development Bank.

Lastly, MODON adheres to the highest standards of quality and institutional excellence in implementing the outcomes of its strategy to develop model industrial cities committed to working with innovative technologies, meeting the needs of partners, increasing satisfaction indicators, and supporting small and medium-sized businesses and entrepreneurs in order to increase their growth factors.²

We can conclude from the aforementioned that the Saudi experiment was successful in developing specialized industrial cities. These cities are a practical idea with various advantages, such as central organization, specialization, and the availability of essential services and integrated infrastructure that enable the operation

¹ National Industrial Development and Logistics Program (NIDL). Vision 2030. Retrieved on 04/26/2023. Available at: <https://www.vision2030.gov.sa/v2030/vrps/nidl/>

² See the Saudi Authority for Industrial Cities and Technology Zones website. Retrieved 17/03/2023. Available at: <https://modon.gov.sa/en/Pages/default.aspx>

of investment projects. Furthermore, the establishment, development, and operation of such industrial cities and technical zones in the Kingdom benefits the economy and society in a variety of ways, the most important of which are as follows:

1. Contributing to the development of the Kingdom's economic and investment climate.
2. Enlisting private sector participation in the cost of constructing and operating industrial cities.
3. Encouraging and attracting investors by offering integrated services that fulfill the needs of their projects.
4. Contributing to the development of social capital by employing and training workers.
5. Enhancing the growth of the national economy through establishing factories and increasing national products.
6. Maintaining the environment by complying with the unified environmental norms and criteria of all industrial cities in the Kingdom of Saudi Arabia.

Accordingly, the establishment of industrial cities and technical zones is a significant factor in improving the investment climate in the Kingdom of Saudi Arabia; in fact, it is a strong incentive drawing investments to the Kingdom. Cities in which all the services and facilities necessary to launch and operate investment projects, such as energy, fundamental services, and prepared infrastructure, available at nominal costs, increase the flexibility of the investment procedure. This, in turn, increases the competitiveness of projects, leading to a rise in the volume of investment and the rate of profitability.

Sub-topic V: Supporting Scientific Research Projects

Numerous universities and scientific research institutions in the Kingdom of Saudi Arabia contribute to the Kingdom's Vision 2030 by fostering scientific and knowledge transformation and improving the economic and investment climate. This is accomplished by conducting research on the problems and obstacles that impede, or may impede, the achievement of Vision 2030 and providing the labor market with scientific and technical solutions to these current and future issues.

Among the most prominent specialized research entities that provide support to the national system for research, development, and innovation is the King Abdulaziz City for Science and Technology (KACST). It has prepared the National Plan for Science, Technology, and Innovation, along with the National Strategy for the Industrial Development and Logistics Program. Additionally, KACST extends scientific support services to universities and research centers. The support services KACST offers involve tasks and specializations that promote scientific research and contribute to the realization of the Kingdom's 2030 vision. These services encompass scientific support for universities, technical and logistical support systems, and the promotion of scientific awareness.

In supporting universities and research centers, KACST provides support to universities and research centers through its Research and Development Grants Program for National Institutions and Research Centers (GRANTS).¹ The GRANTS program comprises seven main initiatives designed to address the needs of

¹ Research and Development Grants Program for National Institutions and Research Centers (GRANTS). Retrieved on 2023/04/27. Available at the website of King Abdulaziz City for Science and Technology: <https://grants.kacst.gov.sa/Home.aspx>

the labor market from both a supply and demand perspective. Briefly, they are as follows:

1. The Postgraduate Student Research Program: a strategic program within the national research and development support system, which is a strategic investment in national capacities targeted at developing a set of scientific skills for graduate students in the Kingdom of Saudi Arabia.
2. The Basic Sciences Research Program: a new strategic program in the national research and development support system and a long-term strategic investment aimed at developing a set of scientific skills required to raise the Kingdom of Saudi Arabia's position on the map of leading countries in the fields of science, technology, and innovation.
3. Applied Research Program: an effective means of using applied research to meet the Kingdom's need to develop a strong research activity that focuses on achieving vital and specific national social and economic goals, creating leading national industries and services worldwide.
4. Innovation Research Program: a new strategic program in the national research and development support ecosystem. It aims to support researchers and research centers in the Kingdom in developing technical innovations by transferring research to the prototype development stage and then to the production and marketing phases.
5. The Target Research Program: a novel initiative within the national research and development support system. Its primary objective is to provide support for research projects that focus on specific themes that come under demand-based programs. It is intended to address issues of national importance in the near and

medium term. The program also aims to coordinate national efforts to find solutions to pressing problems through research and development.

6. Industrial Development Program: a new strategic initiative within the framework of the national ecosystem for research and development support. This program's primary objective is to assist small and medium-sized enterprises that utilize technology in the realm of innovation. Additionally, the aim is to bolster research and development capabilities that will enhance the domestic technological landscape within the Kingdom.
7. Industrial Innovation Centers Program: a program to establish connections between universities and private sector institutions to support localization efforts through technological development. Through developing research partnerships between industrial institutions, research institutions, and KACST, the program seeks to enhance high-quality research to solve industry-related problems. In addition, it seeks to contribute to the development of products and services in order to increase the competitiveness of domestic businesses, as well as to develop local content.

Topic III: Administrative and Procedural Incentives

Administrative and procedural reforms in Saudi Arabia play a significant role in the country's efforts to attract investment and enhance its investment climate. These reforms include the consolidation of the responsible and overseeing body for investments, the digitization of investment procedures, the restriction of government procurement to products from local manufacturers, the provision of technical assistance to investment projects, and the introduction of investment insurance options.

The primary benefit of administrative and procedural incentives is that they streamline and accelerate business processes. This improves the profitability of

investments, making the investment climate in Saudi Arabia more attractive. For instance, an incentive such as digitizing investment procedures or providing technical assistance to investment projects can expedite the inception and completion of a project, while an incentive that restricts government procurement to locally produced goods can enhance the profitability of investments.

In addition, streamlined administrative regulations and procedures can reduce the time and costs associated with launching and managing a business, thereby making it more straightforward for investors to establish and operate businesses. Administrative investment incentives may also provide investors with a level of protection against the risk of lack of transparency and lack of clarity of procedures applied to the investment process, thereby reducing perceived risks and boosting investor confidence.

Lastly, the availability of investment insurance is a crucial factor in the Kingdom's ability to attract investment. This kind of incentive can help increase access to the insurance option by making it easier for local and foreign investors to obtain insurance from local, regional, and international insurance institutions for their investment projects. In short, administrative and procedural incentives can substantially improve the Kingdom's investment climate by making business easier and less expensive, reducing managerial investment risk, and enhancing insurance access options.

In addition to tax, customs, and financing incentives, the economic policies that govern investment work in Saudi Arabia must also include a set of procedural and administrative facilities. The competent administrative authorities should provide these facilities and incentives to mitigate the difficulties that investment projects may confront at the outset and throughout their operation. In this context, the

researcher refers to the procedural facilities that assist the investor in completing the necessary procedures for the establishment of the investment project, its effective operation, and the security of its employees. One of the most important administrative facilities is the existence of a specialized administrative entity that organizes, observes, and promotes investment activity in the country. The entity will also enact or amend the pertinent administrative procedures to facilitate the starting activity of investment projects and their workflow. The aforementioned will help encourage domestic investments and attract international investments.

In this context, a discussion of the most significant incentives adopted by the Saudi lawmakers follows:

Sub-topic I: The Unification of the Entity Responsible for the Investment

Saudi investment legislation includes provisions to unify the organization and management of investment activity under a single government agency. This was achieved through the establishment of a specialized ministry for investment affairs, known as the Ministry of Investment.

In this regard, the Ministry governs and supervises investment activity in the Kingdom, as well as overcoming any difficulties that may arise for the investor at any stage of the investment project's life. The Ministry also studies the investment projects to be constructed, issues the necessary license for their establishment, and provides the investor with the necessary information on national investment regulations. The Ministry also makes the required decisions to form councils of businesses, specialists, and workers from foreign nations working on investment projects. The value of having such a department is that the investor needs to interact with it only, and does not have

to deal with other ministries and departments, thus avoiding work complications and the squandering of time, effort, and money.

Therefore, the Saudi policymaker has decided that the Ministry of Investment is the Ministry which shall serve as the primary reference point in the Kingdom and have jurisdiction over any regulation, development, improvement, and promotion of (domestic and foreign) investment and the protection of investors. “The ministry may--without prejudice to the competencies and responsibilities of other authorities--do everything necessary in order to meet its objectives, including the following:

1. Prepare and present the national strategy of investment in the Kingdom to complete the necessary actions.
2. Prepare the general policies, foster and enhance the optimal investment environment, submit for approval and follow up on the enforcement of the same policies according to the legally applicable procedures in order to develop and upgrade the investment.
3. Propose and present draft laws relating to investment, review and recommend the amendment of the existing laws to finalize the necessary legal procedures.
4. Issue and regulate the investment licenses according to the relevant legal provisions, provide the services of the Ministry to investors, regulate all necessary actions and determine the fees thereof in agreement with the Ministry of Finance and Non-Oil Revenues Development Center.
5. Determine the indicators and mechanism of measurement for investment performance in the Kingdom in coordination with the relevant authorities and refer the same to the Council of Economic and Development Affairs for approval. Follow up on the application and assesses the same upon approval.

6. Develop and present the implementation plans and rules for the preparation, development, and enhancement of the competitiveness of the investment environment in the Kingdom and refer any required procedures for completion.
7. Attract investments through organizing, convening, and participating in conferences, seminars, local and foreign exhibitions, events, etc., and announce investment-stimulating initiatives.
8. Create an investment database and indicators in the Kingdom as the only unified platform and primary reference point for relevant information regarding the Ministry's functions and coordinate with appropriate authorities to provide the Ministry with the necessary information, data, and reports according to the National Data Governance Policies and Regulations issued by the Saudi Authority for Data and Artificial Intelligence.
9. Support and overcome the challenges encountered by Saudi investment abroad in coordination with the relevant authorities inside and outside the Kingdom.
10. Enhance, raise, and handle challenges and obstacles and propose ways to improve the investment's sustainability.
11. Coordinate with the relevant governmental agencies in order to enable the Ministry to perform its functions.
12. Represent or participate in the representation of the Kingdom before national and international organizations, entities, forums, and conferences related to the Ministry's functions.
13. Conduct studies and research related to its functions and cooperate with research centers and consultant firms on the domestic and international levels in this regard.

14. Conclude agreements relevant to the business of the Ministry with the competent authorities in other countries and international organizations according to the applicable legal procedures.
15. Act on the government's behalf in the negotiation with strategic investors, design the investment stimulants and refer the same to complete the necessary procedures.
16. Perform any other function to be assigned to the Ministry by law.”¹

Furthermore, the Saudi legislature has mandated that the Ministry of Investment ensure that investors have the right to access all necessary information and data about their investment activities. The aforementioned encompasses the entitlement of the investor to obtain access to all statistical and technical information and data alongside the benefits, exemptions, and amenities extended to industrial projects. As stipulated, “the business's owner of the industrial undertaking has the prerogative to access the statistical information and data that have been made public, and also to procure a statement of the benefits, exemptions, and conveniences that have been conferred upon industrial projects. Additionally, the business owner may obtain all new technical information that facilitates the efficient and effective selection and utilization of technology, subject to the Ministry's available resources.”²

The Law also mandates “facilitating procedures and providing facilities by providing the necessary support and assistance from all competent authorities.”³ In addition, “the ministry provides the investor with available information and statistical

¹ The Ministry of Investment Regulation (2021). Issued by the Council of Ministers Resolution no. 594, dated 05/25/2021, Article II.

² The Unified Industrial Regulation Law of the Cooperation Council for the Arab States of the Gulf (2006). Article 21.

³ Investment Law. Article V, second paragraph (f).

data, as well as the services necessary to facilitate transactions related to his direct investment, and strives to address complaints submitted by the investor in accordance with clear and transparent procedures.”¹

Sub-topic II: Digitization of Investment Procedures

The government of Saudi Arabia has labored to simplify investment procedures. The Kingdom has developed reforms aimed at simplifying and automating investment procedures, which have resulted in a 54% reduction in the total investment license requirements, as well as the launch of several electronic platforms to serve investors, accept private sector feedback, and conduct public consultations, as well as the development of platforms that contribute to improving and modifying investment procedures.

The Saudi government has also launched additional platforms for monitoring the Saudi market, conducting research and evaluating it in order to develop it, identifying and addressing flaws, identifying strengths, and attracting investors. This is to ensure the continuation of high-quality work, encourage domestic investors, attract foreign investors, and promote the Saudi market to improve the Kingdom's ranking in the relevant global indicators and reports.

In this context, the research highlights the most significant platforms that contribute to easing the investment process in the Kingdom of Saudi Arabia:

Section I: Invest in Saudi Platform

"Invest in Saudi" is the unified national identity for marketing investment in the Kingdom of Saudi Arabia and was developed and introduced as one of the initiatives

¹ Investment Law. Article V, fourth paragraph.

to achieve Vision 2030. “Invest in Saudi” is one of the most prominent marketing channels for the “Invest in Saudi” brand in order to introduce the investment environment and competitive advantages of the Kingdom, highlight promising investment opportunities in all sectors, and facilitate communication with investors locally, regionally, and internationally.

The brand works to facilitate the work of investors and overcome obstacles to investments that support the Kingdom's economic development and bolster Saudi Arabia's position as one of the leading players in the global business economy. It is intended to provide foreign investors, on the one hand, and local investors and private sector corporations, on the other hand, with clear, standardized, and effective information about investment opportunities in Saudi Arabia. Accordingly, it is the primary point of entry for local and foreign investors seeking assistance and support in the stages that precede, accompany, or follow their entry into the Saudi Arabian market.

As the Kingdom of Saudi Arabia experiences economic prosperity and progress in all areas of development, the platform unites messages and efforts from all ministries and government agencies to strengthen the Kingdom's position as an appealing investment destination and to highlight various opportunities in the field of business and investment, as part of its support for the Kingdom's long-term economic growth.¹

Section II: Saudi Business Center

The Saudi Business Center was established by the government of the Kingdom of Saudi Arabia in an effort to streamline procedures for conducting all phases of

¹ Invest in Saudi Website. Retrieved 04/28/2023. Available at: <https://www.investsaudi.sa/en>

business.¹ The Center offers more than 200 electronic services via comprehensive spatial and electronic service centers in collaboration with 30 government agencies. In addition to assisting investors and business proprietors in completing required business procedures, the Center seeks to boost the business performance of private-sector businesses.

The Center has achieved notable success in streamlining the process of starting a business, reducing the duration from 15 days to a mere 30 minutes. Additionally, the Center has managed to significantly reduce the time required to obtain commercial registration, with the process now taking only 180 seconds. The World Bank Group's Doing Business 2020 report indicates that the Kingdom's rank in the "Starting a Business" index has advanced by one hundred and three places, with this advancement being attributed to the contribution mentioned above.²

The Saudi Business Center is the gateway for doing business in Saudi Arabia. The Center is interested in facilitating the procedures for starting, practicing, and ending a business and providing all services and related work in accordance with international best practices. It currently offers more than 750 services, with plans to expand to over 1200 services in the future. The Center operates through 16 locations in 13 cities within the Kingdom and provides its services via an e-business platform. Its primary responsibility is to facilitate business operations.

The Saudi Business Center was also eager to collaborate with strategic partners and a number of concerned government agencies in order to empower the private sector

¹ The Center was established by Cabinet Resolution no. 456, dated 4/16/2019. This provided for the establishment of the Saudi Business Center and the approval of its organization, under which it is organizationally linked to the Council of Economic and Development Affairs.

² See the website of the Saudi Business Center. Retrieved 04/29/2023. Available at: <https://business.sa/>

in the Kingdom of Saudi Arabia, as well as to accelerate development in order to effectively contribute to a diversified economy and achieve the Kingdom's Vision 2030 goals.

The Center strives to improve indicators of government effectiveness and e-government by building an appealing business environment and delivering a service model that boosts competitiveness, investment, and growth in the Kingdom of Saudi Arabia.

The most important services provided by the Center in this context are as follows:

1. Facilitating the establishment and running of a business by creating a stimulating work environment that increases the Kingdom's competitiveness and economic growth rates.
2. Improving the quality of government requirements by shortening the time and cost of government services and licenses required from the private sector.
3. Enabling the potential for data-driven decisions in the private sector to help investors with specialized studies, sectoral reports, and economic data panels that contribute to decision-making.

Section III: Meraas Platform

The electronic interface for the Meraas Initiative, a government program affiliated with the Saudi Business Center, which aims primarily to assist business owners and investors in identifying the steps required to start a business in the Kingdom of Saudi Arabia, as well as to facilitate the procedures for starting and practicing work, and providing all services and related work. Meraas' website attempts to deliver a variety of services from government organizations or business sectors in a single day.

The most crucial element of the Meraas portal is that all services are computerized and linked to cutting-edge technologies through numerous official agencies and bodies.

Section IV: "FURAS" Saudi Cities Investment Gate

This electronic portal serves as the unified database and primary source of information for all investors seeking real estate and municipal investment opportunities, offered by all government agencies in various investment activities to contribute to developing Saudi cities' economies. The portal's objective is to create an integrated digital journey for the investor, beginning with the purchase of the brochure and ending with the signing of the contract and the delivery and receipt of the website. In addition to enabling access to investment opportunities for Saudi development of cities, the portal will save the investor time and effort. On a regular basis and as soon as they become available, the digital portal "opportunities" offer attractive investment possibilities in all regions and governorates of the Kingdom for small and medium companies, major enterprises, and entrepreneurs.¹

Section V: Saudi National Competitiveness Center

The Saudi government has established the National Competitiveness Center to develop and improve the competitive environment in the Kingdom by studying, identifying, and analyzing obstacles and challenges facing the public and private sectors, proposing solutions, initiatives, and recommendations, and monitoring their implementation by employing the most effective methods and practices that increase the Kingdom's competitiveness locally and internationally.²

¹ See the Saudi Cities Investment Gate "FURAS". Retrieved on 04/29/2023. Available at: <https://furas.momra.gov.sa/ar>

² National Competitiveness Center. A reconnaissance platform, a platform of private sector visuals. Retrieved on 04/29/2023. Available at: <https://www.ncc.gov.sa/en/Pages/default.aspx>

The National Competitiveness Center (TAYSEER) was established to develop and enhance the Kingdom's competitive environment and increase the Kingdom's ranking in relevant global indicators and reports. To accomplish these objectives, the center has implemented more than 555 reforms to the services offered to investors. This center also has produced the following two electronic platforms:

I. Reconnaissance Platform

The Saudi government launched this platform to gather public, private sector, and government agency opinions on regulations and the like issued by government agencies relevant to the economic and developmental environment. That is, the survey platform has been designed to make changes or add features to regulations and laws, monitor data, and so on. The platform also aims to enable public and government agencies to provide views, comments, and suggestions on new draft rules and regulations and the like related to economic and development affairs before they are approved.¹

II. Private Sector Visuals Platform

The National Competitiveness Center has also been eager to establish an efficient communication channel between government agencies and the private sector to hear perspectives and concerns regarding laws, legislation, and procedures. The objective of this platform was to enable the private sector to participate in expressing its views on the rules and regulations governing business, and proposing amendments to them in an effort to improve the business climate in the Kingdom.

¹ Saudi Council of Ministers Resolution no. 476, dated 10/03/2020.

Consequently, the electronic platform works to develop mechanisms for handling interactions between the private sector and government agencies by receiving the private sector's views and proposals, monitoring the challenges they face, and then forwarding them to the appropriate government agencies. In addition, challenges and obstacles that meet the Center's standards shall be dealt with directly in cooperation with other government agencies.

Section VI: “Thakaa” Intelligence Centers

This electronic interface affiliated with the General Authority for Small and Medium Enterprises specializes in emergent technologies that empower enterprises and entrepreneurs and contribute to the realization of Vision 2030 for the Kingdom. It contributes to the creation of innovative new companies and enhances the efficacy of current small and medium-sized businesses.

The Center seeks to empower the sector of small and medium-sized businesses and support their use of advanced technologies so that these businesses can grow and become more competitive. Additionally, the Center strives to serve as a conduit between entrepreneurs and those making decisions in their fields. In this regard, the Center intends to initiate technical projects and expand existing facilities in the fields of artificial intelligence, data analysis, the Internet of Things, and cybersecurity.¹

¹ See the website of “thakaa” the Intelligence Center. Retrieved on 04/30/2023. Available at: <https://en.thakaa.sa/>

Section VII: Industrial Platform

This unified electronic services and information platform facilitates the investor's voyage from idea to export by integrating service partners, streamlining procedures, and providing industry data and information.

The platform offers numerous privileges and services during the investment process and ensures continuous communication and periodic project monitoring. Additionally, the industrial platform informs potential investors of new investment opportunities that may be of interest to them. Provided services include an application for industrial licenses, employment support, exemption from customs duties, and chemical clearance.

Sub-topic III: Facilitating Residence and Work Procedures for Foreigners in the Investment Sector.

Before the enactment of the current investment legislation, investors in the Kingdom faced several obstacles to additional investments. These included the difficulty of acquiring work visas to enter the Kingdom, the complication of residency and sponsorship systems, and the stringent procedures for foreigners who want to move between cities. Previously, the investor viewed these controls as limiting his investment opportunities in the Kingdom, as the direct investor's work is tied to the residence and work laws governing foreign employees' residence and work.

In a study that measured the adequacy of incentives provided to investors in the Kingdom and the simplicity of the procedures required to obtain them, it was determined that 27% of respondents believed that the recruitment of foreign labor

accounted for 18% of the overall difficulty. And entry, residence, and exit procedures for investors and employees constituted 15% of the difficulty rate.¹

Therefore, the Saudi legislature has endeavored to avoid these obstacles in its current legislation and regulations by easing entry, residence, and employment procedures in the Kingdom and safeguarding the rights of workers. This is elaborated in the sections that follow:

Section I: Regulating the Investor's Residence and the Investment Establishment's Foreign Employees.

The Saudi legislature has granted the right to the investment establishment to sponsor foreign investors and their employees, eliminating the need for the foreign investors and their workers to be sponsored by an entity, government institution, private national entity, or citizen, as was previously required. Saudi lawmakers made the decision that “the licensed establishment can sponsor the foreign investors and their non-Saudi employees.”² As a result, the new policy is considered an advantage provided by the legal reforms adopted by the Saudi legislature, which were not available in earlier investment legislation. The reform serves as an inducement to attract greater foreign investment.

Section II: Documentation and Digitization of Employment Contracts

The government of the Kingdom has been eager to document and digitize employment contracts in order to assure employers' commitment to upload and update the information on employment contracts for private sector employees. This enhances

¹ Research Center at Jeddah Chamber of Commerce and Industry. (1989). *Methods of attracting foreign investments in joint ventures in the Kingdom*. pp. 105-106.

² Foreign Investment Law (2000). Article IX.

the possibility of verifying the validity of contractual data between the parties to an employment relationship. In addition to documenting subscribers' contracts to the General Organization for Social Insurance, the government introduced the “MUDAD” platform for developing and simplifying administrative and financial procedures for private businesses.

MUDAD is one of the initiatives introduced by Saudi Vision 2030 to improve the contractual relationship between employees and employers. It was established as a financial technology platform in collaboration with the General Organization for Social Insurance and Takamul Holding Company, with the oversight of the Ministry of Human Resources and the backing of the Saudi Central Bank.

This initiative strives to advance private sector entities toward a digital transformation that improves and develops administrative and financial processes specializing in the payment, processing, and protection of wages. It also aims to implement all necessary procedures in record time and in a professional manner in order to guarantee the rights of both the employer and the employee.¹

Section III: Wage Protection Program

The Wage Protection Program is one of the initiatives approved by the Saudi Ministry of Human Resources and Social Development to monitor the payment of wages to all male and female workers in private sector establishments, Saudis and expatriates, along with creating a database containing updated information on the payment of wages of

¹ For more information, see the MUDAD website. Retrieved on 05/01/2023. Available at: <https://mudad.com.sa/landing-page/home>

workers registered with establishments. This is to ascertain the extent to which the enterprises are committed to paying wages on time and at the agreed-upon wage.

To assist both workers and employers, the Ministry has made it possible for establishments to provide proof of wage payments to all male and female workers in private sector establishments via an electronic service on its website. As a trial period, the program began its first phase on 6 January 2013 with establishments of giant size (3,000 workers or more). In its eleventh phase, applied in August 2017, the program included establishments with 60 workers or more. Now all establishments in the Saudi labor market can register and upload the wage payment file via the e-services portal of the Ministry of Human Resources and Social Development.¹

Section IV: Principles of Occupational Safety and Health of the Workforce

Providing a secure and healthy work environment is crucial to attracting and retaining skilled workers, which in turn increases work performance and quality, positively affecting businesses and the market climate, thereby improving the economic and investment climate of the country.

From this perspective, the Saudi Ministry of Labor and Social Development has endeavored to promote the concept of an attractive work environment in several areas, including occupational safety and health. This is in accordance with the Ministry's belief in the need to contribute to protecting employees' safety and health, preserving property and the environment, and reducing material losses. First and foremost, the contribution of the Ministry of Labor is to promote worker and employer awareness of

¹ Wage Protection Program. Retrieved on 05/01/2023. Available on the website of the General Organization for Social Insurance at: https://www.gosi.gov.sa/GOSIOnline/Wages_Protection_Program?locale=en_US

occupational safety and health, and then work on establishing workplace occupational safety and health standards and practices and ultimately apply them to licensed enterprises in the Kingdom. Within the same context, the Saudi legislature addressed and regulated provisions pertaining to workers' safety, prevention, health, and social care in the eighth chapter of the Saudi Labor Law.¹

The Ministry of Human Resources and Social Development has also launched the National Strategic Program for Occupational Safety and Health to emphasize the Kingdom's involvement in implementing the most recent standards in this field. It is one of the Ministry's programs in the National Transformation Program 2020, one of the programs in the Kingdom's Vision 2030. The program is comprised of various projects and outputs aimed at achieving two long-term objectives. The first goal is to formulate a national policy agreed upon and acceptable to all stakeholders. The second is to develop and create a national occupational safety and health system for the Kingdom of Saudi Arabia's private sector businesses. This program is based on the implementation of many standards of best practices in the field of occupational safety and health provided by relevant international organizations and developed countries.²

Additionally, the Ministry of Human Resources and Social Development issued the Occupational Safety and Health Administration Regulation.³ This authorizes the Ministry to conduct inspection excursions to ensure establishments in the private sector comply with regulations. The regulation emphasizes raising awareness of the

¹ Saudi Labor Law (2005). Issued by Royal Decree no. M/51, dated 09/27/2005. Chapter VIII.

² National Occupational Health and Safety Program. Retrieved 05/01/2023. Available on the website of the Ministry of Human Resources and Social Development: <https://sosh.hrsd.gov.sa/en/National-occupational-health-and-safety-program>

³ Occupational Safety and Health Administration Regulation. Issued by Ministerial Resolution no. 161238, dated 04/26/2018. For more information, see the website of the Ministry of Human Resources and Social Development. Administrative rules and regulations. Retrieved 05/01/2023 on: <https://sosh.hrsd.gov.sa/ar/Administrative-roles-and-regulations>

significance of occupational safety and health in augmenting the allure of work and urges the development of national legislation in this field. In addition to motivating employers and employees to establish a safe and healthy work environment, it seeks to transfer successful practical experiences and practices in the field of occupational safety and health.

The Ministry also warned that it would not be lax in applying the penalties stipulated in the labor system against violators of regulations and decisions pertaining to occupational safety and health, which stipulated a number of penalties commensurate with the severity of the violations, for which the fine amounts to 25,000 riyals, with some penalties multiplied according to the number of workers.

Sub-topic IV: Technical Assistance to Small and Medium Investment Enterprises

The Saudi Arabian government takes an essential role in encouraging and enabling investment in small and medium-sized enterprises (SMEs) by offering technical assistance that enables these entities to grow their businesses and increase their market reach. In this regard, the government's technical support is manifested through the provision of specialized expertise, knowledge, training, and advisory services that facilitate the enhancement of small and medium-sized enterprises' operational efficiency, maximization of output, and fortification of their market standing.

Considering that SMEs are one of the driving forces of economic growth and job creation, the government's role in providing technical assistance is critical to improving the capabilities of SMEs and thus enhancing their contribution to economic development. Technical assistance is provided with the approval of the Unified Industrial Regulation Law of the States of the Cooperation Council for the Arab States

of the Gulf, which states that “it is permissible by a decision of the Minister that the Ministry may contribute to the preparation of technical and economic studies and research carried out by the owner of the industrial project if the project is of importance to the national economy.”¹

In recognition of small and medium-sized businesses' vital role in strengthening the national economy, the Saudi Industrial Fund also offers advisory services to these enterprises. Given the challenges these facilities encounter in the industrial sector, the team of specialized consultants at the Saudi Industrial Development Fund assists them by exploring opportunities to improve performance, achieve growth, and ensure sustainability. These include consulting services in the areas of cost efficiency enhancement, market strategy, and manufacturing process efficiency enhancement.²

Sub-topic V: Limiting Government Procurement to Local Products

Gulf lawmakers worked to strengthen the economy and investment climate in the Gulf by encouraging the growth of industrial projects and prioritizing local projects and their products when determining benefits, exemptions, etc. The law enumerated categories of qualifying projects, stipulating that “the following industrial undertakings shall have priority in obtaining benefits and exemptions:

1. Projects that produce goods for domestic consumption replace or compete with foreign goods.
2. Projects that produce goods for export.

¹ The Uniform GCC Law of Industrial Regulation (2006), Article 19.

² Saudi Industrial Development Fund “SIDF,” Advisory Services. Retrieved 05/02/2023. Available on: <https://www.sidf.gov.sa/en/ServicesforInvestors/Pages/AdvisoryServices.aspx>

3. Industries based on the exploitation and development of natural resources available in the GCC States.
4. Projects established in areas determined by the State for the purposes of their promotion.
5. Projects of special economic importance or that are included as such in the State plan.
6. Industries that contribute to achieving Gulf industrial integration through joint investment in industrial projects.
7. Projects that protect the environment.
8. Projects that lead to the development and localization of technology.”¹

Although supporting and favoring local products is a factor that improves the investment climate and expands the local market, the researcher believes this expansion should not be unrestricted. Instead, in order to receive the privilege and preference accorded to local products, local products must be of high quality and distinctive character. Local product preference without regard for quality may result in a preference for low- or poor-quality products. This would result in the emergence of a market saturated with low-quality goods, thus leading to diminished production with local content.

Sub-topic VI: Qualifying Human Resources

The development of Saudi human resources is one of the most significant aims that the Kingdom seeks to achieve as part of its efforts to foster economic growth under Saudi Vision 2030. To that end, the Kingdom's government launched a series of

¹ The Uniform GCC Law of Industrial Regulation (2006), Article 16.

measures and decisions aimed at localizing jobs and qualifying and preparing Saudi youth to assume responsibilities and actively participate in the development process. In addition to encouraging and assisting private sector companies to employ Saudis and benefit from their services and potential, the government has taken the initiative to train Saudis and develop their skills in order to make them attractive to the private sector.

The economic policy of the Kingdom accords this issue with the utmost priority, as the Saudi Ministry of Human Resources and Social Development has created and developed modern and effective mechanisms to accelerate and direct plans for human resource development in accordance with the needs of the local labor market, working to maximize the benefit to private entities and individuals and to support the national economy. From this perspective, the Human Resources Development Fund (HRDF) was established as an ambitious project to ensure the successful investment of human resources and the development of the private sector.¹

Sub-topic VIII: Providing Investment Insurance Options

Most investors are eager to secure their investments outside their countries' borders for various reasons, most importantly to avoid non-commercial risks. The availability of insurance in the host countries of the investment provides an incentive that reassures the investor and enables him to fully concentrate on completing his projects without fear of any external circumstances that could result in the loss of the invested funds and their returns.

¹ Efforts made by the Saudi Ministry of Human Resources and Social Development in supporting employment and training are discussed earlier in this chapter, see P. 250.

In the Kingdom, a number of investment insurance institutions offer their services to investors in order to ensure their investment ventures in the Kingdom of Saudi Arabia, the most significant of which are as follows:

Section I: The Arab Investment and Export Credit Guarantee Corporation

The Arab Investment and Export Credit Guarantee Corporation (DAMAN) is an organization that seeks to promote economic and social growth in the Arab world. It does so by providing the instruments essential for managing current risks in order to ease the flow of investments and the continuity of corporate operations. In this regard, the Corporation has been working since its creation in 1974 to facilitate the flow of finance to Arab countries and to boost their overseas commerce. It seeks to protect Arab and foreign investments coming to Arab countries from non-commercial (political) risks, and Arab-international trade operations from both commercial and non-commercial hazards.¹

The Corporation also works to support the economic development of member states through the investment and trade sectors by facilitating the flow of Arab and foreign direct investments into and out of member states and by supporting Arab-international trade activities aimed at developing infrastructure, promoting industrial and agricultural development, and achieving food security.

Through the direct investment insurance and export credit insurance programs, the Corporation acts to encourage the flow of Arab and foreign direct investments into Arab countries, encourage Arab exports, and support member countries' imports of strategic and capital products. In addition, the Corporation conducts research to identify

¹ The Arab Corporation for the Guarantee of Investment and Export Credit website. Retrieved 05/02/2023 from: <https://www.dhaman.net/en/corporate-governance/>

investment opportunities and market conditions in Arab nations. It also provides an insurance umbrella against commercial and non-commercial hazards for investments and export credits between Arab countries.

The Corporation administers the Arab Investment Insurance System, which is designed to support Arab and foreign investors in implementing their investments in various Arab countries and sectors. It provides insurance for their capital and investment returns and compensates them for political hazards to which their investments and returns may be exposed.

Therefore, the Corporation's insurance products serve an essential role in providing investors, financiers, and contractors in the Kingdom with a sense of security, allowing them to fully focus on the completion of their projects without fear of any external circumstances that could result in the loss of their investments and returns. The following are among the most significant of these investment protection products:

1. Direct investment insurance contract: aims to protect investors, financiers, and contractors from political risks in the Arab countries hosting the investment.
2. Investment loan insurance contract: provides protection against political risks to shareholders or financial institutions that offer financing loans for investment and development projects in Arab countries.
3. Insurance contract for non-fulfillment of sovereign financial obligations: aims to protect investments in the event an Arab sovereign body does not meet the amounts due from it.
4. Equipment and contracting insurance contract: provides protection against political risks for equipment brought by contractors to the Arab countries where the investment project is being implemented.

Section II: The Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC)

The Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC) was created in 1994 and is an affiliate of the Organization of Islamic Cooperation. The ICIEC seeks to provide insurance and guarantees to investors and exporters from the Organization of the Islamic Cooperation member countries. ICIEC is an essential institution in promoting investment in Islamic countries since it provides creative and advanced ways to secure investment and export financing and encourages the provision of investments and international trade between Islamic and non-Islamic countries.

ICIEC plays an essential role in promoting investment attraction by offering comprehensive insurance coverage to foreign investors wishing to invest in Islamic nations. Additionally, the ICIEC provides exporters from Islamic countries with guarantees and aids them in overcoming financial and commercial obstacles in international markets.

Thanks to the efforts of the ICIEC, a number of Islamic countries have achieved great success in attracting investment and foreign commerce, and the ICIEC has contributed to the strengthening of economic cooperation between Islamic and non-Islamic nations. The ICIEC additionally motivates foreign investors to invest in Islamic countries, supports the development of local industries, and enhances growth and development opportunities in these nations by providing developed and efficient insurance solutions.

The ICIEC aims to increase and expand trade transactions and investment flows among OIC member states. Products and services offered by ICIEC to exporters, banks, and investors include the following:

1. Export credit insurance to cover the risk of nonpayment associated with international trade transactions and finance for trade.
2. Investment insurance to cover a country's risks in relation to foreign investments between member countries.
3. Reinsurance of operations covered by domestic export credit agencies in member countries.¹

Chapter IV Conclusion

Eager to encourage national and foreign investments, Saudi policymakers enacted the Investment Law, its executive regulations, and regulations that govern investment activity by organizing a number of facilities and incentives to create an attractive and stimulating investment climate. In this context, numerous incentives and facilities have been provided to investors in an effort to diversify investment areas and boost the competitiveness of the Kingdom. Providing investors with incentives and facilities equally as important as legal guarantees, such as tax and customs incentives, monetary incentives, and administrative incentives, eases and supports the work of investment projects.

In terms of tax and customs incentives, the Saudi legislature has granted a variety of permanent and transient tax and customs exemptions to investors. In addition, it has permitted investors to carry over losses and to pay taxes in installments. These

¹ The Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC). (2023,05 02) Retrieved from: <https://iciec.isdb.org/>

tax exemptions are intended to encourage domestic and foreign investors to invest in the Kingdom. Tax and customs exemptions and concessions are regarded as one of the most important financial facilities investors anticipate, as they enable the investor to realize financial savings and increase profits.

Saudi Arabia has also provided financial incentives to encourage the completion and implementation of investment projects in its territory. These are incentives, such as loans, are intended to help establish industrial projects and support the infrastructure costs required to complete the projects. An additional benefit allots preferential financial treatment for the purchase or lease of real estate and public land utilized in the construction of the investment project. Other incentives include subsidies granted to reduce service and energy charges, to support employment and training of the workforce, and to aid investment-related scientific research projects.

Furthermore, Saudi policymakers have worked to implement a variety of administrative and procedural reforms, such as unifying the responsible and supervising entity for investment, digitizing investment procedures, restricting government procurement to local products, providing technical assistance to investment projects, and offering investment insurance options.

Finally, the Kingdom created multiple investment insurance institutions and made them accessible to investors arriving to invest in the Kingdom. The availability of insurance in the host country of investment offers a strong incentive, one that reassures the investor that the invested capital is safe, and that full concentration can go to the completion of the project without fear that external circumstances will diminish or wipe out the return on investment.

Taking a broad view of the investment climate, we can say that the primary advantage of these various incentives and facilities is that they make conducting business simpler and quicker. They also enhance the profitability of investments, making the idea of investing in Saudi Arabia more alluring. These incentives can also reduce the time and expenses associated with launching and operating a business, making it easier for investors to establish and operate their businesses. In addition, these incentives provide investors with a level of protection against the risks associated with a lack of transparency and the multitude of ambiguous procedures applied to the investment process. When perceived investment risks go down, investor confidence goes up.

Part Three: Assessment and Findings

Chapter V: The Impact of Saudi Vision 2030 Legislative Reforms on the Investment Climate of Saudi Arabia

This chapter examines the role of the legislative reforms enacted as part of Saudi Vision 2030 in enhancing their investment climate. The reforms encompass the legal, economic, and administrative domains. Additionally, the chapter conducts an evaluation of the competitive status of the Saudi investment climate. It also draws attention to the significance of a favorable investment climate in stimulating both domestic and foreign investment, fostering economic growth, and promoting sustainable development. This portion of the research seeks to provide a clear picture of the investment climate in the Kingdom by evaluating its performance and progress in terms of the internationally recognized reports and indicators that assess the competitiveness of the investment climate. By scrutinizing and analyzing these reports and indicators, this study evaluates Saudi's performance and advancement in relation to

these international standards. This study's findings offer valuable insights to policymakers as they contemplate future policy and investment decisions. In addition, the findings will aid investors and entrepreneurs in making well-informed investment decisions.

Introduction

The investment climate is a crucial factor in influencing a country's economic environment, as it facilitates domestic investments, attracts foreign capital, and fosters sustainable development. Evaluating the level of competitiveness in a state's investment environment is of utmost importance for policymakers, investors, and stakeholders. This assessment yields valuable insights into the country's appeal as an investment destination and highlights specific areas requiring attention and improvement.

Although Saudi Arabia possesses one of the most substantial economies in the Middle East and North Africa (MENA) region, it is important to note that the mere magnitude of the economy does not automatically ensure a rise in capital and investment inflows. When evaluating investment prospects, investors, entrepreneurs, and venture capitalists typically consider a range of factors that extend beyond the size of the economy and the available investment opportunities. This assessment thoroughly examines the viability of investments as well as the guarantees and incentives behind them, frequently drawing upon global reports and indicators that gauge the competitiveness of the investment environment. By engaging in this practice, investors acquire valuable knowledge regarding the viability of allocating their capital and safeguarding their investments prior to making investment choices, as exemplified by the case of Saudi Arabia.

Against this backdrop, Saudi Arabia has implemented a series of legislative and economic reforms as part of its ambitious vision, Saudi Vision 2030, one of the goals of which is to improve the investment climate. These legislative reforms have secured several investment guarantees and incentives in the form of passing new laws or modifying earlier laws relating to the regulation, protection, and promotion of investment.¹

Among the most prominent of the guarantees established by Saudi law are the protection of private property from expropriation and confiscation, the protection of intellectual property from penetration and theft, the guarantee of freedom to transfer invested funds, and the guarantee of national treatment and non-discrimination between investors in the Basic Law of Governance (Constitution) and the Saudi Investment Law. Saudi policymakers have ensured the establishment of a specialized national judiciary, the opportunity to appeal against administrative decisions, and judicial alternatives to investment disputes such as mediation, conciliation, and arbitration in the commercial court system. At the same time, Saudi bankruptcy legislation regulated bankruptcy procedures, providing solutions able to establish a balance between the interests of investors and creditors in the event of an investment project's failure.²

Regarding investment incentives, Saudi law provides several benefits to investors, including tax and customs breaks and finance for industrial and investment projects. These incentives also include financial assistance for the employment and training of nationals in order to prepare them for work in investment projects. Other services offered to investors include assistance in lowering energy fees, along with

¹ Saudi Vision 2030 document: National Investment Strategy, Investment Principles, Policies in the Kingdom.

² See Chapter III of this research for more information on investment guarantees in Saudi law.

administrative and procedural incentives such as unifying the government administrative agencies responsible for investment, digitizing and documenting investment procedures and employment contracts, and other incentives.¹

Furthermore, the Kingdom has actively sought to join international investment treaties and has established several bilateral agreements that encourage and protect investment. All of these efforts eventually aim to improve the investment climate, increase its competitiveness in international reports and indices, and create a favorable environment for attracting investments.²

In sum, the primary aim of this chapter is to evaluate the effects of legislative, economic, and administrative reforms associated with the Kingdom's Vision 2030 on stimulating the investment climate. Additionally, it seeks to measure the impact of these reforms on the competitiveness of the investment climate in the Kingdom of Saudi Arabia, based on assessments provided by international reports and indicators. The process involves examining and analyzing international reports and indicators widely utilized for assessing the competitiveness of the investment environment. The research further posits that these reforms are expected to have a positive impact on the investment climate in Saudi Arabia, thereby bolstering its competitiveness vis-à-vis other nations in attracting investments.

This chapter offers insights and findings pertaining to various aspects of the Saudi investment climate. In addition, it endeavors to evaluate the effectiveness of Saudi Arabia's investment climate in meeting international standards, thereby

¹ See Chapter IV of this research for more information on investment incentives offered by Saudi law.

² In this context, the Kingdom of Saudi Arabia has concluded several agreements between it and other countries to protect and encourage investment. For more information, see: *Bilateral agreements between countries and the Kingdom of Saudi Arabia, e-services*. 07/10/2023. Ministry of Investment. <https://misa.gov.sa/en/e-services/international-investment-agreements/>

identifying the country's strengths and weaknesses as well as potential improvement areas.

By providing a comprehensive view of the Saudi investment climate, this study enables Saudi policymakers to make well-informed decisions and supports their efforts to improve the investment climate, attract investments, and promote sustainable economic growth in Saudi Arabia. In addition, the research findings provide investors and entrepreneurs with valuable guidance, allowing them to make informed investment decisions prior to contemplating investing in Saudi Arabia or transferring capital there.

Topic I: The Investment Climate and International Reports and Indicators to Measure it: Definition and Importance

This section discusses investment climate in relation to the international indicators and reports that measure it in terms of definition, significance, and the role played by the host countries of investment in building their investment climate as a significant means of marketing their economy and attracting and encouraging local and foreign investments.

Sub-topic I: Investment Climate

The following two sections discuss the definition of investment climate and its importance in attracting or expelling investment and capital:

Section I: Definition of Investment Climate

Investment host countries play a critical role in establishing an integrated and appropriate investment climate as a means of marketing their economy and available investment opportunities. The investment climate is referred to as a set of legal, economic, social, political, and other aspects that influence investor confidence and work to encourage and urge the investor to put his money in one country rather than

another, resulting in a competitive and efficient investment climate. Countries rely primarily on their investment climate to encourage local investment and attract as much foreign investment as feasible.¹

The investment climate may be defined as “the environment in which the private sector, both domestic and foreign, can develop at the desired rates, as the creation of such an environment is a prerequisite for attracting investment.”² In an expansive definition, the Arab Investment Guarantee Corporation described investment climate as “the overall situation and conditions affecting capital trends and localization, such as the general political situation of the state and the degree of its stability, its administrative organizations, their effectiveness and efficiency, its legal system and the degree of its clarity, consistency, and stability, and the balance of rights and responsibilities it entails. In addition to the economic policies and procedures of the state, the nature of the market, the mechanisms, and capabilities of infrastructure and production elements, as well as the geographical and demographic characteristics of the state, all of these factors comprise what has been termed the investment climate. They are all interconnected and overlapping elements, and the vast majority of them are variable, so they influence and are influenced by one another, by interacting once and calling each other once. This generates different circumstances and different data that translate into attraction or expulsion factors of capital and investment.”³

¹ Qwaidari, M. (2003). *The impact of developing the investment climate on attracting foreign capital*. A presentation at the First National Forum on the Algerian Economic Corporation and the Challenges of the New Economic Climate. Algeria, University of Blida, 22-23 April 2003, p.8.

² Lutfi, A. (2009). *Arab investments and the future of Arab economic cooperation*. Cairo, Publications of the Arab Administrative Development Organization., p.17.

³ *Investment climate report in the Arab countries*. (1985). Kuwait; The Arab Corporation for the Guarantee of Investment and Export Credit., p.5.

The investment climate may be thought of as investment policy in a broad sense. This implies that it encompasses a collection of policies that directly or indirectly influence investment choices, including both macroeconomic and microeconomic policies. These decisions strongly correlate with monetary, fiscal, and trade policies alongside the legal and judicial systems, tax and labor laws, and the broader regulatory framework. Alternatively, the investment climate can be conceptualized in a narrow sense, as the policies that aim to enhance investment guarantees and incentives and eliminate barriers to investment. These policies encompass various measures such as providing tax exemptions, concessions, and guarantees and establishing free zones to promote investment.¹

In the context of this study, it is not necessary to discern between narrow and broad concepts of investment policies to define investment climate. Nevertheless, we should recognize that the notion of investment climate encompasses many various and variable factors that comprise the investment policies of the host State. Furthermore, it extends beyond the mere provisions of guarantees, incentives, facilities, privileges, and other measures aimed at fostering and safeguarding investments.

Section II: The Importance of the Investment Climate

The importance of the investment climate owes to its role in encouraging or discouraging investments in a country. A favorable investment climate stimulates and encourages local investments, as well as gaining the confidence of foreign investors. The flow of foreign investments will likely increase if the investment climate offers a safety factor against investment risks and facilitates the movement of funds from

¹ Alnajjar, S. (1989). *Investment Policies in Arab Countries, Fundamental Issues*. Kuwait, Arab Fund for Economic and Social Development, Arab Monetary Fund., p.26.

abroad. In this way, the investment climate contributes effectively to the achievement of economic and social development objectives, as well as working to address global changes in trade, economic blocs, and competitiveness.¹

The emergence of the concept of a good or investment-friendly investment climate can be attributed to the variations and discrepancies in the circumstances that regulate and surround investment activities in host countries. These conditions comprise a wide range of factors, including the availability of resources and economic capabilities, and disparities in services and legislation that shape the overall investment environment.

As a result, both developing and developed economies see the urgent need to create a welcoming investment climate. The capital and technical expertise sought by developing economies corresponds to the need that advanced economies have for markets in which to invest their surplus capital. The flow of investment and foreign capital can only be realized by establishing an appropriate investment climate to carry out this activity without fear or reluctance. In creating such an environment, obstacles that can lead to a reduction in the investment rate should be identified and removed or reduced, and the legal and economic guarantees and incentives required to run the investment should be provided. As a result, countries seeking to improve their investment climate and reach a high level of investor satisfaction should attain a significant number of these enablers and incentives. This is the path to the ultimate goal of investment, namely, boosting the economy and promoting development.

¹ Labiba, J. (2015). *The impact of investment policies in attracting foreign direct investment in the Arab countries.*, p.36.

Sub-topic II: International Indicators and Reports to Measure Investment Climate

In assessing and analyzing the attractiveness and competitiveness of various nations as investment destinations, international indicators and reports on the investment climate are of utmost importance. Within a global economy that is becoming increasingly interconnected, these indicators and reports provide investors, policymakers, and businesses with the information they need to make informed decisions about resource allocation. By evaluating a wide variety of factors influencing the investment environment, these indicators and reports provide comprehensive assessments of a country's economic stability, regulatory frameworks, infrastructure, governance, and other important investment-related aspects.

Section I: Definition of International Indicators and Reports of the Investment Climate

The term “international indicators and reports of investment climate” refers to the quantitative and qualitative techniques and assessments used to analyze the attractiveness and competitiveness of countries as investment destinations. These indicators and reports attempt to provide a full picture of the numerous aspects that influence the investment environment in a given country. They rely on a variety of data sources, including surveys, interviews, statistical data, and expert opinions, to assess and rank national investment climates.

Typically, these indicators and reports consider various factors such as political stability, economic growth, legal and regulatory frameworks, ease of doing business, infrastructure, labor market conditions, tax policies, trade openness, and environmental sustainability, among others. By compiling and analyzing these factors, international indicators and reports provide valuable insights into the strengths and weaknesses of a

country's investment climate, thereby assisting investors and policymakers in making well-informed decisions.¹

World Bank's Doing Business Report (DBR), the World Economic Forum's Global Competitiveness Report (GCR), IMD World Competitiveness Ranking (WCR), the United Nations Conference on Trade and Development's (UNCTAD) World Investment Report (WIR), the Heritage Foundation's Index of Economic Freedom (IEF), the International Country Risk Guide (ICRG), and the Human Development Index (HDI) are examples of the most important international indicators and reports used to measure the investment climate. These indicators and reports are frequently referenced and utilized by investors, companies, and governments to evaluate and compare the investment opportunities and competitiveness of various countries.

Section II: Importance of International Indicators and Reports on the Investment Climate

Investment decision-making in a country is typically founded on a number of criteria, all designed to assess the investment climate of the host nation. The significance and role of these criteria and indicators in revealing the soundness and attractiveness of the investment climate have increased. Indeed, numerous experiments have demonstrated a strong statistical correlation between a country's ranking in these indicators and the volume of investments it attracts.² Although these indicators cannot claim complete accuracy and objectivity, their results are still useful to investors and decision-makers as an aid in making investment choices.

¹ Labiba, p.36 and beyond.

² Labiba, p.35.

Statistical indicators show investors and entrepreneurs the state of the business and investment environment in a particular country, and the results of these indicators enter the calculations of businessmen and decision-makers, who take advantage of the metrics of evaluation to estimate the investment climate in a country. In addition, the outcomes of these metrics and international assessments frequently nudge countries towards changing their investment policies.

Given that these indicators and international reports offer a thorough evaluation of the investment and business environment in numerous countries, it is imperative to know their importance and influence on the global flow of investment and invested capital. This can be achieved by considering the following key aspects:¹

- I. Measurement of the overall business climate: These indicators and reports function as a tool to assess and compare the economic conditions across different countries. This framework offers a measurable approach to evaluating the extent to which a nation's governmental institutions and policies promote business operations and the overall environment for investment.
- II. Economic policy guidance: These indicators and international reports provide policymakers with significant insights and guidance, both domestically and globally. They aid in identifying areas of strength and weakness in countries' economic policies, allowing policymakers to make educated decisions and execute reforms that can improve the economic climate of their respective countries.

¹ See: Abdulsalam, R. (2007). *Determinants of Foreign Direct Investment in the Era of Globalization, A Comparative Study of the Experiences of East and South Asia with Application to Egypt*. Second edition. Egypt: Modern Library for Publishing and Distribution., p.128.

- III. Formation of investor confidence: These indicators and international reports play a crucial role in forming investor confidence and luring foreign direct investment (FDI). Investors and entrepreneurs perceive the results of these indicators and international reports as deciding factors in the investment decision-making process, as they reflect the degree of ease of doing business, the preservation of rights, and the overall condition of the business environment.
- IV. Trade and economic partnerships: The outcomes of these indicators and international reports have an impact on a country's participation in global trade and economic partnerships. The status of countries with greater levels in these metrics and worldwide reports suggests that they follow more open trade policies, which enables international trade and enhances economic cooperation.
- V. Economic and development growth: A positive correlation exists between these indicators, international reports, and economic growth. The performance of nations that score the highest on these indicators and international reports is associated with increased productivity, innovation, entrepreneurship, and overall economic growth. These indicators and international reports aid in identifying factors that contribute to economic growth, allowing nations to prioritize policies that foster economic growth and development.
- VI. Poverty reduction and unemployment: The utilization of indicators and international reports can play a significant role in addressing the issues of poverty reduction and unemployment. These tools serve to bring attention to these challenges while also fostering economic opportunities and promoting inclusive growth. Given that these international indicators and reports offer valuable insights into the implementation of policies that foster

entrepreneurship, facilitate job creation, and promote income equality, they play a crucial role in addressing social and economic disparities.

- VII. Policy benchmarks and best practices: Indicators and international reports serve as benchmarks, allowing countries to compare their performance with regional and global counterparts. Additionally, they highlights effective policies and practices that enhance business and investment climate and offers valuable insights, potential policies, and measures to adopt.

In general, as assessments of the investment climate, international indicators and reports significantly influence the formulation of economic policies, facilitating investment attraction, fostering economic growth, mitigating poverty, and enhancing international economic collaboration. The global significance of these measures resides in their capacity to offer a unified and impartial evaluation of the business and investment climate, exert influence on policies, and contribute to the general welfare and prosperity of nations.

Topic II: International Indicators and Reports for the Assessment of the Investment Climate

Several international organizations, think tanks, and research institutions produce indicators and reports assessing the business and investment environment. These assessments frequently rely on a collection of indicators and methodologies, including the risk index, the country's political, security, social, economic, and legislative approach and framework, and other indicators pertaining to the business and investment environment. This chapter comprehensively examines the definition and methodology employed in prominent international indicators and reports widely utilized to evaluate the investment climate in various countries, and for which the data is accessible to researchers or the general public. This study aims to evaluate

the investment climate of Saudi Arabia from the inception of Saudi Vision 2030 in 2016 until 2023, which marks the midpoint of the economic national plan and represents the halfway point in achieving the objectives outlined in Vision 2023 as established by Saudi policymakers. The international indicators and reports are as follows:

Sub-topic I: Doing Business Report (DBR)

The World Bank's Doing Business Report evaluates the ease of doing business in numerous nations throughout the world on an annual basis. It assesses a variety of indicators, including launching a business, dealing with construction permits, obtaining power, registering property, obtaining credit, safeguarding minority investors, paying taxes, trading across borders, enforcing contracts, and dealing with insolvency. The report enables cross-country comparisons of its country-specific data and gives significant insights into regulatory environments and working conditions. The DBR is described in full below:

Section I: Explanation of the DBR and its Importance in Assessing the Investment Climate.

The World Bank's Doing Business Index gathers data from 190 different nations. It analyzes the ease of doing business in those nations in terms of dealing with local enterprises, particularly SMEs, throughout their operations. The index ranks countries based on a collection of core indicators that assess and compare government actions in ten areas of business life. Starting a business, obtaining construction permits, getting electricity, registering property, and getting credit are all indicators in the evaluation, as well as minority investor protection, paying taxes, trading across borders, and enforcing contracts. It concludes with the settlement of insolvency and, as a sub-indicator, the report evaluates the rules controlling labor recruitment and employment of workers (*Ease of Doing Business Rankings, 2024*).

The information gathered is used to study economic effects, and the report follows reforms in the regulatory procedural environment for businesses around the world, identifying where and why they succeed. This data is collected in order to update the report in accordance with the report's indicators.

The Doing Business Report is one of the most important normative tools used in a broad range of economies to assess the impact of government laws and actions on economic conditions and business activities. It collects and analyzes quantitative data that is exhaustive and comparable between government regulatory and legal environments for business activities across economies over time. The DBR also encourages economies to work towards greater system efficiency and establishes measurable benchmarks for reform. The report is a resource for states, investors, the private sector, and other stakeholders wishing to assess the most recent developments in each economy's business climate, learn from global best practices, and identify reform priorities.

In addition, the DBR provides detailed reports at the subnational level (cities, territories, and states within the same economy) that thoroughly cover business regulations and associated reforms in various cities and regions within the economy. These reports provide data on the ease of doing business, rank locations according to their level of performance, and suggest reforms to enhance performance in each of the areas covered by the indicators. Selected cities are able to compare their business regulations with those of other cities in the same economy or region, making the Doing Business Index one of the most important indicators for measuring the investment climate in the 190 economies ranked by performance.

Section II: A Discussion of the Report's Key Indicators

The Doing Business Report evaluates ten fundamental indicators, each employing a different measurement methodology, as follows:¹

I. Starting a Business

The Starting a Business Index assesses the formal procedures that business owners must follow or apply in the operations of starting and operating a commercial or industrial activity. This includes determining the time, costs, and minimum capital required. These procedures involve collecting the essential licenses and permissions, as well as completing any notices, proof, or data that must be registered with the appropriate authorities in relation to the business and its personnel.

The proximity to the upper threshold of business commencement determines the rating of the ease of initiating a business. The metric is derived by computing the mean distance from the maximum performance threshold in each component of the Starting a Business Index. This metric quantifies the distance between an economy and the “upper limit of performance,” in other words, between economic performance and the optimal practice or highest level of achievement observed in each indicator.

II. Dealing with Construction Permits

The Construction Permits Index measures the various procedures that businesses in the construction sector must undergo in order to obtain permission to construct facilities. This index considers both the time and cost associated with completing these procedures. Furthermore, the index evaluates and tracks the standard of construction by evaluating the efficacy of building systems, the robustness of quality

¹ *Methodology for Doing Business*. The World Bank. Retrieved on 06/09/2023 from <https://archive.doingbusiness.org/en/methodology>

and safety protocols, the adequacy of liability and insurance frameworks, and the professional certification indicator.

Survey data is gathered from professionals in the domain of building permits, including architects, civil engineers, construction lawyers, construction firms, public service organizations, and personnel involved in the issuance of approvals, acquisition of permits, and performance of inspections within the realm of construction systems.

The index ranks economies in terms of ease of access and acquisition of construction permits, using a system based on setting the total points of a given economy against the index's upper limit of performance. These points show the simple average of how close each indicator component is to the upper-performance limit.

III. [Getting Electricity](#)

The Getting Electricity Index assesses all the processes involved in obtaining a permanent electrical connection for a business. These procedures include submitting applications to electricity providers, contracting with them, obtaining all necessary inspections and permits from other bodies, and laying external and final wires. The questionnaire used for acquiring electricity is divided into different procedures, and data for each process is collected via the survey, with a computation of the time and cost of each procedure.

Furthermore, the index evaluates the data through a sub-index that examines supply reliability and tariff transparency. Quantifiable data is gathered on the duration and frequency of power outages and information about the electrical provider's procedures and devices for monitoring power outages and restoration of service. A sub-index also assesses information on the relationship between the electrical company and any independent regulatory agency to monitor and audit power failures, as well as

information regarding the transparency and accessibility of pricing. This indicator also assesses the presence of financial deterrents to reduce power outages, such as the necessity to pay customers or impose fines on the electrical company when the power outage exceeds a certain time limit.

The ranking of economies on the Getting Electricity Index is determined by quantifying the distance between their performance and the index's upper limit. These results represent the straightforward average of how close the upper limit of performance is to each component of the index, except for the price of electricity. Data on supply reliability is gathered from electricity distribution companies or regulatory agencies, depending on the technical character of the data. Other information, such as data on price transparency and electricity connection procedures, is gathered from all relevant authorities, including electricity distribution companies and electricity regulators. Further details on rate transparency and electricity connection procedures are collected from market participants such as independent professionals, electrical engineers, electrical contractors, and construction companies. Additionally, the organization providing distribution services in the region (or regions) where most facilities are located is consulted. If there are multiple distribution organizations, the one with the most extensive customer base is selected.

IV. Registering Property

The Property Registration Index records the complete sequence of actions required when a business enterprise (the buyer) purchases a property from another business enterprise (the seller) and transfers ownership of the property to the buyer's name. This is intended to enable the buyer to use the property to expand their business, either as collateral for new financing or by selling the property to another company.

The index also assesses the amount of time and money required to perform each of these procedures.

In addition, the index assesses the effectiveness of each economy's land administration system. The Land Management Quality Index consists of five primary dimensions:

1. **Infrastructure Reliability:** measures the availability of the infrastructure required for real estate development, such as roads, utilities, and essential services.
2. **Information Transparency:** assesses the availability of transparent and accurate real estate information, such as ownership, rights, laws, and regulations.
3. **Geographical Coverage:** assesses the availability of the legal and administrative framework for dealing with real estate in all geographical locations, including rural and urban areas.
4. **Real Estate Dispute Resolution:** assesses the availability of efficient mechanisms for resolving real estate disputes, such as judicial jurisdiction, mediation, and alternative dispute resolution.
5. **Equal Access to Property Rights:** assesses the availability of a legal framework that guarantees equal access to property rights for all parties without discrimination.

All of this data is collated and analyzed to create a complete picture of the quality of land management in each economy and rank them accordingly.

V. [Getting Credit](#)

The Getting Credit Index uses a set of indicators to measure the legal rights of lenders and borrowers in transactions involving collateral. Besides measuring the

quality of credit information, the index employs a second set of indicators. The first set of indicators assesses the extent to which the mortgage collateral and bankruptcy laws include lending-friendly provisions. The second set of indicators measures the coverage, breadth, and availability of credit information from providers of credit report services, such as credit bureaus and credit registries.

The ranking of the economies of countries for this indicator is based on the ease of access to credit, determined by analyzing the results of sub-indicators and sorting them according to their distance from the upper limit of performance in the set of indicators measuring the strength of legal rights and the depth of credit information. Consequently, the results of this indicator provide a picture of the accessibility of credit based on legal frameworks and the quality of credit information in each economy.

VI. [Protecting Minority Investors](#)

The Minority Investor Protection Index measures the degree to which minority shareholders are protected in the event of a conflict of interest via a set of indicators pertaining to shareholders' rights in corporate governance. These indicators are founded on data collected from questionnaires completed by attorneys who specialize in corporate and securities law. In addition, the index relies on securities laws, corporate laws, civil procedure laws, and norms of evidence.

Categorizing the performance results, the ranking of economies in this index is determined based on the degree of minority investor protection. These outcomes comprise a series of indicators pertaining to the scope of conflicts of interest, corporate governance, and shareholder rights. These findings provide an evaluation of the level of protection available to minority shareholders in the event of a conflict of interest

within a company and aid in the ranking of economies according to the overall effectiveness of minority investor protection in this regard.

VII. Paying Taxes

The Paying Taxes Index measures the taxes and mandatory contributions that medium-sized businesses must pay in a given year, as well as the administrative burden associated with paying taxes and contributions and adhering to post-filing procedures. This indicator was created and implemented with PricewaterhouseCoopers International Limited's (PWC) assistance.

Taxes and contributions measured by the index include corporate profits and income taxes, social security contributions, labor taxes paid by employers, real estate taxes, property transfer taxes, dividend taxes, capital gains taxes, financial transaction taxes, cleaning fees, vehicle and road taxes, and any other small taxes or fees.

This indicator provides information on the level of taxes and mandatory contributions related to medium-sized businesses in the measured countries, as well as an estimate of the administrative burden associated with paying these taxes and contributions, allowing for the comparability of these data across the measured countries.

VIII. Trading Across Borders

The Trading Across Borders Index evaluates the time frame and the costs linked to logistical operations of importing and exporting goods and merchandise. The measurement of time and cost, excluding tariffs, encompasses three different categories of procedures: adherence to documentary requirements and terms, compliance with border laws, and inland transportation. These procedures collectively contribute to the overall process of exporting or importing goods and merchandise.

Accordingly, economies are assessed and categorized according to their level of ease in conducting cross-border trade, determined by evaluating how far they are from the maximum potential performance in terms of cross-border trade procedures. The estimates and ratings are derived from the simple average of the extent to which export and import operations procedures deviate from the appropriate limits.

The ranking of countries is determined by calculating the average difference in performance between the country's export and import procedures performance and the maximum performance thresholds. The more proficiently a country handles international commerce, the higher its ranking. If countries continuously enhance their cross-border trade procedures, they will boost their economic competitiveness.

Finally, this index provides a clear image of the influence of time and cost on international trade activities as it assesses the ease of cross-border trade in each economy. It also advocates removing barriers to cross-border commerce and enhancing the efficiency of international trade processes to create a better business environment and stimulate economic growth.

IX. [Enforcing Contracts](#)

The Enforcing Contract Index tracks the time and cost required to resolve a commercial disagreement in a local public court and the quality of judicial procedures. It also assesses the extent to which each economy relies on practices that improve the quality and efficiency of local court legislation. This index's data is gathered through the examination of civil procedure statutes, court regulations, and other court-related laws, as well as questionnaires distributed to local litigation lawyers and judges.

The index also provides information regarding judicial settlement processes and the quality of judicial proceedings in each economy, which can aid in improving the

justice system and the effectiveness and efficiency of judicial procedures. In addition, the index offers a complete classification that assists investors and entrepreneurs in understanding the quality of judicial justice and contract enforcement in different parts of the world.

X. Resolving Insolvency

The Resolution Insolvency Index evaluates the time, cost, and outcome of bankruptcy proceedings involving local institutions, and it measures the quality of the legal framework applicable to liquidation and reorganization proceedings. The index derives data from the responses of local participants to questionnaires in the field of financial insolvency, the accuracy and dependability of which are validated by examining laws, regulations, and public sources of information about bankruptcy laws.

The index ranks countries based on the ease or difficulty of resolving insolvency matters, ordering them according to their distance from the upper limit of performance on the Insolvency Resolution Index. The results are a simple average of how near each index component is to the higher performance criterion, and they include the recovery rate and the legal framework's strength index for insolvency proceedings. This metric also measures the efficacy of liquidation and restructuring proceedings. It provides a taxonomy of information that investors and entrepreneurs may use to understand the bankruptcy environment and procedures and estimate potential risks in different nations.

It is evident that the World Bank's Doing Business Report employs a series of significant indicators to assess the ease of doing business in various nations. Its findings are one of the most fundamental references for gauging a country's business and investment climate because they highlight critical characteristics that affect companies' and investors' capacity to operate and grow in the business environment.

These indicators can also identify aspects that either hinder or help a company's success.

By studying and analyzing these indicators, we might derive crucial conclusions regarding the attractiveness of countries for investment and the extent to which they have established a business-friendly climate. For example, positive indicators for beginning a business and receiving construction permits represent the ease and speed of procedures for creating enterprises and starting a business, which would boost economic vitality and attract investors. Similarly, positive indicators for obtaining electrical service and registering property allude to the speed and simplicity of access to essential services, which contributes to improving the business climate and enhancing the stability of enterprise operations and confidence in the markets.

The minority investor protection and tax payment indicators increase entrepreneurs' and investors' knowledge of the legal system and the degree of transparency in the report's countries of study, thereby increasing confidence in understanding the business and investment climate. In a similar fashion, the indicators for international trade and contract enforcement measure the simplification of procedures, protection of transactions, reduction of trade-related costs, and promotion of international trade transactions. The insolvency resolution index also reflects the flexibility and efficacy of the legal framework for bankruptcy, which is essential for attracting investment and bolstering financial stability.

Despite the scope and importance of this report, we must consider that it measures only some aspects of the business and investment climate that are of interest to companies or investors. In this sense, it does not capture all of the factors that influence the investment and business climate. It does not take into account, for example, factors related to security, macroeconomic stability, corruption, and the labor

skills of the local population, nor does it focus on government measures for foreign investment. The report evaluates only ten pertinent aspects of the business environment and the life cycle of a business enterprise.

Section III: Evaluating the Performance of the Kingdom of Saudi Arabia in the DBR

This section examines the performance outcomes of Saudi Arabia's business climate in Doing Business 2016-2020, the years measured by the report between the adoption of Saudi Vision 2030's legal reforms and the writing of this study. The following are the outcomes of the Kingdom's performance on the Doing Business Report's indicators:

DBR Indicators	2016	2017	2018	2019	2020
Total Ranking	82	95	92	170	62
Starting a Business	130	147	135	148	38
Construction Permits	17	15	38	111	28
Get Electricity	24	28	59	125	18
Registering Property	31	32	24	173	19
Get Credit	79	82	90	161	80
Protect Minority Investors	99	63	10	188	3
Paying Taxes	3	69	76	135	57
Trading Cross Border	86	158	161	122	86
Enforcing Contracts	150	105	83	185	51
Resolving Insolvency	189	169	168	168	168

Table 12. Saudi Arabia's ranking in the Doing Business report indicators¹

¹ Source: Prepared by the researcher based on *Doing Business Reports, 2016-2020*. Retrieved 07/24/2023 from the World Bank.

<https://archive.doingbusiness.org/en/reports/global-reports/doing-business-reports>

Considering the ranking of the Kingdom in the Doing Business Report's overall index, it is evident that Saudi Arabia's performance in the DBR has significantly improved, as shown in Table 12. In 2016, Saudi Arabia's rating was 82, whereas in 2017, it had fallen to 95. In 2018, the country's position rose slightly to 92. In 2019, there was a substantial decline in performance, with a ranking of 170. This fluctuation, decline, and progress in the position of the Kingdom between 2016 and 2019 can be attributed to the significant shift in the Kingdom's economic policies adopted by Saudi Vision 2030 at the beginning of its implementation and the instability of the legislation regulating business activity in the Kingdom at the time. Nonetheless, 2020 saw a substantial improvement, and the rating increased to 62.

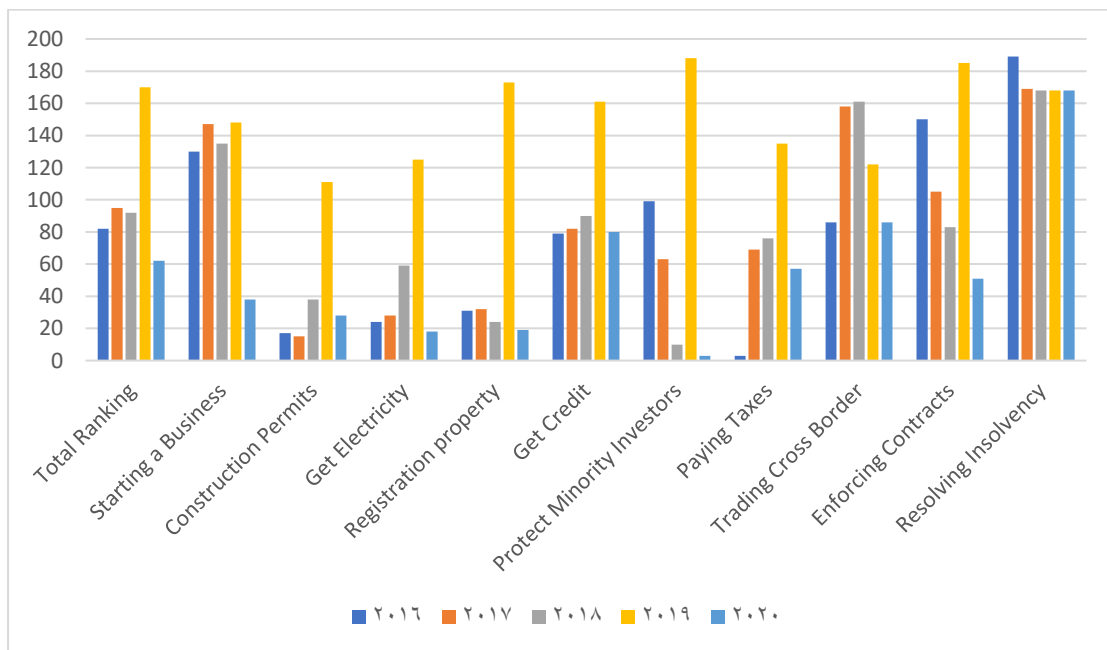


Figure 8 Saudi Arabia's ranking in the Doing Business report indicators.

By analyzing these indicators, we can conclude that the business and investment climate in Saudi Arabia has improved significantly in certain areas, such as establishing a business, obtaining building permits, enforcing contracts, and protecting minority investors. At the same time, the Kingdom's performance has declined in other areas, such as tax payments. Regarding the resolution of insolvency, the status quo remained.

It is essential to note the significant improvement in Saudi Arabia's performance in most areas in 2020, which indicates the impact and contribution of the reform and improvement efforts undertaken and adopted by the government in Vision 2030 to improve the country's business and investment climate.¹

Sub-topic II: Global Competitiveness Report (GCR)

The World Economic Forum has published the Global Competitiveness Report annually since 1979. The report assesses the determinants that contribute to the competitiveness of economies, taking into consideration a diverse array of factors. The assessment evaluates the quality of businesses based on a diverse collection of indicators. The report additionally offers a detailed evaluation of the competitive advantages and disadvantages of the countries under examination. The Global Competitiveness Report can be described as a comprehensive assessment of the institutions, policies, and factors that contribute to the productivity levels of an economy. These productivity levels, in turn, play a crucial role in determining the potential level of prosperity that a country can attain.

Section I: Overview of the GCR and Its Significance in Evaluating the Investment Climate

The Global Competitiveness Report is released by the World Economic Forum in Davos, Switzerland, collaborating with international academicians and partnering with several global networks. Approximately 130 partner institutions are involved. It seeks to assess the competitiveness and growth potential of national economies.²

¹ The World Bank Group temporarily ceased publishing the Doing Business Report in June 2020 due to data issues in DBR for 2018 and 2020. The Bank announced the suspension of the forthcoming release of Doing Business and the start of a series of evaluations and adjustments to the report and its methodology.

² *The Global Competitiveness Report 2016-2017*. Retrieved 07/25/2023 from World Economic Forum <https://www.weforum.org/reports/the-global-competitiveness-report-2016-2017-1> P. X.

The report is considered an essential instrument for formulating economic policy, as it highlights the strengths and vulnerabilities of economies. It is also an instrument for policymakers in various nations to identify the reform priorities required to increase productivity and improve living standards.

Moreover, the report serves as a general framework for dialogue between governments, the business community, and civil society institutions. It is one of the most critical international indicators used by investors when making investment decisions, as a country's poor performance in the report's indicators can have a negative impact on the expansion of its investment base, particularly in terms of foreign direct investment (FDI).

Section II: Examination of the Report's Pillars and Sub-indicators

The report encompasses an extensive collection of indicators, 114 in all, that pertain to the fundamental concepts of productivity and sustained economic well-being. The indicators are classified into twelve primary pillars, namely: institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labor markets efficiency, financial market development, technological readiness, market size, business sophistication, and innovation. The primary pillars are further categorized into three distinct subindexes: basic requirements, efficiency enhancers, and innovation and sophistication.

The following illustration depicts the practical framework of the primary pillars in light of the sub-indicators of the Global Competitiveness Report:

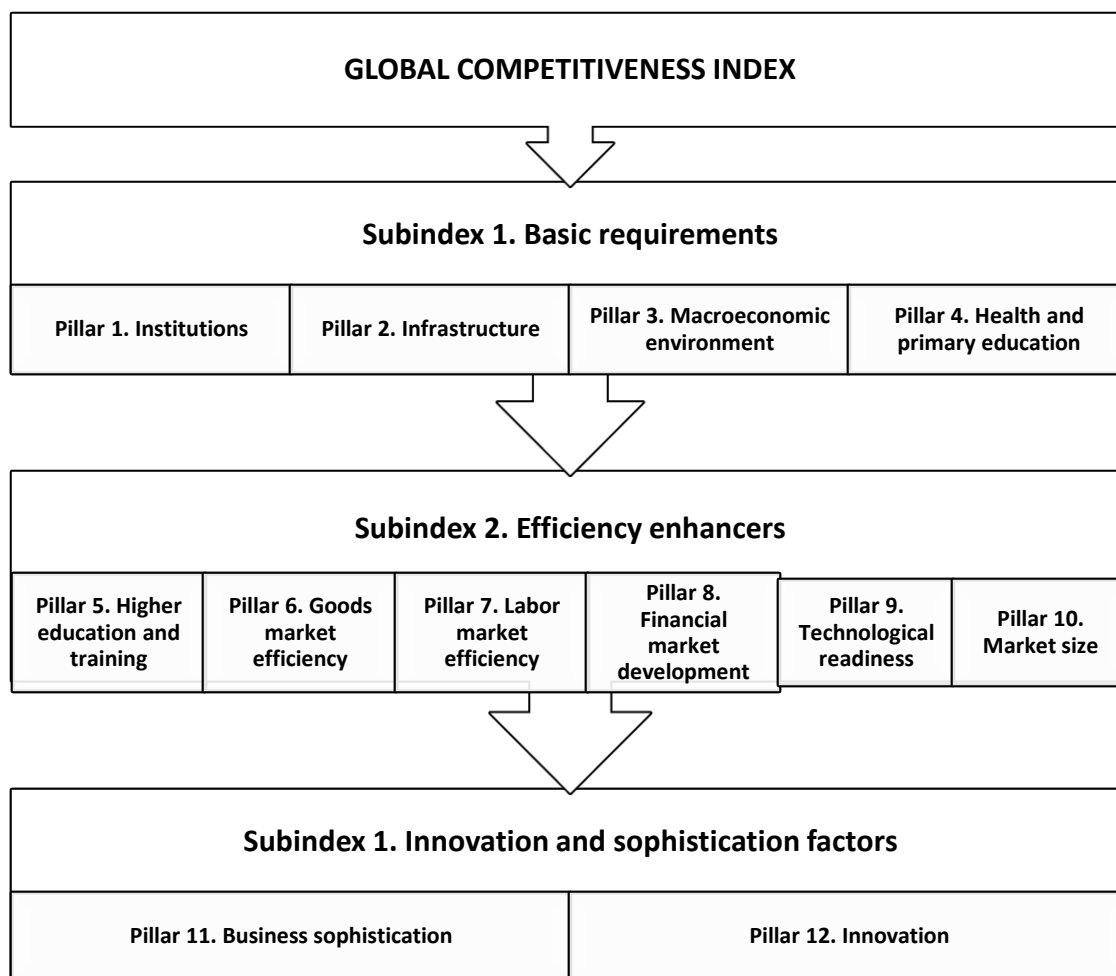


Figure 9. Key Pillars and Subindexes of the Global Competitiveness Report ¹

The report gives varying weights to the three sub-indices when calculating the overall index, based on the stage of development of each economy, according to GDP per capita and the proportion of exports composed of raw materials.

The Global Competitiveness Report is based on statistical data from internationally recognized organizations, such as the International Monetary Fund, the World Bank, and several United Nations specialized agencies, such as the International Telecommunication Union, UNESCO, and the World Health Organization. The index also includes indicators derived from the World Economic Forum's Executive Opinion Survey that reflect qualitative aspects of competitiveness, or in which the overall

¹ Source: Prepared by the researcher based on the *Global Competitiveness Report 2016-2017*, pp.4-5.

competitiveness index indicates that progress in creating an environment conducive to innovation is limited to a small number of economies.¹

Section III: The Report's Assessment of Saudi Arabia's Competitiveness

In the 2016 Global Competitiveness Report, Saudi Arabia experienced a decline in its ranking (29th), dropping four places from the previous year. This decrease can primarily be attributed to the deterioration of the macroeconomic environment, which resulted from the decline in energy prices during that period. The report suggested that Saudi policymakers undertake efforts to enhance economic growth and diversification while also focusing on developing advanced industries and service sectors to bolster the nation's capacity. Additionally, it emphasized the importance of prioritizing the enhancement of education, specifically in improving the caliber of instruction in mathematics and science, as well as in management and primary education. It pointed out that having a flexible labor market is crucial to utilizing talent effectively. The report acknowledged significant room for enhancement in financial markets, which exhibited comparatively lower levels of stability when compared to similar economies.² In April 2016, Saudi Arabia introduced an ambitious economic development program to significantly diversify the economy and diminish reliance on oil by 2030, Saudi Vision 2030.

Saudi Arabia dropped one position (30th) in the 2017 report despite a relatively stable performance overall. The report noted that the Kingdom's macroeconomic environment improved slightly following the oil price shock of 2015. Still, the efficiency of the Kingdom's financial market (ranked 57th with a score of 10 points)

¹ *Global Competitiveness Report 2016-2017*, pp.4-5.

² *Global Competitiveness Report 2016-2017*, pp.28-29.

deteriorated due to the increase in interest rates in 2016 and the slowdown in credit growth. In addition to having the largest market in the Arab world and North Africa (ranked 15th), the country's businesses were stable (ranked 27th), and its infrastructure was of high quality (ranked 29th). The report also noted that executives in Saudi Arabia view restrictive labor regulations as the most problematic factor for conducting business, explaining that demographics segment the labor market and that women are still largely excluded from the workforce. Even though enrollment in higher education is high at 63 percent, the absence of adequately educated and trained workers is cited as a concern. Therefore, the 2017 report suggested that more work needs to be done to improve the quality of education and ensure it meets the needs of the economy.¹

Saudi Arabia was ranked 39th in the report in 2018 with a score of 67.5 points. It was able to rely on a favorable macroeconomic environment (ranked 1st), as it withstood the turmoil of recent years, characterized by low oil prices, with relative ease. The report also highlighted the Kingdom's modern infrastructure (75.5 points and a ranking of 40th) and its market scale, which is the largest in the Middle East and North Africa region and the seventeenth largest globally. The report also indicated that, if implemented, the Vision 2030 reforms would enhance the private sector's relative weaknesses in terms of innovation and dynamism. In particular, it addressed the legal frameworks for insolvency and the actual impediments they pose to business vitality (51.2 points, ranking 114th). Regarding research institutions and formal education, the report indicated the need for improvement in order to stimulate the level of innovation in the country, as it is necessary to improve the quality of the Kingdom's educational

¹ *The Global Competitiveness Report 2017-2018*. Retrieved 07/26/2023 from World Economic Forum <https://www.weforum.org/reports/the-global-competitiveness-report-2017-2018> p.252.

programs and align them with the needs of the economy to ensure that graduates acquire the appropriate skill set. Lastly, the report revealed that the efficiency of the labor market (ranked 102nd) was hurt by several restrictions and regulations that fragment the market and diminish the overall level of efficiency and talent utilization.¹

In 2019, Saudi Arabia's ranking (36th) improved by three positions in the report. This was attributed to Saudi Arabia's efforts to diversify its economy, with the report predicting that the non-oil sector will expand in 2019, accompanied by an increase in public and private investment outside the metals sector over the next few years. The report also extolled Saudi Arabia's keenness to implement a structural transformation of its economy, which is primarily manifested through the incorporation of information and communication technologies (38th). This result supports the rapid spread of broadband technology, as broadband subscriptions increased from (90 to 111 per 100 persons) along with a substantial increase in Internet users (+18.4%, 13th). Moreover, the report demonstrated that the capacity to innovate is gradually improving (+3.2%, 36th), as evident in the increase in the number of patent applications (+3.0%, 40th) and level of R&D expenditures (+0.8% of GDP, 43rd). Despite these efforts, the report finds, business dynamism in the Kingdom (53.1 points, 109th) remains constrained by regulations that slow the entry and exit of new enterprises. For instance, insolvency regulations are suboptimal (135th), and considerable time is still needed to establish a business (100th). Similarly, the labor market tends to be somewhat rigid (56.6 points,

¹ *The Global Competitiveness Report 2018*. Retrieved 07/26/2023 from World Economic Forum <https://www.weforum.org/reports/the-global-competitiveness-report-2018> p.33.

89th) and lacking in merit (56.6 points, 98th). In addition, a need persists for better utilization of talent to support investments that modernize and diversify the economy.¹

It is evident that the Kingdom of Saudi Arabia's performance in the Global Competitiveness Report exhibited fluctuating and unstable trends in the four years following the legislative and economic reforms established in Saudi Vision 2030. According to the 2016 report, the Kingdom was ranked 29th in the overall index. In 2017, it experienced a decline in ranking, dropping by one position to reach the 30th spot. As per the 2018 report, Saudi Arabia experienced a further decline in its ranking, falling to the 39th position. However, in the subsequent report of 2019, Saudi Arabia demonstrated improvement, ascending to the 36th position. The following figure shows this oscillation:

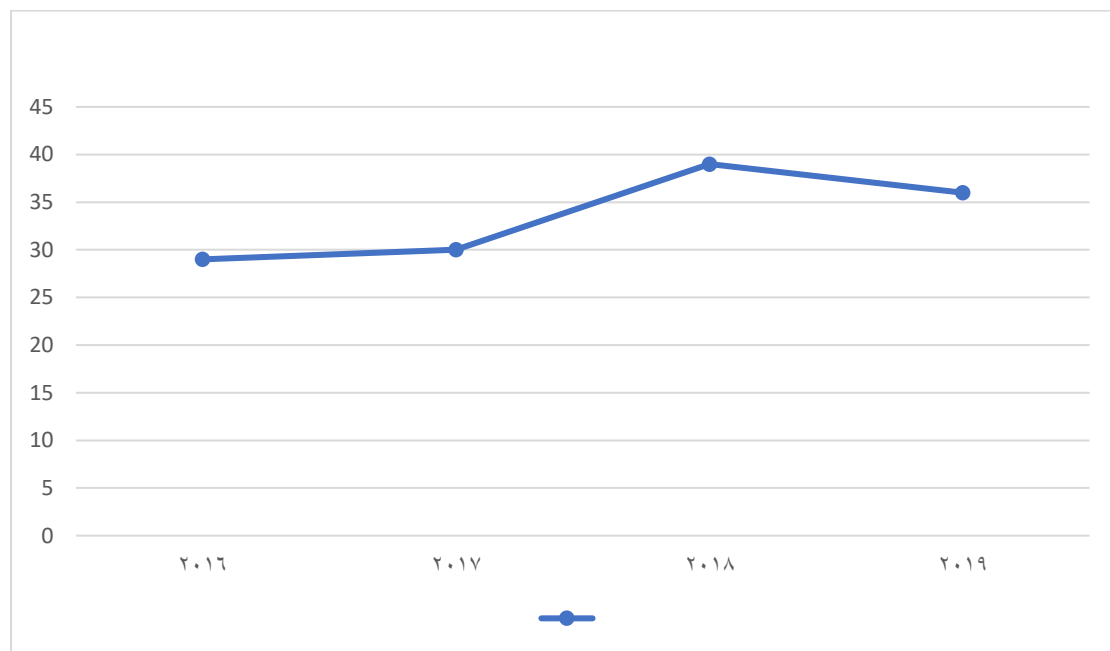


Figure 10. Saudi Arabia's performance in the Global Competitiveness Report

In conclusion, the report's findings indicate that Saudi Arabia encountered difficulties within its macroeconomic context due to the decrease in energy prices

¹ *The Global Competitiveness Report 2019*. Retrieved 07/26/2023 from World Economic Forum. <https://www.weforum.org/reports/global-competitiveness-report-2019> pp.19, 490 and beyond.

subsequent to 2015. However, the report commended Saudi Arabia's proactive measures in addressing the abovementioned challenges. Specifically, it lauded the country's unveiling of ambitious economic development programs designed to achieve economic diversification and reduce reliance on oil by 2030. In addition, the report recommended implementing strategies to expand economic diversification, foster the growth of advanced sectors and service industries, enhance education quality, bolster the labor market, and improve financial markets.

Finally, the most recent Global Competitiveness Report, released in 2019, revealed that the macroeconomic environment in Saudi Arabia had improved marginally, owing to the country's enjoyment of certain gains and advantages, such as its high-quality infrastructure and possession of the largest market in the region. It lauded the ambitious reforms outlined in Vision 2030 and predicted that they would contribute to a rise in the private sector's vitality and capacity for innovation. Nonetheless, the report identified several issues that need to be addressed, such as improving the business environment, and lifting the quality of education and aligning it with the Kingdom's economic requirements.

Sub-topic III: IMD World Competitiveness Ranking

The IMD World Competitiveness Ranking (WCR) is a comprehensive annual assessment and global reference point for the competitiveness of countries. The International Institute for Management Development (IMD) has published this ranking in its World Competitiveness Yearbook (WCY) since 1989.

The annual ranking conducted by the IMD assesses the performance of 63 countries through a comprehensive set of criteria that evaluate various dimensions of national competitiveness. The ranking is based on 335 competitiveness criteria

carefully selected through a comprehensive examination of economic literature, international, national, and regional sources, and feedback from the business community, government agencies, and academics. The ranking additionally offers benchmarks, trends, statistics, and survey data derived from a comprehensive study. The assessment and ranking of countries are conducted based on their ability to effectively utilize their competencies to create sustainable economic value over the long term (*IMD World Competitiveness Ranking, 2023*).

Section I: Methodology and Analytical Principles of the IMD World Competitiveness Ranking (WCR)

The World Competitiveness Ranking (WCR) provides insight into the overall competitiveness of economies and the factors that can contribute to creating an attractive business environment. The ranking also evaluates the capacity of countries to create an enabling and sustainable environment for businesses, as well as the degree to which they foster their competitiveness. Nor does it limit its measurement to evaluating the competitiveness of an economy based solely on its GDP and productivity. Instead, it focuses on measuring the economy's political, social, and cultural dimensions and how they contribute to promoting and supporting a conducive environment for business enterprises.

The IMD ranking urges governments to create an environment with an integrated infrastructure, encouraging and supportive institutions, and policies promoting sustainable business enterprise values. The ranking also assumes that wealth creation and investment success typically begin at the business enterprise level, regardless of whether the businesses are privately or publicly owned. Accordingly, the national climate in which business enterprises operate is a significant factor that either facilitates or hinders their ability to compete locally and internationally. Consequently,

it is critical to assess the country's business climate in order to determine its competitiveness and attractiveness for business.

The WCR is based on a methodology adopted by the World Competitiveness Yearbook (WCY), drawing on studies provided by senior experts from the World Competitiveness Center and the research and expertise conducted by the International Institute for Management Development (IMD). This methodology divides the national climate into four primary components, through which it analyzes and evaluates the competitiveness of economies. The ranking's four key indicators are the Economic Performance Index, the Government Efficiency Index, the Business Efficiency Index, and the Infrastructure Index.

Furthermore, the ranking methodology employs several other factors and sub-indicators to assess the economic climate, including GDP growth, employment, public finance, corruption, business legislation, productivity, labor market, entrepreneurship, education, healthcare, technological infrastructure, environmental performance, and others. The WCR employs two categories of data to generate its analyses: hard statistical data from international and national sources, which account for two-thirds of the data on which the report is based, and survey data from a poll of business and project managers, which accounts for the remaining one-third of the data.¹

Section II: Evaluating Saudi Arabia's Performance in WCR Indicators

The Kingdom of Saudi Arabia's economy has made significant progress in the World Competitiveness Center ranking over the past six years (2017-2023).²

¹ *IMD World Competitiveness Booklet 2022*. Retrieved 06/16/2023 from <https://imd.cld.bz/IMD-World-Competitiveness-Booklet-2022/36/> pp.34-35.

² *IMD World Competitiveness Online*. Retrieved 06/22/2023 from <https://worldcompetitiveness.imd.org/countryprofile/SA/wcy>

The observed improvement can be attributed to the transformation of Saudi Arabia instigated by the economic strategy, and legislative and administrative reforms implemented through Saudi Vision 2030. This initiative seeks to diversify the Kingdom's economy and reduce its dependence on oil by promoting the development of alternative industries. The effort has undeniably enhanced the standing of Saudi Arabia within the World Competitiveness Report ranking.

As part of its economic transformation efforts, the Saudi government has made substantial legislative efforts to improve the business environment, boost the investment climate, and develop the private sector. Regarding infrastructure, for instance, the laws and regulations governing and regulating the operation and establishment of the country's logistics infrastructure have been updated, thereby enhancing its performance, expediting the movement of goods, and easing access to global markets.

In terms of the economic environment, the Kingdom has carried out significant legislative and administrative reforms in order to improve the business climate and attract investments. This includes providing legislative guarantees and incentives for future business projects and initiatives in the Kingdom, as well as protecting intellectual property rights, simplifying company formation procedures, simplifying business procedures, developing infrastructure, and facilitating access to global markets. These reforms have increased the Kingdom's competitiveness and made it a more appealing destination for domestic and foreign companies.

In addition, the Kingdom made significant endeavors in fostering innovation and developing the capabilities and competencies of domestic human capital across diverse domains. It also facilitated avenues for specialized higher education and encouraged scientific research across various fields needed by the local market. This

trend has significantly contributed to enhancing local entrepreneurs' and workers' skills and abilities, thus bolstering the country's competitive edge.

Finally, it is essential to highlight the significant efforts that have been undertaken to smooth the way toward the digital economy. The Kingdom of Saudi Arabia recently launched a digital economy policy to oversee and regulate the process of transitioning from traditional to digital economic transactions.¹ The various measures include adopting the Smart Industrial Cities Vision and investing in technologies such as artificial intelligence (AI) and information and communication technology (ICT). In sum, all these efforts have contributed to enhancing the Kingdom's competitiveness and attaining noteworthy advancements in the world competitiveness ranking (WCR).

Table 13 and Figure 11 present data illustrating the progressive enhancement of the Kingdom's economic performance within the world competitiveness ranking throughout a six-year period, 2018-2023.

Saudi Arabia's performance in the (WCR)						
	2018	2019	2020	2021	2022	2023
Overall Rank	39	26	24	32	24	17
Economic Performance	23	30	20	48	31	6
Government Efficiency	30	18	22	24	19	13
Business Efficiency	45	25	19	26	16	11
Infrastructure	44	38	36	36	34	34

¹ *Saudi Digital Economy Policy*. Retrieved 07/27/2023 from the National Digital Transformation Unit <https://ndu.gov.sa/ar/de-policy>

Table 13. Saudi Arabia's performance in the (WCR) indicators. Source: prepared by the researcher based on the WCR.

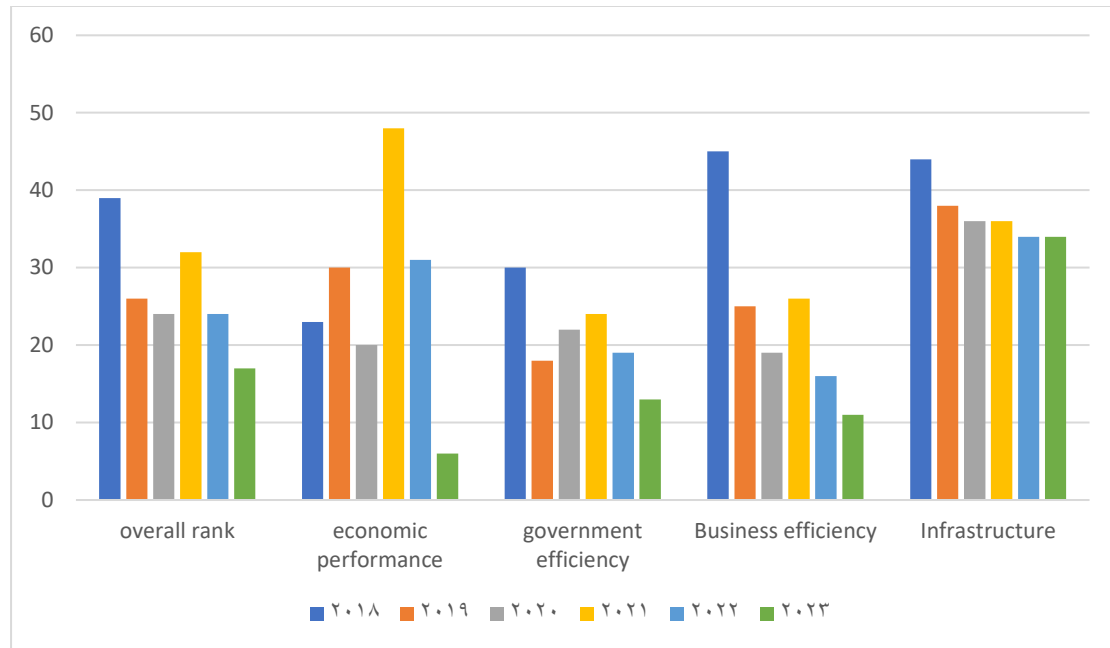


Figure 11. Saudi Arabia's performance in the (WCR) indicators

In general, Saudi Arabia has experienced a notable enhancement in its position within the IMD ranking over the last six years. Even with this noteworthy advancement, however, the economy continues to encounter obstacles, according to the world competitiveness ranking. The imperative to sustain economic diversification and undertake legislative reforms to attract foreign investment, alongside the ongoing commitment to advance renewable energy promotion and carbon emissions reduction, are noteworthy aspects to consider. Furthermore, addressing the disparity between higher education outcomes and the labor market demands is imperative. Additionally, there is a pressing need to prioritize advancing digital transformation in key sectors, such as healthcare, education, and trade, to bolster the economy.

Furthermore, enhancing the government's efforts to attain the objectives outlined in the Kingdom's Vision 2030 across various economic, social, and environmental domains is imperative. Ultimately, it is essential to continue to augment productivity, foster integration and interdependence across different economic fields,

and support the digital transformation of services within the public and private spheres. Nevertheless, the endeavors undertaken thus far can be regarded as significant advancements that are laying the foundation for a more competitive and prosperous future for Saudi Arabia in the coming years.

Sub-topic IV: UNCTAD's World Investment Report

The United Nations Conference on Trade and Development (UNCTAD) World Investment Report (WIR) analyzes global foreign direct investment (FDI) and offers insight into investment policies and promotion strategies. It also examines such topics as investment trends, policy developments, investor-state dispute resolution, implications for the digital economy, and sustainable development.

Section I: An Overview of UNCTAD's WIR and its Investment Climate Vision.

The WIR focuses on FDI trends on a global, regional, and national scale, as well as new initiatives and development. The report provides a review of the business practices of multinational corporations and an analysis of the value of global investment chains. Every report issue provides a review and analysis of FDI trends during the preceding year, focusing on the consequences for development. In addition to assessing and ranking the world's most significant transnational corporations (TNCs), an extensive study of a selected FDI theme, policy analysis, and suggestions are included, plus statistical data on FDI securities and flows at the country level.¹

Section II: Studying Saudi Arabia's Investment Climate in Light of the Report's Findings

FDI plays a crucial role in the economic growth and development of nations. In Saudi Arabia, FDI has emerged as a prominent catalyst for economic expansion,

¹ UNCTAD. *World Investment Report*. Retrieved 07/29/2023 from <https://unctad.org/topic/investment/world-investment-report>

particularly in the non-oil segment. This section will examine and analyze the stock of FDI and FDI flows in the Kingdom of Saudi Arabia.

FDI in Saudi Arabia (\$M)						
	2017	2018	2019	2020	2021	2022
FDI inward stock	227,566	231,813	236,376	241,775	261,061	268,947
FDI outward stock	84,437	104,613	123,904	128,815	151,499	167,438
FDI inflows	1,419	4,247	4,563	5,399	19,286	7,886
FDI outflows	7,280	19,252	13,547	4,911	23,860	18,826

Table 14. FDI Stock and Flows in Saudi Arabia (Source)¹

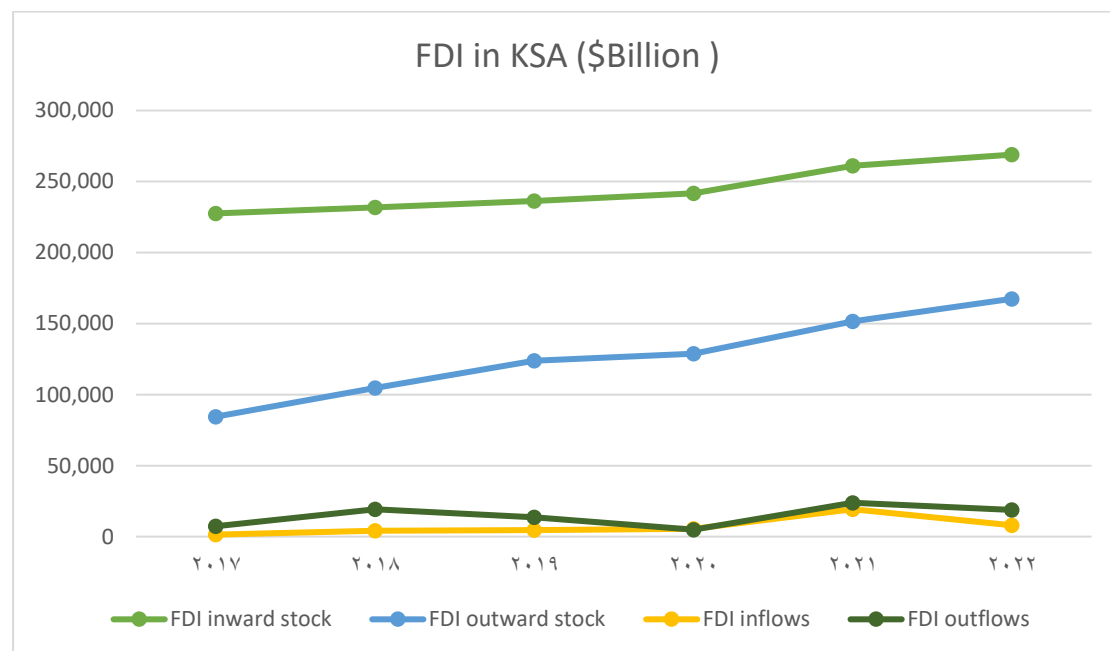


Figure 12. FDI Stock and Flows in Saudi Arabia

Based on the findings above, derived from the World Investment Reports of 2022-2023, it is evident that the aggregate stock of FDI in Saudi Arabia escalated to \$269 billion in 2023, exhibiting a notable increase of \$41.3 billion compared to the figures recorded in 2017. This figure denotes a growth of 14.9% in the stock of FDI holdings within the Kingdom of Saudi Arabia.²

¹ Prepared by the researcher based on the *World Investment Report* (2017-2023)

² *Country Fact Sheet: Saudi Arabia*. Retrieved 07/29/2023 from *World Investment Report* https://unctad.org/system/files/non-official-document/wir_fs_sa_en.pdf

In addition, the report revealed a gradual increase in FDI in Saudi Arabia over the past six years. Inflows of FDI into the Kingdom reached \$7.9 billion in 2022, an increase of 454% from 2017's level of \$1.4 billion. During a prior period in 2021, inflows totaled \$19.3 billion, representing the peak and highest flow the country has received in recent years. This represents a significant increase and improvement in FDI flows in Saudi Arabia.¹

The report for the year 2021 also observed that the reduction in FDI inflows in Saudi Arabia during the year 2020 was comparatively less severe when compared to the worldwide average decline of 35% in FDI flows, which was primarily attributed to the impact of the COVID-19 pandemic.²

The report also revealed that Saudi Arabia is the largest recipient of FDI in the Middle East and North Africa (MENA) region. Saudi Arabia's FDI is concentrated in the manufacturing, financial, and mineral sectors. The manufacturing sector is the primary recipient of FDI, followed by the financial and mining sectors. This suggests that Saudi Arabia has succeeded, at least regionally, in attracting FDI in sectors other than the energy industry.³

To sum up, foreign direct investment plays a crucial role in driving Saudi Arabia's economic growth. It's worth noting that Saudi Arabia is the leading recipient of FDI in the MENA region, and its FDI stock is on the rise. While FDI inflows have been slow in recent years, they picked up in 2021-2022. Additionally, it's worth

¹ *World Investment Report*. (2022). UNCTD. Retrieved from https://unctad.org/system/files/official-document/wir2022_en.pdf pp.14-21.

² *World Investment Report*. (2021). UNCTD. Retrieved from https://unctad.org/system/files/official-document/wir2021_en.pdf p.50.

³ *World Investment Report* (2021), pp.50-54, 180-181; *Investment Data*. Retrieved 07/29/2023 from Invest Saudi <https://www.investsaudi.sa/en/economicHighlights/investmentData>

mentioning that Saudi Arabia has been successful in diversifying its economy and attracting FDI in non-oil industrial sectors, as evident from the concentration of FDI in non-oil industrial sectors.

Sub-topic V: Index of Economic Freedom

The Index of Economic Freedom (IEF) holds significant importance as a critical indicator for evaluating the business and investment environment across countries. The index offers valuable perspectives on the economic and political factors that shape a country's economic conditions. It quantifies the level of economic freedom within a given nation. In essence, this index evaluates the degree of government intervention in the economy, specifically the extent to which the host country's government imposes restrictions and interference on economic activities, and the resulting implications for the economic freedom of individuals within a society. The index encompasses a range of criteria that assess the performance of governments in this domain and the availability of economic freedom within these economies.

Section I: An Overview of the Index of Economic Freedom

This section of the research focuses on the Index of Economic Freedom by addressing the following topics:

I. Index of Economic Freedom Definition

The Index of Economic Freedom is an annual index and ranking established in 1995 by the American Heritage Foundation. Its purpose is to assess the level of economic freedom in countries that the index measures. The assumption made by the founders of the index is that governments possess an essential responsibility in safeguarding the economic liberty of individuals. This assumption is grounded in the belief that individuals should have the freedom to engage in activities such as work,

production, consumption, investment, and the pursuit of their own economic interests in a manner that is most suitable for them. Likewise, they assert that governments must facilitate unrestricted mobility of labor, capital, and goods while abstaining from coercion or limitations on freedom, except to the extent required for safeguarding and maintaining liberty itself. Furthermore, they contend that the essence of economic freedom lies in preserving individual autonomy, which primarily revolves around the unfettered freedom of choice that individuals ought to possess in their commercial endeavors.

The fundamental assumption of those who advocate economic freedom is that individuals understand their needs and aspirations best and that self-directed business, driven by an individual's philosophies and priorities rather than those of the government or the artistic elite, is the foundation of sound economic action. In addition, they note that economic freedom has a strong correlation with excellent economic performance, as the top-performing nations on the index of economic freedom doubled their per capita income and gross domestic product and had the lowest unemployment and inflation rates.¹

The IEF provides a set of indicators used to assess various aspects of economic freedom, such as the rule of law, the size of government, regulatory efficiency, and market openness, to evaluate the economic policies and institutions that shape the business environment in a country. Economic freedom, as defined by the index, refers to the extent to which individuals and businesses are free to engage in economic activities with minimal government intrusion. It encompasses the principles of free

¹ 2023 *Index of Economic Freedom* | *The Heritage Foundation*. (2023). Index of Economic Freedom https://www.heritage.org/index/pdf/2023/book/2023_IndexOfEconomicFreedom_FINAL.pdf pp.11-12.

markets, private property rights, voluntary commerce, and the absence of restrictive laws and trade obstacles. The index attempts to quantify the extent to which these principles are followed in a given country, offering a numerical score that indicates the country's degree of economic freedom.

II. Assessment Methodology in the IEF

The IEF evaluates national economies based on twelve quantitative and qualitative factors grouped into four primary categories or pillars of economic freedom, including the rule of law, the size of government, regulatory effectiveness, and market openness. Figure 13 illustrates the Economic Freedom Index pillars and factors:

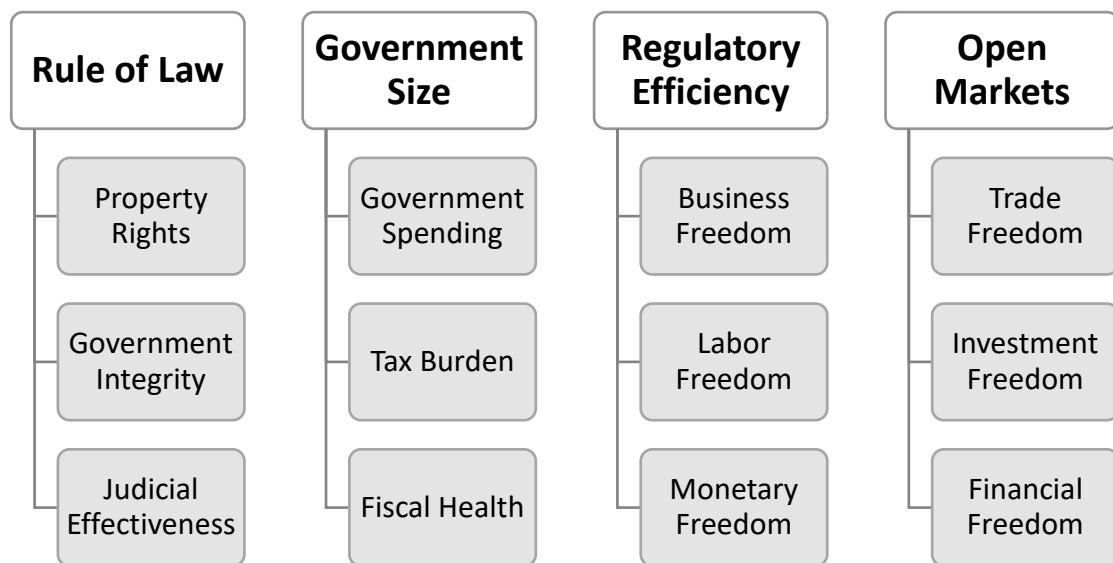


Figure 13. Pillars and factors measured by the Index of Economic Freedom (source)¹

Each of these pillars and factors measured by the Index of Economic Freedom plays an essential role in promoting and sustaining individual and national prosperity. Economic growth and prosperity are significantly influenced by policies that increase freedom in any of these areas. The Index of Economic Freedom considers each of these

¹ *The Book of the Index of Economic Freedom*. Retrieved 06/20/2023 from the 2023 Index of Economic Freedom.

factors equally important in achieving economic freedom's positive effects. However, their effects are mutually reinforcing, and progress in one area frequently inspires or encourages improvement in another. Similarly, impeding economic freedom in one area can make attaining high levels of freedom in other categories challenging.

The index relies on a comprehensive data collection methodology incorporating qualitative and quantitative data sources, such as surveys, reports, and official statistics. The measurement methodology includes a blend of historical and contemporary data. For measurement purposes, most of the data utilized runs from the second half of the year before the measurement period through the first half of the present year. A numerical score is assigned to each pillar and factor, and, subsequently, these scores are combined to determine the overall ranking of a country's economic freedom. The resultant rankings facilitate cross-country comparisons and offer valuable insights into the economic policy landscape and the potential ramifications for economic outcomes.¹

The index is widely regarded as a valuable instrument for examining and assessing 184 global economies, with each country page serving as a comprehensive resource for in-depth analysis of a country's political and economic advancements. The twelve pillars and factors of the index, along with historical data, offer a comprehensive framework of economic principles and factual information for countries. This framework serves as a valuable resource for those seeking to understand the underlying principles and determinants of economic growth and prosperity.²

¹ *Book of the Index*, pp.11-12; *2023 Index of Economic Freedom*. Retrieved 07/30/2023 from Heritage Foundation website <https://www.heritage.org/index/about>

² *2023 Index of Economic Freedom*., pp.12-16.

Section II: Assessing the Kingdom's Performance in the Index

The Index of Economic Freedom reveals that Saudi Arabia has experienced fluctuations in its performance over the last years, particularly from 2017 to 2023. This period coincided with the introduction of Saudi Vision 2030, which brought about significant legislative and economic reforms. As a result, there has been a modest improvement in the Kingdom's economic performance. The subsequent table and graph present Saudi Arabia's scores on the Economic Freedom Index:¹

Saudi	2017	2018	2019	2020	2021	2022	2023
Total	64.4	59.6	60.7	62.4	66	55.5	58.3
Property Rights	62	53.1	55	64.6	68.7	46.7	47.3
Judicial Effectiveness	45.9	49.9	49.8	49.6	53.2	50.7	49.6
Government Integrity	65	60.2	62.7	72.3	76.7	35.8	34.4
Tax Burden	99.7	99.7	99.8	99.8	99.1	99.3	99.4
Government Spending	54.5	52	57.5	61.8	62.9	57.3	60.3
Fiscal Health	65.7	19.7	19.4	19.3	31	17.9	41.3
Business Freedom	73.8	74	72.3	66.6	83.5	68.1	71.8
Labor Freedom	68.5	64.8	63.3	63.3	63.3	41.2	42.5
Monetary Freedom	70.1	73.8	78.1	81	82.3	79	78.9
Trade Freedom	78.2	78.2	76	75.4	75.8	74.8	74.2
Investment Freedom	40	40	45	45	45	45	50
Financial Freedom	50	50	50	50	50	50	50

Table 15. Saudi Arabia's Scores in the IEF

¹ *Economic data and statistics on world economy and economic freedom*. Retrieved 07/30/2023 from <https://www.heritage.org/index/explore?view=by-region-country-year&countryids=142®ionids=&yearids=>

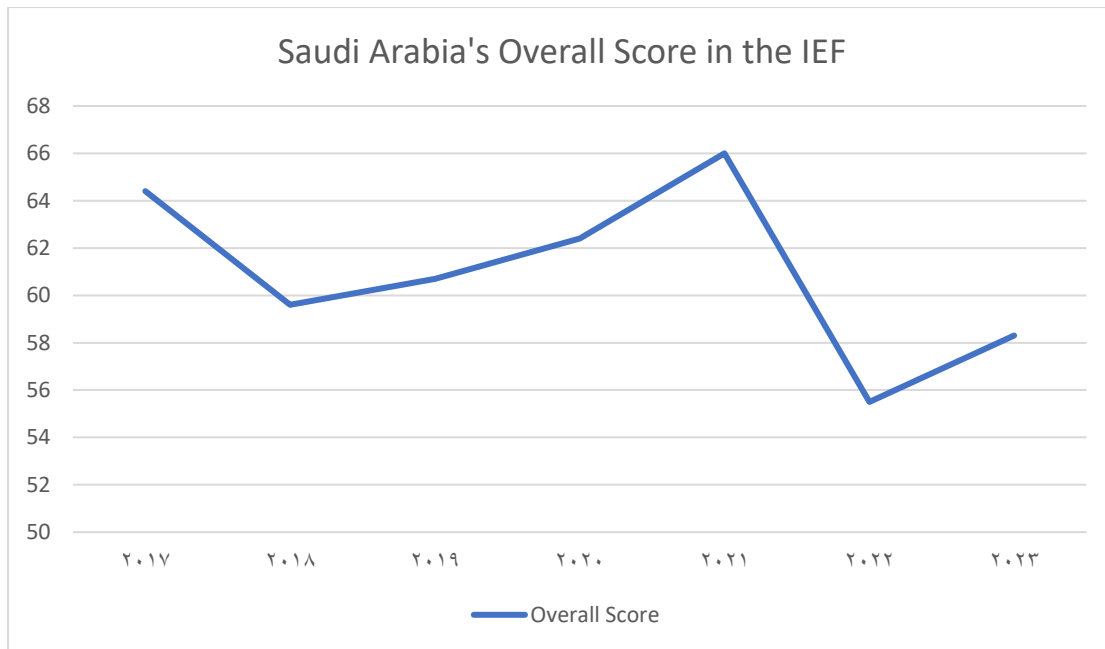


Figure 14. Saudi Arabia's Overall Score in the IEF

Thus, the Kingdom of Saudi Arabia exhibited a slight decline in the overall economic freedom index, as evidenced by a decrease from a score of 64.4 in 2017 to 58.3 in 2023. This decline resulted in the country being ranked as the 98th freest nation in the 2023 index. The Kingdom of Saudi Arabia is eighth in the Middle East and North Africa region among 14 countries. Moreover, its overall score remains higher than the regional average.

Overall, the IEF evaluators believe that economic freedom in Saudi Arabia remains limited. Despite the Kingdom's recent advances in combating corruption and improving regulatory efficiency, the IEF considers levels of monetary freedom, investment freedom, and property rights to be, at best, average. They also emphasized that the legal system remains prone to political interference and that bureaucracy and a lack of transparency continue to limit investment flexibility.¹

¹ See: *The Book of the Index of Economic Freedom*, pp.312-313; *Saudi Arabia Economy: Population, GDP, Inflation, Business, Trade, FDI, Corruption*. Retrieved 07/31/2023 from Index of Economic Freedom <https://www.heritage.org/index/country/saudi-arabia>

Sub-topic VI: International Country Risk Guide (ICRG)

The International Country Risk Guide (ICRG) is an index released by the Political Risk Services Group (PRS). It offers regular categorizations of political, economic, financial, and composite risks for a total of 141 developed and emerging nations, as well as border countries and offshore financial centers. The ICRG has offered a comprehensive dataset since 1984 encompassing approximately 200 separate geopolitical risk indicators, with monthly updates for the countries under examination.

Section I: Overview of the ICRG and its Indicators

The ICRG is a widely recognized and respected comprehensive measurement on the global level. A periodic guide that serves as a tool for evaluating the overall risk profile in numerous countries, it is used widely to assess the general risk landscape across nations. This assessment considers various political, economic, and financial factors to evaluate a country's risk landscape comprehensively. In the subsequent sections, we will explore the definition and methodology of the ICRG and the country risk indicators addressed in the guide.

I. Definition of the ICRG

The International Country Risk Guide is an index providing a comprehensive, global assessment of the political, economic, financial, and composite risks faced by countries. The key performance indicator (KPI) is the composite risk rating, which is calculated by combining various risk components detailed in the ICRG methodology and strategy. The ICRG Researcher Data Set provides yearly averages of the various elements that contribute to political, financial, economic, and compound risk classifications. This data is published annually in the International Country Risk Index,

consisting of 22 components grouped into three risk subcategories: political, economic, and financial. Figure 15 shows these components:¹

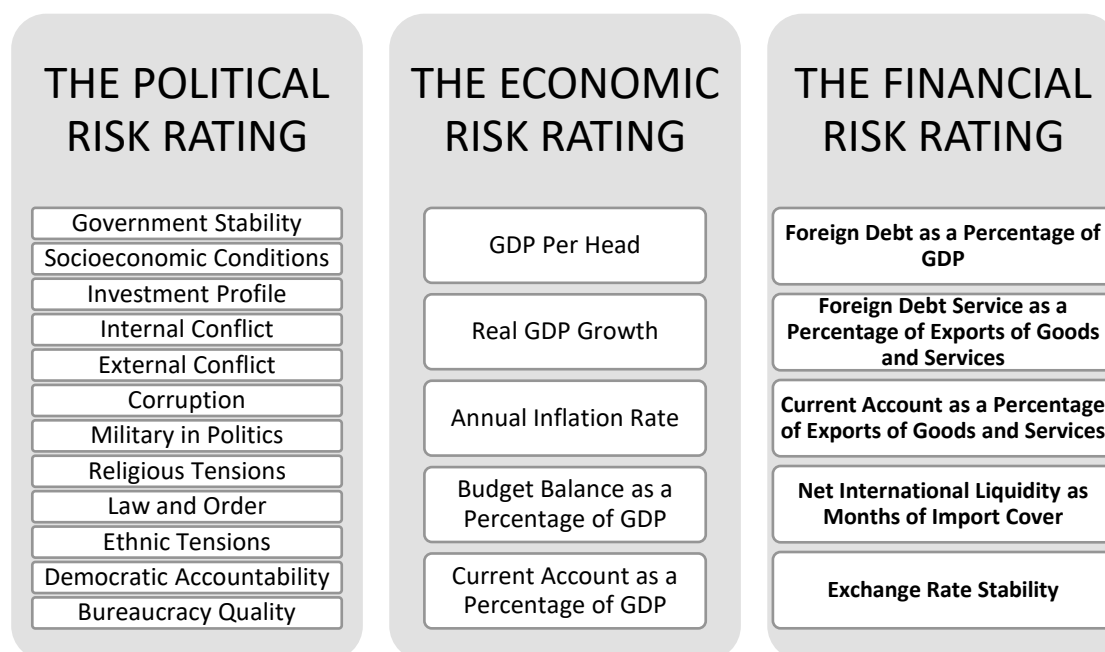


Figure 15. Components measured in the International Country Risk Guide

The variables measured by the International Country Risk Index are directly or indirectly related to the components and elements that shape the investment climate in the host nations of investment. Accordingly, measuring and analyzing these factors gives investors, companies, and policymakers valuable insight into risk profiles in various assessed countries, allowing them to make informed decisions regarding investment, trade, and other economic activities.

II. The ICRG's Methodology

The ICRG combines multiple sub-indicators to determine a comprehensive risk assessment score for individual countries. The methodology employed by the index entails a meticulous examination of both qualitative and quantitative data. This data

¹ *The ICRG Methodology*. Retrieved 08/01/2023 from The PRS Group <https://www.prsgroup.com/wp-content/uploads/2022/04/ICRG-Method.pdf> pp.3, 9-28.

is collected or sourced from reliable entities such as government publications, central banks, international organizations, and financial institutions. The index's primary constituents encompass political, economic, financial, and compound risks, which can be described as follows:¹

A. The Political Risk Rating

The Political Risk Rating assesses components and variables related to the political climate in the countries. It also offers a means for gauging the political stability of the countries covered by ICRG on a comparable basis. The stability of the government, socioeconomic conditions, investment profile, and internal and external conflicts are examples of these components. The political risk rating indicates the likelihood of political instability, social unrest, government changes, and political transformations that may have a significant effect on a nation's business and investment environment.

B. The Economic Risk Rating

The Economic Risk Rating assesses economic variables and components such as GDP growth, income distribution, labor market conditions, trade dynamics, and the business climate. It looks at the country's economic structure, competitiveness, diversity, and potential vulnerabilities that may affect overall economic performance and stability.

C. The Financial Risk Rating

The financial risk rating evaluates the stability and soundness of a country's financial system, including factors such as exchange rate stability, inflation, the efficacy

¹ *ICRG Methodology*, pp. 9-28.

of monetary policy, financial health, and access to credit. It considers the country's capacity to manage its finances, maintain price stability, and create a favorable financial environment for domestic and foreign investors.

D. The Composite Risk Rating

The composite risk rating is calculated as an aggregate of political, financial, and economic risks. The total points from the three indices provide a consolidated assessment of the country's overall risk profile. This score offers a concise measure of a country's relative risk compared to other countries, allowing for a comparison and ranking of countries based on their risk levels.

In sum, this ranking methodology enables recipients to compare countries and monitor changes in risk scores over time, thereby facilitating risk management, investment decision-making, and policy development. The ranking also offers significant insights into a diverse range of risks with the potential to alter the business climate, economic outlook, and investment appeal in various countries globally.

Section II: Assessment of Saudi Arabia's Performance in the Composite Country Risk Rating

The ICRG's composite risk index is a critical instrument for evaluating the degree of risk in various countries. Like all countries seeking to attract investment, Saudi Arabia is working to better its performance in this index to enhance the perception of its investment climate and thereby attract investors and support business expansion.

The research examines Saudi Arabia's performance in the index between 2018 and 2022, coinciding with the introduction of Saudi Vision 2030 and the accompanying legislative and economic reforms.

I. Evaluation of Saudi Arabia's Performance in the Country Composite Risk Index

Saudi Arabia showed positive advancements across all measured risk levels, as indicated by the index between 2018 and 2022. This performance signifies a notable enhancement and a favorable trajectory for investment, business, and the overall economic environment.¹

The performance of Saudi Arabia improved, as measured by a decline in the risk level in the composite Country Risk Index. In the year 2018, the level of risk was evaluated to be low, with a score of 73.3. This suggests that Saudi Arabia has established a business climate with minimal risks. In 2019, the country exhibited favorable advancements, as evidenced by a decrease in the risk level to 74.4 points (the higher the score, the lower the risk). The trend above demonstrated the nation's ongoing efforts to minimize potential hazards and augment its appeal to potential investors. The decline in risk reflected an improvement in political stability, economic prospects, and financial soundness.

The upward trend continued in 2020, with the risk level falling to 76 points. This drop points to the Saudi government's commitment to enhancing its institutional framework, creating an enabling business climate, and resolving possible problems. The efforts of the state to promote political, economic, and financial stability aided in this positive shift. The country's risk index improved again, to 78.8 points, in 2021, indicating significant progress in the country's risk index. This improvement suggests

¹ See: Arab Investment Climate Report. (2018-2022). Retrieved from The Arab Investment and Export Credit Guarantee Corporation <https://www.dhaman.net/wp-content/uploads/2022/06/Climate2022-ar.pdf>; The ICRG. Retrieved on 08/02/2023 from The PRS Group https://epub.prsgroup.com/index.php/free-samples/index/download?fileUrl=https://www.prsgroup.com/wp-content/uploads/2020/06/Samp_ICRGIssue.pdf pp.62-66; The ICRG Country Analysis. Retrieved on 08/02/2023 from The PRS Group <https://epub.prsgroup.com/index.php/free-samples/index/download?fileUrl=https://epub.prsgroup.com/media/wysiwyg/PRSSAMPLE.pdf>

the success of the government's policy initiatives, regulatory frameworks, and risk management procedures. In creating a more favorable investment climate for potential investors, the government has demonstrated political and economic resilience.

It is remarkable that in 2022, Saudi Arabia reached a significant milestone by attaining a very low-risk level of 84 points. This achievement positioned the country as the seventh best globally on the scale of the Composite Country Risk Rating, and it highlights the country's dedication to establishing an environment conducive to business and investment and fostering economic expansion. This critical achievement can be attributed to a robust emphasis on mitigating risks, increasing transparency, and implementing rigorous fiscal policies.

Figure 16 displays the outcomes and rankings of the Kingdom throughout the period 2018-2022:

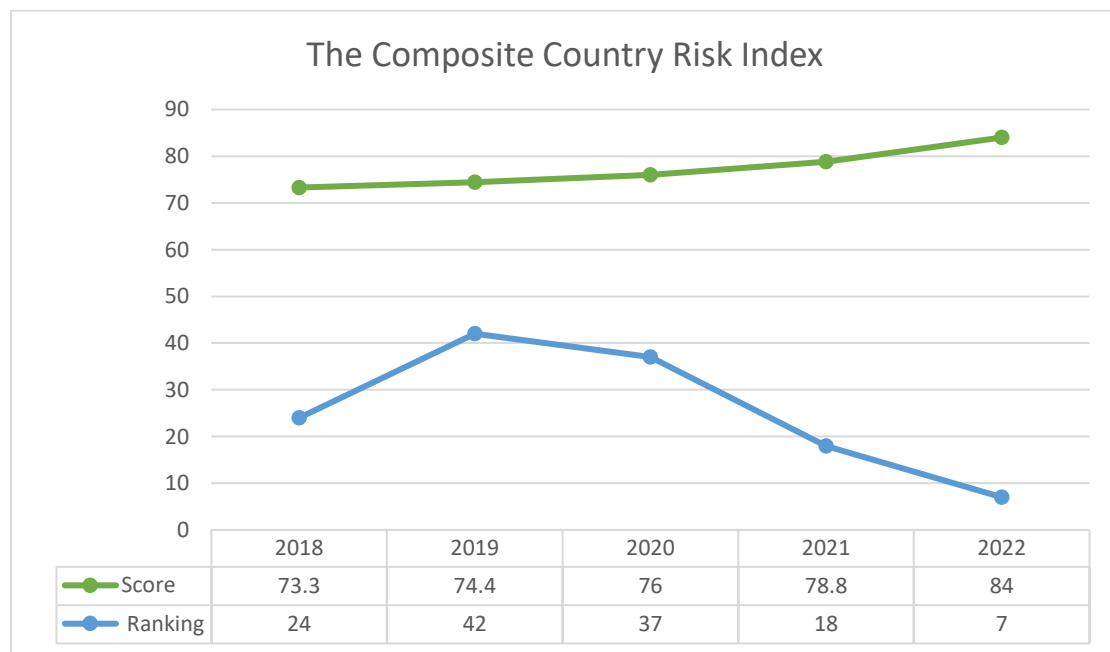


Figure 16. Saudi Arabia's Performance in the Country Composite Risk Index (source)¹

¹ Prepared by the researcher based on the International Country Risk Index (2018-2022).

II. Implications of Saudi Arabia's Outcome in the Composite Country Risk Index

This continuous improvement in Saudi Arabia's ranking in the International Country Risk Guide (ICRG) suggests that many positive factors are at work in the country's business and investment climate, producing numerous benefits for investors and entrepreneurs. These include the following:

First, the Composite Country Risk Rating score for Saudi Arabia indicates that the country has an excellent political, financial, and economic climate with a very low level of risk. This reduces the likelihood of non-commercial risks and disruptions, or unexpected events in trade and investment activity. As a result, this outcome will boost investors' trust in the economy and provide them with an excellent opportunity to participate in long-term investments that can yield a rise in earnings.

Second, the Kingdom's improved performance in the Composite Country Risk Rating over the past few years indicates a more favorable business and investment climate. The improved ratings attest to the effectiveness and success of the Saudi government's efforts to create a more favorable economic and financial climate for business and investment within the framework of Vision 2030. In addition, the Kingdom's performance provides support for future efforts to implement strategies aimed at attracting foreign direct investment, encouraging entrepreneurial activity, and facilitating economic growth.

Third, a decrease in the financial risk score of the country in the International Country Risk Guide implies a reduction in the potential challenges that investors may experience regarding currency fluctuations, inflation, and the banking sector's stability. As a result, this decline affirms the financial system's stability and provides a safe foundation for financial transactions and investment planning.

Finally, the Kingdom's performance in the International Country Risk Guide (ICRG) exhibits a positive upward trajectory, which signifies a promising investment climate. The decline in risk levels observed between 2018 and 2022 emphasizes the state's dedication to improving political, economic, and financial stability. The focus of this endeavor was directed toward achieving the goals outlined in Saudi Vision 2030. The country was able to gain this remarkable achievement by enacting comprehensive legislative, economic, and financial reforms. These reforms improved the investment climate, benefiting both investors and entrepreneurs, while also promoting long-term economic growth and development.

The recent reduction in risks underscores the advantageous positioning of Saudi Arabia as an attractive location for investment, which contributes to promoting investment prospects and facilitating capital inflow. Consequently, this fosters the encouragement of business development and expansion.

Sub-topic VII: Human Development Index (HDI)

The United Nations Development Program (UNDP) has promoted the concept that human development is a fundamental component of development. In a similar vein, the program asserted that integrating human and economic development efforts is crucial for countries to accomplish comprehensive development. This concept of human development entails providing more educational, vocational, and skill-building opportunities to individuals, thereby granting them the freedom to live prosperous and dignified lives. In an effort to quantify human development worldwide, the UNDP devised a statistical tool to evaluate various countries' social and economic development levels. It is a composite evaluation of a nation's average performance in

three fundamental aspects of human development: health, education, and standard of living.¹

The following sections discuss the Human Development Index in terms of its definition and methodology, as well as Saudi Arabia's performance in the index:

Section I: Definition of the Human Development Index

The Human Development Index (HDI) is an instrument used to assess progress in key dimensions of human development: a long and healthy life, access to education, and a decent standard of living. Each of these fundamental dimensions of development constitutes a sub-index of the main composite index, which consists of indicators of life expectancy at birth, expected years of schooling, mean years of schooling, and gross national income per capita. The main composite index is computed by calculating the geometric mean of these sub-indicators.

The HDI is a prominent metric utilized by the UNDP since 1990. It is an important instrument for assessing and comparing country policies and outcomes in human development. Using the index, for instance, enables the identification of performance differences between countries with the same per capita gross national income but varying human development growth. The existence of such differences may give rise to inquiries regarding the underlying priorities of governments during the process of creating policies for national development.²

¹ United Nations. *What is Human development*. Retrieved from Human Development Reports on 08/05/2023. <https://hdr.undp.org/about/human-development>

² United Nations. *Human Development Index*. Retrieved from Human Development Reports on 06/27/2023. <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>

Finally, it should be highlighted that the sub-fields measured by the human development index--education, health, and per capita income--are essential and closely related to the business and investment climate components. Measures of human development are substantially correlated with the health of the investment climate, as these elements are interrelated and intersect with investment activity. Accordingly, an investment climate which can provide a youthful, educated workforce with advanced technical training, and in good health, will be seen one of the most motivating and attractive places for investment projects and capital.

Section II: Human Development Index Methodology

The Human Development Index (HDI) evaluates the advancement of a country in cultivating its human capital by examining three fundamental dimensions: health, education, and standard of living. The health dimension measures life expectancy, while the educational dimension has two sub-indicators: the average years of schooling for individuals aged 25 and above, and the anticipated years of schooling for children of school-going age. The third dimension considers the Gross National Income (GNI) per capita, employed as a metric for assessing the standard of living, with adjustments made to account for the prevailing price level in the country under evaluation. A composite index is formed by combining the findings of the three HDI indicators using the geometric mean.

The index establishes a minimum limit (0) and an upper bound (1) for the values attained by countries, where (1) represents the highest achievable score and (0) illustrates the lowest possible score. Countries in the Human Development Index

are ranked based on their highest and lowest ratings, as indicated by the provided values.¹

The Human Development Index (HDI) is calculated for countries worldwide by using data from various sources such as national statistical offices, international organizations, and research institutions. The UNDP Human Development Report provides a detailed explanation of specific data sources and methods used to calculate the HDI in each version.

Finally, it should be mentioned that although the Human Development Index (HDI) provides valuable outcomes for evaluating human development, its breadth still needs to be expanded. The researcher suggests that the Index should encompass other significant factors, including inequality, poverty, human security, and empowerment. Therefore, it is necessary to analyze additional indicators and reports to gain a comprehensive understanding of a country's human development and its influence on the investment landscape. This approach will facilitate the formation of well-rounded conclusions regarding a country's overall well-being in terms of human development.

Section II: Evaluating Saudi Arabia's performance in the HDI

The Kingdom of Saudi Arabia has recorded improved human capital development, as indicated by its performance on the Human Development Index. This progress has contributed to improving the country's business and investment climate. Notably, the onset of the Saudi Vision 2030 reforms has propelled those efforts forward, resulting in advances in the evaluated dimensions of the Human Development

¹ United Nations. *Human Development Index; Technical notes of Human Development Index*. Retrieved 08/05/2023 from Human Development Reports. <https://hdr.undp.org/system/files/documents/technical-notes-calculating-human-development-indices.pdf>

Index. This improvement highlights the government's commitment to securing a prosperous future for its citizens.

Table 16 shows Saudi Arabia's performance on the Human Development Index from 2016 through 2021¹.

Saudi Arabia	2016	2017	2018	2019	2020	2021	2022
HDI's Rank	38	39	36	40	38	35	40
HDI's Overall Value	0.864	0.860	0.865	0.873	0.870	0.875	0.875
Life expectancy at birth (years)	77.1	77.2	77.2	77.3	76.2	79.9	77.9
Expected years of schooling (years)	16.1	15.6	15.7	16	16.1	16.1	15.2
Mean years of schooling	10.1	10.2	10.6	10.9	11.3	11.3	11.3
(GNI) per capita (\$)	\$49,682	\$48,041	\$48,124	\$47,495	\$45,232	\$46,112	50.620

Table 16. Saudi Arabia's Performance Statistics in the HDI

¹ Prepared by the researcher based on the Human Development Reports. See: UNDP. *Human Development Reports (2016-2021-22)*. Retrieved 08/06/2023. <https://hdr.undp.org/content/human-development-report-2021-22>

The HDI findings for Saudi Arabia indicate a progressive increase in its overall ranking. This statement suggests the presence of persistent efforts to enhance human capacities and capabilities, as well as ensuring continued care and well-being. Despite a marginal decrease witnessed in 2019, the overall tendency indicates consistent advancement. The findings positioned Saudi Arabia within the classification of high human development, attaining the most elevated level bestowed by the HDI.

The Kingdom's score for overall value in the index increased by 1.27%, rising from 0.864 in 2016 to 0.875 in 2022. Progress is also evident in the main indicators of the index. For example, the average life expectancy had an increase of 2.8 years then returned to 0.8 year, indicating improvement in the area of healthcare and overall welfare. Average years of schooling also increased, by 1.2 years, suggesting an expansion of educational prospects and knowledge-building. The expected years of schooling indicator did show a temporary decline of fewer than six months; however, this situation was rectified, and the number of expected years returned to its previous level. Notably, this brief decline did not impede the overall positive trajectory in the performance of the kingdom's educational environment and knowledge acquisition in general.

Overall, the performance outcomes for Saudi Arabia demonstrate the efficacy of the reforms implemented under Saudi Vision 2030 in stimulating and augmenting the Kingdom's human capital. Progress observed in the main indicators of the index underscores the Kingdom's dedication to bolstering its populace's competencies and potential through providing healthcare services, facilitating educational opportunities, and promoting learning. These efforts contribute to advances in societal development and economic well-being while fostering a conducive atmosphere for business and investment.

Chapter V: Conclusion

The study found that Saudi Vision 2030 implemented substantial legislative, economic, and administrative reforms within the framework of the laws and regulations that manage the economy, specifically focusing on the business and investment climate. The objective of this economic transformation in Saudi Arabia was to diminish the Kingdom's reliance on oil as a primary source of revenue while concurrently fostering the diversification and advancement of its economy. This objective entails establishment of a conducive business environment, the promotion of domestic investments, and the attraction of foreign direct investments.

This study examined the performance of Saudi Arabia in key international indicators and reports assessing the investment climate in countries worldwide to evaluate the extent of progress in the investment climate within the Kingdom and the reforms' impact on it. The analysis focused on the years subsequent to the initiation of Saudi Vision 2030, aiming to gauge the extent to which the reforms have been reflected in these assessments. The researcher was keen on ensuring diversity in selecting indicators and reports by carefully choosing sources that differed in terms of the sub-indicators being measured and evaluated, as well as the measurement mechanisms, tools, or methodology employed, as much as possible.

The study also highlighted the important role that international indicators and reports play in measuring investment, as they serve as essential criteria for evaluating the attractiveness of investment opportunities and business environments in different countries. These indicators also provide a measure of the extent to which investment is motivated and the investment climate boosted. The outcomes of these metrics offer valuable insights to policymakers, investors, and parties interested in the investment climate in Saudi Arabia.

The Kingdom's performance results demonstrated a clear response to the reforms implemented within the framework of Saudi Vision 2030, as evident in the improvement of its position in various international indicators and reports assessing the investment climate, as shown below:

- I. In the World Bank's Doing Business Report (DBR), which assesses the ease of conducting business, the Kingdom's ranking in the overall index improved significantly between 2016 and 2020. In 2016, the Kingdom of Saudi Arabia ranked 82nd out of 190 for ease of doing business. By 2020, however, it had experienced significant improvement, advancing to 62nd.
- II. The performance of the Kingdom fluctuated in the Global Competitiveness Report (GCR), one of the most important indicators that measure and analyze the competitiveness of economies and their strengths and weaknesses, as a result of the deterioration of the Saudi economic environment following the decline in energy prices after 2015. In 2016, the report revealed that the Kingdom had fallen four places in the classification, to 29th, before dropping to 30th in 2017 and 39th in 2018. But in 2019, Saudi Arabia's overall position improved to 36th. Despite fluctuations in the Kingdom's ranking in the GCR, the macroeconomic environment in the country is gradually improving, according to the report, which also praised the reform efforts outlined in Saudi Vision 2030 and anticipated that they would contribute to the expansion of the private sector's share of the national economy.
- III. The Kingdom's IMD World Competitiveness Ranking (WCR) performance also exhibited notable improvement. These positive outcomes can be attributed to the Saudi government's endeavors to enhance the business environment, foster a favorable investment climate, and promote the growth and empowerment of the

private sector. The IMD World Competitiveness Yearbook (WCY) commended the legislative reforms undertaken by Saudi Arabia as part of the Saudi Vision 2030 initiative. The WCY noted that these reforms sought to improve the legal framework in Saudi Arabia, particularly regarding business and investment initiatives, by providing additional assurances and incentives. The reforms led to a notable rise in the Kingdom's position within the ranking, ascending from 39th in 2018 to 17th in 2023.

- IV. Regarding the Kingdom's performance in the World Investment Report (WIR) published by UNCTAD, the report substantiated the growth in volume of foreign investments and capital inflows directed towards the Kingdom of Saudi Arabia from 2017 to 2021. The foreign direct investment (FDI) balance in the Kingdom increased from \$227.7 billion in 2017 to \$268.9 billion in 2022. Similarly, FDI flows rose from \$1.4 billion in 2017 to \$7.9 billion in 2022. The report also highlighted the fact that the Kingdom's economy was the largest recipient of investment in the MENA region during 2022.
- V. The Kingdom also exhibited a fairly consistent performance in terms of economic freedom within the business and investment climate. Specifically, the overall indicator of the index of economic freedom experienced fluctuations during the period spanning 2017 to 2023. The degree of economic freedom in Saudi Arabia declined from a score of 64.4 in 2017 to 58.3 in 2023, placing the country at the 98th rank among the most economically free countries according to the 2023 index. In this ranking, Saudi Arabia is eighth among the 14 countries in the MENA area, and the overall score of Saudi Arabia remains higher than the regional average.

VI. The Saudi outcomes in the International Country Risk Guide (ICRG) are among the most significant positive results for Saudi Arabia's performance in international indexes and reports assessing the investment climate. The Kingdom's performance in mitigating the level of risk in the composite country risk index shows significant improvement. In 2018, the risk level was rated low-risk, at 73.3 points. Saudi Arabia's score improved significantly in 2022, as it attained a very low risk level of 84 (higher score signifies lower risk). According to the composite index, this advancement places Saudi Arabia in seventh place in the global classification of low-risk countries.

This outstanding performance exhibited by Saudi Arabia indicates the country's dedication to establishing a conducive environment for investors, fostering economic expansion, mitigating risks, promoting transparency, and enacting robust financial measures. The risk mitigation also signifies enhanced political stability, economic prospects, and the fiscal well-being of the Kingdom's economy. Consequently, this effort inevitably results in establishing a more favorable and appealing climate for investment.

The observed improvement and positive trends attest to the effectiveness of the initiatives and reforms implemented under Saudi Vision 2030. The fact that strategic initiative sought to mitigate potential risks and boost the country's investment attractiveness supports the assumption that these recent developments are a direct result of the objectives set forth by the Saudi government in Vision 2030.

VII. The Kingdom's performance in the Human Development Index (HDI) exhibited gradual enhancement throughout the key dimensions assessed by the index, namely health, education, and standard of living. This finding affirms the ongoing

commitment of the government to foster the advancement of human capital in the country. The Kingdom's position in the HDI in 2016 was 38th, and it experienced progressive improvement in its ranking, reaching 35th in 2021 and 40th in 2022. This result placed Saudi Arabia in the highest human development category, as determined by the HDI, demonstrating that the Kingdom has achieved an improvement equivalent to the highest rating given by the HDI.

After analyzing the outcomes of Saudi Arabia's performance in several international indicators and reports, it is evident that the reforms conducted under Vision 2030 have delivered outstanding favorable gains. These results have had a favorable impact on the investment climate and have positioned the country as an appealing destination for both domestic and foreign investors. We can tie the observed improvement in the Saudi investment climate directly to the rolling out of the Vision 2030 reforms, which, in addition to the comprehensive policies and measures detailed in Saudi Arabia's National Investment Strategy (NIS), have established a favorable climate that encourages investment, promotes economic growth, and boosts competitiveness.

Finally, the study recommends that Saudi policymakers take advantage of the insights and findings in international reports and indicators to assess the investment climate. The results can inform the further refinement of investment strategies and policies and aid in adapting them to international standards and requirements. Continuing to monitor the outcomes of these reports and indicators will help to ensure that the country's investment climate continues to advance. The study also recommends that investors employ these findings and information to identify promising sectors and make informed investment decisions. Moreover, stakeholders in the growth of investment activities can align their efforts to take advantage of the opportunities

presented by the improved investment climate, allowing everyone to comprehend and effectively profit from the investment landscape in Saudi Arabia. Going forward, all involved parties should build on these accomplishments and continue to cultivate an environment that encourages sustainable economic development and attracts more investment.

Conclusion

This dissertation has shown that the Kingdom of Saudi Arabia has successfully implemented a series of substantial legislative, economic, and administrative reforms within the framework of Saudi Vision 2030, with the goal of moving the country towards a more diversified and sustainable economy. The reforms entail the passage and amendment of several laws, regulations, and policies that govern the economy, with a particular emphasis on enhancing the business and investment climate. The economic transformation in Saudi Arabia is intended to reduce the country's dependence on oil as the primary source of revenue while promoting the diversification and advancement of its economy. This objective has been pursued by creating a business-friendly environment that encourages the promotion of domestic investments and attracts more foreign capital.

Saudi policymakers focused attention on two critical needs for the economy. First, the country's needs, resources, and potential had to be identified and incorporated into the agendas of Saudi Vision 2030. Second, the international standards for the competitiveness of the investment climate and the needs of investors and capital owners had to be understood and met. These efforts led to the translation of the country's need to attract capital and technical and scientific expertise for various aspects of development into national programs and initiatives to achieve that need. Simultaneously, Saudi Vision 2030 worked to create an appropriate environment rich

in opportunities and resources and to encourage investment to meet the international standards of the investment climate and satisfy the needs of investors and capital owners.

Saudi legislators realized that attracting an ample flow of investments and foreign capital requires a suitable investment environment where investors can pursue their interests without fear or hesitation. To build such an environment, obstacles to investment had to be identified and mitigated, and legal and economic guarantees and incentives supportive of investment activities had to be provided. Saudi Arabia has worked towards offering the guarantees and incentives desired by investors and thus improved its investment climate. The high level of investor satisfaction confirms the success of these efforts to strengthen the economy and promote development.

As an introduction to this study, an overview highlighted the key pillars, initiatives, and programs implemented by Saudi Vision 2030. It then addressed the main barriers to the flow of investment to developing countries in general. It also referred to the most important measures these countries can undertake to overcome obstacles to investment and become competitive with other countries seeking to attract investments.

The dissertation concluded that the investment climate in a host country is comprised of five primary factors. The availability and integration of these factors attracts investment, while their absence or unavailability impedes it. The factors that influence investment decisions include 1) political and security stability, 2) domestic legislation safeguarding investments and regulating the investment climate, 3) stable economic policies promoting access to international markets, 4) adequate investment infrastructure, and 5) an administrative work environment that is flexible and transparent enough to facilitate the investment process.

These elements have a significant influence on the investment environment in developing nations. If present, they entice investment and capital flows; if absent, they hinder such activities. Thus, an investment climate needs to ensure the provision and enhancement of the critical elements that serve as attractive factors. A concerted effort to eliminate any obstacles that impede domestic or foreign investment is crucial. These fundamental underpinnings are an essential catalyst in any investment environment; they motivate domestic investors and attract foreign investors.

Despite the legal guarantees and incentives offered to promote and stimulate investment, they may not yield the intended outcome of enhancing the investment climate in the host country unless they are combined with the five factors that make up the investment climate. Guarantees and incentives also have to be seen in the context of additional characteristics and features of the host country, such as a strategic geographical location, abundant natural resources, high housing density, substantial purchasing power, or access to skilled labor. This is particularly true given the heightened global competition for attracting investments. Hence, the legal guarantees and incentives, along with the host country's attributes, must align with the availability of the five factors that shape and influence the investment climate. The absence of any of these factors in the investment environment of developing countries could profoundly hinder attempts to enhance the investment climate by constraining the options and opportunities for investors.

This study has revealed that policymakers in Saudi Arabia have, however, made significant strides toward providing secure legislative guarantees for investment by enacting new laws or modifying existing ones in line with the Kingdom's Vision 2030 legislative reforms. Saudi policymakers believe that ensuring the availability of such

guarantees can pave the way for an increased investment rate, a key to accomplishing the country's current economic and social objectives.

In this context, “legislative guarantees” refers to a set of protective legal measures against non-commercial risks that investment projects in Saudi Arabia may encounter. Notable among these approved guarantees by the Saudi legislature is the protection of private property, which aims to prevent the expropriation, confiscation, or nationalization of an investment project, and also assures the safeguarding of intellectual property and patents. Additionally, the legislative reforms have cleared the way for the unrestricted transfer of investors' profits and capital abroad. The legislation emphasizes the importance of providing investors with national, equitable, and non-discriminatory treatment. Moreover, it provides a specialist, independent, and impartial judiciary, and it offers judicial alternatives for resolving investment disputes, including mediation, conciliation, and arbitration. One of the most prominent manifestations of this trend is the Saudi government's adoption of the National Investment Strategy and Investment Principles and Policies and its enactment of the Investment Law.

With regard to incentives and facilities for investment, the study showed that Saudi policymakers have demonstrated a robust commitment to promoting both domestic and foreign investments through investment laws, executive regulations, and laws and regulations related to investment activities. To achieve this objective, several measures and initiatives have been implemented to establish a conducive and inspiring environment for investment. In this context, investors have been provided with numerous incentives and facilities that are equally significant to legal guarantees, namely tax and customs incentives, monetary incentives, and administrative incentives, which ease investment project procedures and broaden the range of investment sectors, thus enhancing the competitiveness of the Kingdom.

Regarding tax and customs incentives, Saudi lawmakers have granted a range of enduring and provisional tax and customs exemptions to incentivize investment activities within the Kingdom. Moreover, tax incentives have been made available to investors, which include the ability to carry over losses and pay taxes in installments. These measures have been formulated to foster a favorable investment climate for both domestic and foreign investors, thereby encouraging investment activity within the Kingdom. Tax and customs exemptions and privileges are among the most important forms of financial assistance investors seek, as they reduce costs and boost profits.

The Saudi legislature has also provided monetary incentives to support the completion and implementation of investment projects within the Kingdom's territory. Such incentives include cash facilities aimed at establishing industrial projects, as well as defraying the infrastructure expenses necessary for the completion of investment projects. These incentives come in the form of loans and preferential financial treatment for the purchase or lease of the real estate and public lands on which investment projects are built. Furthermore, subsidies may be granted to reduce service and energy charges, along with incentives to support employment, workforce training, and scientific research projects related to investment.

In addition, policymakers in Saudi Arabia have made concerted efforts to implement administrative and procedural reforms to enhance efficiency and effectiveness. These efforts involve unifying the responsible and supervising entity for investment, digitizing investment processes and procedures, restricting government procurement to domestic products, and providing technical support to investment projects.

Furthermore, the Kingdom has been keen to facilitate access to the services of several investment insurance institutions for foreign investors contemplating investments in the Kingdom. This eagerness is based on understanding that the provision of insurance in the host country serves as a potent motivating factor, reassuring investors of the security of their invested capital and allowing them to concentrate entirely on project completion, unburdened by external factors that could result in the depletion of funds and returns.

In conclusion, it can be asserted that the legislative reforms of Saudi Vision 2030 have significantly enhanced the competitiveness of the investment climate in the Kingdom of Saudi Arabia. The principal factors underlying these reforms include, but are not limited to, the following:

- A. Providing guarantees and incentives for investment:** Saudi lawmakers have adopted guarantees and incentives for investment, which include protection against non-commercial hazards that investment projects may face. The Saudi government's adoption of the National Investment Strategy, Investment Principles and Policies, and Investment Law is one of the most visible examples of this trend.
- B. Attracting foreign investment:** Saudi Arabia has enacted several policies and initiatives to attract foreign direct investment, proving its openness to foreign investment. The National Investment Strategy and Investment Law outlines investment goals for various areas, including manufacturing, renewable energy, transportation and logistics, tourism, information technology, digital innovation, infrastructure, and healthcare.
- C. Increasing the contribution of the private sector:** The Kingdom of Saudi Arabia has implemented initiatives and efforts to increase the private sector's

contribution to GDP. These include funding and assisting entrepreneurs in establishing their ventures, offering financial and technical assistance to small and medium-sized businesses, financing specialized projects, and providing technical advice and feasibility studies.

D. Diversifying and liberalizing the economy: Diversification and liberalization of the Saudi Arabian economy have been key objectives under the Vision 2030 policies, leading to more stable growth. The implementation of these policies has brought about significant reforms, prompting investment in new areas beyond the oil field and opening the local economy to global markets. Measures taken to diversify and liberalize the economy include investments in renewable energy, as well as in the digital economy and information technology, logistics, and digital innovation. Increased private sector participation is also important. The Public Investment Fund (PIF) has played a crucial role in this direction.

E. Improving the business environment: The Saudi Arabian government has taken significant steps to improve the business environment in the country. Some of these measures include facilitating the issuance of licenses for the establishment of projects, implementing several specialized industrial cities, digitizing administrative transactions, and providing grants for certifying and training workers in the private sector. These initiatives, along with the adoption of mandatory governance, and labor market laws and policy reforms, have collectively made it easier to conduct business in the country.

F. Enhancing accountability, transparency, and effectiveness in governance: In its Vision 2030 strategy, the Saudi Arabian government has focused on enhancing accountability, transparency, and governance. The measures taken to achieve this include establishing a zero-tolerance policy for corruption,

expanding online services, and improving governance standards. These measures are aimed at raising accountability and transparency, critical characteristics of a well-functioning economy.

G. Developing human capital: Several human capital development programs have been established to train and qualify government and private sector employees in Saudi Arabia. These programs have contributed significantly to the growth and development of the Saudi workforce, a vital component of the country's economic success.

These legislative reforms have significantly enhanced the business and investment environment in Saudi Arabia. They have simplified and expedited business processes, and they have increased the profitability of investments, making the nation's investment climate more attractive to interested parties. Besides, these reforms have reduced the time and cost incurred in starting and operating a business, thereby facilitating the establishment and management of businesses in the country.

Furthermore, the guarantees and incentives introduced for investors by these reforms have acted to mitigate non-commercial risks, alleviate a lack of transparency, and untangle the ambiguous procedures typically associated with the investment process. Consequently, these measures have considerably reduced perceived investment risks and increased investor confidence in the Saudi Arabian investment environment.

In the end, the dissertation demonstrates that the legislative reforms consequent to Vision 2030 have had a positive impact on the investment environment in Saudi Arabia. The implementation of various legislative measures and regulatory frameworks has effectively safeguarded the interests of investors, provided incentives, promoted

transparency and accountability, and optimized the efficiency of administrative procedures and practices. These reforms have instilled a sense of confidence among investors, thereby facilitating the expansion of both local and foreign investments. As a result, the economy has experienced significant growth and diversification.

The study also sheds light on the crucial role of legislative reforms in promoting fair competition and providing equal opportunities to investors. For instance, the establishment of specialized commercial courts and the development of alternative mechanisms for settling commercial disputes have expedited the resolution of investment-related disputes, resulting in a more efficient legal system. As a result, investor confidence has increased, and a more business-friendly environment has emerged, leading to a higher influx of investments into Saudi Arabia. The effectiveness of these reforms has been widely recognized by various international organizations, including the International Monetary Fund in its periodic reports, which praised Saudi Arabia's efforts to improve the business and investment climate and create opportunities in the private sector.

In conclusion, this dissertation provides a comprehensive assessment of the Kingdom of Saudi Arabia's performance in key international indicators and reports used to evaluate the competitiveness of countries' investment climate. The study aimed to assess and analyze the progress made in the investment climate within the Kingdom, the impact of the legislative reforms, and the guarantees and incentives they contained. Specifically, the assessment focused on the period spanning from the launch of Saudi Vision 2030 in 2016 up to 2023, which constitutes half of the time frame set by Saudi Vision 2030 to achieve its objectives.

To ensure a wide range of perspectives among indicators and reports, the researcher made a meticulous effort to ensure diversity in the selection of indicators and reports used in this study. This involved carefully selecting sources which differed as much as possible in terms of the sub-indicators measured and evaluated, as well as the measurement mechanisms, tools, or methodology employed. The objective was to use Saudi Arabia's standing in various international indicators and reports to determine the extent to which the legislative reforms affected the development and enhancement of the investment climate in the Kingdom.

The researcher's analysis and assessment of the performance of the Kingdom of Saudi Arabia in the most prominent international reports and indices that measure national investment climates yielded significant results and recommendations. The following are the most important findings and recommendations:

Findings:

The findings of this dissertation indicate that the Kingdom of Saudi Arabia's performance in international reports and indicators used to evaluate the investment climate has been positively influenced by the legislative reforms implemented under the Vision 2030 framework. The enhanced performance of Saudi Arabia is evident in its marked improvement in the various international metrics used to assess investment, business, and the economic climate. A summary of the main findings is presented below:

1. In the World Bank's Doing Business Report, which evaluates the ease of conducting business, Saudi Arabia has shown significant improvement in its ranking. Between 2016 and 2020, the country's position in the general index advanced notably. In 2016, the Kingdom ranked 82nd out of 190 countries

regarding ease of doing business. By 2020, the country had made significant progress, moving up twenty places to 62nd. This improvement highlights the country's commitment to creating a business-friendly environment and streamlining laws to facilitate the ease of doing business.

2. In the Global Competitiveness Report (GCR), a significant metric used to assess and analyze the competitiveness, strengths, and weaknesses of economies, the performance of the Kingdom fluctuated in the years subsequent to 2015 due to the adverse impact of declining energy prices on the Saudi economic environment. According to the report published in 2016, the Kingdom experienced a decline of four positions in the ranking, placing it 29th. Subsequently, in 2017, it further dropped to 30th, and in 2018, it reached the 39th position. However, in 2019, Saudi Arabia's overall ranking showed improvement, moving up to the 36th position. Although the Kingdom's position in the GCR fluctuated over this period, the report suggested a gradual improvement in the country's macroeconomic situation. Additionally, the report commended the reform initiatives delineated in Saudi Vision 2030. It projected that these endeavors would facilitate the growth of the private sector's portion of the overall national economy.
3. The Kingdom has demonstrated a noteworthy improvement in the IMD World Competitiveness Ranking for the assessment period of 2018-2023, climbing from 39th in 2018 to 17th in 2023. These positive results are attributable to the Saudi Arabian government's efforts to better the business environment, cultivate a favorable investment climate, and promote the growth and empowerment of the private sector. Moreover, the IMD's World Competitiveness Yearbook praised Saudi Arabia's legislative reforms as part of the Saudi Vision 2030

agenda, highlighting reforms that aimed to bolster the country's legal system, particularly regarding business and investment, by introducing new safeguards and incentives.

4. The World Investment Report issued by the United Nations Conference on Trade and Development (UNCTAD) showed that the Kingdom's performance in FDI stock and FDI inflows surged between 2017 and 2022. This indicates that the legislative reforms of Saudi Vision 2030 invigorated the investment climate of the Kingdom, making it an attractive destination for international investors and showcasing its economic strength and competitiveness. By 2022, the FDI stock in the Kingdom had risen to \$268.9 billion from \$227.7 billion in 2017. Similarly, FDI inflows surged from \$1.4 billion in 2017 to \$7.9 billion in 2022. The report also noted that in 2022 the economy of the Kingdom outperformed other countries in the MENA region as the primary recipient of investment.
5. The Index of Economic Freedom (IEF) gives the Kingdom average marks for the degree of economic freedom in its business and investment climate. In particular, Saudi Arabia's IEF general ranking has fluctuated up and down over the period from 2017 to 2023. The degree of economic freedom in the country fell from 64.4 in 2017 to 58.3 in 2023, placing Saudi Arabia in 98th position among the most economically free countries. Saudi Arabia ranks eighth out of 14 countries in the MENA region, and it is worth noting that Saudi Arabia's overall score remains above the regional average.
6. The performance outcomes for the Kingdom of Saudi Arabia in the International Country Risk Guide (ICRG) are regarded as highly significant, with positive results in the realm of international indicators and reports evaluating the

investment climate. The performance of the Kingdom in the Composite Country Risk Index demonstrated notable improvement along a favorable upward trend. In the year 2018, the risk level was rated as low-risk, achieving a score of 73.3 points out of 100. In 2022, Saudi Arabia registered a remarkable improvement in its score, attaining an outstanding score level of 84 points out of 100, resulting in its ranking as a very low-risk country. This development indicates a substantial advance in its standing within the index. Based on the results of the Country Composite Risk Index, Saudi Arabia's current level of progress positions it as the seventh-ranked country globally.

This exemplary performance by Saudi Arabia is a testament to the diligent efforts undertaken by the country's government in addressing and minimizing political, financial, and economic concerns. The very low-risk rating further underscores the Kingdom's efforts to enhance political stability, economic potential, and financial well-being within its economy, resulting in a more favorable and attractive investment environment. The significant improvement and favorable trajectory observed serve as tangible evidence supporting the efficacy of the initiatives and reforms executed within the framework of Saudi Vision 2030 in eliminating potential non-commercial risks and enhancing the investment appeal of the country.

7. The Human Development Report (HDR) evaluates national performance across three principal dimensions, namely health, education, and standard of living, and the results reflect the Kingdom's commitment to enhancing human capital. The Kingdom has shown a gradual improvement in all three dimensions, indicating a sustained effort by the country to advance human development. The Kingdom's ranking in the 2021 Human Development Index is 35th, up from

38th in 2016, and it returned to 40th place in 2022. This noteworthy improvement, however, has secured the Kingdom's position in the highest human development category as defined by the Index. This achievement highlights the Kingdom's remarkable progress in nourishing human development and aligning with global standards.

The findings of this dissertation indicate a significant improvement and favorable upward trajectory in the performance of the Kingdom of Saudi Arabia in various international indicators and reports. The Kingdom's efforts to enhance its investment climate and stimulate economic growth are yielding positive results, which will in turn reinforce its global standing and competitiveness. The rise in rankings on these indicators and reports is an indication of the Kingdom's steady progress towards achieving its Vision 2030 objectives and enhancing its position as a burgeoning and prosperous global economy. This progress affirms Saudi Arabia's decision to augment economic expansion and strengthen its attraction for investment. Furthermore, these findings confirm the efficacy of the legislative reforms and measures the country has implemented under Vision 2030. By significantly improving the investment climate and making the country an attractive option for both domestic and foreign investors, these legislative reforms have achieved significant positive gains over the first half of the period set to fulfill the goals of Saudi Vision 2030.

In conclusion, the findings of these international reports and indicators validate the positive correlation between the significant enhancement of Saudi Arabia's investment climate and the implementation of Vision 2030 reforms. It is evident that an observed improvement in performance and expedited pace of progress emerged after the initiation of these legislative reforms in 2016. In addition, the adoption of the Kingdom of Saudi Arabia's National Investment Strategy (NIS) has put in place a range

of policies and measures that have effectively contributed to and fostered a conducive environment for investment.

Recommendations

This dissertation presents crucial recommendations for policymakers and investors in Saudi Arabia who wish to preserve the country's advantages and promote a sustainable and favorable investment climate. The recommendations underscore the significance of directing efforts towards sustainable economic development and the Kingdom's openness to investment while ensuring that the country's national interests are protected. The recommendations further emphasize the need to strike a balance between the interests of investors and the higher interests of the state and local community. To achieve these objectives, the following recommendations are proposed:

- A. For policymakers:** This dissertation recommends that policymakers in Saudi Arabia leverage the insights and findings presented in this study, in conjunction with the results of international reports and indicators, to evaluate the investment climate. This approach would confer a multitude of benefits, including continual improvements in investment strategies and policies, their alignment with global standards and regulations, and the diligent monitoring of report outcomes and indicators. Collectively, these efforts would contribute to the sustained development of the investment environment within the country. Therefore, policymakers are urged to actively consider these factors while crafting and implementing investment policies to promote the growth and prosperity of the country.
- B. For investors:** The study recommends that investors employ the outcomes and information presented to identify promising sectors, make informed investment decisions, and adjust their strategies accordingly. By aligning their efforts with

the investment climate, investors can capitalize on the opportunities presented and effectively benefit from the investment landscape in Saudi Arabia. This will facilitate a comprehensive understanding of the investment landscape, enabling investors to make the informed decisions that will optimize their investment opportunities.

C. For national legislators: The study recommends that Saudi Arabian legislators prioritize the protection of the paramount interests of the state when formulating or revising national investment laws and policies. The national investment legislation serves as the primary legal framework for governing and managing the investment process within a country. One of the most challenging aspects of national investment legislation is striking a delicate balance between the interests of the state and those of the investors. Therefore, investment policymakers in Saudi Arabia should devise strategies to attract and create opportunities for investors. However, policymakers must exercise caution in safeguarding the country's overall national interests to ensure that such investments do not impair the economy or local society.

The most important mechanisms for protecting the state's supreme interests in the face of foreign investments are outlined below:

1. One fundamental principle for safeguarding state sovereignty and protecting citizens' interests is to prevent foreign investments from gaining control of sensitive public sectors or sectors with significant social impact. It is imperative that foreign investors be prohibited from investing in or controlling essential and critical public sectors, or in ways that might cause social disruption. Such measures would ensure that foreign investments do not dominate entities or sectors considered the sovereign prerogative of the state. By preventing foreign

control of such sectors, countries can maintain their independence and safeguard their strategic interests.

2. Prevent foreign investors from investing in activities that national investors cover. The rationale behind this standard is to protect national investors from facing unequal competition from foreign investors. This is particularly relevant given that foreign investors often possess superior competitiveness, marketing capabilities, and extensive scientific and practical experience.
3. Prevent investment in low-return goods and services. The primary motivation for attracting foreign investment is to contribute to economic growth and the GDP. This necessitates that a high level of productivity be provided by foreign investment in the host country. Therefore, when making investment decisions, foreign investors must strike a balance between their own goals and those of the host country.
4. Ensure the preservation of environmental integrity is paramount; it requires our utmost attention and action. Therefore, it is crucial to incorporate environmental safety provisions within national investment legislation. Doing so would protect the integrity of the environment and address the environmental interests of the host country vis-à-vis the interests of investors. Industrial investment projects often involve activities or operations that can have direct or indirect repercussions on the surrounding environment. Such investments made in particular geographical areas can potentially cause adverse outcomes for people and the environment. Therefore, it is imperative to implement measures and regulations aimed at preserving the integrity of the ecosystem, which would play a pivotal role in protecting the interests of both the country and the local community.

D. Related research issues: The subject of legislative reforms and their impact on the business and investment climate is an area of great interest to researchers. In this vein, the researcher wishes to draw attention to several research issues that require further exploration. These issues include:

1. The extent to which the legislative reforms outlined in Saudi Vision 2030 contribute to the diversification of the Saudi economy and improve its performance.
2. The influence of legislative reforms on the behavior of foreign investors.
3. The challenges and obstacles facing the implementation of legislative reforms in the Kingdom.

These issues are of great importance to both the business and academic communities. Further research in these areas is essential if we are to fully understand the implications of legislative reforms for the Saudi economy.

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All thanks and praise to God, the Most Gracious and the Most Merciful.