

Investor Nationality: a Growing Challenge for Policymakers

**Sustainable Trade and Investment in Asia
Time for Action**

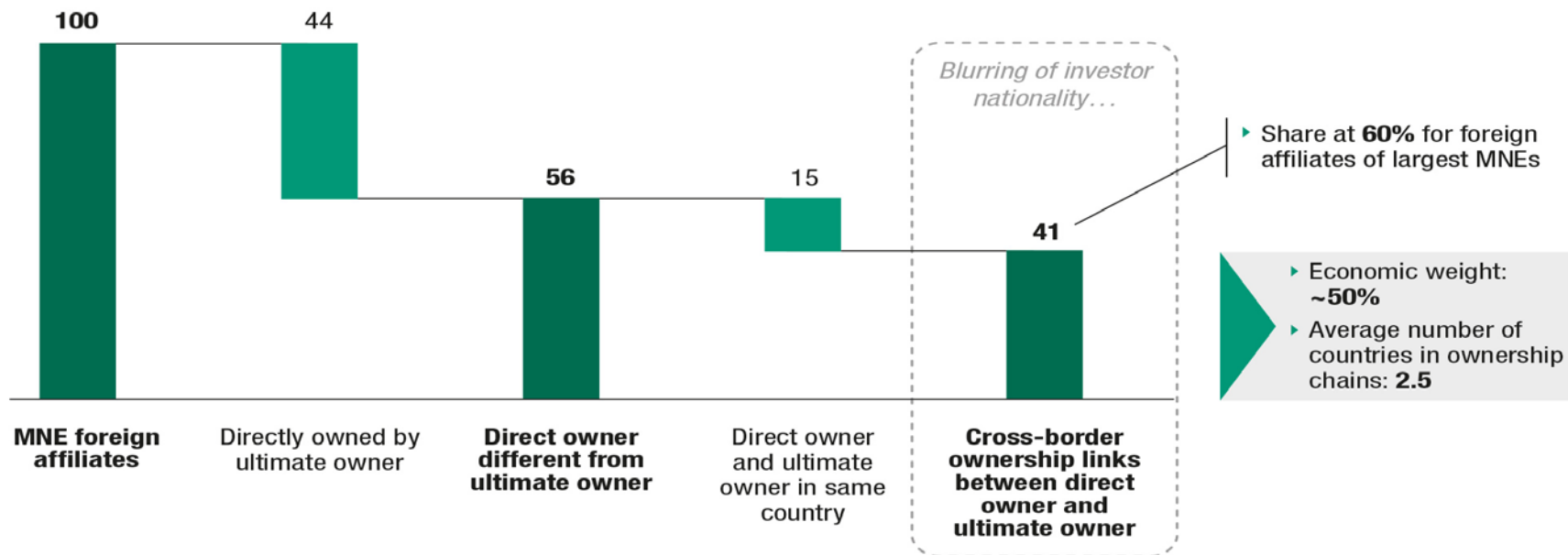
Bangkok, 20 September 2016

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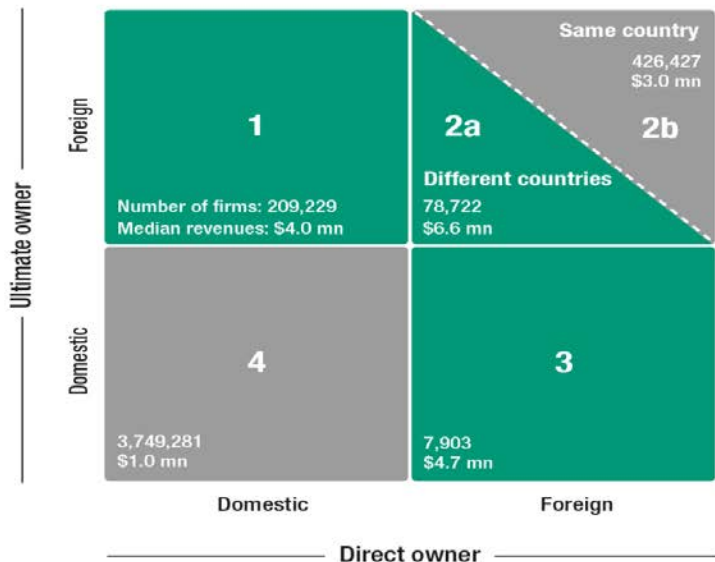
More than 40 per cent of foreign affiliates worldwide have multiple "passports"



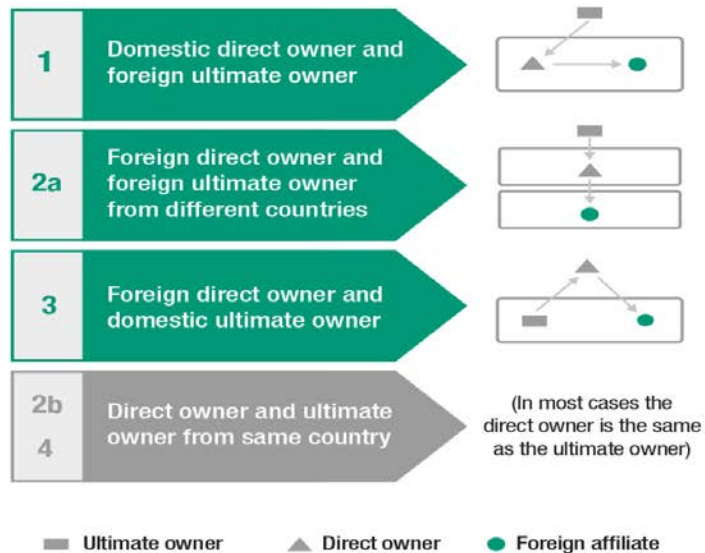
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Multiple-passport affiliates are the result of indirect foreign ownership, transit investment and round-tripping

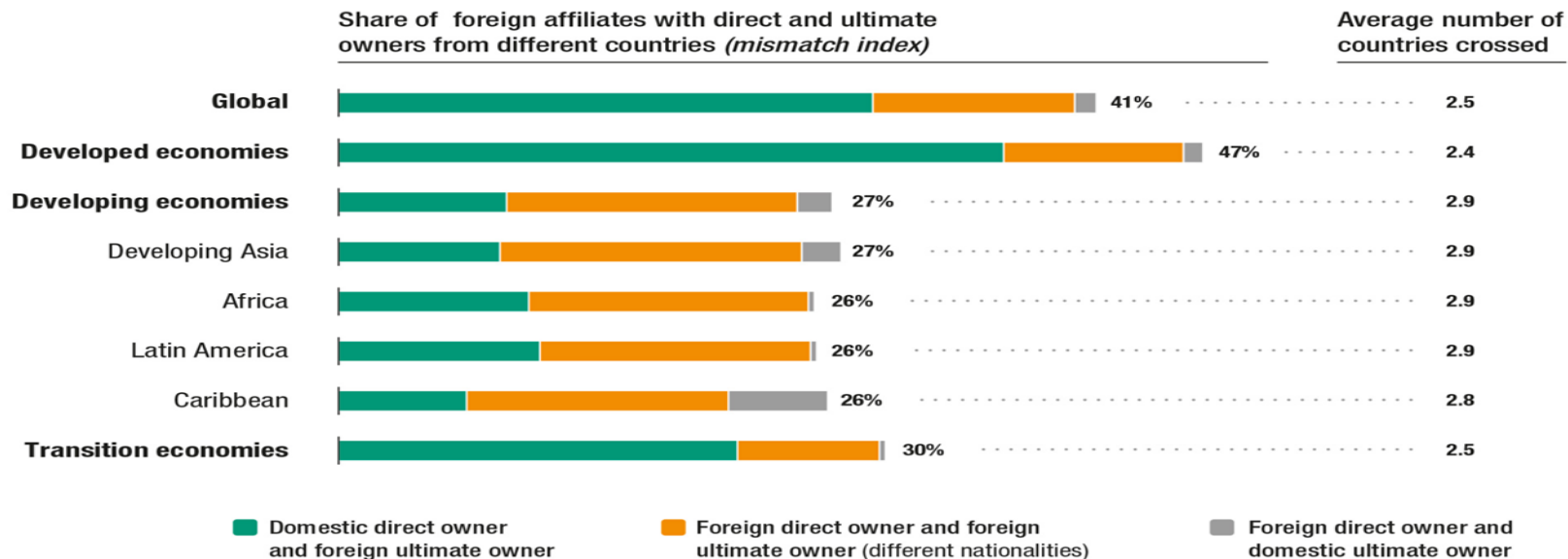
Direct vs. ultimate owner and foreign vs. domestic



Cases



Investor nationality “mismatches” involve half of foreign affiliates in developed economies, and more than a quarter in developing economies



Source: ©UNCTAD.



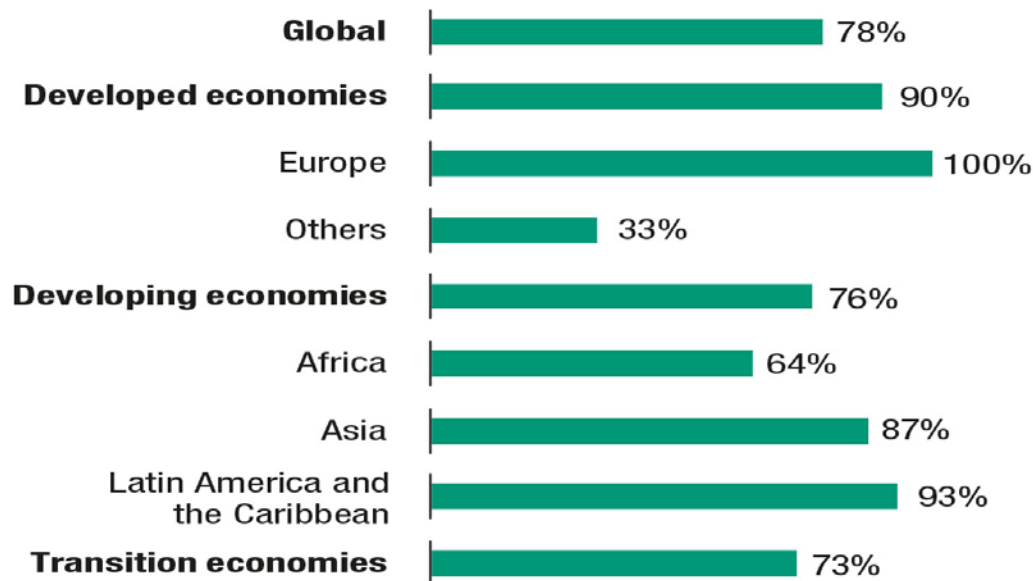
The largest MNEs have ownership networks with over 500 affiliates across more than 50 countries

The **top 100 MNEs** according to UNCTAD's Transnationality Index have on average:

- **550 affiliates** of which almost 400 foreign
- Affiliates based in more than **50 different countries**
- Up to **7 hierarchical levels** between affiliate and parent
- Almost **20** affiliates acting as **holding companies** (“hubs”)
- Almost **70 affiliates** based **in offshore financial centers**

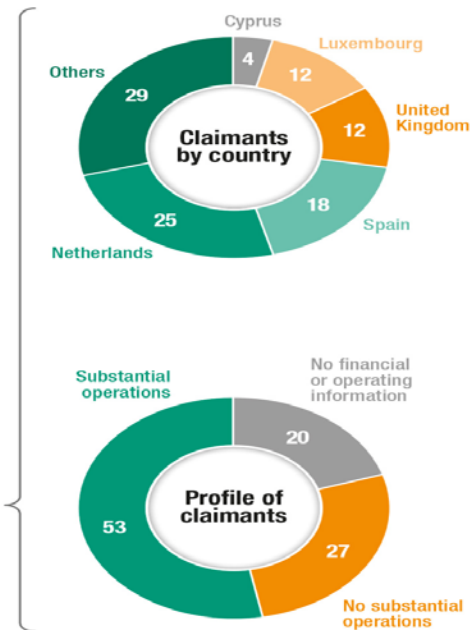
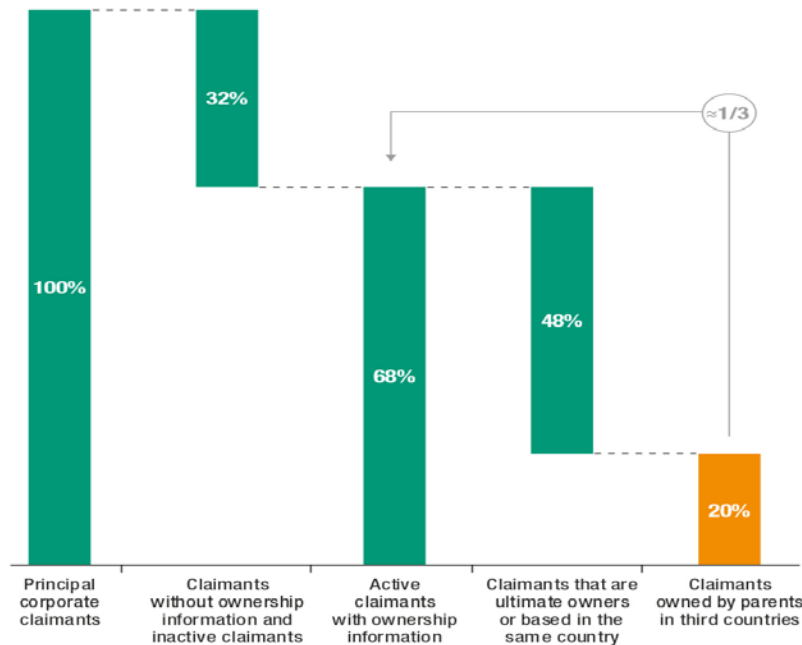


Rules on foreign ownership are ubiquitous: 80% of countries restrict majority foreign ownership in at least one industry

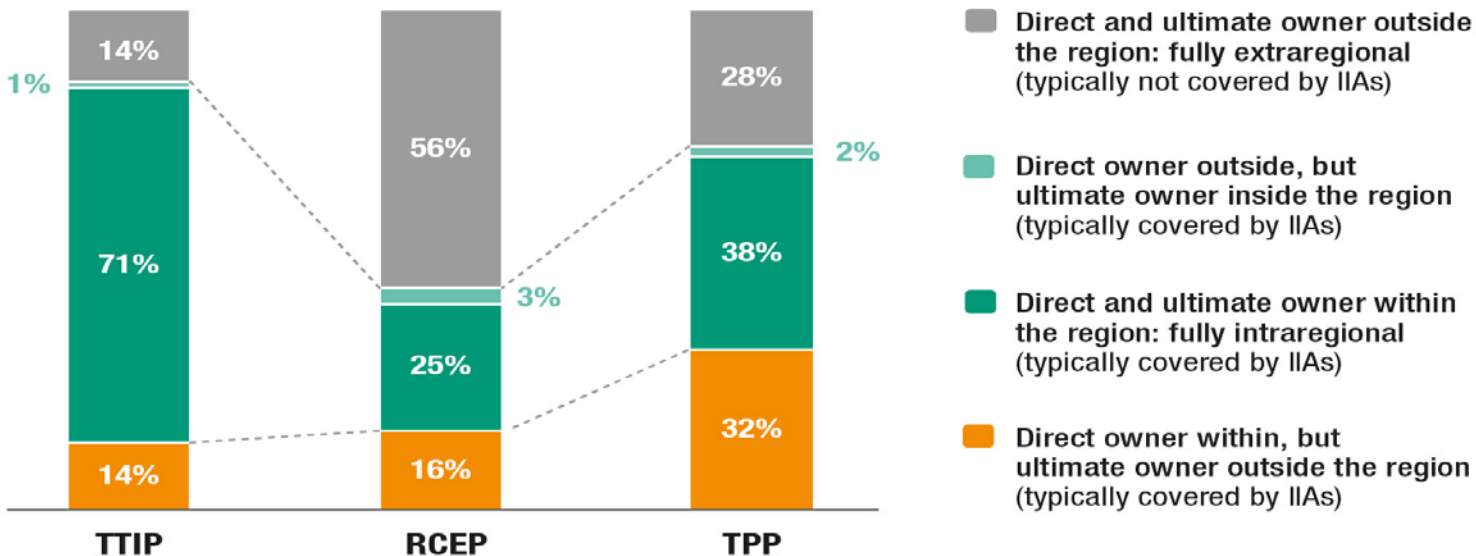


Source: ©UNCTAD.

About one third of ISDS claims are filed through intermediate entities



Up to 30% of companies benefit from (prospective) megaregional agreements through "double passports"



Source: ©UNCTAD.

WIR advocates a re-evaluation of ownership-based policy tools, as the nationality of investors is blurring

- At the national policy level, **rethinking ownership-based investment policies** means



- **Safeguarding the effectiveness of ownership rules** – including improved disclosure requirements
- **Considering alternatives** – including a "fit-for-purpose" test



- At the international level, policymakers should be aware of the **de facto multilateralizing effect** of ownership complexity:
 - Avoid uncertainty for both States and investors about the coverage of IIAs
 - Build a common understanding of “effective control”, a common set of criteria for “substantial business activity”, and a common approach to identifying the origin of investors

Source: ©UNCTAD.



THANK YOU

The Investment Policy Hub:
<http://investmentpolicyhub.org>

UNCTAD websites:

www.unctad.org/diae

www.unctad.org/wir

www.unctad.org/fdistatistics



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