



PROTECTION OF FOREIGN INVESTORS IN THE LAW OF IRAN AND SAUDI ARABIA: LEGAL GUARANTEES AND DISPUTE RESOLUTION MECHANISMS

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Article Info

Article type:

Research Article

Article history:

Received

17 December 2024

Revised

17 December 2024

Accepted

13 February 2025

Published online

17 December 2025



https://ijicl.com.ac.ir/article_4019.html

Keywords:

International
Investment Law,
Foreign Investment
Law, Legal Guarantees,
Dispute Resolution
Mechanisms.

ABSTRACT

This article conducts a comparative analysis of the legal frameworks for the protection of foreign investors in Iran and Saudi Arabia, focusing on legal guarantees and dispute resolution mechanisms. Given the crucial role of foreign investment in economic development, this research examines the transparency and sustainability of legal protections in each country and assesses the attraction of these frameworks for investors. Saudi Arabia has recently undertaken extensive legal reforms in alignment with its Vision 2030 to attract foreign investment, whereas Iran faces challenges due to economic sanctions and a lack of legal updates. Both countries provide varying degrees of legal guarantees against expropriation and dispute resolution mechanisms, including the possibility of arbitration. The new Investment Law in Saudi Arabia, set to take effect in 2024, aligns with international standards, reflecting a progressive approach to fostering a favorable investment environment. In contrast, Iran's Foreign Investment Promotion and Protection Act (FIPPA), while offering fundamental protections, lacks comprehensive reforms comparable to those in Saudi Arabia. This study contributes to filling the gap in comparative research in this field and offers insights for improving investment policies in Iran.

Cite this article: Pakdel Moghaddam, M.J., (2025). Protection of Foreign Investors in the Law of Iran and Saudi Arabia: Legal Guarantees and Dispute Resolution Mechanisms, *Iranian Journal of International and Comparative Law*, 3(2), pp.172-192.



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10.22091/ijicl.2025.11733.1105

Publisher: University of Qom

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Introduction

Foreign investment is considered one of the essential pillars of economic development in any country, playing a critical role in attracting financial resources, enhancing technology, and improving economic infrastructure. To attract foreign investors, a transparent, reliable, and sustainable legal framework is of paramount importance. Investors typically seek countries that not only offer economic opportunities but also provide adequate legal protections, allowing them to operate with confidence in the preservation of their rights and assets. Legal protections against unlawful expropriation, the existence of effective mechanisms for dispute resolution, and the assurance of fair and non-discriminatory treatment are among the most significant factors that transform a country into an attractive destination for foreign investment.

In the Middle East, Iran and Saudi Arabia hold substantial strategic importance for foreign investors due to their geographic location and rich resources. However, there are significant differences in the approaches of these two countries regarding the protection of foreign investors and the legal frameworks associated with dispute resolution. In recent years, Iran has faced numerous challenges in attracting foreign investments due to economic and political sanctions. Conversely, Saudi Arabia has initiated extensive policies aimed at attracting foreign capital and reforming its laws, particularly since the announcement of its Vision 2030. This dichotomy in legal and economic policies provides a suitable background for conducting a comparative analysis of the legal frameworks of these two countries.

When discussing the attraction of foreign investment, it primarily concerns private sector investments from other countries. While governments also engage in investment activities, the framework of international investment law has developed primarily to support non-governmental investors. When the private sector invests in the territory of another state, it naturally seeks the strongest guarantees to protect its security, assets, and profits.

The international investment environment has evolved towards securing robust guarantees from host governments due to experiences following World War II and the decolonization processes in developing countries. These guarantees can be analyzed across several dimensions.

One of the key dimensions of attracting foreign investment is the mechanisms for



dispute resolution. Foreign investors generally seek assurance of the existence of reliable legal mechanisms to resolve potential disputes with the host government. These mechanisms may include international arbitration, domestic courts, or commercial arbitration centers specifically established for investment dispute resolution. Saudi Arabia has endeavored to create a conducive environment for dispute resolution with the establishment of the Saudi Center for Commercial Arbitration (SCCA). On the other hand, Iran also has domestic arbitration centers; however, due to the impact of sanctions and legal restrictions, the confidence of foreign investors in these systems may be lower than that in Saudi Arabia.

Another significant issue in foreign investment law is the legal guarantees against expropriation and deprivation of property rights. The laws of each country must be structured to provide the highest level of assurance to investors regarding the non-expropriation of assets, ensuring that foreign investors are entitled to fair and equitable compensation in the event of expropriation or nationalization of their assets. This issue is regulated differently in Iran and Saudi Arabia. Saudi Arabia has structured its laws to minimize the likelihood of expropriation without compensation, aiming to attract more foreign investment. In contrast, Iran faces greater challenges in this regard due to its specific political and economic conditions, and its laws do not always fully align with international standards.

The legal developments in both countries over the past two decades reflect efforts to reform and enhance the legal frameworks for foreign investment. In Saudi Arabia, extensive reforms have been implemented under the Vision 2030 project, aimed at diversifying the economy and reducing dependence on oil. These reforms include legal changes regarding foreign ownership, the establishment of free and special economic zones, and the provision of tax incentives for foreign investors. On the other hand, Iran has also sought to improve its laws to attract foreign investment in the face of international pressures and sanctions, although these efforts have encountered significant limitations.

Despite these developments, legal and practical gaps between Iran and Saudi Arabia persist. This article aims to conduct a comparative analysis of the similarities and differences in the laws of these two countries concerning the protection of foreign investors and dispute resolution mechanisms. The objective of this research is to provide a comprehensive legal perspective on the legal frameworks that Iran and Saudi Arabia have established to attract foreign investors and ensure their legal security.

The significance of this article is further underscored by the examination of the new investment law in Saudi Arabia, which has undergone substantial revisions in various aspects of interest to foreign investors following the Foreign Investment Law enacted in 2000. The law approved by the Council of Ministers in 2024 introduces significant developments, particularly in the realm of legal guarantees for investment security and new solutions for dispute resolution. Notably, Iran also enacted the Foreign Investment Promotion and Protection Act (FIPPA) around the same time as Saudi Arabia in the early 2000s; however, since then, there have been no comprehensive regulatory reforms in terms of facilitating foreign investment. Iran's economic structure is in dire need of foreign financial resources and advanced technology. There is a pressing need to create an environment conducive



to attracting foreign investment and removing existing barriers. Iran's necessity to attract foreign investment stems from a lack of financial resources and a critical need for advanced technology, and increasing the share of foreign investments indicates an improvement in Iran's economic credibility and, consequently, an enhancement of its status in the global economy.¹

To present itself as a safe and predictable destination in this domain, Iran needs to revisit its laws and regulations governing foreign investment. The legal and regulatory actions taken in Saudi Arabia in this area and the examination of the foreign investment environment in that country can serve as a valuable guide for potential legal and regulatory changes in Iran.

The innovation of this article lies in its focus on the legal aspects and recent legal developments in both countries, in contrast to many previous studies that primarily analyzed economic and political dimensions. Moreover, the comparative analysis of dispute resolution mechanisms and legal guarantees against expropriation is a topic that has been underexamined comprehensively. Therefore, this article can contribute to filling the research gap in this area and provide new insights for policy-makers and researchers in international investment law.

In conclusion, this research seeks to answer the question of which of the two countries, Iran or Saudi Arabia, provides a more favorable legal framework for the protection of foreign investors and the resolution of investment-related disputes, and what reforms could enhance these frameworks. Given the current conditions in the Middle East and the increasing importance of foreign investment in economic development, this study can serve as a valuable guide for future policymaking in both countries. Following this introduction, we will compare the legal investment environments in the two countries.

1. Bilateral Investment Treaties (BITs) and International Investment Law

Bilateral Investment Treaties (BITs) are fundamental instruments in international investment law, established to protect foreign investments between two countries. These treaties typically encompass commitments to ensure fair and equitable treatment, protection against unlawful expropriation, and the possibility of resolving disputes through international arbitration.² From a legal perspective, BITs create binding obligations for states, which include improving the legal conditions for attracting foreign investments and providing legal guarantees for foreign investors.³ The significance of BITs in developing economic relations between countries and attracting foreign investments is widely acknowledged. These treaties serve as effective tools for mitigating political and legal risks associated with investments, assuring investors that impartial international arbitration mechanisms will be available in the event of disputes.⁴ Additionally, BITs can contribute to establishing legal and economic stability in the host country, thereby accelerating economic development.⁵

1 Tadbir Economics Research Institute, *Foreign Investment: Opportunities and Challenges* (2004) 77.

2 M Herdgen, *Principles of International Economic Law* (Ganj Danesh Publications 2021).

3 R Dolzer and C Schreuer, *Principles of International Investment Law* (2nd edn, Oxford University Press 2012).

4 K J Vandeveld, *Bilateral Investment Treaties: History, Policy, and Interpretation* (Oxford University Press 2010).

5 M Sornarajah, *The International Law on Foreign Investment* (4th edn, Cambridge University Press 2017).



According to reports by UNCTAD,¹ Iran has signed 75 bilateral investment treaties despite economic sanctions, of which 59 are currently enforceable.² Conversely, Saudi Arabia has signed a lesser number of treaties, with 25 bilateral investment agreements, of which 21 are in force.³ Furthermore, both countries are members of multilateral investment treaties, which also include provisions for dispute resolution.

2. Legal Guarantees

Legal guarantees play a crucial role in creating legal security and economic assurance for both domestic and foreign investors in the investment environment. These legal assurances ensure that investors' assets are protected through clear and supportive legal frameworks, safeguarding them from risks such as unjust expropriation, sudden changes in laws, or legal discrimination.

One of the most significant legal guarantees in international investment law is protection against unlawful expropriation. According to international standards, such as the International Court of Justice's landmark ruling in the case of the *Chorzów Factory* (1928), expropriation should occur only under public law and with full compensation.⁴ This principle assures investors that in the event of expropriation, their assets are protected, and they will receive fair compensation if necessary.

Moreover, the right to freely transfer profits and capital is another key principle recognized in many BITs and domestic laws, such as the Saudi Investment Law (2024). This legal guarantee is vital for investors as it allows them to transfer their investment profits and proceeds abroad without undue restrictions.⁵

Another important element of legal guarantees is the resolution of disputes through international arbitration or alternative dispute resolution (ADR) methods. These mechanisms enable investors to utilize a neutral and efficient process for resolving disputes with states or other parties in the event of a conflict.⁶ These methods ensure that investors are not confined to domestic legal systems and can benefit from international protections.

Overall, legal guarantees in international investment law not only enhance investment security but also foster transparency, predictability, and legal stability in investment environments. These guarantees are essential for attracting long-term investments and assist countries in drawing more investors in a competitive global market.

3. Dispute Resolution Mechanisms in Foreign Investment

Dispute resolution in international investments plays a crucial role in establishing a sense of security for foreign investors. When mechanisms for resolving disputes, such as international

1 United Nations Conference on Trade and Development

2 UNCTAD, 'Iran: International Investment Agreements' <https://investmentpolicy.unctad.org/international-investment-agreements/countries/98/iran-islamic-republic-of> accessed 1 December 2024.

3 UNCTAD, 'Saudi Arabia: International Investment Agreements' <https://investmentpolicy.unctad.org/international-investment-agreements/countries/185/saudi-arabia> accessed 1 December 2024.

4 Dolzer & Schreuer, 2012

5 Vandeveld, 2010

6 Sornarajah, 2017



arbitration, are in place, investors are assured of their ability to obtain their rights impartially and swiftly in the event of a disagreement. Such mechanisms, including arbitration systems like ICSID,¹ mitigate political and legal risks, thus enhancing the willingness to invest in various countries. According to UNCTAD, 93% of bilateral and multilateral investment treaties include provisions for resolving disputes between the host state and foreign investors, highlighting the significance of this clause in the context of investment.²

It can be argued that treaties serve as the primary source of international investment law. In the case of *Mondev v. United States* in 2002, the arbitration tribunal stated that the numerous existing bilateral investment treaties reflect customary international law in protecting foreign investors.³

The principle of peaceful dispute resolution occupies a central position within the United Nations system. This principle is articulated in various conventions and is recognized as a customary legal principle. The Permanent Court of International Justice defined “dispute” in the *Maastricht* case in 1924 as “a disagreement on a legal or factual matter, a conflict of legal views or interests between two parties.”⁴ This principle encompasses the scope of international disputes. Traditionally, international disputes are resolved through diplomatic-political means as well as judicial-legal methods. While diplomatic-political avenues are not the focus of this discussion, Saudi Arabia’s new investment law acknowledges these methods alongside arbitration.

Legal methods are divided into adjudication and arbitration. However, the judicial process, which adheres to the mandatory procedural rules of the host country, is often less favored by foreign investors, although recourse to this avenue remains open. Arbitration, on the other hand, is preferred by foreign investors due to its flexible and relatively impartial nature. Arbitration can be categorized into state-to-state arbitration and mixed arbitration. State-to-state arbitration is primarily conducted through panels established by the World Trade Organization (WTO) and its appellate body.

Mixed arbitration in international investment law refers to arbitration where one party is a state (or state entities) and the other is a private foreign individual or company. These types of arbitrations typically occur within the framework of BITs or international trade and economic agreements, aimed at resolving disputes arising from foreign investments. The jurisdictional basis (pertaining to the state’s consent to arbitration and procedural norms) and substantive standards are derived from the agreement between the host state and the investor’s home state, thus rooted in public international law.⁵

Numerous studies indicate that international arbitration plays a significant role in resolving investment disputes, and many host countries, including Iran and Saudi Arabia, have sought to address this need through international arbitration or by establishing national arbitration centers based on international standards.

1 International Centre for Settlement of Investment Disputes

2 UNCTAD, ‘Yellow series: Investor-state disputes prevention and alternatives to arbitration’ <https://investmentpolicy.unctad.org/publications/38/> accessed 1 December 2024.

3 *Mondev International Ltd. v United States of America* 42 ILM 85, 6 ICSID Reports 192 (2002) para 102.

4 *Mavrommatis Palestine Concessions Case* (1924) PCIJ Ser A No 2, 11; also see *ICJ, Case Concerning Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie* (1998).

5 C Brown and E Douglas, *International Arbitration and the Settlement of Investment Disputes* (Oxford University Press 2013).



Research has also been conducted on BITs and their impact on resolving foreign investors' disputes. Iran has specifically sought to create effective dispute resolution mechanisms by signing BITs with several countries. These studies highlight the role of international arbitration and the challenges in enforcing international arbitration awards in Iran. Furthermore, following the enactment of the FIPPA, Iran joined the New York Convention, while Saudi Arabia, in addition to joining the New York Convention and establishing the SCCA, has also become a member of the ICSID Convention, striving to create a framework for resolving commercial and investment disputes.

4. Legal Background of Foreign Investment Protection in Iran and Saudi Arabia

The legal framework for foreign investment in Iran was established with the enactment of the Foreign Investment Attraction and Protection Act in 1955. For many decades, this law served as the principal guide for policy-makers and decision-makers in the country until, in line with the need for economic reforms, the Iranian Parliament proposed a new foreign investment law titled the Foreign Investment Promotion and Protection Act (FIPPA), which was ultimately ratified in 2002. This new law replaced the earlier framework, significantly enhancing the legal structure and operational environment for foreign investors in Iran.¹ Numerous studies have critically examined these laws, particularly the new FIPPA, focusing on the rights and obligations of foreign investors and assessing their legal status regarding expropriation, nationalization, and the challenges posed by sanctions. Additionally, there are other relevant laws and regulations that, directly and indirectly, impact this area, which will be discussed further.

Saudi Arabia, traditionally reliant on oil and petroleum products, has made significant efforts in recent decades to create a favorable environment for attracting foreign investment. The first foreign investment law in the country was enacted in 1956 and updated in 1963. Subsequently, the enactment of the 1979 Foreign Investment Law marked a more comprehensive approach, gradually moving away from a joint investment system.² The 2000 Foreign Investment Law (FIL) represented a significant step forward, although it still imposed limitations and challenges on foreign investors.³ Among these challenges were the licensing process governed by the Saudi Ministry of Investment and the existence of a "negative list" that restricted foreign investors from operating in certain industries.

With the onset of the 21st century, particularly following the ascension of Mohammed bin Salman as Crown Prince in 2017, Saudi Arabia initiated extensive reforms in its economic and social laws. These reforms are part of the broader Vision 2030 program, aimed at reducing dependence on oil and diversifying the economy. Notable social changes during this period included the relaxation of Sharia law restrictions, granting women the right to drive,

1 Invest in Iran, 'About the Foreign Investment Law' (n.d.) <https://investiniran.ir/fa-ir/FI-Service/about-the-foreign-investment-law> accessed 1 December 2024.

2 S Beighton and B Adkins, *Foreign Direct Investment Regimes* (ICLG 2023).

3 UNCTAD, 'Saudi Arabia: Foreign Investment Law' <https://investmentpolicy.unctad.org/investment-laws/laws/74/saudi-arabia-foreign-investment-law> accessed 1 December 2024.



reopening cinemas, and hosting concerts and cultural events. Judicial efforts have also been made to modernize the system and mitigate stringent religious rulings.

To achieve the goals of Vision 2030 and create a more competitive environment for attracting foreign investment, Saudi Arabia approved a new investment law on August 11, 2024, which is set to take effect in January 2025. This law will replace the previous 2000 legislation and specifically focuses on enhancing and promoting the investment environment. Although the executive regulations for this law had not been published at the time of writing, it is evident that these changes aim to clarify conditions for both domestic and foreign investors in alignment with the objectives of Vision 2030.¹

Comparative studies analyzing the protection of foreign investors in Iran and Saudi Arabia are quite limited. Most existing research has focused on the legal analysis of each country separately, with less attention given to a detailed comparative analysis between the two. In this paper, we will analyze the investment environments of both countries, emphasizing dispute resolution mechanisms and examining the legal guarantees provided to foreign investors.

4.1. Introduction to Foreign Investment Protection in Iran

In Iran, the protection of foreign investors is formally enacted through the FIPPA, which was passed in 2002.² This law serves as the primary legal instrument for attracting and safeguarding foreign investors, replacing the earlier Foreign Investment Attraction and Protection Law (1955), which imposed greater restrictions on foreign investment. This section examines the key provisions of FIPPA and other related laws concerning the protection of foreign investors in Iran, including mechanisms for dispute resolution, legal guarantees against expropriation, and other legal protections.

4.1.1. FIPPA

4.1.1.1. Definition of Foreign Investment: According to Article 1, foreign investment encompasses cash, equipment, technology, and intellectual property rights that are brought into the country for production, industrial, and service activities. This law does not explicitly cover indirect foreign investment.

4.1.1.2. Guarantee Against Expropriation: Under Article 9, the assets of foreign investors shall not be subject to expropriation or nationalization except under exceptional circumstances and for public interest. In such cases, compensation must be fair and based on international standards, such as *full compensation standard*.³

4.1.1.3. Transfer of Profits and Capital: Article 13 permits the transfer of profits and capital abroad without discriminatory restrictions. This provision aligns with international standards such as BITs and the OECD Convention.^{4, 5}

4.1.1.4. Dispute Resolution Mechanisms in FIPPA

1 MISA, *Executive Summary of Updated Investment Law* (2024) <https://misa.gov.sa/app/uploads/2024/08/Executive-Summary-of-Updated-Investment-Law-En.pdf> accessed 1 December 2024.

2 Expediency Discernment Council of the State, *General Policies of the State Regarding Article 44 of the Constitution* (2005) <https://maslahat.ir/fa/news/5170/> accessed 1 December 2024.

3 UNCTAD, *Expropriation: UNCTAD Series on Issues in International Investment Agreements II* (2012) United Nations.

4 Convention on the Organisation for Economic Co-operation and Development

5 OECD, *Code of Liberalisation of Capital Movements* (2019).

4.1.1.4.1. International Arbitration: According to Article 19, if arbitration is stipulated in the investment contract, disputes may be resolved through international arbitration.

4.1.1.4.2. Domestic Arbitration Centers: Institutions such as the Iranian Chamber of Commerce play an active role in resolving investment disputes and have garnered a degree of trust from foreign investors.

4.1.2. Other Relevant Laws

4.1.2.1. Law on the Implementation of General Policies of Article 44 of the Constitution: This law facilitates foreign investment in large economic projects and state-owned enterprises.¹

4.1.2.2. Free Zones and Special Economic Zones Law: Free zones offer tax exemptions, reduced tariffs, and simplified financial and customs regulations, creating an attractive environment for foreign investors.²

4.1.3. Challenges and Issues in Protecting Foreign Investors in Iran

Despite FIPPA and other relevant laws aiming to create a favorable environment for investors, several significant challenges may hinder foreign investment attraction:

- **Non-Membership in the ICSID Convention:** Iran has joined the New York Convention (1958) but has not accepted membership in the ICSID Convention. This omission is viewed as a deficiency in the legal framework for foreign investment, as ICSID plays a supplementary role in resolving investment disputes.
- **Implementation Issues:** Insufficient transparency in law enforcement, administrative corruption, lengthy legal processes, and non-compliance with international standards are principal barriers. These factors diminish foreign investors' confidence in Iran's legal system.
- **International Sanctions:** U.S. sanctions and other international restrictions have obstructed the flow of foreign investment into Iran, creating challenges such as limitations on the transfer of profits and capital for active investors.
- **Government Interference in the Economy:** Extensive state ownership and rent-seeking conduct during the privatization process have restricted competition and weakened the private sector. These factors have rendered Iran's investment climate unattractive for foreign investors.

4.2. Introduction to Foreign Investment Protection in Saudi Arabia

As previously mentioned, the most recent law in this area pertains to the year 2024. This law, often referred to as the "Updated Investment Law," aims to enhance and strengthen the competitiveness of the investment environment in Saudi Arabia, which will be examined in this section. This new law specifically addresses the reform and improvement of the investment climate, replacing the previous law to create clear and equitable conditions for

¹ Expediency Discernment Council of the State, General Policies of the State Regarding Article 44 of the Constitution (2005) <https://maslahat.ir/fa/news/5170/> accessed 1 December 2024.

² Ministry of Commerce, *Investment Law* <https://mc.gov.sa/en/Regulations/Pages/details.aspx?lawId=ea0fc797-4127-4667-962d-aec400ee9f72> accessed 1 December 2024.



both domestic and foreign investors. It is part of the broader Vision 2030 initiative, aimed at reducing dependency on oil and diversifying the economy. In this section, we will discuss the key provisions of this new law.

4.2.1. New Investment Law (2024)

4.2.1.1. Overview

This law replaces the 2000 legislation and is designed to achieve the objectives of Vision 2030. It focuses on enhancing competitiveness, transparency, and streamlining administrative processes. Both foreign and domestic investors are granted equal rights, with reduced licensing requirements and simplified business registration processes.

4.2.1.2. Legal Guarantees

- **Protection of Assets:** According to Article 4, expropriation or nationalization is only permissible through a judicial ruling and requires fair compensation.
- **Freedom of Capital Transfer:** Article 4(d) ensures that investors can freely transfer their profits and revenues without currency restrictions.
- **Intellectual Property Protection:** Article 4(f) guarantees comprehensive protection for intellectual property rights and trade secrets.
- **Administrative Facilitation:** The Ministry of Investment is mandated to provide necessary administrative information and services to investors and to simplify registration and licensing processes.

4.2.1.3. Access to Special Economic Zones (SEZ): Projects like NEOM and support from the Public Investment Fund (PIF), with assets amounting to \$925 billion, create unique opportunities for foreign investors. While SEZs have their specific regulations, investors benefit from the general advantages provided by the new law.¹

4.2.2. Dispute Resolution

4.2.2.1. International Arbitration: Saudi Arabia is a member of the New York Convention (1958) and ICSID, ensuring the enforcement of international arbitration awards.

4.2.2.2. Domestic Arbitration Laws: The 2012 Arbitration Law and the SCCA provide a neutral framework compliant with international standards for dispute resolution.

4.2.3. Challenges and Limitations

4.2.3.1. Restricted Activities: Certain strategic sectors, including oil exploration and extraction, pilgrimage services, and investments in Mecca and Medina, are prohibited for foreign investors.

4.2.3.2. Legal Stability: Frequent changes in laws and ambiguities in regulatory drafting have led to reduced predictability in the investment environment.

4.2.3.3. Judicial Concerns: Some investors express concerns regarding the independence and transparency of the Saudi judicial system.

4.2.3.4. High-Risk Sectors: Delays in issuing permits and bureaucratic complexities in sectors such as energy and infrastructure continue to pose challenges for investors.

¹ Public Investment Fund, *Annual Reports* <https://pif.gov.sa/en/our-financials/annual-reports> accessed 1 December 2024.

4.3. Conclusion

Saudi Arabia, through extensive reforms, the 2024 Investment Law, and participation in international conventions, has created an attractive legal environment for foreign investors. However, challenges such as cultural, judicial, and legal ambiguities still require further reforms.

5. General Comparison of the Investment Environment in Iran and Saudi Arabia

The investment environment in each country depends on the set of laws, policies, and protections that governments provide to attract and retain foreign investors. A comparative examination of Iran's FIPPA of 2002, and Saudi Arabia's Investment Law of 2024 reveals that both countries have taken steps to attract foreign investors, but differences in approaches and incentives are evident.

5.1. Definition and Scope of Foreign Investment

- **Iran (FIPPA):** In FIPPA, foreign investment is defined as foreign direct investment (FDI) or joint ventures. This investment can include cash, technology, machinery, equipment, and intellectual property; however, the law does not explicitly cover indirect investments or those through securities.
- **Saudi Arabia (2024 Law):** The new Saudi investment law adopts a broader approach, encompassing all forms of direct investment and intellectual property. It explicitly states that foreign investment grants investors the right to operate in all economic sectors (except those listed as negative) and guarantees equal access to the Saudi domestic market for foreign investors.

Difference: The Saudi investment law is more comprehensive than Iran's, recognizing investments across various sectors and allowing foreign investors broader access to a wider range of economic activities.

5.2. Prohibited Industries and Sectors (Negative List)

- **Iran (FIPPA):** Despite the absence of a clear negative list in FIPPA, general restrictions are imposed in certain sectors such as oil and gas, nuclear energy, and some military industries. These sectors typically remain under state control, and foreign investors face legal limitations.
- **Saudi Arabia (Article 8 of the 2024 Law):** Saudi Arabia has transparently established a negative list for foreign investors, including sectors such as oil exploration and extraction, military activities, private security, and ownership in Mecca and Medina. This approach provides greater clarity for foreign investors about which sectors are closed to foreign investment.

Difference: Unlike Iran, Saudi Arabia clearly identifies sectors that are exempt from foreign investment, offering greater transparency in this area.



5.3. Facilities and Incentives in Special Economic Zones

- **Iran (FIPPA and Free Zone Law):** In Iran, free trade-industrial zones and special economic zones provide special incentives such as tax exemptions, reduced customs tariffs, and legal facilities for foreign investors. These benefits are outlined in the Free Zones Law and FIPPA, encouraging foreign investment in these areas.
- **Saudi Arabia (2024 Law and the Public Investment Fund):** Saudi Arabia is also developing special economic zones and initiatives such as the large NEOM project and other infrastructure projects to attract foreign investors. These economic zones offer special tax conditions and legal exemptions, allowing foreign investors to operate with greater ease. Additionally, the PIF of Saudi Arabia is one of the largest financial support entities for these projects, enhancing their attractiveness.

Difference: Saudi Arabia emphasizes attracting foreign investors in special economic zones through significant financial resources and extensive infrastructure projects like NEOM, whereas Iran relies on tax incentives and specific facilities to attract investors.

5.4. Facilitation of Administrative Processes and Reduction of Bureaucracy

- **Iran (Article 6 of FIPPA):** Foreign investment in Iran requires navigating complex administrative processes, including obtaining multiple permits. Although FIPPA aims to simplify administrative processes, bureaucratic obstacles and lack of transparency in law enforcement remain significant challenges for foreign investors.
- **Saudi Arabia (Article 4, Clause G of the 2024 Law):** The Saudi investment law places significant emphasis on facilitating administrative processes. The Ministry of Investment is required to provide support services to investors, reduce administrative steps, and simplify company registration processes. This approach aligns with efforts to improve the business environment and increase transparency for foreign investors.

Difference: The Saudi investment law operates more effectively in reducing bureaucracy and facilitating processes than Iran's, allowing foreign investors to engage in activities more swiftly and at lower costs.

6. Comparative Analysis of Allowable Foreign Ownership for Investors in Iran and Saudi Arabia

The extent of permissible ownership for foreign investors is a significant factor influencing their investment decisions in different countries. The laws of Iran and Saudi Arabia regarding foreign ownership differ, which will be analyzed below.

6.1. Ownership Extent in Various Industries

- **Iran (FIPPA and Related Laws):** In Iran, the FIPPA does not impose specific restrictions on the extent of foreign ownership in companies; however, there are

limitations in certain key industries. In strategic sectors such as oil and gas, nuclear energy, and defense industries, full or significant foreign ownership is prohibited, and participation is often defined through joint venture agreements or service contracts. Additionally, in sectors like telecommunications and finance, foreign ownership is capped to retain the state's strategic control over these industries.

- **Saudi Arabia (Article 7 of the 2024 Law):** In Saudi Arabia, foreign investors are generally permitted to own 100% of their companies in many sectors, except for those industries listed on the government's negative list. This negative list includes sectors such as oil exploration and extraction, military and security activities, and certain pilgrimage-related services. In other sectors, foreign investors can have complete ownership, reflecting Saudi Arabia's more open policy towards attracting foreign investment.

Difference: Saudi Arabia's law offers greater flexibility to foreign investors by allowing full ownership in various sectors. In contrast, Iran imposes restrictions in some key industries, necessitating local participation in many cases.

6.2. Ownership in Special Economic Zones

- **Iran (Free Trade-Industrial Zones Law):** In Iran, foreign investors can have full ownership in free trade-industrial zones and special economic areas. These zones offer various benefits such as tax exemptions, reduced customs duties, and eased regulations, allowing foreign investors to operate with full ownership. However, this full ownership is only applicable within the designated special and free economic zones, and investors cannot extend these benefits outside these areas.
- **Saudi Arabia (2024 Law and Special Economic Zones):** In Saudi Arabia, SEZs allow foreign investors to have full ownership and provide attractive conditions, including tax exemptions and specific regulations for these areas. The country aims to attract foreign investors to these zones through projects like NEOM and financial support from the PIF.

Difference: Both countries permit full ownership for foreign investors in special economic zones, but Saudi Arabia offers greater appeal through extensive support and massive infrastructure projects like NEOM.

6.3. Ownership Restrictions in Strategic Industries

- **Iran (General Policies of Article 44 of the Constitution and FIPPA):** The general policies of Article 44 of the Constitution emphasize restrictions on foreign ownership in strategic industries. These limitations are particularly applicable in sectors like oil and gas, which play a critical role in the country's economy, where foreign investors cannot achieve full ownership. Ownership in these industries is primarily through service contracts and indirect investment.
- **Saudi Arabia (Article 8 of Negative List):** Similarly, in Saudi Arabia, there are



restrictions on foreign investors in certain strategic industries. According to the negative list, industries such as oil exploration and production, military and security activities, and certain public services like pilgrimage-related services are sectors in which foreign investors are not allowed to have ownership. However, Saudi Arabia has generally sought to liberalize foreign ownership in many non-strategic industries.

Difference: While both countries impose restrictions on strategic industries, Saudi Arabia provides a clear negative list, allowing investors to assess their options more accurately. In contrast, Iran fully limits foreign ownership in some cases due to legal restrictions and protective policies in key industries.

Table 1: This table illustrates the key differences in ownership policies and the legal environment between the two countries. Saudi Arabia seeks to attract more foreign investments with a transparent and open approach, while Iran continues to impose restrictions in certain key industries.

Comparison	Iran	Saudi Arabia
Main Law	Foreign Investment Promotion and Protection Act (FIPPA)	New Investment Law 2024
Regulatory Authority	Organization for Investment and Economic and Technical Assistance of Iran (OIETAI)	Ministry of Investment of Saudi Arabia (MISA)
Foreign Ownership	Full ownership permitted in free zones and special economic zones; significant restrictions in strategic industries.	Full ownership allowed in many sectors; restrictions in strategic industries such as oil and security, defined by a negative list.
Tax Exemptions	Tax exemptions in free zones and for a limited duration.	Broader and longer-term tax exemptions in special economic zones and specific projects.
Investment in Oil	Only through partnership with the National Iranian Oil Company and downstream projects.	Still limited to partnership contracts and downstream projects.

7. Comparative Analysis of Legal Guarantees for Foreign Investors in Iran and Saudi Arabia

Legal guarantees for foreign investors are among the most crucial factors in gaining their trust and confidence in the investment environment of the host country. Investment laws in Iran and Saudi Arabia aim to establish these guarantees and create a supportive framework for foreign investors. However, there are differences in the extent of support and the types of guarantees provided by the two countries.

7.1. Protection Against Expropriation and Nationalization

- **Iran (Article 9 of FIPPA):** According to Article 9 of the FIPPA, the Iranian government does not have the right to expropriate or nationalize the assets of foreign investors, except under specific conditions where public interest and national security are at risk. In such cases, fair and equitable compensation to the investor is mandatory, and this compensation must be complete and based on market value. This law aligns with international principles, including the “full compensation standard.”
- **Saudi Arabia (Article 4 of the 2024 Law):** The new investment law in Saudi Arabia also explicitly states the principle of protecting the assets of foreign investors.



According to Article 4, expropriation and nationalization of foreign investors' property are only permissible based on a final judicial ruling and with appropriate and fair compensation. This provision reassures investors that expropriation can only occur in specific cases and with adherence to legal processes, consistent with international standards.

Difference: Both countries align on the principle of preventing illegal expropriation and providing compensation. However, Saudi law places greater emphasis on a final court ruling as a prerequisite for expropriation, which provides more clarity to investors.

7.2. Freedom to Transfer Profits and Capital

- **Iran (Article 13 of FIPPA):** In Iran, Article 13 of the FIPPA allows foreign investors to transfer their profits, revenues, and capital abroad without currency restrictions, provided they have fulfilled their legal obligations. This article aligns with international principles of “freedom of capital transfer,” but its implementation faces challenges due to international sanctions and currency restrictions.
- **Saudi Arabia (Article 4, Paragraph D of the 2024 Law):** The Saudi law explicitly states in Paragraph D of Article 4 that foreign investors have the right to transfer their profits and revenues abroad without delay or restrictions. This law assures investors that currency restrictions will not affect capital transfers, allowing them to easily move their earnings.

Difference: While both countries fundamentally guarantee the freedom to transfer profits and capital, sanctions and currency conditions in Iran may create limitations that do not exist in Saudi Arabia, which has a more open currency system connected to the global economy.

7.3. Protection of Intellectual Property and Commercial Rights

- **Iran (FIPPA):** The FIPPA does not explicitly mention the protection of intellectual property; however, other Iranian laws, such as the Industrial and Commercial Property Law, contain provisions for protecting the intellectual rights of foreign investors. Nevertheless, the lack of explicit mention in the investment law may create ambiguity for foreign investors.
- **Saudi Arabia (Article 4, Paragraph F of the 2024 Law):** The new investment law in Saudi Arabia clearly guarantees the protection of intellectual property and trade secrets of foreign investors. This assurance provides confidence to investors in technology and knowledge-based industries that their intellectual property rights will be protected against infringement and misuse.

Difference: Saudi Arabia explicitly incorporates the protection of intellectual property and trade secrets into its investment law, while Iran lacks such provisions in the FIPPA and refers to other laws for this matter.



7.4. Legal Facilitation and Administrative Streamlining

- **Iran (Article 6 of FIPPA):** Article 6 of the FIPPA empowers the OIETAI to facilitate administrative processes and obtain permits for foreign investors. However, bureaucratic complexities and the need for approvals from multiple authorities remain significant challenges in Iran's administrative system.
- **Saudi Arabia (Article 4, Paragraph G of the 2024 Law):** In Saudi Arabia, the Ministry of Investment is mandated to provide support services, facilitate, and simplify administrative processes for foreign investors. This approach has reduced bureaucracy and increased transparency in registration and permitting stages, ensuring that investors can start their activities more quickly and easily.

Difference: While Iranian law attempts to provide facilities for foreign investors, bureaucratic complexities remain a major barrier to investment. In contrast, Saudi Arabia offers a more comfortable experience for investors due to its simpler bureaucratic structure and clearer processes.

Table 2: This table illustrates the major differences in legal guarantees between the two countries, with Saudi Arabia providing a more attractive environment for foreign investors through greater assurances in capital transfer, protection of intellectual property, and reduction of bureaucracy.

Subject	Iran	Saudi Arabia
Protection against expropriation and confiscation	According to Article 9 of FIPPA, expropriation is only permitted for public interest and with full compensation, based on fair market value.	Article 4 of the 2024 Law states that expropriation is only permissible with a final court ruling and fair, complete compensation.
Freedom to transfer profits and capital	According to Article 13 of FIPPA, transfer of profits and capital abroad is allowed, provided that legal obligations are met.	Article 4, Section D allows for the free and immediate transfer of profits and capital; not subject to any currency restrictions.
Protection of intellectual property and trade secrets	Lacks direct specification in FIPPA; however, separate laws such as the Industrial and Commercial Property Law provide support for intellectual property.	Article 4, Section F explicitly guarantees protection of intellectual property and trade secrets of investors.
Administrative facilitation	Article 6 of FIPPA assigns the task of facilitating processes to the Organization for Investment and Economic Assistance, but bureaucracy remains.	Article 4, Section G reduces bureaucracy and facilitates administrative processes with the support of the Ministry of Investment; simpler and more transparent procedures.

8. Comparative Analysis of Dispute Resolution Mechanisms for Foreign Investors in Iran and Saudi Arabia

Dispute resolution mechanisms between foreign investors and the host government are fundamental factors in investors' decision-making processes. Both Iran and Saudi Arabia have established various mechanisms to assure foreign investors, but there are notable differences in these mechanisms and their implementation.

8.1. Possibility of International Arbitration

- **Iran (Article 19 of FIPPA):** The FIPPA law in Iran allows foreign investors to resort to international arbitration in case of disputes, provided that arbitration is

expressly agreed upon in the investment contract. Iran is a member of the New York Convention, making international arbitration awards enforceable within its judicial system. However, Iran is not a member of the ICSID Convention, which could be considered a limitation for foreign investors.

- **Saudi Arabia (2024 Law):** Saudi Arabia also permits foreign investors to use international arbitration and is a member of both the New York and ICSID Conventions. This gives investors the assurance that in case of a dispute, they can utilize global and impartial arbitration mechanisms, and the awards issued by these arbitrations are fully enforceable within the Saudi judicial system.

Difference: Saudi Arabia's membership in the ICSID Convention, which provides a specific mechanism for resolving investment disputes, reflects a greater commitment to impartial dispute resolution. Conversely, Iran's non-membership in this convention may pose challenges for international investments.

8.2. Existence of Domestic Arbitration Centers for Dispute Resolution

- **Iran (Chamber of Commerce and FIPPA):** In Iran, foreign investors can utilize domestic arbitration centers, such as the Iran Chamber of Commerce, Industries, and Mines. These center has significant experience in resolving commercial disputes and serves as domestic arbitration option for foreign investors. However, bureaucratic complexities and insufficient transparency can hinder the effectiveness of this center.
- **Saudi Arabia (2024 Law and SCCA):** Saudi Arabia has established the SCCA, providing foreign investors with a specialized domestic entity to resolve disputes. The SCCA operates according to international standards and plays a crucial role in resolving disputes between foreign investors and the government or other business parties. This center assures investors that their disputes will be handled impartially and in compliance with international arbitration laws.

Difference: The SCCA in Saudi Arabia is an official and internationally recognized institution for dispute resolution, while domestic centers in Iran, like the Chamber of Commerce, primarily operate within national frameworks and implement fewer international standards.

8.3. Enforceability of International Arbitration Awards

- **Iran (Arbitration Enforcement Law and FIPPA):** As a signatory of the New York Convention, Iran is committed to enforcing international arbitration awards. However, practical and bureaucratic obstacles can sometimes lead to delays or complications in implementing these awards. This may cause investors to doubt the swift and complete enforcement of arbitration awards in Iran.
- **Saudi Arabia (2012 Arbitration Law and 2024 Amendments):** Saudi Arabia is also a member of the New York Convention, thus international arbitration awards are enforceable in the country. Recent amendments in Saudi arbitration law have



made the enforcement process clearer and faster, providing foreign investors with greater assurance regarding the enforcement of arbitration awards.

Difference: Recent amendments in Saudi Arabia to expedite the enforcement of awards and increase transparency have led to greater investor confidence in the enforcement of international arbitration awards in the country, whereas bureaucratic processes in Iran may affect the enforcement of such awards.

8.4. Alternative Dispute Resolution (ADR) Methods

- **Iran (FIPPA):** The FIPPA law in Iran primarily emphasizes arbitration and pays less attention to alternative dispute resolution methods such as mediation and conciliation. While parties may utilize these methods in some cases, they are not explicitly provided for in the investment law.
- **Saudi Arabia (Article 11 of 2024 Law):** The new investment law in Saudi Arabia officially recognizes alternative dispute resolution (ADR) methods, including mediation and conciliation. These methods, alongside traditional arbitration and court systems, enable investors to resolve disputes more quickly and at lower costs, particularly beneficial for smaller and less complex disputes.

Difference: By formally recognizing alternative dispute resolution methods, Saudi Arabia provides greater flexibility for foreign investors, reflecting the country's commitment to creating a secure and reliable investment environment.

Table 3: This table illustrates that Saudi Arabia provides greater assurance to foreign investors through more extensive and transparent dispute resolution mechanisms. Although Iran recognizes international arbitration, its non-membership in ICSID and bureaucratic challenges may pose difficulties in enforcing arbitration awards.

Subject	Iran	Saudi Arabia
International Arbitration	Article 19 of FIPPA allows for international arbitration if agreed upon by the parties; Iran is a member of the New York Convention but has not joined ICSID.	The 2024 Law provides for international arbitration; Saudi Arabia is a member of the New York and ICSID Conventions, facilitating the enforcement of awards.
Domestic Arbitration Centers	Domestic centers such as the Iran Chamber of Commerce exist for dispute resolution, but issues of transparency and bureaucracy may hinder effectiveness.	The Saudi Commercial Arbitration Center (SCCA) operates with international standards, allowing for the resolution of both domestic and international disputes.
Enforceability of Arbitration Awards	Due to Iran's membership in the New York Convention, enforcement of international arbitration awards is possible, but bureaucracy can cause delays.	New laws in Saudi Arabia ensure faster and more transparent enforcement of arbitration awards, providing a more reliable environment for foreign investors.
Alternative Dispute Resolution (ADR)	Emphasis is primarily on arbitration, and alternative methods such as mediation and conciliation are not formally specified.	The 2024 Law recognizes ADR methods, including mediation and conciliation, as quicker alternatives.

Conclusion

Both Iran and Saudi Arabia have witnessed legal developments and reforms in recent decades. One potential advantage that Iran has over Saudi Arabia is the relative abundance of Saudi

legislation, which can lead to confusion for foreign investors in the investment environment. Despite Saudi efforts to enhance legal transparency, this remains a concern for investors.

Saudi Arabia has created a more attractive legal environment for foreign investors by implementing large-scale economic projects such as NEOM and developing special economic zones. In contrast, Iran, despite the adoption of FIPPA and the establishment of free zones, faces greater challenges in attracting significant foreign investments due to international sanctions and internal executive issues.

Economically, both countries have traditionally been engaged in a mono-sectoral, oil-based economy, although recent efforts have been made to escape this situation. Iran is pursuing the development of free and special economic zones and aims to diversify its economy by strengthening agricultural and technological industries, enhancing non-oil exports, and increasing trade relations with Asian countries and neighbors. Conversely, Saudi Arabia, through its reform programs encapsulated in Vision 2030, seeks to reduce its dependence on oil and expand non-oil sectors such as technology, tourism, and renewable energy. The country is attracting substantial foreign investments through massive projects like NEOM and other infrastructure initiatives.

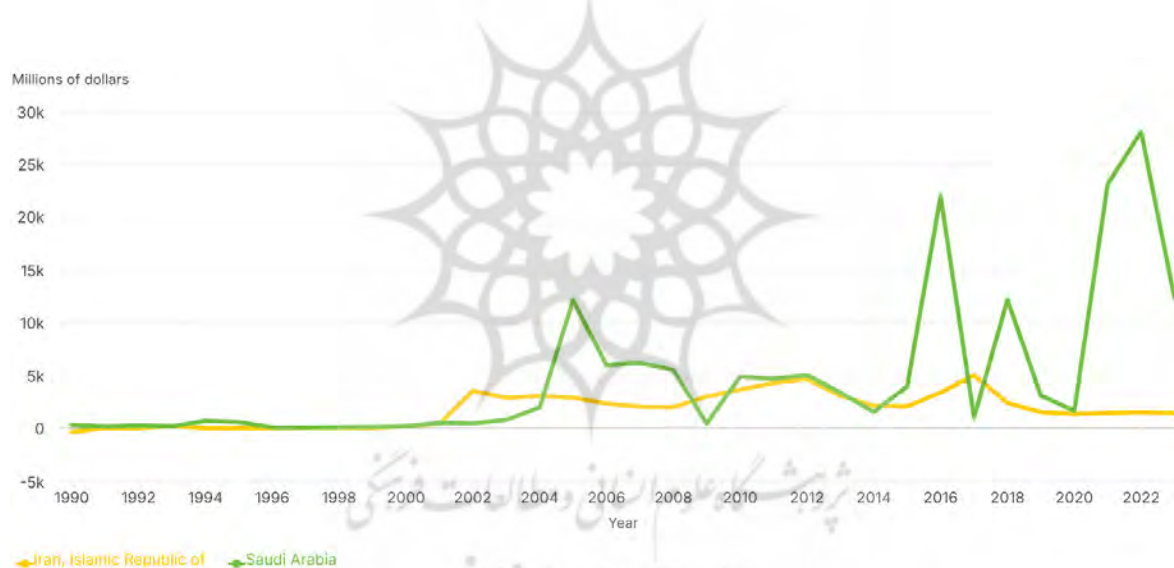


Figure 1: Investment Attraction in Iran and Saudi Arabia in Millions of US Dollars Over Time (UNCTAD)

Figure 1 indicates that the set of policies adopted by Saudi Arabia over at least the past decade has yielded more favorable results in attracting foreign investment. The correlation of these results with legal changes aimed at enhancing foreign investment and ambitious projects such as Vision 2030, which have significantly impacted the legal environment for foreign investment, suggests that appropriate legal measures and the facilitation of investment mechanisms influence foreign investors' decisions regarding their investment destinations.

Furthermore, Iran faces challenges in accessing international markets due to international sanctions and their resultant restrictions. The country has attempted to increase access to regional markets by strengthening trade cooperation with Asian countries and neighbors. However, the limitations imposed by sanctions remain a significant barrier to broad entry into global markets.



In contrast, Saudi Arabia is widely enhancing access to international markets through Vision 2030 and improved diplomatic and trade relations with Western and Asian countries. Through legal reforms and the attraction of foreign investors, the country has become an international business hub in the region and plays a crucial role in global energy supply.

A comparative analysis of the legal frameworks in Iran and Saudi Arabia shows that while both countries have endeavored to create attractive legal and economic environments for foreign investors, Saudi Arabia has provided more favorable legal conditions through broader reforms and by joining international treaties such as the ICSID Convention. On the other hand, Iran faces greater challenges in attracting foreign investors due to international sanctions and internal restrictions in certain areas. One of the most significant issues for foreign investors in Iran is the lack of access to the ICSID. Joining the ICSID Convention would enhance investors' confidence in dispute resolution mechanisms and provide them with greater international support. This step could play an important role in alleviating investors' concerns regarding legal risks.

Additionally, Iran needs to create stronger legal guarantees for foreign investors, particularly against expropriation and sudden changes in laws. Currently, Article 9 of the FIPPA provides certain guarantees, but investors require more practical assurances to ensure their rights are protected in the event of disputes. This can be strengthened through the implementation of international arbitration laws and the expedited enforcement of arbitration awards.

Crucially, transparency in laws is of utmost importance for Iran. In most cases examined and compared, Saudi Arabia has offered higher transparency to foreign investors. A review of Iran's laws and regulations to create a more transparent environment, along with increased cooperation with the international community, could significantly improve the legal conditions and attract foreign investment.

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