



Admitting third- country nationals for business purposes

Luxembourg

Focussed Study 2014

European Migration Network
Luxembourg National Contact Point

University of Luxembourg

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The European Migration Network, created by Council Decision no. 2008/381/EC of 14 May 2008, has the objective of supplying up-to-date, objective, reliable and comparable information on migration and asylum in the Community institutions, to the authorities and institutions of the Member States and to the general public with a view to support policy- and decision-making with the European Union.

PREFACE

The opinions expressed in this report are those of the author. They do not necessarily reflect the positions of the Luxembourg Ministry of Family and Integration or the Ministry of Foreign and European Affairs.

The present report were drafted by Adolfo Sommaribas and Fabienne Becker, staff members of the National Contact Point Luxembourg within the European Migration Network, under the overall responsibility of Ass.-Prof. Dr. Christel Baltes-Löhr. Continuous support was provided by the members of the national network of the National Contact Point Luxembourg: Sylvain Besch (CEFIS), Sylvie Prommenschenkel and Catherine Stronck (Directorate of Immigration, Ministry of Foreign Affairs), Germaine Thill (STATEC), and Marc Hayot (OLAI Reception and Integration Agency, Ministry of Family and Integration).



EMN FOCUSED STUDY 2014 Admitting third-country nationals for business purposes

Executive Summary (Synthesis Report)

Synthesis Report (up to three pages)

Executive Summary of Synthesis Report: this will form the basis of an EMN Inform, which will have EU and National policymakers as its main target audience.

Top-line "Factsheet" (National Contribution)

National contribution (one page only)

Overview of the National Contribution – introducing the study and drawing out key facts and figures from across all sections of the Focused Study, with a particular emphasis on elements that will be of relevance to (national) policymakers.

Luxembourg is a unique place to live and do business in Europe.¹ From the origins of the industrial development in Luxembourg, the availability of a cross-border workforce and the attraction of foreign capital and know-how have been the base of the economic success and the high standard of living in Luxembourg.² The issue of attracting foreign investors exists in Luxembourg since the 1870's, when the German steel industry has established itself.³ The oil crisis of 1973 hit the Luxembourgish economy hard, especially the steel industry.⁴ The foreign investment shifts from the industrial sector to the finance and services sector⁵, developing one modern financial centre.⁶ Even though Luxembourg has a very small internal market, it has developed its economy based on a crossborder market.⁷ Today, the Luxembourgish economy is still centred on services⁸, focussing primarily on the financial sector.⁹

The objective of the government is to guarantee the attractiveness, competitiveness and growth of the Luxembourgish economy.¹⁰ The Luxembourgish economy is very open to foreign investment.¹¹ In the corporate world, almost 75% of the creators of enterprises are foreigners.¹² In 2012, the global foreign direct investment amounted to 90.149 million Euros from which 22.480 million Euros (24,9%) came from non-EU countries.¹³

The promotion of Luxembourg as a host country for foreign investment and as an export country is one of the main objectives of the governmental programme 2013-2018 and this will be based on the concept of "Nation branding"¹⁴. A systematic approach will be established to measure, establish and manage Luxembourg's reputation.¹⁵

The government policy¹⁶ intends to focus on attracting and developing high added value activities focussed on the following sectors: industry, Eco technologies, logistics, health technologies (biomedicine and bio technologies), information and communication technologies, maritime clusters and research.¹⁷ Furthermore, it is a priority to attract corporate headquarters and start-ups in innovative technologies with highly added value.

In Luxembourg, the amended law of 29 August 2008 on free movement of persons and immigration does not provide a definition for immigrant investors or immigrant business owners. A third-country national investor can either receive a residence permit as a self-employed worker¹⁸ or a residence permit for private reasons. Which

one of both residence permits the applicant receives is dependent of whether s/he wants to actively work in the company s/he invests in or whether s/he wants to be a passive investor.

As the global economic growth is not located anymore in Europe and in the USA but in emerging economies (i.e. BRIC countries), the government is targeting investors and capital also from these countries. An interministerial working group was set up, which prepares two drafts bills to create a legal framework for attracting third-country national investors and business managers in Luxembourg.¹⁹ This working group is composed of the Ministry of Finance, the Ministry of Economy (General Directorate of Small and Medium-Sized enterprises) and the Ministry of Foreign and European Affairs (Directorate of Immigration).

Mode 4 as defined in the GATS is covered in the Luxembourgish Immigration Law from 2008, which includes a reference to highly qualified workers (Art 45), intra-corporate transferees (Art 47) and independent professionals (Art 51). Due to the changing economic environment and increased needs in qualified workforce on the national labour market, Luxembourg has gradually moved towards a less restrictive approach to Mode 4. The Luxembourgish authorities consider that Mode 4 categories are important for the country, particularly in view of highly qualified service suppliers having a specific expertise.²⁰

The major challenges that Luxembourg faces for attracting investors are the following:

- The need to establish a clear legal framework defining the different categories of residence permits;
- Allowing immediate family reunification and establishing fast track procedures for investors and other business persons;
- Developing a fiscal policy that guarantees competitiveness and balances the operating costs of establishment in the country;
- The simplification of administrative procedures;
- The shortages of a qualified workforce in certain sectors of the economy;
- Limited housing and working space;
- Access to credit for Small and Medium Sized enterprises (SMEs);
- The lack of statistical data and of studies which allow to evaluate the importance and the impact of the different categories on the economy.

An emphasis is put on developing innovative sectors and new technologies and on attracting corporate headquarters. Luxembourg has business relations with strong economies as well as with emerging economies and organises various economic missions in these countries. Furthermore, Luxembourg offers a large variety of support structures for entrepreneurs in Luxembourg. It can be seen that it is a priority for the Luxembourgish government to promote the attractiveness of the country in order to attract investors and entrepreneurs from third countries.

Section 1: National frameworks for admitting third-country nationals for business purposes

For the national policies, the questionnaire asks first for information about the national policies in relation to **immigrant investors** (Sections 1.1 – 1.2), then for **immigrant business owners** (1.3 - 1.4) and finally for **other business persons** (Sections 1.5 – 1.6)

Section 1.1: Immigrant investors: overview of national policies (Maximum 1 page)

This section asks for information on the national institutional framework and the main policy objectives in relation to **immigrant investors** from third-countries. It will provide a mapping of the national stakeholders involved in the design and implementation of the policies to attract such investors, and the incentives that apply.

EMN NCPs are asked to answer the following questions, at times guided by a non-exhaustive list of prompts.

Q1. How does the national legislation of your Member State define immigrant investors?

The amended law of 29 August 2008 on free movement of persons and immigration (Immigration Law) does not have a definition of immigrant investors. However in Luxembourg, around 75% of business creators are non-nationals²¹, mostly from the European Union.²²

This means that Luxembourg not only depends on foreign workers in the context of salaried employment, but also in terms of self-employment, entrepreneurship and for investors.²³ The government's objective is to develop a proactive corporate policy.

In Luxembourg a third-country national investor can receive a residence permit as: 1) a self-employed worker²⁴ or 2) for private reasons²⁵. The decision will depend on whether the investor would like to actively work in the company s/he invests in or if s/he desires to be a passive investor²⁶.

1) The residence permit for private reasons can be granted based on the wealth of the person, independently of whether the person is going to invest.²⁷

2) In regards to the self employed worker residence permit, the legislation defines three major categories on how to develop the activity: a) as a physical individual (artisan, trader, liberal professional, industrial, farmer, etc.); b) as a general manager with an authorisation of establishment and a participation of at least 25% in a limited liability partnership (i.e. société à responsabilité limitée); c) as a general manager who runs the day to day business of a company (i.e. société anonyme (SA), société européenne (SE)).²⁸

However, as the Private Banking Group mentioned in 2011²⁹, the immigration legislation does not reflect this openness for third-country nationals because it is complicated to enter the territory even for business travel³⁰ and working permits as well as authorisations of stay are required for family members. They suggest establishing new procedures for simplifying the authorisation of stay for residents with high added value to the Luxembourgish economy and the creation of a one-stop shop for the administrative procedure.³¹

The adaptation of the self-employed status independent of the nationality of the applicant is foreseen. The objective is to implement an adequate status for investors and entrepreneurs offering equivalent social rights to those belonging to the category of the salaried workers³² and to stay closer to the reality of business managers, giving them the option to request residence permits for the employees of the company.³³ However, this adaptation has not yet been concretised (See Q 2.a).

Q2a. Does your Member State have a specific policy, programme or scheme for immigrant investors?

No. In Luxembourg there is no specific policy, programme or scheme for immigrant investors at the moment, even if the Luxembourgish authorities have organised trade missions since the 1950's in order to attract foreign investors.³⁴ The government proposes to amend the Immigration Law with the aim to facilitate the establishment of two types of business persons: a) investor and b) business manager.³⁵ The main objective for creating an investor residence permit is to attract capital of third-country nationals to Luxembourg.³⁶ In regards to the business manager (*dirigeant d'entreprise*) residence permit the main objective was to solve certain difficulties generated when granting a self-employed worker residence permit to a manager of a business. The primary reason is that the business manager has a relevant function in the operation of the company but, in most cases, does not have anything to do with the capital of

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the company.³⁷ However, the idea of a specific “business manager” residence permit was abandoned and at the moment the idea is to integrate it in other residence permits such as self-employed worker, European Blue Card and maybe Inter-corporate transferees.³⁸

The Ministry of Foreign and European Affairs will introduce a bill on the investor residence permit and adapting the other categories of authorisation of stay of the Immigration Law, even if other ministries will be responsible of the administrative handling afterwards.³⁹ At the moment there is an interministerial working group composed by the Ministry of Economy, the Ministry of Finance and the Directorate of Immigration preparing a draft bill for this purpose.⁴⁰

Q2b. If yes, please provide more information about the specific policy, programme or scheme, including a) the name of the policy / programme / scheme: b) its main policy objectives (Neutral, pro-active); whether it targets c) specific investment types e.g. real estate, transfer of capital, national funds / bonds, business investments, endowment to public projects, mixed investments, joint ventures, etc. or d) economic sectors / geographical areas / strategic partners; and whether e) a quota / limitation system is in place to govern the number of entries or permits that can be issued to migrant investors?

a) Name of policy / programme and legal basis

N/A. As we mentioned above, at the moment there is no specific programme, policy or scheme for attracting immigrant investors. The government is in the process of producing a bill to create an investor residence permit.⁴¹

b) Main policy objectives

Since the 1870's, Luxembourg has developed a policy to attract foreign capital to invest in the country (see above). This policy has allowed to attract international financial institutions and also international corporations (See National Factsheet). The openness for the establishment of corporate investors⁴² has allowed that the major Chinese financial institutions have chosen Luxembourg as its main European headquarters state⁴³. In the last decades, the Luxemburgish economy has created living conditions, infrastructures and a legal, political, social and fiscal environment, which are attractive and interesting for foreign investors. The establishment of European corporate headquarters increases the pull factor.⁴⁴

Luxembourg has also become a major actor in attracting foreign direct investment.⁴⁵

The government programme 2013-2018 intends to focus on attracting and developing highly added value activities focussed on the following sectors: industry, Eco technologies, logistics, health technologies (biomedicine and bio technologies), information and communication technologies, maritime clusters and research. The m⁴⁶ Furthermore, it is a priority to attract corporate headquarters and start-ups in innovative technologies with highly added value. The objective of the government is to develop all these sectors in order to guarantee the attractiveness, competitiveness and growth of the Luxemburgish economy.⁴⁷ In order to do so, the government is not only targeting corporate investors but private investors as well. For this second group, the government needs an instrument, which facilitates the entry and stay of third-country national investors. At the moment the programme is not finalised, but the two main targets groups are:

- Financial investors.
- Investment in small and medium enterprises.⁴⁸

There is a working group establishing a draft bill to create the “investor” residence permit. The Ministry of Finance is leading this specific task. The Ministry of Finance as well as the Ministry of Economy have found

that the current procedure applied by the Directorate of Immigration to grant a "self-employed" residence permit (article 51 of the Immigration Law) is too complicated for investors.⁴⁹ However, the Minister of Foreign and European Affairs, as Minister in charge of immigration, is responsible for drafting and introducing the bill to Parliament.⁵⁰

c) Type of investment (e.g. real estate, transfer of capital, national funds / bonds, business investments, endowment to public projects, mixed investments, joint ventures, etc.)

At the moment the draft bill is not finished. There are some tracks/avenues of reflection such as a minimum amount of investment (not only for financial investors but for investors who want to invest in an existing company or create one), a minimum duration of investment, the type of investment (i.e. real estate, stocks, and bonds), how the investment is to be done (personally or through a legal entity⁵¹), on job creation, etc. However, at the moment there is no definitive decision on this matter.⁵² In principle the tracks of reflection have not excluded mixed investment or joint ventures.⁵³

d) Priority national economic sectors / priority national geographical areas / countries of origin targeted / strategic partners required

The government follows an active development and diversification policy by implementing a "multi-specialisation" strategy with the objective to reduce the dependency on the financial sector.⁵⁴

The main sectors are:

Industry: The objective is to preserve a strong, competitive and diversified industrial sector, not only capable to guarantee the jobs in the sector but also to create new jobs.⁵⁵

Eco technologies: The government plans to combine the environmental and energetic policies and economic diversification. The accent is placed on the Eco construction, sustainable mobility and circular economy.⁵⁶

Logistics: The objective is to position Luxembourg as an intercontinental and multimodal logistic platform in Europe.⁵⁷

Health technologies: The government's objective is to capitalise on the major investment in public research which enabled the development of a critical mass of expertise on the overarching theme of personalised medicine and furthermore to develop an appropriate infrastructure to foreign medical biotechnology corporations which are willing to establish themselves in the Grand-Duchy of Luxembourg and to adapt and complete the financial instruments to assist these types of corporations.⁵⁸

Information and Communication technologies: The objective is to promote the development of data centres and electronic content distribution in a highly securised environment and to connect this development with the ecotechnology, biotechnology, industrial, financial and logistic sectors.⁵⁹

Corporate Headquarters⁶⁰: Luxembourg is not only a financial centre but also a service centre. In the last years an increasingly number of corporate headquarters have established themselves in Luxembourg. The main reasons are:

- Tax environment and business-friendly legal and regulatory framework which supports comprehensive participation exemption rules and an extensive network of double tax avoidance treaties⁶¹;

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- Openness to and accessibility of government officials and decision-makers. According to the Bureau of Economic, Energy and Business Affairs of the United States Department of State, there is a coordination between political stakeholders on the country's future development⁶²;
 - Strategically central location within Europe with an efficient infrastructure system that ensures efficient access to major political and economic centres⁶³;
 - High standard of living⁶⁴;
 - Skilled and multilingual workforce to meet corporate needs⁶⁵. Nevertheless, the shortage of a skilled workforce in certain sectors of the economy can represent an obstacle for attracting certain types of companies to the country, especially for small and medium-sized enterprises⁶⁶;
-
- IT infrastructure and broadband connectivity to fulfil the expanding demand for data centres and IT services⁶⁷;
 - Stable political and fiscal system.⁶⁸

High added value and innovative Start-ups⁶⁹: Start-ups are of major importance because they have a high growth potential. If they can be attracted to Luxembourg to begin their European development this will be very profitable for the economy. The main reason is that even taking in account their small size, they create jobs, therefore in case a start-ups eco-system is built, synergies can be developed and highly qualified personnel can be attracted.⁷⁰ This eco-system can then generate highly dynamic effects (incubators such as Technoport⁷¹).⁷²

The government programme on the theme "Financial centre" is divided in three major topics.⁷³ The third topic on diversification of activities and geographical markets mentions that the government will continue to promote actively the establishment of banks and financial actors from China, with the objective of making Luxembourg the first off-shore Remnibi (Yuan) centre in Europe.⁷⁴ On 28 June 2014, the Central Bank of Luxembourg and the Popular Republic of China signed the Memorandum of Understanding to define a cooperation framework for the establishment of the clearinghouse for the Remnibi.⁷⁵ During the last official visit of the Finance Minister to China, the China Merchant Bank expressed its will to establish its European headquarters in Luxembourg.⁷⁶ There is also a signature of the Memorandum of Understanding between the Asset Management Association of China (AMAC) and the Luxemburgish Association of Investment Funds (ALFI) with the intention of allowing creative initiatives for the asset management sector between the two countries.⁷⁷ On 12 September 2014, China's Bank of Communications announced that it will open for business at the end of 2014.⁷⁸

Furthermore, the government wants to promote Luxembourg as an Islamic financial centre outside the Muslim countries.⁷⁹ The principle geographic targets are the Persian Gulf countries. The law of 12 July 2014⁸⁰ authorised the transfer of three properties to a Luxemburgish corporation (SPV) for the issuance of a five year Euro sovereign Sukuk ⁸¹(200 million euros)⁸², proving the diversification of the financial service industry.⁸³ Luxembourg issued successfully its Sukuk transaction on 30 September 2014, being the first Economic and Monetary Union (EMU) Sovereign to issue a Sukuk.⁸⁴

The government is also interested in attracting capital from Latin American countries such as Brazil, Chile and Mexico not only because of investment funds but also for private banking reasons.⁸⁵

e) Quotas in place

There is no intention to put quotas in place.⁸⁶

Q3a. What is/are the main actor(s) and institution(s) involved in the development of policies to attract immigrant investors? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan – governing the involvement of these authorities?

The main actors and institutions involved in the development of policies to attract immigrant investors are the Ministry of Finance, the Ministry of Economy⁸⁷, the Ministry of Foreign and European Affairs (Directorate of Immigration and Directorate of International and European Economic Affairs), Luxembourg for Business, Luxembourg for Finance, the diplomatic missions abroad, Luxembourg Trade and Investment Offices (LTIO's), the National Credit and Investment Corporation (Société Nationale de Crédit et d'Investissement - SNCI), the Luxembourg Export Credit Agency (Office du Ducreire) and the Luxembourg Chamber of Commerce.⁸⁸ Even though there are many actors, each one has a specific role to play in attracting investors and capital into the country.⁸⁹

The Ministry of Finance is in charge of attracting investors to the financial sector. One part of the tasks of the Minister of Finance is to handle these economic missions.⁹⁰ The Ministry of Economy is in charge of attracting the investors into the general economy of the country. Both ministers carry out the economic missions to attract investors, which are organised by the government in third countries.⁹¹

Luxembourg for Business⁹² was created as an economic interest group. It operates as a trade and economic promotion agency⁹³ and in a liaison with the Luxembourg's Trade and Investment Offices⁹⁴, Embassies, Foreign Trade Counsellors⁹⁵, Honorary Consulates and other international promotion networks.⁹⁶ It also promotes the attraction of Cleantech (Clean technologies)⁹⁷ companies.⁹⁸

Luxembourg for Finance is the Agency for the Development of the Financial Centre. It consists of a public-private partnership between the Luxembourgish Government and the Luxembourg Financial Industry Federation (PROFIL⁹⁹) under the Presidency of the Minister of Finance. Its objective is to promote the expertise of the financial centre and the diversification of its services abroad through different communication channels. It monitors global trends and evolution in finance to identify opportunities for the financial centre and to adapt and develop communication strategies for different target markets or groups.¹⁰⁰ Luxembourg for Finance is also in charge of attracting Fintech¹⁰¹ companies into the countries¹⁰²

The SNCI¹⁰³ is a public-law banking institution specialised in medium and long term financing of Luxembourg based companies. SNCI's financing instruments are investments in fixed assets, innovations and exports.

The Luxembourgish missions abroad implement a well structured "economic diplomacy" in order to promote the Luxembourgish economy. At the same time, the LTIO's, which are in charge of the prospecting and the promotion of foreign trade, are adapted and enlarged to serve the regions with a strong economic potential, and are working in conjunction with the diplomatic missions abroad.¹⁰⁴

The Luxembourg Export Credit Agency is a public institution which insures exporters' risks linked to international business transactions and investments abroad.¹⁰⁵

There is no special mandate for these actors with the exception of the main guidelines established by the governmental programme. A working group exists at the Ministry of Foreign and European Affairs (Department of Economic Promotion) which is composed of institutional actors from the field and which coordinates the economic missions of the ministers of Finance and Economy as well as the promotional actions carried out by Luxembourg for Finance and Luxembourg for Business.¹⁰⁶ Before any economic mission is carried out by any of the two ministers, an economic objective is always foreseen (action plan)¹⁰⁷ as well as an action programme (which coordinates the efforts of promotion at the general economy level or at the financial level).¹⁰⁸

Another particularity is the interaction between public institutions and private actors, who implement promotion objectives.¹⁰⁹

The Luxemburgish government's approach to promote the Luxemburgish economy is allocated to different sectors. Due to the synergy effects and the growing interactions between the financial sector and the other sectors the fusion of Luxembourg for Business and Luxembourg for Finance into one agency is being considered.¹¹⁰

Q3b. Which actor / institution is responsible for the promotion of the policy with the target group?

As a promotion agency, Luxembourg for Business contributes to the programme defined by the Ministry of the Economy, whereby the organisation's mission and activities mainly centre on strategic marketing.¹¹¹ It acts as a "one-stop shop" for business media concerning any inquiries relating to the Luxemburgish economy.¹¹² (See Q.3a).

As mentioned above, the role of Luxembourg for Finance is to monitor global trends and evolutions in finance in order to identify opportunities for the financial centre and to adapt and develop communication strategies for different target markets or groups.¹¹³ (See Q.3a)

Furthermore, the Ministries of Economy and Finance promote the attractiveness of the country for investing during the economic missions abroad.¹¹⁴

Q4a. Does your Member State have specific measures in place to attract immigrant investors?

Yes.

Q4b. If yes, Please complete the table below with regard to the (applicable) policy measures in place to attract immigrant investors in your Member State.

Measures	Brief description of the measure in the Member State
<p>What do these specific measures entail? (active promotion / information dissemination / campaigns / events including in third countries, etc.)</p>	<p>Promotion campaigns:</p> <p>Luxembourg for Business is in charge of developing and implementing a coherent and efficient promotion of "Made in Luxembourg" goods and services on foreign markets.</p> <p>Furthermore, the economic promotion missions put into place by the Ministry of Economy are part of the strategy. These high level missions target specific countries:</p> <p>In 2013, they were more concentrated on the European continent (Austria, Switzerland and France), Turkey and China. The economic missions to Russia and to India had to be postponed because of the elections.¹¹⁵</p> <p>In 2012, the economic promotion missions took place in: Israel, Germany, Canada, Lebanon, Russian Federation, Tatarstan and China.</p> <p>Information and dissemination campaigns:</p> <p>Every year Luxembourg for Business is present at roughly a dozen international trade fairs as well as several trade missions.</p> <p>In 2014, Luxembourg for Business participated in trade missions to Australia, Germany, Russia, Japan, South Korea and India. Also, the agency participated in a State visit to Poland.¹¹⁶ It participated in the following trade fairs: World</p>

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	<p>Hosting days, Mipim (Cannes, France), Hannover Messe (Hannover, Germany), Project Lebanon (Beirut, Lebanon), Expo Real (Munich, Germany); Sial (Paris, France); Digiwal (Louvain-La Neuve, Belgium); Medica (Düsseldorf, Germany); Logitrans (Istanbul, Turkey) and Pollutec (Lyon, France).</p> <p>The General Directorate for the Promotion of Foreign Trade and of Investment of the Ministry of Economy is the entity responsible for organising collective stands in international trade fairs and specialised salons.¹¹⁷</p>
<p>Does a list of specific procedural facilitations for admission exist? If yes, please explain what they entail (reduced costs, shortened processing time, reduced documentary requirements, minimum residence period required (per year), possibility of renewal, etc.)</p>	<p>No. At the moment there are no procedural facilitations for obtaining a residence permit. There are no reduced costs or fast track procedures.</p> <p>At the moment, the working group of the Ministry of Finance, Ministry of Economy and Ministry of Foreign and European Affairs which is preparing the draft bill to introduce the investor residence permit, has not yet discussed the issue of a fast track procedure for the investor residence permit, but there is an awareness of the importance of such a procedure.¹¹⁸</p> <p>At the moment the minimum residence period is 6 months per year.</p>
<p>Are there specific tax incentives? (benefits, exemptions, etc.)</p>	<p>There are no specific tax incentives for third-country nationals. The incentives apply to any investor independent of his/her nationality:¹¹⁹ the investor can benefit from the intellectual property participation exemption (IP Box Regime)¹²⁰, participation exemption and partial participation exemption for capital gains regime¹²¹ and the possibility to rollover losses indefinitely.</p> <p>At the moment the working group has not addressed the issue of specific advantages that can be granted to investors in order to attract them to Luxembourg.¹²²</p>
<p>Does the possibility exist for immigrant investors to be accompanied by family members? Are family members allowed to access the labour market?</p>	<p>At the moment an investor can be a holder of a self-employed worker residence permit or a residence permit for private reasons depending on whether there is an involvement in the management of a business. In this section we deal with the residence permit for private reasons (the self-employed residence permit will be dealt with in Question 12.b). The residence permit for private reasons is only granted based on the global fortune (sufficient resources) of the applicant independent of whether the person is going to invest.¹²³ There is no data on the investors detaining a residence permit. Nevertheless, if the applicant fulfils the conditions for this category of residence permit it will be granted (see question 6a).¹²⁴</p> <p>The private reasons residence permit does not entitle the person to immediate family reunification.¹²⁵ However, in certain cases (especially when the investor has a large fortune) the Directorate of Immigration grants a residence permit for private reasons to the family members and they can have access to the labour market but are subject to a labour market test during the first year of residence.¹²⁶ Another possibility is that the spouse can apply as a self-employed worker if s/he fulfils the required conditions. If the residence permit for private reasons of the principal beneficiary is temporary, the residence permit of the family members will be temporary as well.¹²⁷</p> <p>The access of family members to the labour market is subject to the waiting period of one year of residence after the family reunification.</p> <p>The working group of the ministries which prepares the investor residence permit has not yet addressed the issue of family reunification and the access</p>

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	of family members to the labour market. ¹²⁸ Concerning the access to the labour market other administrations must be involved such as the Administration for the Development of Employment. ¹²⁹
Are immigrant investors granted access to social benefits?	Yes. ¹³⁰
Are immigrant investors granted access to citizenship?	Yes. The same rules apply to any person residing in Luxembourg. The investor who obtains a residence permit for private reasons has to live continuously for at least 7 years in the country and fulfil all the criteria established by the law on the Luxembourgish nationality. ¹³¹

Q5a Does your Member State have any bilateral or other agreements in place with Third Countries to attract immigrant investors?

No. In regards to foreign investment, Luxembourg has developed business relations with strong economies abroad such as the USA¹³², Canada and Japan, but also with emerging economies (BRIC countries, Israel, Turkey¹³³) in the last decade. The Luxembourgish economy has benefited from the economic success of the BRIC countries and the re-emergence of the Chinese economy. The growth rate of international trade with the BRIC economies has increased significantly¹³⁴ and the economic promotion missions to China, India and Russia have continued over the last years.

Q5b. Does your Member State share information with other Member States? Does your Member State consult other Member States on the issuing of the documents listed in Q4.b to immigrant investors?

No.

Section 1.2: Immigrant investors national policies: pre-arrival stage (admission criteria) and stay (renewal) (Maximum 3 pages)

Section 1.2 aims at providing an overview of the admission criteria applied by Member States in order admit immigrant investors from third-countries to the national territory. The section also examines whether Member States require investors to submit an investment plan and the specific procedures in place with regard to this. Finally, this section touches upon also criteria linked to the renewal / withdrawal of their residence permit / long-stay visa.

EMN NCPs are asked to provide their answers to the questions below.

Q6a. Please indicate which of the list act as criteria to admit immigrant investors in your Member State in the table below. All listed requirements imply a Yes/No answer: in affirmative cases, EMN NCPs are asked to describe the criteria. If possible, EMN NCPs should also explain whether the same criteria apply to third-country nationals admitted to the national territory under a different immigration channel (family reunification, study, etc.) but willing to change their status into immigrant investors.

Admission criteria	Explanation	Do the same criteria apply to third-country nationals present in your Member State who have another status and are willing to change it into investor?
Minimum financial amount to invest (please indicate the financial amounts applied to each of	For the moment there is no specific residence permit for investors. They can benefit either of a residence permit for private reasons or a self-employed	No. At the moment the Immigration Law does not foresee an investor residence permit. (See Q.1 and 12.b).

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<p><i>the investment types identified above in Question 2b point c)</i></p>	<p>worker residence permit (See section 1.4., Q.14a). The fundamental difference is whether the person wants to manage the day-to-day business of his/her investment. In the affirmative case, s/he has to apply for a self-employed worker residence permit, whereas in the negative case, s/he can apply for a residence permit for private reasons. As we mentioned above, the government is planning to create a residence permit specifically for investors (See Q.2.a).</p> <p>In the case of a residence permit for private reasons, the applicant may provide evidence of the nature and regularity of his income. The applicant must provide a certification from a bank stating that his/her income is at least 23.052,36 Euros per year. This amount corresponds to 12 times the minimum monthly social salary in the country.¹³⁵ However, in practice this type of residence permit is granted to persons with a large personal fortune, and it is not analysed if the applicant is going to invest or not.¹³⁶</p>	<p>If a third-country national residing already on the territory wants to change his/her status, s/he can do so but must fulfill all the criteria.¹³⁷</p>
<p>Investment plan <i>If Yes, please complete the table in Q6b</i></p>	<p>No, an investment plan is not needed in the case of a residence permit for private reasons. The third-country national only has to prove that s/he has sufficient funds to live in the country¹³⁸ and that s/he will not be a burden for the Luxembourgish social assistance system.</p>	<p>Same criteria.</p>
<p>Expected Impact of proposed investment in the Member State <i>(economy, public life etc.)</i></p>	<p>No.</p>	<p>Same criteria.</p>
<p>Minimum Education / Professional skills</p>	<p>No, there is no minimum education or professional skills required.</p>	<p>Same criteria.</p>
<p>Language knowledge <i>(certification, pre-entry tests, mandatory courses, etc.)</i></p>	<p>No, no specific language knowledge is required.</p>	<p>Same criteria.</p>
<p>Age requirement for applicants <i>(minimum / maximum)</i></p>	<p>The applicant must be at least 18 years old.¹³⁹ There is no maximum age requirement.</p>	<p>Same criteria.</p>

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<p>Security / health / background checks in place (<i>origin of investment, fraud checks, previous bogus activities, etc.</i>)</p>	<p>The following documents and information must be attached to the application of the authorisation of stay for private reasons¹⁴⁰:</p> <ul style="list-style-type: none"> • a certified full copy of the valid passport; • a birth certificate; • a copy of the police record or an affidavit (sworn oath); • a curriculum vitae; • proof of appropriated housing in the territory (i.e. lease contract); • proof of health insurance which covers all risks that can occur on the territory; • a document certifying the civil status and the family situation of the applicant; • proof that the applicant has the necessary economic resources to live in the country¹⁴¹. <p>With this information the Directorate of Immigration will do a background check of the person.¹⁴² The Directorate will transfer the information for verification to the Grand-ducal Police. The police checks the information in the SIS and VIS systems. They also verify in the databases of Interpol and Europol if the applicant has committed any previous criminal activity. In principle the origin of the money will be verified by the bank when they proceed to make the due diligence on the client and on the origin of the funds (money laundering¹⁴³) according to the circulars and regulations established by the Commission de Surveillance du Secteur Financier (CSSF).</p> <p>In Luxembourg the third-country national has to submit himself/herself to a medical examination¹⁴⁴ before the issuance of the residence permit.¹⁴⁵ After the medical examination by a doctor, a certificate is issued stating whether the third-country national</p>	<p>Same criteria.</p>
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	fulfills the medical conditions for authorising his/her stay on the territory.	
Other: Insurance requirement	Yes. S/he must have a personal health insurance. ¹⁴⁶	Same criteria.

Q6b. In case an *investment plan* is required, EMN NCPs are asked to complete the table below. All listed requirements imply a Yes/No answer: in affirmative cases, EMN NCPs are asked to describe the requirements with additional information.

Investment plan requirements	Explanation
Information required on legal aspects of the investment.	N/A
Information required on the commercial and financial aspects (nature of the investment, origin of the capital to invest, target groups, preliminary contracts, performance indicators, etc.)	N/A
National institution responsible for the assessment/ approval	N/A
Duration of examination / due diligence phase	N/A
Documentation required (If a list exists, please report it here)	N/A
Review period	N/A

Q7. If the criteria for admission are satisfied what *initial document* is issued? Please provide any detail on:

- type of document issued (e.g. short-stay visa, authorisation to stay, long-stay visa, residence permit, etc.)
- its duration
- whether it is longer than the usual duration which applies to other categories of third-country nationals
- whether its validity differs (and how) from its renewal.

If the application is accepted by the Minister in charge of Immigration, an authorisation of stay for private reasons (sufficient resources) is issued. The third-country national must enter the country within a maximum delay of 90 days. If the applicant needs a visa to enter the Schengen area, s/he must apply for a long-term residence visa (D-visa) at the diplomatic mission which represents Luxembourg's interests in his/her country of origin. S/he must register in the municipality where s/he is residing within three days after his/her arrival.¹⁴⁷ The municipality will provide him/her with a certificate of arrival. Once s/he has this document and has passed the medical examination and received the certificate mentioned above in Q6, s/he must apply at the Directorate of Immigration for the issuance of a residence permit. After checking if the application is complete, the Directorate of Immigration will take the digital data (picture and fingerprints) and will issue a residence permit for private reasons (sufficient resources) for the duration that was granted for the authorisation of stay. The maximum duration is 3 years.¹⁴⁸ In practice, the Directorate of Immigration grants the residence permit for private reasons (sufficient resources) for one year.¹⁴⁹ The maximum duration of this authorisation of stay is the same as the one for self-employed worker.¹⁵⁰

In principle the maximum legal duration is longer than the usual duration which applies to other categories of authorisation of stay¹⁵¹ but in practice it can be the same as other categories as mentioned above.¹⁵²

Q8. Where and by which institution / organisation (internal or abroad) are the documents issued? (e.g. diplomatic mission in the third country; other responsible representative; intermediary agency, etc.)

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The authorisation of stay is issued by the Minister in charge of Immigration¹⁵³ and is notified to the applicant by the Directorate of Immigration. After obtaining the authorisation of stay the third-country national applicant must apply at the diplomatic mission in charge of representing Luxembourg's interests in the country of origin for a D Visa to enter the Schengen Area in case the visa is required.

Q9. EMN NCPs are asked to provide information on the criteria to be met in case of extension of the document issued for the stay of immigrant investors. Please provide details of the type of document issued and its duration.

Renewal criteria	Explanation
<p>What are the requirements related to the purpose of stay (investment) that need to be met in order to prolong/extend the initial authorisation of stay/ long-stay visa/residence permit?</p>	<p>The applicant must fulfill the same conditions required for the issuance of the first residence permit for private reasons.¹⁵⁴ The Minister in charge of Immigration can take into consideration the level of integration into Luxembourgish society of the applicant.¹⁵⁵</p> <p>The holder of a residence permit for private reasons can apply for a long-term residence permit if s/he has resided continuously for a minimum period of 5 years on the territory¹⁵⁶ and if s/he fulfills the conditions established by article 81 (1) of the amended law of 29 August 2008:</p> <p>The person must proof that s/he</p> <ul style="list-style-type: none"> • has at his/her disposal sufficient, regular and stable resources to cover his/her needs and those of his/her family who are under his/her responsibility, without being a burden for the social assistance system; • has appropriate housing; • has health insurance coverage and for her/his family members; • does not represent a danger for public order or public safety.

Section 1.3: Immigrant business owners: overview of national policies (Maximum 1 page)

This section asks for information on the national institutional framework and the main policy objectives in relation to **immigrant business owners** from third-countries. It will provide a mapping of the national stakeholders involved in the design and implementation of the policies to attract business owners, and the incentives that apply.

EMN NCPs are asked to answer the following questions, at times guided by a non-exhaustive list of prompts.

Q9. How does the national legislation of your Member State define immigrant business owners?

The amended law of 29 August 2008 on free movement of persons and immigration does not have a definition of immigrant business owners. In Luxembourg a third-country national business owner can obtain a self-employed worker residence permit.¹⁵⁷

Q10a. Does your Member State have a specific policy, programme or scheme for immigrant business owners?

No

Q10b. If yes, please provide more information about the specific policy, programme or scheme, including a) the name of the policy / programme / scheme: b) its main policy objectives (Neutral, pro-active); whether it targets c) specific type of businesses and / or d) economic sectors / geographical areas / strategic partners; and whether d) a quota / limitation system is in place to govern the number of entries or permits that can be issued to immigrant business owners?

a) Name of policy / programme

At the moment there is no specific programme, policy or scheme for attracting immigrant business owners. The government is in the process of producing a bill to facilitate the entrance of business managers on the territory by modifying other categories of residence permits that are available.¹⁵⁸

b) Main policy objectives

Even though there is no specific programme, policy or scheme for attracting immigrant business owners, the working group of the ministries is focussing on attracting foreign investors and business managers that are willing to create new businesses in Luxembourg or invest in small and medium-sized enterprises in order to create or to preserve jobs.¹⁵⁹

c) Type of business (e.g. any specific sector, knowledge-based sector, start-up / spin-off, etc.)

Luxembourg focussed its interest on attracting investment in the national priority economic sectors, which the government wants to promote (see d)¹⁶⁰. However, if there is an investor who does not enter in any of these key sectors but it has a high potential to create jobs, the government will not refuse such an investor.¹⁶¹ As Luxembourg has a tertiary sector economy based on services, the majority of the government policy is based on knowledge-based sectors. In the last years, Luxembourg has been selected to become the European corporate headquarter state of major innovative corporations such as Rakuten (e-commerce platform) and Yapital (new system of electronic payment)¹⁶², which develops synergies between both.¹⁶³ The Information and Communication Technologies sector is booming and some major firms are installed in Luxembourg.¹⁶⁴ Furthermore, the start-up sector is in full expansion in Luxembourg. In this sector most of the enterprises come from abroad.¹⁶⁵ The university spin-off program¹⁶⁶ has not been very successful, only three spin-offs are accounted for since 2010 but none of them have been developed by third-country nationals.¹⁶⁷

d) Priority national economic sectors / priority national geographical areas / countries of origin targeted / strategic partners required.

As mentioned above (Q.2b) the government programme 2013-2018 intends to focus on attracting and developing highly added value activities focussed on the following sectors: industry, Eco technologies, logistics, health technologies (biomedicine and bio technologies), information and communication technologies, maritime clusters and research. In addition, it is a priority to attract corporate headquarters and start-ups in innovative technologies with highly added value.¹⁶⁸

In regards to the targeted countries, there is no specific list as Luxembourg has a very open economy¹⁶⁹ and aims at attracting investors from all over the world (See Q.2d). e) Quotas in place

There are no quotas in place.

Q11a. What is/are the main actor(s) and institution(s) involved in the development of policies to attract immigrant business owners? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan – governing the involvement of these authorities?

Attracting new businesses to Luxembourg has become a common objective for both the government and the private sector.¹⁷⁰ Normally the government takes into consideration the opinions and needs of the financial sector and of the Chamber of Commerce. The main guidelines are established in the government programme 2013-2018 as mentioned above. There are several actors who participate in attracting new businesses into

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Luxembourg: the Ministry of Economy, the Luxembourg Chamber of Commerce, the Mutual for Loan Guarantees (MCAC)¹⁷¹ and the SNCI.

11b. Which actor / institution is responsible for the promotion of the policy with the target group?

The main actor responsible for the promotion of any policy with the target group is Luxembourg for Business.

Q12a. Does your Member State have specific measures to attract immigrant business owners?

Yes.

Q12b. If yes, Please complete the table below with regard to the policy measures in place to attract immigrant business owners in your Member State.

Measures	Brief description of the measure in the Member State
<p>What do these specific measures entail? (active promotion / information dissemination / campaigns / events including in third countries, etc.)</p>	<p>These measures entail trade missions and trade fairs. See Q.4.b.</p>
<p>Does a list of specific procedural facilitations for admission exist? If yes, please explain what they entail (reduced costs, shortened processing time, reduced documentary requirements, minimum residence period required (per year), possibility of renewal, etc.)</p>	<p>No. At the moment there is no procedural facilitation for obtaining a residence permit. There are not reduced costs or fast track procedures.</p> <p>The working group of the ministries, which is drafting the business manager residence permit by modifying other categories of residence permits (i.e. the self employed worker), has not yet discussed a fast track procedure nor the facilitation of family reunification. Nevertheless, there is an awareness of the importance of such a procedure.¹⁷²</p> <p>The minimum residence period is 6 months per year.</p> <p>In the case of the self-employed workers residence permit, the only facilitation measure that exists so far is that the possibility to renew the residence permit is simplified because there is no need for a new opinion of the Consultative Commission of Self-employed workers (CCTI).</p>
<p>Do specific support measures exist? (financial / logistic, business support to applicants to establish a business plan, recognition of qualification etc.)</p>	<p>The Luxembourg Chamber of Commerce supports any third-country national who wants to register his/her business in Luxembourg.¹⁷³ It offers services that make it easy for businesses to register and to set up an appropriate business entity.¹⁷⁴ Its <i>Espace Entreprises</i> offers assistance and personal advice to entrepreneurs. The support is aimed at business creators and it entails support from the conception of the project to the creation of the company, with the legal structure (for either personal enterprise or a legal entity)¹⁷⁵, and for already established businesses with various administrative procedures.¹⁷⁶ Also, in regards to skilled trade projects the Chamber of Commerce has a special one-stop shop for giving information and for supporting the skilled trader who wants to develop a project.¹⁷⁷</p> <p>Furthermore, for developing the business plan, the entrepreneur can contact coaches in different fields of 1,2,3 Go Social, who will help him/her to develop a business plan.¹⁷⁸</p>

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	<p>Once the business plan is put into place, in the case of an innovative project, the entrepreneur can approach the National Agency for Innovation and Research, which supports innovative enterprises and organisms.¹⁷⁹</p> <p>Financial support can be obtained through the General Directorate of Small and Medium-Sized Enterprises through the "initial investment" aid scheme.¹⁸⁰ Aid is granted in the form of a capital subsidy or interest subsidy. (See also financial incentives below).</p>
<p>Are there specific tax incentives? (benefits, exemptions, etc.)</p>	<p>There are no specific tax incentives for third-country nationals. However, they can benefit from the intellectual property participation exemption (IP Box Regime)¹⁸¹, participation exemption and partial participation exemption for capital gains regime¹⁸² and the possibility to rollover losses indefinitely.</p> <p>Nevertheless, there are certain measures which promote the attraction of business owners:</p> <ul style="list-style-type: none"> • No withholding tax on dividends paid by a Luxembourg entity to a shareholder located in a foreign jurisdiction;¹⁸³ • One of the lowest VAT rate in Europe (17%)¹⁸⁴; • Lower official basic corporate tax rate (21%)¹⁸⁵; • No limits on foreign ownership or control¹⁸⁶; • No capital duty tax¹⁸⁷; • Tax exemption of 80% on IP revenue.¹⁸⁸ <p>For start-ups there are significant incentives such as:</p> <ul style="list-style-type: none"> • Subsidies;¹⁸⁹ • Cash grants for investments in the high technology sector, research and the development of innovative products and the industries involved in manufacturing processes and services;¹⁹⁰ • Financial aids to research-development projects; <ul style="list-style-type: none"> ○ fund up to 100% of the eligible amount for fundamental research projects ○ fund up to 70% of the eligible amount for industrial or applied research projects; ○ fund up to 45% of the eligible amount for experimental development or pre-competitive development projects; <ul style="list-style-type: none"> ▪ In case of effective cooperation with a public research organism or enterprise an additional amount can be granted;¹⁹¹ ○ Financial aids for technical feasibility studies;¹⁹² • fund up to 75% of the cost of the impact studies of industrial research activities; • fund up to 50% of the cost of the impact studies of experimental development activities; • Financial aid for the protection of technical industrial property;¹⁹³ <ul style="list-style-type: none"> ○ fund up to 100% of the consecutive expenses of a fundamental research activity; ○ fund up to 50% of the consecutive expenses of an industrial research activity; ○ fund up to 25% of the consecutive expenses of an experimental development activity;

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	<ul style="list-style-type: none"> ▪ In case of effective cooperation with a public research organism or enterprise an additional amount can be granted. • Loans – There are two type of loans for start-ups: <ul style="list-style-type: none"> ○ Loans for the creation of the enterprise¹⁹⁴: they are exclusively for the creation of the enterprise and they are to be used for the necessary tangible and intangible expenses for the implementation of the business plan (premises, tools, licenses, establishment expenses, inventory, working capital, etc.) The amount can be between 5.000 and 250.000 euros, but it cannot exceed 40% of the eligible amount. It will only be granted by the SNCI once the business and financial plan has been presented and the entrepreneur has advanced at least 15% of his/her own funds. ○ Credit for equipment¹⁹⁵: this is available for all enterprises to finance tangible and intangible assets with the exception of inventory and vehicles. The amount varies from 25% to 60% (75% in case of creation of the enterprise) of the eligible investment with a maximum threshold of 250.000 euros. It is granted through the bank institution of the enterprise.¹⁹⁶ • Tax credits. • Guarantees on loans¹⁹⁷ • Loans at low or reduced rates¹⁹⁸ • Co-financing rates may reach up to 100% of eligible costs and can be used for investments such as research and development, vocational training, infrastructure, etc. • Assistance in development of real estate for setting up industrial sites and buildings.
Are immigrant business owners granted access to social benefits?	Yes, immigrant business owners are granted access to social benefits. ¹⁹⁹
Are immigrant business owners granted access to citizenship?	Yes. In Luxembourg, the same rules apply to any person residing in Luxembourg. The business owner who obtains a self-employed residence permit has to live in the country continuously for at least 7 years and fulfill all the criteria established by the law on the Luxembourgish nationality. ²⁰⁰
<p>Does the possibility exist for immigrant business owners to be accompanied by family members?</p> <p>Are family members allowed to access the labour market?</p>	<p>No. The self-employed residence permit does not entitle the person to immediate family reunification. However, in certain cases (especially where the investor has sufficient financial resources), the Directorate of Immigration grants a residence permit for private reasons to the family members.²⁰¹ If a family member fulfills the conditions to obtain an independent residence permit for private reasons, s/he can receive one and this will be an independent permit from the main holder's residence permit.²⁰²</p> <p>Family members of a self-employed worker have access to the labour market but they will be subject to the labour market test during the first year of residence. After the end of the first year, they are not anymore subject to the labour market test.²⁰³ Even though they have the possibility to register at the Agency for the Development of Employment (ADEM) and are assimilated to</p>

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	<p>"local workers", they only can apply for positions that have been declared vacant at ADEM.²⁰⁴</p> <p>At the moment, the working group of the ministries who is developing the draft bill has not yet addressed these issues.²⁰⁵</p>
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Q13a Does your Member State have any bilateral or other agreements in place with Third Countries to attract immigrant business owners?

No.

Q13b. Does your Member State share information and coordinate its policies with other Member States? Does your Member State consult other Member States on the issuing of the documents listed in Q15 to immigrant business owners?

No.

[Section 1.4: Immigrant business owners national policies: pre-arrival stage \(admission criteria\) and stay \(renewal\) \(Maximum 3 pages\)](#)

Section 1.4 aims at providing an overview of the admission criteria applied by Member States in order admit immigrant business owners from third-countries to the national territory. The section also examines whether Member States require business owners to submit a business plan and the specific procedures in place with regard to this. Finally, this section touches upon also criteria linked to the renewal / withdrawal of their residence permit / long-stay visa.

EMN NCPs are asked to provide their answers to the questions below.

Q14a. Please indicate the criteria to admit immigrant business owners in your Member State in the table below. All listed requirements imply a Yes/No answer: in affirmative cases, EMN NCPs are asked to describe the criteria. If possible, EMN NCPs should also explain whether the same criteria apply to third-country nationals admitted to the national territory under a different immigration channel (family reunification, study, etc.) but willing to change their status into immigrant investors. If possible, EMN NCPs should also explain whether the same criteria apply to third-country nationals admitted to the national territory under a different immigration channel (family reunification, study, etc.) but willing to change their status into immigrant investors.

In Luxembourg for admitting a third country national as a business owner, s/he must obtain two different types of authorisation: a) the authorisation of stay and b) the authorisation of establishment²⁰⁶ (business permit).

The authorisation of stay is granted by the Minister in charge of Immigration and the authorisation of establishment is granted by the Ministry of Economy (Directorate of Small and Medium Sized Enterprises (SME)).

The authorisation of establishment can be submitted electronically or in paper form. The electronic version can be downloaded from the *Portail Enterprises* of the Chamber of Commerce²⁰⁷ or from the governmental website www.guichet.public.lu.²⁰⁸ The application must be filed with the following documents:

- A. Proof of payment of a tax of 24 Euros;
- B. Proof of the professional qualifications required in the case of a manager of a business;
- C. Proof of professional integrity²⁰⁹. Sworn affidavit in regard to any significant holding, equity or participation of managerial positions in other Luxemburgish corporations. This condition applies to the person responsible for managing the business and also to the majority partner/shareholder²¹⁰;
- D. A recent copy of the criminal record from the person's country of origin or country of last residence (in case s/he is a non-resident or if s/he resides in Luxembourg for less than 10 years);
- E. A notarised certificate of proof of solvency (*certificat de non-faillite*);
- F. Copy of his/her identification document (in case of foreigners entire copy of the passport);
- G. Proof that the business has a physical establishment in Luxembourg.²¹¹

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If the application is completed, the Directorate of Small and Medium Enterprises will acknowledge the reception of the file and will indicate if there are any documents missing within a period of 15 days.²¹² The document that acknowledges the reception will establish the duration of treatment of the file.²¹³ Once the file is completed, an administrative investigation begins and the decision will be rendered within the next 30 working days from the reception of the file.²¹⁴

In the case of a third-country national who wants to obtain an authorisation of stay as a self-employed worker, s/he has to file the application for the authorisation of stay²¹⁵ to the Ministry of Foreign and European Affairs (Directorate of Immigration) with all the required documents. S/he can join the complete application for the authorisation of establishment if this authorisation is required.²¹⁶ For the authorisation of stay the applicant must prove that s/he has the sufficient financial means for establishing his/her business²¹⁷ in accordance with the proposed activity, the economic utility for Luxembourg and the viability of the project.²¹⁸

It is an integral and single application but there is not a unique decision in regards to the authorisation of establishment and the authorisation of stay.²¹⁹

Sometimes the integral application has been filed at the Directorate of immigration. There have been cases in which the third-country national has filed an application of establishment at the Directorate of Small and Medium Sized Enterprises but has not filed an application for an authorisation of stay with the Directorate of Immigration or has filed the two applications simultaneously. The Directorate of Small and Medium Sized Enterprises informs the Directorate of Immigration of the applications for an authorisation of establishment filed by third-country nationals and, in principle, grants an agreement if the applicant fulfills the qualification requirements for a specific profession. Sometimes the procedure which is used depends on the representative of the applicant in Luxembourg, who files the application.²²⁰

If the application for an authorisation of stay has been introduced to the Directorate of Immigration, the application will be transferred for analysis to the CCTI.²²¹

The CCTI is competent to verify if all the conditions of article 51 of the amended law of 29 August 2008 are fulfilled.²²² If the conditions are fulfilled and the project is viable they will issue a positive opinion. If the application is incomplete or the business plan is not clear enough, the Directorate of Immigration will ask the applicant for further explanations and documentation.

The authorisation of stay is only granted if the authorisation of establishment is granted (which approves the qualifications), and it can be refused based on the refusal of the authorisation of establishment.²²³

Admission criteria	Explanation	Do the same criteria apply to third-country nationals present in your Member State who have another status and are willing to change it into business owners?
Evidence of entrepreneurial skills (<i>experience in running businesses, turnover of activities in the country of origin, etc.</i>)	<p>Yes. Once the concept of the business is set, the applicant must obtain the authorisation of establishment for any commercial, trade or industrial activity.²²⁴ This authorisation is granted by the Directorate of Small and Medium Sized Enterprises of the Ministry of Economy.²²⁵</p> <p>To obtain an authorisation of establishment, the person responsible for managing the business as well as the majority partner/shareholder must namely satisfy the conditions of professional integrity. Professional integrity aims to guarantee the integrity of the profession and to protect future contracting partners and clients.²²⁶ The General Directorate for Small and Medium Sized Enterprises and</p>	Yes.

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	<p>Entrepreneurship will verify the professional integrity at the time the business permit application is submitted.²²⁷</p> <p>The applicant must fulfill the same professional qualifications and integrity criteria that any EU citizens. S/he has to prove that s/he has the required qualifications to practice the activity s/he wants to develop.²²⁸</p>	
<p>Minimum level of educational achievement / professional skills (please specify)</p>	<p>There are three major levels for obtaining the authorisation of establishment:</p> <p>Liberal professionals²²⁹: these professions can only be practiced if the person has a university degree in the field.</p> <p>Skilled trades: these activities require a certificate of competency or technician's diploma (list A of principal trade activities), or a minor formation or vocational training certificate (list B of secondary trade activities).²³⁰</p> <p>Industrial activities: these are excluded from the skilled trades due to their dimension and complexity. They are not attached to a precise professional qualification.</p> <p>Commercial activities: any person developing a commercial activity that is not precisely regulated, such as retail stores, any business in any sector of HORECA or businesses providing services must have:</p> <ul style="list-style-type: none"> • a vocational training certificate, or • an accomplishment of a professional practice in the sector for 3 years, or • an accomplishment of a intensive training in the field.²³¹ <p>Commercial regulated activities: they require specific and additional professional qualifications.²³²</p>	<p>Yes.</p>
<p>Evidence of capital (minimum sum required)</p>	<p>Yes. In Luxembourg a business plan, or any other equivalent evidence for the viability of the project activity, is required for obtaining the authorisation of stay.²³³</p> <p>In the application for the authorisation of</p>	<p>Yes.</p>

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	<p>stay of a self-employed worker, the applicant is compelled to provide precisions on the financial information concerning the business.²³⁴ The file of the authorisation of establishment (with the business plan) can be included in the application of the authorisation of stay.²³⁵ The CCTI then analyses the financial requirements of the business plan²³⁶ and verifies if the applicant has the sufficient financial support to develop his/her project.²³⁷ There are no predetermined amounts but they will be fixed according to the scope of the activity.²³⁸</p>	
<p>Contribution to the economy / employment of the Member State (national interest, "jobs - created", contribution to specific sector, innovativeness of activity, introduction of new technologies, etc.)</p>	<p>Yes. One of the legal requirements for applying as a self-employed worker is that the activity is relevant for the Luxembourgish economy. Normally the CCTI will analyse the viability of the project and the financial resources.²³⁹ In principle it is not relevant if the activity is innovative or traditional (i.e. restaurant).²⁴⁰</p> <p>For the authorisation of stay as a self-employed worker, the applicant must provide the following information:²⁴¹</p> <p>a) personal data and civil status; b) general data concerning the professional activity to be developed in Luxembourg</p> <ul style="list-style-type: none"> • legal structure • type of investment • description of the activity and economic sector • targeted population (or market sector) • competition at local level and competitive advantages • information on the business • financial forecasting • financial resources • turnover • employment forecast.²⁴² 	Yes.
<p>Business plan If a business plan is required, please complete the table in Q14b</p>	<p>Yes.²⁴³ A business plan is essential for the autorisation of stay.</p>	Yes. For the authorisation of stay if the TCN wants to have a status as business owner (self-employed worker).

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Language knowledge <i>(certification, pre-entry tests, mandatory courses, etc.)</i>	No, there is no specific language knowledge required.	Yes.
Age requirement for applicants <i>(minimum / maximum)</i>	Yes. The applicant must be at least 18 years old. There is no maximum age limit.	Yes.
Insurance requirement <i>(personal and/or for the investment)</i>	Yes. Insurance is required on both levels: personal and for the investment.	Yes. However, if the third-country national is already a resident in Luxembourg, s/he already has health insurance.
Security / background checks in place <i>(fraud checks, tax avoidance, previous bogus activities, money origin / money laundering, etc.)</i>	<p>Yes. The following documents and information must be attached to the application for an authorisation to stay of self-employed workers²⁴⁴:</p> <ul style="list-style-type: none"> • a certified full copy of the valid passport; • a birth certificate; • a copy of the police record or an affidavit (sworn oath); • a curriculum vitae; • a business and a financing plan; • proof that the applicant has the necessary economic resources to carry out his business project; • in the case of a takeover of a business, the balance sheets as well as the profit and loss accounts for the past three financial years; • in the case of a business that is subject to an authorisation of establishment, the person must provide the application file together with any required supporting documents; • in the case of an activity that is subject to other authorisations, accreditations or registrations, a copy thereof is also required.²⁴⁵ <p>With this information the Directorate of Immigration will do a background check of the person. (See Q.6a)</p>	Yes.
Fixed and permanent establishment	Yes. The authorisation of stay for self-employed workers is only granted if there is a physical installation in Luxembourg	

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	that includes an infrastructure suitable for the nature and scale of the concerned activity. ²⁴⁶ A domiciliation (contact address) is not sufficient to fulfil this requirement. ²⁴⁷	
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Q14b. In case a business plan is required, EMN NCPs are asked to complete the table below. All listed requirements imply a Yes/No answer: in affirmative cases, EMN NCPs are asked to describe the requirements with additional information:

Business plan	Explanation
National institution responsible for the approval / Self-assessment	Yes. Concerning the authorisation of establishment, the application is analysed by the competent services of the Ministry of Economy, Directorate of Small and Medium Sized Enterprises. ²⁴⁸ In regards to the business plan, the competent institution responsible for the approval is the CCTI. The CCTI analyses the interests and motives of the applicant and the viability of the project. ²⁴⁹
Information required on legal aspects of the business (form of the business, principal activity, subsidiary of existing activity)	The applicant must present the following aspects of the business: <ul style="list-style-type: none"> • Profile of the entrepreneur: what are the personality and the competences. • Mission of the enterprise: determining the products, the target group and the territory where the enterprise is going to operate. • Timetable: the entrepreneur must plan the different tasks and milestones of his/her project. • The market or segment of the market: where the enterprise is going to be placed. There has to be an analysis of the characteristics, the position of the enterprise and the competition. • The methods to attract clients: determining the strategy and the marketing. • Operational organisation: what are the human and technical resources required to implement the business plan.²⁵⁰
Information required on the commercial and financial aspects (type of business / services, origin of the capital to invest, target groups, preliminary contracts, nature of the investment, performance indicators, feasibility analysis, etc.)	Yes. For applying for the authorisation of stay the applicant must present an investment plan establishing the nature of the investment: <ul style="list-style-type: none"> • If it is a new business, s/he must present a business plan and the proof that the s/he has the necessary economic resources to carry out his/her business project; • in the case of a takeover of a business, s/he must present the balance sheets and profit and loss accounts of the past three financial years. In case a business plan ²⁵¹ is needed, it is important that the applicant respect the following structure ²⁵² : I. Introductory page – This part must include: a) Name and address of the business; b) Name and address of the responsible persons; c) nature of the

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	<p>business; d) statement of financing; e) statement of confidentiality of the report.</p> <p>II. Executive summary</p> <p>III. Industry analysis – This section must include: a) Future outlook and trends; b) Analysis of competitors; c) Market segmentation; d) Industry and market forecast.</p> <p>IV. Description of the venture – This section must deal with: a) Product(s) or service(s); c) Size of the business; d) Equipment; e) Personnel needed; f) Background of entrepreneur(s).</p> <p>V. Production plan – This section must contain: a) Manufacturing process (including amount outsourced); b) Physical plant; c) Machinery and equipment; d) Names of suppliers of raw materials.</p> <p>VI. Operational plan – This section must include: a) Description of company’s operations; b) Flow of orders for goods and/or services; c) Technology utilisation.</p> <p>VII. Marketing plan – This section must address: a) Pricing; b) Distribution; c) Promotion; d) Product forecasts and e) Controls.</p> <p>VIII. Organizational plan – This section must contain: a) Form of ownership; b) Identification of partners or principal shareholders; c) Authority of the managers/directors; d) Roles and responsibilities of the members of the organisation.</p> <p>IX. Assessment of risk – This sections deals with: a) Evaluation of the weakness(es) of business; b. New technologies; Contingency plans.</p> <p>X. Financial plan – This section must contain: a) Assumptions; b) Pro forma income statement; c) Cash-flow projections; d) Pro forma balance sheet; e) Break-even analysis; Sources and usage of funds.</p> <p>XI. Appendix – The applicant must includes all: a) Letters; b) Market research data; c) Leases and contract and d) Price lists from suppliers.</p>
Duration of examination of the business plan	The law does not establish a duration for the evaluation of the business plan. In practice, the general duration of the examination of a business plan is between 3 to 4 days (maximum a week). ²⁵³
Documentation required (please provide a list of the documents required)	See Information required on the commercial and financial aspects.
Review period	The entire procedure from the completion of the file to the granting of the authorisations can take between 6 to 8 weeks. ²⁵⁴

Q15. If the criteria for admission are satisfied what initial document is issued? Please provide any detail on:

- type of document issued (e.g. short-stay visa, authorisation to stay, long-stay visa, residence permit, etc.),
- its duration
- whether it is longer than the usual duration which applies to other categories of third-country nationals
- whether its validity differs (and how) from its renewal.

If the criteria are fulfilled, an authorisation of stay as a self-employed worker is issued. The applicant must enter the territory within a maximum delay of 90 days. If the applicant must require a visa to enter the Schengen

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area, s/he must apply for a long-term residence visa (D-visa) at the diplomatic mission which represents Luxembourg's interests in his/her country of origin.

S/he must register in the municipality where s/he is residing within three days after his/her arrival.²⁵⁵ The municipality will provide him/her with a certificate of arrival. Once s/he has this document, has passed a medical examination and received the medical certificate mentioned above in Q6, s/he must apply at the Directorate of Immigration for the issuance of a residence permit. The Directorate of Immigration, after checking if the application is complete, will take the digital data (picture and fingerprints) and will issue a residence permit for a maximum duration of 3 years.²⁵⁶ The maximum duration is longer than the usual duration which applies to other categories of third-country nationals.²⁵⁷ The residence permit is renewable upon request of the applicant for a maximum duration of 3 years if the conditions established in article 51 (1) (with the exception of point 3 (if the economic activity serves the economic interests of the country) are fulfilled:²⁵⁸

- s/he has the required professional qualifications;
- s/he has the appropriate resources for the development of the business activity.

Q16. *Where and by which institution / organisation (internal or abroad) are the documents issued? (e.g. diplomatic mission in the third country; other responsible representative; intermediary agency, etc.)*

The authorisation of stay is issued by the Ministry in charge of Immigration (Directorate of Immigration) in Luxembourg. The visa, if required, must be issued by the diplomatic mission representing Luxembourg's interests in the country of origin.

Q17. *EMN NCPs are asked to complete the information requested in the table below in relation to registration of businesses by immigrant business owners in your Member State:*

Registration of businesses by immigrant business owners in your Member State	Explanation
National institution responsible for the registration of the business in the Member State	The Trade and Companies Registrar (Registre de Commerce et des Sociétés - RCS) is responsible for the registration of a business in Luxembourg. Before starting a business or setting up a company, entrepreneurs can check the availability of the trading name they are planning to use. ²⁵⁹ The availability request can be submitted online to the Trade and Companies Registrar. When the request is processed the applicant has 20 days to download the certificate of availability ²⁶⁰ or unavailability. ²⁶¹
Type of business (main business, subsidiary or branch. Please explain whether it is a transparent or non-transparent entity for tax reasons, i.e. determining if the business owners registers himself/herself as an individual or as a legal entity).	The type of business that can be registered in the Trade and Companies Registrar can be a main business, as well as subsidiary or a branch. Legal entities as well as natural persons, if their activity is commercial in nature, must be registered. ²⁶² In any case, the business has to be an opaque entity (non-transparent), which means that it needs to have a sufficient physical presence and it must be taxed in Luxembourg. However, individual enterprises are transparent entities ²⁶³ , the taxation is made at the level of the business owner or his/her associates. Companies, as they are opaque entities, are taxed in an autonomous manner. They are submitted to the corporate income tax and to the commercial municipality tax. ²⁶⁴
Place of registration of business (in the Member State or in the country of origin / a third country. Is it mandatory	The legal entity or the individual must be registered in the Grand-Duchy of Luxembourg. If it is a subsidiary of a company from a third-country, it must be

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<p>for a third country national to be present in a country when registering a business or can this be done outside (using an agent / third party)?</p>	<p>registered as a Luxemburgish legal entity.²⁶⁵ In any case, when the individual files an application for an authorisation of stay as a self-employed worker, s/he must file the application in his/her country of origin.²⁶⁶ The registration of the corporation can be made from abroad because there is no limitation of ownership in Luxemburgish corporations. However, for applying for the authorisation of establishment the third-country national must be on the territory.</p>
<p>Main requirements for registration of business (capital, employees. Please state whether the requirements is different from that applied to EU nationals)</p>	<p>As mentioned before, if it is an individual, the person can register as an individual or as a <i>société en nom collectif</i> (SENC) or a <i>société en commandite simple</i> (SECS), which all do not require a minimum contribution. In the case of a limited liability legal entity, a minimum capital contribution is required by law:</p> <p>Public limited-liability company (SA): 30.986,89 Euros;²⁶⁷</p> <p>European corporation (SE - <i>société européenne</i>): 120.000 Euros;²⁶⁸</p> <p>Limited-liability company (SARL): 12.394,68 Euros;²⁶⁹</p> <p>In regard to the number of partners:</p> <p>SA: There is no specific number of partners. The minimum number for the by-laws is two and they can be either physical persons or legal persons.</p> <p>SARL: A normal SARL can have between 2 and 40 partners.²⁷⁰ The Luxemburgish law authorises single-member SARLs (only one associate).²⁷¹</p> <p>The only personal requirement for being a member is that the person is capable of acquiring, possessing, administering, and disposing assets.²⁷²</p> <p>The creation of legal entities:</p> <p>In the case of an SENC, or SECS, it can be constituted by a notary public act or by a private document but it must be published in the <i>Mémorial C (Recueil des Sociétés et Associations)</i> of the Official Journal.²⁷³</p> <p>In the case of and SARL or SA the by-laws have to be made by a notary public act and they must be published in the <i>Mémorial C (Recueil des Sociétés et Associations)</i> of the Official Journal.²⁷⁴</p> <p>These requirements apply to third-country nationals as well as to European citizens.</p>
<p>Does your Member State impose restrictions to admit immigrant business owners based on the type of business, the specific sector or their country of origin?</p>	<p>As mentioned before, Luxembourg does not impose restrictions on any type of business. One of the requirements of the law for self-employed workers is that their activity is relevant for the Luxemburgish economy. Normally the CCTI will analyse if the business plan is viable.²⁷⁵ Also, the CCTI analyses the amount of the investment and the amount of jobs the enterprise will create.²⁷⁶</p>
<p>Other (Health, etc.)</p>	<p>N/A</p>

Q18. EMN NCPs are asked to provide information on the criteria to be met in case of extension of the document issued for the stay of immigrant business owners. Please provide details of the type of document issued and its duration.

Renewal criteria	Explanation
<p>What are the requirements related to the purpose of stay (business) that need to be met in order to prolong/extend the</p>	<p>After the expiration of the validity of the first residence permit, the Directorate of Immigration will renew it if the business owner fulfills the conditions established by article 51 (1) 1 and 2 of the amended law of 29 August 2008: the person must present the required professional</p>

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initial authorisation of stay/ long-stay visa/residence permit?	qualifications and prove that s/he has the appropriate resources for the development of the business activity.
<p>Is there a requirement that a business is active during the extension of permits?</p> <p>If so, what indicators are used to assess this? (Volumes of turnover, amount of paid taxes, staff employed, compliance of immigrant investors and their investment, etc.)</p> <p>Who assesses this information?</p>	<p>Yes. The Directorate of Immigration will take into consideration the turnover of the business, the number of staff employed, if the business is paying social security contributions²⁷⁷ and if it is paying VAT, municipal taxes and income tax. The fact that the business is not making profits or making a minimal loss does not imply a refusal.²⁷⁸</p> <p>The residence permit can be withdrawn or not renewed if during the period of validity of the residence permit the applicant did not have sufficient personal resources for a duration of:</p> <ol style="list-style-type: none"> 1) Three months in a 12 month-period after a continuous residence of less than two years; 2) Six months during a 12 month-period after a continuous residence of at least two years.²⁷⁹ <p>The information is assessed by the Directorate of Immigration and the decision is taken by the Minister in charge of Immigration.²⁸⁰</p>
Are there time-related requirements during which a business needs to have been started up, taxes paid and staff employed in order to get the validity of the document extended?	<p>Normally there is a timetable for implementing the project in the business plan. In the case that the business owner does not implement the project in the foreseen timeframe without a valid explanation, the Directorate of Immigration can withdraw the self-employed worker residence permit.²⁸¹ If at the end of the validity of the residence permit the business is not viable, the authorities will not renew the residence permit.²⁸² The main objective of the control is to determine if the enterprise has a real activity or not.²⁸³</p>

Section A1.5: Other business persons: overview of national policies (Maximum 1 page)

*This section examines the conditions for the admission of **other third-country nationals who travel to the EU for business reasons** ("other business persons"). These categories include (but are not limited to) the temporary admission of third-country nationals under international trade agreements (i.e. the pre-defined six "Mode 4" categories tackled by the EU free-trade agreements listed in Annex 2). Other business persons may be admitted either on a short-stay visa or long-stay visa. EMN NCPs are asked to indicate if and how these categories are defined by the national legalisation of their Member State. They are required to indicate whether they are targeted by specific policies (programmes, schemes), whether they are admitted and registered as such in their administrative practices and/or separately from those entering via different migration channels.*

EMN NCPs are also requested to provide information on current admission criteria, including the length of their stay, any other specific eligibility condition and collect available data.

Mode 4 refers to the temporary cross-border movement of individuals, either in an independent capacity or as part of a commercial establishment.²⁸⁴ The definition of the supply of a service in the context of Mode 4 is: "a service supplier of one Member through presence of natural persons of a Member in the territory of any other Member."²⁸⁵ The GATS does not cover natural persons seeking access to the employment market and measures regarding citizenship, residence or employment on a permanent basis.²⁸⁶

The Luxemburgish authorities consider that the Mode 4 categories are important for the country, particularly in view of highly qualified service suppliers having a specific expertise.²⁸⁷ Due to the fact that Luxembourg is a major foreign corporation hub, it is open towards an increased mobility of qualified workforce because some of these companies depend on Mode 4, requiring the temporary entry and stay of persons to supply a service in the frame of a precise mission and for a limited duration.²⁸⁸ In Luxembourg there is no law which regulates or defines Mode 4 categories specifically²⁸⁹: only a European and/or Schengen zone targeted solution could do so efficiently. Only two categories are covered by the Immigration Law: intra-corporate transferees (ICT)²⁹⁰ and independent professionals (IP), focussing on a highly qualified workforce.²⁹¹ Seen that the Luxemburgish economy is very open, the authorities analyse each case in accordance with the particular needs of the companies and of the particular economic sector²⁹²

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and apply certain categories of the actual legislation to individual cases (i.e. granting residency permits for private reasons to certain business visitors for establishment purposes or independent professionals who have to enter and exit the country very often). In view of its demographic and economic situation, Luxembourg has gradually taken higher commitments than the engagements it took in the GATS (GATS+).²⁹³ The Luxembourgish commitments are mostly based on the general EU position and adjusted to the level of ambition of the negotiating partner. The latest and most ambitious commitments were taken in the EU-Canada Free Trade Agreement²⁹⁴. Luxembourg is among the most ambitious Member States in this regard: a maximum period of stay of 12 months for CSSs and IPs is thus foreseen for Canadian citizens.²⁹⁵

There is no statistical data of these categories. As the Luxembourgish economy is an employer-oriented economy, the need for these types of employees depends on the needs of the private sector.²⁹⁶

Q19. How are the following categories (listed in Annex 2) defined under the national legislation of your Member State?

Categories of other business persons	Definitions
<i>Business visitors for establishment purposes (BVEP)</i>	There is no definition in the amended law of 29 August 2008 on free movement of persons and immigration. The individuals, as defined in Table 1 of Annex 2, can enter Luxembourg on a short-term visa (C-Visa) ²⁹⁷ , if required, and have to fulfil the conditions of article 34 (1) and (2) of the amended law of 29 August 2008 and article 1.1 of the Visa Code.
<i>Intra-corporate transferees (ICT)</i> ²⁹⁸	Article 47 (1) of the amended law of 29 August 2008 defines the possibility of granting an authorisation of stay to an intra-corporate transferee. The article says that an authorisation to stay may be issued, upon application by the host undertaking, to a worker who is a third-country national where that worker is transferred on a temporary basis to the Grand-Duchy of Luxembourg in the context of a transfer between companies belonging to an economic and social entity as defined by the Labour Code. This definition is close to the one in article 3 (b) and (c) of the Directive 2014/66/UE. ²⁹⁹
<i>Business sellers (BS)</i>	No definition (see above: Business visitors). As these categories do not exist as such in the Luxembourgish legislation, persons falling under these categories are treated on a case-by-case basis.
<i>Independent professionals (IP)</i>	The definition of independent professionals established in article 51 of the amended law of 29 August 2008 is outside of the scope of the Annex of the GATS on Movement of Natural Persons Supplying Services Under the Agreement, point 2 ³⁰⁰ because a self-employed worker who applies for this authorisation of stay can seek access to the labour market and residence on a permanent basis.
<i>Contractual services suppliers (CSS)</i>	No definition. As these categories do not exist as such in the Luxembourgish legislation, persons falling under these categories are treated on a case-by-case basis.
<i>Graduate trainees (GT)</i>	The definition of graduate trainee in article 61 of the amended law of 29 August 2008 varies from the one of the Mode 4 ³⁰¹ in the sense that an authorisation to stay shall be issued by the Minister to a third-country national who applies to do an unremunerated traineeship. The rest of the definition as well as the maximum duration of 1 year is compatible with the definition in the Mode 4 of the GATS. The Immigration Law requires that s/he produces evidence showing that the traineeship is obligatory within the framework of his/her education or training within a secondary-education establishment or a higher-education establishment, which is recognised in accordance with the provisions governing secondary and higher education in his/her country of origin, and that s/he produces a training agreement which s/he has signed with the host establishment or

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	undertaking in the Grand-Duchy of Luxembourg. The trainee residence permit is valid for the duration of the traineeship, which may not exceed one year.
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Q20. Does your Member State have a specific policy (programme, scheme) for other business persons as defined by the study template? EMN NCPs are asked to complete only the sections that are relevant to their national context.

No. There is no specific policy for any of the Mode 4 categories. Despite the lack of a clear scheme, Luxembourg is very open when it comes to receiving a qualified workforce for the supply of temporary activities falling under Mode 4.³⁰²

Categories of other business persons	Is there a specific policy, for this categories of other business persons? Is it based on tailored multilateral/bilateral trade agreements with third countries?	Name of policy / programme	What are its main policy objectives (include info on priority national economic sectors / geographical areas / countries of origin if relevant)	Are there any quotas in place?
<i>Business visitors for establishment purposes (BVEP)</i>	No. However, the Chamber of Commerce considers that an "investor visa" should be created to avoid that third-country nationals, who want to establish a business in Luxembourg, are limited to the 90 days of the short-time visa and to allow them to familiarise themselves with the country. ³⁰³	N/A	N/A	No
<i>Intra-corporate transferees (ICT)</i>	No. The government is working on a draft bill to transpose the Directive 2014/66/UE.	N/A	N/A	No
<i>Business sellers (BS)</i>	No.	N/A	N/A	No
<i>Independent professionals (IP)</i>	No.	N/A	N/A	No
<i>Contractual services suppliers (CSS)</i>	No.	N/A	N/A	No
<i>Graduate trainees (GT)</i>	No.	N/A	N/A	No

Q21. Considering the specific policy (programme, scheme) in the previous question, what are the actor(s) and institution(s) involved in the development and implementation of policies on other business persons? If multiple authorities are involved, how are they coordinated? Is there an official mandate – e.g. an Action Plan - governing the involvement of these authorities? Which actor / institution is responsible for the promotion of such policy abroad?

There is no specific policy and no specific strategy yet, as until now the EU labour market was able to meet the demands of the Luxembourg economy. There is a direct coordination between the Directorate for International Economic and

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European Affairs and the Directorate for Immigration of the Ministry of Foreign and European Affairs, especially in formulating positions within an EU context. The Luxembourgish approach on the various Mode 4 categories, its reservations and commitments in free trade agreements are discussed directly with the technical ministries or agencies, taking into account the strategic economic outlook of the country and the sectors concerned.³⁰⁴ With the transposition of the ICT directive this interaction has become more important. Furthermore, the Ministry of Finance is represented in the Trade Policy Committee Services and Investment of the Council of the European Union, where these matters are being discussed between the Member States and the European Commission.³⁰⁵

Nevertheless, the leading authority for the negotiation of the Mode 4 categories remains the Ministry of Foreign and European Affairs, which ensures the necessary coordination with all the relevant actors at the national level.³⁰⁶

Categories of other business persons	Actors/institutions involved in the development of these policies	Actors/institutions involved in the implementation of these policies	If multiple authorities are involved, how do they coordinate?	Is there an official mandate governing their roles?	Actors/institutions responsible for the promotion of such policy abroad
<i>Business visitors for establishment purposes (BVEP)</i>	N/A. As mentioned above, there is no legislation on the Mode 4 categories and at the moment the authorities do not have a policy on this issue. ³⁰⁷ The Ministry of Foreign and European Affairs has an informal coordination in place concerning the categories of the Mode 4.	N/A.	N/A. At the moment there is no institutional cooperation on the Mode 4 categories. However, when there is a specific issue related to third-country nationals, the institutions will coordinate with the Directorate of Immigration. ³⁰⁸	N/A	N/A
<i>Intra-corporate transferees (ICT)</i>	N/A. See BVEP. At the moment the procedure for transposing the ICT directive has been launched.	N/A	N/A. See BVEP.	N/A	N/A
<i>Business sellers (BS)</i>	N/A. See BVEP.	N/A	N/A. See BVEP.	N/A	N/A
<i>Independent professionals (IP)</i>	N/A. See BVEP. According to a draft bill, article 51 of the Immigration Law will be modified but this does not have any	N/A	N/A. See BVEP.	N/A	N/A

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	impact on the GATS definition of IP. ³⁰⁹				
<i>Contractual services suppliers (CSS)</i>	N/A. See BVEP.	N/A	N/A. See BVEP.	N/A	N/A
<i>Graduate trainees (GT)</i>	N/A. See BVEP.	N/A	N/A. See BVEP.	N/A	N/A

Section 1.6: Other business persons national policies: pre-arrival stage (admission criteria) and stay (renewal) (Maximum 3 pages)

Section 1.6 aims at providing an overview of the admission criteria applied by Member States in order admit subcategories within other business persons from third-countries to the national territory.

Q22. What are the criteria for the admission of other business persons to your Member State? Please answer by completing the table below entering in the last column also useful information on any pre-entry assessment which may be required (labour market test, proof of minimum period of employment, evidence of commitment to return after the temporary stay, minimum education / professional skills, language knowledge, qualifications/certifications, entry quotas, age requirement, insurance requirement, etc.).

Categories of other business persons	Are these categories admitted/endorsed in your systems (under a different name)? (Yes/No)	If yes, under which name are they registered in your systems?	What is the maximum duration of their stay?	What kind of document is issued when admitting other business person?	Is there a (exhaustive) <u>list</u> of admission criteria? If yes, please indicate the criteria.
<i>Business visitors for establishment purposes (BVEP)</i>	Yes, not specifically but under the general conditions for short-term stay (C-Visa – business).	Short-term visa (C-Visa). Also, seen the needs of the hosting company an authorisation of stay for private reasons can be granted. ³¹⁰	90 days in any six-month period. ³¹¹	None. The visa is the document admitting the person or in case of a visa waiver it is the passport.	See visa code (regulation 810/2009).
<i>Intra-corporate transferees (ICT)</i>	Yes.	Authorisation of stay of an intra-corporate transferee.	One year. ³¹²	A permit is issued.	<ol style="list-style-type: none"> 1. The transfer has to occur between companies belonging to an economic and social entity as defined by the Labour Code. 2. The application has to be made by the host company to the Minister in charge of Immigration explaining the work to

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					<p>be produced by the employee and the duration of the transfer.</p> <p>3. The applicant has to have an open term contract with the sending company.</p> <p>The application must be completed with the following documents:³¹³</p> <ul style="list-style-type: none"> • Certified copy of the of the entire passport of the employee • Birth certificate • Extract of the criminal record of his/her country of residence or an affidavit • Curriculum vitae • Certificate of affiliation to the social security of the country of residence or the country from where s/he was sent • Copy of the labour contract or of the convention of transfer between the sending and the host company indicating the duration of the transfer.
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					All these documents must be officially translated if they are not in English, French or German.
<i>Business sellers (BS)</i>	Yes, not specifically but under the general conditions for short-term stay.	Short-term visa (C-Visa)	90 days in any six months period.	None. The visa is the document admitting the person or in case of a visa waiver it is the passport.	See visa code (regulation 810/2009)
<i>Independent professionals (IP)</i>	Yes. See BVEP (short stay visa - business).	Short-term visa (C-Visa - business).	A cumulative period of not more than six months or for the duration of the contract, whichever is less is the current EU and Luxembourg standard position. In regard to the Canadian Free Trade Agreement, the established duration for independent professionals was increased to up to 12 months. ³¹⁴³¹⁵	None. The visa is the document admitting the person or in case of a visa waiver it is the passport.	
<i>Contractual services suppliers (CSS)</i>	Yes. In principle each application of authorisation of stay is analysed on a case-by-case basis. ³¹⁶	Short-term visa (C-Visa - business).	A cumulative period of not more than six months or for the duration of the contract, whichever is less is the current EU and Luxembourg standard position. In	None. The visa will be the document or in case of visa waiver the passport.	

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			regards to the Canadian Free Trade Agreement, the established duration for contractual services suppliers is up to 12 months. ³¹⁷³¹⁸		
<i>Graduate trainees (GT)</i>	Yes.	Authorisation of stay.	One year.	A residence permit is issued.	<p>The person must fulfil the following conditions:</p> <ul style="list-style-type: none"> • The training is unremunerated • s/he produces evidence showing that the traineeship is obligatory within the framework of his/her education or training provided within a secondary education establishment or a higher education establishment in his/her country of origin • s/he produces a training agreement which s/he has signed with the host establishment or undertaking

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					<p>in the Grand-Duchy of Luxembourg;</p> <ul style="list-style-type: none"> • s/he presents a parental authorisation if s/he has not yet reached the age of 18; • s/he produces evidence showing that, throughout his/her stay, s/he will have sufficient resources to cover the costs of his/her stay³¹⁹ and return travel, • s/he is covered by sickness insurance. <p>Besides the documents mentioned above, the applicant must attach the following documents to the application:</p> <ul style="list-style-type: none"> • Certified copy of the of the entire passport • Birth certificate • Extract of the criminal record of his/her country of residence or an affidavit
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Q23. EMN NCPs are asked to provide information on the criteria to be met in case of extension of the document issued for the stay of other business persons. Please provide details of the type of document issued and its duration.

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Categories of other business persons	What are the requirements related to the purpose of stay (business) that need to be met in order to prolong/extend the initial documents issued?
<i>Business visitors for establishment purposes (BVEP)</i>	There is no possibility of extending the stay after 90 days. The person must leave the country, but can come back. In accordance with article 1.1. of the Visa Code the person can stay up to three months in any six-month period, meaning that in a year the person can stay up to six months.
<i>Intra-corporate transferees (ICT)</i>	The permit shall be renewable upon application, for the same period of validity, provided that the conditions mentioned above (Q.22) for obtaining the permit continue to be met ³²⁰ .
<i>Business sellers (BS)</i>	There is no possibility of extending the stay after 90 days (See BVEP).
<i>Independent professionals (IP)</i>	In general, the current EU and Luxembourg standard position foresees a cumulative period of not more than six months or for the duration of the contract, whichever is less. ³²¹ However, in the case of the Canadian Free Trade Agreement a maximum period of 12 months can apply ³²² .
<i>Contractual services suppliers (CSS)</i>	In general, the current EU and Luxembourg standard position foresees a cumulative period of not more than six months or for the duration of the contract, whichever is less. ³²³ However, in the case of the Canadian Free Trade Agreement a maximum period of 12 month can apply ³²⁴ .
<i>Graduate trainees (GT)</i>	In exceptional cases, the Minister may renew such a permit once only, and exclusively for the time that is needed to acquire a professional qualification recognised in the Grand-Duchy of Luxembourg, provided the conditions for acquiring this permit continue to be met. ³²⁵

Section 2: Measures to prevent misuse / abuse of immigration channels for business purposes

This section aims to provide an overview of the measures carried out by Member States for monitoring, detecting and preventing misuse of the migration channels in place for **immigrant investors, immigrant business owners and other business persons** and to explore and map the specific mechanisms in place. EMN NCPs are asked to describe the procedures involved and to provide information on the challenges associated to the detecting, monitoring and preventing misuses, and to distinguish where relevant between the different categories (if the mechanisms are different). This Sections aim to identify also the criteria for withdrawing

Q24. Please provide the following information with respect to the prevention and detection of misuse abuse of immigration channels for immigrant investors, business owners and other business persons at admission stage and during stay. EMN NCPs are first asked to provide the definitions of misuse and abuse according to their national legislation and identify differences where possible.

Issue	Immigrant investors	Business owners	Other business persons
Does your national legislation provide for a definition of misuse and and/or abuse? If yes, do they differ? Please describe If no, how are they defined in practice?	No. The amended law of 29 August 2008 established a general provision in the case that the applicant has used false or misleading information, false or	No. (See Immigrant investors). However, the Law of 2 September 2001 establishes certain conducts that can be	No. (See Immigrant investors).

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	<p>falsified documents, that fraud was otherwise committed or other unlawful means were used to enter and stay in the country. In this case the authorisation of stay can be revoked and withdrawn or the renewal will be refused.³²⁶</p> <p>In practice there is no differentiation between misuse and abuse.</p>	<p>considered as abuse/misuse such as:</p> <p>Being recognised as a craftsman in another Member State and providing services in Luxembourg without having fulfilled the requirements on the recognition of professional qualifications beforehand.³²⁷</p> <p>Acting as a proxy in order to put one's professional qualifications and honorability at the disposition of a third party and putting the actual management of the company in his/her hands³²⁸;</p> <p>Having had recourse to a proxy for obtaining the authorization of establishment.³²⁹</p>	
<p><i>What are the specific measures in place in the Member States to monitor, detect and prevent misuse/abuse at admission stage?</i> <i>(in addition to the criteria to be satisfied as reported under Sections 1.2)</i></p>	<p>The Minister in charge of Immigration can make the necessary controls in order to verify if the conditions fixed for the entry and stay in the country are fulfilled.³³⁰</p> <p>If there is a doubt over the accuracy of the information provided in regard to the conditions of entry and stay, the information can be verified. The most common verification is to determine if the person is actually residing in the country. The Directorate of Immigration normally requests a proof of actual residence.³³¹</p> <p>Mostly abuses/misuses become apparent at the</p>	<p>(See Immigrant investors).</p> <p>The principal abuse/misuse detected is that the individual does not reside on the territory.</p>	<p>(See Immigrant investors).</p>

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	<p>moment of the renewal of the residence permit. Then controls are also ordered.³³²</p> <p>The principal abuse/misuse detected is that the individual does not reside on the territory.³³³</p>		
<p>What are the entities responsible for the monitoring of compliance of immigrant business owners and immigrant investors and what are their specific responsibilities? (Labour Inspectorate, Labour Exchange office, Tax authorities, Ministry of Interior, Migration services)</p> <p>Does a national referral mechanism (or its equivalent) exist? (Yes/No).</p> <p>If yes, how is information shared between stakeholders involved?</p> <p>Is there an obligation to inform about misuse/abuse identified by other institution (migration services, police, tax authority, etc.)</p>	<p>The Judicial Police, Foreigners service is in charge of the supervision and control of foreigners under the orders of the Minister in charge of Immigration.³³⁴ Also, the agents of the Customs and Excise Administration can do the supervision and control of foreigners since the law allows them to exercise certain attributions of the Police.³³⁵</p> <p>The tax authorities are responsible for the establishment and collection of direct taxes, the establishment of the tax base of the property tax, the establishment and collection of other duties and taxes, the forced collection of due taxes and the implementation of international agreements on double taxation.³³⁶</p> <p>The Directorate of Immigration of the Ministry of Foreign and European Affairs is responsible for reviewing the conditions of entry and stay of any third-country national for the issuing, renewal</p>	<p>The Judicial Police, Foreigners service and the agents of the Customs and Excise Administration³³⁷ are responsible for the supervision and control of foreigners (See Immigrant investors).</p> <p>The Inspectorate of Labour and Mines (ITM) verifies the well-being of the employees and the security of the physical installation of the business.³³⁸</p> <p>The tax authorities³³⁹ are responsible for the establishment and collection of direct taxes, the establishment of the tax base of the property tax, the establishment and collection of other duties and taxes, the forced collection of due taxes and the implementation of international agreements on double taxation.³⁴⁰</p> <p>The Directorate of Immigration of the Ministry of Foreign and European Affairs is responsible for reviewing the conditions of entry and stay of any third-country national for the</p>	<p>The Judicial Police, Foreigners service and the agents of the Customs and Excise Administration are responsible for the supervision and control of foreigners (See Immigrant investors).</p> <p>The tax authorities (See Immigrant investors).</p> <p>The Directorate of Immigration is responsible for reviewing the conditions of entry and stay of any third-country national for the issuing, renewal or withdrawal of a residence permit.</p>

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	or withdrawal of a residence permit.	issuing, renewal or withdrawal of a residence permit. ³⁴¹ Concerning the Luxembourg Registry ³⁴² , any company that provides services subject to Luxembourgish VAT must comply with indirect taxation requirements, namely registering for VAT at the Luxembourg Registry. ³⁴³ The Joint Center for Social Security (CCSS) is an informatics centre, which manages the membership and the receipt of contributions for all branches of social security. ³⁴⁴	
What is the frequency of control?	The Minister in charge of Immigration can ask at any moment ³⁴⁵ for the necessary controls in order to verify if the conditions fixed for the entry and stay in the country are fulfilled Tax authorities can control third-country nationals, when there are inconsistencies with the filing of the tax return or when the filing of the return has not been made.	(See Immigrant investors).	(See Immigrant investors).
What are the main sectors where misuse/abuse occurs? (<i>real estate, transfer of capital, national funds / bonds, business investments, etc.</i>) <i>Please list the top three</i>	No information available.	No information available.	No information available.

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<p>If misuse/abuse is detected, what are the penalties imposed on the third-country national concerned (<i>withdrawal of long-stay visa/residence permit, loss of any other related right/benefit, loss of the certificate of establishment, legal proceedings, fines, removal order, confiscation of activities/revenues, etc.</i>)</p>	<p>Withdrawal or refusal of the renewal of the residence permit.³⁴⁶</p> <p>Criminal proceedings in case of fraud or use of false documents.</p> <p>Removal order.</p> <p>Confiscation of activities/revenues in case of money laundry.</p>	<p>Withdrawal or refusal of the renewal of the residence permit.</p> <p>Loss of the certificate of establishment.</p> <p>Criminal proceedings in case of fraud, use of false documents, or violation to the right of establishment.³⁴⁷</p> <p>Removal order.</p> <p>Confiscation of activities/revenues in case of money laundry.</p>	<p>Withdrawal or refusal of renewal of the residence permit.</p> <p>Criminal proceedings in case of fraud or use of false documents.</p>
<p>What other circumstances might result in the withdrawal / non-renewal of a long-stay visa / residence permit?</p>	<p>No information available.</p>	<p>Other circumstances can be if the beneficiary of the authorisation of stay as an independent worker does not dispose of enough financial resources as required by article 34 (2) 5 of the amended law of 29 August 2008:</p> <p>a) three months in a 12 month period, if s/he has resided on the territory for less than two years;</p> <p>b) during six months in a 12 month period, if s/he has resided on the territory for at least two years.</p>	<p>No information available.</p>

Q25a. Is there any evidence of the effectiveness of the measures used in your Member State to monitor, detect and prevent misuse / abuse and the problems/challenges faced (lack of instruments, lack of cross-analysis, access to data, etc.)?

No.

Q25b. If yes, please indicate to which business persons the evidence refers to (investors, business owners, other business people) and please summarise the main findings here and include a reference to the source in an annex to your national report.

N/A.

Section 3: Evaluation of policies to admit third-country nationals for business purposes, challenges and barriers

This section aims to explore the impact of policies to admit **immigrant investors** (Section 3.1), **business owners** (Section 3.2) and **other business people** (Section 3.3) on the economy / society of the Member States. In particular, the questions below aim to understand to what extent such policies (programmes or schemes) have been evaluated and what are the results achieved.

Section 3.1: Immigrant investors (Maximum 1.5 pages)

Q26a. Have any evaluations or studies in your Member State considered the effectiveness of national policies to attract immigrant investors?

No.

Q26b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State in this regard (media reporting, media debates, assessment by experts etc.).

N/A.

Q27a. Have any evaluations or studies in your Member State considered the effectiveness of the national policies to attract immigrant investors to the growth of the national economy and/or in competing with other larger economies, and have specific indicators been developed?

No.

Q27b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State in this regard (media reporting, media debates, assessment by experts etc.).

N/A. However, the Private Banking Group established in a study that the Luxembourgish government should approach several target groups: a) Entrepreneurs who want to establish their European corporate headquarter or hub; b) Entrepreneurs looking to transfer their company; c) Wealthy families who look for a stable environment; d) High-income retirees; e) Managers of alternative funds and managers of assets; and e) Highly qualified professionals, experts, researchers and universities.³⁴⁸

On 10 December 2014, there was a parliamentary debate in which the opposition party (CSV) stated that the country has lost its competitive edge, pointing out the lack of qualifications of the resident population, the deficient connection with other international business centres and the lack of attractiveness for foreign investors. The CSV argued that in order to maintain competitiveness the country should keep an attractive fiscal environment for companies.³⁴⁹

Q28a. Have any evaluations or studies in your Member State considered the impact of the national policies to attract immigrant investors on other social issues (employment, access to housing, discrimination, etc.) and have specific indicators been developed?

No.

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Q28b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State in this regard (media reporting, media debates, assessment by experts etc.).

N/A. In Luxembourg the importance of direct foreign investment of third-country nationals can be measured by its growth between 2009 and 2012. In 2009, the global foreign investment represented 71.774,2 million Euros and the direct non-EU investment represented 10.227,1 million Euros (14,2%). In 2010, the global foreign investment represented 73.849,8 million Euros and the non-EU investment 12.779,8 million Euros (17,3%). In 2011, the global foreign investment was 81.692 million Euros and the non-EU investment 14.894,4 million Euros (18,2%) and in 2012, the global foreign investment was 90.149 million Euros and the non-EU foreign investment was 22.480 million Euros (24,9%). The global foreign investment between 2009 and 2012 increased 25,6%, the non-EU investment increased 120%.³⁵⁰ Even though the USA, Switzerland and Japan are the top 3 countries of origin of these investments, the participation of other third-countries have increased significantly passing from 1.591,3 million Euros in 2009 to 5.983,2 million Euros in 2012, which represents an increase of 276% in this period.³⁵¹ In 2012, Luxembourg was ranked as the 13th country of destination of direct foreign investment by the World Investment Report 2013.³⁵² Nevertheless, the Chamber of Commerce considered that even though there was an improvement in the ranking, there is a tendency to a downgrading in the ranking and that Luxembourg is far away from its position between 2007 and 2008.³⁵³ They conclude that the policy makers must act to close the gap between Luxembourg and the more competitive economies.³⁵⁴

Q29. What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that immigrant investors are perceived as abusing national migration rules in your Member State?

There is no evidence that immigrant investors are perceived as abusing national migration rules in Luxembourg. Residence controls may be ordered in doubtful cases or when the applicant requests the renewal of the residence permit.³⁵⁵

Section 3.2: Business owners (Maximum 1.5 pages)

Q30a. Have any evaluations or studies in your Member State considered the effectiveness of national policies to attract immigrant business owners?

No.

Q30b If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State and provide any examples of good practice in this regard.

In Luxembourg a third-country national who wants to establish a business can obtain advice, administrative assistance and help to put together his/her business plan from different public and private institutions.³⁵⁶ Furthermore, there are support structures for entrepreneurs and leaders of innovative projects.³⁵⁷ The business owner also can obtain financing, bank guarantees and equity participation through public entities.³⁵⁸ Finally the business owner can have access to incubators and entrepreneurial platforms such as Technoport³⁵⁹, Ecostart³⁶⁰, Fédération de Femmes Chefs d'entreprise Luxembourg (FFCEL)³⁶¹, Femmes Leaders³⁶², Luxembourg Cluster Initiative³⁶³, PwC's accelerator³⁶⁴, The Impactory³⁶⁵, Lux future lab³⁶⁶ and Europe4Startups.³⁶⁷

Q31a. Have any evaluations or studies in your Member State considered the effectiveness of the national policies to attract immigrant business owners to the growth of the national economy, and/or in competing with other larger economies, and have specific indicators been developed?

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For this question please consider also the contribution of immigrant business owners who are already present on the territory of your Member State.

No.

Q31b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State and provide any examples of good practice in this regard.

No information available.

Q32a. Have any evaluations or studies in your Member State considered the impact of the national policies to attract immigrant business owners on other social issues (employment social security, discrimination, etc.) and have specific indicators been developed?

No.

Q32b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State in this regard (media reporting, media debates, assessment by experts etc.).

No evidence available.³⁶⁸

Q33. What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that immigrant business owners are perceived as abusing national migration rules in your Member State?

See answer to Q.29.

Section 3.3: Other business persons (Maximum 1.5 pages)

Q34a. Have any evaluations or studies in your Member State considered the effectiveness of national policies to attract other business persons?

No.

Q34b If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State and provide any examples of good practice in this regard.

No. After the Directive 2014/66/EU³⁶⁹ of 15 May 2014 entered into force on 28 May 2014³⁷⁰, a Member of Parliament introduced a parliamentary question on 17 July 2014³⁷¹ addressed to the Minister of Foreign and European Affairs on the transposition of this directive into national law. The Minister of Foreign Affairs answered on 31 July 2014³⁷² that article 47 of the amended law of 29 August 2008 already foresees the intra-corporate transferee residence permit. The Minister also mentioned that Luxembourg is going to transpose the directive promptly, that the group in charge of the text already began working on a draft bill in July 2014 and that there will be a first interministerial meeting to address the issue in September 2014.

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Q35a. Have any evaluations or studies in your Member State considered the effectiveness of the national policies to attract other business persons to the growth of the national economy, and/or in competing with other larger economies, and have specific indicators been developed?

No.

Q35b. If yes, please summarise the main findings here and include a reference to the evaluation or study in an annex to your national report.

If no, please provide also any other evidence/indicator that may be available in your Member State and provide any examples of good practice in this regard.

N/A. As mentioned above, not all Mode 4 categories exist as such in the national legislation. Therefore, the Directorate of Immigration does not keep statistics on these categories.³⁷³ The national statistical institute (Statec) does not keep statistical data on them either.³⁷⁴

Q36. Does any evidence exist on the impact of other business persons on increased volume of trade, increased mobility, increased visibility, etc. for your Member State? EMN NCPs are asked to corroborate information provided with any available data or source.

No.

Q37. What evidence exists (policy documents, political discourses, media coverage, NGO campaigns, case law examples etc.) that other business persons are perceived as abusing national migration rules in your Member State?

There is no proof of abuse concerning Mode 4 categories because they are not defined in the national legislation and there are no documents issued on these individuals. However, in the last months there has been an ongoing discussion on the Transatlantic Trade and Investment Partnership (TTIP) between the EU and the USA. Many Luxembourgish social stakeholders (NGOs and Labour Unions)³⁷⁵ are against TTIP, especially with regards to the applicable labour law. They especially question the fact that individuals who fall under Mode 4 categories will be excluded from the protection of the Luxembourgish labour law and that US laws would apply.³⁷⁶ The treaty in itself has generated an open discussion between the governments which support these negotiations and the social stakeholders which have requested to halt negotiations.³⁷⁷ The Luxembourgish authorities have repeatedly reassured stakeholders that TTIP would not change the *acquis* in this or any other regard and that as a consequence Luxembourgish labour law will prevail.³⁷⁸ The so called "labour clause" included in EU FTAs preserves the ability of Member States to apply requirements set in their laws and regulations regarding entry, stay, work and social security measures, including regulations concerning period of stay, minimum wages as well as collective wage agreements, should they choose to do so.

[Section 3.4: Challenges and obstacles to admitting third country nationals for business purposes \(Maximum 1.5 pages\)](#)

This Section examines the existing challenges and obstacles for the design and implementation of specific policies aiming to attract immigrant investors, immigrant business owners and other business persons and those challenges and barriers reported by the business community. EMN NCPs are asked to address any obstacle to their admission (eligibility criteria, investment plan, business plan, obtaining visa, etc.) or to other macro-level areas such as visa policy, education, trade, etc.).

EMN NCPs are asked to present the findings and analysis of any existing studies / evaluations or evidence collected in any other way and to provide any available statistics in the corresponding tables Annex 1.

Q38. What are the main challenges related to the admission of immigrant investors, immigrant business owner and other business persons in your Member State?

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Categories of other business persons	Challenges for national stakeholders associated with the design and implementation of policies for other business persons. <i>If possible studies should be included (sourced as appropriate).</i>	Challenges for applicant at both admission (pre-arrival) and stay stages (e.g. documentation required, waiting times, restrictions, etc.) <i>If possible, the views of the business community, of the immigrant community and studies should be included (sourced as appropriate).</i>
<i>Immigrant investors</i>	<ul style="list-style-type: none"> - The need to establish a clear legal framework defining the different categories of residence permits. - Allowing family reunification and establishing a fast track procedure. - Competiveness versus costs. As all Member States are competing to attract capital, there has to be a clear policy of the benefits and advantages which balance the costs of establishing in Luxembourg. - Administrative procedures have to be simplified³⁷⁹ especially when dealing with active investors who have to apply for a self-employed worker residence permit under article 51 of the Immigration Law. - Limited housing and working space, which implies higher operation and installation costs. 	<ul style="list-style-type: none"> - Understanding the administrative procedures for obtaining the residence permit of the applicant and the residence permits of the family members.³⁸⁰ - Competiveness – costs.³⁸¹ - Limited housing and working space, which implies higher operation and installation costs.
<i>Immigrant business owners</i>	<ul style="list-style-type: none"> - Access to credit for Small and Medium Sized enterprises.³⁸² - Higher taxes and social security contributions³⁸³ - Administrative procedures.³⁸⁴ - Limited housing and working space³⁸⁵, which implies higher operation costs. - Finding clients³⁸⁶ as the local market is quite small and the growth possibilities are located in the cross-border region (Greater Region).³⁸⁷ - Covering the shortages of a qualified workforce in certain sectors of the economy.³⁸⁸ - The lack of statistical data and of studies which allow to evaluate the importance and the impact that the different categories have on the economy. 	<ul style="list-style-type: none"> - Access to credit for Small and Medium Sized enterprises.³⁸⁹ - Higher taxes and social security contributions.³⁹⁰ - Administrative procedures.³⁹¹ - Limited housing and working space³⁹², which implies higher operation costs. - Finding and keeping clients.³⁹³
<i>Business visitors for establishment purposes (BVEP)</i>	<p>At the moment there is no national legislation that deals with this category of the Mode 4. ³⁹⁴</p>	<p>No information available.</p>

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<i>Intra-corporate transferees (ICT)</i>	No information.	No information available.
<i>Business sellers (BS)</i>	At the moment there is no national legislation that deals with this category of the Mode 4.	No information available.
<i>Independent professionals (IP)</i>	At the moment there is no national legislation that deals with this category of the Mode 4.	No information available.
<i>Contractual services suppliers (CSS)</i>	At the moment there is no national legislation that deals with this category of the Mode 4.	No information available.
<i>Graduate trainees (GT)</i>	At the moment there is no national legislation that deals with this category of the Mode 4.	No information available.

Section A4: Good practices and lessons learned (*Maximum 2 pages*)

This Synthesis report will highlight any good practices of Member States that have successfully attracted and facilitated the arrival of immigrant investors, immigrant business owners and other business persons. This section will also tackle the extent to which these practices have favoured the (positive) contribution of third-country nationals to the national economy and their likelihood to be promoted and replicated in other Member States and also the extent to which has created monitoring mechanisms to detect misuse / abuse of these migration channels.

This section will include also lessons learned from the practical implementation of specific policies, programmes or schemes for the targeted categories of third-country nationals: lessons learned may address also assessments of the expected and/or unintended (positive and negative) consequences of specific policies, programmes or scheme (i.e. A so-called investor programme has facilitated the admission of wealthy third-country nationals to boost national economy in the real-estate sector. However, as consequence, admitted third-country nationals have invested their money but many properties remain empty due to inflated market rates).

If there are specific examples of good practices that you would like to highlight, please do so below:

Luxembourg has an open, diversified and stable economy which is open to foreign investors.

Its policy is focussed on emerging economies (i.e. BRIC or Latin American countries)³⁹⁵ and innovative sectors as well as on attracting corporate headquarters.³⁹⁶

Luxembourg has created a state-of-the-art infrastructure for the development of new technologies (i.e. Technoport, House of Biohealth, etc.) (See Q.30).

The existing large variety of support structures for entrepreneurs that come to Luxembourg can be considered as a good practice. (See Q. 12b).

The economic missions organised by the Ministers of Finance and Economy allow a direct personal contact between foreign investors and high level authorities, which can facilitate the attraction of investors. To organise these missions, the private and financial sectors are consulted for their feedback, as they can better assess the needs of the economy.

The interministerial coordination is important no matter whether it takes place internally at the interministerial working group level, where the bills for improving the legal framework are drafted or at the CCTI level, where decisions are taken in a more expeditious manner.

The fact that the authorisation of stay for business owners is treated by the CCTI, which is not only composed by government officials but also of experts from the private sector (Chamber of Commerce), allows a pragmatic approach to the evaluation of the business plan and enables them to take a rapid decision.

Section 5: Conclusions (Maximum 2 pages)

The Synthesis Report will outline the key findings, main observations of the Study, present conclusions relevant for policymakers at national and EU level and identify policy pointers for future actions.

Specific conclusions drawn by Member States should be included in the Top Line Factsheet to prevent duplication of efforts.

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Annex 1

Statistics from Member States will be used in the Synthesis Report to contextualise the statistics provided in this annex.

Table 1: Statistics on immigrant investors and immigrant business owners (In Luxembourg there are no available statistics)^{cccccvii}

Indicators	2009	2010	2011	2012	2013	Source / further information
Statistics on immigrant investors ^{cccccviii}						
Number of visa applications (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa issued (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa refused (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of applications for residence permits (perhaps an estimate e.g. admissions)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of residence permits issued (perhaps an estimate e.g. admissions)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of residence permits refused / withdrawn (perhaps an estimate e.g. admissions)	n.i.	n.i.	n.i.	n.i.	n.i.	
Average age of migrant investors who were granted residence permits (and national D-type visas?)	n.i.	n.i.	n.i.	n.i.	n.i.	
Statistics on immigrant business owners ^{cccccxix}						
Number of visa applications (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa issued (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa refused (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of applications for residence permit	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of residence permits issued (perhaps an estimate e.g. admissions)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of residence permits refused / withdrawn (perhaps an estimate e.g. admissions)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of residence permits reflecting a change of status into business owner (specifying, if possible, from which category – i.e. student, family member, beneficiary of international protection, etc.)	n.i.	n.i.	n.i.	n.i.	n.i.	
Average age of immigrant business owners						
Statistics on other business persons corresponding to Annex 2 (EU Mode 4 categories) and other business persons as recognised by Member States						
Number of third-country nationals admitted under EU Mode 4 categories or equivalent categories indicated in Q22. If available data can be broken down according to the categories in Annex 2, please provide them in a separate spreadsheet.	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa applications (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa issued (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa refused (national D-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa applications (Schengen C-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa issued (Schengen C-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	
Number of visa refused (Schengen C-type visas)	n.i.	n.i.	n.i.	n.i.	n.i.	

Table 2: indications of the average length of time needed for each of the following indicators

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The table below is not intended as having detailed, 'hard' statistics on the average length of time taken, but rather as approximate indications. In case you concrete statistics or data are available however, please provide them separately.

- Please indicate with 'X' the (approximate) average length of time needed for each of the indicators.

Average length of time expected (<u>in days</u>)	A few days	From a few days to a week	Up to two weeks	Up to a month	More than a month
Average time expected between lodging an application and the final decision for a visa application of an <u>immigrant investor (national D-type visa)</u>	n/a				
Average time expected between lodging an application and the final decision for a visa application of an <u>immigrant business owner (national D-type visa)</u>	n/a				
Average time expected for registering a business (from application to establishment)	n/i				
If possible to change status: the average time expected for third-country nationals already present in the Member State to change their status into <u>immigrant investor</u> (from family reasons, study reasons, asylum, etc.)	n/i				
If possible to change status: the average time expected for third-country nationals already present in the Member State to change their status into <u>immigrant business owner</u> (from family reasons, study reasons, asylum, etc.)	n/i				

Please indicate if statistics are available on businesses established by immigrant business owners and by Business Visitors for Establishment Purposes (BVEP): (such as total number of businesses established by third-country nationals; number of FTEs created by migrant investors and business owners; number of survived / closed businesses; share of businesses per size (share of 1; 2-10, 11-19, 20-49, 50+ employees). If possible, EMN NCPs are asked to indicate whether data refer to newly admitted business owners or they include also those third-country nationals already living in their Member States

No.

- Please indicate if statistics are available on the economic effects of immigrant investments or businesses (such as the share of migrant investments out of total annual national investments; number of FTEs created/supported as a result of investments by third-country nationals; the tax contribution to the national revenue systems of immigrant business owners and investors; the increased economic ties / trade volumes with specific third countries as a result of immigrant business owners and investors).

No information available.

Annex 2**Table 1: Temporary Movement of Natural Persons under international trade agreements – the EU “Mode 4” categories**

Category	Criteria	Length of stay
BVEP: Business visitors for establishment purposes'	Natural persons <ul style="list-style-type: none"> - working in a senior position who: - are responsible for setting up an enterprise, - do not offer or provide services or engage in any other economic activity than required for establishment purposes. - do not receive remuneration from a source located within the host Party. 	Up to 90 days in any twelve month period
ICT: 'Intra-corporate transferees' ^{cd}	Natural persons who: <ul style="list-style-type: none"> - have been employed by a juridical person or have been partners in it for at least one year - are temporarily transferred to an enterprise, the host entity, that may be a subsidiary, branch or head company of the juridical person in the territory of the other Party, - belong to one of the following categories: <ol style="list-style-type: none"> 1. Managers: Persons holding a senior position, who primarily direct the management of the host entity, receiving general supervision or guidance principally from the board of directors of the business or equivalent; that position shall include: <ul style="list-style-type: none"> – directing the host entity or a department or sub-division of the host entity – supervising and controlling the work of other supervisory, professional or managerial employees – having the authority to recommend hiring, dismissing or other personnel action;. 2. Specialists: Persons working within a juridical person who possess specialised knowledge essential to the host entity's areas of activity, techniques or management. In assessing such knowledge, account shall be taken not only of knowledge specific to the host entity, but also of whether the person has a high level of qualification including 	Up to 3 years

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	adequate professional experience referring to a type of work or activity requiring specific technical knowledge, including possible membership of an accredited profession;	
GT: Graduate trainees / trainee employees^{cdi}	Natural persons with a university degree who are transferred to a host entity for career development purposes or in order to obtain training in business techniques or methods, and are paid during the transfer;	Up to 1 year
BS: Business sellers	Natural persons who: <ul style="list-style-type: none"> - are representatives of a services or goods supplier of one Party, - seeking entry and temporary stay in the territory of the other Party for the purpose of negotiating the sale of services or goods, or entering into agreements to sell services or goods for that supplier - do not engage in making direct sales to the general public - do not receive remuneration from a source located within the host Party - nor are they commission agents. 	Up to 90 days in any twelve month period
CSS: 'Contractual services suppliers'	Natural persons: <ul style="list-style-type: none"> - employed by a juridical person of one Party which itself is not an agency for placement and supply services of personnel nor acting through such an agency, has not established in the territory of the other Party and has concluded a bona fide contract to supply services with a final consumer in the latter Party, requiring the presence on a temporary basis of its employees in that Party, in order to fulfil the contract to provide services - must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract not exceeding twelve months. - should be offering such services as employees of the juridical person supplying the services for at least the year immediately preceding the date of submission of an application for entry into the other Party. - must possess, at the date of submission of an application for entry into the other Party, at least three years professional experience in the sector of activity which is the subject of the contract. - must possess a university degree or a qualification demonstrating knowledge of an equivalent level - must possess professional qualifications where this is required to exercise an activity pursuant to the laws, regulations and legal requirements of the Party where the service is supplied. 	<p>The current EU and Luxembourg standard position foresees a cumulative period of not more than six months or for the duration of the contract, whichever is less.</p> <p>In the case of the Canadian Free Trade Agreement this period has been extended to 12 month^{cdii}.</p>

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	- shall not receive remuneration for the provision of services in the territory of the other Party other than the remuneration paid by the juridical person employing the natural person..	
IP: 'Independent professionals'	<p>Natural persons:</p> <ul style="list-style-type: none"> - engaged in the supply of a service - established as self-employed in the territory of a Party who have not established in the territory of the other Party - who have concluded a bona fide contract (other than through an agency for placement and supply services of personnel) to supply services with a final consumer in the latter Party, requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services - must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party - must have obtained a service contract for a period not exceeding twelve months. - must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract. - must possess a university degree or a qualification demonstrating knowledge of an equivalent - must possess professional qualifications where this is required to exercise an activity pursuant to the laws, regulations or legal requirements of the Party where the service is supplied. 	<p>The current EU and Luxembourg standard position foresees a cumulative period of not more than six months or for the duration of the contract, whichever is less.</p> <p>In the case of the Canadian Free Trade Agreement this period has been extended to 12 month.^{cdiii}</p>

ENDNOTES

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- ¹ Private Banking Group, Welcome to Luxembourg, February 2011, pp. 4 and 17. Luxembourg ranks 4th in global quality of life and 2nd in security and has a work productivity per employee of 77,6 USD.
- ² Chambre de Commerce, Le rayonnement transfrontalier de l'économie luxembourgeoise : la diversité règne, l'intégration piétine, Actualité & Tendances, n° 12, mars 2012, p. 7. The development of the steel industry led to a successful take-off for the economy. However, between the period 1913 - 1950 the rate was negative (-0,05% per year). In the 1950's, the Luxemburgish economy began shifting to other economic sectors, implementing as principal objective of its economic policy the achievement of full employment. In this period of industrial diversification, which began with the establishment of big corporations in the chemical and para-chemical industry, such as Goodyear (1951) and DuPont de Nemours (1963), the installation of research laboratories started. This industrial diversification policy forced the Luxemburgish government to make efforts to promote the attraction of foreign investment from abroad, especially from the United States. See Raymond Kirsch, La Croissance de l'économie luxembourgeoise, Cahiers économiques n° 48, Ministère de l'économie nationale, 1971, pp. 11, 16, 35, 49 and 82. Paul Zahlen, "L'économie luxembourgeoise: Une histoire mouvementée", "Luxembourg. Grand-Duché de Luxembourg", Service information et presse du gouvernement luxembourgeois, 2007, pp. 111 and 113-115.
- ³ Kirsch dit : "A partir de 1 892, les capitaux allemands commencèrent à prendre des participations importantes dans la sidérurgie luxembourgeoise. Ces opérations répondaient aux préoccupations des industriels de l'époque cherchant à pousser l'intégration verticale des houillères et des mines de fer jusqu'à l'industrie de la transformation des métaux, ce mouvement donnant lieu à la création des grands empires industriels «Krupp», «Stinnes», etc. Pour le Grand- Duché, ces opérations avaient l'avantage de fournir à la jeune industrie en croissance rapide les moyens de financement de plus en plus considérables nécessaires à ce développement et qui dépassaient largement les possibilités des seuls industriels indigènes." Raymond Kirsch, La Croissance de l'économie luxembourgeoise, Cahiers économiques n° 48, Ministère de l'économie nationale, 1971, pp. 11.
- ⁴ Overproduction at the international level had a direct effect on the prices on the international markets, forcing the Luxemburgish corporations to fire their staff or to provide them unemployment benefits. The government established the Anti-crisis division (Division anti-crise) in 1977 and passed a law which allowed early retirement for employees. This had had a direct effect on the reduction of staff in the steel industry. Paul Zahlen, "L'économie luxembourgeoise: Une histoire mouvementée", "Luxembourg. Grand-Duché de Luxembourg", Service information et presse du gouvernement luxembourgeois, 2007, p. 115.
- ⁵ The establishment of the European investment bank in Luxembourg became a pull factor for the international financial world. When the Euro market was established the first German bank came to Luxembourg. Another pull factor for German Banks was that Luxemburgish laws did not require a minimal reserve for banks as the one imposed by their own central bank. The attraction of foreign banks began in 1919 when the "Société générale de Belgique", established a subsidiary in Luxembourg that later became the "Banque générale du Luxembourg". See Robert Michaux, Le Luxembourg 1960 - 2010: Le Secteur bancaire au Luxembourg, 15 avril 2013, p. 1. The idea of creating a financial center began in the late 1920's with the creation of the Luxemburgish stock market (Bourse de Luxembourg created by Law of 30 December 1927). See Mémorial n°1 of January 1928, p.5. With the

internationalisation of the financial markets, Luxembourg became the headquarters state of the first community institution (CECA), which later merged with the EEC. This allowed Luxembourg to become the judicial and financial capital of the EEC and to become the headquarter state of the European Investment Bank.

- ⁶ The financial centre represents 36% of the GDP and tens of thousands of direct and indirect jobs depend on it, see Prime Minister, Discours sur l'état de la nation, 10 April 2013.
- ⁷ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁸ The services sector (excluding the financial sector) represents 61,5% of the economic structure. This is a significant change from the economic structure in 1970, where the financial services represented only 4% and the other services 37%. Ecole Supérieur du Travail, [Traits caractéristiques de l'économie luxembourgeoise](#), Powerpoint presentation, slide 8, last accessed 7 January 2015.
- ⁹ Its overall contribution in 2010 represented 25,5% of the GDP. Luxembourg Financial Center 2014 Factsheet, Macro-economic data and forecast, Luxembourg for Finance, 2014. See http://www.luxembourgforfinance.com/sites/luxembourgforfinance/files/files/LFF_FACTSHEET_March_2014.pdf, last accessed 7 January 2015.
- ¹⁰ [Government programme 2013 - 2018](#) p. 22, last accessed 7 January 2015.
- ¹¹ Fontagne stated "Luxembourg has thus succeeded in having a growth rate worthy of a developing country" L. Fontagne, "Compétitivité du Luxembourg: après la bulle", février 2010.
- ¹² Chambre de Commerce, Le rayonnement transfrontalier de l'économie luxembourgeoise : la diversité règne, l'intégration piétine, Actualité & Tendances, n° 12, mars 2012, p. 8.
- ¹³ STATEC, Stocks d'investissements directs de l'étranger au Luxembourg par branches économiques investies et principaux pays de provenance (en millions EUR) 1995 - 2012. <http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx>, last accessed 7 January 2015.
- ¹⁴ [Government programme 2013 - 2018](#) p. 35. The concept of destination branding involves giving a territory a clear, competitive identity. See Luxemburgish Chamber of Commerce, "Nation Branding" [last accessed 7 January 2015](#).
- ¹⁵ [Government programme 2013 - 2018](#) p. 35.
- ¹⁶ [Government programme 2013 - 2018](#) pp. 35-41.
- ¹⁷ In his speech to the Nation the Prime Minister said: "Les investissements directs et indirects de l'Etat prévus diminueront de 125 millions, mais le niveau d'investissement évoluera à un niveau très élevé. Les crédits destinés à la recherche et à l'innovation et dans les énergies renouvelables par contre augmenteront. Une attention particulière sera accordée de manière stratégique au secteur des TIC, au système scolaire et à la culture, des facteurs softs de l'attractivité du pays pour les nouveaux arrivants dont le Luxembourg a besoin pour faire évoluer ces nouveaux secteurs économiques." See Europaforum.lu, « [Dans son discours sur l'état de la nation, Jean-Claude Juncker a plaidé pour une Europe unie qui est "un élément important de la raison d'Etat luxembourgeoise](#) », 8 May 2012.
- ¹⁸ Article 51 of the amended law of 29 August 2008.

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- ¹⁹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ²⁰ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²¹ Chambre de Commerce Luxembourg, *Actualité & Tendances*, n° 12, Mars 2012, p. 3.
- ²² Information provided by an official of the Ministry of Economy, 3 February 2015.
- ²³ Chambre de Commerce Luxembourg, *Actualité & Tendances*, n° 12, Mars 2012, p. 3.
- ²⁴ Article 51 of the amended law of 29 August 2008.
- ²⁵ Article 78 (1) a) of the amended law of 29 August 2008.
- ²⁶ Interview with an official of the Ministry of Finance, 22 February 2013.
- ²⁷ Article 78 (1) a) of the amended law of 29 August 2008.
- ²⁸ <http://www.quichet.public.lu/entreprises/fr/ressources-humaines/mobilite/mobilite-vers-luxembourg/independant/index.html>, last accessed 7 January 2015.
- ²⁹ Private Banking Group, *Welcome to Luxembourg*, February 2011, p. 10.
- ³⁰ A letter of invitation is still required and the respective visit to the consular office of the country which represents Luxembourg's interests in the country of origin. Private Banking Group, *Welcome to Luxembourg*, February 2011, p. 19.
- ³¹ *Ibidem*.
- ³² Government program 2009 – 2014, p. 58. See <http://www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf>, last accessed 7 January 2015.
- ³³ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ³⁴ Zahlen, op. cit., p. 114 and IT One, Luxembourg, terre d'accueil pour les américains, 20 May 2014.
- ³⁵ <http://www.quichet.public.lu/citoyens/fr/actualites/2013/12/10-programme-gouvernemental/emploi/index.html>, last accessed 7 January 2015.
- ³⁶ Directorate of Immigration, Interview of 27 October 2014.
- ³⁷ Directorate of Immigration, Interview of 27 October 2014.
- ³⁸ Directorate of Immigration, Interview of 27 October 2014.
- ³⁹ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ⁴⁰ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁴¹ Interview with an official of the Ministry of Economy, 7 April 2014.
- ⁴² Luxembourg is considered the most open economy of the OECD countries. Guy SCHULLER, *Le Luxembourg 1960 – 2010: Une économie de petit espace face aux mutations du monde*, STATEC, 29 avril 2013, p. 4.
- ⁴³ Bank of China, ICBC and China Construction Bank. See [China Construction Bank opens new European Headquarters in Luxembourg](#), 29 October 2013. Luxembourg is focusing on the

development of the cross-border RMB offshore market, as well as the research and development of new financial instruments.

- ⁴⁴ Guy SCHULLER, *Le Luxembourg 1960 – 2010: Une économie de petit espace face aux mutations du monde*, STATEC, 29 avril 2013, p. 7.
- ⁴⁵ Foreign Direct Investment means the investment that a legal entity or a physical person does with the goal of acquiring a durable interest in a resident enterprise in another country. A durable interest implies a long-term relationship between the investor and the enterprise, and that the investor exercises a significant influence on the management of the enterprise (normally holds at least 10% of the capital). In 2010, the stock of incoming foreign direct investment was of 1451 billion Euros and of total assets of 1496 billion Euros ranking Luxembourg in third position behind the Netherlands and the United States. This has been possible thanks to the Special Purpose Entities (SPE's) Nevertheless, the classic foreign direct investment remains important not only because its job creation power but also because of the added value that is generated through it. See GENSON, Gilles, *Sur les investissements directs étrangers*, STATEC, Mars 2013, pp. 1-2.
- ⁴⁶ Europaforum.lu, Dans son discours sur l'état de la nation, Jean-Claude Juncker a plaidé pour une Europe unie qui est "un élément important de la raison d'Etat luxembourgeoise", 8 May 2012 and [Government programme 2013 - 2018](#) p. 22.
- ⁴⁷ [Government programme 2013 - 2018](#) p. 22
- ⁴⁸ Interview with an official of the Ministry of Economy, 7 April 2014.
- ⁴⁹ Directorate of Immigration, Interview of 27 Octobre 2014.
- ⁵⁰ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ⁵¹ *Société de Participations Financières* (SOPARFI- Financial Holding company). There is no legal definition of Soparfi in the sense of how it is most used. Soparfi is a term of convenience rather than a precise legal concept. Depending on the needs of the shareholders or other investors, the Soparfi can adopt one of the five following legal forms: *Société anonyme* (Public limited company), *Société à responsabilité limitée* (Private limited company), *Société en commandite par actions* (Partnership limited by shares - "SCA"), *Société coopérative* ("SC"), or *Société européenne* (European Company). See SOPARFI, Luxembourg for Finance, pp. 3-4 ; *Société de gestion de patrimoine familial* (SPF -Family Wealth Management Company) created by law of 11 May 2007; *Société d'investissement de capital à risque* (SICAR) created by the amended law of 15 June 2004 on the risk capital investment company.
- ⁵² Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁵³ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁵⁴ [Government programme 2013 - 2018](#) p. 36.
- ⁵⁵ [Government programme 2013 - 2018](#) p. 36.
- ⁵⁶ [Government programme 2013 - 2018](#) p. 37.
- ⁵⁷ [Government programme 2013 - 2018](#) p. 37. The focus lays on the high added value logistic sectors, including pharmaceutical products, storage and transport of art objects and valuable

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- items, capitalising on the new Luxembourg Freeport which will open on 17 September 2014. See <http://www.luxfreeport.lu>
- 58 [Government programme 2013 - 2018](#) p. 38.
- 59 [Government programme 2013 - 2018](#) p. 39.
- 60 [Government programme 2013 - 2018](#) p. 39.
- 61 Luxembourg for Business, [Headquarters](#), last accessed 7 January 2015.
- 62 United States Department of State, Bureau of Economic, Energy and Business Affairs, [2010 Investment Climate Statement - Luxembourg](#), last accessed 7 January 2015.
- 63 Luxembourg for Business, Luxembourg, Le meilleur choix pour l'implantation de votre entreprise, 2011, p. 10.
- 64 Willet, Megan, [The 15 Countries With The Highest Quality Of Life](#), Index 2013, www.businessinsider.com, 28 May 2013. See also [OCDE Better Life Index, Luxembourg](#).
- 65 LU EMN NCP, Attracting highly qualified and qualified third-country nationals, 2013.
- 66 Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- 67 Luxembourg is ranked in [10th place](#) of the best connected countries in the world by the International Telecommunications Union in 2013. See www.paperjam.lu, [Luxembourg dans le Top 10 des pays les plus connectés](#), 25 November 2014. www.Luxembourg.lu, [Nouvelles technologies, commerce électronique et télécommunications, Le Luxembourg, un pionnier du commerce électronique](#), last accessed 7 January 2015 and Luxembourg for Business, Luxembourg, Le meilleur choix pour l'implantation de votre entreprise, 2011, p. 12.
- 68 Dimireva, Ina, Luxembourg Investment Climate 2009, www.Eubusiness.com, 26 October 2009.
- 69 [Government programme 2013 - 2018](#) p. 39.
- 70 Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- 71 <http://www.technoport.lu/online/www/function/homepage/ENG/index.html>, last accessed 7 January 2015.
- 72 Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. It is difficult to attract start-ups to Luxembourg because the owners are mainly young entrepreneurs and they are more interested in Silicon Valley (USA), Paris or Barcelona.
- 73 4th objective "perpetuate and develop the activity of the financial sector". The government policy will be centered on three major topics: a) consolidate and develop the pillars of the financial center; b) reinforce the actions that benefit the financial sector as a whole; and c) diversification of activities and geographical markets. See [Government programme 2013 - 2018](#), p. 29.
- 74 [Government programme 2013 - 2018](#) p. 32.
- 75 Gouvernement.lu, [La visite du ministre des Finances en Chine renforce le rôle de la place financière luxembourgeoise dans les activités en RMB](#), 1 July 2014, last accessed 7 January 2015.

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- ⁷⁶ Gouvernement.lu, [La visite du ministre des Finances en Chine renforce le rôle de la place financière luxembourgeoise dans les activités en RMB](#), 1 July 2014, last accessed 7 January 2015.
- ⁷⁷ Gouvernement.lu, [La visite du ministre des Finances en Chine renforce le rôle de la place financière luxembourgeoise dans les activités en RMB](#), 1 July 2014, last accessed 7 January 2015.
- ⁷⁸ Luxembourg for Business, [Sixth Chinese bank to launch operations in Luxembourg](#), 12 September 2014, last accessed 7 January 2015.
- ⁷⁹ In order to do this, the government passes a bill to establish a Luxemburgish sovereign Sukuk. [Government programme 2013 - 2018](#) p. 32.
- ⁸⁰ Law of 12 July 2014 published in Mémorial A-121 of 15 July 2014.
- ⁸¹ A Sukuk is commonly refers to the Islamic equivalent of bonds. However, as opposed to conventional bonds, which merely confer ownership of a debt, Sukuk grants the investor a share of an asset, along with the commensurate cash flows and risk. As such, Sukuk securities adhere to Islamic laws sometimes referred to as Shari'ah principles, which prohibit the charging or payment of interest. See Islamic Development Bank, [What is Sukuk?](#), last accessed 7 January 2015.
- ⁸² Government.lu, [La place financière luxembourgeoise s'internationalise: La finance chinoise et islamique s'invitent au Luxembourg](#), 9 July 2014, last accessed 7 January 2015.
- ⁸³ Luxembourg for Finance, [Islamic finance in Europe: revival ahead](#), 30 June 2014, last accessed 7 January 2015.
- ⁸⁴ Luxembourg for Finance, [Luxembourg successfully issues landmark Sukuk transaction](#), 30 September 2014. The launching of the five year Euro sovereign Sukuk generated a parliamentary question on 6 October 2014 (parliamentary question n° 588) addressed to the Ministry of Finances on the financial costs of this issuance in comparaison to a normal "standard" issuance and on whether these financial instruments can be used for launching instruments in Chinese Remnibi in the future. The Ministry of Finances answered on 31 October 2014 explaining that the main objective of this Sukuk is to position the Luxemburgish financial centre on the market niche of Islamic finances and to further develop the economic relations with the countries of the Gulf and other Muslim countries. It also helps the Luxemburgish State to finance itself. The Minister also explained that the weighted average rate of the Sukuk is of 0,436% in comparison with the last bond issue which was 2,125%. [See parliamentary question n° 588 of 6 October 2014 and answer of the Minister of Finance of 31 October 2014](#).
- ⁸⁵ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. At the moment there are no Chilean or Mexican banks in Luxembourg. However, the government is very interested in the Chilean market for selling Luxemburgish hedge funds products. In these markets the economic missions are very useful because they allow to explain to local authorities and regulators the Luxemburgish legal framework and the supervision role of the *Commission de surveillance du Secteur Financier* (CSSF) to develop trust in the financial products. The attracting of investment can be a two-way street because the money enters Luxembourg, is transformed with an added value and then invested in the country of origin.
- ⁸⁶ Interview with an official of the Ministry of Economy, 7 April 2014.

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- ⁸⁷ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁸⁸ <http://www.luxembourg.public.lu/fr/economie/investir/promotion-economique/acteurs/>, last accessed 7 January 2015.
- ⁸⁹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁹⁰ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. On some occasions the Director of the Budget of the Ministry of Finance is responsible to receive investors in order to explain them the legal framework and answer any questions that they have.
- ⁹¹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁹² Luxembourg for Business was founded in April 2008 as an initiative by the Ministry of the Economy and Foreign Trade (Ministère de l'Économie et Commerce extérieur), the Ministry of Small and Medium-Sized Entreprises (Ministère des Classes moyennes now General Directorate of Small and Medium-Sized Entreprises), the Chamber of Commerce, the Luxembourg Export Credit Agency, the SNCI, the Chamber of Crafts (Chambre de Metiers) and Luxembourg's Business Federation (FEDIL).
- ⁹³ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ⁹⁴ Luxembourg Trade and Investment Offices are located in Abu-Dhabi, Israel, New York and San Francisco (USA), Seoul (South Korea, Shanghai (People's Republic of China), Taipei (Taiwan) and Tokyo (Japan).
- ⁹⁵ <http://www.luxembourgforbusiness.lu/en/international-network/search?country=All&category=54>, last accessed 7 January 2015.
- ⁹⁶ Bilateral Chamber of Commerce such as the [Azerbaijan-Luxembourg Chamber of Commerce](#), [Bangladesh Business Chamber of Commerce](#), [Luxembourg-Chile Chamber of Commerce](#), [Chinese-Luxembourg Chamber of Commerce](#), [Chambre Française de Commerce et d'Industrie au Grand-Duché de Luxembourg](#), [Deutsch-Luxemburgische Wirtschaftsinitiativ](#), [The British Chamber of Commerce for Luxembourg](#), [Indian Business Chamber of Commerce](#), [Ireland-Luxembourg Chamber of Commerce](#), [Camera di Comercio Italo-Lussemburghese](#), [Chambre de Commerce du Pérou](#), [Luxembourg-Poland Business Club](#), [Chambre de Commerce et d'Industrie Lusso-Luxembourgeoise](#), [Romania-Luxembourg Business Forum](#), [Luxembourg Russia Business Chamber](#), [Luxemburg-Slovenian Business Club](#), [Chamber of Commerce Belgium-Luxembourg South East Europe](#), [Spanish Chamber of Commerce in Belgium and Luxembourg](#), [Nobelux Luxembourg](#), [Luxembourg Turkish Business Club](#), [American Chamber of Commerce in Luxembourg](#).
- ⁹⁷ "The Luxembourg government wants to attract actors in the CleanTech field to set up base or start their activities in Luxembourg. Secondly, the government will continue to actively support the development of Luxembourg's existing companies and encourage their export activities by putting Luxembourg on the map of clean technologies and facilitate the penetration of products and services into international markets. Thirdly, feed-in tariffs as well as R&D grants will support aid schemes for environmental protection measures and the rational use of natural resources. Fourth, the government is committed to maintaining a

favourable business environment by keeping VAT rates, corporate tax and labour costs at competitive levels; the IP scheme which provides 80% tax exemption on certain IP-related income has proven to be very effective in encouraging R&D activities here.” See Luxembourg for Business, LUXEMBOURG’S CLEANTECH STRATEGY UNVEILED, 7 August 2012.

- ⁹⁸ Luxembourg hosts around 200 eco-companies, working in renewable energy, waste management, water and eco-construction. See Luxembourg for business, [Clean Technologies](#), last accessed 7 January 2015.
- ⁹⁹ [Fédération des professionnels du secteur financier Luxembourg](#). It is composed by representatives of banks, insurance companies, investment funds, wealth managers, domiciliation specialists, financial industry service providers, private equity professionals, lawyers, chartered accountants, auditors and the Luxembourg Chamber of Commerce. Its goal is to intensify the promotion of the image of the Luxembourgish financial centre through structured and professional action.
- ¹⁰⁰ <http://www.luxembourgforfinance.com/fr/qui-sommes-nous/luxembourg-finance>, last accessed 7 January 2015.
- ¹⁰¹ Fintech is the combination of traditional financial services (lending, investment and payment services) with virtual currencies (such as Bitcom). It is a mixture between financial services and ICT.
- ¹⁰² Ministère d’Etat, Service des Medias et Communications, [Digital Lëtzerbuerg](#), Conférence de Presse, 20 October 2014, p. 2. Also, Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. “In terms of infrastructure, Luxembourg is perfectly equipped with Secure Datacenters and already supports Fintech companies. Yet this has to be extended, specifically to offer support for protection against cyber-attacks and also cloud computing. Luxembourg has frequently been able to show the required flexibility regarding regulation and tax framework regarding adoption of new phenomena such as Virtual Currencies. This has been the case for example with the arrival of PayPal. Being a small and flexible country, Luxembourg is certainly very well positioned to show the required openness and flexibility towards disruptive business models such as FinTech and Virtual Currencies.” Bock, George, Fintech and Luxembourg, www.kpmg.lu, 18 July 2014, last accessed 7 January 2015.
- ¹⁰³ [Société National de crédit et d’investissement](#)
- ¹⁰⁴ [Government programme 2013 - 2018](#) p. 36.
- ¹⁰⁵ <http://www.ducroire.lu/en/credit-insurance>
- ¹⁰⁶ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. This working group puts into place an action plan for economic missions. Certain economic missions in third-countries are carried out by the Minister of Economy, to do financial promotion for Luxembourg and other missions are carried out by the Minister of Finance to promote ICT or Cleantech in Luxembourg or to try to make contacts with targeted individuals (i.e. for an open skies treaty).
- ¹⁰⁷ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014. An economic mission is foreseen to promote Luxembourg as an excellence centre in logistics, ICT, Cleantech, biotechnologie or as a financial sector (banking, fintech, insurance, etc.).

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- ¹⁰⁸ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹⁰⁹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹¹⁰ [Government programme 2013 - 2018](#) p. 36.
- ¹¹¹ <http://www.luxembourgforbusiness.lu/en/about-lfb#what-we-do>, last accessed 7 January 2015.
- ¹¹² <http://www.luxembourgforbusiness.lu/en/about-lfb#what-we-do>, last accessed 7 January 2015.
- ¹¹³ <http://www.luxembourgforfinance.com/fr/qui-sommes-nous/luxembourg-finance>, last accessed 7 January 2015.
- ¹¹⁴ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹¹⁵ Ministry of Economy and Foreign Trade, Annual Report, 2013, pp. 76-77.
- ¹¹⁶ [http://www.luxembourgforbusiness.lu/en/export/trade-missions-trade-fairs?date_start\[value\]\[date\]=2014-01-01&date_end\[value\]\[date\]=2014-12-31&type=trade_mission](http://www.luxembourgforbusiness.lu/en/export/trade-missions-trade-fairs?date_start[value][date]=2014-01-01&date_end[value][date]=2014-12-31&type=trade_mission), last accessed 7 January 2015.
- ¹¹⁷ Ministry of Economy and Foreign Trade, Annual Report, 2013, p. 75
- ¹¹⁸ Directorate of Immigration, Interview of 27 October 2014. Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹¹⁹ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ¹²⁰ Article 50bis of the Luxembourg Income Tax Law (LITL), as well the partial participation exemption foreseen by [circular n° 50bis of 5 March 2009](#). See also decisions of the Administrative Court of 30 June and 14 July 2011.
- ¹²¹ Article 166 and 115 (15a) of the LITL.
- ¹²² Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²³ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²⁴ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²⁵ Private Banking Group, Welcome to Luxembourg, February 2011, p. 19. They considered that the fast track procedure must apply not only to the investor but also to his/her family members.
- ¹²⁶ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²⁷ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²⁸ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹²⁹ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹³⁰ LU EMN NCP, Migrant access to social security and healthcare: policies and practice, Luxembourg, 2014.

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- ¹³¹ Law of 23 October 2008 on Luxemburgish nationality, which came into force on 1 January 2009.
- ¹³² From the 1950's the Luxembourgish government sends regularly high level missions to the United States such as the ones of 17-21 October 2005, 17-24 June 2007, 20-27 March 2010, 4-13 July 2011.
- ¹³³ Ministry of Economy and Foreign Trade, Annual Report, 2012, pp. 82 – 84 and Annual Report, 2013, pp. 76-77.
- ¹³⁴ It passed from 1,3% of the Luxembourgish exports in 2002 to 3.1% in 2009. See Guy SCHULLER, *Le Luxembourg 1960 – 2010: Une économie de petit espace face aux mutations du monde*, STATEC, 29 avril 2013, p. 3. The BRIC economies absorb 20% of the exports of Luxembourg. This is the same percentage of exchange that Belgium has and it is higher than the one in France (17,3%).
- ¹³⁵ Article 78 (1) a) of the amended law of 29 August 2008 on free movement of persons and immigration and article 4 and 7 of the Grand-Ducal regulation of 5 September 2008 modified by Grand-Ducal regulation of 11 August 2011.
- ¹³⁶ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹³⁷ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹³⁸ Article 78 (2) of the amended law of 29 August 2008.
- ¹³⁹ Article 488 of the Civil Code, Decree of 8 March 1803 modified by Law of 11 August 1982.
- ¹⁴⁰ Concerning the authorisation of stay for private reasons, see article 78 (1) a) and c) of the amended law of 29 August 2008. See also <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>
- ¹⁴¹ This can be a certificate of retirement income or a bank certificat established by a Luxembourgish banking institution certifying the level of assets and interests. The financial resources are evaluated in regards to their nature and their regularity as well as in regards of the minimum social income. See <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>
- ¹⁴² Interviews with a representative of the Chamber of Commerce, 14 April 2014 and interview with an official of the Ministry of Economy, 7 April 2014.
- ¹⁴³ See Circulars [n° CSSF 14/584 of 17 February 2014](#) and n° [CSSF 13/556 of 16 January 2013](#) and CSSF Regulation N° 12-02 of 14 December 2012 on the fight against money laundering and terrorist financing. See <http://www.legilux.public.lu/leg/a/archives/2013/0005/a005.pdf>
- ¹⁴⁴ The physical examination is regulated by [Grand-ducal regulation of 3 February 2009 on the medical examination of foreigners](#).
- ¹⁴⁵ Article 41 (1) of the amended law of 29 August 2008.
- ¹⁴⁶ Article 78 (1) a) of the amended law of 29 August 2008.
- ¹⁴⁷ Article 40 (1) of the amended law of 29 August 2008.
- ¹⁴⁸ Article 79 (1) of the amended law of 29 August 2008.
- ¹⁴⁹ Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹⁵⁰ Article 52 (2) of the amended law of 29 August 2008.

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- ¹⁵¹ See the duration of the residence permit for private reasons established in article 79 (1) in comparison with articles 43 (1) (salaried worker), 45-1 (2) (blue card residence permit), 47 (4) (transferred worker), 48 (5) (posted worker) of the amended law of 29 August 2008.
- ¹⁵² Directorate of Immigration, Interview of 27 Octobre 2014.
- ¹⁵³ Article 78 (1) a) of the amended law of 29 August 2008.
- ¹⁵⁴ Article 79 (1) of the amended law of 29 August 2008.
- ¹⁵⁵ Article 79 (2) of the amended law of 29 August 2008.
- ¹⁵⁶ Article 80 (1) of the amended law of 29 August 2008.
- ¹⁵⁷ Article 51 of the modified law of 29 August 2008.
- ¹⁵⁸ See Government programme 2013 – 2018, p. 203. Directorate of Immigration, Interview of 27 October 2014. At the beginning the government was planning to create a business manager residence permit but the idea was abandoned and now they are planning to modify some of the residence permits (i.e. self-employed worker) to make them more flexible in order to facilitate the entrance of these individuals.
- ¹⁵⁹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹⁶⁰ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹⁶¹ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ¹⁶² Paperjam, [Secteur ICT: Plus que jamais en ligne](#), 29 May 2013, last accessed 7 January 2015.
- ¹⁶³ The first one sells using the payment system of the other.
- ¹⁶⁴ Regify, Lumension, Symantec, McAfee (digital security), Skype, Dellmont, Nymgo (Voice over Internet Protocol), Zynga, Kabam, Innova, OnLive, BigFish, Moyasoft et Bigpoint (gaming), Sony, Kobo, Barnes & Noble, Bilbary, TEA, (e-books), 7 Digital Europe, Pleimo (music download), Netflix, Mubi (Video on demand), Amazon (e-commerce). Paperjam, [Secteur ICT: Plus que jamais en ligne](#), 29 May 2013, last accessed 7 January 2015.
- ¹⁶⁵ Becker, Frédéric, Un nombre croissant de start-ups?, www.paperjam.lu, 3 December 2013, last accessed 7 January 2015.
- ¹⁶⁶ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ¹⁶⁷ According to information provided by Luxinnovation, in the last six years they have only registered three spin-offs: Complix Luxembourg S.A. (2010), Open assessment technologies S.A. (2013) and Luxfold, but none of them have been setup by a third-country national. Luxinnovation, Information provided on spin-offs, 24 November 2014.
- ¹⁶⁸ [Government programme 2013 - 2018](#) p. 22.
- ¹⁶⁹ Luxembourg is considered the most open economy of the OECD countries. Guy SCHULLER, Le Luxembourg 1960 – 2010: Une économie de petit espace face aux mutations du monde, STATEC, 29 avril 2013, p. 4.
- ¹⁷⁰ Deloitte, [Luxembourg presented as Europe's business hub](#), 24 April 2014, last accessed 7 January 2015.

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- ¹⁷¹ *La Mutualité de Cautionnement et d'Aide aux Commerçants*. The Mutuality for Loan Guarantees can help the entrepreneur by being a guarantor within Luxembourgish banks.
- ¹⁷² Directorate of Immigration, Interview of 27 Octobre 2014, last accessed 7 January 2015.
- ¹⁷³ Every commercial entity has to become a member of the Luxembourg Chamber of Commerce.
- ¹⁷⁴ Post Telecom, [Why the Start-Up Tech Company QuanoX chose Luxembourg](#), last accessed 7 January 2015.
- ¹⁷⁵ Chamber of Commerce, *Oser entreprendre: Le guide du créateur/repreneur d'entreprise*, avril 2014, p. 10.
- ¹⁷⁶ <http://www.cc.lu/en/starting-up-my-business/>, last accessed 7 January 2015.
- ¹⁷⁷ Chamber of Commerce, *Oser entreprendre: Le guide du créateur/repreneur*, avril 2014, p. 9.
- ¹⁷⁸ www.123go-networking.org, last accessed 7 January 2015.
- ¹⁷⁹ <http://en.luxinnovation.lu/Services/Support-for-innovative-start-ups> Luxinnovation helps start-ups with the elaboration of their business plan and with administrative procedures, provides information on technological, industrial or commercial partners, in Luxembourg or abroad and provides information on public and private (ie. Business angels) financing, intellectual property and visibility.
- ¹⁸⁰ This aid is designed to support the development of entrepreneurial spirit and encourage the creation and takeover of businesses by providing favourable conditions for those who set up in business for the first time by either creating a new business or by taking over an existing business. Guichet.lu, [Financial aid for a business start-up or takeover](#), last accessed 7 January 2015.
- ¹⁸¹ Article 50bis of the amended law on the income tax of 4 December 1967 (Luxembourg Income Tax Law), as well as the partial participation exemption foreseen by [circular n° 50bis of 5 March 2009](#). See also the decisions of the Administrative Court of 30 June and 14 July 2011.
- ¹⁸² Article 166 and 115 (15) a) of the law of 4 December 1967.
- ¹⁸³ <http://www.guichet.public.lu/citoyens/fr/impots-taxes/patrimoine-financier/banque-dividende-interets/identifier-declarer-dividendes/index.html> and article 146 (3) of the law of 4 December 1967.
- ¹⁸⁴ Article 39 (3) al. 1 of the amended law of 12 February 1979 on value added tax modified by law of 19 December 2014. The VAT was increased by 2% on 1 January 2015, passing the normal VAT rate from 15% to 17%. Government of the Grand-Duchy of Luxembourg, *Plan national pour une croissance intelligente, durable et inclusive - Luxembourg 2020*, 25 April 2014, p. 11. However, Luxembourg will continue to have the lowest VAT rate in the EU. *Taux de TVA appliqués dans les États membres de l'Union européenne - Situation au 1 juillet 2014*, 25 June 2014, Ref. res (2014)2087537 - 25/06/2014.
- ¹⁸⁵ Article 174 (1) of the law of 4 December 1967.
- ¹⁸⁶ See United States Department of State, Bureau of Economic, Energy and Business Affairs, [2010 Investment Climate Statement – Luxembourg](#), March 2010, last accessed 7 January 2015. See articles 14, 16, 23 (1), article 103 paragraph 1, 179 (2), of the amended law of 10 August 1915 on commercial corporations.

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- ¹⁸⁷ Abolition of the *droit d'apport* since 1 January 2009 by the law of 19 December 2008 amending professional training.
- ¹⁸⁸ Article 50bis (1) of the law of 4 December 1967.
- ¹⁸⁹ In the case of artisanal and commercial small and medium-sized enterprises, the General Directorate of Small and Medium-Sized Enterprises can grant up to 10% to small and medium-sized enterprises (less than 250 employees and a turnover of less than 50 million Euros or an annual balance sheet of less than 43 million Euros; see law on the creation of a general framework for the financial aid regime for small and medium-sized enterprises of 30 June 2004), or 20% for small enterprises (less than 50 employees and a turnover or an annual balance sheet of less than 10 million euros) of the costs of tangible and intangible assets. See article 3 (1) and (2) of the Grand-Ducal regulation of 16 March 2005. Financial aid for industrial activities and services of small and medium-sized enterprises is granted by the Ministry of Economy and Foreign Trade. They can grant up to 7,5% for small and medium-sized enterprises and up to 15% for small enterprises of the costs of tangible and intangible assets in the form of capital subsidies from the State. See Luxinnovation, [Succeed in establishing your innovative company in Luxembourg](#), p. 14, last accessed 7 January 2015.
- ¹⁹⁰ Articles 2 (2) and 3 of the amended law of 5 June 2009 on the promotion of research, development and innovation.
- ¹⁹¹ Luxinnovation, [Succeed in establishing your innovative company in Luxembourg](#), p. 15, last accessed 7 January 2015.
- ¹⁹² Luxinnovation, [Succeed in establishing your innovative company in Luxembourg](#), p. 15, last accessed 7 January 2015.
- ¹⁹³ Luxinnovation, [Succeed in establishing your innovative company in Luxembourg](#), p. 15, last accessed 7 January 2015.
- ¹⁹⁴ Article 4 (1) of the amended law of 2 August 1977 on the creation of a Société Nationale de Crédit et 'Investissement.
- ¹⁹⁵ Article 5 (1) of the amended law of 2 August 1977.
- ¹⁹⁶ Luxinnovation, [Succeed in establishing your innovative company in Luxembourg](#), p. 15, last accessed 7 January 2015.
- ¹⁹⁷ This is done by the Mutuality for Loan Guarantees for all investments in order to create or develop a business for which the applicant has a recognised professional qualification or projects which have a real chance of economic viability and a clear economic interest.
- ¹⁹⁸ Invest in EU, [Invest in Luxembourg City, last accessed 7 January 2014](#).
- ¹⁹⁹ LU EMN NCP, Migrant access to social security and healthcare: policies and practice, Luxembourg, 2014.
- ²⁰⁰ Article 6 (2) of the law on the Luxembourgish nationality of 23 October 2008.
- ²⁰¹ Interview with an official of the Ministry of Economy, 7 April 2014.
- ²⁰² Directorate of Immigration, Interview of 27 Octobre 2014.
- ²⁰³ Directorate of Immigration, Interview of 27 Octobre 2014.
- ²⁰⁴ Information provided by an official of the Ministry of Economy, 3 February 2015.
- ²⁰⁵ Directorate of Immigration, Interview of 27 Octobre 2014.

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- ²⁰⁶ *Autorisation d'établissement ou autorisation de commerce*. Guichet.lu, [Business permit application](#).
- ²⁰⁷ This is only available for users who have a Luxtrust numerical certificate. See Chamber of Commerce, *Oser entreprendre: Le guide du créateur/repreneur*, avril 2014, p. 18.
- ²⁰⁸ <http://www.guichet.public.lu/entreprises/fr/creation-developpement/autorisation-etablissement/autorisation-honorabilite/autorisation-etablissement/>
- ²⁰⁹ Professional integrity aims to guarantee the integrity of the profession and to protect future contracting partners and clients. The General Directorate for Small and Medium-Sized Enterprises and Entrepreneurship will verify the professional integrity at the time the business permit application is submitted. The verification can be done for the last 10 years. See Guichet.lu, [Professional integrity](#) and article 6 (2) of the law governing access to occupations in craft trades, business and industry and to certain liberal professions of 2 September 2011.
- ²¹⁰ Article 6 (2) of the law of 2 September 2011.
- ²¹¹ See article 5 § 1. of the law of 2 September 2011. The physical installation has to be appropriate in regards to the nature and the dimensions of the activity. It excludes the so called "letterbox companies".
- ²¹² Article 31 (1) of the law of 2 September 2011.
- ²¹³ Article 31 (2) of the law of 2 September 2011.
- ²¹⁴ Article 31 (2) of the law of 2 September 2011. This deadline can be extended for an additional month in the cases foreseen by Title II of the [law of 19 June 2009 on the general system for recognition of formal training and professional qualifications](#).
- ²¹⁵ See application form *demande d'autorisation de séjour pour indépendant* (version 140531) (articles 51 to 53 of the amended law of 29 August 2008). <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>, last accessed 7 January 2015.
- ²¹⁶ Article 51 (2) of the amended law of 29 August 2008.
- ²¹⁷ Article 51 (1) 2. of the amended law of 29 August 2008.
- ²¹⁸ Article 51 (1) 3. of the amended law of 29 August 2008.
- ²¹⁹ Directorate of Immigration, Interview of 27 October 2014.
- ²²⁰ Directorate of Immigration, Interview of 27 October 2014.
- ²²¹ Directorate of Immigration, Interview of 27 October 2014.
- ²²² Article 51 (1) 3. of the amended law of 29 August 2008. In practice, it is the Chamber of Commerce who determines the viability of the business plan before it is discussed at the CCTI.
- ²²³ Article 51 (1) of the amended law of 29 August 2008. See Directorate of Immigration, Interview of 27 October 2014.
- ²²⁴ Article 1 of the [Law of 2 September 2011](#). The law of establishment simplifies procedures by allowing that the application can be filed online. See <http://www.luxembourg.public.lu/fr/actualites/2011/12/09-etablissement/>, last accessed 7 January 2015. The main fields which require an authorisation of establishment (business permit) are:

- Commercial activities (including industrial activities): this includes travel agents, professions in the Horeca and the hotel trade sector, real estate professions and professions in continuous vocational training.
- Liberal professions: this includes architects, interior architects, landscape architects/landscape engineers, accountants, economic advisors, independent advisors, patent attorneys, chartered accountants, surveyors, consulting engineers in the construction sector, independent engineers and town and country planners.
- Skill craft activities: they are divided in main and secondary craft trade.

<http://www.guichet.public.lu/entreprises/en/creation-developpement/autorisation-etablissement/commerce/index.html>, last accessed 7 January 2015.

<http://www.guichet.public.lu/entreprises/en/creation-developpement/autorisation-etablissement/profession-liberale/index.html>, last accessed 7 January 2015.

<http://www.guichet.public.lu/entreprises/en/creation-developpement/autorisation-etablissement/artisanat/index.html>, last accessed 7 January 2015.

²²⁵ <http://www.mcm.public.lu/fr/index.html> , last accessed 7 January 2015.

²²⁶ Article 6 (1) of the law of 2 September 2011.

²²⁷ Article 6 (2) of the law of 2 September 2011.

²²⁸ Article 51 (1) 1 of the amended law of 29 August 2008.

²²⁹ Doctors and lawyers also require an authorisation to practice but it is granted by the Ministry of Health, respectively the Ministry of Justice.

²³⁰ Article 1 and 2 of the Grand-Ducal regulation of 1 December 2011.

²³¹ Article 8 (1) of the law of 2 September 2011. Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur, avril 2014, p. 16. The intensive trainings are provided by [the Luxembourg Lifelong Learning Center](#). This institution grants a professional qualification certificate needed for the issuance of an authorisation of establishment for the operation of a non-regulated commercial activity.

²³² Such as professions which involve the transport of merchandises in vehicules of more than 3,5 tons or of travelers in vehicules of more than 3,5 tons, which can transport more than 9 passengers, as well as travel agents, real estate brokers, real estate agents, property managers, security and gardening enterprises, managers of vocational training institutions and managers of shopping centers or large supermarkets.

²³³ Direction of the Immigration, Interview of 27 Octobre 2014. Also in some cases the business plan can be can be required for the authorisation of establishment. Article 3 paragraph 5 of the Grand-Ducal regulation of 1 December 2011 establishing the form and content of the application for obtaining a specific authorisation of establishment.

²³⁴ Article 51 (1) 2. of the amended law of 29 August 2008.

²³⁵ Article 51 (2) of the amended law of 29 August 2008. Directorate of Immigration, Interview of 27 Octobre 2014. The form for applying for an authorisation of stay as a self-employed worker requires that all the information for the authorisation of establishment is filed at the same time. See <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a->

[90-jours/Ressortissants-de-pays-tiers](#). However, depending on who is applying for the applicant in Luxembourg, the authorisation of establishment can be applied for simultaneously. When the General Directorate of Small and Medium-Sized Enterprises realises that the applicant is a third-country national, they inform the Directorate of Immigration. Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.

- ²³⁶ Directorate of Immigration, Interview of 27 October 2014. Also, Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014 and interview with an official of the Chamber of Commerce, 22 October 2014.
- ²³⁷ Article 51 (1) 1. and 3. of the amended law of 29 August 2008. The proof of resources are evaluated in regards to the amount of the minimum social salary of a non-qualified worker. Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014.
- ²³⁸ In the case of an individual, s/he must contribute sufficient capital for fulfilling the objective of the business plan. S/he must bring own private funds or obtain a loan from a financial institution. See http://www.guichet.public.lu/entreprises/fr/creation-developpement/forme-juridique/entreprise-individuelle_societe-personnes/entreprise-individuelle/index.html It is the same for a *Société en nom collectif* (SENC) and a *Société en commandite simple* (SECS) which do not require a minimum contribution. In the case of a limited liability legal entity, a minimum capital contribution is required by law (i.e. in the case of a SA it is 30.986,89 Euros). For the *Société européenne* (SE) the minimum capital is 120.000 Euros in accordance with article 26 (1) 2) of the amended law of 10 August 1915 modified by law of 24 April 1983, law of 25 August 2006 and by law of 10 June 2009. It is 12.394,68 Euros in the case of a Limited liability corporation (*société à responsabilité limitée*- SARL) in accordance with article 182 of the amended law of 10 August 1915 modified by law of 21 December 2006. Nevertheless the by-laws of the legal entity can fix a higher contribution. See Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur, avril 2014, p. 18.
- ²³⁹ However, seen that article 51 (1) points 2 and 3 of the amended law of 29 August 2008 requires to determine the financial resources and the financial impact of the activity, the attachment of the business plan and the proof of financial resources are necessary for the evaluation of the project and for granting the authorisation of stay.
- ²⁴⁰ Article 51 (1) 3. of the amended law of 29 August 2008. Directorate of Immigration, Interview of 27 October 2014.
- ²⁴¹ See application form for authorisation of stay for self-employed workers: <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>, last accessed 7 January 2015.
- ²⁴² Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014.
- ²⁴³ Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014. See also Article 3 § 5 of the Grand-ducal regulation of 1 December 2011.
- ²⁴⁴ <http://www.guichet.public.lu/citoyens/fr/travail-emploi/activite-independante/creation-entreprise/ressortissant-tiers/index.html> and application form for authorisation of stay for self-employed workers. <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>, last accessed 7 January 2015.

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- 245 <http://www.guichet.public.lu/citoyens/fr/travail-emploi/activite-independante/creation-entreprise/ressortissant-tiers/index.html>
- 246 <http://www.luxembourgforbusiness.lu/en/invest/doing-business-luxembourg#setup-a-business> and Article 5 § 1 of the law of 2 September 2011.
- 247 Article 5 § 2 of the law of 2 September 2011.
- 248 Article 2 of the Grand-Ducal regulation of 1 December 2011.
- 249 Directorate of Immigration, Interview of 27 October 2014.
- 250 Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur, avril 2014, p. 14.
- 251 A business plan can be defined as a "Written document describing all relevant internal and external elements and strategies for starting a new venture. See Hieff, Vincent, The myth of entrepreneurship, Chamber of Commerce, 6 December 2013, p. 48.
- 252 Hieff, Vincent, The myth of entrepreneurship, Chamber of Commerce, 6 December 2013, p. 52.
- 253 Interview with an official of the Chamber of Commerce, 22 October 2014.
- 254 Interview with an official of the Chamber of Commerce, 22 October 2014.
- 255 Article 40 (1) of the amended law of 29 August 2008.
- 256 Article 52 (1) of the amended law of 29 August 2008.
- 257 Articles 43 (1) (salaried worker), 45-1 (2) (blue card residence permit), 47 (4) (transferred worker), 48 (5) (posted worker) of the amended law of 29 August 2008.
- 258 Article 52 (2) of the amended law of 29 August 2008.
- 259 <http://www.guichet.public.lu/entreprises/en/creation-developpement/constitution/entreprise-individuelle/dispo-denomination-rcs/index.html>, last accessed 7 January 2015.
- 260 The certificate of availability of the trading name is issued if the name requested has not yet been registered with the Registre de Commerce et des Sociétés (RCS). However, this does not mean that the name in question is reserved and it does not prevent another person from meanwhile registering the same name on his/her own behalf.
- 261 In this case the name requested is not available. Only the deregistration at the Registre de Commerce et des Sociétés (RCS) of a registered legal or natural person makes a trading name available again.
- 262 <http://www.guichet.public.lu/entreprises/en/creation-developpement/constitution/entreprise-individuelle/immatriculation-commercant/index.html>, last accessed 7 January 2015.
- 263 This is the case when the person chooses to work under his/her personal name as a *Société en nom collectif* (SNC) or a *société en commandite simple* (SCS). See Chamber of Commerce, Oser entreprendre: you don't always use the full title Le guide du créateur/repreneur d'entreprise, avril 2014, p. 11. In these cases the lowest tax rate is 8% and the highest is 40%.
- 264 The corporate tax is 21% but the municipal commercial tax varies depending on the municipality. However, the average tax rate for corporations is around 30%. See Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur, avril 2014, p. 12.

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- ²⁶⁵ See article 2 § 3 in accordance with article 159 § 1 and 2 and 160 § 1 of the amended law of 10 August 1915 on commercial corporations. As this is such an old law I am not sure what is the right way to cite it but you sometimes use § and you sometimes use (), I would just search the document for the 1915 law and then cite it always in the same way.
- ²⁶⁶ Article 39 of the amended law of 29 August 2008.
- ²⁶⁷ Article 26 (1) 2 of the amended law of 10 August 1915.
- ²⁶⁸ Article 26 (1) 2 of the amended law of 10 August 1915
- ²⁶⁹ Article 182 of the amended law of 10 August 1915 modified by law of 21 December 2006.
- ²⁷⁰ Article 181 of the amended law of 10 August 1915. This number can be higher in case of transmission of the equity because of the death or the divorce of one of the partners.
- ²⁷¹ Article 179 (2) of the amended law of 10 August 1915.
- ²⁷² Guichet.lu, [Société à responsabilité limitée \(SARL\)](#), last accessed 7 January 2015.
- ²⁷³ Articles 4 and 9 § 3 of the amended law of 10 August 1915.
- ²⁷⁴ Article 9 § 3 of the amended law of 10 August 1915. After the publication of any act they are to be sent to the Trade and Corporations Registrar for registration.
- ²⁷⁵ Article 51 (1) 3 of the amended law of 29 August 2008. In case of restaurants or retail shops the CCTI will be very cautious and will analyse in depth the viability of the business plan. Experience has shown that in most cases the business plan is not viable and that the applicant has already filed an application as a salary worker, which was refused. Interview with an official of the Chamber of Commerce, 14 April 2014 and Directorate of Immigration, Interview of 27 October 2014.
- ²⁷⁶ Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014.
- ²⁷⁷ Interview with an official of the Chamber of Commerce, 14 April 2014.
- ²⁷⁸ Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014.
- ²⁷⁹ Article 53 of the amended law of 29 August 2008.
- ²⁸⁰ Article 52 (2) of the amended law of 29 August 2008.
- ²⁸¹ Directorate of Immigration, Interview of 27 October 2014.
- ²⁸² Directorate of Immigration, Interview of 27 October 2014. For example if the company or the entrepreneur is bankrupt. Interview with an official of the Ministry of Economy, 7 April 2014 and interview with an official of the Chamber of Commerce, 14 April 2014.
- ²⁸³ Information provided by the Directorate of Immigration, 19 January 2015.
- ²⁸⁴ Chauda, Rupa, Inter-modal linkages in services trade, OECD Trade Policy Working Paper No. 30, 2006, p.8. There is no definition of what temporary means in the GATS.
- ²⁸⁵ Carzaniga, Antonia, GATS, Mode 4 and the Pattern of Commitments, WTO Secretariat, Powerpoint presentation, 11-12 April 2002.
- ²⁸⁶ Carzaniga, Antonia, GATS, Mode 4 and the Pattern of Commitments, WTO Secretariat, Powerpoint presentation, 11-12 April 2002.

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- ²⁸⁷ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²⁸⁸ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²⁸⁹ Mostly all of these situations can be covered using the intra-corporate transferees and posted worker residence permits or by granting ad-hoc authorisations from the Ministry of Economy. Information provided by an official of the Ministry of Economy, 3 February 2015.
- ²⁹⁰ Article 47 of the amended law of 29 August 2008.
- ²⁹¹ Article 51 of the amended law of 29 August 2008.
- ²⁹² Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²⁹³ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²⁹⁴ It should be noted that the Comprehensive Economic Trade Agreement (CETA) has not entered into force at the date of the publication of this report.
- ²⁹⁵ Information provided by the Ministry of Foreign and European Affairs, Directorate of International economic affairs, 25 November 2014, 2 and 17 December 2014.
- ²⁹⁶ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ²⁹⁷ See article 34 (2) 1 of the amended law of 29 August 2008 and article 1.1 of the Regulation 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code).
- ²⁹⁸ For intra-corporate transferees, please indicate where the scope of current legislation and the definition used therein differ from Directive 2014/66/EU on intra-corporate transferees.
- ²⁹⁹ [Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.](#)
- ³⁰⁰ The Agreement shall not apply to measures affecting natural persons seeking access to the employment market of a Member, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
- ³⁰¹ The definition of Graduate trainee in the GATS is as follows: „Natural persons with a university degree who are transferred to a host entity for career development purposes or in order to obtain training in business techniques or methods, and are paid during the transfer.“ See Annex 2 of this template.
- ³⁰² Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰³ Wagener, Marc, Le business model e(s)t l’immigration : défis et opportunités pour le Luxembourg, LU EMN NCP 7^{ème} conférence nationale, 7 Octobre 2014.
- ³⁰⁴ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰⁵ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰⁶ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰⁷ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰⁸ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁰⁹ Information provided by the Directorate of Immigration, 19 January 2015.

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- ³¹⁰ Directorate of immigration, Interview of 27 October 2014. The idea is that third-country nationals who want to establish a business in Luxembourg and who have to travel frequently can receive a document that does not bind them to the limitation of 90 days in each 6 months period of the short time visa.
- ³¹¹ Article 1.1 of the [Regulation 810/2009](#).
- ³¹² Article 47 (4) of the amended law of 29 August 2008.
- ³¹³ See "Autorisation to stay for a third-country national in view of salaried activity as a transferred worker", <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>, last accessed 7 January 2015.
- ³¹⁴ Written answer of the Ministry of Foreign and European Affairs, 17 December 2014. All Member States agreed on a maximum duration of 12 months, except for Austria and the United Kingdom, who established a maximum duration of 6 months.
- ³¹⁵ See supra note n° 292.
- ³¹⁶ Information provided by the Directorate of Immigration, January 19, 2015.
- ³¹⁷ Written answer of the Ministry of Foreign and European Affairs, 17 December 2014.
- ³¹⁸ See supra note n° 292.
- ³¹⁹ The monthly resources must be at least 80% of the minimum guaranteed income in Luxembourg (*revenu minimum garanti* - RMG) in accordance with article 1 of the amended law on the creation of the right to a minimum guaranteed income of 29 April 1999. The amount of RMG for one person is of 1348,18 Euros per month (see Ministry of Social Security, [Paramètres sociaux valables au 01.01.2014](#)), therefore the minimum monthly financial resources required are 1078,54 Euros. This can either be proved by a certificate of a scholarship or a student loan which indicates the granted amount and the duration of the scholarship or the student loan, or by a bank certificate or a financial responsibility certificate. See "Autorisation to stay for a third-country national wishing to participate in unremunerated training" (*stagiaire*), see <http://www.mae.lu/Site-MAE/VISAS-Immigration/Long-sejour-superieur-a-trois-mois/Ressortissants-de-pays-tiers>
- ³²⁰ Article 47 (4) of the amended law of 29 August 2008.
- ³²¹ Ministry of Foreign and European Affairs, Interview of 19 November 2014 and Annex 2, Table 1: Temporary Movement of Natural Persons under international trade agreements – the EU "Mode 4" categories.
- ³²² See supra note n°292.
- ³²³ Ministry of Foreign and European Affairs, Interview of 19 November 2014 and Annex 2, Table 1: Temporary Movement of Natural Persons under international trade agreements – the EU "Mode 4" categories.
- ³²⁴ See supra note n°292.
- ³²⁵ Article 61 (2) of the amended law of 29 August 2008.
- ³²⁶ Article 101 (1) 4 of the amended law of 29 August 2008
- ³²⁷ Article 39 (3) b) of the law of 2 September 2011.
- ³²⁸ Article 39 (3) c) of the law of 2 September 2011.

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- 329 Article 39 (3) d) of the law of 2 September 2011.
- 330 Article 133 (1) of the amended law of 29 August 2008
- 331 Directorate of Immigration, Interview of 27 Octobre 2014.
- 332 Directorate of Immigration, Interview of 27 October 2014.
- 333 Directorate of Immigration, Interview of 27 October 2014.
- 334 Article 134 of the amended law of 29 August 2008.
- 335 Article 134 of the amended law of 29 August 2008.
- 336 Article 1 of the amended law of 17 April 1964 [reorganising the direct tax administration and the Excise Administration.](#)
- 337 According to article 39 (1) § 1 and 2 of the Law of 2 September 2011, the Judicial Police and the agents of the Grand-Ducal Police and of the Customs and Excise Administration are in charge of investigating and verifying the infractions to the law on the right of establishment.
- 338 See Missions de l'Inspection de Travail et de Mines, <http://www.itm.lu/home/itm/missions-valeurs-visions-et-obje.html>
- 339 *Administration des contributions directes.*
- 340 Article 1 of the amended law of 17 April 1964.
- 341 <http://www.mae.lu/Site-MAE/Bienvenue-au-Ministere-des-Affaires-etrangeres-et-europeennes/Organisation/Direction-de-l-Immigration>, last accessed 7 January 2015.
- 342 *Administration de l'enregistrement et des domaines.*
- 343 http://europa.eu/youreurope/business/vat-customs/buy-sell/index_en.htm#luxembourg_en_providing-services
- 344 [Centre commun de la sécurité sociale](#). See LU EMN NCP, Migrant access to social security and healthcare: policies and practice, Luxembourg, 2014, p.p. 22-23.
- 345 Article 133 (1) of the amended law of 29 August 2008
- 346 Article 101 (1) 4 of the amended law of 29 August 2008.
- 347 Articles 39 (3) a) to d) of the law of 2 September 2011.
- 348 Private Banking Group, Welcome to Luxembourg, February 2011, p. 10.
- 349 Débat de consultation sur la croissance économique et la compétitivité du Luxembourg, 10 December 2014. See <http://visilux.chd.lu/ArchivePage/video/1396/sequence/59319.html>, last accessed 7 January 2015.
- 350 STATEC, Stocks d'investissements directs de l'étranger au Luxembourg par branches économiques investies et principaux pays de provenance (en millions EUR) 1995 – 2012. <http://www.statistiques.public.lu/stat/TableViewer/tableView.aspx>, last accessed 7 January 2015.
- 351 All these calculations are taken using 2009 as base year.
- 352 Conférence des Nations unies sur le commerce et le développement, Rapport sur l'investissement dans le monde 2013, p. 4.

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- ³⁵³ Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- ³⁵⁴ Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- ³⁵⁵ Directorate of Immigration, Interview of 27 October 2014.
- ³⁵⁶ In this specific area you find the assistance of multiple public and private institutions which advice the person during the procedure (Espace Entreprise of the Luxemburgish Chamber of Commerce, guichet.lu/Portail Entreprises, Opportunet et Business Exchange, Luxinnovation, MyStart, 12,3 Go and 123 GO Social/Business Initiative, Ministry of Economy, Tax Authorities, STATEC, Customs and Excises Administration, Inspectorate of Labour and Mines, Environment administration, Luxebourg Registrar, Jointly Center of the Social Security (CCSS) and the Directorate of Immigration of the Ministry of Foreign and European Affairs. See Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur d'entreprise, avril 2014, p. 5.
- ³⁵⁷ Some of these support structures are: Espace Entreprise of the Luxemburgish Chamber of Commerce, Opportunet et Business Exchange, Luxinnovation, Vaccinanticrise, Pôle Conseil en Formation, BusinessMentoring and Business Check, Mutualité de Cautionnement et d'aide aux commerçants (MCAC), Guichet Unique PME du Nord, 12,3 Go and 123 GO Social/Business Initiative, Luxembourg School of for Commerce (LSC). See Chamber of Commerce, Oser entreprendre: Le guide du créateur/repreneur d'entreprise, avril 2014, p. 5.
- ³⁵⁸ The business owner can obtain these through different institutions such as Mutualité de Cautionnement et d'aide aux commerçants (MCAC), Luxembourg Business Angel Network, (LBAN), Société Nationale de Crédit et d'Investissement (SNCI), Seed4Start, Office du Ducroire (ODL), and Luxinnovation. See Chamber of Commerce, Oser entreprendre: La guide du créateur/repreneur d'entreprise, avril 2014, p. 5.
- ³⁵⁹ <http://www.technoport.lu/online/www/function/homepage/ENG/index.html>, last accessed 7 January 2015.
- ³⁶⁰ <http://www.industrie.lu/ecostart.html>, last accessed 7 January 2015.
- ³⁶¹ <http://ffcel.lu/fr/accueil>, last accessed 7 January 2015.
- ³⁶² <http://femmesleaders.wordpress.com/>, last accessed 7 January 2015.
- ³⁶³ <http://www.clusters.lu/>, last accessed 7 January 2015.
- ³⁶⁴ <http://www.pwcaccelerator.com/pwccaccelerator/index.html>, last accessed 7 January 2015.
- ³⁶⁵ <http://theimpactory.com/>, last accessed 7 January 2015.
- ³⁶⁶ <http://www.luxfuturelab.lu/news/>, last accessed 7 January 2015.
- ³⁶⁷ <http://www.europe4startups.com/>, last accessed 7 January 2015.
- ³⁶⁸ One possible way to evaluate the impact of the national policies to attract immigrant business owners on social issues would be to determine in a predetermined timeframe the number of self-employed worker residence permits which have been granted to third-country nationals (excluding the independent professionals) and to then compare them with the data of the Inspectorate General of the Social Security to determine the number of jobs created. Interview with an official of the Ministry of Finances and an official of the Ministry of Economy on 25 November 2014.

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- 369 [Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer.](#)
- 370 Article 28 of the [Directive 2014/66/EU](#). However, the deadline for the transposition is the 29 November 2016.
- 371 [Parliamentary question n° 409 of 17 July 2014.](#)
- 372 [Answer to the parliamentary question n° 409 by the Minister of Foreign and European Affairs on 31 July 2014.](#)
- 373 Ministry of Foreign and European Affairs, Interview of 19 November 2014 and Directorate of Immigration, Interview of 27 October 2014.
- 374 Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- 375 Action Solidarité Tiers Monde, Aleba, Bio-Lëtzebuerg, Caritas Luxembourg, Cercle de coopération des ONG de développement, Fédération Nationale des Cheminots et des Travailleurs du Transport Luxembourgeois (FNCTTFEL), Greenpeace Luxembourg, LCGB, Lëtzebuerger Jongbaueren a Jongwënzer Asbl, Mouvement écologique, OGBL, Syprolux et Union luxembourgeoise des consommateurs.
- 376 OGBL, LCGB, Union luxembourgeoise des consommateurs et al, Prise de position commune sur le Partenariat Transatlantique de Commerce et d'Investissement, 7 May 2014. See also, [Europaforum.lu, Une alliance qui réunit tous les grands syndicats et les ONG les plus significatives du Luxembourg demande l'arrêt des négociations sur le TTIP](#), 7 May 2014.
- 377 Europaforum.lu, [La Plateforme de syndicats et d'ONG sur le TTIP rencontre le gouvernement mais maintient sa position en faveur d'un arrêt des négociations et précise ses critiques](#), 3 July 2014.
- 378 Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- 379 Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- 380 Interview with an official of the Chamber of Commerce, 22 October 2014.
- 381 L'essentiel, Compétitifs, à quel prix?, 11 Decembre 2014, p. 4. Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- 382 Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- 383 According to the statistical report of the OECD the social contributions in Luxembourg are among the highest of the OECD countries. See L'essentiel, Les cotisations sociales, un poids au Luxembourg. The average compulsory levy of 39,3% (which includes social security contributions, income tax or VAT) made that Luxembourg ranks at the 9th place of OECD countries. See L'essentiel, Les cotisations sociales, un poids au Luxembourg, p. 6.
- 384 Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- 385 Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.

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- ³⁸⁶ Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- ³⁸⁷ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy, 25 November 2014.
- ³⁸⁸ Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- ³⁸⁹ Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- ³⁹⁰ According to the statistical report of the OECD the social contributions in Luxembourg are among the highest of the OECD countries. The average compulsory levy of 39,3% (which includes social security contributions, income tax or VAT) made that Luxembourg ranks at the 9th place of OECD countries. See L'essentiel, Les cotisations sociales, un poids au Luxembourg, p. 6.
- ³⁹¹ Chamber of Commerce, [Compétitivité de l'économie luxembourgeoise : une tendance à la dégradation qui se confirme](#), 30 May 2013.
- ³⁹² Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- ³⁹³ Lambotte, Sébastien, [Une agilité source d'opportunités](#), paperjam.lu, 18 December 2014, last accessed 7 January 2015.
- ³⁹⁴ Ministry of Foreign and European Affairs, Interview of 19 November 2014.
- ³⁹⁵ Interview with an official of the Ministry of Finances and an official of the Ministry of Economy on 25 November 2014.
- ³⁹⁶ L'essentiel, Compétitifs, à quel prix?, 11 Decembre 2014, p. 4.
- ^{cccxcvii} Information provided by the Directorate of Immigration, 19 January 2015.
- ^{cccxcviii} For Ireland and the United Kingdom, statistics refer to the relevant visas on immigrant investors, but please indicate the name of the visa category to which the data refer to.
- ^{cccxcix} For Ireland and the United Kingdom, statistics refer to the relevant visas on business owners, but please indicate the name of the visa category to which the data refer to.
- ^{cd} Definition as in [Directive 2014/66/EU](#)
- ^{cdi} [Directive 2014/66/EU](#)
- ^{cdii} See supra note n°292.
- ^{cdiii} See supra note n°292.