

## ***Business at OECD (BIAC) comments on the proposed Draft Recommendation on FDI Qualities for Sustainable Development***

Further to the [comments](#), which we have provided on the revised FDI Qualities toolkit, *Business at OECD (BIAC)* appreciates the opportunity to submit written feedback on the proposed Draft Recommendation on FDI Qualities for Sustainable Development. We further welcome that the **consultation focuses on the institutional stakeholders**, BIAC and TUAC, as well as OECD Watch as advisory bodies of the OECD Investment Committee, which provide transparent, representative, consensus-based feedback and inputs.

*Business at OECD (BIAC)* underlines the importance of **considering the toolkit as well as future related work on investment in the context of a changing investment environment**. To that end, we note that foreign direct investment (FDI) into OECD countries as a share of total inward FDI has followed a declining trend over the last decade, but especially over the last years. Meanwhile, the ongoing crisis has revealed significant investment gaps in critical sectors, while increasing the need for additional investments to support a sound recovery and provide a basis for future growth. For OECD countries to maintain global competitiveness, foster a green, resilient and inclusive recovery and ensure long-term stability, a **reinforced focus on broad-based investment attraction and promotion** will be key. We also point out that the **international investment climate has become increasingly challenging**, marked by setbacks with respect to market openness and investment screening and challenges related to an increasing relevance of state-owned enterprises in an environment of increasing geopolitical tensions. **Safeguarding open, predictable, stable and encouraging investment environments**, as championed by the OECD's Policy Framework for investment, has thus become more important than ever.

*Business at OECD* has been actively following and contributing to the FDI Qualities project from the very beginning. We have thereby acknowledged the **potential of the initiative to help promote a broader understanding of the important role of FDI** in the advancement of sustainable development. That said, while we note the choice of the four sustainability clusters currently covered in the toolkit, we stress that **FDI can play a fundamental role for countries, especially those in the developing world, to meet the most profound of all SDGs**, by providing jobs and income and supporting economic and societal development.

A set of general, flexible and voluntary principles to support the establishment and maintenance of an investment environment that supports the attraction of SDG-conducive FDI and leverages positive FDI spill overs can provide **added value for the private sector** by strengthening location factors of potential host countries **as well as for the public sector**, providing a reference document for 'good practices' on investment policy making, whilst supporting local development.

However, we would like to emphasize the **key role of policy predictability, stability, planning certainty and maintenance of sound investment protections**, as well as some of the

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**recommendations set out in the PFI**, which could be more strongly emphasized in the proposed Recommendation.

Moreover, the Recommendation, to the extent that it guides the application of the FDI Qualities toolkit (VI), should encourage a balanced and holistic use of this tool. Specifically, the **Recommendation should call on users to take into account interlinkages**, including potential trade-offs with other ‘qualities’ of FDI. The **Recommendation should also recall that policy makers should evaluate any policy or measure addressing FDI in light of its contribution to sustainable development more broadly** (e.g. all 17 SDGs). Furthermore, the Recommendation should **make reference to the core role of investment attraction and promotion in general**, considering also those investments, which may not necessarily address the four clusters of the toolkit, but which may nonetheless play an important role for economic and infrastructure development more broadly.

Finally, on the principles (I-V) contained in the Recommendation, we would like to note the following:

I. Adherents provide coherent strategic direction on fostering investment in support of sustainable development, and foster policy continuity and effective implementation of such policies.

- We **appreciate the call for horizontal coordination as well as for consultations**, which are important to ensure that policies are practical and implementable on the ground. It should, however, be ensured that consultation process is meaningful, balanced, transparent and that it involves relevant and representative stakeholders. To that end, we recommend to **replace** the call to ‘**use public consultations**’ with a call to ‘**use stakeholder consultations**’ and to **specify** that the primary consultation partners should be businesses (and workers), that is the **representative employer-/ industry organizations** (and representative trade unions), and where relevant, selected civil society organizations.

II. Adherents take steps to ensure that domestic policy and legal frameworks support positive impacts of investment on sustainable development.

- We strongly endorse the call to ensure **investment policies** that are in line with the provisions of the PFI. In addition to this, the Recommendation could also stress the importance of **good governance and efforts to fight corruption**, both in the context of the governance of investment tools and as well as in the context of ensuring an enabling environment more broadly. The prevalence of corruption and high corruption perceptions can serve as a major disincentive for any investment. To that end, the Recommendation could make reference to **key international standards**, such as the OECD Anti-Bribery Convention and the 2021 OECD

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Recommendation for Further Combating Bribery of Foreign Public Officials in International Business Transactions.

- On the reference to **investment agreements in bullet 3**, we underline that discussions on the nexus between sustainability considerations and investment treaties are **ongoing, contentious and complex in nature**. To that end, we underscore that deliberations with respect to ensuring appropriate domestic policy space must pursue a balanced approach, **maintaining sound investment protection** to mitigate investment risk.
- In addition to the existing provisions, we recommend adding a call to governments to adhere **to key international standards**, in line with the state duty to protect against adverse effects and with a view to ensure an enabling investment climate and a level playing field for business. This must be paired with a clear expectation that governments must, beyond adherence, also **ensure sound implementation** of these standards on the ground.
- We further point to the role of **investment screening policies**, which are part of domestic investment regulation and which, if poorly designed or poorly communicated and managed can significantly contribute to uncertainty and represent a significant barrier to FDI. To that end, we suggest including a **reference to the key principles of non-discrimination, transparency, predictability, regulatory proportionality and accountability** to ensure that screening mechanisms do not unintendedly deter FDI, which may ultimately be conducive to domestic sustainable development.

III. Adherents prioritize sustainable development objectives when providing financial and technical support to stimulate investment.

- We strongly support the recommendation to ensure that **support is transparent, time-limited and subject to regular reviews**.

IV. Adherents facilitate investment and sustainable development opportunities by addressing information failures and administrative barriers.

- We appreciate the call to address administrative barriers. However, we would recommend to reinforce the call on governments to **'make procedures for obtaining authorisations and permits transparent'**, with the addition **'and ensure they are efficiently managed'**. In this context, the rise of increasingly frequent and complex investment screening could also be addressed.
- Concerning the promotion of RBC and due diligence, we note the importance of **capacity building and awareness raising through the dissemination of information and training**

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**materials** in addition to support for corporate disclosure. The latter (i.e. the call to support firms in disclosing their compliance with international standards on sustainable development) should be moreover be complemented by the recognition that companies should be granted flexibility given that **disclosure needs and possibilities can vary across sectors and company sizes**.

V. Strengthen the role of development cooperation for mobilising FDI and enhancing its positive impact in developing countries

- We appreciate the **focus on the developing world**, as we have long underlined the potential of the toolkit to support sustainable development in emerging markets and developing countries, and welcome the reference to the **importance of engaging with the private sector**.