# Considerations for the consultation with the OECD Investment Committee

20th April, 12:30h-13:30h CET (virtual)

- We were pleased to see that the OECD has developed preliminary analysis on International investment implications of the war in Ukraine. While we understand that the organization needs to focus work on agreed work programmes, we consider it important that **the OECD's agenda be sufficiently flexible to react to emerging developments to provide understanding of impacts on the investment environment.**

- The business community, which of course strongly condemns the war and the human suffering caused, is also very worried about the longer-term implications the aggression may have on the international investment environment.

- In light of the developments, business sees a **role for the OECD to actively following these developments,** particularly as they impact:
  1. **efforts to attract investment** (for instance to ensure an even and full pandemic recovery and to advance the green transition, including in the context of increasing global systemic competition); and
  2. **efforts to protect investment** (including in the context of treaties).

- Relatedly, at our recent business roundtable on investment we underlined that while there seem to be two perspectives on priorities for investment policy-making, one advocating the status quo and the other advocating new rules, business needs both.

- In other words, business seeks a **balanced approach towards investment policy making in an environment of rising uncertainty,** some of which has emerged during recent times, such as the war in Ukraine or the Covid-19 crisis, some of which has prevailed already before.

- Balance is needed because, while we recognize that **expectations on investment have changed** and that there is a strong emphasis on the societal value that investment generates; **investment, which is per se risky, also requires a welcoming environment and appropriate frameworks guaranteeing protection and predictability for investors.**

With this introduction, we would also like to comment on the following three agenda items:

## 1. FDI Qualities

- We have followed the FDI Qualities project from the very beginning and were very pleased with the **inclusive process** that was put in place, consulting with the broader network on the broader issues, while discussing the finalization of the toolkit and the Recommendation in the circle of the institutional stakeholders of the OECD.

- We appreciate the **focus on the positive impacts of FDI**, which is important to foster a more positive image of much needed private investment, as well as the underlying intention to scale up said much needed private investment for economic development objectives, **complementing the Policy Framework for Investment (PFI).**

- The **4 areas addressed** by the toolkit are **highly relevant** in today's discussions around ESG issues, however we maintain that **there always needs to be a focus on all 17 SDGs.** FDI may for instance also have a positive development impact by the mere function of creating employment, which in turn alleviates poverty and thus sets in motion a positive upward spiral of economic and societal development.

- We would also like to remind that across the four areas, **trade-offs** may arise between the different objectives, and that therefore the policy toolkit needs to be deployed mindfully and in a holistic manner.

- To us, it is further critical that communications around the toolkit **embed the notion that governments should work to strengthen their enabling environments for private investment**. This also includes for us, ensuring that regulation is predictable, that markets are competitive, that rule of law is ensured, that private investment is protected, that markets are competitive, that red tape is reduced, that domestic regulation addresses human rights and other RBC challenges at their heart, that there is public investment in skills and necessary infrastructure etc.

- We look forward to remain actively engaged in any further work on these issues and next steps in the project.

## 2. Investment Treaties

- We urge OECD to take a **balanced approach** to the ongoing discussion around the future of investment treaties.

- We **recognize the urgency to address the climate challenge**. Many companies are making commitments on their own and are driving progress with respect to net zero goals.

- **Business engagement** in the form of domestic as well as foreign investment **is critical** with a view to meet the climate objectives outlined in the UN's 2030 Agenda for Sustainable Development and the Paris Agreement on climate change and to foster the green energy transition. To that end, it is **imperative to maintain a welcoming environment** to green investments and transformation, particularly in riskier regions of the globe where investments in innovative technology for mitigation and adaptation are urgently needed and funds and know-how may be more scarce.

- We note that there is a lot of **momentum in the public policy sphere** to make trade and investment polices consistent with climate policies. OECD work and analysis on 'the future of investment treaties' is therefore very timely.

- Business has always underlined that **investment and RBC considerations**, and this includes considering environmental and climates impacts, **need to go hand in hand.** We note that including respective policy commitments in investment treaties can be helpful in levelling the playing field and increasing buy-in to global standards and commitments (such the Paris agreement). However, we also underline that such references need to be designed carefully and in a manner that does not stifle positive business engagement and which recognizes that governments have a key responsibility to join and implement key international agreements on a national level.

- Moreover, we stress that climate and RBC objectives need to be balanced with the **core purpose of investment agreements,** which remains ensuring investor certainty and facilitating market entry and investment flows. This includes defending a rules-based investment system, including the investor state dispute settlement system, and ensuring non-discrimination against foreign investors. Business therefore calls on OECD **to remember the 'basics'** in the discussions around the future of investment treaties.

## 3. Other ongoing Investment Committee work

- We welcome additional focus on **Investment policies related to national security**.

    - Screening is **increasingly far-reaching and complex**. It is therefore all the more important to ensure that any investment screening follows the core principles of non-discrimination, transparency/predictability, regulatory proportionality and accountability.

    - To that end, we see a **core role for the OECD's 2009 Recommendation** and for the OECD to raise visibility of the instrument and ensure implementation of the instrument.

    - While we highly appreciate regular reports on policy developments in this area, we think the OECD could also take a **more proactive stance** in this field, recognizing that excessive investment scrutiny puts and even greater stress on already strained supply chains and may thus contribute to unnecessary onshoring.

- We are pleased to see a reference to the nexus between **investment policies and digital transformation.**

    - We believe the OECD could consider **further elevating this work** as sound digital infrastructure provides a basis for innovation and future growth and competitiveness. FDI can also help bridge the digital divide to keep people and businesses connected and productive during future challenges like pandemics.

    - Last year's workshop on IPAs and the digital transition was very much appreciated, however additional work, for instance on how digitization has altered location requirements and how countries can respond in adapting their investment attraction strategies could be helpful.