18 November 2020

Twenty-fourth Report on G20 Investment Measures[1]

When the Global Financial Crisis broke in 2008 and early 2009, governments around the globe rallied to prevent a repeat of the mistakes of the Great Depression of the 1930s: Avoid protectionism and beggar-thy-neighbour policies as this would lead to a further deepening of the crisis.[2] Their call was followed by a specific and firm commitment to refrain from introducing new barriers to investment or trade and complemented by a mandate for the WTO, OECD and UNCTAD to report publicly on new trade and investment policy measures. So far, 23 reports have been issued under this mandate.[3]

Today, little more than a decade after the Global Financial Crises, the world is grappling with a further crisis that current estimates indicate will be deeper and more consequential than the Global Financial Crisis of 2008/2009. In addition to the immense human suffering from the health crisis, an economic crisis is widening and deepening – with uncertain prospects of turing for the better in the near-term and with limited and declining possibilities for governments to avert the direst consequences.

Governments have been scrambling for responses to limit negative impacts on their societies and economies, and G20 Leaders have pledged to remain open to trade and investment.[4]

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[1] This report on investment measures is issued under the responsibility of the Secretary-General of the OECD and the Secretary-General of UNCTAD. It has no legal effect on the rights and obligations of member states of the OECD or UNCTAD. Nothing in this report implies any judgment, either direct or indirect, as to the consistency of any measure referred to in the report with the provisions of any OECD or UNCTAD agreement or any provisions thereof. As in previous reports, this document distinguishes between measures related to foreign direct investment (prepared jointly by OECD and UNCTAD) and measures related to other international capital flows (prepared solely by OECD).

[2] G20 Leaders "Declaration of the Summit on Financial Markets and the World Economy", Washington, 15 November 2008.

[3] Earlier reports on investment measures by OECD and UNCTAD to G20 Leaders are available on the websites of the OECD and UNCTAD. A summary table of all investment measures taken since 2008 is also available on those websites.

[4] Extraordinary G20 Leaders' Summit "Statement on COVID-19", 26 March 2020. G20 Trade and Investment Ministers and guest countries statement "G20 Actions to Support World Trade and Investment in Response to COVID-19", 14 May 2020.

This 24th report, jointly prepared by the OECD and UNCTAD Secretariats, documents the extent to which governments have honoured their pledge. It covers investment and investment-related measures that G20 Members have taken between 16 May and 15 October 2020.

I. Development of Foreign Direct Investment (FDI) flows

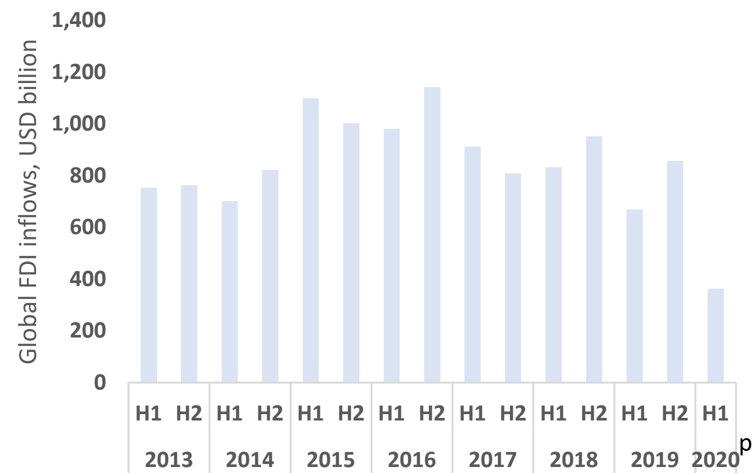
In the first half of 2020, global FDI inflows fell by 50% compared to 2019[5] as a consequence of the pandemic and the resulting supply disruptions, demand contractions, and pessimistic outlook of economic actors. This decline accentuates and accelerates the downward trend of FDI flows observed since 2015 (Figure 1).

Equity flows in advanced economies saw a big contraction, partly as a result of large disinvestments in selected countries and as investors became more reluctant to explore new investment opportunities in the face of the COVID-19 pandemic. The latest data on announced greenfield FDI projects show that the consequences of the COVID-19 pandemic for greenfield investment affect investment in emerging markets and developing economies more intensively than in advanced economies, and are concentrated primarily in the manufacturing sector. Large negative levels of intercompany debt flows in advanced economies further accentuated the drop in total flows.

The outlook remains uncertain, and developments will depend on the duration of the health crisis, the effectiveness of policy interventions to mitigate the economic effects of the pandemic and on the evolution of geopolitical risks.

Forward looking indicators suggest a decline in all major forms of FDI: New greenfield investment project announcements dropped by 37%, cross-border mergers and acquisitions (M&As) fell by 15% and newly announced cross-border project finance deals, an important source of investment in infrastructure, declined by 25%. This will likely impact the levels of reinvested earnings,[6] which have become an increasingly important component of FDI flows and accounted for more than half of FDI inflows in 2019. On a positive note, the number of announced, but still pending deals in advanced economies, increased in the third quarter of 2020, indicating some sort of activity recovery; with the current resurgence of COVID-19 cases in many European countries, not all of these transactions may materialise as planned.

Figure 1: Global FDI inflows, 2013 to the first half 2020 (USD billions)



Note: p: data for the first half of 2020 are preliminary.

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5 See UNCTAD Global Investment Trend Monitor and OECD *FDI in Figures*.

6 For example, the latest S&P 500 report from Refinitiv indicates that earnings dropped year-over-year by 13% and by 31% in Q1 and Q2 2020, respectively, and they are estimated to decline by 19% in Q3.

Source: OECD/UNCTAD.

II. G20 Members' investment policy measures

In the reporting period, G20 Members have again taken an unusually high number of investment policy measures, continuing the trend observed in the previous report. The majority of these measures relate to concerns about implications that certain investments can have for essential security interests; when considered only by their number, this group of policy changes outweighs, potentially for the first time in recent history, the number of investment policy measures related to FDI taken for any other purpose.

1. Foreign direct investment-specific measures

Australia, P.R. China, India and the United Kingdom changed their investment policies that are specific to FDI in the reporting period. Only two of these measures, those taken by Australia and the United Kingdom, were explicitly related to the COVID-19 pandemic, while the remainder of the measures appear to have been taken in pursuit of courses of action that countries had charted independent of the COVID-19 pandemic.

Some of these measures lead to further liberalisation or otherwise more favourable conditions for foreign direct investment, at times with caveats:

- *Australia* has restored the value threshold for the application of one area of its inward investment review framework after it had been brought to zero at the beginning of the COVID-19 pandemic;
- *P.R. China* issued new negative lists that contain fewer sectors in which restrictions apply; and
- *India* relaxed rules for FDI in the defence sector, while introducing a requirement for additional review related to security implications of such investments.

Some other measures have also been observed, including the raising of additional duties for foreign acquirers of residential real estate in one State of *Australia*, the introduction of a framework of sanctions for entities that are held to engage in harmful behaviour to the host country in *P.R. China* and the addition of certain public interests into the list of considerations in relation to which the United Kingdom government may intervene in certain mergers.

A detailed description of these policy changes is available in Annex 1 of this report.

2. Investment measures related to national security

G20 Members dedicated much and increasing attention to potential risks that foreign investment could pose to their national security interests and amended their policies to manage these risks. In the reporting period, six countries took policy measures – *France, Germany, Italy, Japan, the Republic of Korea* and the *United States*. The number of countries that have taken such measures in the reporting period – and the total number of measures in this category taken in this period – is greater than the combined number of measures in all other categories related to FDI.

The COVID-19 pandemic has contributed to the acceleration of reforms in this area..[7] Some recent measures were expressly taken or, as in *Germany*, fast-tracked, in response to the pandemic and the economic shock resulting from it. Several countries have made multiple changes – up to four in one jurisdiction – in the reporting period.

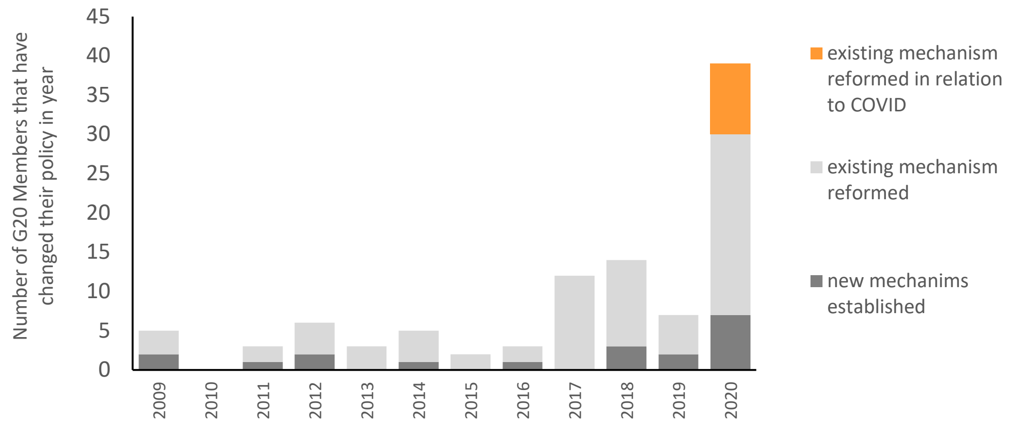
As a result, G20 Members have established seven new review mechanisms designed to safeguard essential security interests since the beginning of 2020, and implemented 32 reforms of existing mechanisms in the same period – almost one measure per week on average in 2020 so far. The degree of policy activity in this

[7] See "*Investment screening in times of COVID-19 and beyond*", OECD, 7 July 2020.

domain extends and accelerates a trend that has been observed since 2017 and that is observed well beyond G20 Membership.[8]

The attention to this area of investment policy making has brought the number of changes to a historic all-time high by a large margin, in G20 Members (Figure 2) as well as globally.

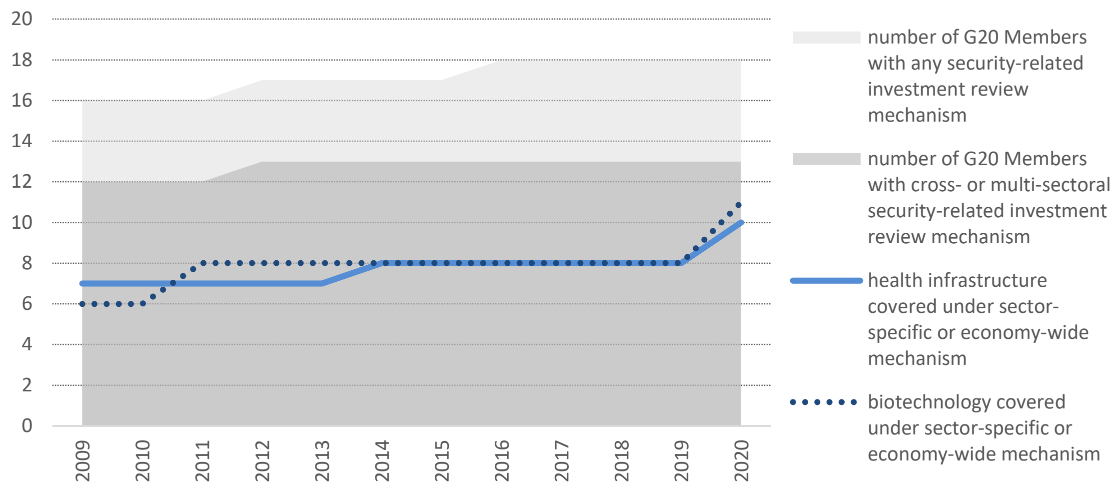
Figure 2: Introduction or reform of investment policies in G20 members to safeguard essential security interests, 2009 to 2020.



Note: Information on 2020 only includes measures taken until mid-October 2020.
Source: OECD/UNCTAD monitoring reports on G20 investment measures 2009-2020.

Health-related industries stood in particular focus in the reforms that G20 Members have taken in 2020. Many more investment review mechanisms aimed at safeguarding countries' essential security interests now apply to health-related industries: Henceforth, almost 60% of G20 members cover these sectors, up from just over 40% in 2019 and only around 30% in 2009 (Figure 3).

Figure 3: Coverage of health-related industries by investment review mechanisms in G20 members, 2009 to 2020.



Note: Information on 2020 only includes measures taken until mid-October 2020.
Source: OECD/UNCTAD monitoring reports on G20 investment measures 2009-2020.

[8] See for a broader analysis of the drivers of this trend OECD (2020), "*Acquisition- and ownership-related policies to safeguard essential security interests – current and emerging trends, observed designs, and policy practice in 62 economies*".

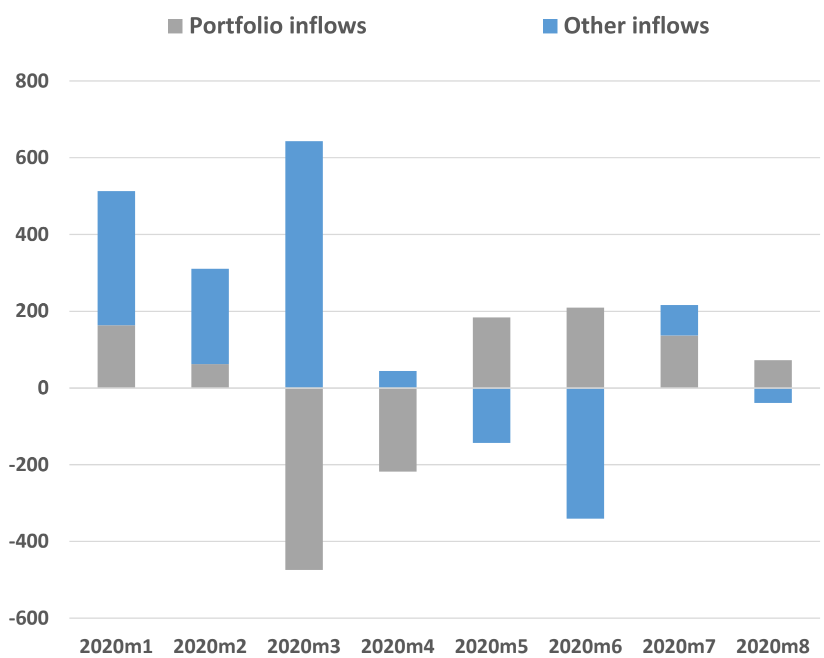
3. *Investment policy measures not specific to FDI*[9]

G20 economies have experienced sharp swings in capital flows since the onset of the pandemic, and have responded with policy measures.

Early on, in March 2020, emerging market economies as well as some advanced economies including Italy, Japan, and the United States experienced very large drops in portfolio investment inflows: portfolio inflows plummeted with extraordinary speed to unprecedented values (Figure 5). Within the different portfolio asset classes, government bonds saw the largest sell-off, in both advanced and emerging economies. This sell-off was driven in particular by action taken by investment funds that sold riskier assets to raise USD (the so called 'dash-for cash'). This greater role played by investment funds reflects in part the post 2008 shift to market-based finance and the retrenchment of international banks.

Central banks have cushioned the shock through various types of interventions, from accommodative policy, foreign exchange interventions, and asset purchases to cooperation through bilateral foreign exchange swaps. Such a policy mix, together with massive fiscal policy packages, have helped to rebuild some degree of investor confidence. As a result, G20 members have been experiencing positive inflows again from May 2020 onwards (Figure 4).

Figure 4. Capital inflows to G20 members (bln USD)



Note: Sample of 11 G20 members (Brazil, France, Germany, India, Italy, Japan, Korea, Mexico, South Africa, Turkey, United States).
Source: OECD Monthly Capital Flow Dataset.

This return of greater calm has also brought down the number of policy measures since May 2020 as compared to the earlier months of 2020 covered by the previous monitoring report in this series: Only five G20 Members – Brazil, P.R. China, India, Indonesia and Turkey – have taken measures that affect international capital flows but are not specific to FDI in the reporting period, down from eight in the previous reporting period.

[9] This section on "Investment policy measures not specific to FDI" has been prepared by the OECD Secretariat under the responsibility of the Secretary-General of the OECD. Annex 2 provides information on the coverage, definitions and sources of the information contained in this section.

Several of the measures that were introduced in the current reporting period – listed in detail in Annex 2 – restored some of the measures they had introduced with the onset of the COVID-pandemic. In that early phase of the pandemic, some countries had eased capital inflow controls and currency-based measures to allow domestic residents greater access to foreign exchange liquidity,[10] and some of these measures have now been dialled back to pre-COVID levels.

4. *International Investment Agreements*

During the reporting period, G20 Members concluded no new bilateral investment treaties (BITs). One "other IIA"[11] was concluded by the United States of America.[12] One BIT, Australia–Indonesia BIT[13], as well as one "other IIA", NAFTA[14], were effectively terminated. As of 15 October 2020, there were 2901 BITs and 390 "other IIAs". Data on G20 Members' IIAs is available in Annex 3.

III. Overall policy implications

The ongoing COVID-19 pandemic is leaving a deep mark on individuals and societies. It is also bringing significant changes to policies on international investment as documented by G20 Members' policy changes since the outbreak of the pandemic. In particular, COVID-19 has heightened awareness for the need to prevent and mitigating risks. In the realm of investment policy making, this has accelerated the introduction and strengthening of policies to counter threats to essential security interests that may be associated with foreign investment in the health sector. Overall, risk-related investment policy making has reached a historic all-time high in the first nine and a half months of 2020.

That new measures often relate to health industries suggests that they remain by and large targeted narrowly to identified areas of risk. A very significant expansion of investment screening mechanisms could open the door for overreach. International policy principles and guides, such as the G20 Guiding Principles for Global Investment Policymaking the 2009 OECD Guidelines for Recipient Country Investment Policies relating to National Security and UNCTAD's Investment Policy Framework for Sustainable Development, together with international dialogue and careful monitoring and accountability to the public can be effective means to counter this risk.

International investment can help attenuate the deepening economic crisis. Governments are individually responsible for creating conditions under which international investment can flourish, while at the same time protecting their essential security interests. Collectively, governments are responsible for upholding the principles of fairness, transparency and predictability. While societies are only gradually understanding how to counter the health aspects of the pandemic, the means and principles they need to employ to limit the economic and social impact of the pandemic are better known – they merely need to be diligently applied.

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[10] OECD (2020), "*COVID-19 and Global Capital Flows*", provides information on major trends in global capital flows during the COVID-19 shocks and description of selective policy responses in OECD Member countries and non-OECD G20 Members.

[11] "Other IIA" encompasses a variety of international agreements with investment protection, promotion and/or cooperation provisions – other than BITs. They include free trade agreements (FTAs), regional trade and investment agreements (RTIAs), comprehensive economic partnership agreements (CEPAs), cooperation agreements, association agreements, economic complementation agreements, closer economic partnership arrangements, agreements establishing free trade areas, and trade and investment framework agreements (TIFAs). Unlike BITs, "other IIAs" may also cover plurilateral agreements.

[12] The Fiji-United States of America TIFA (signed on 15 October 2020).

[13] Effectively terminated on 6 August 2020 following the entry into force of Australia-Indonesia CEPA on 5 July 2020.

[14] Effectively terminated on 1 July 2020 following the entry into force of the agreement between the United States, Mexico, and Canada (USMCA).

Annex 1: Recent investment policy measures related to FDI (16 May 2020 to 15 October 2020) – Reports on individual economies

	Description of Measure	Date	Source
Argentina			
Investment policy measures	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Australia			
Investment policy measures	On 24 June 2020, the State Revenue Legislation Further Amendment Act 2020 came into force in New South Wales. The Act introduces changes to the Duties Act 1997, the Land Tax Act 1956 and the Land Tax Management Act 1956 to clarify that discretionary trusts will now be deemed "foreign persons" for taxation purposes if any one of the potential beneficiaries is a foreign person, thereby attracting a surcharge purchaser duty of 8% and surcharge land tax of 2% on residential land. A transition period applies until 31 December 2020 during which discretionary trust deeds can be amended to exclude foreign persons permanently as beneficiaries in order to qualify the trust for an exemption from the surcharges. The N.S.W. Government Revenue Service published a practice note on 1 July 2020 to explain the changes.	24 June 2020	State Revenue Legislation Further Amendment Act 2020 (NSW), Act No. 14 of 2020, assented to on 24 June 2020; "*Foreign surcharges and discretionary trusts*", Practice Note CPN 004 v2, Commissioner of State Revenue, 1 July 2020.
	On 4 September 2020, the Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations 2020 entered into force. The Regulations, which apply in all states of Australia, reinstate monetary thresholds for some acquisitions that fall under Australia's Foreign Acquisitions and Takeovers rules to those applicable before they had been reduced to 0 AUD on 29 March 2020 in the context of the COVID pandemic. The Regulations reinstate the previously applicable threshold for the renewal or material variation of existing non-sensitive leasehold interests in developed commercial land, where the same acquirer held a substantially similar interest under a lease on 29 March 2020.	4 September 2020	Foreign Acquisitions and Takeovers Amendment (Commercial Land Lease Threshold Test) Regulations 2020, 3 September 2020.
Investment measures relating to national security	None during reporting period.		
Brazil			
Investment policy measures			
Investment measures relating to national security	None during reporting period.		
Canada			
Investment policy measures	None during the reporting period.		
Investment measures relating to national security	On 27 July 2020, the Time Limits and Other Periods Act (COVID-19) entered into force. The order expands certain time limits for administrative processes in light of the Coronavirus pandemic.	27 July 2020; 31 July 2020	Time Limits and Other Periods Act (COVID-19), S.C.2020, c.11, s.11, 27 July 2020;

	Description of Measure	Date	Source
	On 31 July 2020, the Order Respecting Time Limits and Other Periods Established By or Under Certain Acts and Regulations for Which the Minister of Industry is Responsible (COVID-19) was issued based on the Act. Among others, it extends the initial review period under the *National Security Review of Investments Regulations* for any investments notified between 31 July 2020 and 31 December 2020. The Order also extends the time given to the Minister to take action for investments that are subject to the *Investment Canada Act* but do not require a filing.		Order Respecting Time Limits and Other Periods Established By or Under Certain Acts and Regulations for Which the Minister of Industry is Responsible (COVID-19), Ministry of Industry, S.C.2020, c.11, s.11, 31 July 2020.
P.R. China			
Investment policy measures	On 23 June 2020, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly released Order No.32 of 2020, Special Administrative Measures (Negative List) for Foreign Investment Access (2020 edition) ("Negative List for Foreign Investment Access") and Order No.33 of 2020, Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2020 Edition) ("FTZ Negative List"). Both lists replace the respective earlier versions of 2019 and entered into force on 23 July 2020. Compared with the 2019 editions, the Negative List for Foreign Investment Access and the FTZ Negative List contain fewer items; in particular, the new lists lift restrictions in sectors such as financial services, manufacturing, agriculture, radioactive mineral smelting, and in the pharmaceutical sector.	23 July 2020	Order No.32 of 2020 Special Administrative Measures for Foreign Investment Access (Negative List) (2020 version), National Development and Reform Commission, Ministry of Commerce, 23 June 2020; Special Administrative Measures (Negative List) for Foreign Investment Access (2020 edition), National Development and Reform Commission, Ministry of Commerce, 23 June 2020; Order No.33 of 2020 Special Administrative Measures for Foreign Investment Access in Pilot Free Trade Zones (Negative List) (2020 version), National Development and Reform Commission, Ministry of Commerce, 23 June 2020; Special Administrative Measures (Negative List) for Foreign Investment Access in Pilot Free Trade Zones (2020 Edition), National Development and Reform Commission, Ministry of Commerce, 23 June 2020.
	On 19 September 2020, the Regulation on the Unreliable Entity List entered into force, following an announcement by the Ministry of Commerce in May 2019. The Regulation establishes a framework for restrictions or penalties on foreign entities that are considered to endanger the national sovereignty, security, or development interests of China or that seriously harm the legitimate rights and interests of Chinese enterprises, organizations, or individuals. Among others, restrictions	19 September 2020	Regulation on the Unreliable Entity List, Order No.4 of 2020, Ministry of Commerce, 19 September 2020.