



**BUSINESSatOECD**

THE BUSINESS AND INDUSTRY ADVISORY COMMITTEE



# A Proactive Investment Agenda for 2018

*March 2018*

The world is facing unprecedented challenges. To address these challenges, we need investment, and to make the necessary investments, we need business. Investment is essential to create jobs, generate economic growth and development and address the challenges we are facing in the areas of development, infrastructure and environment, to name just a few.

Foreign direct investment is an integral part of a growth-oriented international economic system. It spurs public prosperity and economic development in home and recipient countries. While in 2017, there were some signs towards greater openness for foreign investment and the easing of conditions for international capital flows, the overall environment for international investment remains volatile. Furthermore, misconceptions about the value of investment in the public discourse are often insufficiently addressed.

Thanks to its unique legal instruments and analysis and its ability to work in a cross-cutting manner, the OECD can and must speak up in this area. We need a forceful defense from the OECD to underpin the value of an open international trade and investment environment. Business calls on the OECD to launch a pro-active investment agenda and highlight the importance of an enabling policy framework for investment at the highest political level.



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## I. EFFECTIVE IMPLEMENTATION OF OECD INSTRUMENTS

OECD's role in fostering a pro-active investment environment is underpinned by several unique legal instruments. These instruments have high political standing and if effectively implemented, can make a major contribution to enhance the international investment environment. They also provide an essential benchmark for assessing the extent to which candidates for OECD membership adhere to these standards. For a global level playing field, it is important to encourage additional adherence, based on a rigorous process to keep up high standards.

### OECD Declaration on International Investment and Multinational Enterprises

Business underlines the importance of the OECD Declaration on International Investment and Multinational Enterprises (MNEs) as a high-level policy commitment by governments to promote an open and transparent environment for international investment while encouraging MNEs to make a positive contribution. Equal attention must be given to the four parts of the Declaration:

(1) The MNE Guidelines which encourage responsible business conduct, (2) National Treatment to accord to foreign-controlled enterprises treatment no less favourable than that accorded to domestic enterprises, (3) Co-operation to avoid or minimize the imposition of conflicting requirements on MNEs, (4) Investment incentives and disincentives to give due weight to the interest of countries affected by such measures and make them as transparent as possible.

#### **Business Recommendations to OECD:**

- *A robust process to ensure additional adherence to the Declaration*
- *Strengthen dialogue with business on all aspects of the Declaration*

### OECD Code of Liberalization of Capital Movements

The OECD Code of Liberalization is a unique instrument for capital flow management and liberalization and the only multilateral agreement dedicated to openness and mutual accountability in capital flow policies. Business underlines the importance of a rigorous review process and country examinations, relying on "peer pressure" to encourage liberalization.

#### **Business Recommendations to OECD:**

- *Keep high standards where reservations are subject to regular review*
- *Encourage additional adherence to the Codes*

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## The Policy Framework for Investment (PFI)

Business reiterates its strong support for the PFI. By offering a broad-based checklist of policy recommendations for consideration by individual governments, including developing countries, if taken seriously, it can play an important role in implementing policies for creating a robust and competitive environment for investment. Governments around the world should use the guidance in all policy fields that affect the investment environment to improve the quality of a country's enabling environment for investment.

### Business Recommendations to OECD:

- *Step up efforts on monitoring of the implementation of the PFI*
- *Use the PFI as a key benchmark for OECD's current and future members*

## II. OBJECTIVE DATA TO INFORM POLICY DISCUSSIONS

The OECD is a key provider of investment data, which play an important role in informing national and international policy discussions. Such analysis is important to help shape future investment projections and to provide governments with the analytical basis for their own policy discussions. Business underlines the importance of OECD analysis including in the following areas:

- **Monitor trade and investment measures:** in line with the G20 mandate to OECD, WTO and UNCTAD, monitor policy developments and report publicly on these commitments.
- **FDI restrictiveness index:** benchmark countries, measure reforms and assess the impact of restrictions on FDI.
- **FDI in figures:** provide analysis on key developments and trends in global foreign direct investment flows.
- **International trade, foreign direct investment and global value chains (GVCs):** continue to provide new evidence of the role played by investment in GVCs and the interdependencies between trade and investment.

### Business Recommendations to OECD:

- *Increase visibility of OECD data and monitoring of investment developments*
- *Continue empirical analysis of new emerging trends*

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## III. SHAPING POLICY DISCUSSIONS

### Communicate the benefits of open markets

An open investment environment is an essential prerequisite for economic growth worldwide. Countries with a high level of investment systematically achieve higher levels of development. Yet the merits of trade and investment are often contested. BIAC counts on the OECD to draw upon its analysis and data to help better understand the opportunities that come from inward and outward investment, both domestically and internationally.

Such analysis should highlight the role of investment as a leading source of economic growth and job creation. It should illustrate the role of investment as a driver for supporting the competitiveness of our economies and the efficiency of markets. In particular in times where public misconceptions are widespread, business is looking at the OECD to speak out more forcefully on the importance of an open investment environment.

#### Business Recommendation to OECD:

- *Communicate more clearly the importance of open markets and investment*

### Global value chains (GVCs)

Foreign direct investment and international trade are complementary components and the key drivers of GVCs in which the different stages of the production process are located globally. GVCs are essential to the growth of businesses and job creation. They provide access to networks, global markets, capital, and technology, and enhance the productivity of our economies.

However, restrictions that affect trade and investment continue to be introduced and reduce the potential of GVCs. Based on recent OECD analysis highlighting the interrelationships between trade and FDI, and the essential role of MNEs, we underline the importance of further OECD analysis highlighting the linkage between investment and trade, and the benefit of an open economy. Such analysis should support companies, including SMEs, to participate in GVCs effectively and should include a better explanation of trade deficits in the context of global value chains.

#### Business Recommendations to OECD:

- *Continue work on the trade-investment nexus and highlight the benefits of GVCs*
- *Identify opportunities to achieve progress in trade and investment liberalization*

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## Investment screening and national security

As highlighted by the 8<sup>th</sup> report on G20 Investment Measures, growing attention is being paid to investment policies related to national security in OECD countries and beyond. Additionally, the policies related to national security, such as data localization or source code disclosure requirements, raise serious concerns for investors and lead to rising costs and reduced competitiveness.

As geopolitical and security risks pose new challenges, many countries, including OECD countries have been reviewing the screening policies for foreign investment which could raise national security concerns. Investment screening for the purpose of safeguarding national security, such as through putting a brake on the outflow of business secrets and on technology diversion, is legitimate. However, overly expansive or vague investment screening can easily become a disguised form of protectionism and have negative impacts on cross-border investment, growth and job creation. This issue requires careful discussion.

### Business Recommendation to OECD:

- *Identify and address new challenges related to national security*

## International Investment Agreements and investment protection

A pro-investment environment requires assurance of fair and non-discriminatory treatment of foreign investors, adherence to the rule of law and effective dispute settlement. Investment protection provided by bilateral and international investment agreements is therefore essential and must include efficient enforcement mechanisms that investors can call upon. Investment agreements are not the only factor, but a very important one to help attract and protect international investment by guaranteeing equitable treatment of foreign investors. The investor-state dispute settlement has proven to be an effective way to make sure the commitments in bilateral and international investment agreements are preserved. In particular, it has allowed taking investment disputes out of the political arena and into a transparent, rules-based forum of independent and impartial arbitrators. In the current climate where public opposition to and misconceptions of investment agreements are widespread, it is more important than ever that the OECD speaks out more clearly than it has done recently on why international investment agreements and adequate investment protection matter.

### Business Recommendation to OECD:

- *Refine its analysis and highlight to policy makers and the public at large why investment agreements and adequate investment protection matter*

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## Investment and Responsible Business Conduct

Responsible business conduct is an essential part of an open international investment climate. This is recognized by the OECD Declaration on International Investment and MNEs, which commits adhering countries to improve the investment climate, while encouraging companies to apply the standards of responsible business conduct of the MNE Guidelines.

Business is proactively engaged in discussions on responsible business conduct. At the same time, there must be a well-understood differentiation between the responsibilities of governments and those of business. Companies' commitments can play an important role to complement the efforts of governments, but they cannot be considered a substitute for governments. It is the role of governments to establish and enforce law and to create and maintain stable and predictable political systems as well as regulatory and legal frameworks.

### Business Recommendation to OECD:

- *Discuss the linkage between open investment and responsible business conduct in a balanced manner, recognizing that business cannot be a substitute for governments*

## Competitive neutrality and state-owned enterprises

Today over 20% of the top global companies are state-owned enterprises (SOEs) compared with just a couple of them 15 years ago. SOEs operating internationally can enjoy special advantages from governments that undermine a level playing field and can generate negative excess capacity spillovers. Underlining the need to maintain a level playing field between public and private investors, business has therefore repeatedly expressed its strong support for dedicated work in this area, bringing together the expertise of different OECD committees. In light of the growing number of SOEs acting at the international level, many problems persist and require urgent attention. The OECD can make an important contribution by providing a deeper understanding of how to address distortions and create a level playing field, and engage in an active dialogue with emerging economies.

### Business Recommendations to OECD:

- *Work with other committees and combine the expertise on SOEs*
- *Address distortions and ensure a level playing field for private and public investors*

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## Investment for development

With nine out of every ten jobs created in developing countries by the private sector, ensuring strong private sector growth is critical to sustainable development. Setting the right enabling conditions for local and international business to flourish is an increasingly important element in meeting development objectives.

The 2030 Agenda for Sustainable Development adds impetus to this work. To meet these global goals, we must increase investment in developing countries from the billions to the trillions, at a time when flows of official development assistance (ODA) have been decreasing in absolute and relative terms. As such, BIAC encourages the OECD to continue its work on supporting the mobilization of private sector finance for development. BIAC also supports the important OECD work into public-private partnerships in both OECD and non-OECD countries.

### Business Recommendation to OECD:

- *Support private sector involvement in implementing the SDGs*

## Predictable tax framework for promoting investment

An important element of an investment environment is the framework for taxation. Clear, stable, transparent tax policies and tax administrations are critical to support and not impede investment. In this context it is important to recognize that government action focused on digital has broader implications for the economy as a whole. OECD tax instruments such as the OECD Model Tax Convention and the OECD Transfer Pricing Guidelines are important underpinnings of global FDI, including to support domestic resource mobilization. The OECD with its expertise in both taxation and investment should ensure that tax policies are not used for protectionist purposes, hampering cross-border trade and investment.

The G20/OECD project on Base Erosion and Profit Shifting (BEPS) remains the most comprehensive example of multilateral action advancing international rules on tax. Governments should continue to see through the effective implementation of its recommendations, avoiding unilateral measures outside the scope of the BEPS recommendations. Doing so is crucial to ensure certainty in the tax system, and to deliver tax policies that support investment and open markets. The new multilateral tax instrument and BEPS Inclusive Framework are important outcomes in this respect.

### Business Recommendation to OECD:

- *Build on valuable research focusing on 'tax and growth' to support investment*



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Business at OECD (BIAC) speaks for business at the OECD. Established in 1962, we stand for policies that enable businesses of all sizes to contribute to growth, economic development, and prosperity. Through Business at OECD, national business and employers federations and their members provide expertise to the OECD and governments for competitive economies, better business, and better lives.

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