4 November 2014

Twelfth Report on G20 Investment Measures[1]

As the global financial crisis broke six years ago, G20 Leaders committed to resisting protectionism in all its forms at their 2008 Summit in Washington. At their subsequent summits in London, Pittsburgh, Toronto, Seoul, Cannes, Los Cabos and St Petersburg, they reaffirmed their pledge and called on WTO, OECD, and UNCTAD to monitor and publicly report on their trade and investment policy measures.

The present document is the twelfth report on investment and investment-related measures made in response to this call.[2] It has been prepared jointly by the OECD and UNCTAD Secretariats and covers investment policy and investment-related measures taken between 16 May 2014 and 15 October 2014.

I. Development of FDI flows in G20 Members

After the 2012 slump, global foreign direct investment (FDI) returned to modest growth in 2013, with inflows rising to USD 1.4 trillion.[3] G20 Members received almost two thirds of the global FDI inflows.

[1] This Report 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 WTO, 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 WTO, OECD, or UNCTAD agreement or any provisions thereof. For the first time, this report 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] Earlier reports by WTO, 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.

II. Investment policy measures

1. Foreign direct investment-specific measures

Five G20 members took investment policy measures related to FDI.[4] These were Australia, P.R. China, India, Mexico, and the United States.

Investment policy measures related to FDI that Australia, P.R. China, India and Mexico introduced during the reporting period involved the relaxation of conditions for international investment. All four countries raised ceilings on foreign investments in specific sectors. These sectors include airlines, hospitals, defenc~~s~~e, railway infrastructure and telecommunications. In almost all cases, the liberalisations sought to tap additional sources of capital to complement domestic ones.

2. Investment measures related to national security

Only one G20 Member – Italy – amended its policies related to national security. The amendment introduces specific rules for the implementation of Italy's review mechanism for the purpose of safeguarding Italy's national security.

3. Investment policy measures not specific to FDI[5]

In the reporting period, only a few investment policy measures were taken that affect international capital flows while not being specifically geared towards influencing FDI. Changes in this area affect the degree to which economies are integrated in global financial markets.

Brazil, China and India have made policy changes in this area during the reporting period. All measures represent adjustments to the existing rules on international capital flows that these countries maintain. Brazil limited the scope of application of the tax on capital inflows. India adjusted rules regarding foreign investor participation in the Indian securities markets. China adjusted measures regulating transactions in foreign exchange as part of an ongoing effort to deepen its integration in international financial markets.

4. International Investment Agreements

During the reporting period, G20 members continued to negotiate or concluded new international investment agreements (IIAs). Between 16 May and 15 October 2014, G20 members concluded three bilateral investment treaties (BITs)[6] and eight "other IIAs"[7] (Table 1), two of which involving only

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[3] For further information and analysis on recent trends on FDI inflows, see UNCTAD, *World Investment Report 2014: Investing in the SDGs: An Action Plan*, June 2014 and OECD FDI in Figures, April 2014 and Foreign Direct Investment (FDI) Statistics – OECD Data, Analysis and Forecasts. More recent figures will be available in the forthcoming UNCTAD's Global Investment Trend Monitor No.18 and the November issue of OECD FDI in Figures, both taking into account the implementation of new international standards for FDI statistics.

[4] Annex 1 contains information on the coverage, definitions and sources of the information contained in this section.

[5] This section on "Investment policy measures not specific to FDI" has been prepared by the OECD 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.

[6] These are the BITs between Colombia and France (10 July 2014); Colombia and Turkey (28 July 2014); and the Foreign Investment Promotion and Protection Agreement between Canada and the Republic of Serbia (1 September 2014). The conclusion of a BIT does not mean that it has entered into force. The BIT between Mexico and Bahrain entered into force on 30 July 2014; the BIT between Canada and the P.R. China on 1 October 2014.

G20 member States as contracting parties. As of 15 October 2014, there existed globally 2,907 BITs and 345 “other IIAs”.

Table 1. G20 members’ International Investment Agreements*

	Bilateral Investment Treaties (BITs)		Other IIAs		Total IIAs as of 15 October 2014
	Concluded between 16 May and 15 October 2014	As of 15 October 2014	Concluded between 16 May and 15 October 2014	As of 15 October 2014	
Argentina		58		15	73
Australia		22	1	16	38
Brazil		14		16	30
Canada	1	33	1	18	51
China		130		17	147
France	1	103	3	65	168
Germany		134	3	65	199
India		84		12	96
Indonesia		64		14	78
Italy		93	3	65	158
Japan		22	1	18	40
Republic of Korea		90	1	15	105
Mexico		29		16	45
Russian Federation		72	1	4	76
Saudi Arabia		23		14	37
South Africa		43		10	53
Turkey	1	89		18	107
United Kingdom		104	3	65	169
United States		46	1	65	111
European Union			3	65	65

* Source: UNCTAD.

[7] These are the Treaty on Eurasian Economic Union (involving the Russian Federation) (29 May 2014); the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (27 June 2014); the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part (27 June 2014); Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part (27 June 2014); the Economic Partnership Agreement between Australia and Japan (8 July 2014); the Trade and Investment Framework Agreement between the United States and the Economic Community of West African States (5 August 2014); and the Free Trade Agreement between Canada and the Republic of Korea (22 September 2014). The conclusion of an international investment agreement does not mean that it has entered into force. During the reporting period the Agreement between Japan, the Republic of Korea and P.R. China for the Promotion, Facilitation and Protection of Investment entered into force (on 17 May 2014), as did the Japan-Myanmar Investment Agreement (on 7 August 2014), the Japan-Mozambique Investment Agreement (on 29 August 2014), and the Free Trade Agreement between Canada and the Republic of Honduras (on 1 October 2014).

Annex 1: Recent investment policy measures related to FDI (16 May 2014 – 15 October 2014) – Reports on individual economies

	Description of Measure	Date	Source
Argentina			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Australia			
Investment policy measures related to FDI	On 8 August 2014, the Qantas Sale Amendment Act 2014 received Royal assent. The Act eases some foreign ownership restrictions on Australian flag carrier Qantas insofar as ownership by a single foreign investor may now exceed 25% and aggregate ownership by foreign airlines may now exceed 35%. However, foreigners may, cumulatively, still not own more than 49% in Qantas.	8 August 2014	Qantas Sale Amendment Act 2014
Investment measures relating to national security	None during reporting period.		
Brazil			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Canada			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
P.R. China			
Investment policy measures related to FDI	Foreign investors are allowed, since 25 July 2014, to wholly own hospitals in Beijing, Tianjin and Shanghai and the provinces of Jiangsu, Fujian, Guangdong and Hainan as part of a pilot test.	25 July 2014	"Notice on the establishment of foreign-owned hospitals", Ministry of Health and Family Planning, Ministry of Commerce, 27 August 2014.
	On 6 October 2014, new rules on Administration of China's Outward Direct Investment came into effect. Henceforth, only outward direct investment in countries or regions and industries identified as "sensitive" require the approval of the Ministry of Commerce (MOFCOM). Outward direct investment in all other countries or regions and industries only need to be registered with MOFCOM or provincial	6 October 2014	"Ministry of Commerce Introduces Newly Revised Measures for Foreign Investment Management", Ministry of Commerce, 12 September 2014.

	Description of Measure	Date	Source
	MOFCOM. Previously, MOFCOM had to approve any outward investment project worth more than USD 100 million.		
Investment measures relating to national security	None during reporting period.		
France			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Germany			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
India			
Investment policy measures related to FDI	Effective 26 August 2014, India liberalised its foreign direct investment (FDI) policy in the defence sector. The FDI cap has been raised from 26% to 49%, under the Government route. Further, FDI above 49% is allowed subject to approval of the Cabinet Committee on Security, wherever it is likely to result in access to modern and 'state-of-art' technology in the country.	26 August 2014	Press note 7 (2014), Department of Policy and Promotion, Ministry of Commerce and Industry, 26 August 2014.
	Effective 27 August 2014, India liberalised foreign direct investment in railway infrastructure, a sector that was hitherto closed to FDI. Henceforth, 100% FDI under the automatic route is permitted in construction, operation and maintenance of (i) suburban corridor projects through public-private partnerships, (ii) high speed train projects, (iii) dedicated freight lines, (iv) rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, (v) railway electrification, (vi) signaling systems, (vii) freight terminals, (viii) passenger terminals, (ix) infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivity to main railway line and (x) mass rapid transport systems subject to meeting sectoral laws and with the condition that FDI beyond 49% in sensitive areas a from security point of view will be approved by the Cabinet Committee on Security on a case to case basis.	27 August 2014	Press note 8 (2014), Department of Policy and Promotion, Ministry of Commerce and Industry, 27 August 2014.
Investment measures relating to national security	None during reporting period.		
Indonesia			
Investment policy measures related	None during reporting period.		

	Description of Measure	Date	Source
to FDI			
Investment measures relating to national security	None during reporting period.		
Italy			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	On 7 June 2014 and 1 August 2014 three decrees that regulate the functioning of the investment review mechanism that ensures the protection of public safety and national essential security interests in Italy came into effect: The Decree of the President of the Republic (D.P.R.) of 25 March 2014, n.86, which came into effect on 7 June 2014, lays down the rules for the exercise of the special powers relating to strategic assets in the fields of energy, transport and communications, as identified in art. 2 par. 1 of Decree Law (D.L.) 21/2012, also with reference to the definition of the organisational arrangements for carrying out the preparatory activities for the exercise of the special powers, in accordance with Art 2, par. 9 of the D.L. On the same day, Decree of the President of the Republic (D.P.R.) of 25 March 2014, n.85, came into effect. This Regulation identifies the assets of strategic importance in the fields of energy, transport and communications. It also defines the scope of application of the discipline of these special powers. On 15 August 2014, Decree of the President of the Council of Ministries (D.P.C.M.) of 6 June 2014, n.108 became effective. The measure identifies the activities of strategic importance for the system of national defence and security, including key strategic activities for which the special direction and control powers of art.1, par. 1, of D.L. 21/2012 can be exercised. It repealed the previous D.P.C.M. 253/2012, as amended by D.P.C.M. 129/2013.	7 June 2014; 15 August 2014	Decree of the President of the Republic (D.P.R.) 25 March 2014, n. 86 – *Regulation identifying the procedures for the activation of the special powers in the fields of energy, transport and communications, in accordance with Article 2, paragraph 9 of the Decree-Law 15 March 2012, n. 21*; Decree of the President of the Republic (D.P.R.) 25 March 2014, n. 85 - *Regulation identifying the assets of strategic importance in the fields of energy, transport and communications, in accordance with Article 2, paragraph 1, of Decree-Law 15 March 2012, n. 2;* Decree of the President of the Council of Ministries (D.P.C.M.) 6 June 2014, n. 108 - *Regulation identifying the activities of strategic importance for the system of national defence and security, in accordance with Article 1, paragraph 1, of Decree-Law 15 March 2012, n. 21, converted into law with amendments by Law 11 May 2012, n. 56.*
Japan			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Republic of Korea			
Investment policy measures related to FDI	None during reporting period.		

	Description of Measure	Date	Source
Investment measures relating to national security	None during reporting period.		
Mexico			
Investment policy measures related to FDI	On 13 August 2014, the Federal Telecommunications and Broadcasting Law and the Public Broadcasting System Law entered into effect. The Federal Telecommunications and Broadcasting Law establishes the regulatory framework for the participation of direct foreign investment up to 100% in telecommunications and satellite communications, and up to 49% in the broadcasting sector, subject to reciprocity from the country of the ultimate investor. To obtain a concession for broadcasting services involving the participation of foreign investment, the prior favorable opinion from the National Commission of Foreign Investments is required. The reform is part of the Constitutional Reform in telecommunications, radio and television broadcasting established by decree that entered into effect on 12 June 2013.	13 August 2014	*Decreto por el que se expiden la Ley Federal de Telecomunicaciones y Radiodifusión, y la Ley del Sistema Público de Radiodifusión del Estado Mexicano; y se reforman, adicionan y derogan diversas disposiciones en materia de telecomunicaciones y radiodifusión*. Federal Official Gazette on 14 July, 2014.
Investment measures relating to national security	None during reporting period.		
Russian Federation			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Saudi Arabia			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
South Africa			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
Turkey			
Investment policy measures related	None during reporting period.		

	Description of Measure	Date	Source
to FDI			
Investment measures relating to national security	None during reporting period.		
United Kingdom			
Investment policy measures related to FDI	None during reporting period.		
Investment measures relating to national security	None during reporting period.		
United States			
Investment policy measures related to FDI	On 1 June 2014, a final rule approved by the Federal Reserve Board on 18 February 2014 entered into effect. The rule affects supervision and regulation of foreign banking organisations operating in the United States. The requirements in the final rule seek to bolster the capital and liquidity positions of the U.S. operations of foreign banking organisations. The rule requires foreign banking organisations with U.S. non-branch assets of USD 50 billion or more to establish a U.S. intermediate holding company over its U.S. subsidiaries. The foreign-owned U.S. intermediate holding company will generally be subject to the same standards applicable to domestically owned U.S. bank holding companies. Foreign banking organisations with total consolidated worldwide assets of USD 50 billion or more, but combined U.S. assets of less than USD 50 billion, will be subject to enhanced prudential standards including liquidity, capital, risk-management, and stress-testing requirements.	1 June 2014	Board of Governors of the Federal Reserve System, Final Rule; press release, 18 February 2014.
Investment measures relating to national security	None during reporting period.		
European Union			
Investment policy measures related to FDI	None during reporting period.		

Methodology for the inventory presented in Annex 1 — Coverage, Definitions and Sources

Reporting period. The reporting period of the present document is from 16 May 2014 to 15 October 2014. An investment measure is counted as falling within the reporting period if new policies were prepared, announced, adopted, entered into force or applied during the period.

Definition of investment. For the purpose of the inventory presented in Annex 1, international investment is understood to include only foreign direct investment. Investment policy measures not specific to FDI are not included in this inventory but shown in Annex 2 of this report.

Definition of investment measure. For the purposes of this annex, investment measures consist of any action that either: imposes or removes differential treatment of foreign or non-resident investors compared to the treatment of domestic investors in like situations. Reporting on such policy measures has no legal effect on the rights and obligations of member states of the WTO, OECD, or UNCTAD.

National security. International investment law, including the OECD investment instruments, recognises that governments may need to take investment measures to safeguard essential security interests and public order. The investment policy community at the OECD and UNCTAD monitors these measures to help governments adopt policies that are effective in safeguarding security and to ensure that they are not disguised protectionism.

Sources of information and verification. The sources of the information presented in this report are:

- official notifications made by governments to various OECD processes (e.g. the Freedom of Investment Roundtable or as required under the OECD investment instruments);
- information contained in other international organisations' reports or otherwise made available to the OECD and UNCTAD Secretariats;
- other publicly available sources: specialised web sites, press clippings etc.

Investment measures included in this report have been verified by the respective G20 members.

Annex 2: Investment policy measures not specific to FDI (16 May 2014 – 15 October 2014) – Reports on individual economies[8]

Description of Measure	Date	Source
Argentina		
None during reporting period.		
Australia		
None during reporting period.		
Brazil		
Effective 4 June 2014, Brazil reduced the scope of application of the 6% financial transaction tax (*Imposto sobre Operaçoes Financieras*, IOF) levied on the settlement of certain foreign exchange transactions. Hitherto, the 6% tax was levied on the settlement of certain foreign exchange transactions for the inflow of funds into Brazil with maturities of up to 360 days. The 6% tax henceforth only applies to inflow of funds into the country, including through simultaneous operations related to foreign loans contracted directly or by issuing bonds on the international market with minimum average maturities of up to 180 days.	4 June 2014	Presidential Decree Nº 8.263 of 3 June 2014.
Canada		
None during reporting period.		
P.R. China		
On 4 July 2014, the Circular Concerning Foreign Exchange Administration for Domestic Residents Conducting Overseas Financing and Round-trip Investments via Special Purpose Companies (Huifa No. 37 [2014]) by the State Administration of Foreign Exchange (SAFE) came into effect, replacing Circular 75 [2005]. According to information provided by SAFE on the Circular, it facilitates the convertibility of cross-border capital transactions. The Circular reportedly: expands the channels for capital by allowing purchases and payments in foreign exchange by domestic residents to be used to establish overseas special purpose companies and overseas working capital and eliminating the restrictions on domestic companies' overseas lending to special purpose companies; relaxing restrictions on the utilization of funds from overseas financing, abolishing the mandatory rules on the repatriation of funds, and allowing funds from overseas financing and other related funds to be retained for overseas use.	4 July 2014	"Transforming Foreign Exchange Administration of Round-trip Investments to Further Facilitate Cross-border Investments and Financing", State Administration of Foreign Exchange release, 4 July 2014.
On 1 August 2014, the China (Shanghai) Pilot Free Trade Zone (FTZ) regulation came into effect. The new regulation, which fulfilled the mandates provided by the decision of the National People's Congress and Framework Plan of China (Shanghai) Pilot FTZ of the State Council, established reforms in the FTZ, such as the negative list for foreign investment, measures to facilitate customs clearance procedures and rules to boost financial liberalisation in the zone. On 7 January 2014, the People's Bank of China, China's central bank, had released *Opinions on Financial Measures to Support the China (Shanghai) Pilot Free Trade Zone* (FTZ). The Opinions allow a series of policy changes applicable in the FTZ with a view to move towards capital account convertibility and advance foreign exchange administration reform. These include the possibility for residents and non-residents to establish accounts in local and foreign currency in the FTZ and use them for certain transactions. Also, cross-border investment is allowed and delinked from approval procedures that would apply outside the FTZ. The FTZ had officially been opened on 29 September 2013. Since the opening of the FTZ, a series of liberalisations have been announced, including: Foreign enterprises in the zone with a registered capital of no less than	1 August 2014	"Shanghai FTZ regulation passed", News&Information, 28 July 2014. "The PBC Releases Opinions on Financial Measures to Support the China (Shanghai) Pilot Free Trade Zone"

8 This inventory has been established by the OECD Secretariat under the responsibility of the Secretary-General of the OECD.

Description of Measure	Date	Source
CYN 1 million can apply for investment in the value-added telecom business sector (15 April 2014); Companies registered in the FTZ or Chinese and foreign individuals working there for more than a year can open free trade accounts with banks, insurers and brokerages in Shanghai with greater freedom to move money on- and off-shore (22 May 2014); and the negative list that contains restrictions on foreign investment in the FTZ has been shortened (1 July 2014)..		
France		
None during reporting period.		
Germany		
None during reporting period.		
India		
On 23 July 2014, the Reserve Bank of India restricted the scope of Government dated securities that foreign institutional investors can invest in. Henceforth, a new tranche of USD 5 billion under the overall limit of USD 30 billion is allocated to securities with residual maturities of at least three years, and requires that any future investment in government bonds be also made in bonds with a minimum residual maturity of 3 years.	23 July 2014	"Foreign investment in India by SEBI registered Long term investors in Government dated Securities", RBI/2014-15/145, A. P. (DIR Series) Circular No. 13
On 28 August 2014, the Reserve Bank of India relaxed limitations on the manner in which a non-resident can purchase and sell government securities. While hitherto, government securities could only be purchased directly from the issuer or through registered stock brokers on a recognised Stock Exchange in India, such limitations do no longer apply.	28 August 2014	"*Purchase and sale of securities other than shares or convertible debentures of an Indian company by a person resident outside India*", RBI/2014-15/197, A.P. (DIR Series) Circular No.22
On 17 September 2014, the Reserve Bank of India announced a modification of the terms under which an Indian company may issue shares to non-residents. The modification enables Indian companies to issue equity shares against any legitimate dues payable by the investee company, while hitherto, equity shares could be issued only against specific dues.	17 September 2014	"*Foreign Direct Investment (FDI) in India - Issue of equity shares under the FDI Scheme against legitimate dues*", RBI/2014-15/234 A.P. (DIR Series) Circular No.31.
Indonesia		
None during reporting period.		
Italy		
None during reporting period.		
Japan		
None during reporting period.		
Republic of Korea		
None during reporting period.		
Mexico		
None during reporting period.		

Description of Measure	Date	Source
Russian Federation		
None during reporting period.		
Saudi Arabia		
None during reporting period.		
South Africa		
None during reporting period.		
Turkey		
None during reporting period.		
United Kingdom		
None during reporting period.		
United States		
None during reporting period.		
European Union		
None during reporting period.		

Methodology for the inventory presented in Annex 2 — Coverage, Definitions and Sources

Reporting period. The reporting period of the present document is from 16 May 2014 to 15 October 2014. An investment measure is counted as falling within the reporting period if new policies were prepared, announced, adopted, entered into force or applied during the period.

Definition of investment. For the purpose of the inventory presented in Annex 2, international investment is understood to include all international capital movements, except measures specifically concerning foreign direct investment; those measures are reported in Annex 1 of the present document.

Definition of investment measure. For the purposes of this Annex 2, investment measures consist of any action that either: imposes or removes differential treatment of foreign or non-resident investors compared to the treatment of domestic investors in like situations; or: that imposes or removes restrictions on international capital movements. Reporting on international capital movements has no legal effect on the rights and obligations of member states of the WTO, OECD, or UNCTAD.

Sources of information and verification. The sources of the information presented in this report are:

- official notifications made by governments to various OECD processes (e.g. the Freedom of Investment Roundtable or as required under the OECD investment instruments);
- information contained in other international organisations' reports or otherwise made available to the OECD Secretariat;

- other publicly available sources: specialised web sites, press clippings etc.

Investment measures included in this report have been verified by the respective G20 members.

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