EMERGING ECONOMIES TRANSITION

BORDERLESS CO-OPERATION

OECD GLOBAL FORUM ON INTERNATIONAL INVESTMENT

OECD

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Borderless Co-operation

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Centre for Co-operation with Non-Members
Directorate for Financial, Fiscal and Enterprise Affairs

FOREIGN DIRECT INVESTMENT: AN EXPANDING HORIZON

FDI is Set to Grow in the Long Run, Despite Expected Decline in 2001

Foreign direct investment has been one of the defining features of the world economy and globalisation over the past twenty years. Today FDI is needed more than ever to spur economic development. It implies the creation of new enterprises abroad, or the acquisition of substantial stakes in existing foreign enterprises. This form of investment has grown at an unprecedented pace for two decades, exceeding official aid flows by a factor of more than three. There occurred only a slight interruption during the recession in the early 1990s and a significant decline is expected in 2001. More firms in more industries in more countries are expanding abroad through direct investment than ever before.

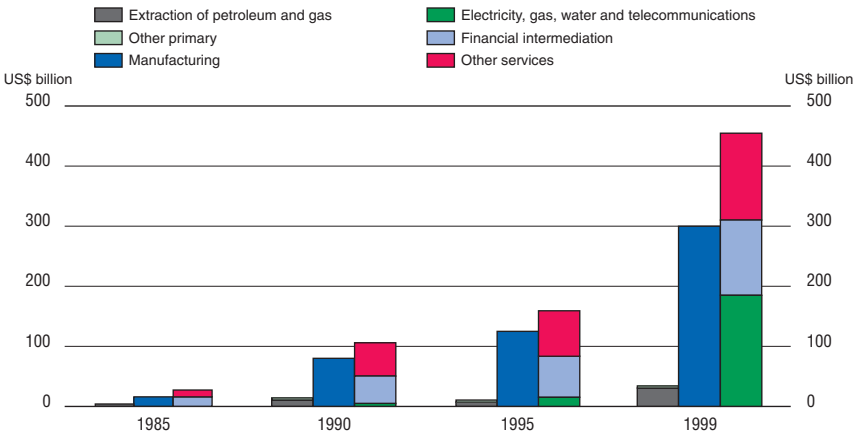
The growth of world FDI in recent years has been exceptional. The US dollar value of world FDI inflows reached a record US$1.3 trillion in 2000 from just over US$200 billion in 1993. While at the beginning of the 1990s FDI flows from OECD Member countries to developing countries accounted for around 30 percent of private capital flows, this had risen to as much as 80 percent by 1999. In 1980, the FDI stock represented the equivalent of only five percent of world GDP, while this percentage had almost tripled to 14 percent by the end of the 1990s. However, the vast majority of world investment still takes place amongst OECD countries. More than 80 percent of world FDI outflows originates in OECD Member countries, and in recent years these countries have received around three-quarters of FDI inflows.

Mergers and Acquisitions and Services Account for a Large Part of FDI Flows

Two particular trends have been visible in world FDI flows in recent years. First, an increasingly large part of these flows has represented mergers and acquisitions, rather than the establishment of new enterprises ("greenfield" investment). This trend reflects the large-scale privatisation programmes implemented in many parts of the world during the 1990s: foreign investors acquired previously state-owned enterprises in former centrally-planned economies, in other emerging market economies, as well as in many OECD Member countries.

A second important trend has been the stronger orientation of FDI towards the services sector and the increase in the share of portfolio capital in total capital flows. In 1998, more than half of the OECD countries' FDI involved the services sector. Banks and other financial institutions accounted for the bulk of these investments, but FDI in electricity, gas, water and telecommunications also increased, in the wake of the massive privatisation and deregulation of these public utilities in the past decade. The share of FDI in the primary sector fell

Total OECD FDI outflows to selected sectors



Source: Compiled from OECD (2000), *International Direct Investment Statistics Yearbook*.

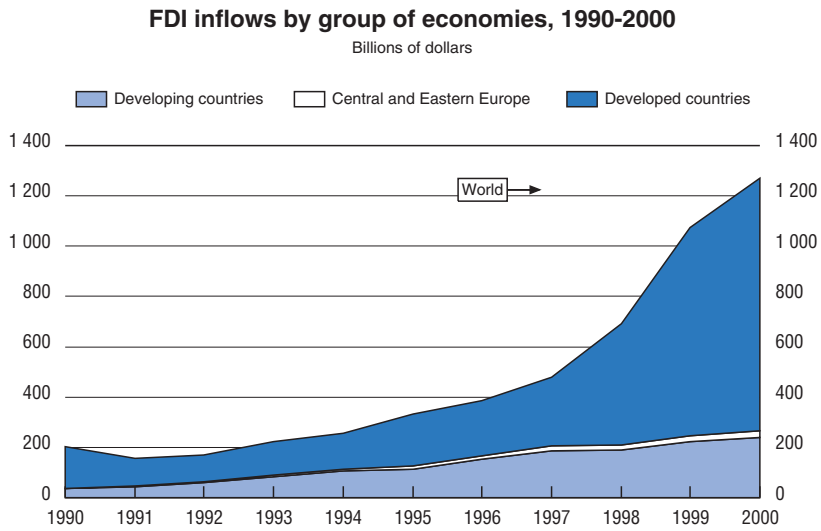
between 1985 and 1995, but large investments in the extraction of petroleum and gas reversed this trend in 1998.

Also noteworthy has been the rise in capital outflows, particularly from developing and transition economies, which are not well captured in international statistics. It appears that traditional "flight" of domestic capital and "roundtripping" to escape domestic taxes are not the only reasons for outflows. Some parts of the capital flows represent a diversification of investment portfolios by domestic residents and, ultimately, benefits both the residents and the global economy.

At the microeconomic level, the multinational enterprises are being reshaped. Far-reaching organisational change is taking place as a result of e-business and new technology, which are transforming the value chain for many industries. The structures of multinational enterprises are evolving, as are their FDI strategies.

FDI in Non-Members is Concentrated in Latin America and Asia

FDI received by non-OECD Members is highly concentrated in Latin America and Asia. Two-thirds of all FDI from OECD Members to non-Members is directed to these regions. Furthermore, the top ten list of non- Member recipients of FDI from the OECD area consists almost exclusively of economies in these parts of the world. Throughout the 1990s, the non-Members on this top ten list have been broadly the same, accounting for as much as 40 to 50 percent of flows from OECD Member countries. This suggests that a significant under-exploited potential exists for Africa and countries elsewhere to catch up.



Source: UNCTAD, 2001.

Only a small part of OECD Members' FDI outflows is directed to developing countries. Although FDI flows to developing countries have increased in the past decade, their share in world FDI inflows fell to about 19 percent in 2000 compared with the peak of 44 percent achieved in 1994. This implies that they have not been able to participate to the same degree in the vast increase of FDI flows that has occurred in the past decade. Nevertheless, FDI has been of great importance from these countries' perspective. Compared to a world average of 14 percent, the stock of inward direct investment represents the equivalent of around 20 percent of GDP for Colombia and Venezuela, while Chile (40 percent), Malaysia (67 percent) and Singapore (86 percent) provide even more vivid illustrations of this point.

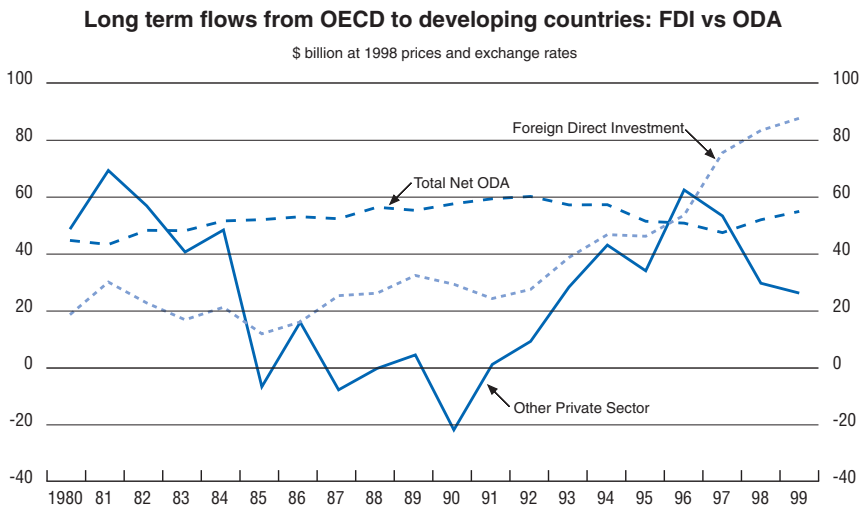
Major non-OECD Member recipients of FDI from OECD Members

(Million US$)

	1985		1990		1995		1999	
1	Brazil	785	Singapore	2461	Brazil	9238	Argentina	19 607
2	Indonesia	616	Brazil	2120	China	6160	Brazil	13 212
3	Singapore	562	Hong Kong	1947	Argentina	3812	Hong Kong	6780
4	Egypt	425	Indonesia	1931	Hong Kong	3290	Chile	6464
5	Hong Kong	322	Thailand	1645	Indonesia	3040	South Africa	4299
6	China	319	Malaysia	1272	Singapore	2961	Indonesia	3824
7	Neth. Antilles	247	Chinese Taipei	817	Thailand	2798	Thailand	3727
8	Malaysia	181	Argentina	748	Chile	1825	China	3220
9	Chinese Taipei	136	Chile	646	Malaysia	1756	Singapore	3049
10	Israel	128	Philippines	510	South Africa	1437	Malaysia	1678
Top 10 as percentage of total non-OECD		*19.4%*		*30.2%*		*52.0%*		*52.6%*

Source: Compiled from OECD (2000) International Direct Investment Statistics Yearbook

Not only is foreign direct investment becoming more important for developing countries in relation to GDP, it is also overshadowing other capital flows such as official development assistance (ODA) or export credits. FDI flows to developing countries have tripled in the past decade. While ODA in real terms has declined in recent years from its peak in 1992, on the whole it has remained relatively stable in comparison to private flows, which have been rather volatile. However, portfolio flows are playing an increasingly larger role in the total financial flows towards developing countries and in 1999 they accounted for approximately 10 percent of total resource flows to developing countries (World Bank, 2000).



Source : OECD, DAC Statistics.

REAPING THE FULL BENEFITS OF FOREIGN DIRECT INVESTMENT

FDI can Bring High Benefits to Development

Evidence shows that economies open to trade and investment have grown faster than closed economies. A recent study at the OECD Development Centre (Soto, 2000), using a sample of 44 developing countries over the period 1986-1997, found that a ten percentage point rise in the FDI/GNP ratio can increase the long-run per capita income level by 3 percent. The benefits of FDI can be brought through many different channels.

- Stable financing of capital needs
- Modern technology diffusion and productivity gains
- Human capital enhancement and higher pay
- Improvement in corporate governance standards

An additional benefit is that FDI is thought to be "bolted down and cannot leave so easily at the first sign of trouble". However, in order to reap the full benefits of FDI, host and home countries both need to open their markets to foreign capital and trade and to work together to establish a coherent set of other supporting policies.

FDI is not monolithic and its benefits vary from one sector and country to another. Concerns about FDI focus on the enclave nature of some foreign-owned enterprises, their reliance on imports and their inadequate linkages to the rest of the local economy. Added to this is the fear that there is a "race to the bottom". Whether the positive or negative aspects of FDI prevail depends on the policies set in place by the host country, the investing company's code of conduct, the financial institutions that support it, and the international policy context.

Policy Challenges in Host Countries

FDI is one but not the only mechanism to increase economic growth. If policy-makers focus just on trying to attract FDI to an economy with an environment that is unfavorable to domestic investment and private enterprise, the results are likely to be less favorable with respect to the long term development of the economy. The enabling framework for FDI consists of the rules and regulations governing entry and operation of FDI, and overall standards of treatment. Although open FDI policies are a necessary condition, a wide range of other policies affect FDI decisions. These include government measures that influence institutional effectiveness, infrastructure and skill endowments, macroeconomic and political stability. They also involve policies towards private enterprises in general: tax, labour market, environment, public administration, financial sector, foreign trade and exchange rate policies.

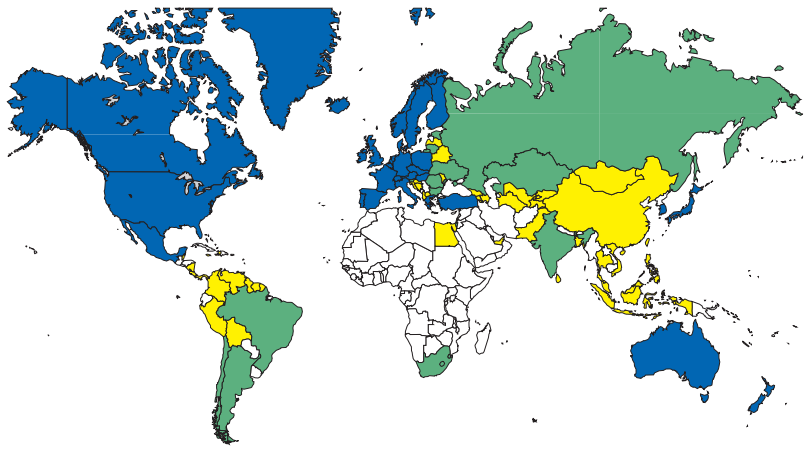
- Non-discriminatory regulatory regime for FDI
- Macroeconomic stability
- Adequate corporate governance and competition policy frameworks
- Transparency, rule of law, fighting corruption
- Strengthening of the financial sector
- Human resources development
- Facilitating structural adjustment and labour mobility

Responsibilities of Home Country Governments and Role of Multinational Enterprises

- Policy coherence in support of development
- Supporting capacity building and less developed countries' participation in multilateral fora
- Promoting private-public partnerships
- Encouraging government and private initiatives for corporate responsibility

The way private enterprises are governed and behave, both domestically and internationally, is important for economic development. In recent years, there have been an increasing number of corporate voluntary initiatives regarding environmental and social issues. Corporate codes of conduct cover a broad range of issues, such as environmental management, human rights, labour standards, the fight against corruption, consumer protection, information disclosure, competition, and science and technology.

The OECD co-operates with many non-Members



* Non-Members not participating in OECD bodies take part in OECD meetings and activities upon *ad hoc* invitations.

The OECD encourages international co-operation and dialogue with a view to addressing the challenge of reaping the full benefits of international investment, and minimising its adverse impacts. This is a challenge faced by Members and non-Members alike. The OECD Centre for Co-operation with Non-Members (CCNM) promotes and co-ordinates policy dialogue on the issues involved among OECD Members and non-Members, thus sharing experience and expertise in confronting this common challenge.

The CCNM is the OECD's focal point for relations between Members and non-Members. It is responsible for the OECD Global Forums, which are focused on high-priority issues that are global in nature, requiring global co-operation. These Global Forums address issues that defy resolution in individual countries or regions. There are eight such Forums covering the themes: sustainable development, knowledge economy (comprising biotechnology and e-commerce), governance, taxation, trade, agriculture, competition policy and international investment. Mutually beneficial dialogue on these issues between OECD Members and non-Member economies around the world is critical to achieving progress in the search for solutions.

In addition to the Global Forums, the CCNM has established a number of country and regional programmes, in Asia, Europe and Latin America. International investment issues are included in a number of these programmes (see the box, page 18).

OECD Global Forum on International Investment

The OECD Global Forum on International Investment (GFII) is an initiative aimed at fostering policy dialogue and networking on globally important investment issues. The establishment of the Forum has come at a crucial time of OECD's expanding dialogue with non-Members from China to the Baltic region and from Russia to the Caribbean. The GFII's inaugural conference was held on 26-27 November 2001 in Mexico under the theme of "New Horizons and Policy Challenges for Foreign Direct Investment in the 21st Century".

The GFII is supported by the OECD's Committee on International Investment and Multinational Enterprises (CIME), in co-operation with other relevant OECD Committees and Directorates. The Forum aims to help build stable relationships with non-Member economies, especially those interested in adhering to the OECD investment instruments (see the section on international investment instruments), those with important two-way investment flows, and other countries which are opinion leaders in the field of FDI policy. One of the distinctive features of the GFII is its ability to share the wide range of experiences of OECD Member countries with non-discriminatory investment policies, corporate responsibility and standard setting, as well as the capacity to build on the Organisation's long-standing relationship with the investors' community, labour, civil society organisations and non-Member countries.

The GFII is the principal vehicle for the OECD's efforts to promote a common understanding on investment issues of mutual interest with other international organisations, including United Nations institutions (in particular UNCTAD and the UN Environment Programme), the World Bank Group and the IMF. The Forum also co-operates with regional groupings, such as APEC, and with regional development banks.

Important issues under discussion in the Global Forum include the policy requirements for maximising the benefits of FDI in developing countries, capacity building for FDI, and the role of corporate responsibility in support of development. Another aspect of the work of the GFII relates to the challenges and opportunities for the environment associated with investment liberalisation.

Future work will include the way in which the OECD Guidelines for Multinational Enterprises can be made to work for developing countries, policy-based competition for foreign investment, linkages with the local economy, and the impact of new technology on FDI and the operations of multinational enterprises. Work is envisaged on experiences with the liberalisation of capital movements more generally, in co-operation with the OECD Committee on Capital Movements and Invisible Transactions (CMIT).

Russia

The CCNM's Russia Programme allows the OECD to work with Russia on issues of importance for the country's transition to a market economy, such as its investment policy. This topic has been the subject of discussions in the CIME and the CMIT with Russian experts and officials on legal, regulatory and policy issues concerning foreign investment flows and related areas such as production-sharing agreements, foreign exchange regulation and capital flight. A recent OECD Review of Russia's FDI policies and the work of the newly established joint OECD/Russia Working Group, lay the basis for this work, which has as its objective to assess progress in improving the institutional and policy framework for FDI at Russia's federal and regional levels, to identify obstacles to investment activity and to propose remedies.

Ukraine

As part of the CCNM's work programme, the OECD has carried out a major policy review of Ukraine's legal and institutional investment regime. This Review identifies the obstacles to investment and private sector development, and puts forth concrete, practical recommendations for an improved business climate. The Review was not undertaken as a desktop study, but part of a joint exercise involving almost all key players, domestic and international alike, on Ukraine's investment scene. A Roundtable involving these parties was organised and the OECD-Ukraine Forum on Investment and Enterprise Development was established on this occasion. The Forum is expected to develop dialogue and synergies among government officials, the private sector, bilateral and multilateral co-operation programmes, and, above all, to help identify the fundamental characteristics of a forward-looking investment policy.

China

Specific activities with China have been established in order to promote FDI policies conducive to structural adjustment and balanced regional economic growth. This activity started with technical advice for the development of reliable FDI statistics in China and an original impact study of FDI on the Chinese economy (completed in 2001). The Chinese authorities have requested that the co-operation programme be upgraded into a policy dialogue, to address important FDI issues facing China at

CCNM's Regional Programmes in the Field of FDI

The CCNM anchors its contribution to the development and reconstruction in South Eastern Europe mainly through its involvement in the Stability Pact. The aim of the ***South-Eastern Europe Compact for Reform, Integrity and Growth*** is to lay the foundations for sustained growth and development in the region. The Compact sets out a number of commitments for policy reform which the countries in the region need to implement to create a robust market economy. The Compact focuses not only on FDI, but also on a comprehensive policy package, including fiscal reform and taxes, bribery and corruption, corporate governance, competition law and policy. The OECD acts as the Secretariat of the implementation of the Compact, working in co-operation with other regional and international organisations in a number of policy areas.

In the context of the CCNM's ***Baltic Regional Programme***, launched in 1998, FDI has been a key item. One of the principal objectives of the Programme has been to associate the Baltic countries with the OECD's standards on FDI policy, in particular its Declaration on International Investment and Multinational Enterprises to which they have been invited to adhere (see below).

The OECD has designed the ***Latin American and Caribbean Investment Initiative*** to address the investment challenges and opportunities facing the region in the years ahead. It seeks to improve the transparency of current regional initiatives, including those in the Caribbean Rim, and to deepen their understanding of the interaction between regional and multilateral integration. Dialogue includes exchanges of views on investment rules in regional agreements and the experience with the OECD investment instruments, as well as on the possibility of enhancing competitive advantages for attracting investment.

In 1998, the OECD created a ***Programme for Emerging Asian Economies*** to contribute its expertise and support for reforms of institutions and policies that strengthen the resilience of Asian economies and societies against external and internal economic shocks. This Programme adopts a multidisciplinary approach, which capitalises on the OECD's cross-sectoral experience. With regard to foreign direct investment policy, work on emerging Asian economies is expected to focus notably on best investment incentive policy practices and orderly capital movements liberalisation.

this crucial juncture of its economic reforms. Activities have focused on the role of FDI in China's regional development and mergers & acquisitions in China, and are expected to lead to a full FDI policy study of China.

Partnerships with Other Multilateral Organisations

OECD Members and non-Members have a strong mutual interest in promoting growth and prosperity by sharing their experiences on policies, which have accomplished positive results. The development of partnerships with other international organisations contributes to this objective.

Such a partnership exists with the ***World Bank***. The *Joint Statement of Priorities for OECD-World Bank Co-operation* was signed on 30 May 2000 and implementation is ongoing. It formalised co-operation and collaboration that had been developing for some time between both institutions, and added a broader and more flexible framework for co-operative work. Priority areas for co-operation include development partnerships and goals, corporate governance, combating corruption, sustainable development, environment and knowledge-based economies. The World Bank has expressed interest in being associated with the OECD Global Forum on International Investment. Possibilities exist for co-operation on investment climate surveys.

Discussions on a partnership are also well advanced with ***UNCTAD***. A *Joint Statement of Priorities for OECD-UNCTAD Co-operation* is being developed. Both sides participate in reciprocal meetings of common interest. There are significant synergies to be achieved between OECD and UNCTAD on international investment issues.

Other partners for co-operation include IMF, WTO, UNIDO, the UN Economic Commission for Europe, APEC, the Pacific Economic Council, Mercosur, the Black Sea Economic Co-operation, and regional development banks.

Business and labour input is also important, particularly when discussing issues of foreign direct investment. The OECD regularly consults with the ***Business and Industry Advisory Committee*** (BIAC) and the ***Trade Union Advisory Committee*** (TUAC). BIAC and TUAC are accredited to the OECD as official advisory bodies and have as their members business and labour federations in the OECD Member countries. They actively participate in and contribute to OECD activities on foreign direct investment.

FORTY YEARS OF OECD EXPERIENCE WITH INTERNATIONAL INVESTMENT INSTRUMENTS

Since its inception some 40 years ago, the OECD has long been at the forefront in efforts to develop international "rules of the game" relating to capital movements, international investment and trade in services. Member governments have established disciplines for themselves and for multinational enterprises by means of legal instruments to which Member countries commit themselves. These instruments have been regularly reviewed and strengthened over the years to keep them up to date and effective.

OECD Declaration on International Investment and Multinational Enterprises

The OECD Declaration on International Investment and Multinational Enterprises is a political agreement providing a balanced framework for co-operation on a wide range of investment issues. The Declaration contains four related elements: (1) the *National Treatment* instrument; (2) the *Guidelines for Multinational Enterprises*; (3) an instrument on *International Investment Incentives and Disincentives*; and (4) an instrument on *Conflicting Requirements*. It is supplemented by legally binding Council Decisions on implementation procedures, and by Recommendations to adhering countries to encourage pursuit of its objectives.

The Committee on International Investment and Multinational Enterprises (CIME), comprising all Member countries and a number of non-Member observers, is the OECD body responsible for promoting and overseeing the functioning of the Declaration. All OECD Members are party to it. As of 1 October 2001, five non-Member countries (Argentina, Brazil, Chile, Estonia and Lithuania) have adhered to the Declaration and participate in related OECD work as a counterpart to the obligations undertaken under the instrument. Israel, Latvia, Singapore, Slovenia and Venezuela are engaged in adherence procedures as of this date. Other non-Members willing and able to adhere to the Declaration would be welcome.

National Treatment Instrument

The National Treatment Instrument stipulates that adhering countries shall accord to enterprises operating on their territories and owned or controlled by nationals of another adhering country, treatment no less favourable than that accorded in like situations to domestic enterprises. The instrument does not prevent adhering countries from taking measures necessary to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security.

Adhering to the OECD Declaration on International Investment and Multinational Enterprises

The OECD Council is the body in charge of inviting interested non-Member economies to adhere to the OECD Declaration on International Investment and Multinational Enterprises and related OECD acts, and to become full participants in that part of the CIME work, which directly concerns them.

As a condition, applicants have to apply liberal policies towards foreign direct investment and be willing and able to meet the requirements of the Declaration's instruments and related OECD acts. To ensure this, a full review of the applicant's foreign direct investment policies is carried out, after which the invitation may then officially be issued by the Council.

Non-Members adhering to the Declaration are entitled to participate in the work of the CIME related to the Declaration and related acts, as a counterpart to the obligations undertaken under these instruments.

Under the Third Revised Decision of the Council on National Treatment, countries adhering to the Declaration shall notify the Organisation of all measures constituting exceptions to the National Treatment principle within 60 days of their adoption and of any other measures which have a bearing on this principle (the so-called "transparency measures"). These measures are periodically reviewed by the CIME, the goal being the gradual removal of measures that do not conform to this principle. Exceptions to National Treatment fall into five categories: (*i*) investments by established foreign-controlled companies, (*ii*) official aids and subsidies, (*iii*) tax obligations, (*iv*) access to local bank credit and the capital market, and (*v*) government procurement. Transparency measures include (*i*) measures based on public order and national security interests, (*ii*) restrictions on activities in areas covered by monopolies, (*iii*) public aids and subsidies granted to government-owned enterprises by the state as a shareholder.

The National Treatment Instrument is solely concerned with discriminatory measures that apply to foreign-controlled enterprises after they are established, i.e. not with their right of establishment. If restrictions prohibit or impede in any way the activities of foreign-controlled enterprises, compared to domestic ones, these restrictions are to be reported as exceptions to National Treatment.

If and when an official monopoly is abolished, the stipulations of the National Treatment Instruments will begin to apply to the sector formerly covered by the monopoly.

Adhering countries are expected to comply with the standstill principle, that is to refrain from introducing new measures and practices that would constitute additional exceptions to National Treatment. The CIME conducts examinations to monitor and ensure compliance with the National Treatment Instrument, and to issue recommendations to this effect. Most of these recommendations have been made to individual countries, but a number of them were of a general character. Concerning investment by established foreign-controlled enterprises, adhering countries should give priority in removing exceptions where most adhering countries do not find it necessary to maintain restrictions.

In introducing new regulations in the services sectors, adhering countries should ensure that these measures do not result in the introduction of new exceptions to National Treatment. Adhering countries should also give particular attention to ensuring that moves towards privatisation result in increasing the investment opportunities of both domestic and foreign-controlled enterprises so as to extend the application of the National Treatment instrument.

In the area of official aids and subsidies, adhering countries should give priority attention to limiting the scope and application of measures which may have important distorting effects or which may significantly jeopardise the ability of foreign-controlled enterprises to compete on an equal footing with their domestic counterparts.

Finally, with regard to measures based on public order and essential security interests, adhering countries are encouraged to practice restraint and to limit such measures to the areas where public order and essential considerations are predominant. Where motivations are mixed (*e.g.* partly commercial, partly national security), the measures concerned should be covered by exceptions rather than merely recorded for transparency purposes.

The exceptions to National Treatment notified by all adherent parties to the Declaration can be found on the Internet, at http://www.oecd.org/daf/investment.

OECD Guidelines for Multinational Enterprises

The Guidelines for Multinational Enterprises are recommendations jointly addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct, in a variety of areas including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation.

The Guidelines express the shared values of governments of countries that are the source of most of the world's direct investment flows and home to most multinational enterprises. They aim to promote the positive contributions multinationals can make to economic, environmental and social progress.

Observance of the Guidelines is voluntary. Their non-binding nature, however, does not imply less commitment by adhering governments to encourage their observance. The active system under which the Guidelines are promoted and implemented attests to the importance adhering countries give the Guidelines. Adhering countries shall set up National Contact Points (NCPs) to deal with the implementation of the Guidelines at the national level. The purpose of NCPs is to undertake promotional activities, handle inquiries and to act as a forum for discussion with the parties concerned on all matters covered by the Guidelines so that they contribute to the solution of problems, which may arise in this connection. NCPs also meet annually to share experiences and report to the CIME. Adherent countries are encouraged to translate the text of the Guidelines in their own official language(s).

The CIME's responsibilities under the Guidelines include responding to requests from adhering countries on specific or general aspects of the Guidelines, organising exchanges of views on matters relating to the Guidelines with social partners and non-Members, reviewing the Guidelines and/or the procedural Decisions so as to ensure their relevance and effectiveness, and reporting to the OECD Council on the Guidelines. The Committee is also responsible for issuing, as necessary, clarifications of the Guidelines. The purpose of these clarifications is to provide additional information on whether and how the Guidelines apply to a particular situation.

The Review concluded in 2000 enabled the OECD to respond to the need for a thorough consideration of the Guidelines and to ensure their

continued relevance and effectiveness. Many features of the Guidelines have been maintained: observance by firms is still voluntary; the institutional structure of the follow-up procedures is broadly unchanged and the Guidelines remain an integral part of the OECD Declaration.

In comparison with earlier reviews, however, the changes to the text are far-reaching and reinforce the core elements – economic, social and environmental – of the sustainable development agenda. With respect to implementation, the Review has provided guidance for the functioning of National Contact Points, and has clarified the CIME's role. The Review benefited from consultations with the business community, labour representatives, non-governmental organisations and non-Member governments.

Incentives and Disincentives

The instrument on International Investment Incentives and Disincentives recognises that adhering countries may be affected by this type of measure and stresses the need to strengthen international co-operation in this area. It first encourages them to make such measures as transparent as possible so that their scale and purpose can be easily determined. The instrument also provides for consultations and review procedures to make co-operation between adhering countries more effective. Adhering countries may be called upon to participate in studies on trends and effects of incentives and disincentives on FDI, and to provide information on their policies.

Conflicting Requirements

The instrument on Conflicting Requirements encourages adhering countries to co-operate with a view to avoiding or minimising the imposition of conflicting requirements on multinational enterprises. In doing so, they shall take into account the general considerations and practical approaches recently annexed to the Declaration. This co-operative approach includes consultations on potential problems and giving due consideration to other countries' interests in regulating their own economic affairs.

OECD Codes of Liberalisation

Since its creation, the OECD has supported the liberalisation of trade in goods and services, and movements of capital between Member countries. This support finds concrete expression in two legally binding agreements among Member countries: the OECD Codes of Liberalisation of Capital Movements and of Current Invisible Operations, to which all Member countries adhere.

The Codes' principal idea is simple: Capital and services should circulate freely across national frontiers. OECD considers that opening markets fully to cross-border flows of capital and services is beneficial both to host and home countries and their citizens. The OECD Codes complement and reinforce other multilateral instruments promoting a liberal international economic environment.

The ***Capital Movements Code*** is the only multilateral instrument promoting liberalisation of the full range of international capital movements, other than the rules of the European Union and of the European Economic Area. When it was created in 1961, its coverage was limited to foreign direct investment and some other long-term operations. However, since then, national economies have become more integrated, financial market regulation has become more harmonised and financing techniques have become more sophisticated. As a consequence, Member countries have gradually extended the list of transactions until it could be considered complete. Today, the Capital Movements Code applies to all long- and short-term capital movements between residents of OECD countries, except government operations. Examples of such movements are the issuing, sale and purchase of shares, bonds and mutual funds, money market operations, and cross-border credits, loans and inheritances.

Coverage of cross-border trade in services by the ***Current Invisibles Code*** is large, but not quite as comprehensive. Cross-border trade in services means the supply of services to residents by non-resident service providers, and vice versa. The service providers can be companies or individuals. Major sectors covered are banking and financial services, insurance, professional services, maritime and road transport, travel and tourism, and films.

Although the two Codes differ from each other in certain respects, the general principles that govern these two instruments are broadly the same. In adhering to the Codes, the Member countries undertake to remove restrictions on specified lists of current invisible operations and capital movements. The ultimate objective is that residents of different Member countries should be as free to transact business with each other as are residents of a single country.

At the same time, OECD Members believe that each country should be able to advance progressively towards this goal according to its own rhythm. The

Codes provide the flexibility of lodging reservations to specific operations and a number of safeguards, to take account of the state of development of its economy and financial markets, as well as of public interest concerns. Rather than pressing for liberalisation through quid pro quo negotiations, the Codes depend on a consultative process in which each country's individual needs, concerns and possibilities are taken into consideration.

Despite the progressive broadening of the Codes' obligations, the scope of Member countries' reservations has dramatically declined. Apart from the remaining restrictions on inward direct investment in a few economic sectors and the non-resident acquisition of real estate, virtually all Member countries have dismantled their controls on capital movements.

While the Codes themselves cannot take credit for all of the liberalisation that has taken place over the past 40 years, they have provided an important multilateral framework for sustaining the individual liberalisation paths pursued by Member countries, building domestic capacity and encouraging non-discriminatory extension of liberalisation to all Member countries. The Codes have also served as a useful yardstick by which the liberalisation efforts of Member countries can be judged and compared over time.

Moreover, if the legal commitments under the Codes only apply to the OECD area, Member governments shall endeavour to extend the benefits of liberalisation to all members of the International Monetary Fund. Thus, residents of developing countries and countries in transition will be able to reap the advantages of free market access in OECD countries to the same extent as OECD residents.

For Further Information

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1. They can be accessed and downloaded at http://www.oecd.org/daf/investment.

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