



Investment Treaties and Climate Change

The Alignment of Finance Flows under the Paris Agreement

OECD Investment Treaty Conference

10 May 2022



Introduction

- Meaning of Paris Agreement alignment for investment treaties?
- Focus on Paris art. 2.1(c)
 - make “finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development”
- Finance alignment is independent from policy space debate



Outline

- Paris Agreement and finance flows
- Investment treaties and Paris alignment of finance flows



The Paris Agreement and art. 2.1(c) finance flows

- Responsibility for **financed emissions**
- Paris alignment here is of **portfolios of counterparties**
 - An investment treaty **counterparty** is a **covered investor**
 - A **portfolio** is the set of investment treaty counterparties
- Accelerating commitment of financial actors to alignment of their portfolios:
 - From “it’s not my problem” to “I’m actively driving solutions”
(J. Mitchell at OECD 2020)



Advancing Paris and Net Zero alignment in finance – a broad sweep of engagement

- FSB and its Task Force on Climate-Related Financial Disclosures (TCFD)
- Central banks and Finance Ministries
- Asset owners, banks, insurers – Race to Zero, GFANZ
- European Investment Bank (EIB)
 - aligning “all financing activities” with Paris Agreement
- Export Credit Agencies (ECAs)



Starting Line Criteria – Race to Zero

- **PLEDGE** -- Pledge at head-of-organisation level to reach net-zero
- **PLAN** -- Explain the steps toward achieving net zero, especially in the short- to medium-term. Set an interim target for this decade
- **PROCEED** -- Take immediate action toward net zero, consistent with delivering interim targets specified
- **PUBLISH** -- Commit to report progress at least annually



Investment treaties – Multiple close connections with art. 2.1(c) finance flows relating to climate

- Investment treaties explicitly promote certain investment including finance flows
 - over 2000 treaties refer to promotion
 - extensive links with high-carbon activities
- **Links with finance flows** engage the Paris Agreement
- Making investment treaty finance flows “consistent with a pathway towards low greenhouse gas emissions ...”



Investment treaties and insured emissions

- **Insured emissions** as part of **financed emissions**
 - TCFD, Portfolio Alignment Team, central banks
 - Net Zero Insurance Alliance
 - Insured Emissions Working Group
- Investment treaty similarities with insurance
- Insurance is a useful analogy, though not necessary -- Paris responsibility is derived from finance flows



Paris alignment of investment treaty finance flows is distinct from government policy space issues

- Paris alignment targets the climate alignment of **counterparties in portfolios** – encouraging the green transition by **business** counterparties
- Claim that investment treaty protects policy space does *not* achieve this Paris alignment of finance flows
- ECAs are moving to require alignment of insureds for their narrower insurance – e.g. for expropriation



Conclusion -- Moving forward

- Global nature of climate – government policy interest in *all* 2500 investment treaties
- Art. 2.1(c) – a framework to align investment treaties
- Out of the silo - treaties as part of sustainable finance
 - EU-launched International Platform on Sustainable Finance
- Key importance of government action on climate