

Unclassified**English text only****16 March 2021****DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE****Freedom of Investment Roundtable 31: Summary of Discussion****Note by the Secretariat**

This note by the Secretariat summarises discussions at Freedom of Investment (FOI) Roundtable 31, held on 24 October 2019.

Sixty-two economies are invited to participate in the Roundtable.

For general information on the Roundtable and its work please refer to www.oecd.org/daf/investment/foi.

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Freedom of Investment Roundtable 31: Summary of Discussion

1. The Freedom of Investment (FOI) Roundtable is an inter-governmental forum that supports countries' efforts to maintain and extend open, transparent and non-discriminatory policy frameworks for international investment. Through analysis and regular multilateral dialogue, the Roundtable promotes the sharing of experiences with investment policy design and implementation. It also helps countries to address policy concerns that international investment may raise, in particular in relation to essential security interests. Policy monitoring by Roundtable participants promotes observance of countries' international investment policy commitments, including those taken under the OECD investment instruments and in the context of the G20.

2. The present document summarises views and information contributed by participants at Roundtable 31, held on 24 October 2019. Participants included representatives of governments of the 36 OECD Members as well as the European Union, other governments that have adhered to the [OECD Declaration on International Investment and Multinational Enterprises](#) (Argentina, Brazil, Colombia,¹ Costa Rica,² Croatia, Egypt, Jordan and Kazakhstan), and government representatives from P.R. China, the Russian Federation, Singapore, South Africa and Thailand.³ Business at OECD (BIAC), the OECD Trade Union Advisory Committee (TUAC), the World Bank and the International Finance Corporation (IFC) also participated in the Roundtable.

3. Discussions at Roundtable 31 addressed several topics⁴ including:

1. Acquisition- and ownership-related policies to safeguard essential security interests...	3
2. Monitoring of recent investment policy developments.....	4
3. Foreign investment in real estate	8
4. Business responsibilities and investment treaties	9
5. Discussion of the Investment Treaty Dialogue.....	11

¹ Colombia subsequently became the 37th member country of the OECD on 28 April 2020.

² On 15 May 2020, the OECD countries unanimously decided to invite Costa Rica to become a member of the Organisation. Costa Rica's accession will take effect after the country has taken the appropriate steps at the national level to accede to the OECD Convention, and deposited its instrument of accession with the French government, the depository of the Convention.

³ The following economies are invited to participate in the Roundtables: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Mexico, Morocco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States, Uruguay, and the European Union.

⁴ The Roundtable also addressed some other items that are not reported here given their procedural nature or relation to ongoing work in other OECD Committees.

1. Acquisition- and ownership-related policies to safeguard essential security interests

4. The Roundtable continued its discussion of investment policies designed to safeguard countries' essential security interests by discussing a detailed research note prepared by the Secretariat. The research note is part of a larger effort to update and expand an earlier note by the Secretariat, released in 2016,⁵ and an earlier draft report discussed at Roundtable 30 in March 2019.⁶ This analytical work, together with a Roundtable-hosted [inception workshop](#) on 13 March 2018 and [full-day conference](#) on 13 March 2019, responds to a renewed interest in this topic, which had been the founding subject of the Roundtable in 2006.

5. The research note, for which the European Union provided co-funding, covers trends and policy designs based on experiences and practices of all 62 economies invited to participate in the Roundtable. It explores how national security screening mechanisms across the 62 economies identify potential risk and assess actual risk, ensure transparency and accountability and relate to the policies that inform their design. It includes a detailed annex with country-specific information on policies in all Roundtable participants.⁷

6. Roundtable participants welcomed the research note as a helpful overview of commonalities and differences in various policy approaches in this area at a time where many countries are considering or implementing reforms. The Roundtable heard updates from several participants relating to country-specific information in the note. Some participants cautioned against judgments about the effectiveness of investment screening mechanisms, noting that evidence of their operation in practice is often not made public for reasons of commercial sensitivity or confidentiality. A participant also cautioned against judgments about whether some of these mechanisms should be considered as harmful developments for businesses given the range of societal and other non-economic policy concerns that underpin their design.

7. Roundtable participants considered the next steps that should follow in this line of work. Participants requested that the Secretariat prepare a revised version of the note for discussion at the next Roundtable meeting⁸ which would incorporate written input from Roundtable participants and further development in areas mentioned by participants during the discussion. Participants noted the importance of completing the stocktaking of country-

⁵ Wehrlé, F. and J. Pohl (2016), "[Investment Policies Related to National Security: A Survey of Country Practices](#)", *OECD Working Papers on International Investment*, No. 2016/02, OECD Publishing, Paris, <https://oe.cd/natsec2016>.

⁶ [Summary of Discussion of Roundtable 30](#), 13 March 2019, pp. 3-4.

⁷ The full report was subsequently released as "[Acquisition-and ownership-related policies to safeguard essential security interests – Current and emerging trends, observed designs, and policy practice in 62 economies](#)" in May 2020. It was followed by a [policy note on developments relating to investment screening mechanisms in the COVID-19 pandemic](#) released on 23 June 2020 to inform discussions at a [public webinar](#) held on 25 June 2020.

⁸ The next Roundtable had been scheduled to take place in March 2020. This meeting was subsequently postponed due to measures taken in response to the COVID-19 pandemic. The full report was released in May 2020, see footnote 7.

specific information as part of this work. A participant suggested that future analytical work could potentially address two “blind spots” in the design of many investment-screening mechanisms, namely non-equity forms of investment and digital forms of investment, as traditional designs for investment-screening mechanisms based on equity forms of investment (e.g. the ownership or acquisition of particular assets) may not currently capture some of these new forms of investment. Another participant suggested future analysis on the outcomes of screening mechanisms to consider the extent to which policy objectives are achieved and, if so, the costs of these achievements. Additional work on the ways in which governments seek to address national security concerns through measures other than investment screening mechanisms, including through export controls, was also encouraged.

8. Several participants noted that the [OECD Guidelines for Recipient Country Investment Policies relating to National Security](#) adopted in 2009 continue to be a useful instrument for policy design and assessment and that it may be unnecessary to consider a review or revision of those Guidelines at this time. A participant suggested that it may be appropriate for the Roundtable to consider a public restatement of the continuing importance of the Guidelines at a later stage once the current scope of the analytical work is completed.

9. In terms of format for future exchanges on this topic, several participants expressed interest in further inter-governmental exchanges in different settings. They noted the success of discussions with external experts at the [full-day conference](#) dedicated to this topic in March 2019 and expressed interest in similar events taking place in the future with other experts on related topics.

2. Monitoring of recent investment policy developments

10. Roundtable participants discussed selected recent investment policy developments based on an [inventory of investment measures taken between 16 September 2018 and 15 September 2019](#).⁹ Three countries made formal notifications of amendments to their policies relating to national security: [Finland](#), [Korea](#) and [Portugal](#). These notifications are required under the [Declaration on International Investment and Multinational Enterprises](#) and the related [3rd Revised Decision on National Treatment](#).¹⁰ Seven countries – Australia, Belgium, Brazil, France, Italy, Japan, and the United States – and the European Union provided information on recent changes of their investment policies or of initiatives in this area as follows:

2.1. Australia

11. Australia informed Roundtable participants that new legislation to manage national security risks in the telecommunications sector came into force on 18 September 2019. The new rules, contained in the [Telecommunications and Other Legislation Amendment Act 2017](#), allow the Attorney-General to give a direction to a carrier, carriage service provider

⁹ This report and all previous reports, including the joint public reports by OECD, WTO and UNCTAD under a mandate of G20 Leaders, are published on the OECD website: <http://www.oecd.org/daf/investment/G20>.

¹⁰ The notifications are published on the OECD website: <http://oe.cd/natsec>.

or carriage service intermediary to address a security risk related to access to or interference with telecommunications networks or facilities.

12. Australia noted that the measures are part of the Telecommunications Sector Security Reforms (TSSR), which aim to encourage early engagement and communication between the telecommunications sector and the government on security risks. The TSSR applies equally to Australian and foreign operators in the telecommunications sector.

13. The new rules envisage the possibility of directions given by the Attorney-General to telecommunications operators that require them to use a particular service or refrain from doing a particular thing in response to a specific, identified risk. These powers are designed to manage risks for sensitive parts of telecommunications networks that may arise from outsourcing or off-shoring certain services or procuring new equipment or services. They are nonetheless intended to powers of last resort and are subject to certain safeguards, including parliamentary review and assessment by Australian intelligence agencies.

14. Australia outlined three other key elements of the TSSR: (i) a security obligation, which places an obligation on telecommunications operators to use all reasonable efforts to ensure that their network is kept secure; (ii) a notification obligation, which requires telecommunications operators to notify the government if there is a risk that they will not be able to meet the security obligation; and (iii) information gathering powers, which allow the government to collect information in support of monitoring compliance with the security obligation.

2.2. Belgium

15. Belgium informed Roundtable participants that an [Administrative Decree](#), which became effective on 1 January 2019 in the Belgian Region of Flanders, introduces the possibility of review and prohibition, including ex-post, of certain transactions regarding entities directly related to the Flemish authorities and fulfilling a public interest to protect strategic interests of the Flemish Community or the Region of Flanders. Prohibitions may only be considered if the Flemish government can demonstrate that it has first attempted to address the concerns with the consent of the relevant Flemish authority.

2.3. Brazil

16. Brazil informed the Roundtable that certain amendments to its [Aeronautical Code](#) came into effect on 17 June 2019. These amendments, which were first introduced on a provisional basis effective as of 13 December 2018, allow 100% foreign ownership of air transport companies in the country by revoking conditions that hitherto capped foreign ownership of air transport services at 20% and required that the management be exclusively in the hands of Brazilian nationals. With the entry into force of [Lei N° 13.842](#) in June 2019, the provisional nature of the measure was lifted. Brazil stated that this measure was part of broader set of liberalisation measures taken by the government to improve the business environment and attract more FDI.

2.4. Finland

17. Finland notified the Roundtable that in March 2019 three pieces of legislation were passed to strengthen the Finnish government's ability to manage acquisition- and ownership-related risks associated with foreign investment and ownership of real estate, especially in strategically significant locations in Finland. Finland noted that all three laws were

scheduled to enter into force on 1 January 2020. Further details about the three laws, including unofficial English translations of sections of the legislation, is available in Finland's [notification](#).

2.5. France

18. France informed Roundtable participants that it made two sets of changes during the reporting period to its acquisition- and ownership-related policies to safeguard essential security interests. The first batch of changes, laid down in the [Décret no 2018-1057 du 29 novembre 2018 relatif aux investissements étrangers soumis à autorisation préalable](#), came into effect on 1 January 2019. France provided information on these changes at Roundtable 30 held in March 2019.¹¹

19. Further changes to France's acquisition- and ownership-related policies to safeguard essential security interests became effective on 24 May 2019 as part of the "[loi PACTE](#)". France noted that the changes strengthen powers of the Ministry to sanction offences while also allowing for increased transparency through a parliamentary oversight mechanism. An implementation decree related to this law is expected to be passed in the near future but the reform process is ongoing. France undertook to notify the Roundtable regarding the entry into force of the new laws and the related implementation decree in due course and provide additional information at that time.¹²

2.6. Italy

20. Italy informed the Roundtable that it made two sets changes to relevant legislation during the reporting period: On 26 March 2019 changes to its rules on special powers, laid down in Law No.56 of 11 May 2012, came into effect. The changes were subsequently confirmed with modifications by the [Law No.41/2019](#) of 20 May 2019, which came into effect on 25 May 2019. The new rules add 5G-based communications services to the list of strategic assets for the purpose of the national security review process; also, an entity that enters in 5G-related goods- or service-contracts or acquires components for 5G networks from non-EU providers now needs to notify the contract and in order to allow the Government to screen any risk related to 5G networks on grounds of national security. The change implements the call from Heads of State or Government [expressed at the European Council on 22 March 2019](#) for a concerted approach to the security of 5G networks and in line with a March 2019 [Commission Recommendation on Cybersecurity of 5G networks](#).

21. Italy further noted that another change to Italy's acquisition- and ownership-related mechanisms came into effect on 12 July 2019, albeit only temporarily. The changes, brought by the now defunct [Decree Law No.64/2019 of 11 July 2019](#), among others, extended the review period for the exercise of the special powers, included new definitions for non-EU acquirers and the consequences of shareholder coordination, and broadened powers to prohibit a transaction. As this Decree Law was not converted into law within six months, its provisions lapsed on 10 September 2019. Italy noted, however, that a new

¹¹ [Summary of Discussion for Roundtable 30](#), 13 March 2019, pp. 5-6. This law was subsequently replaced by [Décret no 2019-1590 du 31 décembre 2019 relatif aux investissements étrangers en France](#), which is set to enter into force on 1 April 2020.

¹² France subsequently notified the Secretariat of these policy developments on 24 March 2020.

Decree Law on the same area was expected to be adopted in September 2019 and converted into law before the end of 2019. It undertook to provide additional information regarding these expected changes in due course.

2.7. Japan

22. Japan informed Roundtable participants that on 27 May 2019 revisions of Japan's inward investment screening processes were published in the official gazette. The changes, contained in two public notices, subject additional businesses – in particular related to manufacturing of integrated circuits, software and telecommunications – to the coverage of the review mechanism. They will require foreign investors wishing to invest directly into these sectors to submit prior notifications of intent to the relevant authorities. The changes came into effect on 1 August 2019 and apply to transactions as of 31 August 2019.

2.8. Korea

23. Korea notified Roundtable participants that it had established on 26 January 2012 – outside the reporting period –, an investment policy related to national security through the inclusion of new mechanisms in the *Act on Prevention of Divulgence and Protection of Industrial Technology*. Further details regarding these developments, including a translation of sections of the legislation and the related enforcement decree, is available in [Korea's notification](#). Korea further noted that new amendments to the Act were scheduled to enter into force in February 2020 and undertook to update the Roundtable on these expected developments.

2.9. Portugal

24. Portugal notified the Roundtable that in September 2014 – outside the relevant reporting period –, it established an investment policy related to national security. The policy is included in Decree-Law 138/2014. Further details regarding these developments, including a translation of sections of Law No 9/2014 and the Decree-Law 138/2014 is available in [Portugal's notification](#).

2.10. European Union

25. The European Union informed Roundtable participants that on 10 April 2019 the [Regulation \(EU\) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union](#) came into effect.¹³ The new rules cover certain EU-acquisitions and the establishment of a cooperation mechanism between the European Commission and EU Members, as well as among EU Members, for their operation of their respective national mechanisms (Article 67). It also envisages international cooperation between the European Commission and EU Members and relevant authorities in third countries (Article 13). The framework envisages an implementation period of 18 months until 11 October 2020 to

¹³ The new rules were [published in the Official Journal of the EU](#) and thereby entered into force on 10 April 2019.

establish the contact points and secure channels by which the EU Members will share information under the EU-wide cooperation mechanism.

2.11. United States

26. The United States informed Roundtable participants that the Department of Treasury issued two sets of proposed rules during the reporting period that implement powers granted by the Foreign Investment Risk Review Modernization Act (FIRRMA), which had been passed in 2018.¹⁴ The first batch was issued on 11 October 2018 and became effective on 10 November 2018,¹⁵ while the second batch was issued on 17 September 2019.¹⁶ A 30-day period for public comments on the second batch of proposed rules expired on 17 October 2019. The United States noted that the Department of Treasury was currently considering the public comments it had received, which would inform the development of the final regulations to implement FIRRMA. The United States undertook to provide further information regarding the entry into force of these implementing rules in due course.

3. Foreign investment in real estate

27. Roundtable participants considered a report prepared by the Secretariat on current policies and measures taken by Roundtable participants to manage the acquisition of real estate by foreigners and non-residents. The report analyses the motivations behind the introduction of such measures in relation to residential real estate, rural and agricultural land and other areas of land that are considered sensitive. In recent years, acquisitions of real estate by foreigners and non-residents has received increasing attention in some countries, as documented by a number of policy changes identified as part of the Roundtable's policy monitoring processes.

28. The report outlines restrictions on foreign ownership for three types of land across the 62 jurisdictions surveyed: (i) restrictions on foreign acquisitions of residential real estate, which are normally associated with concerns about housing affordability and financial stability; (ii) restrictions on rural and agricultural land, which are long-standing restrictions in many countries often linked to concerns about food security, affordability for domestic farmers, environmental issues and preservation of local ways of life; and (iii) restrictions on land in border areas or other strategic locations, which has attracted attention recently in relation to essential security concerns.

29. The findings of the report indicate that investments by foreigners and non-residents remain a concern in many jurisdictions. Many countries have long-standing restrictions on

¹⁴ The United States provided further details regarding the changes introduced through FIRRMA in a [notification](#).

¹⁵ The United States provided information on the *Interim Rules* in the context of the [Roundtable held in March 2019](#) and at the conference on "[Acquisition- and ownership-related policies to safeguard essential security interests](#)" held on 13 March 2019.

¹⁶ The proposed regulations were issued as "[Provisions Pertaining to Certain Investments in the United States by Foreign Persons](#)", in the Federal Register, Vol. 84, No. 185, on 24 September 2019.

foreign acquisitions of all types of land, regardless of its use or location. Recent measures taken in some countries suggest that there is a trend towards deepening restrictions for foreigners and non-residents in relation to residential real estate, but this trend is not universal across the sample set, in part because this sector has traditionally been closed to foreign participation in many jurisdictions.

30. Roundtable participants expressed their appreciation for the detailed stocktaking of country-specific practices. They agreed that the report provides an accurate picture of current restrictions among Roundtable participants. Participants noted the importance of this issue for the Roundtable given that availability of land is critical to the ability to acquire and operate an investment.

31. Several participants expressed concerns about the significant number of measures that discriminated expressly against foreigners in areas where there may be non-discriminatory alternatives to address the same underlying policy concerns. In relation to discriminatory restrictions on residential real estate, a participant noted the lack of evidence mentioned in the note regarding the effectiveness of these measures in addressing the two policy justifications normally provided for them, i.e. concerns about housing affordability and financial stability. It was suggested that additional work could consider the extent to which a meaningful difference exists between resident and non-resident residential real estate purchases in terms of their effects in creating real estate price “bubbles”. Another suggestion involved exploratory work on non-discriminatory measures that governments could consider as an alternative means of addressing the same policy concerns.

32. Another participant noted that aside from the restrictions considered in the research note, some countries also impose language requirements on foreign investors who acquire land. Such requirements often oblige foreign investors to have a good command of the local language and, if requested by local authorities, present in the local language their plans for land use. He suggested that further analysis might address the policy rationale behind these measures and their conformity with the OECD Codes of Liberalisation of Capital Movements.

4. Business responsibilities and investment treaties

33. The Roundtable considered a scoping paper analysing developments potentially relevant to investment treaty policy in the area of business responsibilities. The paper provides a preliminary overview of the fast-developing fields of business and human rights (BHR) and responsible business conduct (RBC) following the adoption of the United Nations Guiding Principles (UNGPs) on BHR, the updated OECD Guidelines on Multinational Enterprises (the OECD Guidelines) and the extensive OECD work on due diligence guidance. It considers a range of recent government action on business responsibilities including in response to growing calls for policy coherence across government. In some fields, some governments are imposing, among other things, certain RBC or human rights due diligence obligations or reporting obligations on business; they are also using due diligence conditionality for certain government procurement or benefits. The paper seeks to provide investment treaty experts with background on RBC and BHR, but also to provide the RBC community with information on trade and investment agreements, and to provide a basis for increased dialogue between the two communities.

34. Following the overview of BHR and RBC, the paper considers trade and investment treaty policies relating to business responsibilities. Trade and investment treaties can affect

business responsibilities in several ways including (i) their impact on policy space for governments to regulate business under domestic law; (ii) provisions that buttress domestic law or its enforcement, and (iii) provisions that directly address business by, for example, encouraging observance of RBC standards or establishing conditions for access to investment treaty benefits.

35. The paper notes that some trade agreements or trade and investment agreements had innovated in addressing human rights, or labour and environmental issues in the 1990s. In contrast, statistical survey by the OECD in 2014 of investment treaty practice revealed very low levels of express attention to sustainable development or RBC in the pool of stand-alone investment treaties existing at that time.¹⁷ The scoping paper considered examples of more recent investment treaty practice reflecting growing interest in addressing business responsibilities issues.

36. Participants welcomed the paper as a detailed overview of the fields of RBC and BHR including both historical and recent developments. It was noted that the treatment of the interaction between RBC/BHR issues and investment treaties was relatively brief and that it could be expanded. A participant noted that the paper was timely because the issues were under consideration in its ongoing review of its investment treaty policy while another noted particularly strong interest due a recent review of its National Contact Point.

37. Some participants provided updates on their respective approaches to RBC/BHR issues in recent treaty practice including references to the OECD Guidelines. A participant cautioned against singling out individual treaties or treaty approaches in the paper, underlining that different governments seek to promote RBC/BHR in different ways, including for example in separate treaty chapters on labour, the environment and anti-corruption. A participant noted that there is a range of tools to advance RBC including National Contact Points, trade agreements and legislation, but expressed particular interest in trends in investment treaty practice. Another participant noted that his government's approach in its recent model and treaties uses hortatory provisions without binding rules or dispute settlement, in an effort to find a new balance between the rights and obligations of governments and business.

38. A participant suggested that the Roundtable was somewhat behind other policy communities in turning to these issues given societal interest. He expressed support for the proposal in the paper for further consideration of how various policies that are being employed to advance RBC/BHR in other fields might be of possible interest in the investment treaty context. He noted that the paper pointed to recent government decisions not to use or to withdraw from ISDS in investment treaties and that it suggested that this action was linked to interests in protecting policy space or strengthening business responsibilities. He questioned whether those were the motivations in some cases for the decisions about ISDS. Some decisions to exclude or exit ISDS were likely unrelated to interests in increasing business responsibilities.

39. Participants expressed interest in further fact-finding work to take stock of treaty practices. A participant also suggested consideration of the impact of RBC provisions in ISDS cases and suggested attention to additional topics such as counterclaims. Another participant noted that she was aware of at least three ISDS cases in which arbitrators

¹⁷ Gordon, K., J. Pohl and M. Bouchard (2014), "[Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A Fact Finding Survey](#)", OECD Working Papers on International Investment, 2014/01, OECD Publishing.

reduced compensation to take account of claimant non-compliance with business responsibilities, including in the absence of express treaty language. Another participant suggested taking account of ongoing OECD work on [FDI Qualities](#), which seeks to measure the sustainable development impacts of investment.

40. Roundtable participants expressed interest in further work on the issues and requested the Secretariat to revise the scoping paper based on input provided during the discussion and any further written comments received. A broader review of relevant trade and investment treaty developments was requested, including the relationship between traditional investment protection treaties and more comprehensive trade and investment agreements.

41. The Roundtable decided to dedicate the [6th Annual OECD Investment Treaty Conference](#) in March 2020 to Business responsibilities and investment treaties.¹⁸ The Secretariat also proposed to conduct an electronic consultation on the scoping paper in advance of the Conference in order to gather further background information for consideration by Roundtable participants and written input on this proposal was requested.¹⁹

5. Discussion of the Investment Treaty Dialogue

42. The annual inter-governmental Investment Treaty Dialogue took place two days before the Roundtable on 22 October 2019. Australia chaired a discussion on updating old-generation bilateral investment treaties; and Costa Rica and the Republic of Korea co-sponsored a discussion on claims for reflective loss in ISDS. Roundtable participants welcomed the discussions at the Dialogue and reaffirmed their interest in government-led discussions on investment treaties.

43. In considering the Dialogue discussion on reflective loss, it was recognised that the OECD has been the leading international forum for discussion on claims for reflective loss in ISDS based on extensive work.²⁰ It was noted that these issues have now been taken up by UNCITRAL Working Group III in its work on reform of ISDS with reference to OECD work.²¹ The UNCITRAL Secretariat proposal for collaboration with the OECD in this area

¹⁸ The Conference scheduled for 16 March 2020 was cancelled due to travel and visitor restrictions relating to the COVID-19 pandemic. Information regarding the 2021 Conference will be provided in due course on the Conference webpage: <https://oe.cd/IIA-conf>.

¹⁹ A public consultation was conducted in January-February 2020 on a [consultation version](#) of the scoping paper (essentially unchanged except for corrections or clarifications with regard to individual government policies). A [compilation of comments received](#) is available in the consultation webpage: <https://oe.cd/BR-consult>.

²⁰ See, e.g., Summaries of discussion of FOI Roundtables [18](#) (pp. 4-9) and [19](#) (pp. 12-19); Gaukrodger, D. (2013) "[Investment treaties as corporate law: Shareholder claims and issues of consistency. A preliminary framework for policy analysis](#)", OECD Working Papers on International Investment, No. 2013/3.

²¹ UNCITRAL, "[Possible reform of investor-State dispute settlement \(ISDS\). Shareholder claims and reflective loss: Note by the Secretariat](#)", A/CN.9/WG.III/WP.170, 9 August 2019 (outlining issues raised by claims for reflective loss).

was welcomed.²² It was stated that this is an issue where the Roundtable could contribute to work on reform and modalities to intensify such work could be considered in the future. The importance in the short term of OECD input to the UNCITRAL work was emphasised.²³

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²² Id. (outlining issues raised by claims for reflective loss and proposing that governments at UNCITRAL request the UNCITRAL Secretariat to organise with the OECD Secretariat a meeting at the OECD on reflective loss in the spring of 2020).

²³ The proposed joint meeting was subsequently held as a [webinar](#), organised by the OECD, the UNCITRAL Secretariat and the UNCITRAL Academic Forum, on 2 July 2020 in light of travel and visitor restrictions relating to the COVID-19 pandemic.