

Public consultation on possible positive contributions of investment agreements to achieving climate and environmental goals

The OECD is holding a public consultation to contribute to on-going government, stakeholder and expert work on investment agreements

Stakeholders, experts and the public are invited to contribute to the consultation by 10 September 2025.

■ Background

In 2021, governments from around the globe launched broad government-led consideration of the Future of investment treaties at the OECD. The work builds in part on inter-governmental evaluation and analysis of key aspects of investment agreements at the OECD since 2011. The overriding importance of confronting the climate crisis and environmental challenges forms an important part of the work.

Over the last four years, the work has been conducted in two tracks. Track 1 has been focused on climate policies for investment agreements. Track 1 work has included (i) three public Conferences in 2022, 2023 and 2024; (ii) a government survey of climate policies for investment treaties; and (iii) policy analysis by the Secretariat. Governments, experts and stakeholders have also regularly met in Track 1 under Chatham House rules. In Track 2, governments are considering whether it would be better if substantive provisions featured in older generation treaties were more similar to recent designs and how a transition could be achieved in a pragmatic way.

The work in Track 1 has been structured through three overlapping angles for potential Paris Agreement alignment of investment agreements:

- a sectoral approach to “doing no harm” to climate goals – considering the possible elimination or reduction of investment treaty benefits for high-carbon activities such as fossil fuels;
- a policy area approach to doing no harm – providing greater or clearer policy space for government climate measures without fear of high-value claims for damages by covered investors;
- considering potential positive agenda avenues for investment agreements to directly advance green investments and climate and environmental policies.

Governments have now requested more work on the third angle in Track 1 and are seeking inspiration from a public consultation. In 2022, early in the Track 1 process, governments and policy debate benefitted from a [general public consultation on investment treaties and climate change](#) with [over 40 submissions received](#). Proposals from the consultation, for example, were subsequently developed into an award-winning [academic article](#); related draft investment agreement provisions have been discussed by governments, experts and the authors in Track 1 meetings and Conferences. This second Track 1 consultation will focus specifically on the positive agenda.

■ A focused 2025 consultation on possible positive contributions of investment agreements to achieving climate and environmental goals

Effectiveness is an important criterion for the consideration of policies in Track 1 work. Accordingly, contributors are encouraged to consider the likely effectiveness of different approaches. New ideas and proposals are welcome and contributors can also draw inspiration from several recent innovations – including in broader trade agreements and other agreements. Examples include:

- **Liberalising investment flows in environmental goods and services:** the four Parties to the 2024 Agreement on Climate Change, Trade and Sustainability (ACCTS) (Costa Rica, Iceland, New Zealand and Switzerland) have

liberalised market access in specified environmental and environmental-related services sectors. (Provisions identifying or liberalising environmental and environmental-related services apply to investment in part because such provisions typically apply to all modes of supply of services including through use of a foreign-owned local commercial presence (known as “mode 3”).

- **Identifying, notifying and applying disciplines to fossil fuel subsidies:** the fossil fuel subsidies chapter in the ACCTS establishes the first legally binding framework to discipline and eliminate harmful fossil fuel subsidies.
- **Defining key concepts such as environmental goods and services:** Australia and Singapore developed in their 2022 [Green Economy Agreement](#) (GEA) an initial non-exhaustive list of 155 Environmental Services and 372 Environmental Goods, building on an APEC list, as a basis for future cooperation.
- **Developments in investment facilitation:** In the context of Brazil's 2024 G20 Presidency, UNCTAD and OECD prepared a [report mapping sustainable development and investment facilitation provisions](#) in investment agreements; a [separate OECD report](#) considers the rationale for including such provisions.
- **New forms of partnerships to address the energy transition:** Just Energy Transition Partnerships (JET-Ps) and the recently announced EU-South Africa Clean Trade and Investment Partnership (CTIP) are international partnerships with substantial investment packages linked with investment programs to accelerate the energy transition.
- **Support for climate-related financial disclosure standards:** the GEA welcomes and supports International Sustainability Standards Board (ISSB) work on financial disclosure standards.

Contributors may also consider OECD work on the positive agenda, including public sessions at recent OECD Investment Treaty Conferences (e.g., [2024 Conference](#), Session 2) and a [March 2025 Secretariat note](#) with issues for discussion.

The need for urgent action on the climate and the long-term future effects of some investment treaty policies may make it valuable to consider short term and longer-term options and effects. Submissions understandable to a range of policy audiences may be useful and proposals of specific actions, amendments or model language, accompanied by commentary, can provide helpful material for policy consideration.

In considering the effectiveness of new approaches and their impacts on different jurisdictions, their possible interaction with existing treaties and institutions can be taken into account. The introduction of positive agenda measures may have different effects depending on whether they are an alternative (or replacement) for existing approaches or whether they are added to existing applicable approaches. The interaction between trade and investment policies can also be considered.

Contributions to the consultation will form an important part of the material for consideration by governments and stakeholders in Track 1.

Nothing in the public consultation should be taken to reflect the views of the OECD or of the governments that participate in work on investment at the OECD.

■ Guidelines for contributions

Contributions In English or French should be sent by 10 September 2025 to investment@oecd.org. Submissions are best limited to 3,000 words.

Please provide your name, affiliation, and information about any activity in connection with investor-state dispute settlement (ISDS) proceedings or with regard to state-to-state proceedings concerning investment. Unless it is clear from your affiliation, please also provide information about affiliations with law firms or legal service providers.

Contributions will probably be published on the OECD website. Your name (or your organisation's name) and your affiliations will be published with your contribution. The OECD retains discretion with regard to the publication of contributions. We will inform you about the treatment of your contribution if it is not published.

Potential contributors that are critical of current investment treaties can briefly note in a footnote that: *“Attention to the positive agenda in this submission should not be taken as endorsement of current approaches in investment treaties or of the relative effectiveness of new approaches vs reform or termination of existing ones.”*

If you want to publish your contribution yourself, you will need to ask permission from the OECD first. If we agree that you can publish your contribution, you are legally responsible for what it says.

Please contact us if you find it difficult to send us your contribution online, want to send it in a different format, want to send it after the deadline has passed or need any other changes in order to be able to send us your contribution.

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The OECD is committed to protecting the personal data it processes, in accordance with its Personal Data Protection [Rules](#).

The Directorate for Financial and Enterprise Affairs is using this consultation to collect personal data, including the names, contact information and affiliations of contributors. The data will be used to provide information to the public about contributors to the consultation and to allow the Secretariat to communicate with contributors.

The names and affiliation data we collect will generally be made available to the public on the OECD website. Contact information will be stored at the OECD and retained during the pendency of Track 1 work. Only directorate staff and the Chair of Track 1 will have access to your contact information.

Under the [Rules](#), you have rights to access and rectify your personal data, as well as to object to its processing, and request erasure in certain circumstances. To exercise these rights in connection with this consultation, please contact investment@oecd.org.

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