



OECD-Viet Nam Investment Forum

**Viet Nam and the OECD Declaration
on International Investment and
Multinational Enterprises**

Background Note for Session 2

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The OECD Declaration on International Investment and Multinational Enterprises (the Declaration) is a policy commitment by adhering governments to provide an open and transparent environment for international investment. This background note describes the Declaration and its components, explains the process of adherence, discusses potential benefits to Viet Nam – should it choose to request adherence to this key OECD instrument – and provides a preliminary assessment of Viet Nam’s preparedness to adhere in terms of meeting the standards embodied in the Declaration.

Key findings

This note provides information on the OECD *Declaration on International Investment and Multinational Enterprises* and a preliminary assessment of Viet Nam's ability to meet the standards embodied in the instrument, should Viet Nam decide to request adherence. Any tentative findings should not be seen to prejudge a thorough review of Viet Nam's approaches to National Treatment or to RBC – or any of the other elements included in an *Investment Policy Review* as part of adherence.

This assessment suggests that Viet Nam is moving in a positive direction vis-à-vis the standards of the *Declaration* with respect to both National Treatment and RBC. Adherence by Viet Nam to the *Declaration* could be one way to showcase and strengthen these efforts.

Concerning National Treatment, the overall picture that emerges from this preliminary analysis is that Viet Nam has been one of the most consistent reformers over time of any of the countries covered in the OECD *FDI Regulatory Restrictiveness Index*, based on a process of continuous legislative renewal. Further steps could be taken to improve the investment climate and to provide greater opportunities to foreign investors, as well as to domestic private investors, notably with respect to state-owned enterprises, but the positive direction of change has been clear and consistent.

On RBC, Viet Nam has made substantial efforts to promote and enable RBC in recent years. Awareness of RBC is growing, thanks in part to government efforts, and the legislative framework has been strengthened. The National Action Plan on RBC under preparation can help to bring together and showcase the various initiatives on RBC. Adherence to the *Declaration*, and particularly the establishment of an NCP for RBC, could support Viet Nam in meeting these objectives and ambitions.

Background

Viet Nam and the OECD have a long history of collaboration on investment policy. The first full-length, country-specific review of Viet Nam by the OECD was an *Investment Policy Review* (IPR) conducted in 2007-09 (OECD, 2009^[1]). A second IPR in collaboration with the Ministry of Planning and Investment of Viet Nam was completed in 2018 (OECD, 2018^[2]). The recently initiated *FDI Qualities Review of Viet Nam*, which has a greater focus on sustainable development outcomes, will continue this fruitful collaboration. The OECD has also conducted a multi-year project on [Promoting Responsible Supply Chains in Viet Nam](#).

This note discusses how the OECD and Viet Nam could build on this past and ongoing work to deepen relations on investment policy through greater participation of Viet Nam in the work of the OECD Investment Committee. The OECD is increasingly a *global* standard setting body, and Vietnamese participation in the Investment Committee could allow Viet Nam not only to come closer to these standards but ultimately to contribute to the process of developing new standards related to investment policy.

Participation in the OECD Investment Committee requires adherence to the OECD *Declaration on International Investment and Multinational Enterprises* (the *Declaration*), one of the key instruments of the Committee. This note describes the *Declaration* and its principal components, notably the National Treatment instrument and the *Guidelines for Multinational Enterprises on Responsible Business Conduct*. It then outlines the process for adhering to the *Declaration* and the further benefits that Viet Nam might enjoy from both the process of adherence and from adherence itself. It then provides a preliminary assessment of how close Viet Nam currently comes to the standards embodied in the *Declaration*.

It should be stressed that Viet Nam has not requested adherence to the *Declaration*. A decision of whether to request adherence to the *Declaration* is not likely to be made in isolation but rather as part of a broader consideration of the potential benefits of becoming closer to the OECD. This note is intended to help inform those discussions but without pre-empting any decision by the government.

The Declaration

The [Declaration on International Investment and Multinational Enterprises](#) was adopted on 21 June 1976. Together with the set of other related OECD legal instruments, it **embodies a holistic approach to international investment**, with Adherents committing to provide an open and transparent environment for international investment and to encourage the positive contribution multinational enterprises (MNEs) can make to economic, social and environmental progress. This balanced approach was prescient in 1976 and explains in part why the *Declaration* still enjoys its privileged status among the legal instruments under the responsibility of the OECD Investment Committee. In 2015, the Ministerial Council statement reaffirmed the importance of the *Declaration* and of non-Member adherence to it. Indeed, a request for adherence to the *Declaration* and its related instruments is often among the first moves by a government wishing to come closer to the OECD.

The *Declaration* frames the Investment Committee's overall approach to investment policy. Adherents commit to provide national treatment for foreign-controlled enterprises, to avoid or minimise the imposition of conflicting requirements on enterprises, to cooperate regarding investment incentives and disincentives, and to jointly recommend to investors observance of the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct* (the *Guidelines*). Each element is underpinned by a legally binding Decision which sets out procedural obligations on practical and follow-up arrangements for cooperation on these issues, including the commitment to notify all measures constituting exceptions to national treatment and to establish a National Contact Point for Responsible Business Conduct to further the effectiveness of the *Guidelines*. Beyond the four related Decisions, further Recommendations have also been developed to further clarify and elaborate the commitments in the *Declaration*, including related to country exceptions to national treatment and to calls for further liberalisation, including for specific country measures.

The text of the *Declaration* was revised in 2023 to update the language and better reflect changes in international investment policymaking since 1976, with new players from new countries in new sectors, including state-owned or -controlled entities. Protecting national security has grown more complex, not least in the face of threats to cybersecurity and critical infrastructure. As restrictions on foreign direct investment (FDI) have come down worldwide, a greater understanding of the importance of a comprehensive, whole-of-government approach to investment climate reform has grown. As more and more countries turn to FDI attraction as part of a development strategy, the impact on sustainability and inclusiveness has become an even more important concern among stakeholders and policymakers.

The revised *Declaration* is intended to better capture the narrative of the Committee's current approach to investment policy already reflected in the wider body of instruments and tools under the Investment Committee's responsibility, notably the *Policy Framework for Investment* (PFI), the [Recommendation of the Council on Guidelines for Recipient Country Investment Policies relating to National Security](#) and the [Recommendation of the Council on Foreign Direct Investment Qualities for Sustainable Development](#)¹, to ensure that it can better fulfil its formal role as the umbrella instrument for the Investment Committee's investment policy work. The revised *Declaration* will also communicate the Committee's approach to investment policy in a single concise instrument.

As the *Declaration* approaches 50 years of implementation, it now has 51 Adherents, with Mauritius currently in the process of adhering (Table 1).

¹ The *FDI Qualities Recommendation*, to which a candidate for adherence to the Declaration would also adhere, will form the basis for the recently started OECD *FDI Qualities Review of Viet Nam*.

Table 1. Adherents to the Declaration

Adherent	Date	Adherent	Date
Austria	1976	Hungary	1994
Australia	1976	Mexico	1994
Belgium	1976	Czech Republic	1995
Canada	1976	Korea	1996
Denmark	1976	Poland	1996
Finland	1976	Argentina	1997
France	1976	Brazil	1997
Germany	1976	Chile	1997
Greece	1976	Slovak Republic	2000
Iceland	1976	Estonia	2001
Ireland	1976	Lithuania	2001
Italy	1976	Israel	2002
Japan	1976	Slovenia	2002
Luxembourg	1976	Latvia	2004
Netherlands	1976	Romania	2005
New Zealand	1976	Egypt	2007
Norway	1976	Peru	2008
Portugal	1976	Morocco	2009
Spain	1976	Colombia	2011
Sweden	1976	Tunisia	2012
Switzerland	1976	Costa Rica	2013
UK	1976	Jordan	2013
US	1976	Ukraine	2017
Turkey	1981	Kazakhstan	2017
		Croatia	2019
		Uruguay	2021
		Bulgaria	2022
		Mauritius (candidate)	2024

Note: OECD Members are shown in bold.

OECD Guidelines for Multinational Enterprises on Responsible Business Conduct

The *Guidelines*, which are annexed to the *Declaration*, are recommendations addressed by governments to multinational enterprises (MNEs). They aim to encourage the positive contribution enterprises can make to economic, environmental and social progress, and to minimise adverse impacts on matters covered by the *Guidelines* that may be associated with an enterprise's operations, products and services. The *Guidelines* cover all key areas of business responsibility, including human rights, labour rights, environment, bribery, consumer interests, disclosure, science and technology, competition and taxation.

The *Guidelines* are supported by a unique implementation mechanism: National Contact Points on Responsible Business Conduct (NCPs), established by adhering governments to further the effectiveness of the *Guidelines*. NCPs (i) promote awareness and uptake of the *Guidelines*, including by responding to enquiries, and (ii) contribute to the resolution of issues that arise in relation to the implementation of the *Guidelines* in specific instances. NCPs may also support efforts by their governments to develop, implement, and foster coherence of policies on RBC.

The *Guidelines* were last updated in 2023 to reflect over a decade of experience since their last review in 2011 and to respond to urgent social, environmental, and technological priorities facing societies and businesses. The 2023 edition of the *Guidelines* provides updated recommendations for RBC across key areas, such as climate change, biodiversity, technology, business integrity and supply chain due diligence,

as well as updated implementation procedures for NCPs. The updated *Guidelines* will also serve to support the ambition set out in the 2023 [Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy](#).

The OECD also provides practical support to enterprises on implementing the *Guidelines* by providing plain language explanations of due diligence recommendations and associated provisions in different sectoral and thematic guidance, as well as by supporting policymakers in promoting and enabling RBC. This is notably done through the OECD [Recommendation on the Role of Government in Promoting Responsible Business Conduct](#).

The Working Party on Responsible Business Conduct (WPRBC), a subsidiary body of the Investment Committee, oversees the range of standards on RBC.

National treatment

The second key pillar of the *Declaration* concerns national treatment. It is intended to ensure a level playing field for foreign investors already established in a country by declaring as a principle that Adherents should accord to foreign-controlled enterprises operating in their territory treatment no less favourable than that accorded in like situations to domestic enterprises. It does not impinge on the right of Adherents to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises. National treatment implies equivalent, not identical, treatment. Differences in treatment may be justified in certain situations so long as they do not unfavourably affect the equality of competitive opportunities of foreign-controlled enterprises on the market.

All countries discriminate against foreign investors in some ways, such as through foreign equity restrictions in particular sectors or through government procurement that favours local firms. To enhance transparency in this regard, the OECD Council adopted the [Third Revised Decision of the Council concerning National Treatment](#) which requires, among other things, that Adherents notify all areas of potential discrimination through a list of exceptions to national treatment. There is no obligation to liberalise further by rolling back these exceptions, nor are Adherents prevented from introducing new measures, although they might be called upon to explain the rationale for the new measure to the Investment Committee.

The *Declaration* recognises that governments often undertake reforms of investment policies unilaterally in their own best interest and when they are ready to do so. Adherents are encouraged to take such measures through peer dialogue and discussions in the Committee on good practices in regulating inward investment.

The commitment to accord national treatment is circumscribed by excluding national security considerations. An Adherent may take whatever measures it considers necessary to maintain public order and to protect essential security interests even if these measures discriminate against foreign-controlled enterprises. These measures must be reported for transparency purposes and submitted to the scrutiny of the Investment Committee.

The benefits of adherence

All non-OECD Members that adhere to the *Declaration* participate as Associates in the Investment Committee for work related to the *Declaration* and related instruments as well in the meetings of the Working Party on Responsible Business Conduct, with rights that broadly place them on equal footing with OECD Members. Non-Members that adhere to the *Declaration* are also invited to become Associates in the Freedom of Investment (FOI) Roundtable. The Roundtable, which is hosted by the Investment Committee, is a multilateral forum in which more than 60 OECD and emerging countries participate to exchange information and experience related to international investment policies.

A country benefits from adherence not only from the reciprocal commitment to non-discrimination and to promoting responsible business conduct, but also from the process of the adherence review itself, which has been shown to improve transparency and foster dialogue within the government and with civil society.

Moreover, the report prepared by the OECD Secretariat as part of the adherence process is published as an *Investment Policy Review*, which allows the government to showcase recent reform efforts to the international community. Adherence allows the governments to:

- Reassure foreign investors that Viet Nam meets OECD standards on investment policy and RBC;
- Improve the transparency of the investment regime which reassures both foreign and domestic investors and facilitates further reforms;
- Participate in the work of the OECD Investment Committee and its WPRBC, leading fora for international co-operation that produce policy analysis and provide advice to governments on how best to enhance the positive impact of MNEs and FDI to sustainable and inclusive development;
- Take advantage of OECD diagnosis and benchmarking through the adherence review process;
- Reduce domestic concerns about foreign investment by reassuring domestic constituencies that foreign investors will abide by the societal expectations embedded in the *Guidelines*;
- Improve the international reputation and impact of domestic firms as good corporate citizens, thereby assisting their participation in global value chains;
- Promote responsible business conduct through the creation of the National Contact Point under the *Guidelines*.

The process of adherence

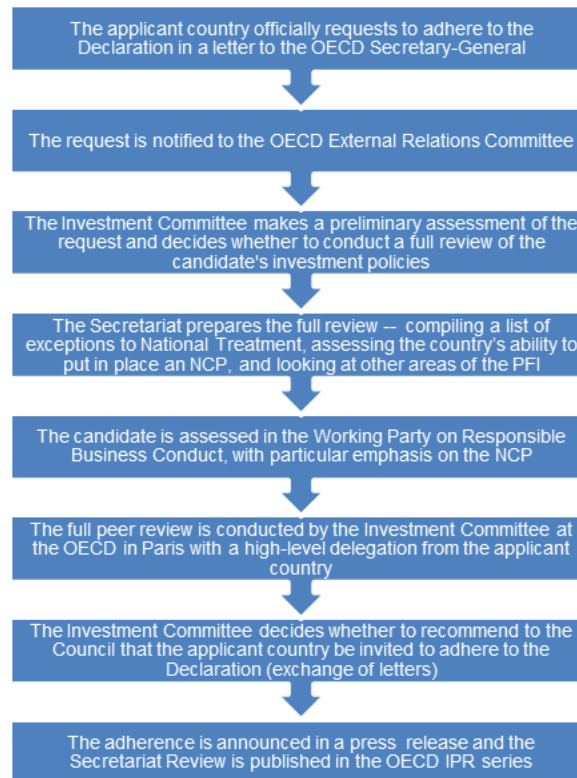
The process of adherence to the *Declaration* and related instruments generally takes about 18 months to complete, from the initial request letter to the formalisation of adherence (the necessary steps before a country formally adheres to the *Declaration* are detailed in Figure 1). The Adherent covers the costs of the review, either through its own budget or through support from an external agency.

The process begins with a written request from the relevant minister of the applicant country to the OECD Secretary-General. After the OECD External Relations Committee is notified of the request, it is conveyed to the Investment Committee which makes a preliminary assessment based on certain key criteria set out for all non-Members when participating in the work of OECD committees.

If the Investment Committee agrees to proceed, the OECD Secretariat will begin an in-depth review of the candidate's policies in relation to the *Declaration*, evaluating its willingness and ability to adhere to the *Declaration* and related OECD legal instruments. This includes a review of selected policy areas that may be influencing the country's investment climate (based on the OECD *Policy Framework for Investment* and relevant RBC-related instruments) and includes the applicant's list of exceptions to national treatment. It also addresses the applicant's commitment to promote RBC and establish an agency for the NCP under the *Guidelines*.

As was done for the *Investment Policy Review of Viet Nam* (OECD, 2018^[21]), the government will be expected to create an inter-ministerial task force to meet with the Secretariat during missions and discuss the draft review. During these missions, the OECD Secretariat team will also confer with business, labour and civil society, as well as with local embassies.

Figure 1. The process of adherence to the Declaration



Once the draft Secretariat review has been prepared, it is discussed with the inter-ministerial task force, and the government then has a further opportunity to comment. The review is then circulated to delegates to the Investment Committee in preparation for a high-level delegation from the applicant country to attend a peer review in the Investment Committee at the OECD in Paris. Prior to that, a discussion is also held in the WPRBC of the country's commitment to the principles and standards of RBC and its plans to establish a well-functioning NCP.

Based on this peer review and the discussion in the WPRBC, the Investment Committee makes a recommendation to the OECD Council concerning the suitability of the candidate for adherence to the *Declaration* and related instruments. If the OECD Council accepts the recommendation of the Investment Committee, it invites the candidate to adhere and the Secretary-General proceeds with the formal exchange of letters. Some conditions might be attached to adherence and the applicant country might be requested to report back to the Investment Committee or the WPRBC on progress in implementing recommendations contained in the review.

Elements to be considered in a review of Vietnamese policies in the event of a request for adherence to the Declaration

A full assessment of the readiness of a country to adhere to the *Declaration* can only be undertaken as part of the process of adherence which, as has been described above, engages the government and stakeholders of the candidate country, and the OECD Investment Committee, Working Party on RBC, and Council. This exploratory note does not prejudge the outcome of that process, were Viet Nam to submit a request. Rather it shows elements that would be considered in any eventual adherence review, building on the *Investment Policy Review of Viet Nam* (OECD, 2018^[2]), as well as on the cooperation between the

RBC Centre and Viet Nam on responsible supply chains. It then describes the progress of Viet Nam in moving closer to OECD standards embodied in the *Declaration*.

On investment policy, the analysis is similar in many ways to that undertaken in the 2018 *IPR of Viet Nam* (OECD, 2018^[2]) and covers broader investment climate considerations beyond the treatment of foreign investors. This might include some aspects of competition policy and corporate governance, including concerning state-owned enterprises (SOEs) – although it does not constitute a full assessment in these areas. It also looks at aspects of investment promotion and facilitation, including possibly investment incentives or special economic zones. Other policy areas might also be looked at if they are of particular interest to the Vietnamese government or to the Investment Committee and stakeholders.

Given the importance of non-discrimination in the *Declaration*, a good deal of analysis is devoted to the question of how, where and why Viet Nam discriminates against established foreign investors. This information is then used to prepare a draft list of exceptions to national treatment as foreseen in the [Third Revised Decision of the Council concerning National Treatment](#). The analysis is also accompanied by a benchmarking of Viet Nam with all other countries covered in the [OECD FDI Regulatory Restrictiveness Index](#), which measures statutory restrictions against foreign investors.

In assessing Viet Nam's readiness to adhere to the *Guidelines* as part of overall adherence to the *Declaration*, the WPRBC and the Investment Committee will consider, along with Viet Nam's willingness and ability to set up an effectively functioning NCP, its commitment to RBC principles and standards as reflected in the *Guidelines*. Some of the elements that will be considered can be seen in the following non-exhaustive set of questions:

- Does the government clearly communicate expectations regarding RBC and provide guidance to businesses?
- Do overarching government policies exist to support RBC? Does the legal, regulatory and policy environment contribute to drive, support and promote responsible business practices? This includes issues related to labour rights, the environment and anti-corruption.
- Has Viet Nam ratified international instruments of relevance to RBC?
- Does the government commit to RBC principles and standards in its own role as economic agent and in its public procurement practices? To what extent do SOEs engage in non-financial reporting and disclosure or perform due diligence to address adverse impacts?
- Does the government incorporate sustainability criteria in its international investment promotion and facilitation? In its international trade and investment agreements?
- Does the government consult regularly with businesses and other stakeholders? Is there a formal mechanism for such consultations?
- To what extent are businesses and stakeholders aware of RBC? How much do Vietnamese companies disclose of their own RBC agenda, going beyond corporate philanthropy?
- Do civil society organisations, trade unions and academia have the capacity to engage meaningfully on RBC issues?

The full extent of areas covered in this part of the Review are set out in the RBC chapter of the *Policy Framework for Investment* and the OECD [Recommendation on the Role of Government in Promoting RBC](#).

The second element concerning RBC involves the National Contact Point. The core effectiveness criteria applicable to NCPs are: visibility, accessibility, transparency, accountability, impartiality and equitability, predictability and compatibility with the *Guidelines*. As part of the adherence process, the Secretariat engages in substantial awareness raising and capacity building within the government and with stakeholders about the functioning of the NCP, including sometimes with assistance from existing NCPs in adhering countries. It is not possible in this preliminary note to determine a priori whether an NCP established in Viet Nam would be effective according to the criteria listed above. The adherence process

involves frequent consultations with the government and stakeholders and requires a detailed plan for establishing the NCP from the candidate country. This assessment does not address this question.

Sustained investment climate reforms are bringing Viet Nam closer to the standards embodied in the Declaration

Viet Nam has been one of the great development success stories of the past 40 years. *Doi Moi* (“Renovation”) reforms were officially adopted in December 1986 to encourage economic growth and development, reduce the dominance of the public sector and progressively integrate Viet Nam into the global economy. Since then, the economy has not experienced one year of negative growth, whether during the Asian or Global Financial Crises or the Covid pandemic. Between 1986 and 2019, prior to Covid, growth averaged 6.8%. OECD estimates for GDP growth are 6.5% in 2023 and 6.6% in 2024 (OECD, 2023^[3]).

The poverty rate has dropped from roughly 80% in the early 1990s to around 8% today. GDP per capita has increased steadily over the past three decades and increased six-fold since the adoption of *Doi Moi*, and Viet Nam is now a lower middle-income market economy. Its income inequality is the lowest in the region, and its tax-to-GDP ratio is among the highest (OECD, 2023^[3]).

Openness to trade and investment, including joining the World Trade Organization in 2007, has been central to this success. Foreign investment has helped to drive this growth, pushing the trade-to-GDP ratio to almost 200%, one of the highest in the world. Viet Nam has been able to sustain high inflows of foreign direct investment (FDI) over the past decade at a time when global FDI flows have fallen relative to GDP. Cumulative inflows of FDI from 2013 to 2022 place Viet Nam in third place in Southeast Asia, ahead of Thailand and Malaysia. Viet Nam appears to be a leading candidate for China+1 strategies of global companies.

Viet Nam owes its success to an ambitious and prolonged reform agenda, with incremental changes to the legislative framework over decades. The rapid and sustained pace at which key legislation in Viet Nam is amended or replaced contrasts positively with many other countries at a similar level of development. Table 2 shows the number of changes to the Investment and Enterprise Laws over time. As in many other countries, Viet Nam initially had separate laws for foreign and domestic investment. These were merged in 2005 to create the unified Investment Law in 2005. It has subsequently been modified in ways which have significantly improved the transparency and openness of the investment regime. The Enterprise Law has followed a similar path, as the two laws are often modified simultaneously.

Table 2. Viet Nam has continuously improved its key laws governing private sector activities

Investment	Adopted or amended
Law on Foreign Investment	1987 1990, 1992, 1996, 2000
Law on Promotion of Domestic Investment	1994, 1998
Law on Investment (merged two earlier laws)	2005, 2014, 2020
Enterprises	
Law on State-Owned Enterprises	1995, 2003
Law on Companies	1990, 1994
Law on Enterprises	2005, 2013, 2014, 2021

Source: OECD 2018

Viet Nam has matched these domestic initiatives with an equally ambitious agenda of international economic diplomacy. Beyond ASEAN membership in 1995 and the WTO in 2007, Viet Nam has been engaged in ASEAN-wide agreements, culminating in the Regional Comprehensive Economic Partnership,

but also other ambitious agreements such as the Comprehensive and Progressive Trans-Pacific Partnership and a Free Trade Agreement with the European Union.

Viet Nam ascribes to the principle of National Treatment

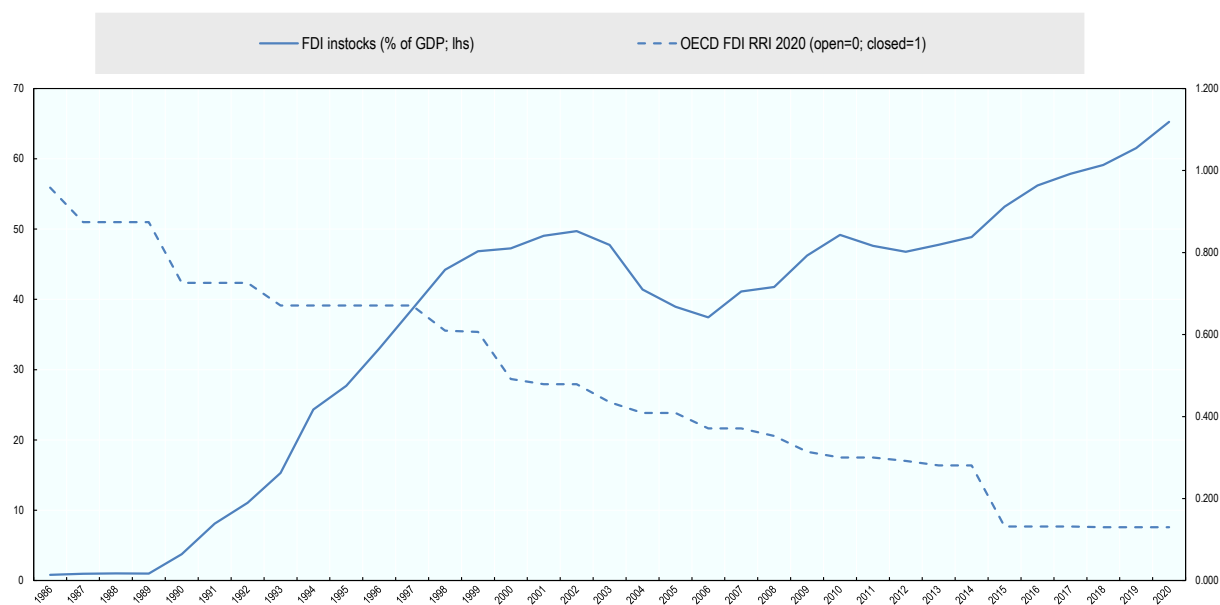
The Law on Investment 2020 establishes the principle that foreign investors, including majority foreign-owned enterprises, enjoy in principle national treatment, unless an explicit exception applies. These exceptions are listed in Appendix IV of the Law. Some strategic or sensitive investment projects require a further special approval prior to the investment registration under an amendment to the Law.

International obligations complement and modulate these rules and result in more favourable market access conditions for some investments than those set under domestic law. For example, the ASEAN Comprehensive Investment Agreement, which came into effect in 2012, grants covered investors pre-establishment national treatment in manufacturing, agriculture, fishery, forestry, mining and quarrying, and services related to these sectors. Other international investment agreements (or international agreements with investment provisions) to which Viet Nam is a party also grant national treatment to established investors covered by the agreement.

Measuring reform of the FDI regime in Viet Nam

The scale and timing of these reforms can be seen in a long time series based on the OECD *FDI Regulatory Restrictiveness Index*. Starting from almost a closed economy before *Doi Moi*, Viet Nam has engaged in constant incremental changes to its regime governing foreign investment (Figure 2). A declining score under the *FDI Index* shows liberalisation. The cumulative effect of these changes makes Viet Nam one of the biggest reformers over time of any country covered in the *FDI Index*. While further reforms could be envisaged in the future to bring Viet Nam even closer to OECD performance, the direction of change has been clear. Figure 2 also shows the response of foreign investors, with the stock of FDI growing faster than GDP in almost all years except the early 2000s.

Figure 2. Viet Nam's reform path – a process of continuous incremental change

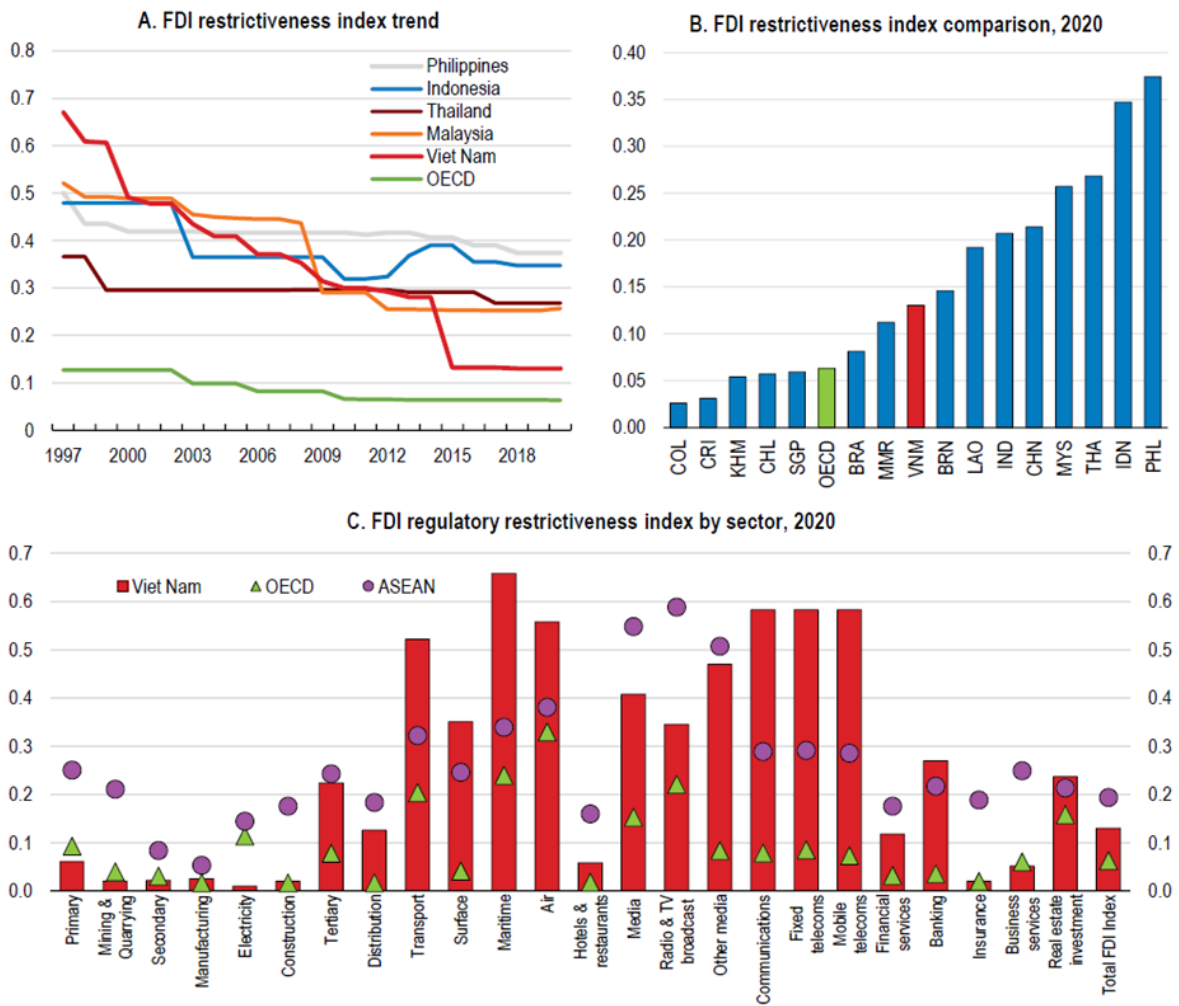


Source: OECD FDI Regulatory Restrictiveness Index (www.oecd.org/investment/fdiindex.htm)

Figure 3A shows the same trend since 1997 in comparison with other large ASEAN member states. While all of these countries have reformed over time, albeit with some backtracking, none has matched the scale and consistency of Viet Nam’s reform path. Viet Nam now has one of the lowest aggregate statutory restrictions to FDI in Southeast Asia (Figure 3B). By sector, while Viet Nam is more open than the ASEAN average in many sectors, it still appears to be relatively restrictive in air, maritime and road transport, as well as in telecommunications (Figure 3C).²

Figure 3. Viet Nam performs well relative to other large countries in Southeast Asia

OECD FDI Regulatory Restrictiveness Index, scaled from 0 (open) to 1 (closed)



Source: (OECD, 2023^[3])

While there are few of the statutory barriers found in other large ASEAN member states, foreign investors are nevertheless hindered by other regulatory barriers to competition, as captured by the OECD *Product Market Regulation (PMR) indicators*. According to the PMR, “distortions induced by state involvement” are high. The number of state-owned enterprises has dropped significantly over time – from 12000 in 1990 to

² The FDI Index only considers discrimination between domestic and foreign private investors. A state monopoly in a sector is not scored as a restriction.

2100 today – but SOEs still account for one third of GDP and are prevalent in network sectors. Increasing their efficiency and levelling the playing field with the private sector will help to improve the overall climate for both domestic and foreign businesses. A recent OECD *Review of Corporate Governance of State-Owned Enterprises in Viet Nam* (OECD, 2022^[4]) found that while there is little statutory discrimination between SOEs and private firms, the state continues to conflate its ownership rights with the implementation of industrial and sectoral policies, with no clear separation between policy formulation and regulatory responsibilities (OECD, 2023^[3]).

Promoting and enabling responsible business conduct – a strategic opportunity

Promoting and enabling RBC is of central interest to policy makers wishing to attract and keep quality investment, and to ensure that business activities contribute to broader value creation and sustainable development. RBC centres on an expectation that all businesses – regardless of their legal status, size, ownership structure or sector – avoid and address negative consequences of their operations, while contributing to sustainable development where they operate. This means integrating and considering environmental and social issues within core business activities, including throughout supply chains and business relationships. A key element of RBC is risk-based due diligence – a process through which businesses identify, prevent and mitigate their actual and potential negative impacts, and account for how those impacts are addressed. Many businesses find that responsible business is good business and RBC is an entry point for contributions to the Sustainable Development Goals (SDGs).

Viet Nam has made substantial efforts to promote and enable RBC in recent years, as also seen in various initiatives undertaken by the private sector and civil society. Major domestic policy initiatives, such as the adoption of a new Labour Code in late 2019 or the inclusion of RBC references in the EU-Viet Nam Free Trade Agreement, have created a more conducive environment for RBC. Viet Nam has made efforts to raise awareness of RBC, both in terms of overall policy approaches and signalling, but also practical support for business and stakeholders to better understand the role of RBC in mitigating supply chain disruptions. For example, the 2021 Annual Viet Nam Business Forum “Restoring Supply Chain in COVID-19 Mode” featured RBC as a key theme, as did the High-Level Dialogue of the Viet Nam Economic Forum 2022. Similarly, in collaboration with the Viet Nam Business Forum, a masterclass in 2022 on *Responsible Business Conduct and Risk-based Due Diligence for SMEs in Viet Nam* was also organised. Notably, in July 2023 the government announced a decision to promulgate the *National Action Plan for Enhancing Responsible Business Practices in Viet Nam* which aims to enhance implementation over 2023-2027.

Sector and thematic efforts complement these overarching frameworks and initiatives. For example, the importance of RBC has been recognised in Viet Nam’s ongoing reform of SOEs practices. In 2019, Viet Nam invited the OECD to provide support in developing its next Socio-Economic Development Strategy, particularly through the OECD *Multi-Dimensional Country Review* (OECD, 2020^[5]). The Review provided a set of recommendations on RBC in the area of FDI and SOEs, in alignment with previous recommendations pertaining to RBC in the *Investment Policy Review of Viet Nam* (OECD, 2018^[2]). Building on these efforts, in 2021, Viet Nam’s Commission for the Management of State Capital, the main agency in charge of SOE reform, organised the first of a kind workshop on RBC and SOEs policies. This example underlines the added value of linking RBC with broader policy priorities and interest of the country, for examples as seen in the OECD *Review of the Corporate Governance of State-Owned Enterprises in Viet Nam* (OECD, 2022^[4]).

Viet Nam has also been active at the regional level, notably in ASEAN in the context of policy responses to the COVID-19 pandemic. While Viet Nam was Chair of ASEAN in 2020, ASEAN adopted the *ASEAN Comprehensive Recovery Framework* and its implementation plan, which mentions the importance of RBC and also refers to the *Guidelines* and the *Policy Framework for Investment*. There are also further thematic

efforts at ASEAN level to promote better business practices, e.g., in the 2020 *ASEAN Guidelines for the Promotion of Inclusive Business* (2020), which build partly on the ASEAN Inclusive Business Framework. Further information on regional initiatives can be found in the 2023 report on *Enabling Sustainable Investment in ASEAN* (OECD, 2023^[6]).

The National Action Plan on RBC will allow Viet Nam to further advance RBC across the economy. The OECD [Recommendation on the Role of Government in Promoting RBC](#) can provide support to the government in this regard. At the same time, practical efforts to promote RBC risk-based due diligence among businesses and stakeholders would be particularly important. In the 2020 Responsible Business Conduct and Anti-Corruption Compliance in Southeast Asia Survey, respondent companies in the region highlighted concerns regarding corruption risks (58%), followed by issues related to the environment (46%) and transparency (45%). Though MNEs often have policies to manage RBC-related risks, in over one-third of those surveyed some policies did not extend to contractors, subcontractors and business partners. The survey also found that businesses reported needing assistance with developing and implementing corruption risk assessment frameworks (57%), third party due diligence (51%), and independent internal audits (45%). This echoes similar survey [results](#) from the Latin American region where more than 60% of businesses identified a need for training on due diligence. Adherence to the *Declaration*, and particularly the establishment of an NCP for RBC, could support Viet Nam in meeting these objectives and ambitions.

Box 1. Key messages from international instruments on RBC

The three main instruments that have become the key reference points for responsible business, and which outline how companies can act responsibly are the OECD Guidelines for Multinational Enterprises (the Guidelines), the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration), and the UN Guiding Principles on Business and Human Rights (UN Guiding Principles). They are aligned with, and complement, each other. Their main common elements are as follows:

- Framework for all companies. International corporate responsibility standards set the expectation that all companies – regardless of their size, sector, operational context, ownership and structure – avoid and address the adverse impacts with which they are involved and contribute to the sustainable development of the countries in which they operate.
- Common understanding of impact. The instruments set out that the impact of business activities goes beyond that on the company itself and refers to the impact business activities may have on human rights – including labour rights – the environment and society, both positive and negative. The instruments establish a common understanding that enterprises can cause, contribute to, or be directly linked to adverse impacts (through operations, products or services by business relationships), and they provide a framework for how enterprises should avoid and address them.
- Conducting due diligence. Businesses should undertake due diligence to identify, prevent and mitigate their actual and potential negative impacts, and account for how those impacts are addressed. This process should involve meaningful consultation with potentially affected groups and other relevant stakeholders. With respect to labour rights, consultation with workers' organisations is particularly important. By helping companies understand the impacts of their activities and by clarifying the expectations around due diligence, these instruments guide companies on what they should do to know and show that they are behaving responsibly.
- Responsibility throughout the supply chain. Responsible business covers not only impacts that a company may cause or contribute to through its own activities but also those directly linked to

an enterprise's operations, products or services through its business relationships. This includes business partners, entities in the value chain such as subsidiaries, suppliers, franchisees, joint ventures investors, clients, contractors, customers, consultants, financial, legal and other advisers, and any non-state or state entities.

- Access to remedy. As part of their duty to protect against business-related adverse impacts, states are expected to take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory or jurisdiction, those affected have access to effective remedy. In addition, where companies identify that they have caused or contributed to adverse impacts, they are expected to address them through providing remedy, and they should provide for or co-operate in this remediation through legitimate processes.

Source: [Responsible Business – Key Messages from International Instruments](#)

References

- OECD (2023), "Enabling sustainable investment in ASEAN", *OECD Business and Finance Policy Papers*, No. 23, OECD Publishing, Paris, <https://doi.org/10.1787/eb34f287-en>. [6]
- OECD (2023), *OECD Economic Surveys: Viet Nam 2023*, OECD Publishing, Paris, <https://doi.org/10.1787/8f2a6ecb-en>. [3]
- OECD (2022), *OECD Review of the Corporate Governance of State-Owned Enterprises in Viet Nam*, Corporate Governance, OECD Publishing, Paris, <https://doi.org/10.1787/a22345d0-en>. [4]
- OECD (2020), *Multi-dimensional Review of Viet Nam: Towards an Integrated, Transparent and Sustainable Economy*, OECD Development Pathways, OECD Publishing, Paris, <https://doi.org/10.1787/367b585c-en>. [5]
- OECD (2018), *OECD Investment Policy Reviews: Viet Nam 2018*, OECD Investment Policy Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264282957-en>. [2]
- OECD (2009), *OECD Investment Policy Reviews: Viet Nam 2009: Policy Framework for Investment Assessment*, OECD Investment Policy Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/9789264050921-en>. [1]