STATUS REPORT: INVENTORY OF INVESTMENT MEASURES TAKEN BETWEEN 15 NOVEMBER 2008 AND 15 JUNE 2009

OECD

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Part I.

Introduction

At their 2 April 2009 Summit in London, G20 Leaders reaffirmed "the commitment made in Washington [at the G20 summit on 14-15 November 2008]: to refrain from raising new barriers to investment or to trade in goods and services," and pledged to "minimise any negative impact on trade and investment of [our] domestic policy actions including fiscal policy and action in support of the financial sector." They also committed to "not retreat into financial protectionism, particularly measures that constrain worldwide capital flows, especially to developing countries" and asked for quarterly reporting on their "adherence to these undertakings."

OECD members and non-member adherents[1] to the OECD investment instruments have, through these instruments, committed to not introduce new barriers and, more generally, to implement open, non-discriminatory and transparent investment policies. They have a long tradition of international dialogue on investment matters, including peer reviews of their observance of these commitments.

The importance of remaining open to trade and investment flows has been recognised in other fora as well. For example, its role in limiting the damage caused by the crisis in poorer countries was stressed in the 17 March 2009 Report from the Committee of African Finance Ministers and Central Bank Governments on the Impact of the Crisis on African Economies.[2]

Thus, there appears to be a broad international consensus that, during the crisis, open investment policies are essential for restoring growth, facilitating structural adjustment and limiting harm to the poor. This report provides an inventory of factual information on investment-related policy developments since the November 2008 G20 Summit, held in Washington DC. It aims to support international dialogue about OECD and G20 commitments in the investment field by strengthening the factual basis for such dialogue; it does not provide political or economic assessments of these measures.

The report is issued under the authority of the OECD Secretary-General. Nothing in this report implies any judgement as to the consistency of any measure with the provisions of OECD investment instruments or with those of any other international agreement.

The report covers the 42 economies represented at the Trade and Investment session of the Meeting of OECD Council at Ministerial Level and the European Union. The reporting period is from 15 November 2008 to 15 June 2009. The report uses broad definitions of international investment and of investment measures. Measures covered include: investment policy measures (involving removal or imposition of discrimination against foreign or non-resident investors); investment measures relating to national security; and emergency and related measures with potential impacts on international investment. The Annex to this document provides more information about the methodology. In subsequent reporting in partnership with WTO and UNCTAD the methodology will be adjusted to reflect the other organisations' practices.

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1. There are 11 non-member adherents to the OECD Declaration on International Investment and Multinational Enterprises: Argentina, Brazil, Chile, Egypt, Estonia, Israel, Latvia, Lithuania, Peru, Romania and Slovenia.

2. "Impact of the Crisis on African Economies—Sustaining Growth and Poverty Reduction African Perspectives and Recommendations to the G20".

Summary of Findings

The thrust of investment policy changes is, for the most part, toward greater openness and clarity…

During the reporting period, six countries changed the laws governing their investment policies. Although the intended thrust of the policies is somewhat ambiguous, most of the changes aimed (according to announcements or notifications by governments) at increasing openness and clarity for investors. Measures include the following:

- Argentina relaxed capital controls it had introduced in 2005.
- Australia relaxed restrictions on residential real estate investment.
- Canada changed its investment review procedure in ways that, by its own assessment, will lower the number of investments it reviews.
- The People's Republic of China streamlined its foreign investment review process and simplified approval processes for outward investment, but introduced a ban on delivery of express letters by foreign courier services. It also authorised two foreign banks to issue Yuan bonds in China.
- India relaxed restrictions in some sectors (including by changing the way it calculates the amount of foreign investment in Indian companies), but replaced automatic approval of investments in several "capped" sectors with a requirement for prior approval.
- Indonesia facilitated foreign investment in residential real estate.

…but decisions to not approve specific investment projects and the public debate surrounding these decisions suggest that suspicions remain about certain foreign investors.

Australia's Foreign Investment Review Board accepted a number of proposals to invest in the extractive industry sector from the People's Republic of China, but imposed conditions relating to competition and corporate governance practices on three of the proposals. In a decision citing concerns about market dominance under its Anti-Monopoly Law, the People's Republic of China blocked an acquisition of a beverage company by a large multinational enterprise. However, some observers questioned whether protectionist motives played a role in the decision. Dialogue on investment matters in international fora allows governments to explain their policies, air concerns about international investment, find mutually beneficial solutions to problems and enhance benefits for both home and recipient societies.

Two countries introduced or amended investment policies relating to national security and one cited national security concerns when it imposed conditions on an investment.

Australia cited national security grounds when it advised Chinese investors that the acquisition of a mining property situated in the vicinity of a weapons testing site would not be approved. The Chinese investors submitted a revised proposal to which no objection was taken provided certain conditions were complied with. Canada added national security as a consideration for its investment reviews. Germany extended the scope of its security-related investment reviews. International investment law accords countries flexibility in taking measures to safeguard national security, but, in an OECD context, such measures are monitored to help countries enact policies that are effective in safeguarding security and to ensure that such measures are not disguised protectionism.

Emergency responses to the crisis account for the vast majority of measures taken.

Thirty-nine of the 42 economies covered took emergency measures during the reporting period. These include sector-specific and cross-sectoral support schemes and measures. The overall volume of public guarantees, capital injections, as well as support to the real economy provided by the 42 economies included in this report exceeds USD 3 trillion. Viewed as a whole, the sheer size of these measures and their effects on competitive conditions (e.g. on firm entry and exit) in globalised sectors such as finance and automobiles create a strong presumption that they influence international investment. It is for this reason that these measures are included in this inventory. OECD and WTO rules recognise that governments may need to take exceptional measures to respond to crises, but specify that these measures should be temporary and should not cause unnecessary damage to foreign interests.

Governments have adopted different approaches to emergency response, with varying amounts of discrimination against foreign investors.

Some crisis response schemes are open to participation by foreign-controlled companies (e.g., for the banking sector, those of European Union members, Korea and New Zealand), while, in others, they are not eligible (e.g. in some of the United States schemes). Some schemes in the banking sector (e.g. in Finland and New Zealand) have been made available to branches of foreign banks.

Many governments have engaged in one-on-one negotiations with troubled companies, sometimes with direct implications for international investment.

In many cases, governments have entered into direct negotiations with companies and at times have become deeply involved in their management. Governments took control of a number of banks during the reporting period. Germany and the United States participated in negotiations leading up to the sale of GME and Chrysler, respectively. Belgium and France provided guarantees to a troubled financial institution in order to facilitate *inter alia* the sale of a foreign subsidiary. Many of the support schemes for financial institutions impose obligations on beneficiaries to be particularly attentive to the financing needs of domestic businesses.

Crisis-related policies create considerable discretion for governments, raising challenges for public sector management in general and for non-discriminatory treatment of investors in particular.

Many recent policies give new powers and considerable discretion to governments in their application. Although it cannot be assumed that governments will use this discretion for protectionist purposes, it does create scope to favour certain firms over others and, more specifically, to disguise discrimination against foreign investors. Governments appear to be concerned about this and some have taken steps to limit or monitor their use of discretion. The European Commission has a long tradition of monitoring of state aid and has been actively involved in reviewing EU member states' crisis response measures. New Zealand has published guidelines on the use of discretion in the choice of beneficiaries of some of its financial sector programmes and other countries have also issued detailed guidelines. Extensive public reporting on crisis measures and results (e.g. Canada, the United Kingdom and United States) and oversight commissions (e.g. France and United States) are also used to enhance transparency and accountability

Some governments are beginning to dispose of assets acquired during the crisis and this also poses challenges for non-discriminatory treatment of investors.

In the course of their response to the crisis, governments have acquired stakes in companies, and during the reporting period, some began disposing of these assets. The processes of divestiture are also often subject to discretion and case-by-case arrangements that might create further scope to favour certain firms over others and, more specifically, to discriminate against foreign investors.

The table below indicates which economies have, between 15 November 2008 and 15 June 2009, taken investment measures or measures with potential impacts on international investment. The table summarises the information on the individual measures that are described in detail in part II of the present report. Many of the measures included here seek, according to the governments that enacted them, to reduce barriers to investment and improve the clarity of existing policies.

Table: Investment Measures taken between 15 November 2008 and 15 June 2009

	Investment policy measures		Investment measures related to national security	Emergency and related measures with potential impacts on international investment		
	Policy changes	Enforcement decisions		Financial sector	Automotive sector	Cross-sectoral measures
Argentina	•					•
Australia	•	•	•	•		
Austria				•		•
Belgium				•		•
Brazil				•		
Canada	•		•	•	•	•
Chile						•
P.R. China	•				•	
Czech Republic				•		•
Denmark				•		
Estonia						
Finland				•		
France				•	•	•
Germany			•	•	•	•
Greece				•		
Hong Kong, China						•
Hungary				•		•
Iceland				•		•
India	•			•		
Indonesia	•					
Ireland				•		•
Israel				•		•
Italy				•		
Japan				•		•
Korea				•		•
Luxembourg				•		•
Mexico				•		

	Investment policy measures		Investment measures related to national security	Emergency and related measures with potential impacts on international investment		
	Policy changes	Enforcement decisions		Financial sector	Automotive sector	Cross-sectoral measures
Netherlands				•		•
New Zealand				•		
Norway				•		
Poland				•		•
Portugal				•		•
Russian Federation				•	•	•
Slovak Republic						•
Slovenia				•		•
South Africa						
Spain				•		
Sweden				•	•	
Switzerland				•		
Turkey						•
United Kingdom				•	•	•
United States				•	•	•

Part II. Reports on individual economies: Recent investment policy measures

Argentina

Investment policy measures

The temporary requirement to place 30% of fund-inflow purchases of Argentine pesos in a noninterest bearing account in a commercial bank for a 365-day period has been suspended for some types of operations.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

On 4 December 2008, the President announced a plan to allocate ARS 13.2 billion to support the Argentinean economy. Among others, the plan allocates loans worth a total of ARS 1.7 million for the agricultural sector.[3]

Argentina has a programme of credits to small and medium enterprises and various sectors, which includes credits for working capital and pre-financing of exports.

Australia

Investment policy measures

Australia has introduced a measure, adopted in March 2009, that relaxes reviews of foreign investment in residential real estate.[4] A second measure is being considered to clarify the operation of Australia's screening regime in order to ensure that it works as intended by addressing "compliance issues" and closing "avenues for avoidance." In particular, the proposed new measure seeks to ensure that investment reviews capture foreign investments made through more complex investment structures, such as convertible bonds that, while not strictly equity, give investors a degree of influence over the management of the target business.

3 "El Gobierno destinará 13.200 millones de pesos para mantener e incentivar la actividad económica". Release of the President of Argentine, 4 December 2008.

4 The amendment to the regulations is available at www.comlaw.gov.au/ComLaw/Legislation/LegislativeInstrument1.nsf/0/DCA23A691114D52FCA25758400154E0C?OpenDocument.

In the reporting period, Australia's Foreign Investment Review Board (FIRB) approved a large number of investment proposals in the resource sector, three of which were subjected to conditions. These related mainly to competition and corporate governance (in one, national security was also cited; see below).

Investment measures relating to national security

The proposed acquisition of Prominent Hill mine property—part of an acquisition of Oz Minerals by a Chinese company—did not proceed, on advice from the Government that the proposal raised national security concerns arising from its proximity to a weapons testing site. The Chinese investors submitted a revised proposal to which no objection was taken provided certain conditions were complied with.

Emergency and related measures with potential impacts on international investment

Financial sector

In December 2008, Australia announced the establishment of a Special Purpose Vehicle (SPV) with the support of leading Australian banks to provide liquidity to car dealer financiers who have encountered financing difficulties as a result of the global financial crisis. These include four major banks—ANZ, Commonwealth Bank of Australia, National Australia Bank, and Westpac—as well as other organisations, including Alphera Financial Services (a division of BMW Group), Capital Finance, Esanda, Nissan Finance, and St George. The Government will provide support to the SPV in the form of a guarantee that it expects to cover only a minor proportion of the securities issued. The SPV will provide critical wholesale floor-plan financing to commercially viable car dealerships that used to be financed by GE Money Motor Solutions or GMAC, both of whom had announced an intention to exit the Australian dealer floor-plan financing market.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Austria

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Austria provides assistance to financial institutions under a regulatory regime that was passed into law in October 2008. The Financial Stability Act[5] authorises the Minister of Finance to provide banks and domestic insurance companies with credit and with credit guarantees, and to acquire parts of such institutions. Domestic insurance companies include foreign controlled institutions established in Austria. The law also authorises the Minister of Finance, in accord with the Chancellor, to expropriate the owners of such institutions if this is necessary to prevent serious damage to the Austrian economy. Up to EUR 15 billion are available for these measures.

In order to support the functioning of the interbank money market in Austria, the Österreichische Clearingbank AG (OeCAG) was set up based on the Interbank Market Support Act ("*Interbankmarktstärkungsgesetz*").[6] The OeCAG borrows funds on the interbank market and on-lends them to banks or insurance companies on equal terms for a fee. It will operate until the end of 2009. The federal government granted equity capital for OeCAG, guarantees its liabilities and assumes liabilities for losses related to its operations. Under this act, the government may in addition assume liability for notes issued by banks with a maturity of up to five years in order to facilitate the raising of fresh capital. The government allocated EUR 75 billion for this measure.

Automotive sector

None during reporting period.

Cross-sectoral measures

Austria has also taken two measures to support companies' access to finance. Sanctioned by the European *Framework regulations for state aid to counter the current financial and economic crisis* the Austrian Government established a EUR 300 million aid programme. It consists of two components that provide support to businesses facing funding problems because of the current credit squeeze.[7] The first component—"*Kleinbeihilfen*"—allows the Federal Government or lower levels of Government to provide up to EUR 500 000 per undertaking in 2009 and 2010. The aid can be granted in the form of direct grants, interest rate subsidies, subsidised public loans, and public guarantees. The second component consists of a temporary enhancement of the existing risk capital investment scheme "*Eigenkapitalgarantien*".[8] The modification lowers the minimum proportion of private risk capital and increases the threshold of investment eligible for the programme to EUR 2.5 million per year per SME. The programme is expected to amount to a total of EUR 25 million until the end of 2010.

5 Finanzmarktstabilitätsgesetz (FinStaG), Federal Law Gazette I No. 136 of 26 October 2008.

6 Bundesgesetz zur Stärkung des Interbankmarktes, Federal Law Gazette I No. 136 of 26 October 2008.

7 "*Rahmenregelung für Beihilfenmaßnahmen zur Bekämpfung der aktuellen Finanz- und Wirtschaftskrise*". The measure is documented in the decision of the European Commission not to raise objections dated 26 March 2009 under reference N47a/2009.

8 The risk capital scheme was established in 2007 and was initially approved by the Commission on 18 October 2007.

Belgium

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Four major financial institutions (Dexia,[9] Fortis,[10] Ethias,[11] and KBC[12]) have received capital injections or debt guarantees as stand-alone measures.

Belgium began disposing off of assets that it acquired in the context of capital injections into Fortis Bank Belgium. In this context, the Government of Belgium was directly involved in negotiations with Fortis Holding, Fortis Bank, and BNP Paribas that led to an agreement on 13 May 2009.[13]

Automotive sector

None during reporting period.

Cross-sectoral measures

A Belgian scheme provides relief to companies in Flanders encountering financing difficulties as a result of the credit squeeze in the current economic crisis. The scheme, put in place by the Flemish Ministry of Economic Affairs, provides aid in the form of subsidised guarantees for investment and working capital loans concluded by 31 December 2010.[14]

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9 The European Commission has authorised certain urgent measures and opened in-depth investigation into restructuring of Dexia. See European Commission press release IP/09/399 dated 13 March 2009. More information on the guarantee agreement between the Belgian State, the French State, the Luxembourg State and Dexia SA/NV is available on the website of the National Bank of Belgium.

10 The measure is documented in the decision of the European Commission not to raise objections dated 20 November 2008 under reference N574/2008.

11 The Decision by the European Commission not to raise objections against this measure will be available under reference NN 57/2008. The press release regarding this decision has been issued under reference IP/09/254 on 12 February 2009.

12 The measure is documented in the decision of the European Commission not to raise objections dated 18 December 2008 under reference N602/2008.

13 The outcome of the negotiations has been published as a press release by Fortis dated 13 May 2009.

14 The measure is documented in the decision of the European Commission not to raise objections dated 20 March 2009 under reference N117/2009.

Brazil

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Two state-owned banks (*Banco do Brasil* and the *Caixa Econômica Federal*) are authorised to acquire shares in financial institutions established in Brazil, including foreign-owned financial institutions. The temporary measure of 21 October 2008[15] was passed as law in March 2009.[16] Banco do Brasil acquired 50% of Banco Votorantim in early January 2009.

A new state-owned investment bank has authority to acquire shares of real estate and construction enterprises under financial stress.

Expansion of official credit lines and government guarantees for lending to agriculture, construction and other sectors.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Canada

Investment policy measures

On 12 March 2009, the Government of Canada, as part of the Budget Implementation Act, 2009, passed legislation that modifies the *Investment Canada Act* (ICA). The amendments to the Investment Canada Act respond to the core recommendations of the Competition Policy Review Panel, which was created by the Government of Canada in July 2007 to review Canada's investment and competition policies. Under the legislation, the Investment Canada Act is amended to lower obstacles to foreign investment by focussing net benefit reviews on larger transactions; to improve transparency in the administration of the Act; and to authorize the government to review investments on national security grounds. More specifically, the amendments reform the existing net benefit review process by: changing the basis for the general review threshold from the book value of the gross assets to enterprise value; raising the general review threshold to CAD 1 billion over a four-year period, which will come into force once the associated regulations are promulgated. It currently stands at

[15] Medida Provisória no. 443.

[16] Law no. 11.908.

CAD 312 million in gross assets; eliminating the application of the lower review threshold in identified sectors: (i.e., transportation services, financial services and uranium production sectors); requiring the Minister to justify any decisions to disallow an investment and by allowing the Minister to disclose administrative information on the review process; and requiring the publication of an annual report on the operations of the Act.

Investment measures relating to national security

The legislation amending the ICA also authorised the government to review investments that impair or threaten to impair national security and, if necessary, take appropriate action. Under these amendments, if national security threats associated with investments in Canada by non-Canadians are identified, they will be brought to the attention of the Minister of Industry. Once identified, the Minister of Industry, after consultation with the Minister of Public Safety and Emergency Preparedness, will be responsible for referring these investments to the Governor in Council (GIC), which will determine whether a review should be ordered. Once the GIC orders a review, the Minister of Industry after consultation with the Minister of Public Safety and Emergency Preparedness will conduct the review and, if required, submit a report to the GIC with recommendations. The GIC will have the authority to take any measures in respect of the investment that it considers advisable to protect national security. National security reviews of investments will be administered separately from net benefit reviews to ensure the focus is on national security and that it is consistent with international obligations.

Emergency and related measures with potential impacts on international investment

In March 2009, Canada published its "*Economic Action Plan: A First Report to Canadians*". It describes *inter alia* the following measures:

Financial sector

Insured Mortgage Purchase Program. Through the Insured Mortgage Purchase Program (IMPP), the Government purchases up to a total of CAD 125 billion in insured residential mortgage pools from Canadian financial institutions to help them to continue lending to Canadian consumers and businesses. As of 24 February 2009, CAD 51.3 billion has been provided through eight reverse auctions. Two more auctions were scheduled to be completed in March 2009. To date, 15 different financial institutions have participated, including banks, non-bank deposit-taking institutions, and life insurance companies.

Canadian Lenders Assurance Facility and Canadian Life Insurers Assurance Facility. Under two new temporary facilities (available until end 2009), the Government provides insurance on commercial terms on the wholesale term borrowing of federally regulated deposit-taking institutions and life insurers to ascertain that they are not put at a competitive disadvantage relative to foreign competitors. Each debt security that is issued by a financial institution using these facilities will be made public on a transaction-by-transaction basis.

Broadened powers for Minister of Finance. The powers of the Minister of Finance have been broadened to allow the Ministry to enter into transactions that promote financial stability and maintain efficient and well-functioning markets. It also includes authority to inject capital into federally regulated institutions.

Automotive sector

In late 2008, the Government committed to supporting Canada's automotive industry proportionally to the level of assistance provided by the U.S. Government, based on Canada's share of North American production. In the spring of 2009, the Government and the province of Ontario jointly announced over CAD 14 billion in assistance to Chrysler Canada Inc. and General Motors of Canada Ltd. The amounts are provided through short- and medium-term loan facilities and debtor-in-possession financing

Cross-sectoral measures

The *Extraordinary Financing Framework* (EFF) embraces a number of new and existing initiatives totalling CAD 200 billion. The overall aim is to expand the availability of credit and to respond to gaps in credit markets. The Framework includes a number of initiatives to support access to credit for Canadian businesses through the financial Crown corporations.

Chile

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

A programme for state support for credit for small and medium enterprises was adopted in late 2008.

People's Republic of China

Investment policy measures

Courier companies. A new Postal Law, approved on 24 April 2009, bans foreign courier companies from delivering express letters from 1 September 2009, although they can still deliver express parcels and deliver letters internationally.[17]

[17] Postal Law of the People's Republic of China (24 April 2009).

Listings on stock exchange. On 29 April 2009 the State Council announced that foreign companies will be allowed to list on the Shanghai Stock Exchange at an unspecified date as part of the opening up and internationalisation of the exchange.

Foreign investment review process. The Ministry of Commerce, which is responsible for reviews of investment proposals from foreigners, announced in March 2009[18] that it would further delegate authority for these reviews to provincial and quasi-provincial authorities. The measures follow earlier delegation of authority in this matter to lower level governments.[19]

Measures for the Administration of Outbound Investments became effective on 1 May 2009. The measures simplify the approval regime of outward investment by a domestic Chinese enterprise.[20]

Two foreign banks have been authorised by official notice from the Chinese government to issue bonds in China in the domestic currency (Chinese yuan, CNY). This is an effective partial liberalisation measure, though it has not been publicly announced. Apart from "panda bonds" issued in 2005 by the International Finance Corporation (an offshoot of the World Bank), foreign institutions have hitherto in practice been excluded from issuing bonds in China, though the government is not opposed to such issues in principle. This measure is in line with the Chinese government's policy of cautious opening of its capital markets to foreign participants.[21]

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

In December 2008, Chery was granted a CNY 10 billion loan plus an open credit line by the Export-Import Bank of China (Exim Bank) to fund its global growth, and in March 2008 the NDRC reportedly approved Chery's acquisition of Volvo from Ford.

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18 Circular on Further Improving the Examination and Approval of Foreign Investment (5 March 2009); Circular of the Ministry of Commerce on Issues Concerning Examination and Verification of Foreign-Invested Venture Investment Enterprises or Foreign-Invested Venture Investment Management Enterprises (5 March 2009); Circular on Delegating to Lower-level authorities the Authority to Examine and Approve the Investment in, and Establishment of, Companies with an Investment Nature by Foreign Investors (6 March 2009); on the Ministry of Commerce website www.fdi.gov.cn.

19 Circular of the MOFCOM on Delegating Matters Concerning the Examination and Approval of Foreign-Invested Commercial Enterprises (12 September 2008).

20 Unofficial commentary on the measures is at www.freshfields.com/publications/pdfs/2009/mar09/25106.pdf.

21 "China loosens yuan-bond market—Beijing approves international issues by two foreign banks", Asia Wall Street Journal, 20 May 2009.

Cross-sectoral measures

None during reporting period.

Czech Republic

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In response to the financial crisis, the Czech Republic increased the capital of the Czech Export Bank, the Export Guarantee and Insurance Corporation and the Czech-Moravian Guarantee and Development Bank, totalling CZK 2 billion.

The Government also increased the capital of the Support and Guarantee Agricultural and Forestry Fund by CZK 300 million. The core activities of this institution consist in subsidizing interests of business credits in the field of agriculture, forestry, water management and industry, and also financial support of insurance in these areas.

Automotive sector

None during reporting period.

Cross-sectoral measures

At the end of February 2009, the government unveiled its National Anti-Crisis Plan. The plan, which has an overall volume of CZK 41.5 billion, includes government guarantees for loans to small and mid-sized companies and direct grants of up to EUR 500 000 per firm.[22]

Denmark

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

[22] The Decision by the European Commission not to raise objections against these measures will be available under reference N236/2009. The press release regarding this decision has been issued under reference IP/09/719.

Emergency and related measures with potential impacts on international investment

Financial sector

Denmark has passed two schemes in response to the crisis in the financial sector, known as *Bankpakke I* and *Bankpakke II*.

The Governmental Guarantee Scheme on Financial Stability (the "Governmental Guarantee Scheme/*Bankpakke I*)[23] entered into force on 11 October 2008, following a "Political Agreement on financial stability" between the Government and the Danish financial sector. Based on the Agreement that shares the burden of potential losses from the guarantee programme between the government and banks adhering to the Danish financial sector's contingency association *Det Private Beredskab*, the measure unconditionally guarantees creditors' claims on banks in Denmark.

On 4 February 2009, the Act on State-Funded Capital Injections into Credit Institutions (*Bankpakke II*)[24] came into force. In order to increase solvency of domestic banks, mortgage credit institutions and Danish Ship Finance A/S, it establishes a mechanism for government capital injections or credit guarantees. Branches of foreign credit institutions in Denmark are not eligible. The scheme is administered by the Ministry of Economic and Business Affairs. The overall volume of capital injections under this scheme is estimated at approximately DKK 100 billion; about DKK 75 billion would be available to banks, and the remaining DKK 25 billion would be available to mortgage credit institutions.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Estonia

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

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23 Established by Act no. 1003 of 10 October 2008, entered into force on 11 October 2008 and applied retroactively from takes effect as from 5 October 2008. The Danish Ministry of Economic and Business Affairs has issued a memorandum that contains comments on the Act.

24 Act on State-Funded Capital Injections into Credit Institutions. The measure is documented in the decision of the European Commission not to raise objections dated 3 February 2009 under reference N31a/2009. Further documentation is available in a press release and documentation by the Ministry of Economic and Business Affairs dated 18 January 2009.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Finland

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

The Finnish parliament authorised the Government in December 2008 to grant up to EUR 50 billion in state guarantees under the "Finnish Guarantee Scheme for banks' funding", established under the Act on State Lending and State Guarantees (449/1988) and administered by the State Treasury.[25] All Finnish deposit banks and mortgage banks, including the Finnish subsidiaries of foreign financial institutions are eligible for the State guarantee. The authority to grant government guarantees is limited until the end of 2009.

Finland also took an *ad hoc* measure in relation to the Finnish branch of the Icelandic Kaupthing Bank[26] as it guaranteed deposits of more than 10 000 depositors, worth EUR 113 million.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

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25 The measure is documented in the decision of the European Commission not to raise objections dated 13 November 2008 under reference N567/2008. Its implementation is announced in the Ministry of Finance press release 10/2009 "Measures to boost financial markets", dated 27 January 2009.

26 The measure is documented in the decision of the European Commission not to raise objections dated 21 January 2009 under reference NN2/2009

France

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In late 2008, France adopted a scheme to inject capital into certain banks that were considered fundamentally sound, but needed to reinforce their capital base.[27] Under the scheme, eligible banks sell securities to the *Société de prise de participation de l'État* (SPPE), a wholly state-owned investment company. The scheme includes obligations for the beneficiary banks with regard to financing the real economy. These obligations will be monitored locally and nationally. A mediation system is also planned to ensure compliance with the obligations. The beneficiary banks must also undertake to adopt measures concerning the remuneration of senior management and market operators (including traders) and to observe ethical rules consistent with the general interest. The programme initially had a total volume of EUR 10.5 billion. Under this recapitalisation scheme, France provided capital injections to six French banks.

In January and March 2009, France amended this scheme[28] (providing an option to issue preference shares instead of subordinated debt and changing the terms governing the remuneration and reimbursement of the preference shares in order to strengthen incentives for the beneficiary banks to buy them back at the earliest opportunity). The scheme runs until 31 August 2009 and its total volume has been increased to EUR 11 billion. So far, two French banks and the entity that will emerge from the merger of *Caisse d'Épargne* and *Banque Populaire*, formerly two separate banks,[29] have benefited from the scheme.

Separately, France also contributed to a capital injection of EUR 1 billion into Dexia; the state controlled *Caisse des Dépôts et Consignations* invested an additional EUR 2 billion.[30]

France extended a scheme for refinancing credit institutions in May 2009.[31] The scheme that was initially introduced on 16 October 2008[32] by law[33] that established the *Société de refinancement des*

[27] The scheme was initially announced on 20 October 2008 and entered into force upon approval by the European Commission on 8 December 2008. The measure is documented in the decision of the European Commission not to raise objections dated 8 December 2009 under reference N613/2008.

[28] The Decision by the European Commission not to raise objections against the first amendment will be available under reference N29/2009. The press release regarding this decision has been issued under reference IP/09/158 on 28 January 2009. The Decision by the European Commission not to raise objections against the second amendment dated 24 March 2009 is available under reference N164/2009.

[29] The Decision by the European Commission not to raise objections against this capital injection will be available under reference N249/2009. The press release regarding this decision has been issued under reference IP/09/722 on 8 May 2009.

[30] Belgium and Luxembourg also contributed to the capital injection into Dexia SA. Further information on this measure is available in the section on Belgium in this document.

activités des établissements de crédits (SRAEC) that may provide medium and long-term financing to banks upon their request. SRAEC enjoys a state guarantee and can extend lending up to EUR 265 billion. Credit institutions that benefit from the scheme have to pay a premium over and above the normal market price and have to make commitments regarding their conduct. Any bank authorised in France, including the subsidiaries of foreign groups, have access to the scheme. SRAEC's activities are limited to five years.

Automotive sector

The government signed on 9 February 2009 a pact with Renault, Renault Trucks and PSA/Peugeot-Citroën, three French carmakers, providing a 5-year loan of a combined EUR 6.5 billion to the three companies. The French Industry Minister informed the European Commission that the loan agreements "*will not contain any condition concerning either the location of their activities or the requirement to prioritise France-based suppliers*".[34] While French carmakers have given undertakings not to shut any plants in France for 5 years and to avoid compulsory redundancies in 2009, there is no longer any insistence on a formal pledge not to do so as a condition of the loan. Instead, the government will rely on a "moral obligation" not to do so.[35] In addition, the pact provides for EUR 2 billion of additional financing from SFEF to the banking arms of the car manufacturers. Further, the pact includes the establishment of a guarantee fund for loans granted to parts suppliers and subcontractors; this fund may have up to EUR 5 billion at its disposal and would be administered by OSEO, a government-controlled entity.

Cross-sectoral measures

France adopted a series of aid measures to help businesses in the current economic crisis. A scheme to provide small amounts of aid allows state, regional or local authorities and certain public bodies to grant aid up to EUR 500 000 per undertaking in 2009-2010 combined to businesses which find themselves in difficulty as a result of the current economic crisis.[36]

France has also introduced a temporary scheme for granting aid in form of subsidised interest rates.[37] The low rates are available for loans contracted no later than 31 December 2010, but only on interest payments up to 31 December 2012.

France further introduced a temporary scheme that allows granting subsidized guarantees to companies for investment and working capital loans concluded by 31 December 2010.[38]

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[31] The Decision by the European Commission not to raise objections against this measure will be available under reference N251/2009. The press release regarding this decision has been issued under reference IP/09/750 on 12 May 2009.

[32] The measure is documented in the decision of the European Commission not to raise objections dated 30 October 2008 under reference N548/2008.

[33] Loi nº 2008-1061 du 16 Octobre 2008 de finances rectificative pour le financement de l'économie.

[34] "*Crisis widens the EU divide*", Wall Street Journal, 2 March 2009.

[35] "*Brussels and France resolve auto dispute*", FT.com, 2 March 2009.

[36] The measure is documented in the decision of the European Commission not to raise objections dated 19 January 2009 under reference N7/2009.

[37] The measure is documented in the decision of the European Commission not to raise objections dated 4 February 2009 under reference N15/2009.

Moreover, France introduced a scheme of subsidised interest rates for investments that enterprises make to produce “green” products.[39] The scheme is open for companies of any size and any sector, including the automotive sector. The scheme will be implemented in a decentralized way by local authorities. The French government estimates that about 500 enterprises may benefit from the scheme. The measure is limited until 31 December 2010.

On 19 December 2008 France established a Strategic Investment Fund (*Fonds Stratégique d'Investissement*, FSI) to aid national businesses and to invest in companies that are considered of strategic value for the French or European economy in terms of competencies, technology or employment. The fund that is 100% state-owned (49% held by the State and 51% by the state-owned *Caisse de Dépôts*) is managed by the Caisse de Dépôts and disposed of EUR 20 billion at its inception.[40] Between its inception and 15 June 2009, the fund took minority holdings in Gemalto, Heuliez, Daher, Valeo, 3S Photonics, and Farinia.

Germany

Investment policy measures

None during reporting period.

Investment measures relating to national security

Germany amended its Foreign Trade and Payments Act (*Außenwirtschaftsgesetz*).[41] The law establishes a review procedure, administered by the Federal Ministry of Economic Affairs and Technology, for investments that threaten public policy or public security.[42] The Ministry may prohibit acquisitions or subject them to mitigation measures. Reviews may be performed for investments by non-EU/non-EFTA investors that lead to a 25% or greater equity ownership. The procedure complements an existing review procedure that addresses only investments in certain military goods and cryptographic equipment; the new procedure is not limited to specific industries.

Emergency and related measures with potential impacts on international investment

Financial sector

In October 2008, Germany established the Financial Market Stabilisation Fund (FMSA/SoFFin).[43] The Fund assists certain financial institutions—including German subsidiaries of

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38 The measure is documented in the decision of the European Commission not to raise objections dated 27 February 2009 under reference N23/2009.

39 The measure is documented in the decision of the European Commission not to raise objections dated 3 February 2009 under reference N11/2009.

40 http://www.fonds-fsi.fr/

41 “Dreizehntes Gesetz zur Änderung des Außenwirtschaftsgesetzes und der Außenwirtschaftsverordnung.” The amendment entered into force on 24 April 2009.

42 In the sense of Article 46 para 1 and Article 58 para 1 of the EC Treaty.

43 The Fund is established by a law of 17 October 2008 (Finanzmarktstabilisierungsfondsgesetz—FMStFG), which also regulates its operations. The FMStFG was passed as article 1 of the Finanzmarktstabilisierungsgesetz and entered into force on 17 October 2008. The EC authorised the initial measure on 27 October 2008 reference under N512/2008; the authorization was replaced by a decision N625/2008 for clarity on 12 December 2008 after Germany had notified modifications to the measure.

foreign financial institutions—to overcome temporary liquidity squeezes and strengthens their own funds.[44] The Fund can (1) provide guarantees (total envelope of EUR 400 billion), (2) contribute to recapitalisation, and (3) take on risks from financial sector enterprises. A maximum EUR 70 billion is are available for (2) and (3) combined; this amount can be increased to EUR 80 billion if approved by the Parliament finance committee. The decisions on granting support are taken by an inter-ministerial Steering Committee.[45] The decision is discretionary, and must be taken with due consideration of: (1) the systemic importance of the financial institution; (2) the degree of emergency; and (3) the efficient use of the fund's assets. Support is subject to conditions; recapitalisation measures are linked to the obligation that the beneficiary firm consider, when granting credit or placing capital, the financing needs of domestic enterprises, in particular SMEs. Salaries and incentives of the supported institutions are closely watched, business decisions are scrutinised as to sustainability, and dividend distribution is restricted. As of mid-March 2009, 18 requests for assistance had been received; EUR 197 billion had been granted (EUR 178 billion for guarantees and EUR 19 billion for capital) at this time.[46] Until February 2008 inclusive, 20 additional informal requests had been made. Among the beneficiaries of the guarantees was IKB,[47] now owned over 90% by the US holding Lone Star. In mid-May 2009, Commerzbank received EUR 18.2 billion from the SoFFin that took over a stake of 25% plus one share of Commerzbank. On 2 June 2009, SoFFin increased its stake in Hypo Real Estate Holding AG (HRE) to 90% through a capital increase; it now endeavours a complete takeover of the company through a squeeze-out under German stock corporation law in order to proceed with the restructuring of HRE.[48]

In April 2009, a law that complements the measures of the Financial Market Stabilisation Act entered into force.[49] The law changes governance rules so as to facilitate recapitalisation. It also introduces as a temporary measure (until 30 June 2009) the possibility, as a last resort, to expropriate shareholders of financial institutions that pose a systemic risk.[50]

On 13 May 2009, the Cabinet adopted a bill that would—once passed through Parliament and entered into force—allow financial institutions to rid themselves of toxic assets by transferring them into individual Special Purpose Vehicles ('bad banks').[51] In return they would receive government-guaranteed bonds from the SPV for 90% of the book value of the toxic assets. All future losses of the SPV would be borne by the banks and paid out of their future profits.

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44 § 2 FMStFG. See some information on the English-language website and see Decision of the European Commission K(2008)8629 (N625/2008), p. 2.

45 The Federal Ministry of Finance is entrusted with the decision-making, but can delegate it to the administration of the fund. In mid-March 2009, decisions on the granting of support were taken by the Steering Committee (*Lenkungsausschuß*), see § 4 article 1(2) FMStFG.

46 SoFFin press release dated 3 March 2009.

47 IKB received a guarantee of EUR 5 billion under the SoFFin scheme; the measure was approved by the European Commission on 22 December 2008 under reference N639/2008. The identity of beneficiaries of guarantees is publicly available on the SoFFIN website.

48 "SoFFin holds 90 percent stake in Hypo Real Estate Holding AG (HRE) following capital increase. Preparations for complete takeover of the company under way", SoFFin press release 2 June 2009.

49 Finanzmarktstabilisierungsergänzungsgesetz—FMStErgG.

50 Rettungsübernahmegesetz—RettungsG which forms Article 3 of the FMStErgG.

51 "Bundesregierung beschließt 'Bad Bank'-Gesetz", Federal Government press release, 13 May 2009.

In addition to measures under the scheme set up under the Financial Market Stabilisation Fund, Germany provided relief measures to other banks—e.g. BayernLB[52] and Nord/LB[53]—and to the German deposit guarantee scheme for private banks (*Sicherungseinrichtungsgesellschaft deutscher Banken*).[54]

Automotive sector

In May and early June 2009, members of the federal and regional governments led negotiations on the sale of the then GM-owned subsidiary Opel to interested investors with a view to secure guarantees that Opel factories located in Germany would be maintained in return for public credit guarantees and interim financing.[55] The Federal Government and the Governments of the regions that are home to Opel factories provided a credit of combined EUR 1.5 billion and agreed to jointly provide up to EUR 4.5 billion in guarantees.[56]

Cross-sectoral measures

Germany also passed a number of measures to provide liquidity to the real economy:

- The Credit and Credit Guarantee Programme[57] (budgeted up to EUR 100 billion and ending 31 December 2010) has a credit component (up to a total of EUR 25 billion), a credit guarantee component (up to EUR 75 billion). Applications for credits in excess of EUR 150 million and credit guarantees in excess of EUR 300 million or in cases of fundamental significance (i.e. increased risks, unusual loan and/or collateral structure, special regional, sectoral, employment significance) are subject to decisions by an inter-ministerial Steering Group[58] which takes into account *inter alia* the long term viability of the firm and whether or not it has access to commercial credit.

- In addition, a loan programme (budgeted at up to EUR 15 billion) was initially introduced on 5 November 2008.[59] Under the programme, the Government subsidises loans to improve credit availability. Subsidised loan agreements must be concluded between 1 January 2009 and 31 December 2010.

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52 Guarantee of EUR 4.8 billion and recapitalization of EUR 10 million, approved by the European Commission on 18 December 2008 under reference N615/2008.

53 Guarantee of EUR 20 billion, approved by the European Commission on 22 December 2008 under reference N655/2008.

54 Guarantee of EUR 6.7 billion, approved by the European Commission on 21 January 2009 under reference N17/2009.

55 "Treuhandvertrag und Konsortialvertrag unterzeichnet—Weg frei für Opel-Sanierung", Federal Ministry of Finance press release, 2 June 2009.

56 "Wie geht es weiter mit Opel", information of the Federal Government, 2 June 2009.

57 "*Kredit- und Bürgschaftsprogramm der Bundesregierung/Wirtschaftsfonds Deutschland*". Detailed documentation (in German) is provided on the website of the Federal Ministry for Economy and Technology.

58 "*Lenkungsausschuss Unternehmensfinanzierung*", assisted by an steering council "*Lenkungsrat Unternehmensfinanzierung*" with an advisory role.

59 "KfW Sonderprogramm 2009", authorised by the EC under reference N661/2008 on 30 December 2008.

- A framework for "Small amounts of compatible aid" at the end of December 2008 does not provide new funds but broadens channels for distributing existing funds.[60] It authorises the government to provide businesses with aid in various forms up to a total value of EUR 500 000 each. The measures can be applied between 30 December 2008[61] and 31 December 2010.

- On 27 February 2009 a scheme entered into force that allows authorities at federal, regional and local level to grant aid in the form of subsidized guarantees for investment and working capital loans concluded by 31 December 2010.[62]

- Furthermore, on 19 February 2009 a scheme entered into force that allows authorities at federal, regional and local level, including public development banks, to provide loans at reduced interest rates.[63]

Greece

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Greece established a three part support scheme by the law ''*For the enhancement of liquidity of the economy in response to the impact of the international financial crisis*''.[64] The scheme includes measures to (1) recapitalise banks (up to a total of EUR 5 billion); (2) guarantees for debt instruments (up to a total of EUR 15 billion); and (3) issue and lend Greek State securities to financial institutions (up to a total of EUR 8 billion). Any credit institution authorised to operate in Greece—including

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60 "*Regelung zur vorübergehenden Gewährung geringfügiger Beihilfen im Geltungsbereich der Bundesrepublik Deutschland während der Finanz- und Wirtschaftskrise ("Bundesregelung Kleinbeihilfen")*". The measure is documented in the decision of the European Commission not to raise objections dated 30 December 2008 under reference N668/2008.

61 Date of approval by the EC, see European Commission document reference N668/2008.

62 "*Regelung zur vorübergehenden Gewährung von Bürgschaften im Geltungsbereich der Bundesrepublik Deutschland während der Finanz- und Wirtschaftskrise ("Befristete Regelung Bürgschaften")*". The Decision by the European Commission not to raise objections against this measure will be available under reference N27/2009. The press release regarding this decision has been issued under reference IP/09/331 on 27 February 2009.

63 "*Regelung zur vorübergehenden Gewährung niedrigverzinslicher Darlehen an Unternehmen im Geltungsbereich der Bundesrepublik Deutschland während der Finanz- und Wirtschaftskrise* ("Bundesrahmenregelung Niedrigverzinsliche Darlehen")".The measure is documented in the decision of the European Commission not to raise objections dated 19 February 2009 under reference N38/2009.

64 The law came into effect on 24 October 2008 but was not applied until approved by the European Commission on 19 November 2008. The measure is documented in the decision of the European Commission not to raise objections dated 19 November 2008 under reference N560/2008.

subsidiaries of foreign banks—may benefit from the scheme. Institutions benefiting from recapitalization measures or State guarantees must agree to various conditions, including government appointed director of the board, and behavioural conditions.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Hong Kong, China

Investment policy measures

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

To address the vulnerability of small and medium-size business operations to the global crisis, the government has raised the maximum loan guarantee amount, extended the loan guarantee period, and now provides free buyer credit checks and credit risk consulting services. The government has committed up to HKD 100 billion to guarantee loans borrowed by SMEs.[65]

Hungary

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

[65] *Greater China Law Update*, Winston & Strawn LLP.

Emergency and related measures with potential impacts on international investment

Financial sector

The Financial Stability Act was approved by Parliament in December 2008 (Act No. 104). The package includes: 1) recapitalisation measures (budgeted at EUR 4.95 billion) involving government purchases of preferred shares of credit institutions; 2) guarantees for certain categories of new debt (budgeted at EUR 1.04 billion). [66] The schemes are open to all systemically-important credit institutions and contain behavioural safeguards to avoid abusive use of the state support.

In addition, the government may lend in domestic or foreign currency directly to systemically-important banks. As part of the safeguards for such lending, a subcommittee of the Financial Stability Committee (which includes the Ministry of Finance and the central bank) was established in March 2009. By the beginning of May 2009 no such operations have taken place.

Automotive sector

None during reporting period.

Cross-sectoral measures

A temporary aid scheme for granting limited amounts of compatible aid was adopted in February 2009. The aid is provided in the form of direct grants, reimbursable grants, soft loans, interest rate subsidies, tax advantages, reduction of social security contributions, provision of risk capital, equity intervention (increase of capital by public companies where the maximum amount of capital increase in a given company cannot exceed EUR 500 000), debt write-off and public guarantees.[67]

Hungary has also established a temporary scheme for granting aid in the form of loans with subsidised interest.[68] The scheme seeks to improve the access of firms of the real economy to external finance. The scheme applies to loan contracts concluded as from the date of Commission approval and before 31 December 2010. The scheme applies to the whole territory of Hungary, and is open to all sectors of the economy; SMEs and large enterprises are eligible. The Hungarian authorities estimate that the total number of beneficiaries will exceed 1000.

Iceland

Investment policy measures

None during reporting period.

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[66] The Decision by the European Commission not to raise objections against this measure will be available under reference N664/2008. The press release regarding this decision has been issued under reference IP/09/253 on 12 February 2009.

[67] The measure is documented in the decision of the European Commission not to raise objections dated 24 February 2009 under reference N77/2009.

[68] The scheme is based on Art. 23/B, Art. 23/C and Art. 23/D of the Government Decree 85/2004. The measure is documented in the decision of the European Commission not to raise objections dated 24 February 2009 under reference N78/2009.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In March 2009, the Icelandic Financial Supervisory Authority (FME) took over the operations of three financial undertakings and appointed resolution committees over each of them which took over the authority of the Board of Directors:[69] Straumur–Burdaras Investment Bank hf. on 9 March 2009,[70] and savings banks SPRON[71] and Sparisjódabanki Íslands hf.[72] on 21 March 2009, following an earlier series of interventions into the operations of Glitnir, Landsbanki and Kaupthing in October 2008. Following the intervention, the FME took a series of subsequent decisions to dispose of assets and liabilities of these institutions.[73]

Automotive sector

None during reporting period.

Cross-sectoral measures

Iceland introduced capital controls in November 2008 as part of a Stand-By Arrangement with the IMF in response to its financial crisis.[74] The controls were initially introduced on 28 November 2008 and amended on 15 December 2008,[75] based on temporary provision in the Act on Foreign Exchange.[76] As scheduled, the Rules were reviewed on 1 March 2009, but the Central Bank considered that the necessary preconditions for lifting the capital controls had not been sufficiently established.[77] The Central Bank of Iceland regularly assesses the effectiveness of the capital controls and explores possibilities for their gradual, systematic easing when conditions permit.

India

Investment policy measures

The Government has introduced four investment policy measures:

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69 Act No. 125/2008 on the Authority for Treasury Disbursements due to Unusual Financial Market Circumstances etc.

70 See the Decision of the Financial Supervisory Authority of 9 March 2009.

71 See the Decision of the Financial Supervisory Authority of 21 March 2009.

72 See the Decision of the Financial Supervisory Authority of 21 March 2009.

73 Detailed information on these measures and the decisions is available on the website of the FME.

74 The agreement is documented at http://eng.forsaetisraduneyti.is/news-and-articles/nr/3257.

75 The Rules on foreign exchange No. 1130 of 15 December 2008 abrogate the Rules No. 1082 of 28 November. A table of capital controls is available at www.imf.org/external/pubs/ft/scr/2009/cr0952.pdf, p. 17.

76 Act No. 134/2008 on Amendment to the Act on Foreign Exchange No 87/1992, as amended. A temporary provision authorising the Central Bank, subject to agreement of the Minister of Business Affairs, to adopt rules restricting certain categories of capital movements until 30 November 2010.

77 Statement No. 6/2009, 1 March 2009.

- allowing 100% foreign equity ownership in publication of facsimile edition of foreign newspapers;[78]

- new guidelines to calculate total foreign investments in Indian companies, effectively facilitating more foreign investments into restricted sectors;[79]

- guidelines to clarify requirements for downstream investments by foreign-owned companies, in particular removing a requirement of prior government approval;[80]

- new guidelines clarifying what is meant by transfer of ownership or control in sectors with caps from resident Indian citizens to non-resident entities. As a result of these guidelines sectors where investments under the "cap" (ownership threshold) were automatically approved are now subject to prior approval. These sectors include: air transport services, banking, insurance and telecommunications.[81]

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In order to enhance credit availability, some restrictions on capital account have been relaxed. In January 2009, the government raised the ceiling on foreign investments in rupee denominated corporate bonds from USD 6 to 15 billion; removed the interest rate cap on external commercial borrowings (ECBs) by Indian companies until the end of June 2009; and allowed real estate developers to raise ECBs for township development projects.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

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78 Press Note No. 1 (14 February 2009). Previously, the foreign equity ownership cap was 26% in print media dealing with news and current affairs.

79 Press Note No. 2 (13 February 2009).

80 Press Note No. 4 (25 February 2009). Before this Press Note, prior approval was required by FIPB on downstream investments by foreign-owned Indian companies except certain cases for foreign-owned Indian holding companies. It is however with conditions such as notification to government agencies within 30 days of downstream investments, support by a resolution of the Board of Directors and a Shareholders Agreement, compliance with SEBI/RBI guidelines and funds raised from abroad not from domestic market.

81 Press Note No. 3 (14 February 2009).

Indonesia

Investment policy measures

The National Land Agency, Home Ministry and Public Housing Ministry are revising a 1996 tax on foreign ownership of property to extend the period of foreign ownership of houses, apartments and condominiums in Indonesia from 25 to 90 years.[82]

A new Mining Law, issued in January 2009, alters Indonesia's approach to the management of its mineral resources, but does not discriminate between domestic and foreign operators. It recognises existing "contract of work" agreements between operators and the government.[83]

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Ireland

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Finance

The government took Anglo Irish Bank into public ownership in January 2009 and, in March 2009, notified the European Commission of its intention to recapitalise Bank of Ireland with EUR 3.5 billion.[84]

82 Prodita Sabarini, "Expats hail ownership plan", The Jakarta Post, 27 February 2009.

83 "Mining law: Indonesia's changing tide creating industry waves", International Mining, 11 May 2009.

In addition to the guarantee scheme that Ireland established for banks prior to the reporting period, the Irish Government decided on 14 December 2008 to establish capital injection programme with a volume of up to EUR 10 billion.[85] The State's investment may take the form of preference or ordinary shares and the State may participate on an underwriting basis. In principle existing shareholders will be expected to have the right to subscribe for new capital on the same terms as the Government.

Automotive sector

None during reporting period.

Cross-sectoral measures

Ireland has adopted a scheme to grant aid of up to EUR 500 000 per firm in 2009 and 2010 to businesses facing funding problems related to the current credit crunch. The aid will be granted in the form of direct grants, reimbursable grants, interest rate subsidies, and subsidised public loans. The scheme is financed by the Enterprise Stabilisation Fund and its overall budget EUR 100 million and will be administered by Enterprise Ireland.[86]

Israel

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

As part of a crisis response package announced on 20 November 2008, the government committed to provide ILS 6 billion of government guarantees for raising capital in the banking sector. These guarantees have been offered to banks for issues of subordinated notes.[87] In April 2009, the Government decided to double the funds available for the bank guarantees plan to ILS 12 billion, if

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84 The Decision by the European Commission not to raise objections against the measure regarding Anglo Irish Bank will be available under reference N61/2009. The press release regarding this decision has been issued under reference IP/09/271 on 17 February 2009. The Decision by the European Commission not to raise objections against the measure regarding the Bank of Ireland will be available under reference N149/2009. The press release regarding this decision has been issued under reference IP/09/483 on 26 March 2009.

85 "Statement by the Government on the Recapitalisation of Credit Institutions", Department of Finance, 14 December 2008.

86 The measure is documented in the decision of the European Commission not to raise objections dated 14 April 2009 under reference N186/2009.

87 "*Finance Ministry Provides Banking System with NIS[/ILS] 6 billion in State Guarantees for Capital Raising*", Ministry of Finance press release dated 19 January 2009.

needed.[88] The state has guaranteed holdings of the subordinated notes for principal and interest payments for a period of ten years from the issuance date. The guarantee will be at a rate of 95% for the entire period of 10 years.[89]

As part of the "Containment and Breakthrough economic plan" presented by the Government in the end of April 2009, the state guarantee for Ashra, the Israel Export Insurance Corp. will be increased by USD 250 million to a total of USD 1.25 billion. The Government will also provide a short-term secondary insurance facility for existing credit insurance companies through a one-year state guarantee in the amount of USD 1 billion.

Automotive sector

None during reporting period.

Cross-sectoral measures

The crisis response package that the government announced on 20 November 2008 and that has a total volume of ILS 11 billion include ILS 5 billion for an investment fund, which will extend lending to companies.[90]

In January 2009, Israel launched the ILS 1.3 billion Government Credit Fund for Mid-Sized Businesses, that was doubled to ILS 2.6 billion in April 2009.[91] The Mercantile-Discount Bank, Bank Otsar Hahayal, and Bank Hapoalim have been chosen to operate the new fund. The fund is based on ILS 260 million in state funds, leveraged by the winning banks into a total of ILS 2.6 billion, and helps provide credit to finance the operations of mid-sized businesses with annual turnovers of ILS 15-400 million.[92] The maximum value of loans to be issued will be ILS 16 million. The state will provide collateral for the loan at a rate of 70%, making it easier for the businesses to obtain collateral in order to receive the credit.[93]

Italy

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

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88 In the end of May 2009, only the project on the first tranche of ILS 6 billion had been submitted to the Knesset for approval.

89 According to the "Containment and Breakthrough economic plan" presented by the Government in the end of April 2009, an earlier plan to decrease the rate gradually is not pursued.

90 “'Stimulus' booster evaporates from Tel Aviv market in a day”, Haarez, 28 November 2008.

91 The expansion forms part of the "Containment and Breakthrough economic plan" presented by the Government in the end of April 2009.

92 The initial measure only targeted businesses with turnovers of ILS 22-100 million.

93 “NIS 1.3 Billion Government Credit Fund for Mid-Sized Businesses Launched as Part of Acceleration Plan”, Ministry of Finance press release, 9 January 2009.

Emergency and related measures with potential impacts on international investment

Financial sector

In addition to the guarantee scheme for the financial sector in Italy—that predates the reporting period—[94]Italy established a recapitalisation scheme to support the financial sector. The scheme authorises the injection of capital in the form of core Tier 1 special instruments;[95] it was later modified with a view to strengthen incentives in view of an early redemption.[96] Under the scheme, any bank incorporated under Italian law, including subsidiaries of foreign banks, can apply for support under the scheme that is administered by the Ministry of Economy and Finance; Bank of Italy is involved in the evaluation of applicant institutions. Italy committed to communicate once the operation is finalised the main characteristics of the operations and the outcomes of the valuations made by Bank of Italy.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Japan

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Japan has announced four policy packages[97] in response to the economic crisis. Some are re-statements, elaborations or expansions of measures already adopted. Measures to enhance credit supply to Japanese firms are a feature in all the packages.

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94 The scheme, notified to the European Commission under reference N520a/2008 and approved by the Commission on 13 November 2008, was initially set out in Decree-law No 155 on "Urgent measures to guarantee the stability of the credit system and the continued availability of credit to enterprises and consumers in the current crisis on international financial markets" and Decree-Law No 157 on “Further urgent measures to guarantee the stability of the credit system”.

95 The scheme is based on article 12 of Decree-Law No 185 of 28 November 2008 and the relating draft implementing decree. The initial measure was approved by the European Commission on 23 December 2008 under reference N648/2008.

96 The modification to the recapitalisation measures were approved by the European Commission on 20 February 2009 under reference N97/2009.

97 The Government announced the first package on 29 August 2008, the second package on 30 October 2008, the third package on 19 December 2008, and the fourth package on 10 April 2009.

The government passed an amendment to the Act on Special Measures for Strengthening Financial Functions in December 2008[98] which was originally enacted in 2004 with a fixed term of five years. The amended Act enables the government to inject capital to regional/local banks with less strict conditions[99] attached to the applying banks than the original act of 2004. Capital injection under the Act is possible even for a bank which is not yet insolvent but has a low capital adequacy ratio. The government set the application period up to March 2012 and intends to raise capital of regional/local banks which lend mainly to SMEs in each region. The limit of capital injection is JPY 12 trillion[100].

In March 2009 the government re-activated share purchase operations of the Banks Shareholding Purchase Corporation (BSPC)[101] up to March 2012.[102] The BSPC is a special-purpose association of banks. Foreign banks are eligible to join this association, but currently all members are Japanese-controlled. The BSPC's share purchase is limited to stocks issued and/or owned by banks (including foreign controlled banks). The amended Act provides a government guarantee up to JPY 20 trillion for the BSPC's operations.[103]

Automotive sector

None during reporting period.

Cross-sectoral measures

An amendment to the Act on Special Measures for Industrial Revitalisation in April 2009[104] has been passed.[105] The amended Act allows the JFC to compensate private financial institutions to guarantee equities for the loss of capital injection to private enterprises[106] which suffer temporarily from the economic crisis. This is a temporary measure until the end of March 2010. Any financial institutions/enterprises are eligible on a non-discriminatory basis under the Act.

The government has enhanced safety net loan of the Japan Finance Corporation (JFC) and Shoko Chukin Bank and emergency guarantee scheme of Credit Guarantee Corporations (CGC) since October 2008. These programmes will last till March 2010 and are expected to help private enterprises which suffer from a temporary loss in demand and credit due to the economic crisis. Any enterprise may apply for these programmes.

98 www.fsa.go.jp/news/20/20081216-3.html

99 The amended Act does not impose strict accountability on management and requirement on restructuring of the applying banks provided that the applying banks continue sufficient lending operations to SMEs.

100 It was JPY 2 trillion before the amendment. This increase by JPY 10 trillion was announced in the third package.

101 The BSPC was established in 2002 under the Act of No.131 2001. The Act was amended twice in 2002 and 2003.

102 www.bspc.jp/pdf/saikai.pdf

103 The amount was announced in the third package.

104 Ministry of Economy, Trade and Industry press release.

105 Originally enacted in 1999 with a fixed term of four years, it was extended twice in 2003 and 2007.

106 The eligibility criteria are described in a Ministry of Economy, Trade and Industry press release.

Korea

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Korea established a KRW 20 trillion (USD 14.3 billion) *Bank Recapitalisation Fund*[107] in early 2009 to help eligible local banks strengthen their capital base. The Fund, managed by the Bank Recapitalisation Fund Oversight Committee and operated through the state-run Korea Development Bank and Korea Asset Management Corporation, will operate through the purchase of banks' hybrid and subordinate bonds. Commercial banks, holding companies as well as Industrial Bank of Korea, NACF, and NFFC are eligible to apply for the fund. The banks that participate in the scheme[108] have signed a MoU as a prerequisite to the government guarantee on their external debts. They contain commitments to supporting the real economy, notably SMEs,[109] and other preconditions, which are monitored by the government. Performance against the commitments may have an impact on the access to the scheme and on interest rates.[110]

According to an announcement by the Financial Services Commission,[111] a *Financial Stabilisation Fund* will help financial institutions including commercial and mutual savings banks and insurers. The newly established Korea Policy Finance Corporation will support all types of financial institutions capable of normal management, including banks whose capital adequacy ratio exceeds 8%. The fund will be financed via issuance of government bonds by Korea Policy Finance Corporation. The amount of assets at the disposal of the fund has yet to be determined.

A *Restructuring Fund* is being established to purchase until 2014 bad loans from financial institutions and companies that will undergo restructuring. The Fund may dispose of up to KRW 40 trillion (USD 27 billion) through government-guaranteed bonds and is expected to be

107 The National Bank of Korea will contribute KRW 10 trillion, state-owned Korea Development Bank contributes KRW 2 trillion, and institutional and public investors will contribute KRW 8 trillion. "Bank Recapitalisation Fund: Timetable and Operational Plan", Press Release by the Financial Services Commission, 25 February 2009.

108 Woori, Hana, Shinhan, Kookmin, Kyungnam, KIB, KEB, Daegu, Busan, Kwangju, Jeju, Cheonbuk, NACF, NFFC, among others, according to the Bank Recapitalisation Fund Oversight Committee's Third Execution Blueprint, Financial Oversight Commission press release dated 20 March 2009.

109 According to the press release of the Financial Services Commission dated 12 May 2009, the loans provided to SMEs have indeed increased.

110 See Bank Recapitalisation Fund Oversight Committee's Third Execution Blueprint, Financial Services Commission press release dated 20 March 2009.

111 "Pre-emptive Initiatives to Safeguard the Soundness of Financial Institutions", Financial Services Commission press release dated 13 March 2009.

launched in May 2009.[112] The Fund will be administered by the Korea Asset Management Corporation (KAMCO) and based on the KAMCO Act and an enforcement decree.[113]

Furthermore, a measure foresees that Korea Asset Management Corporation will use up to KRW 20 trillion to purchase bad loans in 2009.

Automotive sector

None during reporting period.

Cross-sectoral measures

A host of measures for restructuring the shipping industry were announced in late April 2009. The following measures are planned or being implemented:

- A Government Ship Purchase Programme under which KAMCO would purchase ships. The purchases are mainly funded by the Corporate Restructuring Fund.[114]

- Korea Eximbank will provide a total of KRW 1 trillion in loans to national shipping lines that build new ships at shipyards both at home and abroad. Korean shipping companies located overseas but owned by Korean shipping companies may apply for the loan, which must be used to purchase ocean-going ships. Loans can cover up to 80% of the shipbuilding contract value and need to be repaid during no later than 12 years after delivery date of the vessel.[115]

In addition, Korea took some measures targeting a wider range of industries. They include the abovementioned *Restructuring Fund* and a separate, smaller *Corporate Restructuring Fund* to fast-track the revamp of nonviable firms. This fund, which disposes of a KRW 100 billion (USD 73 million), was launched in mid April 2009 by the government and the state-owned Korea Development Bank. The Fund acquires controlling stakes in distressed SMEs tries to turn them around in no more than five years to then sell them with profit—preferably to the previous owners or members of existing management. KDB hopes to expand the fund's assets to KRW 1 trillion through contributions from private investors. The Ministry of Strategy and Finance and the Financial Services Commission (FSC) announced a plan to launch the fund under the Korea Asset Management Corporation (KAMCO).

Luxembourg

Investment policy measures

None during reporting period.

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112 The final amount and time of implementation are still to be determined, according to Press release of Financial Services Commission dated 4 May 2009.

113 Press release of Financial Services Commission dated 4 May 2009.

114 A bill that will enable the Restructuring Fund to finance the programme was reviewed in Parliament in end of April 2009. Financial Services Commission Press release dated 23 April 2009.

115 Information from "FAQ on Shipping Industry Restructuring".

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Luxembourg has provided *ad hoc* support to a number of financial institutions, of which support to Dexia[116] falls in the reporting period.[117]

Automotive sector

None during reporting period.

Cross-sectoral measures

Luxembourg also established two aid schemes to support the real economy: Under the Temporary Aid Scheme for Economic Recovery (*Régime temporaire d'aides au redressement économique*)[118], it may provide up to EUR 500 000 per undertaking to businesses likely to have a structural impact on the national or regional economy. The measure is limited until 31 December 2010.

Under a second aid scheme, the Temporary Guarantee Scheme for Economic Recovery (*Régime temporaire de garanties en vue du redressement économique*)[119], the government may extend subsidised credit guarantees to enterprises that are registered and operating in Luxembourg, with the exception of financial sector enterprises. A total sum of EUR 500 million is available for this scheme that is likewise limited until 31 December 2010 and that is expected to benefit no more than 50 enterprises.

Mexico

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

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116 The measure is documented in the section on Belgium in this document.

117 Recapitalisation measures taken to support Fortis—approved by the European Commission on 3 December 2008 under reference NN46/2008—precede the reporting period.

118 The Decision by the European Commission not to raise objections against this measure will be available under reference N99/2009. The press release regarding this decision has been issued under reference IP/09/334 on 27 February 2009.

119 The measure is documented in the decision of the European Commission not to raise objections dated 11 March 2009 under reference N128/2009.

Emergency and related measures with potential impacts on international investment

Financial sector

Central bank auctions of dollar financing to provide banks with dollar funds to on-lend to enterprises. The programme was introduced to compensate the shortfalls in the roll-over of external financing to domestic enterprises. The auctions are open to all banks operating in Mexico. The first auction took place on 21 April 2009.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Netherlands

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In addition to a guarantee scheme for the financial sector that predates the reporting period,[120] the Netherlands also carried out measures to support individual banks—Aegon[121] and SNS Reaal NV[122]—on 28 October and 12 November, respectively.[123] On 24 December 2008, the Netherlands purchased the Dutch retail, private and merchant banking activities of ABN Amro from Fortis Bank Nederland

[120] The measure is documented in the decision of the European Commission not to raise objections dated 31 October 2008 under reference N524/2008.

[121] Aegon, the Netherlands' second largest supplier of pensions, received via a special type of securities a loan of EUR 3 billion to bolster its liquidity following significant losses from its exposure to Lehman Brothers and Washington Mutual. The measure is documented in the decision of the European Commission not to raise objections dated 27 November 2008 under reference N569/2008.

[122] SNS REAAL N.V. received EUR 750 million via a special type of securities as an emergency recapitalisation from the Dutch Government. The Decision by the European Commission not to raise objections against this measure will be available under reference N611/2008. The press release regarding this decision has been issued under reference IP/08/1951 on 11 December 2008.

[123] A capital injection into ING by the Dutch Government of EUR 10 billion through special securities in October 2008 and approved by the European Commission under reference N528/2008 on 13 November 2008 precedes the reporting period.

(FBN), a subsidiary of Fortis Bank. On 8 April 2009, the European Commission announced[124] that it was investigating whether this purchase at the price of EUR 6.5 billion amounts to aid to FBN, as the price paid may have been above market value, thereby providing a subsidy as it seems that this measure actually had the effect of a recapitalisation of FBN.

On 26 January 2009 the Dutch State granted an asset-relief facility to ING Group N.V. (ING). This facility is a guarantee with upwards potential. The facility partially covers the risks of ING's Alt-A portfolio, after its value has been corrected from USD 39 billion down to USD 35.1 billion. The bank remains owner of this portfolio. The State and ING share in the profits and losses on the basis of the ratio 80% (State)—20% (ING). The bank pays the State a guarantee fee in compensation for the taken risk; the State pays ING a management and funding fee for the management and financing of the portfolio.[125]

Automotive sector

None during reporting period.

Cross-sectoral measures

The Dutch government has expanded the credit guarantee scheme for SMEs and the 'Growth facility' for all firms, to make sure enterprises can attract sufficient capital for investments. For small and medium sized enterprises the maximum business guarantee credit is increased from EUR 1 to 1.5 million and the target group is broadened from enterprises with 100 employees to 250 employees. Moreover, the business guarantee credit for start-ups (SMEs running for a maximum of 5 years) is increased from EUR 100 000 to EUR 200 000. In total, it is expected that an additional EUR 80 million will be reserved for this guarantee scheme expansion. The growth facility, accessible for all companies, is expanded to credits up to EUR 50 million, with a maximum government guarantee of 50% of the loan. The bank which extends the other half of the loan will pay a cost covering premium. The guarantee ceiling of this temporary facility is set at EUR 1.5 billion.

New Zealand

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

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[124] On 8 April 2009 the European Commission informed the Dutch Government about the Decision to open an in-depth investigation into alleged aid to Fortis Bank Nederland and Dutch activities of ABN Amro. This Decision is documented under reference C11/2009.

[125] The Decision by the European Commission to provisionally approve the measure will be available under reference N138/2009. The press release regarding this decision has been issued under reference IP09/514 on 31 March 2009. On the same day, the European Commission informed the Dutch Government in a letter under reference C10/2009 about its decision to initiate the procedure laid down in Article 88 (2) of the EC Treaty.

Emergency and related measures with potential impacts on international investment

Financial sector

In January 2009, New Zealand issued a new pricing schedule for its Wholesale Funding Guarantee Scheme which is expected to increase uptake in the facility. The facility is available to financial institutions that have an investment grade credit rating (BBB- or better), and have substantial New Zealand borrowing and lending operations (but not to institutions that are simply financing a parent or related company). Branches of foreign banks would be included among the institutions eligible for a wholesale guarantee scheme, but only in respect of their New Zealand dollar issuance (in order to avoid any risk of any New Zealand guarantee supporting the funding of the wider group).

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Norway

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Following stabilisation measures for financial institutions in October 2008, the Norwegian Government announced the establishment of the State Finance Fund on 8 February 2009.[126] The State Finance Fund, operational since 15 May 2009[127] seeks to temporarily ease Norwegian banks' access to core capital to enable the banks to maintain normal lending. Banks may apply for injection of capital from the Fund that is equipped with a capital of NOK 50 billion. The specific terms and conditions attached to the recapitalisation measures are determined in individual agreements between the Fund and the individual banks. The scheme is open for a 6 month period starting from 15 May 2009, in line with ESAs state aid guidelines.

126 "*Norway presents new measures for industry and households*", Government press release 17/2009, published 8 February 2009.

127 "*Regulations relating to the Norwegian State Finance Fund*" were laid down on 8 May 2009. The EFTA Surveillance Authority approved the measure on 8 May 2009 under Decision No 205/09/COL.

On 15 January 2009 the Norwegian State provided Eksportfinans the option to borrow up to NOK 30 billion. Eksportfinans provides export credits and is owned by 26 banks active in Norway and the Norwegian government. The loans must be drawn down before 31 December 2010.[128]

Automotive sector

None during reporting period.

Cross-sectoral measures

Norway also took measures to enhance liquidity of Norwegian companies. In March 2009, it established the State Bond Fund disposing of capital of NOK 50 billion.[129] The State Bond Fund will invest in fixed-income instruments issued by Norwegian companies. It is expected to be wound up after 5 to 10 years. Its operations are carried out by Folketrygdfondet, a state-owned asset management organization. Folketrygdfondet has operational independence and is expected to invest based on financial, market oriented considerations.

Poland

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

A draft law to guarantee interbank lending has been submitted to Parliament. The government has set aside PLN 40 billion (about USD 12.2 billion) for these guarantees.[130]

The stabilization and development plan the government put forward in late November was supposed to help alleviate the crisis. The most important goal of the PLN 91 billion package was to ensure financial stability and stimulate economic growth.

Automotive sector

None during reporting period.

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[128] The EFTA Surveillance Authority decided on the measure on 30 January 2009 under Decision No 36/09/COL.

[129] The Fund is based on Act no. 13 of 6 March 2009 relating to the Government Bond Fund Act and the Regulations on the Management of the Government Bond Fund, published 18 March 2009. The EFTA Surveillance Authority approved the measure on 20 May 2009. A press release regarding this decision has been issued under reference PR(09)40.

[130] "Republic of Poland: Arrangement under the Flexible Credit Line—Staff Report; Staff Supplement; Press Release on the Executive Board Discussion; and Statement by the Executive Director for the Republic of Poland", IMF Country Report No. 09/138, May 2009.

Cross-sectoral measures

In early June 2009, the Polish Government agreed on an anti-crisis plan that, among other measures, would, among other measures, allow crisis-hit companies of all sizes to apply for state aid.[131] The measures are expected to be passed as a law.

Portugal

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Portugal introduced a guarantee scheme to support the access to liquidity of solvent credit institutions that are incorporated in Portugal, including subsidiaries of foreign banks.[132] Under the scheme, the State may grant guarantees for liabilities resulting from financing agreements and the issuance of non-subordinated debt of credit institutions incorporated in Portugal. The Portuguese government estimates that about 51 to 100 credit institutions are eligible. Up to EUR 20 billion are available for the scheme that is accessible until 31 December 2009. Between the inception of the scheme and 15 June 2009, six Portuguese credit institutions have been granted a State guarantee; some of these guarantees exceed EUR 1 billion.

Portugal introduced a recapitalisation scheme for credit institutions registered in Portugal.[133] The measure, which was initially announced in November 2008, makes new capital available to eligible credit institutions in exchange for instruments eligible as tier 1 capital. It seeks to strengthen the institutions' capital base against potential losses. The size of the scheme is capped at EUR 4 billion.[134] The program is temporary in nature and divestment by the government should be concluded after a period of 3 years, which may be extended in exceptional circumstances to 5 years.

Portugal also assisted individual banks: On 5 December 2008 Portugal issued a guarantee, assisted by collaterals, on a EUR 450 million loan granted by six Portuguese banks to Banco Privado

131 "Polish anti-crisis plan accepted in part", Warsaw Business Journal, 2 June 2009.

132 The measure is documented in the decision of the European Commission not to raise objections dated 17 December 2008 under reference NN60/2008. The legal basis is law n° 60-A/2008 of 20 October and its implementing provision Portaria n° 1219-A/2008 of 23 October.

133 The Decision by the European Commission not to raise objections against this measure, dated 20 May 2009 will be available under reference N556/2008. The press release regarding this decision has been issued on under reference IP/09/818.

134 The maximum overall amount allocated to the guarantee and recapitalisation national schemes is EUR 20 billion, and the latter cannot exceed EUR 4 billion within the total envelope.

Português.[135] Banco Português de Negócios, S.A. (BPN) was nationalised during November 2008 to contain systemic risks and protect deposits.

A new credit insurance scheme provides government guarantees to the five insurance companies operating in Portugal for credit insurance for exporters. The measure announced on 9 January 2009 includes EUR 2 billion in credit insurance for exports to OECD countries and EUR 2 billion for operations with non-OECD countries for which there is a political risk in addition to ordinary commercial risk.

Automotive sector

None during reporting period.

Cross-sectoral measures

Portugal introduced an aid scheme that allows the allocation of limited amounts to companies of any size in 2009 and 2010.[136] The aid can be granted in particular in the form of direct grants, reimbursable grants, interest rate subsidies, subsidized public loans and public guarantees. The aid per undertaking may not exceed EUR 500 000 in 2009-2010 combined, allocations of the existing *de minimis* aid scheme included. The scheme is administered by economic policy actors at central, regional and local levels. The total aid amount available under this scheme is estimated at EUR 750 million.

Russian Federation

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Measures include:[137]

- Providing subordinated loans of up to RUB 555 billion in 2009 (RUB 1 trillion, including a possible loan to Sberbank from the central bank) in addition to the RUB 1 trillion extended in late-2008 (central bank loan of RUB 500 billion to Sberbank, placement of

[135] The loan has a duration of six months and can only be used by beneficiary to face its liabilities as registered in the balance sheet on 24 November 2008. The Decision by the European Commission not to raise objections against this measure will be available under reference NN71/2008. The press release regarding this decision has been issued under reference IP/09/400 on 13 March 2009.

[136] The measure is documented in the decision of the European Commission not to raise objections dated 19 January 2009 under reference N13/2009.

[137] "Anti-Crisis Programme of the Government of the Russian Federation for 2009".

RUB 450 billion with the state corporation Vneshekonombank (VEB) for extending subordinated loans to banks other than Sberbank).

- A deposit of USD 50 billion in central bank reserves with VEB to finance the repayment of the external debt of Russian companies. Of this amount only some USD 13 billion has been committed.

- Several troubled private banks were acquired by VEB and other state owned enterprises, including to Globex, Sviaz-Bank, Kit Finance and Sobinbank.

- Capital injections for the agricultural bank Rosselkhosbank (RUB 45 billion) and the state leasing company Rosagroleasing (RUB 25 billion) linked to the purchases and leasing of domestic agricultural machinery.

- The "Anti-Crisis Programme of the Government of the Russian Federation for 2009" contains a blueprint for "enhancement of the stability of the national financial system." The plan describes *inter alia* the intention of the Government and the Central Bank to "stimulate the consolidation of the banking system."

Automotive sector

In the automobile sector, the government has agreed to assist in the issuance in 2009 of bonds to finance investment projects in the amount of up to RUB 60 billion and a maturity of five years on condition of state guarantees as well as possible refinancing of such securities by the Bank of Russia. Foreign companies that have established assembly plants in the Russian Federation are eligible for industrial support.[138] Furthermore, the government has announced a number of measures to support domestic producers. [139] These include various interest rate subsidies, including loans taken by car manufacturers for modernisation (RUB 2.5 billion), and a subsidy to *Russian Railways* to transport domestic cars to the Far East (RUB 2 billion).

Cross-sectoral measures

In its anti-crisis plan, the government commits to not supporting inefficient enterprises, but describes plans to support efficient companies are in trouble because of limited access to credit. The Plan includes the following elements:[140]

- The Government Commission on Sustained Economic Development has approved a list of 295 "backbone" organisations (companies having very large impacts on the Russian economy). The branch ministries and departments have established a system for monitoring these organisations and identifying their problems. Proposals for addressing these problems are submitted to an Interdepartmental Working Group which is authorised to provide support in the form of capital injections, direct state support and state guarantees of loans.

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[138] On 20 November 2008, the Prime Minister of the Russian Federation, Mr. Putin, stated: "*As for the new assembly plants recently established in Russia by major foreign automakers, we also regard them as part of the domestic auto industry. In this sense, I am making no distinction between Volkswagen, Renault, Ford and Toyota plants, and Russian VAZ and GAZ. Foreign assembly plants operating in Russia are entitled to government support as much as local manufacturers—naturally, assuming they comply with the required domestic content agreement.*"

[139] "Anti-Crisis Programme of the Government of the Russian Federation for 2009", Section 4.2.

[140] "Anti-Crisis Programme of the Government of the Russian Federation for 2009", Section 4.1.

- The Working Group will operate under transparency rules designed to rule out lobbying by individual companies.

- Support will be provided only to the enterprises that have committed to a restructuring plan and only if they make commitments relating to executive pay, transparency, legal compliance and corporate development.

- Beneficiary companies are obliged to submit a report on implementation of their commitments. The enterprises receiving large amounts of support must publish their reports.

- In addition to the federal list, there is a list of 1,148 regional backbone companies, which will be monitored by the Ministry of Regional Development and regional authorities.

- As much as RUB 300 billion will be earmarked in the federal budget for state guarantees of loans of these enterprises in 2009.

Slovak Republic

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

As part of its third package to respond to the crisis, the Slovak Republic took as series of measures in support of the real economy. These measures include revision of the law on investment assistance (passed by the parliament on 11 February 2009). The law provides state aid to support initial investment.[141] Undertakings with a registered office in the Slovak Republic, incorporated in the Commercial Register or the Trade Licence Register, are eligible for the support for an investment in the Slovak Republic.[142] The support is temporary and covers investment plans submitted between 1 April 2009 and 31 December 2010. The measure is estimated to have a gross value of EUR 36.5 million.

141 "Third crisis package launched", The Slovak Spectator, 16 February 2009.

142 "Changes in state aid", Slovak Investment and Trade Development Agency, 10 February 2009.

The Slovak Republic also introduced a temporary aid scheme to grant compatible aid of up to EUR 500 000 per undertaking.[143] The aid may be granted until 31 December 2010 as grants and remission of penalties for non payment of taxes, among other forms.

The Government also increased the capital of the fully state-owned Slovak Guarantee and Development Bank (SZRB) by SKK 1 billion.

Slovenia

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

As part of a first package of measures in response to the crisis, the Government of Slovenia adopted a guarantee scheme for credit institutions in Slovenia under which the Slovenian state would guarantee up to EUR 12 billion of debt issued by financial institutions that are incorporated in Slovenia, including Slovenian subsidiaries of foreign financial institutions.[144] The scheme runs until the end of 2010, which is estimated to cover all banks' foreign refinancing needs for 2009–10. The measure is based on a government regulation adopted on 4 December 2008.

A second crisis-response package was adopted in February 2009. Its measures include:

- Provision of funds to banks: additional foreign borrowing of the Treasury in the amount of EUR 1 billion, additional foreign borrowing of banks with state guarantee, additional foreign borrowing of Slovene Export and Development Bank with state guarantee.[145]

- Reduction in risk exposure of banks when granting loans to enterprises: guarantee scheme provided to banks for general granting of loans to companies, individual state guarantees for enterprises, increase in capital of the Slovene Export and Development Bank.

- a liquidity scheme to the financial sector[146] that complements the guarantee scheme. Under the scheme, the Slovenian state provides short and medium term non-subordinated debt for a

143 The Decision by the European Commission not to raise objections against this measure will be available under reference N222/2009. The press release regarding this decision has been issued under reference IP/09/680 on 30 April 2009.

144 The measure is documented in the decision of the European Commission not to raise objections dated 12 December 2008 under reference N531/2008. By the middle of March 2009, the government had approved one bank guarantee.

145 "Slovenia" European Economic and Social Committee.

146 The measure is documented in the decision of the European Commission not to raise objections dated 20 March 2009 under reference N637/2008. The Press Release under Reference IP/09/452 provides information in English language on this decision.

duration of one to a maximum of three years. The overall budget of the previously mentioned guarantee scheme and the liquidity scheme is capped at EUR 12 billion. Institutions that participate in the scheme are subject to behavioural commitments, including limitations on expansion and conditions for staff remuneration or bonus payments.

The Slovenian state guarantee schemes for credit institutions provide for non-discriminatory access for all solvent institutions, including Slovenian subsidiaries of foreign banks.

Automotive sector

None during reporting period.

Cross-sectoral measures

Slovenia introduced a national risk capital scheme to respond to the unavailability of risk capital investments into start-ups and small and medium-sized enterprises.[147] The measure will run initially until end 2013 and disposes of a total budget of EUR 35.05 million.

South Africa

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Spain

Investment policy measures

None during reporting period.

[147] The measure is documented in the decision of the European Commission not to raise objections dated 12 December 2008 under reference N201/2008.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

In addition to a scheme that provides for capital injections and that predates the reporting period[148] the Government of Spain introduced a temporary guarantee scheme for bank liabilities. Initially announced on 13 October 2008 and approved by the European Commission on 23 December 2008, the guarantee programme for bank liabilities was revised on 31 March 2009.[149] The guarantee scheme is open to credit institutions, including subsidiaries of foreign institutions, that were residents in Spain as of 13 October 2008. The guarantees are available until 31 December 2009. The scheme's overall budget is initially capped at EUR 100 billion but may be increased to EUR 200 billion. The maximum amount of guarantees that may be granted to a bank is set in proportion to the bank's share in total bank lending to residents, in order to fulfil the stated purpose of the programme of supporting lending to the domestic economy. Additional requirements for banks may be established by the Minister of Economy and Finance.

Spain began to acquire financial assets under the *Financial Asset Acquisition Fund (FAAF)*, a scheme established under Royal Decree Law 6/2008 before the reporting period.[150] The FAAF disposes of an initial allocation of EUR 30 billion—which may be increased to EUR 50 billion—to purchase assets issued by credit entities and securitisation funds. FAAF is administered, managed and led by the Spanish Ministry of Economy and Finance. The acquisition of assets is carried out through auctions; by 15 June 2009, four auctions had been held.[151]

Automotive sector

None during reporting period.

Cross-sectoral measures

On 19 April 2009, the Government announced a plan to provide credit guarantees of a total of EUR 3 billion to small and medium enterprises. The guarantees would be provided and administered by the *Instituto de Crédito Oficial*.

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148 The measure is documented in the decision of the European Commission not to raise objections dated 4 November 2008 under reference NN54a/2008.

149 The measure is documented in the decision of the European Commission not to raise objections dated 16 April 2009 under reference NN54b/2008.

150 The Fund is established by the *Royal Decree-Law 6/2008 of 10 October 2008 on the creation of the Financial Assets Acquisition Fund (FAAF)* and the *Order EHA/3118/2008, of 31 October 2008, for the development of the Royal Decree-Law 6/2008, of October 10th, on the creation of the Financial Assets Acquisition Fund (FAAF)*.

151 The results and beneficiaries of the auctions are documented on the FAAF website.

Sweden

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

Sweden established a guarantee scheme and a recapitalisation scheme for the banking sector under the Government Support to Credit Institutions Act (2008:814). The guarantee scheme, initially established on 30 October 2008 through the Government Guarantees to Banks and others Ordinance and extended and broadened on 2 April 2009, authorises the National Debt Office to grant guarantees up to a maximum of SEK 1500 billion until 31 October 2009.[152] Under the scheme, eligible institutions—banks and mortgage institutions incorporated and operating in Sweden, including Swedish subsidiaries of foreign institutions—may enter into an agreement with the state which in turn guarantees the institutions' new issuance of senior debt in exchange for a fee.

The recapitalisation scheme was established by the Capital Contributions to Solvent Banks and others Ordinance that entered into force on 17 February 2009.[153] The scheme authorises the National Debt Office to provide capital contributions to financially sound banks and mortgage institutions incorporated and operating in Sweden, including Swedish subsidiaries of foreign institutions. The conditions for a capital contribution are governed by individual contracts between the institution and the Government, which is negotiated by the National Debt Office on behalf of the Government. Capital contributions under the Ordinance may not be provided after 17 August 2009. The total amount available for the scheme is SEK 50 billion.

Automotive sector

The Government has put in place a policy to be used if necessary, that would allow it to provide rescue loans of up to SEK 5 billion for companies in the automotive industry that operate in Sweden and have sales in excess of SEK 500 million. The loans conform to the EC rescue and restructuring guidelines and seek to enable financially weakened companies to remain in business until a restructuring or liquidation plan has been developed. The National Debt Office would administer the rescue loans.[154]

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152 See Government press release dated 2 April 2009 the latest modifications came into force on 1 May 2009. The guarantee scheme was approved by the European Commission on 29 October 2008 under reference N533/2008 as amended by the Commission's decision of 29 January 2009 (reference N26/2009) and the decision of 28 April 2009 (reference N154/2009).

153 The measure is documented in the decision of the European Commission not to raise objections dated 10 February 2009 under reference N69/2009.

154 Swedish Government statement of 21 March 2009.

Cross-sectoral measures

None during reporting period.

Switzerland

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

The Swiss National Bank StabFund, a special purpose vehicle owned by the Swiss National Bank (SNB), acquired illiquid assets amounting to USD 39.1 billion from UBS between in December 2008 and 3 April 2009.

Automotive sector

None during reporting period.

Cross-sectoral measures

None during reporting period.

Turkey

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

None during reporting period.

Automotive sector

None during reporting period.

Cross-sectoral measures

In February 2009, the Government provided, as part of a package of support measures, financial support to small and medium enterprises. It allocated TRY 75 million for the Small and Medium Industry Development Organization.

United Kingdom

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

The Government introduced a series of measures that directly benefit the financial sector.[155] These measures include:

- a Government Credit Guarantee Scheme (CGS) and a recapitalisation scheme; these schemes initially came into force in October 2008, were modified in December 2008 and were prolonged in April 2009;[156]
- a guarantee scheme concerning its domestic residential asset backed securities that is open to UK incorporated banks, including UK subsidiaries of foreign institutions, that have a substantial business in the UK and building societies;[157]
- extending the maturity date for the Bank of England's Discount Window Facility which provides liquidity to the banking sector by allowing banks to swap less liquid assets;
- establishing a new Bank of England facility for purchasing high quality assets;
- offering capital and asset protection scheme for banks, with proposals for this to be co-ordinated internationally; and
- clarifying the regulatory approach to capital requirements, through an announcement by the Financial Services Authority (FSA).

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155 "Statement on financial intervention to support lending in the economy" HM Treasury News release, 19 January 2009.

156 These measures are documented in the Decisions by the European Commission dated 13 October 2008 under reference N507/2008; Decision dated 22 December 2008, Reference N650/2008. The Decision by the European Commission not to raise objections against this measure will be available under reference N193/2009. The press release regarding this decision has been issued under reference IP/09/586 on 15 April 2009.

157 The measure is documented in the decision of the European Commission not to raise objections dated 21 April 2009 under reference N232/2009.

Eligibility for the credit guarantee and asset protection schemes and the Bank of England's Asset Purchase Facility includes UK subsidiaries of foreign institutions.

The Government intends to negotiate with the banks participating in certain facilities lending responsibility agreements that will have specific and quantified lending commitments and that will be binding and externally audited.

The British government also began to dispose of assets of Northern Rock, a bank that received government support, mainly in the form of loans granted by the Bank of England and government guarantees.[158] In March 2009, the UK split-up Northern Rock into two new entities, a relatively small bank containing all the good quality assets, the mortgage writing platform and the retail deposits and a "bad bank" which would hold the vast majority of the mortgage loans made by Northern Rock in the past. The government will support the losses incurred on risky mortgage loans made by Northern Rock in the past.[159]

Automotive sector

The British Government is working closely with the Indian conglomerate Tata which owns Jaguar Land Rover and potential financing banks to develop a long term sustainable capital structure for Jaguar Land Rover.

Cross-sectoral measures

The British Government introduced a series of measures to support the real economy. These measures include

- a scheme under which small amounts of aid can be provided to companies.[160]
- a scheme for granting aid in the form of loans with subsidised interest rate;[161]
- a scheme for temporary aid in the form of loan guarantees.[162] Under the UK-wide scheme, aid can be provided at country, regional and local level in the form of subsidised guarantees for investment and working capital loans. The maximum amount of GBP 8 billion is available for this scheme in 2009 and 2010 combined;
- the temporary Working Capital Guarantee Scheme under which the UK will offer banks up to a total of GBP 10 billion of guarantees in respect of portfolios of working capital loans to

[158] The measure is documented in the decision of the European Commission not to raise objections dated 5 December 2007 under reference IP/07/1859.

[159] A press release dated 7 May 2009 announcing the decision of the European Commission to extend its in-depth investigation into UK aid package for Northern Rock is available under reference IP/09/713.

[160] The measure is documented in the decision of the European Commission not to raise objections dated 4 February 2009 under reference N43/2009.

[161] The measure is documented in the decision of the European Commission not to raise objections dated 14 May 2005 under reference N257/2009.

[162] The measure is documented in the decision of the European Commission not to raise objections dated 27 February 2009 under reference N71/2009.

sound, credit-worthy companies.[163] The guarantees are priced at a level designed to make the scheme self-financing; and

- two temporary schemes to grant loan guarantees and interest rate subsidies to businesses producing green products.[164] The two aid measures allow for a total combined risk exposure of GBP 8 billion in the amounts guaranteed or loaned. The loan guarantee allows companies to receive State guarantees at subsidised rates. The scheme that introduces interest rate subsidies for green products is deemed to make it easier for producers to invest in products with an environmental benefit. The scheme initially concerns the car industry, but will be open to all sectors.

United States

Investment policy measures

None during reporting period.

Investment measures relating to national security

None during reporting period.

Emergency and related measures with potential impacts on international investment[165]

Financial sector

The Emergency Economic Stabilization Act of 2008 ("EESA") was signed into law on 3 October 2008. The primary purpose of the EESA was "to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States." In particular, the EESA authorised the Secretary to establish the Troubled Assets Relief Program ("TARP") and take a variety of actions under the TARP to achieve the purposes of the EESA.

In the first quarter of 2009, the Treasury announced several important new or expanded initiatives under the TARP. Many of these initiatives and actions were announced or implemented as part of the overall Financial Stability Plan announced by Treasury on 10 February 2009, with the support of the Federal Reserve and the other Federal banking agencies. Key initiatives include:

- The Consumer and Business Lending Initiative was established under the Financial Stability Plan. This initiative, also known as the Term Asset-Backed Lending Facility ("TALF"), is designed to promote the resumption of normal credit flows to American consumers and businesses by restarting specific asset-backed securitization markets.

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163 The Decision by the European Commission not to raise objections against this measure will be available under reference N111/2009. The press release regarding this decision has been issued under reference IP/09/471 on 24 March 2009.

164 The Decision by the European Commission not to raise objections against this measure will be available under reference N72/2009. The press release regarding this decision has been issued under reference IP/09/333 on 27 February 2009.

165 www.financialstability.gov; see, in particular, "Quarterly Report to Congress pursuant to section 104(g) of the Emergency Economic Stabilization Act of 2008 For the quarter ending 31 March 2009".

- Treasury continued to provide capital to viable banking organizations under the Capital Purchase Program ("CPP"). Overall, more than USD 199 billion in capital was provided to more than 600 banking organisations under the CPP.[166] Institutions which are supervised and regulated on a consolidated basis by a United States supervisor or regulator are eligible; for this reason institutions controlled by a foreign bank or company are not eligible. On 9 June 2009, the U.S. Department of the Treasury announced that 10 of the largest U.S. financial institutions participating in the CPP had met the requirements for repayment. Treasury has notified the institutions that they are now eligible to complete the repayment process. If these firms choose to do so, Treasury will receive USD 68 billion in repayment proceeds.[167]

- The new Capital Assistance Program ("CAP") aims to ensure that U.S. financial institutions have sufficient high quality capital. The CAP has two parts. The first is a supervisory exercise by the Federal banking agencies to produce a more consistent and forward-looking assessment of the risks on the major U.S. banks' balance sheets and their potential capital needs. Institutions which are not supervised and regulated on a consolidated basis by a United States supervisor or regulator are not subject to this exercise. The second is a new capital access programme for qualifying financial institutions, which may include smaller institutions that did not participate in the supervisory exercise. Institutions which are supervised and regulated on a consolidated basis by a United States supervisor or regulator are eligible; for this reason institutions controlled by a foreign bank or company are not eligible.

- A new Public-Private Investment Program ("PPIP") was announced to help promote liquidity in the market for legacy loans and securities, promote transparency in the pricing of such assets, and promote new lending by financial institutions by facilitating the cleansing of legacy assets from their balance sheets.

- The FDIC established the Temporary Liquidity Guarantee Program ("TLGP"), which has two parts: a Debt Guarantee Program ("DGP"), and a Transaction Account Guarantee Program.

- Treasury created the Targeted Investment Program ("TIP") to stabilize the financial system by making investments in institutions that are critical to the functioning of the financial system.

- Systemically Significant Failing Institution Program ("SSFI") was established to provide stability and prevent disruptions to financial markets from the failure of institutions that are critical to the functioning of the nation's financial system.

Automotive sector

The Treasury took a series of measures to support the automotive sector:

- It provided working capital, debtor-in-possession financing and exit financing for Chrysler LLC in order to support Chrysler through bankruptcy. On 10 June 2009, a new,

[166] "Treasury Announces $68 Billion in Expected CPP Repayments", U.S. Department of the Treasury press release, 9 June 2009.

[167] "Treasury Announces $68 Billion in Expected CPP Repayments", U.S. Department of the Treasury press release, 9 June 2009.

restructured Chrysler emerged from bankruptcy under a new ownership structure (which includes partial ownership by FIAT S.p.A.) and entered into an alliance with FIAT;

- It assisted General Motors Corporation ("GM") file for bankruptcy protection in U.S. Bankruptcy Court on 1 June 2009. The Treasury provided working capital and debtor-in-possession financing for GM in order to support GM through the bankruptcy process while GM develops a restructuring plan. During the bankruptcy process, GM may use the financial support provided by the Treasury to support any of its operations, including any foreign operations; and GM may restructure, sell, or liquidate any of its operations, including foreign operations or subsidiaries, in its own discretion and with the consent of the U.S. Bankruptcy Court;

- It established a new Auto Supplier Support Program, which includes a commitment of up to USD 5 million under the TARP to help stabilise the automotive supply industry and support the orderly restructuring of the domestic automobile manufacturers by providing suppliers of such companies with access to government- backed protection and funding;

- The Treasury announced a new Warranty Commitment Program to provide U.S. government guarantees for warranties issued by participating domestic auto manufacturers to help ensure that the automakers remain competitive while they develop acceptable restructuring plans;

- The Treasury also provided (a) USD 1.5 billion in senior financing to Chrysler Financial to finance the extension of new consumer auto loans and (b) USD 12.5 billion to GMAC LLC to finance the extension of new dealer floor plan loans to Chrysler dealers (who were without Chrysler financing effective as of Chrysler's bankruptcy filing) and to other automobile dealers, and to support GMAC's continuing consumer auto finance programs.

Cross-sectoral measures

The Treasury Department and the Federal Reserve have implemented a series of programs and measures to improve liquidity and funding conditions in financial markets, such programs and measures include:

- TALF, described above under "Financial Sector", provides non-recourse funding to any eligible borrower owning eligible asset-backed collateral;

- The Asset Guarantee Program ("AGP") is a program between the Treasury and the Federal Reserve where the Treasury will guarantee certain ring-fenced assets held by the qualifying financial institution.

- The Consumer & Business Lending Initiative ("CBLI") broadens and expands the resources of the TALF to support the consumer and business credit markets by providing the financing to private investors to help unfreeze and lower interest rates for auto, student loan, small business, credit card and other consumer and business credit.

European Union

Investment policy measures

None during reporting period.

Emergency and related measures with potential impacts on international investment

Financial sector

The European Union (EU) limits and controls Member States' aid to industries or individual companies under the EU competition policy framework of the Common Market as set out in articles 87-89 EU treaty. This regime seeks to avoid any distortions of competition that could result from State aid intervening in the economy. The specific situation of the financial crisis and its impact on the real economy have led the European Commission (EC) to adapt the EU State aid policies in order to enable Member States to respond to the crisis first in the financial sector—from in mid-2008 onwards—and, subsequently, from December 2008 on, in the real economy.

Adaptation measures regarding the financial sector where taken first on 13 October 2008, when the EC passed the Communication from the Commission—The application of State aid rules to measures taken in relation to financial institutions in the context of the current global financial crisis.[168] Therein, the Commission considers that Member States may invoke Article 87(3)(b) EU-treaty as a basis for aid measures taken to address the crisis in the financial sector, notably guarantees, recapitalisation measures, and controlled winding up of financial institutions. The EC provided subsequent guidance on the practical implementation of these principles to recapitalisation[169], and on the treatment of impaired assets in the Community banking sector.[170] EU Member States have used this possibility and adopted a series of measures for state aid.[171] The EC continues to monitor these measures to ensure their compliance. The measures that EU Member States have adopted are documented in the sections on individual countries in the present document.

Automotive sector

None during reporting period.

Cross-sectoral measures

As regards the real economy, the European Commission temporarily relaxed State aid restrictions based on Article 87(3)(b) EU-treaty on 17 December 2008 when it issued a *Temporary Community Framework for State aid measures to support access to finance in the current financial and economic crisis*,[172] applicable from 17 December 2008 until 31 December 2010. The framework enhances the scope of State aid that the Commission temporarily considers compatible with the Common Market. It

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168 OJ C270, 25 October 2008, p. 8.

169 Communication from the Commission—the recapitalisation of financial institutions in the current financial crisis: limitation of aid to the minimum necessary and safeguards against undue distortions of competition, adopted on 5. December 2008, OJ C 10, 15 January 2009, p. 2.

170 Communication from the Commission on the treatment of impaired assets in the Community banking sector, OJ C72, 26 March 2009, p. 1.

171 A comprehensive list of measures that countries have taken until 31 March 2009 to respond to the crisis has been published by the European Commission under the title "State Aid Scoreboard—Spring 2009 Update—Special Edition on State Aid Interventions in the Current Financial and Economic Crisis".

172 Communication from the Commission—*Temporary framework for State aid measures to support access to finance in the current financial and economic crisis* (2009/C16/01), adopted on 17 December 2008, OJ of 22 January 2009. A consolidated version, taking into account amendments adopted on 25 February 2009 (Communication from the Commission—Amendment of the Temporary framework for State aid measures to support access to finance in the current financial and economic crisis, and applicable from 25 February 2009 onwards) was published in OJ C83 of 7 April 2009.

broadens EU Member States' scope to grant aid in response to crisis-induced credit and capital shortages of companies in the non-financial sector. The rules notably enable EU Member States to provide companies with aid in different forms: limited amounts of compatible aid, guarantees, subsidized loans, subsidised loans for green products, and risk capital schemes. Under this framework, EU Member States have adopted a series of measures for state aid[173] that the EC continues to monitor to ensure their compliance with the temporary framework as well its proportionality, and with the regulatory framework of the common market as a whole. The measures that EU Member States have adopted are documented in the sections on individual countries in the present document.

[173] A comprehensive list of measures that countries have taken under the temporary framework and that have undergone EC State aid control is documented on the European Commission State Aid Register.

Annex. Methodology—Coverage, definitions and sources

Country coverage. The inventory of investment measures contains policy information pertaining to the 42 economies represented at the OECD 2009 MCM and the European Union.[174]

Reporting period. The reporting period is from 15 November 2008 (the date of the G20 Washington Summit Declaration) to 15 June 2009. An investment measure is counted as falling within this period if new policies were prepared, announced, adopted, entered into force or applied during the period. In many cases, policies have been under development well in advance of the date of the measures reported here.

Definition of investment. International investment is defined to include all international capital movements, including foreign direct investment.

Definition of investment measure. Investment measures by recipient countries consist of those measures that impose or remove discrimination against foreign or non-resident investors. Investment measures by home countries are those that impose or remove restrictions on investments to other countries (e.g. attaching restrictions on overseas investments as a condition for receiving public support).

National security. International investment law, including the OECD investment instruments, recognises that governments may need to take investment measures to safeguard essential security interests and public order. The OECD investment policy community also monitors these measures to help governments adopt policies that are effective in safeguarding security and to ensure that they are not disguised protectionism. Some countries have taken investment measures within the reporting period whose stated goals are to address security-related concerns. These measures are included as a separate category in this inventory.

Emergency measures with potential impacts on international capital movements. International investment law also recognises that countries may need flexibility in designing and implementing policies that respond to crises. For example, the OECD investment instruments provide for derogations to liberalisation commitments "if its economic and financial situation justifies such a course of action" but imposes time limits on such derogations and asks members to "avoid unnecessary harm" to others. The emergency measures, which in practice focus mainly on financial services and automobiles, include: *ad hoc* rescue and restructuring operations for individuals firms and various schemes that give rise to capital injections and credit guarantees. Several emergency schemes that provide cross-sectoral aid to companies were adopted and these are included in the inventory.

A large number of crisis related measures was taken during the reporting period and, in order to keep the size of the report manageable, a fairly narrow definition of emergency measure has been used. In order to be included as an emergency measure, the government needs to have identified the measure as having been enacted to deal with the crisis (e.g. rescues or restructuring of individual firms, loan, guarantee or other aid schemes that target individual companies). This category includes measures that may have only indirect impacts on international capital flows (e.g. large scale schemes that influence the pattern of entry and exit in globalised sectors such as automobiles and financial services).

Measures not included. Several types of measures are not included in this inventory:

[174] Thus, the report covers all G20 members except Saudi Arabia.

- *Fiscal stimulus*. Fiscal stimulus measures were not accounted for unless these contained provisions that explicitly discriminate against foreign or non-resident investors.

- *Local production requirements* were not included unless they apply *de jure* only to foreign firms. Non-discriminatory local production requirements are taken to be a trade measure, even though they influence the pattern of international investment.

- *Visas*. One country is known to have changed its law for business visas. This was not included because the Secretariat had not systematically reviewed other countries' visa laws and because business visa policy was not deemed likely to be a major issue in subsequent political and economic discussions.

- *Airlines*. A number of countries made capital injections into state-owned airlines in response to pressures that might be related to the crisis. These were not counted as "emergency measures" because there was evidence of a long history of state support for these airlines.

- *Central Bank measures*. Nearly all central banks adopted new practices designed to support the functioning of credit markets and to enhance the stability of the financial system. These measures influence international capital movements in complex ways. In order to reduce the size of this inventory and to focus on measures that are of most relevance for investment policies, measures taken by Central Banks are not included unless they involved negotiations with specific companies.

Sources of information and verification. The sources of the information presented in this report are:

- Official notifications made by governments to various OECD processes (e.g. the Freedom of Investment Roundtable or as required under the OECD investment instruments);

- Information contained in other international organisations' reports or otherwise made available to the OECD Secretariat by them;

- Other publicly available sources: specialised web sites, press clippings etc.

All governments whose policies are covered by the inventory have been given an opportunity to comment on the inventory. However, the report remains a document issued under the responsibility of the OECD Secretary General.

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