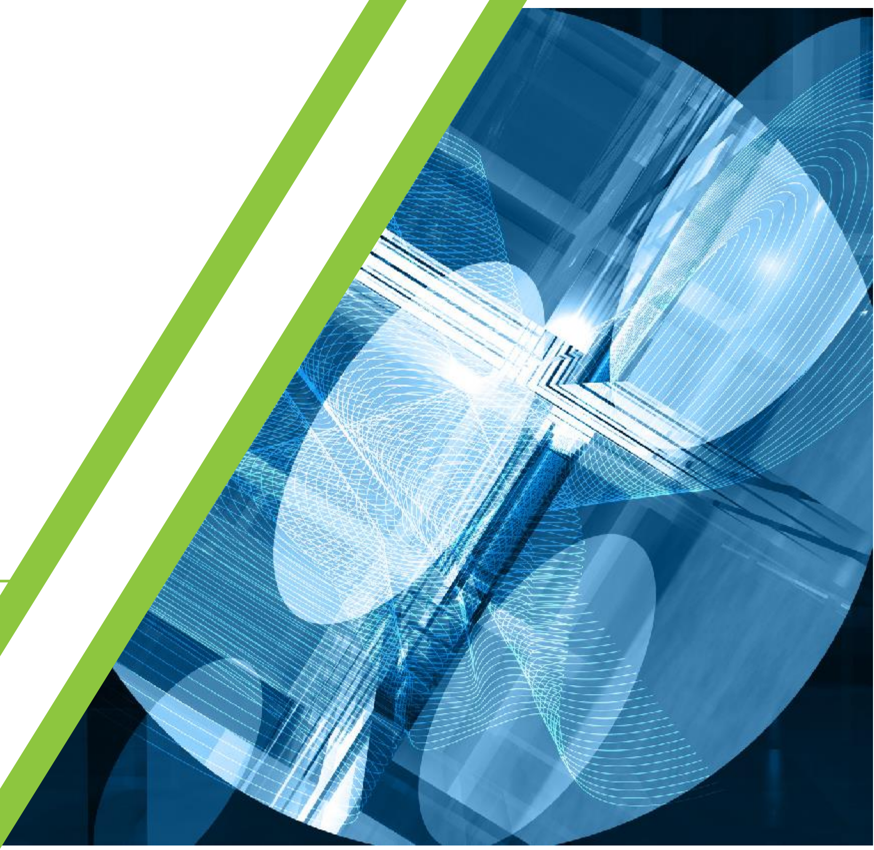
Declaration on Sovereign Wealth Funds and Recipient Country Policies



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Background Information

The Declaration on Sovereign Wealth Funds and Recipient Country Policies was adopted on 5 June 2008 on the occasion of the OECD Council Meeting at Ministerial Level. The Declaration provides high level political support for OECD guidance on recipient country policies towards Sovereign Wealth Funds (SWFs) and increases its weight as a source of international investment law. The OECD guidance helps governments reconcile the need to preserve and expand an open international investment environment with their duty to safeguard the essential security interests of people. It was developed independently from but associated to efforts at the International Monetary Fund (IMF) to develop voluntary best practices for Sovereign Wealth Funds (SWFs), which resulted in the “Santiago Principles”.

AT THE OECD MINISTERIAL COUNCIL MEETING ON 4-5 JUNE IN PARIS, MINISTERS OF OECD COUNTRIES[1]:

WELCOMED the constructive contribution that Sovereign Wealth Funds (SWFs) make to the economic development of home and host countries. To date they have been reliable, long-term, commercially-driven investors and a force for global financial stability;

RECOGNISED that if SWF investments were motivated by political rather than commercial objectives, they could be a source of concern, and that legitimate national security concerns could arise;

WELCOMED international discussions involving SWFs, their governments and recipient governments. These increase understanding, contribute to mutual trust and confidence, and help avoid protectionist responses that could undermine economic growth and development;

NOTED that the home countries of SWFs and SWFs themselves can enhance confidence by taking steps to strengthen transparency and governance in the SWFs;

SUPPORTED the work of the IMF on best practices for SWFs as an essential contribution and the continuing co-ordination between the OECD and the IMF;

NOTED that the OECD for its part has been working on best practices for recipient countries. Together the IMF and OECD will help preserve and expand an open international investment environment for SWFs while safeguarding essential security interests;

WELCOMED the Report by the OECD Investment Committee on SWFs and Recipient Country Policies, which reflects inputs from both OECD and emerging economies, and looked forward to future work, including peer monitoring of policy developments and broader consideration of foreign-government controlled investments;

BASED on this Report, Ministers endorsed the following policy principles for countries receiving SWF investments. These principles reflect long-standing OECD commitments that promote an open global investment environment. They are consistent with OECD countries' rights and obligations under the OECD investment instruments:

- Recipient countries should not erect protectionist barriers to foreign investment;
- Recipient countries should not discriminate among investors in like circumstances. Any additional investment restrictions in recipient countries should only be considered when policies of general application to both foreign and domestic investors are inadequate to address legitimate national security concerns;
- Where such national security concerns do arise, investment safeguards by recipient countries should be:
    - Transparent and predictable;
    - Proportional to clearly-identified national security risks, and
    - Subject to accountability in their application.

[1] Ministers of Chile, Estonia and Slovenia adhered to this Declaration in the name of their government on 5 June 2008.

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 460 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions** are adopted by Council and are legally binding on all Members except those which abstain at the time of adoption. They set out specific rights and obligations and may contain monitoring mechanisms.

- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.

- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.

- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

- **Arrangement, Understanding and Others**: several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.