Managing security implications of international investment:

Policy developments in a changing world

Secretariat research note

March 2024

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Governments have not had an opportunity to verify or comment on the information contained in this note. The OECD Secretariat welcomes comments and suggestions on this note at any time to complement the information of its own research and provide the most up-to-date and accurate information possible.

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The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

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Context and purpose of this note

1. International investment is widely seen as contributing to prosperity in home and host economies. For decades, most economies around the world have relied on foreign direct investment (FDI) to foster prosperity for their societies and finance their economic and social development. To attract such FDI, they have gradually opened their economies to foreign capital.

2. Recent years have however witnessed a gradual and then steep increase in government attention to national security implications that may be associated with certain international investments. Geopolitical and geo-economic developments have prompted governments to adjust their policies to address these changing security risks perceptions. Their approaches to managing the national security implications of certain foreign investments continue to evolve.

3. Ensuring that these new policies are effective, efficient, and well-designed requires engagement of expert, policymaker and stakeholder communities, reliable information, and a common understanding of problems, priorities, and principles. To help governments make informed choices for the design of todays and tomorrow's investment policies, the OECD-hosted international investment policy community convenes a conference on 13 March 2024. The conference will gather investment and security policy communities, stakeholders as well as economic actors that are potentially affected by the evolving rules. It comes fifteen years after the adoption of the Guidelines for Recipient Country Investment Policies relating to National Security (2009 Guidelines) and five years after a similar event that has informed many policy choices that countries have made since.

4. In preparation for this conference, the OECD Secretariat has collected and prepared information on policy-practice and design in this area to provide additional context and aggregate analysis of the trends in investment policies related to national security. The observations relate to a sample of 62 economies that are invited to participate in the OECD-hosted *Freedom of Investment Roundtable* unless indicated otherwise.[1]

5. This note informs discussions during the conference and focuses on several topics:

- The **factors** that have ushered in the rapid evolution of security concerns in relation to international investment (Section 1);
- How **means** that governments have adopted to manage security implications associated with certain investments, and especially the growing role of investment screening (Section 2);
- How the **scope of application** of these mechanisms has evolved (Section 3);
- To what extent this has led to **ever more transactions being considered sensitive** (Section 4);

[1] The invited economies include: Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Czechia, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, United Kingdom, United States, Uruguay, and the European Union.

- How **certain critical sectors** have come into focus in investment screening mechanisms (Section 5); and
- To what extent **the global policy response remains heterogeneous** despite some common trends and how (Section 6).

1. The environment for investment policy continues to evolve

6. Rare exceptions aside, security implications of foreign investment were a low or no priority for most economies until the first half of the 2000s. Even in 2009, when the OECD Guidelines for Recipient Country Investment Policies relating to National Security were adopted to ensure openness and transparency for foreign investment and proportionality and accountability for any measures taken to safeguard national security interests, only few countries had sophisticated instruments to manage security risks associated with inward investment and they were used very rarely if at all.

7. About a decade ago, long-term geopolitical and geo-economic changes triggered a surge of attention to security implications of certain foreign investments and international economic interaction more generally. These changes include a greater diversity of economies that participate in international investment, increasing participation of State-guided investors that pursue their sponsors' strategic objectives, a decline of the consensus on values and on rules for international economic interactions, transformational technological change, and concerns about the security of supply of essential products and services.

8. These sources of concern have brought ever more countries to establish or modernise investment review mechanisms, and the specific concerns have shaped the direction of change. Technological breakthroughs with yet unknown but likely sensitive applications, the fading of distinctions between commercial and military applications, and the growing volume of sensitive, personal data in the hands of private enterprises have brought non-traditional sectors under the scope of reviews and have lifted their traditional focus on sectors such as defence industries or sensitive real estate.

9. Many governments, especially in advanced economies, have nuanced their stance of hitherto unconditional openness to international investment. Even those that felt little exposure only a few years ago have taken a closer look at the security implications of certain foreign investment projects. The public discourse around inward investment has changed as well. While until recently, the benefits of foreign investment, openness and non-discrimination dominated the discourse around foreign investment, terms like "de-risking",[2] the need to "protect national champions", and "predatory acquisitions"[3] have entered the discourse around foreign investment. A new policy community, straddling the investment and security communities, progressively established itself in the span of a few years.

10. Policy making activity has accelerated markedly about a decade ago, has spread to additional jurisdictions, and has triggered frequent reforms in some economies (Figure 1).

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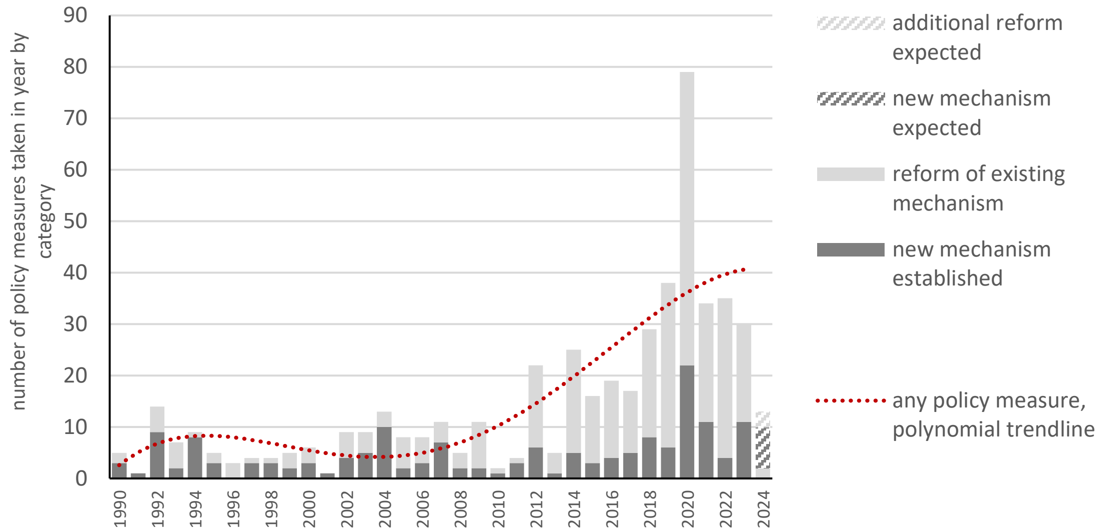
2 See e.g., Speech by EU Commission President U. von der Leyen on 30 March 2023; Remarks by the United States National Security Advisor J. Sullivan of 27 April 2023; G7 Hiroshima Leaders' Communiqué of 20 May 2023.

3 The term "predatory acquisition" is also used in the context of competition policy, to refer to external growth strategies implemented by digital companies through the acquisition of young innovative companies, or "startups" (see e.g., "Start-ups, killer acquisitions and merger control" – Note by France to Item 2 of the 133rd OECD Competition Committee meeting on 10-16 June 2020, DAF/COMP/WD(2020)16). The expression does not refer to such corporate practices in the context of this note. See e.g., the EU Commission Communication of 26 March 2020, which referred to the "predatory buying" of strategic assets by foreign investors, making the example of investments carried out with a view to limit supply to the EU market of a certain good/service.

Measured in numbers, policy changes in this area now eclipse all other policy changes related to international investment combined.[4] Recent legislative proposals and government statements about plans for policymaking indicate that policy activity will remain strong at least in the medium term.[5]

Figure 1. Introduction and reform of investment policies to safeguard national security interests in advanced and transition economies (1990-2023)



Note: Sample includes 61 economies that participate in the FOI Roundtable, an OECD hosted dialogue on international investment policy. Columns show aggregate numbers of distinct policy changes each year in any of the 61 economies in the sample. More than one measure may be counted for a given country in a year. Information for 2024 based on information available to the OECD Secretariat as of 5 March 2024 and based on official statements or informal conversations with concerned governments.

11. Crises have shaped the developments in this policy area to different degrees. The Global Financial Crisis of 2008/09 had little immediate impact on developments and, if anything, has occupied investment policymakers with managing the immediate fallout of that crisis rather than management of security implications. The COVID-19 pandemic and, to a lesser extent, Russia's war of aggression against Ukraine in turn have left a visible mark on policy making in 2020 and 2022 (Figure 2).

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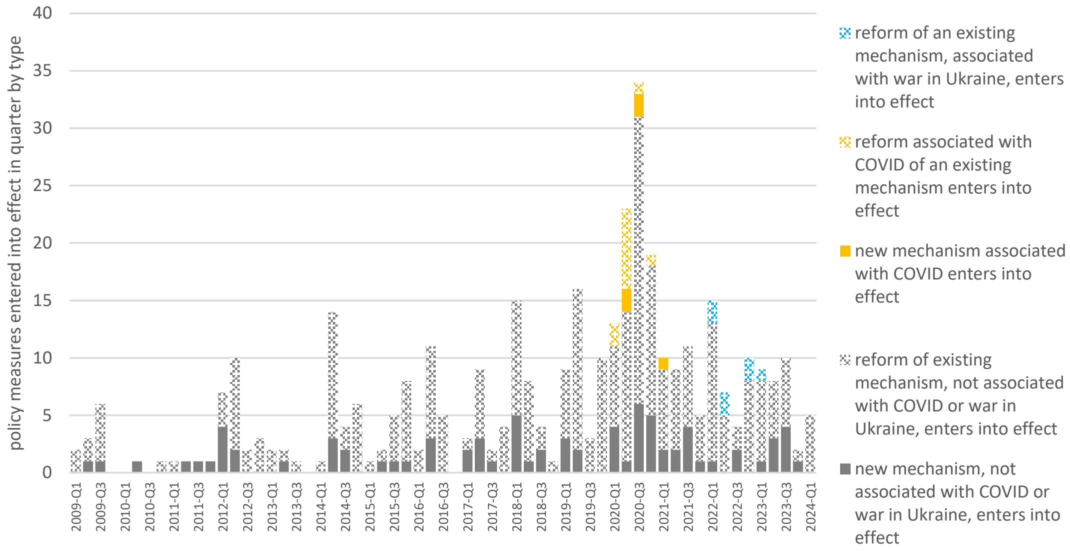
4 See detailed inventories of policy changes in over 60 economies available at www.oecd.org/investment/g20.htm.

5 For instance, in Croatia, Greece, Iceland, Korea, Norway and Switzerland.

Figure 2. Some global crises have left a visible mark on investment policies to manage essential security interests



Note: Association of policy measures to events based on official government statements. Sample includes 61 economies that participate in the Freedom of Investment Roundtable (FOI).
Source: OECD.

12. The link between economic disruption, vulnerabilities and policy-needs linked to these latter crisis was often made explicit.[6] While accentuating the sense of vulnerabilities, Russia's unprovoked war of aggression against Ukraine triggered fewer new policies than the COVID-19 pandemic. This is likely because the war of aggression caused overall less economic disruption, policies had just been strengthened and remained in place from the preceding crisis, and sectors associated with military conflict were already covered by investment policies related to national security interests in most countries.[7]

6 On 25 March 2020, the EU Commission published a Communication that provides guidance to Member States on how to achieve adequate protection of assets that are crucial for European security and public order in the context of the economic shock caused by the COVID-19 pandemic. For instance, France, Germany, Japan, Poland and Spain had made permanent changes to their investment screening mechanisms in response to the new situation. Slovenia has introduced a new review mechanism, motivated explicitly, at least in part, by the arrival of the pandemic. See OECD (2020), "*Investment screening in times of COVID-19 and beyond*".

7 Without always making explicit changes to rules and legislation, some economies announced that they would pay careful consideration to foreign acquisitions by investors controlled by or subject to influence by Russia or Belarus when implementing their investment screening mechanisms (and perhaps even more so in sectors that are currently particularly vulnerable to security risks, including the defence sector, the energy sector and dual use items technologies). Canada published a Policy Statement on 8 March 2022 in that regard and the European Commission called on all EU Member States to pay particular attention to these threats in a Communication of 6 April 2024. See OECD (2022), *International investment implications of Russia's war against Ukraine*, OECD Publishing, Paris.

2. Investment screening has become the most common means to manage security implications associated with foreign investment

13. Policies dating back a century document that governments were generally aware of possible security implications of international investment. Some of these policies were then introduced in the context of war or other crises, such as World War I and the early 1930s. Historically, different instruments were used to manage risks associated with foreign investment. These instruments include foreign ownership ceilings,[8] State-ownership of sensitive assets, golden-share arrangements, administrative authorisation requirements for acquisitions in designated asset groups, security assessments at the establishment or registration of enterprises, and investment screening mechanisms, among others.[9] In addition to these instruments that relate to ownership of sensitive assets, additional risk management tools coexist in many jurisdictions. They include licensing requirements for sensitive activities (e.g., for the provision of certain services or distribution of certain products), restrictions related to public procurement, or measures related to the eligibility for government subsidies.[10]

14. In the 61 economies that participate in the Freedom of Investment Roundtable (FOI), investment screening mechanisms, understood as implying review of individual transactions from within a class of transactions delineated by abstract criteria, dominate recent efforts to manage security implications of foreign investment. Only a few instances have been observed in which new policies introduced in recent years rely on other mechanisms than investment screening.

15. In some jurisdictions, especially those that harbour reservations about the merits of introducing investment screening mechanisms or do not currently have the capacity to dedicate resources to reform in this area, older policies remain in place. This contributes to the presence of a wide variety of approaches in the overall population of policies employed to manage security risks. The proportion of the use of individual approaches evolves quickly however, as a growing number of new screening mechanisms are brought into effect, and some older mechanisms are phased out or replaced.

16. Figure 3 shows the evolution of the relative distribution of four of the most frequent approaches to manage national security risk associated with foreign investment over three decades. It documents an earlier dominance of administrative authorisation requirements and, to a lesser extent, foreign ownership ceilings. These two approaches combined accounted for about three quarters of all mechanisms in operation during most parts of the 1990s. Recent policymaking efforts have led to a relative decline of the share of these types

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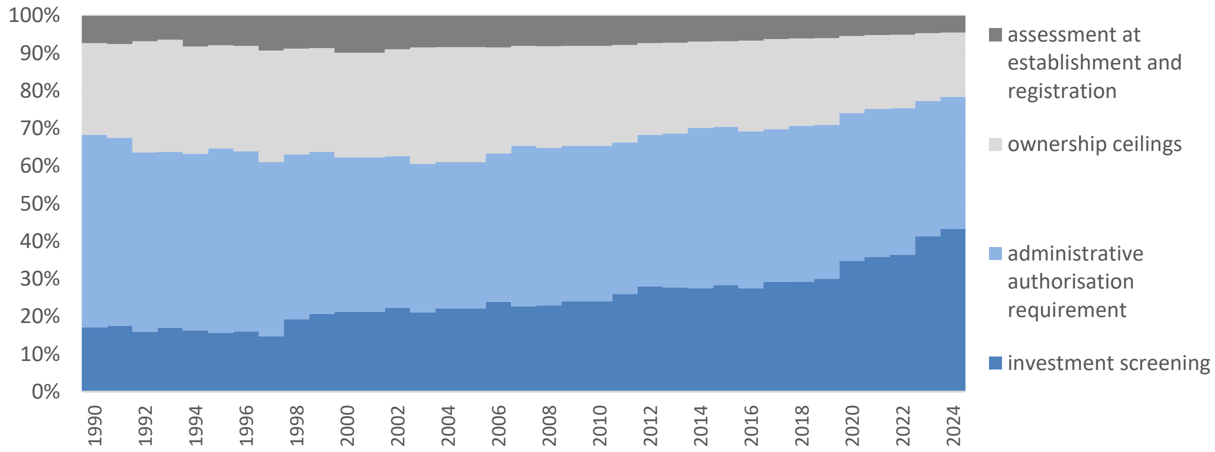
8 The term "ownership ceilings" as used here includes the prohibition of foreign investment in a given sector, as such a rule corresponds to a foreign ownership ceiling at 0%.

9 Historical examples of countries' use of these instruments are available in OECD (1980), *National Treatment and questions of public order and essential security interests*, Report by the Working Group on International Investment Policies of the Committee on International Investment and Multinational Enterprises, IME(80)10 and OECD (1985), *National Treatment: Examination of member country measures based on public order and essential security interests*, Note by the Secretariat, DAFFE/IME/84.6. More recent examples for the use of such mechanisms and references to early instruments are available in the country sections in Annex A of OECD (2020), "*Acquisition- and ownership-related policies to safeguard essential security interests*".

10 These three categories are explicitly mentioned in the List of measures reported for transparency under the OECD National Treatment instrument.

of policies, and investment screening is now the single-most frequently used type of policies to address national security concerns that are associated with certain international investments.

Figure 3. Relative frequency of mechanisms to manage security implications of foreign investment (1990-2024)

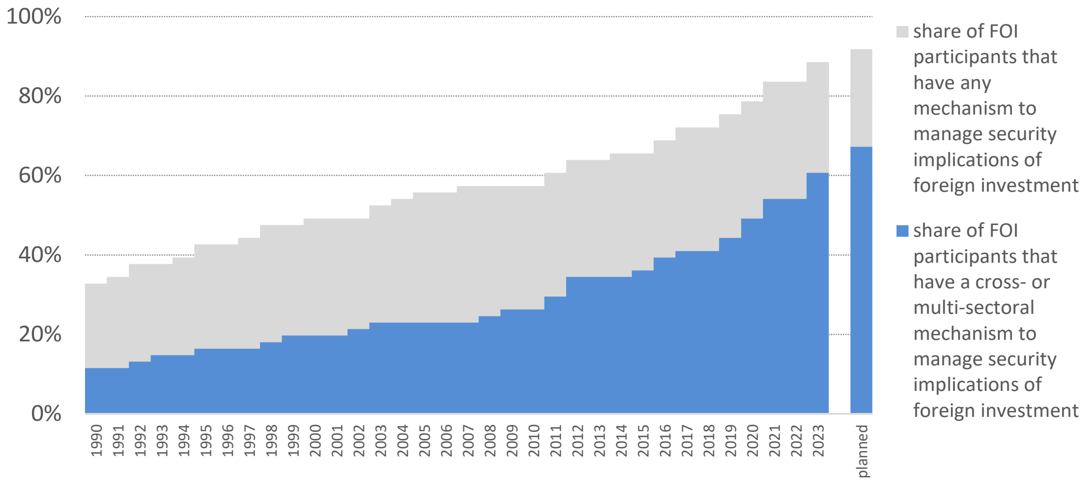


Note: Sample composed of all mechanisms in effect in the 61 economies that participate in the FOI Roundtable. Data show relative frequency of approaches, counting individual mechanisms separately; "100%" corresponds to the total number of distinct mechanisms of one of the four categories in force in a given year. Data for 2024 as of early March 2024.
Source: OECD.

3. The scope of application of investment policies related to national security has significantly broadened

17. Changes to the geopolitical and geoeconomic environment and a changing assessment of needs have led governments to broaden the scope of application of their mechanisms to manage investment-related risk. While previous mechanisms were typically sector-specific and limited to a few sectors, a greater share of economies now operate cross- or multi-sectoral screening mechanisms. The trend is observed since at least the early 1990s, has further accelerated lately, and has made the use of cross-sectoral or multi-sectoral mechanisms the norm rather than the exception as it was in the 1990s (Figure 4).

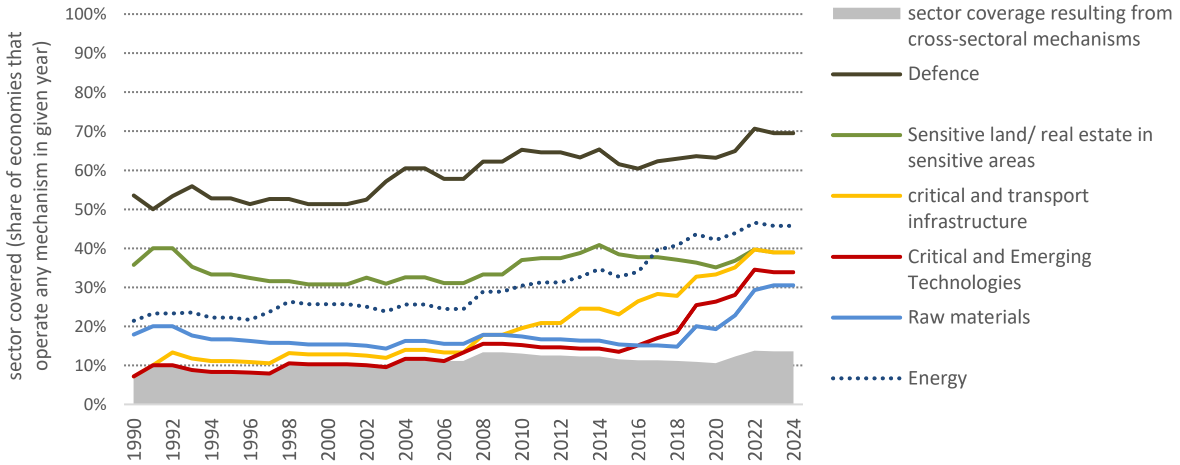
Figure 4. Share of economies that have investment policy related to national security interests in place (1990-2024)



Note: Data for the 61 economies that participate in the FOI Roundtable. A new policy is considered "planned" if a given government has indicated its intention to bring an investment policy into force in 2024 or 2025.
Source: OECD.

18. The progressive broadening of the coverage of investment review mechanisms led to the inclusion of an ever-growing list of sectors in the list of potentially sensitive assets. While in earlier decades until the 1990s, investment review mechanisms were almost exclusively focused on defence industries and real estate in sensitive locations, the coverage of these instruments diversified markedly. Critical infrastructure – where not covered by some economy-wide screening mechanisms – was separately included in the scope of some mechanisms in the beginning of the 1990s, and critical and emerging technologies appeared towards the end of the 1990s. More recently, additional sectors such as energy, raw materials and food security have been specifically mentioned ever more frequently (Figure 5).

Figure 5. Sector coverage of policies to manage security implications of foreign investment (selected sectors, 1990-2024)



Note: Graphs show aggregate occurrence of coverage of the indicated sector in investment policies related to national security interests in a given year in the subset of the 61 FOI economies that have any such policy in that year. Legislation may frame these sectors in different terms and aggregations were made to enhance readability. The grey area shows the proportion of economy-wide mechanisms which cover the indicated sectors but do not mention them specifically. Data for 2024 as of end-February 2024.
Source: OECD.

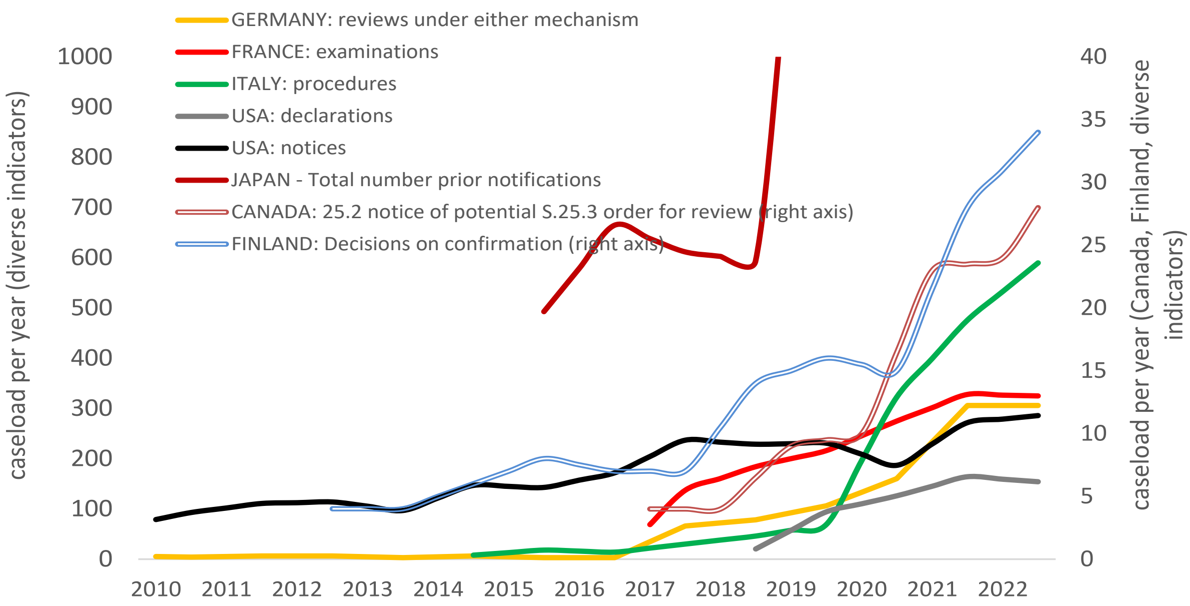
19. While some of the sectoral additions absorb risks that result from longer term processes such as privatisation of critical infrastructure, other changes reflect responses to newly identified risks. The rapid inclusion of health infrastructure and biotechnologies under the scope of mechanisms to manage security implications of foreign investment in many economies in 2020 for example was triggered by the COVID-19 pandemic.[11]

[11] See for an early analysis of the policy trends in response to the COVID-19 pandemic OECD (2020): "*Investment screening in times of COVID-19 and beyond*", OECD Policy Responses to Coronavirus (COVID-19), 7 July 2020.

4. More and more transactions are deemed sensitive and are subject to screening

20. In parallel to the introduction of new mechanisms and the expansion of their scope, the use of investment screening mechanisms has grown, partially because of the expansion of their sectoral scope and of the growing attention to certain specific sectors. Several jurisdictions that publish data on the implementation of their mechanisms have reported a rising number of transactions that are subject to screening or are notified by would-be investors under screening mechanisms. In several countries, especially in Europe but also in Japan and Canada, case numbers have started to grow after 2017, in some cases substantially (Figure 6).

Figure 6. Caseload under investment screening mechanisms (2010-2022)



Note: Time-series shown to the extent official data are made available by governments by 5 March 2024. Indicators differ and depend on data availability and are not comparable across jurisdictions. Data as reported for civil years for all countries, including those where data is reported for fiscal years that run from July to June. For better readability, data for Canada and Finland are projected against the right vertical axis. The graph for Japan is cut off at 1.000 to enhance readability of the graph overall (actual numbers for 2019: 1946, for 2020: 2171, for 2021: 2859 and for 2022: 2426).
Source: OECD based on data reported by governments.

21. The proportion of transactions subject to review as a share of all inward investment transactions has also grown in some jurisdictions for which such data are available. For example, in Finland, the share of investment proposals subject to review in overall inward investment proposals has more than tripled from 3.7% in 2017 to 12% in 2022.[12] France

[12] Parliament of Finland, "*The Government's proposal to Parliament to amend the Act on the Monitoring of Foreign Acquisitions*" (2020), p.5.

has reported a twofold increase between 2017 and 2020 from 11% to 23% before plateauing in 2021 at 20%.[13]

22. Governments have identified several reasons for this overall upward trend. These include: the broader scope of mechanisms,[14] greater knowledge of notification obligations among investors and associated greater compliance,[15] and exposure of some assets to foreign takeovers under the conditions of the COVID-19 pandemic.[16] In European Union Member States, the information-sharing under the cooperation mechanisms under EU Regulation 2019/452 has also been cited as a source of growing case numbers in some jurisdictions.[17]

23. More granular information on transactions notified to and reviewed by authorities in becoming available for ever more jurisdictions.[18] The latest data show that OECD investors represent, in absolute numbers, most cases handled under screening regimes OECD countries in 2022 (Figure 7). Most of these cases appear to be cleared by authorities with no further intervention; denial and mitigation remain rare in most OECD jurisdictions.[19]

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13 Ministère de l'Économie et des Finances, "*Les chiffres clés des IEF en 2020*", 24 March 2021. The share in total investment projects, not communicated by the Ministry in the context of the key figures is revealed in France Stratégie (2021), "*Comité de suivi et d'évaluation de la loi PACTE- Deuxième Rapport*", p.103. It is not clear how the overall annual number of FDI transactions is assessed, that is, which criteria need to be fulfilled to include a given transaction in the count of the base number of annual transactions.

14 For France, see *Fiche d'impact générale on the Décret relatif aux investissements étrangers soumis à autorisation préalable (ECOT18167RD)* (October 2018). Germany: Draft 1st Amendment of the Foreign Trade and Payments Act (AWG) (2020), p.3. The Government of Italy noted that the inclusion of certain telecommunications assets under the scope of the review mechanism had contributed to increasing caseload (*Relazione concernente l'attività svolta sulla base dei poteri speciali sugli assetti societari nei settori della difesa e della sicurezza nazionale, nonché per le attività di rilevanza strategica nei settori dell'energia, dei trasporti e delle comunicazioni (Anno 2019)*, p.18).

15 E.g. Italy (*Relazione concernente l'attività svolta sulla base dei poteri speciali sugli assetti societari nei settori della difesa e della sicurezza nazionale, nonché per le attività di rilevanza strategica nei settori dell'energia, dei trasporti e delle comunicazioni (Anno 2019)*, p.19).

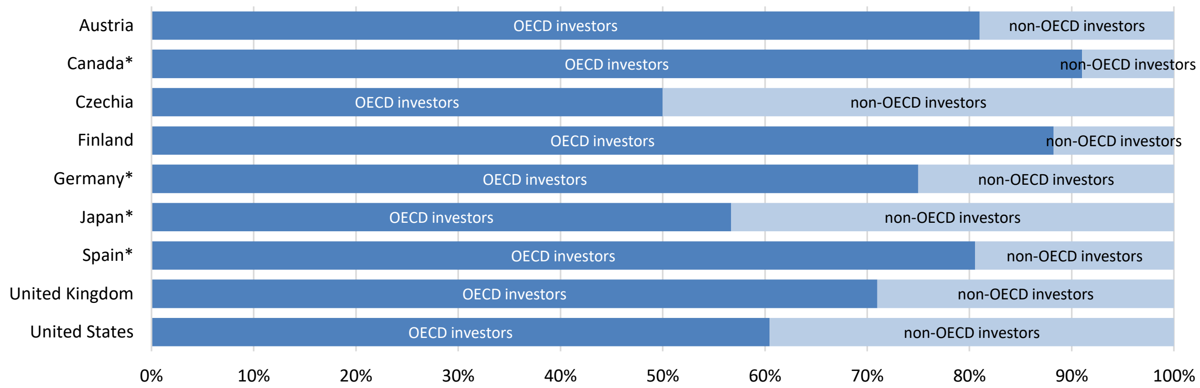
16 E.g. Italy, Presidenza del Consiglio dei Ministri, "*Relazione sulla politica dell'informazione per la sicurezza 2020*" (February 2021), p.47.

17 Bundesministerium Digitalisierung und Wirtschaftsstandort, "*Schramböck: Erste positive Bilanz nach einem Jahr Investitionskontrollgesetz und neun Monaten EU-Kooperationsmechanismus*", media release, 9 August 2021.

18 See OECD (2021), *Transparency, Predictability and Accountability for investment screening mechanisms, Research Note by the OECD Secretariat*, 27 May 2021, p. 16.

19 In 2022, the overwhelming majority of transactions subject to scrutiny appear to be authorised without conditions in most jurisdictions that report data on the implementation practice of their screening regimes (e.g., 98% in Germany, 92% in Italy, 86% in Spain and 98% in the United Kingdom).

Figure 7. Representation of nationalities of investors under investment screening: proportions of case numbers in 2022 by country group (various indicators)



Note: Indicators vary and depend on the format and content of data aggregation by reporting economies as follows: Austria: origin of investor in reviewed case; Canada: origins of investment filings; Finland: origin of notifications; Japan: prior notifications; United Kingdom: eligible transactions; United States: notices and declarations. Data on origins of investors for Canada, Germany, Japan and Spain exclude investors from unspecified EU and EEA countries due to the unavailability of disaggregated data. Numbers for the United Kingdom exclude domestic investors that are subject to the National Security Investment Act 2021; data for Austria and Japan explicitly consider beneficial ownership of investors.
Source: OECD based on official data reported by governments.

5. Recent crises brought attention to additional sectors

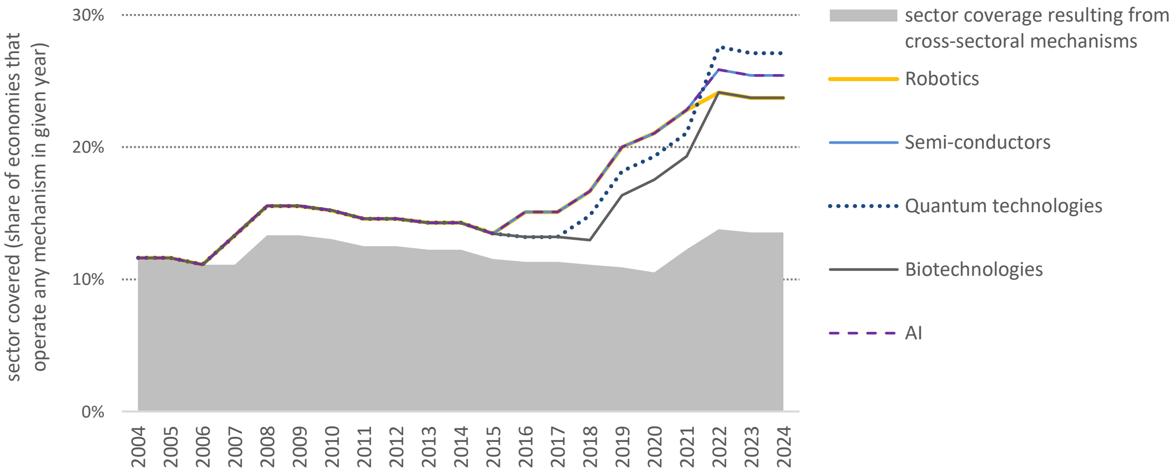
24. Recent global crises focused governments' attention on enterprises operating in certain critical sectors or globally integrated industries. This led to greater scrutiny of acquisitions of enterprises operating in critical and emerging technologies (CET) and those that supply critical inputs, such as critical raw materials, energy, and food.

5.1. Foreign investment in critical and emerging technologies

25. As early as the late 1980s, before the end of the Cold War, several OECD economies considered the security implications of foreign ownership of CET-related enterprises. They were covered by some countries' economy-wide mechanisms and appeared explicitly in investment policies related to national security as of 2006. It took until 2015 for these sectors to become more widely covered under investment screening mechanisms of a growing number of jurisdictions.

26. The frequency of inclusion of these sectors under screening mechanism in absolute and relative terms grew rapidly from 2015 onwards, and individual subsectors of CET such as artificial intelligence, semiconductors, and quantum technologies are now covered in over 25% of policies in countries that have any such policies. In about 12% of them, they are singled out specifically. Figure 8 shows a breakdown by subsector and the historical evolution since 2004.

Figure 8. Critical and emerging technologies: coverage under policies to manage security implications of foreign investment (2004-2024)



Note: Graphs show aggregate occurrence of coverage of the indicated sector in investment policies related to national security interests in a given year in the subset of the 61 FOI economies that have any policy in that year. Legislation may frame these sectors in different terms and aggregations were made to enhance readability. The grey area shows the proportion of cross-sectoral mechanisms which cover the indicated sectors but do not mention them specifically.
Source: OECD.

27. Concerns with foreign acquisitions of enterprises that research, develop, or produce CETs are also reflected in various initiatives at national and international levels. These include, at domestic level, initiatives to identify and anticipate future technologies that

warrant foreign investment control or related measures,[20] that bring advanced technologies under more stringent review,[21] or subject these technologies to specific rules and mechanisms altogether.[22] These national initiatives add to efforts to establish or strengthen international cooperation to regulate access to these technologies where they may have national security implications.[23]

28. Growing concerns about foreign access to CETs and a growing focus of acquisitions in these sectors[24] is reflected in caseload related to these sectors under investment review mechanisms as reported by governments. A similar trend is observed in jurisdictions that publish data on the number of CETs transactions that were subject to closer scrutiny or led to measures to mitigate identified security risks.[25]

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[20] For instance, lists of critical and emerging technologies presenting potential security risks were made public in the United-States and in the European Union.

[21] Under the Investment Safety Assessment Act, mergers and acquisitions (VIFO Act), the Netherlands introduced a screening framework that applies more stringent rules to operations resulting in direct or indirect possession or control of no less than 10% of the voting rights in companies active in a list of "highly sensitive technologies" annexed to the Decree on the scope of application of sensitive technology.

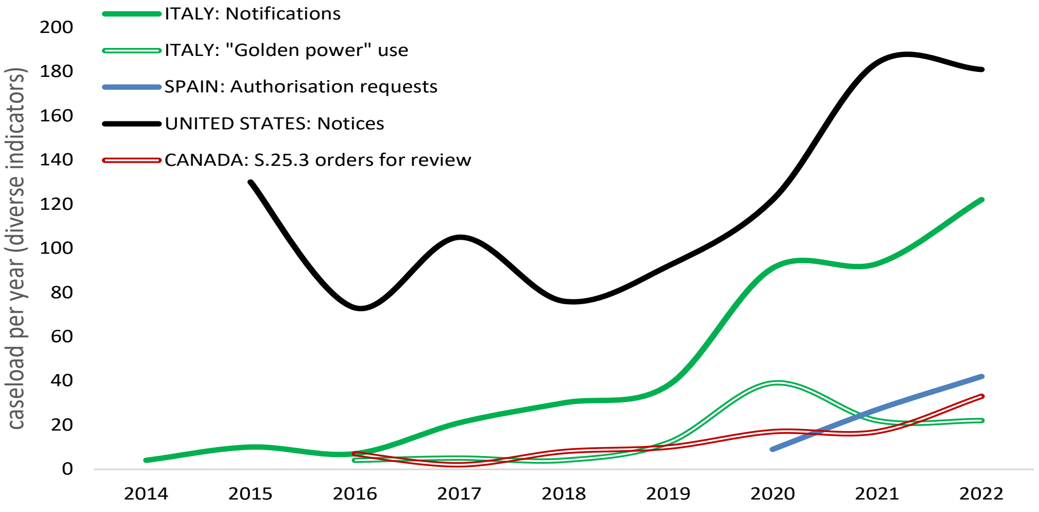
[22] Korea maintains rules under its Act on the Prevention of Divulgence and Protection of Industrial Technology which include a technology-specific mechanism to oversee foreign acquisitions of certain emerging and critical technologies. Under Executive Order 14105, the United-States recently established a new national security programme, to regulate certain U.S. investments into "countries of concern" in entities that involve sensitive technologies in three sectors: semiconductors and microelectronics, quantum information technologies, and artificial intelligence.

[23] For instance, the EU-US Trade and Technology Council, which includes foreign direct investment screening as an area of cooperation, serves as a transatlantic forum for the EU and the United States to collaborate and coordinate different approaches on key technology issues.

[24] For example, the number of CETs-related transactions in Japan rose from 1,457 CET-related notifications in 2019 to 1,782 notifications in 2022. Italy saw a thirty-fold increase of notifications related to ECT between 2014 and 2022, with only four such transactions notified in 2024, against 122 in 2022.

[25] In Canada the number of cases resulting in Section 25.3 orders grew by 400% between 2016 and 2022, from 7 cases in 2016 to 33 cases in 2022. Italy applied its "golden powers" 22 times in 2022, up from only 4 times in 2016.

Figure 9. Critical and emerging technologies: caseload under investment screening mechanisms (2014-2022)



Note: Time-series shown where official data is made available by governments by 6 March 2024. The indicators shown refer to different indicators depend on data availability and are not comparable across jurisdictions. For **Italy**, CETs include those categorised in its annual reports to the Italian Parliament as: defence technology; telecommunications; aviation and aerospace; telecommunication engineering; defence industry components; 5G technologies; pharmaceuticals and biotech; laser technologies; engineering technologies; cybersecurity; drone manufacturers; robotics; and cloud computing. For **Spain**, those categorised in its annual reports as "technology" ("*tecnología*"). CETs data considered for the **United States**, include those categorised in its CFIUS annual reports as "critical technologies". For **Canada**, CETs include those categorized in its annual reports as: communications equipment manufacturing; architectural, engineering and related services; scientific research and development services; investigation and security services; and computer systems design and related services. Data shown for Canada reflect the reporting period for the fiscal year between 1 April and 31 March. In the interest of better readability overall, the graph does not include data on Japan on transactions categorised under "cybersecurity" (actual numbers for 2019: 1457, for 2020: 1599, for 2021: 1962, and for 2022: 1782).

Source: OECD based on data reported by governments.

5.2. Resilience of supply chains

29. Since 2020, exceptional external shocks have generated supply chain disruptions of essential goods and services and have focused governments' attention on their resilience. Foreign investment can contribute to strengthening the resilience and can reduce dependencies on a small set of suppliers, a growing number of countries have begun to mobilise investment screening and similar instruments in an effort to strengthen the resilience of supply chains.

30. The inclusion of critical suppliers whose products and services are critical to national security is not new as such, as the historical focus on defence production documents. Recent shocks have however contributed to a consequential broadening of the scope of investment screening mechanism in this regard. This has manifested in two ways:

- Reforms have expanded the scope of screening mechanisms to include additional industries involved in the supply of critical inputs; and
- The resilience of critical supply chains is recognised as a risk factor that may be taken into consideration during a foreign investment review.

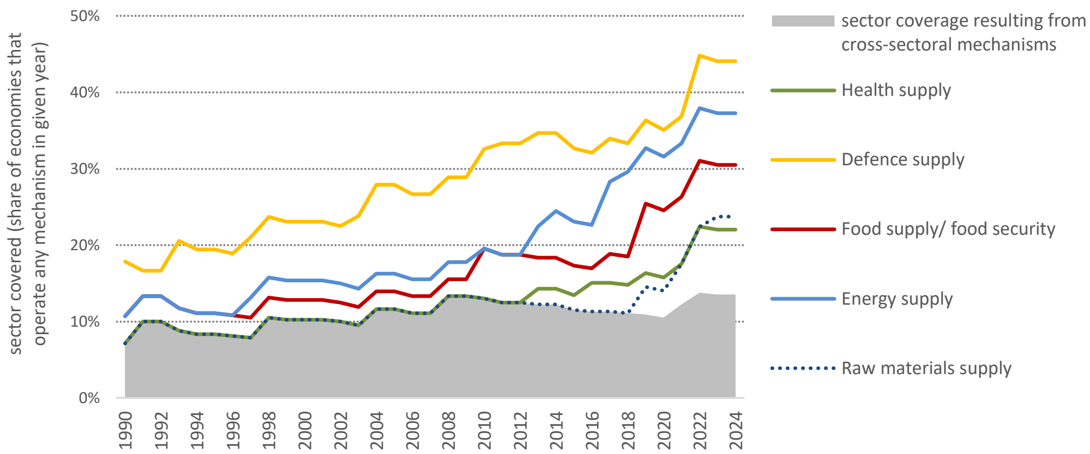
31. These policy responses have commonalities but also some structurally different considerations.

5.2.1. Watching over (more) industries to ensure the resilience of critical supply chains

32. The COVID-19 pandemic brought a reassessment of the resilience of supply chains in 2020. Medical goods and devices were in short supply and access showed to have clear implications for security interests of societies. Unforeseen shortages in other sectors and the assumption that control over ownership would strengthen their resilience have made governments expand the scope of their investment screening mechanisms to include industries whose goods and services are considered critical. These concern in particular the supply of critical raw materials, energy, food and health-related goods and services.

33. The inclusion of defence goods, energy, and food within the scope of mechanisms has steadily increased since the 1990s, while the explicit inclusion of health-related goods and services and raw materials under the sectoral scope of investment review mechanisms began to accelerate later. Figure 10 documents the relative frequency of selected areas in the coverage of investment screening mechanisms.

Figure 10. Critical inputs: coverage under policies to manage security implications of foreign investment (1990-2024)



Note: Graphs show aggregate occurrence of coverage of the indicated sector in investment policies related to national security interests in a given year in the subset of the 61 FOI economies that have any policy in that year. Legislation may frame these sectors in different terms, and aggregations were made to enhance readability. The grey area shows the proportion of cross-sectoral mechanisms which cover the indicated sectors but do not mention them specifically.
Source: OECD.

34. Until the mid-2000s, control over ownership of supply of defence goods was the dominating concern in the subgroup of sectors which were covered under investment screening policies. The application of these instruments to other areas has grown progressively. Control over the ownership of enterprises related to the resilience of supply of energy was began to raise increasing attention since 2012, and the COVID-19 crisis brought additional attention to the supply of health-related supplies.

5.2.2. Design of screening mechanisms to consider the effect of transactions on resilience and security of critical supply chains

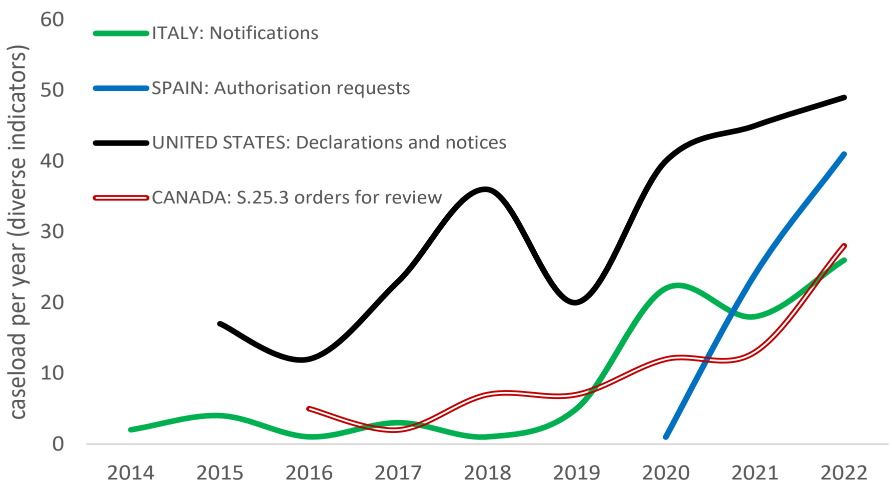
35. Besides broadening the industries, services and companies within the scope of their screening mechanisms, screening mechanisms focus increasingly on the security of supply in the application of their screening mechanisms. Specifically, screening authorities are

now expected to consider factors such as the resulting concentration of ownership or control by foreign investors in critical supply chains, the presence of alternative suppliers at national and international levels, and the security implications for supply relationships with other critical industries or government entities affected by the transaction.

36. Recent legislation in economies like Estonia, Luxembourg, Malta or Slovakia explicitly include the consideration of "supply of critical inputs" as being a factor for authorities to consider in the assessment of the security risks of a given transaction. but also The EU Regulation 2019/452 contains a similar reference. The governments of the United States and Japan, among others, have issued new policy statements or guidelines to include these considerations and to provide additional guidance on the factors that reviews need to consider.

37. The number of screened transactions in which critical inputs played a role has risen markedly over the past years, according to official government figures (Figure 11).

Figure 11. Critical inputs: caseload under investment screening mechanisms (2014-2022)



Note: Time-series shown where official government data were available by 5 March 2024. Indicators shown differ and are not comparable across jurisdictions. For the **United States**, "critical inputs" include those categorised in CFIUS annual reports as: oil and gas extraction; non-metallic mineral mining and quarrying; electric power generation, transmission and distribution; mining (except oil and gas); petroleum and coal products manufacturing; and other non-metallic mineral product manufacturing. For **Italy**, critical inputs include those categorised under energy and raw materials. For **Canada**, critical inputs include those categorised as: metal ore mining and non-metallic mineral mining and quarrying. For **Spain**, critical inputs include those categorised as "fundamental inputs" (*"insumos fundamentales"*). For **Japan** – graph not shown, see note below – critical inputs include transactions categorised under electricity/gas, etc.; oil; nuclear facilities; and metal mining etc. of critical minerals. Data as reported for civil years for all countries, including those where data is reported for fiscal years that run from July to June. Data shown for Canada reflects its reporting period between 1 April and 31 March. For better readability, the graph does not include data for Japan (numbers for 2015: 493; for 2016: 665; for 2017: 612; for 2018: 594; for 2019: 1946; for 2020: 2171; for 2021: 2859; for 2022: 2426).
Source: OECD based on data reported by governments.

38. Developments in Spain are illustrative of this trend: The government recorded just one notification related to a company involved in the supply of critical inputs in 2020, but 41 in 2022. Recorded declarations and notices for the United States in critical inputs sectors more than doubled from 20 in 2019 to 49 in 2022. In Canada, the number of critical inputs subjected to increased scrutiny under the Section 25.3 orders rose from five in 2016 to 28 in 2022.

6. The global policy response remains heterogenous, but international cooperation may change this

39. While inward investment screening emerged as the most common means to manage security risks of foreign investment, some new policies adopted in recent years reach beyond these boundaries. International investment is found to threaten national security in new ways, at least in some jurisdictions. Structurally new mechanisms to manage security risk associated with international capital flows are being introduced or considered – for example, potential controls over outward investment.[26] International research cooperation has also come under the spotlight recently, as foreign financing of research in advanced economies and inward or outward exchange of researchers can be an avenue to acquire know-how outside of commercial acquisitions.[27] Some governments have also taken *ad hoc* measures to manage security implications that are likely outside of international investment policy disciplines. These include government efforts to orchestrate acquisitions or the outright acquisition of assets by government-linked funds to prevent investments by unwanted acquirers.

40. While these structurally new approaches and the continued expansion of instruments to address perceived concerns were hitherto observed mainly in advanced economies, new policies to manage security implications of international economic transactions are observed in an ever-greater number of jurisdictions, including some emerging and developing economies (EMDEs).[28] Still, many EMDEs still rely on broad restrictions to foreign capital in certain sectors or have no policies in place to manage potential security implications of foreign investment.[29]

41. Regional disparities with respect to the presence and scope of mechanisms to manage security implications remain strong. While many economies in Europe, North America and East Asia and Oceania operate advanced review mechanisms, the use of such mechanisms is rare in Latin America, Southeast Asia or in the Middle East and North Africa (MENA).

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26 For instance, the United States recently adopted an outward investment screening regime to regulate certain U.S. investments into "countries of concern" involving three sensitive technologies. The European Union and the United Kingdom have also announced that they are considering the introduction of similar mechanisms to review certain national investments in entities involved in specific CETs for national security considerations.

27 See OECD (2021), "Managing access to AI advances to safeguard countries' essential security interests", *OECD Business and Finance Outlook 2021: AI in Business and Finance*, OECD Publishing, Paris.

28 India, Romania, Saudi Arabia, Singapore, South Africa as well as Moldova, Philippines, and Viet Nam have recently established new mechanisms or made adjustments to their existing policies to manage security risks that may arise in the context foreign investment. Reforms are also under consideration in other economies like Brazil, Bosnia and Herzegovina, Bulgaria, Croatia, and North Macedonia, for example.

29 See OECD (2023), *FDI in critical infrastructure: Supporting EMDEs in attracting more, better and safe FDI*, Policy Note, May 2023.

42. Even some advanced economies remain hesitant with respect to the necessity of broader review mechanisms,[30] the sectoral scope and trigger criteria differ,[31] and implementation practice or resources and staff allocated to this function vary.

43. The causes for this heterogeneity are rarely made explicit. Are policy choices driven by differences in risk perception, or do they result from other calculus such as diverging cost-benefit assessments? Would greater similarity or functional equivalence of policies ensure more similar conditions for international investment? What could be done to achieve greater homogeneity, and where would a consensus position likely lie?

44. The hesitation to introduce or modernise policies to manage security implications of foreign investment in some economies could stem from the association of these policies with barriers to inward FDI that many economies have reduced over the years – despite the fact that remaining barriers, including those to manage security implications, are often more restrictive than investment screening would be.

45. The merits of well-designed instruments to review foreign investment and ownership, especially in critical infrastructure, is growing.[32] Greater convergence of views among countries about the necessity and design of policies becomes more important as resilience of supply chains and dependencies cannot be adequately managed at one's own border.

46. Multilateral discussions that could shed light on the root causes of heterogeneous views and provide guidance to foster a greater convergence could lead to better collective outcomes for both international investment and security interests.[33] International cooperation may help economies identify common security interests, share information, and coordinate their action in addressing security concerns, while ensuring that international investment is not affected by a fragmentation of the legal landscape and undue barriers.

47. Several recent bilateral and multilateral initiatives seek to enhance cooperation on such concerns:

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30 Within the EU, a few Member States' authorities have expressed some scepticism about investment screening generally, emphasising the potential downsides for the attractiveness of their economies, especially when they compete for capital with non-screening countries. See OECD (2022), *Framework for Screening Foreign Direct Investment into the EU: Assessing effectiveness and efficiency*, p.7.

31 Divergence in policy designs are still important across jurisdictions: Canada, Australia and New Zealand cover greenfield investments within their screening regimes while others primarily focus on merger and acquisitions. Some countries also scrutinise operations that do not typically qualify as FDI, including loans (e.g., Denmark) , or changes in a companies' corporate organisation (e.g., Italy; Singapore), or even commercial operations (e.g., Denmark which recently reformed its screening regime to include supply contracts in connection with the "North Sea Energy Island" project).

32 The reform of the investment regime in the Philippines is an example. A significant reduction of restrictions to FDI in critical infrastructure was accompanied by the introduction of an investment screening mechanism in the Act No.11659 amending the Public Service Act (sections 16, 23 and 24).

33 The Joint Communication to the European Parliament, the European Council and the Council on "European Economic Security Strategy" of June 2023 stresses the importance of further enhancing cooperation and partnerships with other jurisdictions to preserve mutual economic security interests.

- In the EU, Regulation (EU) 2019/452 established a cooperation mechanism between EU Member States' authorities and the Commission on investments in the Union that are likely to affect security or public order. A recent proposal for reform of the framework tabled by the EU Commission formulates some policy design requirements to ensure better efficiency of the framework in preserving economic security interests within the Union.[34]
- Recognising OECD's longstanding role as a partner for Emerging and Developing Economies (EMDEs) on all continents in developing good investment policies, the OECD has prepared a strategy for action to support EMDEs in strengthening their investment frameworks to attract more, better, and safe FDI to fund their sustainable development, enhance their economic security, their resilience and generate inclusive growth.[35]
- Cooperation on economic security, whether in certain sensitive sectors or through a holistic approach, is also institutionalised through intergovernmental fora,[36] formalised in international agreements,[37] or happening through *ad hoc* bilateral exchanges.[38]

48. Multilateral policy discussions have contributed to more homogeneous polices governing international investment globally. Greater convergence of views among countries about the necessity to ensure that security interests are efficiently preserved while maintaining openness to foreign investment becomes more important as resilience of global supply chains and dependencies turn into a priority concern. EMDEs would benefit in particular from such policies as it would allow them to integrate into the world economy –

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[34] The EU Commission's proposal for a Regulation on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council proposes to improve the efficiency and effectiveness of the existing framework for FDI screening into the Union by ensuring that all EU Member States have implemented a screening mechanism and that national rules are harmonised. The proposal formulates some policy design requirements in terms of covered transactions and sectoral scope of mechanisms.

[35] OECD (2023), *FDI in critical infrastructure: Supporting EMDEs in attracting more, better and safe FDI*, Policy Note, May 2023. This strategy was prepared in the context of Japan's G7 presidency in 2023 and it was endorsed by G7 Finance Ministers and Central Bank Governors' (FMCBGs) in October 2023.

[36] The EU-US Trade and Technology Council (TTC), established in 2021, serves as a forum for the United States and the EU to coordinate approaches to key global trade, economic, and technology issues and to deepen transatlantic trade and economic relations. Key areas of cooperation include export controls, FDI screening. secure supply chains, and technology standards, including cooperation on AI.

[37] On 28 March 2023, the United States and Japan signed an agreement on Strengthening Critical Minerals Supply Chains. The Agreement formalises cooperation between the two countries on the review of foreign investments in critical minerals: "*The Parties shall confer on best practices regarding review of investments within their territories in the critical minerals sector by foreign entities for purposes of assisting a determination by the Party of the effect of such investments on its national security. When appropriate and consistent with their applicable regulatory frameworks, the Parties may notify each other of such investments*" (Article 3(5)).

[38] On 7 December 2023, the United States and Mexico signed a Memorandum of Intent that aims, *inter alia*, to establish a bilateral working group for regular exchanges of information and discussion of best practices on FDI screening for the protection of national security.

a path that may depend on their ability and willingness to manage foreign investment-related security risks in their territories.

49. Multilateral discussions and international cooperation could also foster the spread of good policy practices. The international investment policy community hosted at the OECD has for decades advocated for good policies that manage national security risks without stifling beneficial investment. In 2009, fifteen years ago, this effort resulted in the Guidelines for Recipient Country Investment Policies relating to National Security (2009 Guidelines), a Recommendation of the OECD Council that enshrines principles for the design of security-based investment policies.

50. The 2009 Guidelines provide generally that if a government introduces investment policies designed to safeguard national security, they should be guided by the principles of non-discrimination, transparency, predictability, proportionality, and accountability. The Guidelines have served as guardrails against potential overreach and sought to reconcile the important priority of openness with necessary risk mitigation. The policy principles set out in the Guidelines have shaped many countries' recently established investment screening mechanisms and underpinned efforts to modernise older mechanisms.

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