

DEVELOPING A SUSTAINABLE AND RESPONSIBLE FOREIGN DIRECT INVESTMENT STRATEGY IN FRANCE

As Foreign Direct Investment (FDI) declines worldwide due to the health and economic crisis, Europe and France are seeking to attract new investors to boost their economies. Competition between countries will be fierce. Our country has many assets that it should mobilise to attract more FDI, by favouring the long term and supporting sustainable development. Key to the success of this endeavour will be re-orienting the global and European competition and trade framework toward more sustainability.



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THE ESEC'S RECOMMENDATIONS

13 of the 18 recommendations are briefly presented below. The full recommendations can be found in the opinion.

GLOBAL REGULATIONS

➤ Recommendation 1

- Change the rules of the World Trade Organisation (WTO) to take into account social and environmental criteria in the regulation of world trade;
- Within the EU and the WTO, support on behalf of France a broad interpretation of the GATT article that allows environmental protection and respect for social rights to be included in the list of general exceptions to the principle of non-discrimination.

More than 50% of global FDI flows through tax havens. Tax avoidance, which is driving down tax rates worldwide, is taking place at the expense of public spending.

- #### ➤ Recommendation 3: Support the OECD's Base Erosion & Profit Shifting (BEPS) programme in order to have a tax framework adapted to the challenges of combating tax avoidance and evasion, and work toward this goal within the G7.

EUROPEAN REGULATIONS

The EU incorporates sustainability criteria into its trade and investment agreements. However, dispute arbitration mechanisms base their decisions on WTO rules, and often invalidate social and environmental clauses as discriminatory.

- #### ➤ Recommendation 4: As proposed by the EU, establish a Multilateral Investment Court as a single forum for investor-state dispute settlement, instead of private arbitration mechanisms. In its 2020 White Paper on Foreign Subsidies, the European Commission demonstrates that these subsidies can distort competition.
- #### ➤ Recommendation 5: Introduce EU-level reviews of asset acquisitions by foreign companies by requiring them to declare the state aid they receive, and enable the European Commission to block acquisitions.

- ▶ The InvestEU Fund promotes sustainable and innovative investments in the EU. It is in the interest of the actors concerned to join forces to obtain this support and the support of the EIB for their projects.
- ▶ Recommendation 6:
 - Taking advantage of the EU recovery plan, promote long-term, socially and environmentally responsible investments, in tandem with our European partners;
 - Recommend that French regions put together their applications with the support of Business France.

The EU Regulation establishing a framework for FDI screening encourages all Member States to adopt this type of screening mechanism in a spirit of enhanced cooperation within the EU.
- ▶ Recommendation 8: Authorise the European Commission to use data from the European data room, designed to facilitate intra-EU exchanges on FDI screening, for evaluation and statistical purposes.

Social and fiscal dumping has many negative consequences. The EU's Common Consolidated Corporate Tax Base project aims to combat these tax distortions.
- ▶ Recommendation 9: Make the adoption of the EU's Common Consolidated Corporate Tax Base (CCCTB) project a priority for the French EU Presidency.

The European Commission is due to propose a draft directive on due diligence in 2021.
- ▶ Recommendation 10: Include in the draft European directive on corporate due diligence an obligation to appoint employee directors to the board of directors or supervisory board, taking care to ensure female inclusion.

DOMESTIC REGULATIONS

Investment depends on multiple actors, fuelling criticism of the red tape and administrative complexity. To remedy this, Business France has created Team France Invest.

- ▶ Recommendation 11:
 - Improve cooperation and coordination between actors by accelerating the development of Team France Invest in the regions;
 - Encourage the national government and the regions to sign the FDI regional charter;
 - Develop a "one-stop shop" approach for FDI in each region.

Since processing times for FDI applications are longer than those of our European partners, the Hauts-de-France region has developed "contrats d'implantation" ("setup contracts").
- ▶ Recommendation 12:
 - For each project, offer a "setup contract" between the national government, the region and the investor, in return for reciprocal commitments and guarantees;
 - Encourage regions to set up a bonus system for responsible investors.

Optimising FDI requires the ability to identify, classify and analyse it. Various methods may be used, but the results are difficult to interpret.
- ▶ Recommendation 16:
 - Develop and publish comprehensive public statistics needed for FDI decision-making;
 - Establish a national database and compile national and local FDI reports;
 - Make public certain statistics on FDI screening decisions;
 - Create a national FDI library (data room).

It is important to hold a debate involving civil society as a whole on issues related to attractiveness and investment, FDI screening, vital or strategic interests, etc.
- ▶ Recommendation 17:
 - Conduct a regional study on local attractiveness, enlisting the RESECs, the local authorities and the bodies involved;
 - Organise an annual debate at the ESEC on this topic and the state of FDI;
 - Have the European ESC organise an equivalent debate at EU level.

Finally, the government has temporarily tightened the FDI screening system by lowering the threshold for prior authorisation.
- ▶ Recommendation 18: The ESEC recommends that the decision to lower the threshold for FDI screening to 10% be extended until 2023 and reviewed at that time.