Supporting Businesses and Investors

A Phased Approach of Investment Climate Policy Responses to COVID-19[1]

> ***Key Messages***: *As the COVID-19 pandemic spreads and its economic impact deepens, supporting businesses and investors requires not only fiscal and financial stimulus but also complementary investment climate policies and programs to promote the flow of productive investment. As the crisis develops and eventually subsides, measures should follow a staged approach to address the three areas of the investment climate (business regulation, competition policy, and investment policy & promotion):*
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> 1. *During the **relief** stage, policy makers concerned with investment policy should focus on supporting market functioning and firm survival via targeted services to retain investment, regulatory flexibility, and financial support. Simultaneously, governments should ensure the availability of critical supplies via mobilization and repurposing of the private sector and limited price interventions underpinned by transparency and competition principles.*
> 2. *In the **restructuring** stage, governments should focus on risk-based reopening of the economy, providing targeted support to viable firms, and strengthening insolvency regimes. They should also review and roll back select measures from the relief stage as their need expires—including crisis-related controls on FDI and exemptions from competition policy; proactively address investor grievances related to response measures; and manage the market and institutional implications of state aid, bailouts, and nationalization.*
> 3. *In the **resilient recovery** stage, policy makers should shift their focus from undoing the damage from the pandemic toward new areas of opportunity. This entails attracting and promoting FDI in light of market shifts following the pandemic and realigning policy and regulatory environments to facilitate reallocation of resources toward long-run economic transformation, job creation, and inclusion.*

Investment Climate in a Time of Unprecedented Shocks and Uncertainty

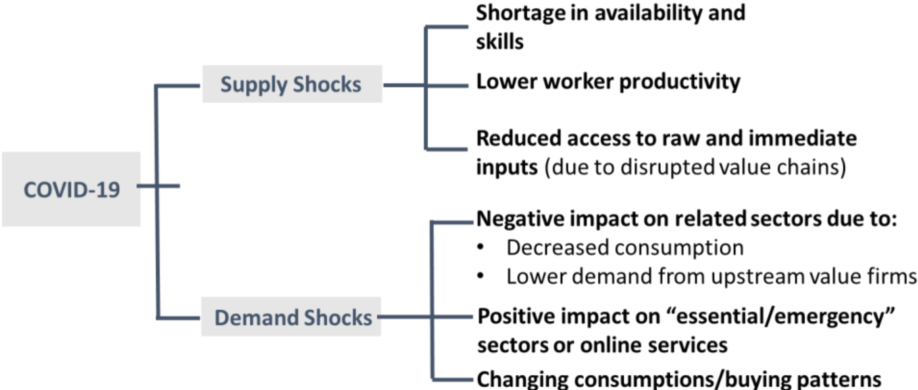
The outbreak of COVID-19 represents an unprecedented source of uncertainty that is depressing investor confidence to historic lows. COVID-19 and government measures to contain the health crisis, coupled with international production networks and globalized consumption, disrupt business activities through four distinct channels: falling demand, reduced supply, deteriorating credit conditions and liquidity, and rising uncertainty (see figure 1 for an overview of the supply and demand shocks). As workers in many parts of the world have gone into isolation, labor shortages have increased across many sectors. Temporary closures of businesses have also

[1] This note is a living document, based on the information available as of June 30, 2020. It has been prepared by the Global Investment Climate Team of the World Bank Group Equitable Growth, Finance and Institutions (EFI) Vice Presidency. Contact: Christine Zhenwei Qiang (cqiang@worldbank.org)

led to a sharp slowdown in production and disruptions in global value chains. Finally, declines in confidence and consumption demand, in part reflecting income losses due to layoffs, have led to reduced production or even closing of many plants and businesses.

Beyond overall impacts on output, the pandemic is also affecting competitive dynamics. In certain sectors, price gouging may be occurring due to the combination of a negative supply shock and a positive demand shock as governments, businesses, and consumers stockpile necessities to combat the health crisis. Such shocks may also increase the risk of anticompetitive behavior as suppliers may coordinate to disproportionally pass through price increases to final consumers or to coordinate volumes of supply.

Figure 1. COVID-19 is a supply-demand shock for all countries.



The economic effects of the pandemic may persist long after infections subside. The extent to which economies can immediately restore production hinges upon firm competitiveness and governments' ability to balance health and economic considerations while restructuring to prevent further distortions and destruction of human, organizational, and physical capital. Furthermore, the pandemic has likely amplified or accelerated shifts in global value chains (GVCs) that started before the outbreak, such as higher emphasis on resilience, sustainability, and digitalization.

Policy makers need effective strategies to preserve and improve countries' investment climates and expand the private sector's role in driving jobs and economic transformation. The crisis is disrupting the pathways through which countries achieve productivity growth—and, by extension job and wage growth—by threatening spatial integration (through disrupted international production, for example); reallocation (through reduced competitive pressure, for example); and technological upgrading (through reduced cross-border investment, for example). At the same time, the crisis provides opportunities for deeper structural change to rebuild better than before. As the pandemic breaks out, evolves, and subsides, sustaining and growing job-creating private investment requires action across three stages:[2]

- The **relief stage** requires emergency responses to the health threat posed by COVID-19 and its immediate social, economic, and financial impacts. During this stage, the focus

[2] For more information on the three stages of crisis response, refer to the World Bank Group's COVID-19 Crisis Response Approach Paper.

should be on preserving the flow of critical supplies and addressing liquidity shocks to ensure the survival of otherwise viable firms.

- The **restructuring stage** focuses on reviewing and carefully rolling back crisis response measures and minimizing distortions and disputes. Insofar as the public health situation allows, policies for the restructuring stage should focus on establishing responsible pathways for reopening, minimizing distortions from response measures, and preventing long-term economic scarring from mass bankruptcies and layoffs.
- The **resilient recovery stage** entails taking advantage of new opportunities to build a more sustainable, inclusive, and resilient future in a world changed by the pandemic. During this stage, policy makers must address new realities such as potential shifts in global value chains and digitalization. Post-pandemic trends may amplify the importance of preexisting reform priorities such as structural reforms to facilitate long-term investment competitiveness.

These three stages of response do not have absolute boundaries. They inform and interact with one another and can overlap both chronologically and in terms of types of activities. The remainder of this note summarizes complementary investment climate considerations along the three stages. It also contains tables of policy measures for each of the three stages outlining potential government responses to the COVID-19 crisis, with a focus on investment climate policies and regulations. Where relevant, the tables include policy principles in the form of do's and don'ts, drawing from lessons learned during previous crises, as well as early observations from the current one.

Stage 1: Relief

During the relief stage, investment climate policies should focus on helping firms and markets weather the immediate storm of the pandemic. Even firms with strong fundamentals may struggle to survive in the face of severe liquidity shocks. Easing general regulatory burdens, supporting otherwise solvent firms through financial support, and making efforts to retain existing investors through aftercare (post-establishment services for investors) can limit the immediate damage. At the same time, to ensure adequate supply of and access to critical supplies, governments may explore targeted price interventions and regulatory exceptions to support repurposing and coordination in the production of critical supplies.

1. Foreign direct investment (FDI) is the largest source of external finance for developing countries, and global inflows are expected to fall more than during the 2008–09 financial crisis. Retaining investment is key.

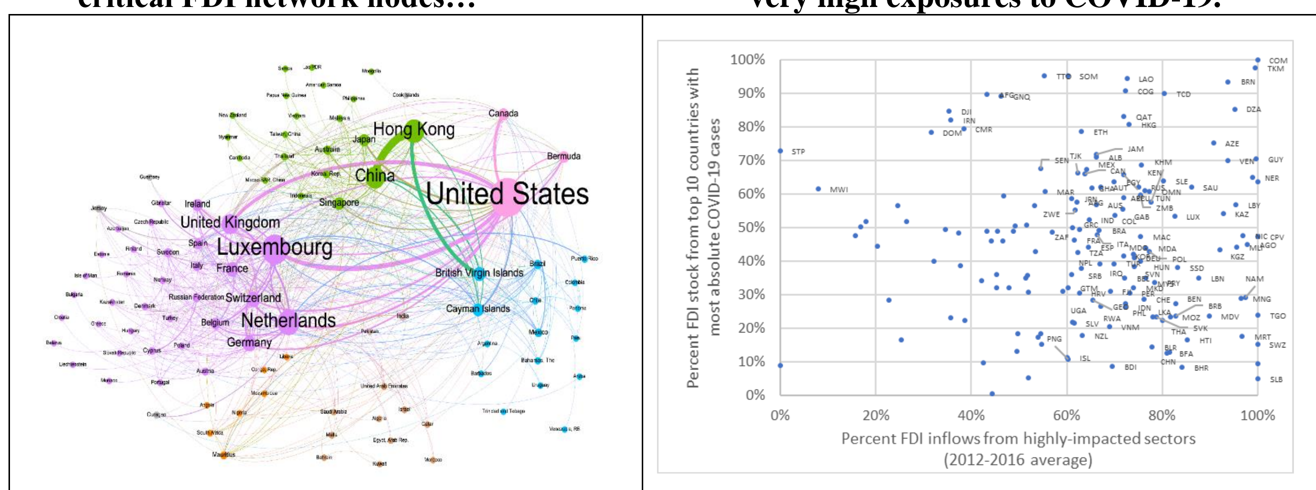
Global FDI was weak before the outbreak and the decline in FDI is expected to exceed the 2008–09 financial crisis. Three of the most affected countries and regions—China, the European Union (EU), and the United States—are among the top sources of outbound FDI, effectively reducing the global "FDI pie" given the resources they need domestically. Already, greenfield FDI project announcements in low- and middle-income host countries have declined 50 percent year-over-year for the January–April 2020 period,[3] while cross-border merger and acquisition (M&A)

[3] World Bank staff analysis based on the Financial Times' fDi Markets database.

deal flow to the same countries has dropped 54 percent in value terms year-over-year for the January–May 2020 period.[4] Looking forward, the United Nations Conference on Trade and Development (UNCTAD) estimates that COVID-19 will cause global FDI to decline about 40 percent in 2020.[5]

Countries' exposures to declining FDI depends on sector composition as well as openness (figure 2). The most affected economies are those with open economies in terms of trade and FDI; significant exporters of services; and host countries experiencing the outbreak most severely. For example, FDI flows to Brazil dropped to just US$234 million in April 2020, down from US$5.1 billion in April 2019.[6]

Figure 2. The pandemic has hit critical FDI network nodes… …and many countries have high or very high exposures to COVID-19.



Data source: Bilateral FDI database, World Bank Group Global Investment Climate unit.

Note: Left panel: Critical nodes in the global FDI network (FDI stock 2017). Bilateral FDI stock = FDI stock from country A to country B + FDI stock from country B to country A. Node size denotes the weighted degree, which is the sum of all edges connected to a node weighted by the bilateral FDI flow. The thickness of edges is proportional to bilateral FDI flow. Nodes are colored based on their World Bank region. Label size is proportional to each node's weighted degree.

Right panel: Top 10 countries with most COVID-19 cases as of March 31, 2020 are United States; Italy; Spain; China; Germany; France; Iran, Islamic Rep.; United Kingdom; Switzerland; and Turkey. Highly impacted sectors cover basic materials, consumer cyclicals (including airlines, hotels, restaurants, and leisure), energy, and industrials (including automotive and electronics), based on multinational corporations' global stock index performance in all sectors (December 2019 to March 2020). The panel uses International Organization for Standardization (ISO) country codes.

Direct impacts on FDI and value chains will be greatest in sectors such as tourism, travel, and automotive manufacturing. For example, demand for the tourism and transport sectors is particularly vulnerable to pandemics as travel restrictions, lockdowns in major tourist and business destinations, and falling consumer confidence reduce travel and dining out. This worsening

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[4] World Bank staff analysis based on Thomson Reuters M&A database.

[5] UNCTAD (United Nations Conference on Trade and Development). 2020. *World Investment Report 2020*. https://unctad.org/en/PublicationsLibrary/wir2020_en.pdf

[6] Banco Central do Brasil. 2020. External Sector Statistics. https://www.bcb.gov.br/en/statistics/externalsectorstatistics

business outlook will in turn drive reductions in FDI in these sectors. In addition, FDI in sectors such as automotives and electronics is likely to decline due to falling demand, rising uncertainty, and potential supply chain concerns. Accordingly, the world's largest multinational corporations (MNCs) in the automotive, transportation, and accommodation and food service sectors have reduced their 2020 earnings estimates by 50 percent, 63 percent, and 94 percent, on average, respectively.[7] The pandemic will also indirectly drive down FDI via reduced economic activity, and these impacts will be concentrated in cyclical industries: Demand for energy, basic materials, retail, garments, and entertainment is particularly sensitive to overall economic performance.

FDI flows to low- and middle-income countries in the Middle East and North Africa (MENA) and Sub-Saharan Africa (SSA) are most exposed to direct and indirect COVID-related risks. FDI flows into these two regions are more likely to come from highly impacted countries. In addition, economies in these two regions tend to be more natural resource-intensive; thus, reductions in resource-seeking FDI due to falling commodity prices will affect them disproportionately.

Efforts in the relief stage should focus on efforts to retain existing foreign investors and preserve supply chains connecting foreign and domestic suppliers—often small and medium enterprises (SMEs). Investment promotion agencies (IPAs) are in large part shifting their principal focus from FDI attraction to FDI retention by strengthening communication with investors about relevant government measures and bolstering aftercare services. For example, InvestKorea and InvestIndia have set up daily web-based updates on COVID-19 cases and policy responses related to foreign investors. Specific investment aftercare services include identifying and directly contacting at-risk firms according to number of employees, region, or sector; brokering solutions to their specific issues; and advocating for urgent government actions to solve these issues more systematically (to benefit other similar investors). IPAs are also taking steps to increase resilience by switching to online service delivery (Jordan) or using social media to communicate closely with investors (Ethiopia). Finally, some IPAs are facilitating the expansion of companies that receive FDI into new production lines in light of COVID-19 by supporting local suppliers' business continuity and strategic reorientation to products and services most in demand (Ethiopia).

2. Supporting the survival of viable, otherwise healthy private sector firms is vital. Governments are helping these businesses through financial support and temporary amendments to insolvency frameworks.

Governments globally have been swift in providing support to businesses. Often, the focus has been on SMEs as they are an integral part of global supply chains and exposed to ripple effects from demand and supply shocks. Many such businesses face severe cash flow issues. A disruption in consumer demand can easily tip them into the red or even bankruptcy.[8] Evidence from China shows that most of the financial pressure (62.8 percent) is from paying salaries and employee

[7] UNCTAD. 2020. *World Investment Report 2020*.
https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2769
[8] https://www.rand.org/content/dam/rand/pubs/testimonies/CT500/CT524/RAND_CT524.pdf

insurance and social security; rent and loan payments are the second and third causes of financial stress.[9] Exporters, importers, and firms integrated in global or domestic value chains are also likely to be more exposed to the shock. It is important that these firms are not left out of the support net, implicitly or explicitly, given that they normally tend to be more productive. Their loss would slow recovery and depress overall productivity. Reductions in import tariffs and non-tariff barriers could also help mitigate the immediate impact of the crisis on these firms and generally help firms further integrate with global markets.

During the COVID-19 relief stage, it is important that measures address immediate liquidity challenges, limit firm closures/bankruptcies, and prevent widespread layoffs. Government support has mostly materialized in temporary financial support packages and subsidies/state aid, but these require fiscal space and transparent rules. Based on experience with fiscal and financial stimulus packages during previous economic crises, such measures can be effective, but due to the high fiscal cost are more accessible to countries with greater fiscal space.

In addition to general fiscal and financial support, governments can issue subsidies/state aid to compensate specific firms and sectors for damages caused directly by exceptional occurrences and the restrictions imposed. Such subsidies for firms have either been targeted toward industries hit hardest (primarily air transport, tourism and retail in a number of countries) or focused on businesses of a certain size, as in France and Japan.[10] In other cases, support is not targeted per se but made conditional on certain economic outcomes (such as providing support to larger firms only if they continue making payments to suppliers). Overall, financial support should be designed in a way that avoids distorting the level playing field and creating permanent distortions across the markets by granting some market players an undue competitive advantage. Support should also be broad based, transparent, and time bound, keeping targeting to an absolute minimum.[11]

Throughout this process, governments should also support informal firms. Many low and middle-income countries already had large informal sectors before the pandemic. The pandemic-related economic contraction has led to further expansion of the informal economy as it has pushed many formal micro, small, and medium enterprises (MSMEs) into informality, leaving them with limited access to government support and increasing their instability and risk of closure. The pandemic has also generated immediate revenue losses for informal firms, jeopardizing the survival of businesses that were already vulnerable. While identifying and reaching out to informal enterprises is a daunting task for governments, relief measures should incorporate support to the informal sector, be it through one-off payments and financial support (often delivered via fintech instruments), subsidies in the form of reduced rates for mobile calls and internet access, training on digital tools for business continuity, or other measures. Importantly, such support should not be contingent on formalization for tax purposes, which would limit uptake.

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[9] https://www.mbachina.com/html/tsinghua/202002/214377.html, as cited in "Assessment of COVID-19's Impact on SMEs," Testimony presented before the US House of Representatives Small Business Committee on March 10, 2020.

[10] See the Map of Subsidies and State Aid. https://dataviz.worldbank.org/views/AID-COVID19/Overview?:embed=y&:isGuestRedirectFromVizportal=y&:display_count=n&:showAppBanner=false&:origin=viz_share_link&:showVizHome=n

[11] See Pop, Georgina, and Ana Amador. 2020. "State Aid and COVID-19: Support Now, but Bear in Mind Long-Term Effects." World Bank Private Sector Development Blog, June 16. https://blogs.worldbank.org/psd/state-aid-and-covid-19-support-now-bear-mind-long-term-effects

To facilitate the administration of support measures, governments should maintain and expand up-to-date databases in company registries on firms, including SMEs. Timely and detailed information on firms would help governments monitor the impact of COVID-19 and the ripple effects on SMEs. In turn, this knowledge would facilitate and improve allocation of support programs, ensuring that resources reach the most vulnerable and systemically important firms while also decreasing the scope for corruption. For example, Albania is establishing a Tourism Response and Recovery Task Force to create a database of all tourism-related goods and service providers, collect information on revenue and employment losses, and maintain the database as a live dashboard on a digital platform. Existing government platforms with wide coverage of firms (such as registries and data collected from one-stop shop activities) could also be used as dissemination platforms. Finally, to aid data collection, information-gathering efforts should not come with obligations to comply with regulations, which would only serve to decrease reporting.

Finally, to prevent viable firms from being prematurely pushed into insolvency, governments have also adapted their insolvency frameworks through extraordinary, time-bound measures. Past crises have shown that acute increases in corporate distress and bankruptcies among SMEs are likely—along with related job losses—.[12] In developing countries, the damage may be amplified by insolvency regimes that disproportionately result in liquidating firms—even when they are viable in the long term—and return less than 30 percent, on average, to creditors. Without intervention, even normally effective frameworks can lead to mass bankruptcies, where a flood of insolvencies could trigger fire-sales and a collapse in asset prices. To prevent this, governments have, among other measures, increased the barriers to creditor-initiated insolvency filings, including raising the debt threshold for credit-initiated bankruptcy proceedings, limiting access in personal bankruptcy systems to debtors' petitions, suspending directors' duty to file for bankruptcy upon insolvency, or suspending the personal liability of directors for a fixed time period. For example, Latvia and Turkey have suspended new filings by creditors, while Singapore, Spain, and Russia have suspended directors' obligation to file for bankruptcy. Relatedly, to the extent that governments grant loan forbearance, they should implement policies to minimize impacts on firms' credit histories and scores (such as appropriately flagging nonpayment of loans under forbearance and not treating it as an insolvency event for credit scoring purposes).

3. Regulatory flexibility helps to reduce administrative costs and support businesses in repurposing their operations to maintain production and jobs.

To complement financial and regulatory support aimed at keeping businesses afloat and workers employed, **governments around the world are also temporarily eliminating or reducing the administrative cost on businesses**. Common measures include temporarily suspending or delaying tax and social security filings;[13] waiving fees for government transactions such as licenses, registrations, or permits; and automatically extending licenses and permits for the period

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[12] See, for example, Cirmizi, Elena, Leora F. Klapper, and Mahesh Uttamchandani. "The Challenges of Bankruptcy Reform." 2010. World Bank Policy Research Working Paper 5448. http://documents1.worldbank.org/curated/en/556211468331212706/pdf/WPS5448.pdf.

[13] Countries undertaking such measures include Austria, Brazil, Canada, Chile, Colombia, France, Greece, Hungary, India, Indonesia, Israel, Italy, Lithuania, Malaysia, Portugal, Saudi Arabia, Spain, Turkey, the United Kingdom, and the United States.

of the emergency. Emergency periods also allow for greater flexibility concerning licensing and regulation of key professionals such as medical staff. In the United States, for example, occupational licensing laws can be suspended in emergency situations. Nineteen US states have already passed measures ranging from recognition of licenses of health care practitioners from other states to extending renewal requirements.[14]

Some businesses are repurposing their production lines to supply critical materials; regulatory authorities need to strike a balance to support them as they make these shifts. Companies are reacting in different ways to ensure business continuity, improve the resilience of their supply chains, and pivot to innovative ways to generate revenue. One measure that can be observed across industries and countries is companies repurposing their production and research and development (R&D) capabilities to support the fight against COVID-19. For example, textile companies are switching production lines from producing garments to making hygienic masks and medical robes; cosmetic companies are making hand sanitizers; hotels are becoming quarantine centers; distilleries are creating disinfecting alcohol; and automotive companies are evaluating options to producing urgently needed medical devices such as ventilators. Governments are supporting these efforts through greater regulatory flexibility. Bangladesh, for example, waived the requirement for companies to adjust the Memorandum of Association to expand production lines and address market shortages of essential goods.

Repurposing can simultaneously serve the greater good and help businesses keep production lines up and running in times of low demand, generate moderate revenues, and enhance their reputation. There are different levels of repurposing, ranging from production of simple products to more advanced medical devices. Building up capacity and capabilities to produce simple products is comparably easy and can be achieved quickly. In several cases, MNCs are leveraging their existing supplier base to avoid lengthy qualification and onboarding processes, while maintaining jobs for these suppliers. For more complex products, receiving regulatory approval is the key challenge. Authorities need to strike a balance between regulatory requirements to protect health and safety and regulatory flexibility to meet medical demand and support repurposing businesses. Coordination is also key: There is a risk of too many firms rushing into repurposing product lines when only a small number of firms and countries are well positioned to make the switch on time.

Temporary flexibility in antitrust enforcement to address the crisis should not be used to cover up anticompetitive behavior. Whether in merger transactions or cooperation among competitors, reduced levels of scrutiny or potential exemptions should be granted only to the extent that they address the emergency situation. For example, coordination about future commercial strategies or market sharing for nonessential goods and services should be deterred and prosecuted, if needed.

4. Governments are monitoring markets for critical supplies and, in some cases, taking exceptional measures to ensure access to supplies. Transparency and competition principles remain important.

[14] https://www.ncsl.org/research/labor-and-employment/covid-19-occupational-licensing-in-public-emergencies.aspx

Governments may impose price controls to mitigate exceptional price hikes due to COVID-19, but these measures should not deter the supply of critical inputs and goods. Price controls on health care supplies such as masks and hand sanitizer have been imposed in several countries such as Argentina, El Salvador, France, Paraguay, the Philippines, and Romania. Argentina, the Philippines, Romania, and South Africa have also imposed price caps on certain food products. When implementing price controls, governments typically face challenges in differentiating between markets that could be supplied under prevailing market conditions and those that may merit short-term control depending on the circumstances. Price controls might deter the supply of goods at the exact time they are in exceptionally high demand and discourage exceptional efforts to bring goods into areas where they are most needed. Finally, they can later constitute a reference price for collusion. If price controls are still deemed necessary, prices should be set by regulators independently from producers, be time bound, and be reviewed periodically. Setting price ceilings also allows for more competition than fixed prices.[15]

Actions against price gouging can have a similar effect as price controls but need to be taken with utmost care. Price gouging is being monitored and, in some cases, investigated. China, Poland, and the United Kingdom have initiated actions against price gouging through investigations and monitoring efforts. In China and the United States, e-commerce platforms have voluntarily been monitoring prices of goods such as protective gear and hand sanitizer. Platforms have also started to remove listings and even ban sales of certain products like face masks and sanitizer. The Italian Competition Authority has launched an investigation of Amazon and eBay related to the unjustified and substantial increase in prices recorded for the sale of hand sanitizing products, respiratory protection masks, and other sanitation products.

Enforcement against cartels and investigations of dominant firms' practices remain critical during and after emergency situations. Provisions to prevent dominant firms from refusing to supply and from forcing bundling of products may be important to ensure access to critical supplies. Although several countries announced they would allow for information sharing (United Kingdom—logistics between supermarkets), cooperation (Germany), or collaboration among competitors for urgent marketplace issues (Canada), authorities can reinforce their efforts to detect any evidence of coordinated price fixing, output restriction, bid rigging, or market allocation for goods and services that are either affected by supply chain disruption and/or face higher demand. Competition authorities are now publicly announcing greater vigilance—a powerful deterrent to anticompetitive practices (United States)—or opening investigations in health care markets (Greece). Similarly, governments should monitor and address how various technological platforms may use data gathered in the course of their public efforts to tackle COVID-19 (such as data about citizen behavior) to reinforce their dominance. To limit anticompetitive effects, authorities could place restrictions on commercial use of such data or ensure that it is shared through open access initiatives.

Finally, governments may explore temporarily expediting procurement procedures to aid their procurement of critical supplies, but these measures should be time limited and adhere to competitive principles as much as possible. According to guidelines set by the Organisation

[15] See Goodwin, Tanja, and Georgina Pop. 2020. "Flatten the Coronavirus Curve, but Don't Flatline Competition." World Bank Private Sector Development Blog, April 21. https://blogs.worldbank.org/psd/flatten-coronavirus-curve-dont-flatline-competition.

for Economic Co-operation and Development (OECD) and the World Bank Group, during emergencies, accelerated procurement procedures may involve shortened procurement timetables for competitive procedures and increased thresholds for noncompetitive procedures. Such procedures may involve measures that increase participation by smaller competitors. These include higher levels of advance payments; easing the administrative burdens of participation as regards with proofs of eligibility; simplification of qualification criteria; and adjustments to internal procedures to expedite contract review and reporting, among others. Chile is aiming to pay its providers in less than the 30 days established by law, and New Zealand announced a 10-day payment target. Accountability and transparency in accelerated procurement process is important. The additional risk of bid rigging that emergency situations generate should always be considered. In addition, to avoid the crisis being used as a pretext to permanently override procurement safeguards, such measures should have clear sunset clauses.[16]

Table 1. Investment Climate Policy Measures for the Relief Stage

Policy Actions	Do's and Don'ts
Support efforts to retain FDI and preserve supply chains	
• Pursue a targeted "investor retention initiative" to identify key FDI firms (to avoid permanent closure or for reinvestment) and their key local suppliers (to support their survival). • Grant waivers from market restrictions (e.g. allowing FDI/joint ventures in selected segments, allowing investment in SEZ/EPZs for local supply). • Ease entry restrictions in sectors most affected by the crisis (e.g. travel, tourism, energy, health).	• **Do:** Identify and contact highest-risk FDI firms (by level of employment, region, products) and solve their issues proactively.
Provide subsidies/state aid[a] and adjust insolvency frameworks to aid business survival	
• Design and allocate subsidies/state aid programs in line with competition principles. • Provide targeted grants and investment incentives (specific to key sectors, activities, and public objectives). • Collect up-to-date data on firms, including SMEs, to facilitate and optimize allocation of support programs and monitor the impact of COVID-19. • Provide information on measures introduced to preserve jobs and businesses, as well as integrated online platforms/services. • Adapt insolvency frameworks to prevent viable firms from prematurely being pushed into insolvency.	• **Do:** Make support available for a broad set of companies based on objective criteria. • **Do:** Make sure that measures are rapid, transparent, and time bound. • **Do:** Establish clear, objective criteria for state support around economic rationale and conditions for recapitalization. • **Don't:** Make aid available to failing firms with structural issues not related to the crisis.
Promote regulatory flexibility to reduce costs and support repurposing businesses	

[16] See Goodwin, Tanja, and Georgina Pop. 2020. "Flatten the Coronavirus Curve, but Don't Flatline Competition." World Bank Private Sector Development Blog, April 21. https://blogs.worldbank.org/psd/flatten-coronavirus-curve-dont-flatline-competition.

• Waive, freeze, reduce, or delay fees (e.g. registration, licensing, work permit, customs documents, tourism fees, penalties for late filing, land use fees, land transfer fees, utility bills). • Extend filing deadlines (e.g. tax and social security filing, business licenses and permits, financial statement submission). • Simplify professional licensing/accreditation/visa and work permits for doctors, nurses, and health care professionals. • Waive licensing requirements/speed up approvals for manufacturers of health-emergency/"essential" products (e.g. masks, sanitizers, medical robes) to respond to demand).	• **Do:** Adjust time frames and encourage electronic filings. • **Do:** Strike a balance among regulatory requirements for health, safety, and regulatory flexibility to meet medical demand and support repurposing businesses.
Ensure access to critical inputs/supplies	
• Enact and monitor price controls • Monitor (and if warrantied, investigate) price gouging and cartel behavior. • Explore limited, time-bound exceptions to public procurement laws to aid government access to critical supplies (e.g., shortened procurement timetables, increased thresholds for noncompetitive procedures, larger advance payments).	• **Do:** Establish temporary maximums on prices. • **Do:** Maintain vigilance over and/or continue investigations of anticompetitive behavior in sensitive product markets. • **Do:** Enact sunset clauses for competition and procurement exceptions. • **Don't**: Support fixed prices for an open-ended period.

Note: EPZ = export processing zones; FDI = foreign direct investment; SMEs = small and medium enterprises; SPZ = special economic zones.

a. Subsidies/state aid are different from general financial support measures. They do not cover general economic measures directed to the entire economy or to a region (such as tax measures, regulation of interest rates) or to individuals (such as provision of cash/checks to unemployed people). In the EU, for example, the notion of state aid covers financial assistance to a particular undertaking or undertakings resulting in a competitive advantage that tilts the playing field and adversely affects trade. In the framework of the World Trade Organization (WTO), a subsidy has been defined as a financial contribution by a government or any public body that confers a benefit to a specific recipient.

Stage 2: Restructuring

As the health crisis subsides, policy makers should shift toward limiting long-term damage to the economy by carefully reopening and addressing distortions related to the pandemic and government responses. This restructuring stage entails carefully balancing health and economic considerations in reopening the economy, accelerating digitalization, taking a more targeted approach to firm support, and rolling back crisis-related restrictions to FDI and exceptions to competition policy. Governments should also revamp insolvency frameworks to prevent "zombie" firms from dragging down the economy. Finally, governments need to address investor grievances that may have arisen from their responses during the relief stage.

1. Governments should manage the reopening of the economy based on risk profiling and support it by accelerating digitization.

As economies are preparing to reopen their economies after prolonged lockdowns, key principles for effective business regulation apply, including taking a transparent, risk-based approach and minimizing excessive regulatory burden. Some governments are regulating the scope and pace of reopening in phases based on risk profiling and economic relevance by sector, location, firm characteristics, or a combination thereof. Risk criteria are based mainly on the likelihood of contagion. They include density of workers, degree of "digitization" of the sector or aptness for telework, and compliance with new health and safety regulations by individual businesses. For example, Shanghai prioritized the reopening of businesses with (1) an impact on city development and daily needs; (2) large contributions to the area economy; (3) positions of core management and skilled front-line operators; (4) enough customer orders, and (5) strong methods to prevent further outbreaks of COVID-19.

Mitigation measures by governments include spacing out business hours, and allowing parts of buildings or areas to be occupied, as well as supporting firms' compliance through the provision or subsidizing of protective equipment such as masks and sanitizers. In Shanghai, the city issued guidelines to adjust resumption of business activities based on the "less contact, less aggregation" principle. Building managers were encouraged to stagger commuting times by region, department, floor, and unit. Depending on the business activity, shift work or telework was encouraged (for the manufacturing and information technology sectors, respectively), or opening hours were restricted (for example, domestic services such as house cleaning).[17]

To preserve flexibility immediately after the relief stage, governments should carefully consider when and whether to reverse temporary business regulation measures. While some of these measures (which include waivers, freezes, delays, or extensions of various business registration, approval, or licensing requirements) will need to be phased out, the aim should be to keep the operational costs for businesses as low as possible. At the same time, experiences with regulatory simplification and reduction of administrative burden during the crisis may serve as stimulus and pilots for useful reforms to support efficient business entry, operations, and exit. Governments in several countries, such as the Philippines, are applying good regulatory principles in crisis response measures with a view of making those permanent and sustainable for a better business environment in the long term.

The COVID-19 crisis has accelerated an overall trend toward the digital economy and services. Governments that have invested in administrative simplification and transitioned to digital government-to-business (G2B) service have been better positioned to continue functioning and implement policy responses through lockdowns and reopening. Countries such as Greece and Israel are using the crisis to fast-track the government digitization agenda, focusing on inter-agency information gateways and business-centric government service platforms. To continue to function in a context of social distancing and gradual reopening of the economy, the regulatory readiness for digital G2B services should be improved by adopting regulations that support virtual interactions, e-transactions, and digital documentation. For example, in Morocco, authorities are

[17] New Culture News. "Notice on Encouraging Staggering Rush Hour Commutes." https://baijiahao.baidu.com/s?id=1658039019618568131&wfr=spider&for=pc

planning to introduce a bill to allow public limited companies to hold virtual meetings of shareholders, particularly with regard to the closing of financial accounts.

2. **During the restructuring phase, while financial support may continue to be necessary, governments should promote reallocation of resources toward productive businesses by focusing support on viable firms—including new firms—while allowing less productive businesses to exit efficiently.**

Compared to the relief stage, financial support during the restructuring stage should be more targeted to support growth-oriented enterprises (including start-ups) and promote reallocation of resources to more efficient companies and sustainable activities. To the extent that COVID-19 impacts continue to threaten the survival of otherwise viable, productive firms, financial support may continue. However, measures that risk propping up declining industries or unviable firms should be avoided. In addition, as countries and markets shift toward low-carbon and renewable energy to support climate adaptation and mitigation, it will be important not to slow this shift by subsidizing energy-inefficient industries with limited long-term viability. Finally, monitoring and collecting information on subsidy/state aid beneficiaries and implementing exit strategies from support programs will be required to level the playing field.

Simultaneously, governments should review and adjust insolvency frameworks to facilitate the orderly exit of companies with limited long-term potential. Whereas the focus in the relief stage is on limiting bankruptcies, government responses during the restructuring stage must address the increased number of firms that will not survive the crisis without going through insolvency processes, even as economic conditions improve.[18] In this stage, governments should ensure the smooth functioning of workouts and debt-restructuring mechanisms to minimize the number of "zombie" firms and free up resources to be reallocated toward productive uses. To that end, countries may establish informal out-of-court or hybrid workout frameworks, extend procedural deadlines for a limited time, suspend requirements to proceed to liquidation if the business activity of the debtor has stopped while undergoing reorganization, and encourage e-fillings, virtual court hearings, and out-of-court solutions.

3. **Temporary measures in the form of crisis-related controls on FDI and exemptions on competition policy and enforcement should be reversed.**

To protect their health sector and other sectors considered essential or critical in the crisis, several countries have tightened foreign investment screening mechanisms or introduced new regulations. For example, the Canadian government announced in April 2020 "enhanced scrutiny" of "foreign direct investments of any value, controlling or non-controlling, in Canadian businesses that are related to public health or involved in the supply of critical goods and services

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[18] Pazarbasioglu, Ceyla, and Alfonso Garcia Mora. 2020. "Strengthen Insolvency Frameworks to Save Firms and Boost Economic Recovery." World Bank Voices, May 18. https://blogs.worldbank.org/voices/strengthen-insolvency-frameworks-save-firms-and-boost-economic-recovery

to Canadians or to the Government."[19] Similarly, the European Commission in March 2020 issued a Guidance to Member States urging them to "make full use" of existing FDI screening mechanisms "to take fully into account the risks to critical health infrastructures, supply of critical inputs, and other critical sectors" or "to set up a full-fledged screening mechanism" if a Member State does not already have one in place.[20]

To reduce negative impacts on FDI flows, governments should consider limiting and phasing out crisis-related screening mechanisms during the restructuring stage.[21] Screening should be limited to a handful of sectors that can genuinely be considered "strategic" or "sensitive." These concepts (strategic, sensitive, critical, essential, and so one) should be defined in ways that are clear and differentiated, but not too broad or all-encompassing. Processes should be made transparent and efficient, including the use of objective criteria in screening projects; the use of a recourse mechanism for investors whose applications are denied; and the use of negative lists and standard operating procedures for agencies conducting the screening or review. In addition, time limits for the policy measures should be clearly outlined, such as in the form of "sunset clauses." Otherwise, there may be the risk that temporary measures become permanent and institutionalized.

Similarly, temporary exemptions from competition law enforcement should be gradually reverted and the scope of the competition law reaffirmed. As the extraordinary stresses on supply chains and demand subside during the restructuring phase, the case for price controls or antitrust exemptions will weaken, and competitive markets will once again function properly. Thus, governments should monitor supply and demand in markets subject to these extraordinary measures, establishing and following through on thresholds for returning to normal market functioning and regulation.

In the restructuring stage, industry consolidation and an increase in merger activities may arise. Merger applicants might argue that in the absence of the proposed deal, the target company would become insolvent and exit. Regulators and competition authorities are expected to be less strict or to speed up the merger reviews. China announced it would improve efficiency in the review of mergers filed under a simplified procedure, suggesting that such mergers would be approved more quickly to help the economic recovery.[22]

Merger transactions should be reviewed carefully to avoid concentration of market structures that unintentionally and irreversibly reduce contestability. Merger review should carefully consider financial distress of target firms. While in some sectors, rapid consolidation may

[19] Government of Canada, Investment Review Division of Innovation, Science and Economic Development Canada. 2020. "Policy Statement on Foreign Investment Review and COVID-19." April 18. https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/lk81224.html

[20] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0326(03)&from=GA

[21] Mistura, Fernando, and Caroline Roulet. 2019. "The Determinants of Foreign Direct Investment: Do Statutory Restrictions Matter?'' OECD Working Papers on International Investment 2019/01, OECD Publishing. (Among other issues, screening increases red tape, is often opaque or un-transparent as not based on objective criteria, and it can generate delays and costs for investment project implementation or just dissuade some foreign investors from investing into the country)

[22] See Nieuwmeyer, Roderick. 2020. CMS. "While Doctors Fight COVID-19, Authorities Battle Fraud, Price Hikes and Unfair Competition." https://cms.law/en/nld/publication/while-doctors-fight-covid-19-authorities-battle-fraud-price-hikes-and-unfair-competition

be essential to guarantee stability (such as the banking sector) and sustainability (such as tourism operators) or to address supply chain vulnerability, other sectors may return to precrisis levels of demand as the crisis situation eases. In reviewing and clearing mergers, competition authorities should distinguish between permanent shifts in industry features and demand, which may warrant new market structures, and temporary COVID-related distortions, which are insufficient to justify long-term consolidation.

Finally, governments should continue to review expedited procurement policies for the acquisition of essential supplies to better incorporate competitive mechanisms. Governments should establish time limits on the use of accelerated procurement processes if they were not set during the relief stage and carefully scrutinize any proposals to extend previously set timelines. Governments should continuously assess the feasibility of returning to normal procurement procedures even before the set time limits pass and act decisively to restore standard procedures as necessary.

4. Pandemic-related response measures may cause grievances that lead to costly investor-state disputes. Timely risk assessments and investor grievance mechanisms are essential to prevent these disputes.

COVID-19-related response measures during the relief phase may cause investor grievances and create a risk for governments to be subject to investor-state disputes. A wide array of emergency interventions and measures—whether related to health, finance, or trade—may have impaired foreign investors' business operations. These measures include forced business closures, suspensions of the collection of fees, travel restrictions, targeted support programs, temporary nationalizations, export bans, or reorganizations of health or social networks. For example, Spain's government took over the management of private health care companies and hospitals until the end of the crisis.[23] Russia, the world's top wheat exporter, imposed a 10-day ban on the export of buckwheat and rice .[24] Peru issued a government measure that suspended the collection of fees on privately run national toll roads to promote the free movement of key goods and workers within the country.[25] Notwithstanding their legitimacy, these measures can impede both domestic and foreign businesses by reducing profitability, delaying operations, or excluding them from government benefits that other businesses in similar circumstances may have received.

In some cases, such measures can come under challenge in investor-state arbitration provided under investor-state dispute settlement (ISDS) provisions. Such ISDS provisions are found in most international investment agreements (IIAs), and in some cases, in domestic investment laws or in contracts. A foreign investor can bring an ISDS claim asserting that a state's measure breached

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[23] Matthews, David. 2020. "Spain Nationalizes Private Hospitals to Combat Coronavirus Outbreak." *Daily News,* March 16. https://www.nydailynews.com/coronavirus/ny-coronavirus-spain-privatizes-hospitals-outbreak-20200316-4nhlxyvs3jhfxhxw7wgjbore3y-story.html.

[24] Medetsky, Anatoly. 2020. "Virus Puts Risk of Russian Wheat-Export Curbs Back in Focus." Bloomberg, March 25. https://www.bloomberg.com/news/articles/2020-03-25/virusputs-threat-of-russian-wheat-export-curbs-back-in-focus

[25] See, for example, Sanderson, Cosmo 2020. "Peru Warned of Potential ICSID Claims over Covid-19 Measures." *Global Arbitration Review,* April 9. https://globalarbitrationreview.com/article/1225319/peru-warned-of-potential-icsid-claims-over-covid-19-measures

one or more of the protections owed by the state to the investor under the treaty and ask for compensation.[26] In several countries, warnings have already been raised that COVID-19-related government measures may be challenged before an ISDS tribunal by foreign investors. In Mexico, for example, concerns are being raised about a resolution that allows reductions in the operation of intermittent electricity generation facilities in order to provide grid stability to the National Electric System. The measure has been criticized due to potential discriminatory effects against both foreign and domestic private operators, especially renewable energy producers, vis-à-vis the state-owned Federal Electricity Commission (Comisión Federal de Electricidad, CFE), and because the enactment allegedly violated due process and public consultation rules.[27] Foreign investors may choose to file arbitration claims under the more than 20 bilateral investment treaties ratified by Mexico, and also under multilateral investment treaties including the North American Free Trade Agreement (NAFTA)–United States-Mexico-Canada Agreement (USMCA) or the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Risk assessment of exposure to state obligations and investor grievance mechanisms may help prevent investor-state disputes due to emergency measures. Ideally every measure passed by governments as part of a COVID-19 emergency response should be reviewed as for its compliance with the country's obligations under IIAs, its investment law, and specific contracts. However, due to the urgency of crisis response measures and the fact that the involved agencies may not be aware of these obligations, such review is often not possible during the relief phase, especially in countries with limited capacity.

As a second-best option, an ex post review of a country's legal exposure may serve to identify those measures that may have violated the country's obligations and the investors whose rights may have been infringed. Following such a review, governments could proactively contact affected investors. Alternatively, government mechanisms such as investor grievance mechanisms (IGMs) may be created or upgraded to review and resolve grievances put forward by affected investors. Governments may form a temporary team, such as a task force comprising senior management from key agencies, to provide this service to concerned investors. Regardless of the approach, the goal is to find less disruptive and mutually agreeable solutions to prevent costly disputes and foster retention of existing foreign investors, and even expansion during the recovery phase.

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[26] For an overview of potential violations of IIAs through COVID-19 emergency measures, see, for example, Benedetteli, Massimo, Caterina Coroneo, and Nicolò Minella. 2020. "Could COVID-19 Emergency Measures Give Rise to Investment Claims? First Reflections from Italy." *Global Arbitration Review,* March 26. https://globalarbitrationreview.com/print_article/gar/article/1222354/could-covid-19-emergency-measures-give-rise-to-investment-claims-first-reflections-from-italy?print=true. Also see Bernasconi-Osterwalder, Nathalie, Sarah Brewin, and Nyaguthii Maina. 2020. "Protecting against Investor-State Claims amidst COVID-19: A Call to Action for Governments." International Institute for Sustainable Development, April. https://www.iisd.org/sites/default/files/publications/investor-state-claims-covid-19.pdf

[27] See Bohmer, Lisa. 2020. "Changes to Mexico's Electricity Regulation in Light of Pandemic Prompt Threats of Investment Arbitration Claims." *Investment Arbitration Reporter*, May 18. https://www.iareporter.com/articles/changes-to-mexicos-electricity-regulation-in-light-of-pandemic-prompt-threats-of-investment-arbitration-claims/

5. Governments also need to assess and address market distortions that crisis-related bailouts and state aid may have created.[28]

In some cases, governments resort to bailouts of major firms or SOEs for national interest or to maintain jobs. Bailouts have been particularly concentrated among SOEs: These range from utilities, and national oil companies to broadcasting companies and banks. State aid has also been common in the air transport sector, where many state-owned carriers operate and insolvencies would not only disrupt service delivery but also involve massive job losses. In Thailand, the government has announced a US$1.8 billion bailout fund for state-owned carrier Thai Airways. Germany announced it would take a 25.1 percent stake in Lufthansa in exchange for a €10 billion bailout. Other countries have opted for measures such as recapitalization, in which the state acquires controlling interest in a company. Examples of recent recapitalization include Norwegian Airlines and Cathay Pacific Airways (see Subsidy and State Aid Tracker).

While emergency situations may require extraordinary measures, governments need to consider how their measures to support private firms and SOEs affect market dynamics. During the relief stage, protecting public interest and maintaining economic stability are a priority. However, in the medium- to long-term, firm competitiveness and consumer welfare require preserving competitive and contestable markets. This will imply vigilance regarding the risks of crowding out viable private firms, keeping zombie private firms and SOEs alive, and enabling anticompetitive behavior.

During the restructuring stage, exit strategies are important to avoid distorting the level-playing field by granting SOEs an undue advantage in the medium and long term. Exit entails not only the exit of support measures (such as state equity participation as a result of bailout, as used mostly in high-income economies) but also about SOEs exiting the sectors into which they expanded during the crisis to rescue employment. To the extent that state ownership continues to be desirable, governments should install strong institutional frameworks to avoid perverse incentives among SOEs. For example, the best practice to avoid soft budgeting seems to be to create separate budgets for temporary and special public policy-related operations by SOEs, such as the polices in Sweden. This involves calculating financial return targets for conventional operations so as to clarify the additional costs for COVID-19 response to be reimbursed by the state.

Table 2. Investment Climate Policy Measures for the Restructuring Stage

Policy Actions	Do's and Don'ts
Manage risk-based reopening of the economy and accelerate digitization	
• Reopen the economy based on risk profiling. • Review when and whether to reverse temporary business regulation measures introduced during the relief stage (e.g. waivers, freezes, delays, extensions).	• **Do**: Apply clear and transparent risk criteria. • **Do:** Communicate clear plan for rollback of regulations.

[28] See Qiang, Christine, and Geogiana Pop. 2020. "State-Owned Enterprises and COVID-19." https://blogs.worldbank.org/psd/state-owned-enterprises-and-covid-19

<table>
<tr><td>• Fast-track the G2B simplification and digitization agenda, including data sharing among government agencies.</td><td>• Don’t: Impose regulatory burdens on business during reopening, especially for low-risk activities.
• Don’t: Digitize inefficient government services prior to streamlining.</td></tr>
<tr><td colspan="2">Support viable firms and strengthen insolvency regimes</td></tr>
<tr><td>• Continue to adjust pandemic-related subsidies and state aid in line with competition principles.
• Collect information about beneficiaries of subsidies/state aid (such as identity, amount received).
• Establish an informal out-of-court or hybrid workout framework for large number of firms that will not survive the crisis without going through insolvency.
• Encourage e-filings, virtual court hearings, and out-of-court solutions for insolvency proceedings.</td><td>• Do: Ensure transparency in subsidies/state aid and make sure that aid is proportionate to financial need.
• Don’t: Enact measures that risk propping up unviable firms or declining industries.</td></tr>
<tr><td colspan="2">Unwind crisis-related FDI controls and competition exemptions</td></tr>
<tr><td>• Phase out crisis-related FDI screening and approval processes to facilitate renewed investor entry.
• Resume full enforcement of competition law (e.g., merger control and the elimination of antitrust exemptions) by reaffirming the scope of the competition law and phasing out exemptions.
• Reinstate the normal public procurement procedures (to the extent possible).</td><td>• Do: Investigate suspicious behavior during the crisis and be vigilant of collusion following the crisis.
• Don’t: Allow COVID-related controls and exceptions to remain indefinitely.
• Don’t: Use general “recession” arguments to justify continued lack of enforcement of competition law.</td></tr>
<tr><td colspan="2">Assess and address risks of investor grievances arising from emergency response actions</td></tr>
<tr><td>• Assess risks of investor-state disputes arising from pandemic response actions due to violations of obligations set in IIAs/investment laws/contracts.
• Set up temporary investor grievance mechanisms to address crisis response-related issues before they become legal disputes.</td><td>• Do: Proactively reach out to investors that may have been adversely affected by emergency measures.
• Do: Find mutually agreeable solutions with investors whose rights have been infringed to prevent disputes.</td></tr>
<tr><td colspan="2">Assess and address risks of distortions arising from state aid and bailouts</td></tr>
<tr><td>• Monitor and implement state aid exit strategies.
• Promote and guide the divestiture of state assets, including those acquired during the relief stage to preserve existing markets.
• Assess scope for SOEs to exit sectors where they expanded during the crisis to rescue employment.
• Create strong institutional arrangements governing remaining state assets.</td><td>• Do: Evaluate the potential to unwind state assets based on the economic rationale (e.g., viability of private ownership) as the market recovers.
• Don’t: Provide unconditional support to failing or unviable SOEs and private sector players, diverting public resources from promising, high-growth firms.</td></tr>
</table>

Note: FDI = foreign direct investment; G2B = government to business; IIAs = international investment agreements; SOEs = state-owned enterprises.

Stage 3: Resilient Recovery

The resilient recovery stage involves governments moving from dealing with the crisis and its immediate aftermath to focusing on long-term growth in a changed global economy. From an investment climate perspective, governments should review their FDI policy and promotion strategies, strengthen their countries' overall business environment, and promote robust competition to reallocate resources toward sectors and firms that will drive long-term employment and economic transformation. In most cases, the underlying bottlenecks existed before the COVID-19 outbreak but have been amplified or accelerated during the crisis. Thus, the unique circumstances of the pandemic provide many governments with unprecedented mandates for reform. Countries that manage to turn the crisis into opportunities to undergo much-needed structural reforms (such as on climate change, business regulations, and gender equity) and install cutting-edge regulatory measures will see a more resilient and sustainable recovery. Along the way, governments should also adjust their strategies to account for shifting post-pandemic realities such as changes to GVCs and the rising digital economy.

1. **Agile governments have already started to review their FDI strategies to assess the resilience of past priorities and capitalize on emerging opportunities.**

In the post-crisis recovery stage, governments will face an altered investment environment. Uncertainty had already been rising against the backdrop of growing trade and investment protectionism in the developed world before the pandemic.[29] The COVID-19 crisis has presented a new, unprecedented source of risk that is depressing investor confidence to historic lows. Risks associated with supply chains stretching across many locations, now exposed by the pandemic, are being examined in a new light.

No consensus has emerged on how GVCs will look after receiving COVID-19 subsides. Diversification, sustainability, and digitalization are the likely broad trends. Some economists hold the view that there will be little significant change and that adjustments will concentrate in health-related industries, as the economic rationale for most GVCs continues to hold. Others believe that COVID-19 has become a wake-up call for a new balance between risk and reward for GVCs, as pandemics, climate change, natural disasters, and man-made crises may expose the world to more frequent crises. As a consequence, diversification of suppliers and more focus on sustainability are seen as ways to mitigate risk. Moreover, the crisis has accelerated the emergence of the digital economy, transforming business models in existing sectors and driving the emergence of new sectors.

Governments' strategies to best leverage FDI as a major source of development financing in the recovery period following the pandemic should thus entail a four-step approach—to review, confirm, reform, and promote FDI strategies:

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[29] For additional information of trends in investment policies before the pandemic, see the World Bank's *Global Investment Competitiveness Report 2019–2020.* https://openknowledge.worldbank.org/handle/10986/33808

1. **Review** investment policy and promotion strategies to test which previous FDI target segments have proven resilient during the COVID-19 outbreak and in the post-crisis economy. In addition, identify emerging competitive segments for the country that may arise from new trends. This step will require competitiveness benchmarking and dynamics analysis.

2. **Confirm** the package of old and newly emerged segments of investment competitiveness through sector dynamics analysis and investor consultations. IPAs should then formulate investment promotion strategies and conduct outreach to work with investors interested in the target segments.

3. **Reform** investment policy to further improve countries' value propositions in the priority segments. Measures to address foreign investment restrictions and investor protections might be needed in some countries, both in terms of their general investment frameworks and sector-specific policies. In addition, the pandemic has shown that international investment agreements (IIAs) and domestic investment laws often fall short in providing governments with the room to implement policy measures in the national interest in the context of force majeure. To prepare for potential future crises, governments might take the opportunity to review their IIAs and investment laws. Finally, investment incentive regimes will need to be realigned toward supporting priority sectors and development objectives following the pandemic. FDI linkages programs should be adjusted to strengthen resilience along the supply chains.

4. **Promote** the new competitive segments by putting into place outreach programs to reposition the country as an investment destination. IPAs' investment facilitation role—not only in articulating value propositions in segments offering new opportunities but also in streamlining approval processes to establish investment—is likely to become pivotal. These changes will require IPAs to adjust their mix of investor services and institutional characteristics accordingly.

2. Strengthening business regulations and institutions is foundational for economic resilience and recovery.

In the medium to long term, evidence shows that the regulatory environment for businesses can influence how well firms cope with crises and seize opportunities when recovery begins. Where business regulation is transparent and efficient, and institutions ensure property and contractual rights, it is easier for existing firms to adapt to new rules and reorient their economic activity to meet new market demands and for new firms to start up. Research suggests that improving the effectiveness of labor and product market regulations, the overall ease of doing business, and government-to-business interactions leads to increased resilience and shock absorption capacity during crises.[30] A favorable business environment can also promote a country's adaptive and transformative capacity after crises.[31]

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[30] Sondermann, David. 2017. "Towards More Resilient Economies: The Role of Well-Functioning Economic Structures." CEPS Working Documents 2017-03. http://aei.pitt.edu/83869/1/WD_2017_03_DSondermann_Resilient_Economies.pdf

[31] Alessi, L., P. Benczur, F. Campolongo, et al. 2019. "The Resilience of EU Member States to the Financial and Economic Crisis." *Social Indicators Research* 148: 569–98. https://doi.org/10.1007/s11205-019-02200-1.

The dramatic impact of the pandemic on economies will increase appetites for measures to unlock economic growth, and governments should take this opportunity to introduce business-friendly regulatory reforms. Business regulation reforms should focus on (1) lowering financial, time, and transaction costs for new and existing businesses through rationalization of burdensome rules, relaxation of compliance requirements in lower-risk sectors, fee reductions, continued digitization of user-centric G2B services, and risk-based regulations; and (2) strengthening institutions such as registries and courts, and investor protections to ensure property rights protections and encourage business expansion, among other measures. Countries like India have already announced plans for accelerating business environment reforms to facilitate private investment and revive growth.[32]

The recovery phase also provides policy makers with opportunities to set their growth trajectories on a more equitable path with respect to women. Women have been disproportionally harmed by the crisis—they hold fewer jobs that can be done remotely; work disproportionately in the informal sector; have less access to finance; and do more caregiving. Strengthening the legal and regulatory environment concerning women's opportunities for employment and entrepreneurship will play a critical role in economic recovery. This entails measures to increase bargaining power between women and men within the household (for example, via equal rights in marriage and divorce law), equality in access to finance, protection from violence, and equality in employment opportunities in all industries and sectors.

3. **Robust competition policies are critical for long-term job creation and economic transformation, especially given the shifts in the competitive environment that must occur following the pandemic.**

Competition is a key driver of the reallocation and upgrading necessary to achieve economic transformation and reorientation for recovery. Competition between firms allows resources to be allocated toward more efficient firms and business models while also increasing incentives for individual firms to upgrade their capabilities. In turn, this reallocation and upgrading can drive increased output, employment, productivity, and wages. Such shifts are especially important in the recovery stage because economies may need to undergo dramatic transformations to align with post-pandemic economic fundamentals (such as shifting GVCs and the need for new business models in light of lingering restrictions).

Businesses and governments' responses to the pandemic have also threatened competition in many markets. Temporary easing of competition policies during the relief phase may have lasting effects in later phases as originally benign mechanisms generate unintended consequences. For example, temporary information-sharing for coordination of critical supplies may make collusion easier later. In addition, stresses on firms are likely to lead to consolidation and exit of firms, leaving the surviving firms with higher market shares than before.

Thus, during the recovery phase, governments should focus on market policies to promote competition. Such policies include but are not limited to pursuing general and sector-specific measures to open specific markets to competition and reducing laws and regulations that may

[32] https://www.livemint.com/news/india/modi-pushes-for-reforms-as-india-looks-to-restart-economy-11588251348799.html

shelter less efficient firms (such as excessive entry and licensing requirements). Governments should also continue to embed competition principles in their procurement and state aid policies. While the content and nature of these policies may not be markedly different than priorities before the pandemic, the pandemic's long-term implications for economies underscore the importance of these policies, especially for emerging priority sectors. Thus, alleviating bottlenecks that existed before the pandemic is critical, as is proactively identifying and addressing new competition issues arising from changing business models (such as digital platforms).

In line with procompetition market policies, policy makers should also invest in strengthening their competition frameworks and enforcement capacity. Such measures could include the design of anticartel programs (including leniency in penalties in exchange for reporting cartel behavior), merger control, market and competition analysis techniques, institutional effectiveness of competition authorities, and advocacy strategies across government agencies.

Table 3. Investment Climate Policy Measures for the Resilient Recovery Stage

Policy Actions	Do's and Don'ts
Seize new FDI opportunities from new trends and shifts in global value chains	
• Adjust the prioritization of sectors slated to receive FDI by gauging the resilience of previous priority sectors and identifying new opportunities based on post-pandemic priorities (e.g., employment), GVC reconfigurations, and the growing digital economy. • Reform investment policies (e.g., investment restrictions, investor protections, general investment frameworks, sector-specific policies) in line with new priority sectors for FDI. • Utilize IPAs to aggressively promote new priority segments, adjusting their mix of services and institutional characteristics accordingly. • Review IIAs and investment laws to establish policy space for governments in the context of future force majeure events. • Strengthen FDI linkages programs, including forward-looking measures/guidance to support supplier resilience such as assistance with business digitalization.	• **Do:** Improve and articulate value propositions for competitive sectors. • **Do:** Clearly establish balance between investor rights and government policy space. • **Don't:** Automatically assume that shifts in GVC bring new opportunities. • **Don't:** Equate domestic economic sovereignty with resilience.
Strengthen business regulations and institutions to support economic resilience and recovery	

• Improve business regulations and overall ease of doing business to lower administrative costs to businesses and increase resilience and growth potential, including continued digitization of G2B services. • Invest in a strong contractual environment to support efficient reallocation of resources. • Support women's economic participation by mandating nondiscrimination in employment and access to finance, reducing sector restrictions, and increasing bargaining power between women and men within the household (for example, via marriage and divorce law reform).	• **Do:** Use the recovery as an opportunity for major reforms to address structural issues (e.g., climate change, gender equity) • **Do:** Use the recovery to put in place cutting edge regulatory practices
Promote and implement procompetition policies	
• Enhance the effectiveness of competition policy to unlock growth potential, including addressing bottlenecks that preceded the pandemic (e.g., opening markets to competition, refining regulations that affect entry and expansion), especially in priority sectors. • Continue to strengthen competition enforcement capacity to focus on tackling the most harmful anticompetitive practices.	• **Do:** Develop policy solutions to counter COVID-driven declines in competition (e.g., increased dominance of digital platforms, cartel behavior rising from prior COVID coordination mechanisms).

Note: FDI = foreign direct investment; G2B = government to business; GVC = global value chains; IIA = international investment agreements; IPAs = investment promotion agencies; SOEs = state-owned enterprises.