

Technical and statistical report

International Investment Agreements Toolbox on Clean Energy, Digital Transformation and Public Health: Insights from Recent Group of 20 Treaties



United
Nations



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Note

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Introduction

This report provides a policy resource on international investment agreements (IIAs),¹ focusing on provisions relevant to key public policy objectives identified as key priorities by the South African G20 Presidency, namely clean energy, digital transformation and public health. The toolbox continues UNCTAD's engagement with G20 members on investment policymaking, building on the report *Mapping Sustainable Development and Investment Facilitation Provisions in IIAs concluded by G20 Members and Invited Countries*, produced by UNCTAD and OECD in 2024 under the Brazilian G20 presidency; and is based on a report informing the G20 Trade and Investment Working Group in 2025, at the invitation of the South African G20 Presidency.

This report serves as a resource for the voluntary exchange of best practices and experiences on IIAs. While covering examples contained in the IIAs of G20 members with a range of partner countries, the report refers also to IIAs of some G20 invited countries in 2025.

The toolbox builds on UNCTAD's extensive analytical and policy expertise on IIAs, and its long-standing work to align the IIA regime with sustainable development.² Guidance included in UNCTAD's *Investment Policy Framework for Sustainable Development (IPFSD)*, as well as the latest research in UNCTAD's *World Investment Report 2023: Investing*

in Sustainable Energy for All and the *World Investment Report 2025: International Investment in the Digital Economy* provide governments with knowledge to enhance investment policies and the sustainable development impacts of FDI.

The international investment policymaking landscape has the potential to evolve and align with new priorities. Most of the 1,453 agreements signed by G20 members date from the 1990s and 2000s. These older treaties often lack provisions that actively promote and facilitate sustainable investment. New IIAs are beginning to show pathways to mobilize investment for clean energy, the digital economy and public health while preserving regulatory autonomy.

Reviewing recent IIA treaty practice, the report distils provisions and treaty language employed in G20 IIAs that preserve regulatory space, promote responsible business conduct and proactively facilitate sustainable investment in the three focus sectors. The findings are summarized in a toolbox, which provides a menu of new-generation IIA policy options to harness international investment policies for investment in clean energy, digital transformation and public health. Cross-cutting issues are addressed under each of the three thematic areas to ensure comprehensive coverage.

New treaties are beginning to show pathways to mobilize investment in priority areas

¹ IIAs include bilateral investment treaties (BITs) and other treaties with investment provisions (TIPs).

² UNCTAD resources: *High-level International Investment Agreements (IIA) Conference*, *Multi-Stakeholder Platform on IIA Reform*, *IIA Issues Notes publications*, IIA Navigator database – *General and individual lists for countries*.





Chapter 1. Trends in G20 international investment agreements

G20 IIAs have evolved considerably over time. More recent IIAs provide many examples of new and reform-oriented provisions related to investment promotion and facilitation, the right to regulate in the public interest and responsible investment. UNCTAD has emphasized the need for the modernization and reform of IIAs, while making available tailored reform options addressing public health (UNCTAD, 2021), the sustainable energy transition (UNCTAD, 2023b) and digital transformation (UNCTAD, 2025). UNCTAD's Annual High-Level IIA Conference and its IIA Reform Platform provide inclusive forums to devise pragmatic means to transition substantive treaty provisions in older agreements to designs that are increasingly used in recent practices.

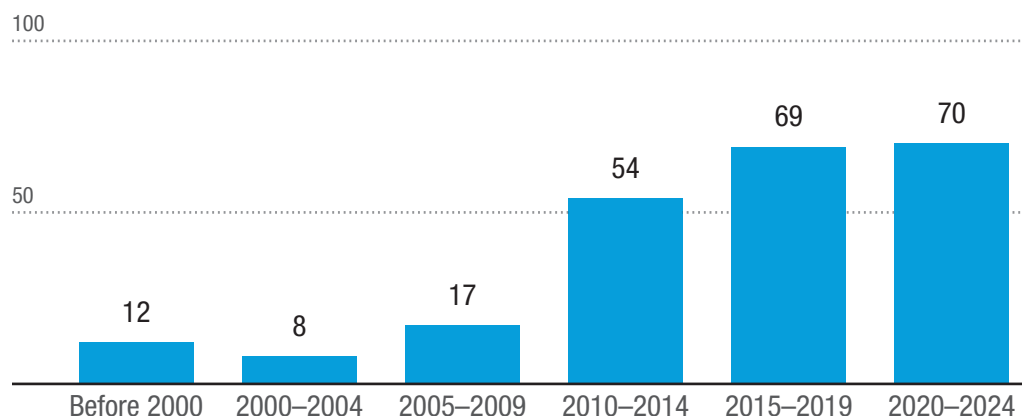
1. Promoting and facilitating investment

Investment facilitation provisions are broadly embraced in recent IIAs of G20 members. Such provisions aim to tackle ground-level obstacles to investment by making it easier for investors to establish or expand their investments and conduct their day-to-day business in the host economy (UNCTAD, 2023a). Transparency provisions, requirements to (electronically) publish relevant rules and procedures, are the most common facilitation provision, present in 70 per cent of G20 IIAs concluded in the period 2020 to 2024 (figure 1) (UNCTAD, 2024b). Investment facilitation provisions also aim to streamline investment-related procedures. In addition, IIA clauses introduce stakeholder-engagement tools – such as focal points that can provide information, support investors in their communication with the administration or offer dispute avoidance. Many new IIAs that provide for investment facilitation additionally establish frameworks for institutional cooperation between the parties, including for the provision of technical assistance and capacity-building, especially where the treaty parties' levels of economic development differ.

Facilitation provisions aim to tackle ground-level obstacles to investment



Figure 1.
Share of G20 IIAs with transparency provisions over time
(Percentage)



Source: UNCTAD.

Note: Based on a mapping of 1,243 IIAs (with substantive investment provisions) concluded by G20 member countries between 1959 and 2024 for which texts were available. Data derived in part from UNCTAD's IIA Mapping Project.

Investment promotion provisions are found in a small but increasing number of new IIAs concluded by G20 members. These provisions encourage the treaty parties to cooperate in attracting high-quality FDI – for instance by exchanging information, linking their investment promotion agencies, organizing joint roadshows or aligning incentive frameworks. UNCTAD's mapping of IIAs shows that only a minority of pre-2010 IIAs worldwide, including G20 IIAs, contain references to specific promotion activities in the text of the agreement.³ However, the share has increased in agreements signed more

recently, which feature more detailed and more diverse content on the promotion as well as the facilitation of investment (UNCTAD, 2025; UNCTAD, 2024a; UNCTAD, 2023a).⁴ These clauses are usually framed as best-efforts commitments rather than enforceable rights, reflecting governments' need for flexibility and the competitive nature of marketing an investment destination. Their objective is to bridge information gaps, lower perceived risk and channel investment into priority sectors, complementing domestic promotion instruments and outward-investment support schemes.

³ About 13 per cent of mapped IIAs signed before 2010 (305 out of 2,406 agreements). See UNCTAD IIA Content Mapping, available as part of the IIA Navigator at <https://investmentpolicy.unctad.org/international-investment-agreements/ii-mapping/Content> (accessed on 18 June 2025).

⁴ As to the substantive content of recent IIAs signed globally (2020–2024), 29 per cent contain investment promotion provisions and 74 per cent have facilitation provisions. See UNCTAD, 2025.



2. Preserving the right to regulate in the public interest

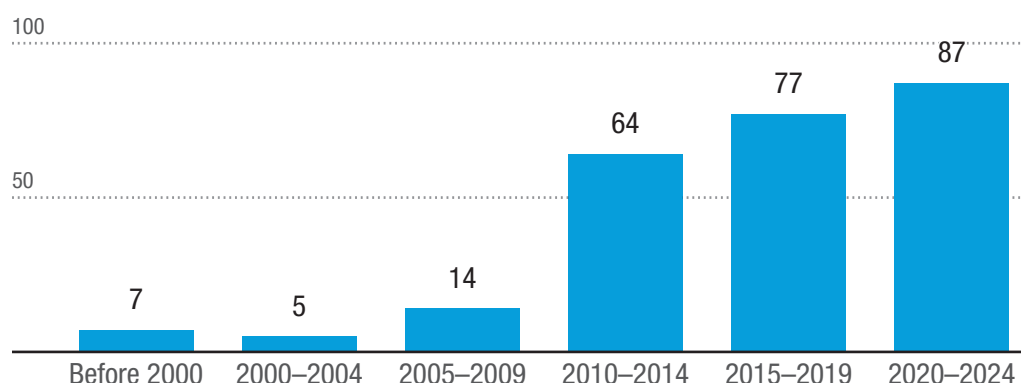
Public policy exceptions for measures taken in the public interest aim to ensure that countries have sufficient regulatory space to implement measures in pursuit of specific public policy objectives such as:

- the protection of public morals or maintenance of public order,
- the protection of the life or health of humans, animals or plants; or the protection of the environment,
- the conservation of living and non-living exhaustible natural resources.

Public policy exceptions are included in an increasing number of IIAs, including the large majority (87 per cent) of G20 IIAs concluded between 2020 and 2024 (figure 2). The policy areas for which flexibility is to be preserved typically encompass public health and environmental protection. The public policy exceptions can apply across the entirety of the IIA or investment chapter. Some IIAs explicitly identify the provisions which are subject to the exception clause.

Individual standards of treatment provisions can also contain carve-outs for measures taken in the public interest. Most commonly such carve-outs appear in indirect expropriation provisions. They clarify that non-discriminatory measures for the protection of legitimate public welfare objectives, including public health and environmental protection, do not constitute expropriation.

Figure 2.
Share of G20 IIAs with public policy exceptions over time
(Percentage)



Source: UNCTAD.

Note: Based on a mapping of 1,243 IIAs (with substantive investment provisions) concluded by G20 member countries between 1959 and 2024 for which texts were available. Data derived in part from UNCTAD's IIA Mapping Project.

Refining substantive investment standards. Refinements of substantive IIA standards feature frequently in recent IIAs of G20 members. In this respect they markedly differ from the treaties concluded

in the 1990s and 2000s. The refinements typically aim to preserve regulatory space and to increase predictability, clarifying what measures States can or cannot adopt in light of their treaty commitments.

Refinements of substantive IIA standards typically aim to preserve regulatory space and increase predictability

3. Fostering responsible investment

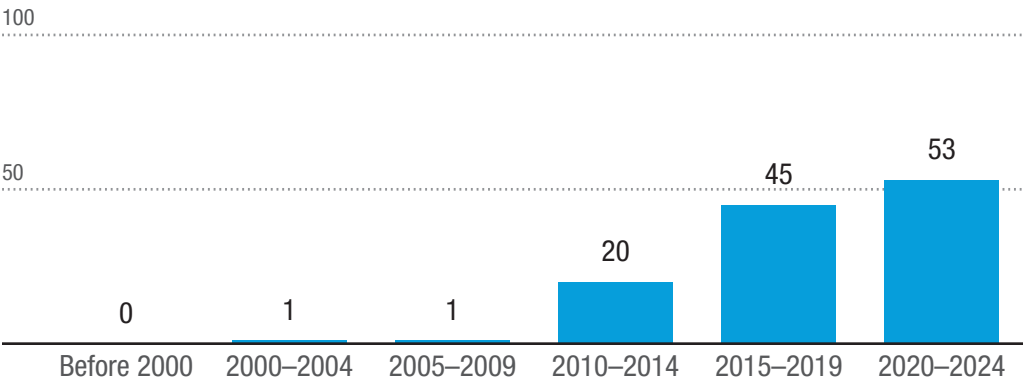
Responsible business conduct provisions frequently refer to internationally recognized instruments

Responsible business conduct provisions, most commonly in the form of corporate social responsibility clauses, aim to encourage investors to incorporate guidelines, standards and principles of corporate social responsibility or responsible business conduct in their internal policies and practices.⁵ They frequently refer to internationally recognized instruments on responsible business conduct – such as the UN Guiding Principles on Business

and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct – and tend to be drafted using ‘best efforts’ language. Their share has steadily grown over time in G20 IIAs. For example, corporate social responsibility references are present in 53 per cent of G20 IIAs concluded between 2020 and 2024 (figure 3). Anti-corruption provisions also feature in G20 IIAs (UNCTAD, 2024b). Responsible business conduct clauses may be directed at States, or at investors.



Figure 3.
Share of G20 IIAs with corporate social responsibility references over time
(Percentage)



Source: UNCTAD.

Note: Based on a mapping of 1,243 IIAs (with substantive investment provisions) concluded by G20 member countries between 1959 and 2024 for which texts were available. Data derived in part from UNCTAD’s IIA Mapping Project.

⁵ Responsible business conduct encourages the positive contributions that businesses can make to economic, environmental, and social progress, while also aiming to minimize the adverse impacts associated with their operations, products and services. See also UNCTAD, 2024b.

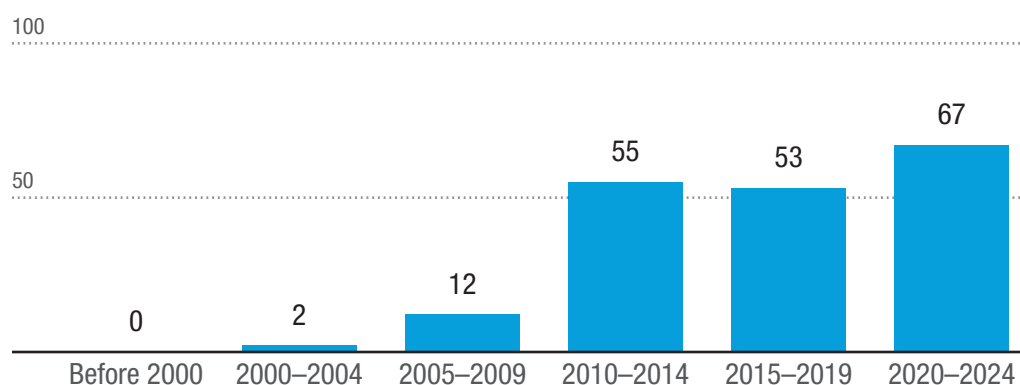


Other provisions on responsible investment appear in an increasing number of G20 IIAs (UNCTAD, 2024b), addressing areas such as environment, labour and tax governance. These provisions are diverse and cover a variety of issues: (i) environmental protection, such as the conduct of environmental impact assessments and the use of environmentally sound technologies;

(ii) labour and human rights such as responsible supply chain management; (iii) good corporate governance, such as transparency, arm's-length transactions or responsible tax behaviour; and (iv) the non-lowering of regulatory standards in areas such as health, labour or environmental protection to attract investment (figure 4). These provisions can be of general applicability or target specific sectors.



Figure 4.
Share of G20 IIAs with not lowering of standards provisions over time
(Percentage)



Source: UNCTAD.

Note: Based on a mapping of 1,243 IIAs (with substantive investment provisions) concluded by G20 member countries between 1959 and 2024 for which texts were available. Data derived in part from UNCTAD's IIA Mapping Project.





2

Chapter 2. Existing practice: key provisions across G20 IIAs focusing on clean energy, digital transformation and public health

This chapter features selected examples from G20 IIAs to illustrate current treaty practices. It focuses on clauses addressing the three areas that are covered by the IIA toolbox: clean energy, digital transformation and public health.

1. Clean energy

G20 members' recent treaties increasingly streamline sector-specific investment procedures, dedicate chapters to energy and raw materials, and entrust independent regulators to keep authorization steps transparent. They pair these facilitation measures with commitments, joint endeavours or guidance on investment promotion: from provisions on incentives under the African Continental Free Trade Area (AfCFTA) Investment Protocol to agreements to cooperate such as the Indo-Pacific Economic Framework Clean Economy Agreement and the Australia–

United Arab Emirates Comprehensive Economic Partnership Agreement (CEPA) (2024), which target a wide range of issues, including large-scale renewable energy projects, battery storage, and carbon-capture research and development (R&D). Cooperation clauses link energy regulators across treaty parties, mandate joint promotion activities and deepen technical assistance, while tailored provisions foster investment in clean-tech R&D. At the same time, the treaties aim to preserve policy space through specific carve-outs for certain types of investments, sector-specific reservations on grid or nuclear activities, and balanced safeguards on performance requirements. Finally, recent IIAs concluded by G20 members embed responsible investment considerations that, among others, align with requirements on environmental impact assessment and human capital development, aiming to ensure that the clean energy value chain grows sustainably and inclusively.



Promotion and facilitation of investment in clean energy

Facilitation of clean energy investment.

In addition to generally applicable commitments on investment facilitation which are common in recently concluded IIAs of G20 members, some recent G20 IIAs also contain facilitation provisions specific to the energy sector. The Chile–European Union (EU) Advanced Framework Agreement (2023) (Chapter 15) and the EU–New Zealand Free Trade Agreement (FTA) (2023) (Chapter 13), for example, contain dedicated chapters on energy and raw materials, which require transparent and streamlined authorization procedures, the maintenance or establishment of an independent body for electricity regulation, and the facilitation of connection to national infrastructure for renewable energy producers, among others.⁶ Moreover, energy-specific investment facilitation provisions typically prescribe reasonable and predictable steps, timeframes and fees for authorizations in the sector, the examination by an independent authority and, at times also encourage digitalization of the process.

A core aspect of energy-specific facilitation provisions is the streamlining of the sector-related procedures. The streamlining of investment procedures aims to eliminate redundant bureaucratic steps, which can render the investment environment, in general and specifically in the energy sector more attractive. For example, the Chile–EU Advanced Framework Agreement (2023) regulates authorizations for energy exploration and production in Article 15.7 by requiring licences to be granted through a public, non-discriminatory procedure and obliging the parties to publish the licence type and application deadline in advance. It also permits the host State to impose financial or in-kind

contributions on licensees that do not interfere with the investor's management, and ensures rejected applicants receive written reasons and access to previously announced appeal or review mechanisms.

Promotion of clean energy investment.

A few recent G20 IIAs also encourage the parties to promote clean energy investment. For example, under Article 24(1) of the Africa Regional Protocol of the Organisation of African, Caribbean and Pacific States–EU Partnership Agreement (2023), the parties shall endeavour to accelerate access to affordable, sustainable energy and to develop resilient infrastructure, especially in rural areas. It also encourages using the most efficient, low-carbon technologies across all sectors – including agriculture, manufacturing, extractive industries and tourism (see also below on clean technology). Certain agreements, such as the AfCFTA Investment Protocol, Article 8, list types of incentives that parties may adopt with the aim to attract sustainable investment, including clean energy investment.⁷

Cooperation on clean energy investment. Some new G20 IIAs include specific procedures and mechanisms to implement the States' agreed-upon energy objectives through inter-State cooperation, inter-agency cooperation between their relevant energy regulators or joint promotion activities.

Certain IIAs, such as the AfCFTA Investment Protocol (2023) or the Canada–Ukraine Modernized FTA (2023), Article 13.10(8) and Article 13.23 among others, refer to clean energy promotion and cooperation in the text of the agreement directly.⁸ The Canada–Ukraine Modernized FTA invites the parties to cooperate bilaterally and in international fora, as well as through the Committee on the Environment, including

Some recent G20 IIAs contain provisions specifically addressing energy matters

⁶ See also the reference to “the removal of obstacles to trade and investment” in EU–New Zealand FTA (2023), Chapter 19 (trade and sustainable development), Article 19.6(4).

⁷ See also AfCFTA Investment Protocol, Article 26(c), which directly refers to promoting renewable energy investment.

⁸ See also modernized Energy Charter Treaty (2024), Article 19 bis; New Zealand–United Arab Emirates CEPA (2025), Article 8.2(a) and Article 17.2(3)(d).

to ensure investment in environmental goods and services for clean energy.⁹

In addition, investment cooperation on clean energy may be further deepened through memorandums of understanding (MoUs), which generally do not contain legally binding commitments. MoUs can be concluded in conjunction with trade and investment agreements. Alongside the Australia–United Arab Emirates CEPA (2024) and the Australia–United Arab Emirates bilateral investment treaty (BIT) (2024), five MoUs on investment cooperation were signed, including a dedicated MoU on investment cooperation in green and renewable energy.¹⁰ Under this MoU, the parties focus on a wide range of energy investment activities, including large-scale renewable energy generation; low-carbon liquid fuels; energy-efficient and enabling technologies; transport and storage infrastructure (batteries and other systems); carbon-capture projects; supply-chain diversification; workforce upskilling; and greenfield project and R&D activities.

MoUs can also be self-standing instruments such as the MoU between India and Saudi Arabia on Energy (2023), which provides a framework for electrical grid interconnection, hydrogen development, and joint feasibility studies. Other flexible instruments exist that are aimed at fostering lasting cooperation in relation to clean energy. One example is the Indo-Pacific Economic Framework Clean Economy Agreement (2024), section B, which is dedicated to “energy security and transition”.¹¹

Complementary aspects of cooperation, of particular relevance in IIAs concluded between parties at different levels of economic development, are commitments to support technical assistance and

capacity-building activities. For example, in the China–Ecuador FTA (2023), the parties agree to promote and facilitate technical assistance and capacity-building in the agreed-upon cooperation activities, including on clean energy (Articles 16.3 and 16.13). The Australia–Peru FTA (2018) institutionalizes this cooperation through a dedicated committee on cooperation and capacity-building, including for the energy sector (Article 20.4).

Cooperation on clean technologies.

Clean energy requires investment into R&D, implementation of new technologies and infrastructures necessary for the sustainable use of such technologies, which are all predicated on new investments from both the public and private sectors. Aware of this need, some recent G20 IIAs are beginning to include express references to investments in clean technologies, typically in the context of their environmental and climate-related commitments, as part of a dedicated section on energy, or under sections on investment cooperation. For example, under the New Zealand–United Kingdom FTA (2022), Article 22.7, the parties recognize the importance of promoting and facilitating investment and trade in clean technology and agree to cooperate in areas such as clean energy, climate change adaptation and mitigation technologies. In the European Free Trade Association (EFTA)–India Trade and Economic Partnership Agreement (TEPA) (2024), Article 7.1, the parties agree to facilitate partnerships between centres of excellence including on renewable energy and clean technologies. Renewable energy is similarly among the priority areas of technology and start-up cooperation under the Israel–Republic of Korea FTA (2021), Article 17.3.

⁹ Another example is the Australia–United Kingdom FTA (2021), Article 22.5 on climate change and Article 22.6 on environmental goods and services. See also Chile–EU Advanced Framework Agreement (2023), Article 15.14 regarding cooperation on energy and raw materials.

¹⁰ As to the legal status, paragraph 6 of the Australia–United Arab Emirates MoU on Investment Cooperation in Green and Renewable Energy states: “This Memorandum represents the understanding reached between the Participants and is an expression of the Participants’ good faith intent to engage in the collaboration described herein. This Memorandum does not create any legally binding rights or obligations.”

¹¹ See also Australia–Singapore Green Economy Agreement (2022), with part (e) on clean energy, decarbonisation and technology.



Right to regulate in the public interest

Public policy exceptions for general measures taken to protect the environment and/or to mitigate climate change.

General public policy exceptions are included in the large majority of recent G20 IIAs (figure 2). These exceptions are a tool to safeguard regulatory flexibility to pursue policies aimed at preserving the environment, including as it relates to climate and the transition to clean energy.¹² Public policy exceptions in recent G20 IIAs typically refer to measures necessary to protect human, animal or plant life or health, or directly refer to environmental protection. The Iraq–Saudi Arabia BIT (2019), Article 21, is an example of a treaty referencing measures to protect human, animal or plant life and health. Increasingly, IIAs also explicitly point to climate action as a legitimate policy objective in exceptions clauses. For example, the United Kingdom–New Zealand FTA (2022), Article 32.1(2) and (3), incorporates GATS Article XIV by reference, and clarifies that subparagraph (b) – dealing with measures necessary to protect human, animal or plant life or health – includes environmental measures and measures necessary to mitigate climate change.¹³

Carve-outs from specific standards of treatment for measures taken for environmental protection and climate change mitigation. A number of new G20 IIAs introduce carve-outs and clarifications with respect to specific standards of treatment, which aim at safeguarding policy space in relation to environmental and/or climate matters and may be relevant

to ensure a balanced approach that provides protection, while enabling clean energy technology diffusion between the parties. Such clarifications are most commonly included in provisions on indirect expropriation. While rare in old-generation IIAs, the share of G20 members' IIAs that include such a carve-out has consistently increased over time and is currently present in 84 per cent of G20 IIAs concluded in the past five years. For example, the Serbia–Türkiye BIT (2022), Article 6.2 clarifies that non-discriminatory measures for the protection of the environment do not constitute an indirect expropriation.¹⁴

Carve-outs for good faith measures taken for environmental protection – increasingly understood to include climate adaptation and mitigation – may also be found in (pre-establishment) non-discrimination clauses and provisions on the prohibition of performance requirements, including those that relate to the diffusion of technology. For example, the China–Nicaragua FTA (2023), Article 11.8.4(d) includes a public policy exception which refers to environmental measures in its provision prohibiting performance requirements.¹⁵

In addition to the generally relevant IIA provisions that aim to preserve the parties' right to regulate in the public interest, a small number of recent G20 IIAs also include provisions specific to the energy sector and to the objective of clean energy by either defining the scope of the agreement by reference to exclude non-clean energy assets from its scope or by preserving regulatory space for energy sub-sectors relevant to clean energy production.

Different treaty tools exist to safeguard regulatory flexibility for environmental protection and climate measures

¹² For a discussion of options for public policy exceptions, see also UNCTAD, 2020.

¹³ See also United Kingdom–New Zealand FTA (2022), Article 14.18(2) where the Parties recognize the importance of environmental protection, including with respect to climate change mitigation and adaptation. Related examples include the Australia–United Kingdom FTA (2021), Article 13.18, which recalls that the provisions, exceptions, and exclusions of the agreement include those applicable to supporting the transition to low carbon and climate resilient economies, and to encouraging investment in environmental goods and services; the right to regulate clause in the Canada Model FIPA (2021), Article 3, referring to the “protection of the environment and addressing climate change”.

¹⁴ See also CPTPP (2018), Annex 9-B.

¹⁵ See also CPTPP (2018), Article 9.10.



IIA coverage of certain types of energy assets.

Commonly, IIAs cover investments across all sectors. In relation to energy assets, a few recent IIAs focus their scope of application on clean energy. A few recent G20 IIAs explicitly protect clean energy. By way of example, under the Australia–United Arab Emirates BIT (2024) the parties exclude rights under contracts, concessions or licenses for the exploration and exploitation of natural resources except for renewable energy sources.¹⁶

Provisions balancing liberalization commitments for the energy sector.

Where contracting parties include liberalization commitments in their IIAs, they often exclude the energy sector from pre-establishment national treatment obligations and provisions prohibiting performance requirements, typically through country-specific reservations. These exclusions may apply broadly to the energy sector as a whole or be limited to specific sub-sectors, such as electricity grids and distribution, or specific renewable energy sectors. Recent G20 IIAs which contain energy-related reservations by G20 members include the MERCOSUR–Singapore FTA (2023), the Angola–Japan BIT (2023), and the Georgia–Japan BIT (2021), among others.

Responsible investment

Commitments on responsible business

conduct are present in the majority of G20 IIAs concluded in the past five years. For example, under Article 12.2 of the Hong Kong, China SAR–Mexico BIT (2020) the parties commit not to lower their environmental standards with the objective of attracting or retaining investment. These overarching provisions are generally supportive of the objective to ensure that local populations benefit from investment activities and any of the inherent risks of such activities are

mitigated. They can also support the broader objective of clean energy for all. In addition, a few recent G20 IIAs are beginning to include responsible investment considerations that are of particular relevance to the clean energy value chain.¹⁷

Environmental commitments.

To effectively be clean, the upstream energy value chain has to respect the environment. Certain recent G20 IIAs contain a requirement on the State parties to ensure that an environmental impact assessment is undertaken for energy projects (e.g. Chile–EU Advanced Framework Agreement (2023), Article 15.8, Canada–Ukraine Modernized FTA (2023), Article 13.12).¹⁸ Other treaties may address that obligation to the investor. For example, the AfCFTA Investment Protocol (2023), Article 34, specifies the following environmental obligations for investors: to respect the right to a clean, healthy and sustainable environment, apply prevention and precaution principles, conduct best-practice environmental impact assessments, integrate precaution into investment decisions (including mitigation or abandonment where needed), and, where harm occurs, take remedial steps and restore affected sites.

Human capital development

commitments. Human capital development and training for employees are of particular relevance in a field such as clean energy, which is driven by technological advancements. In certain recent G20 IIAs, at times the States commit to supporting human capital development through cooperation activities (e.g. EFTA–India TEPA (2024), Article 7.3(2)(f) and (h)). Other IIAs, such as the Brazil–India BIT (2020), Article 12(2), also contain commitments to support skills development for employees directly addressed to investors.

A clean energy focus can be accompanied by treaty commitments on responsible investment

¹⁶ Another example are the modifications and changes to the Annexes to the Energy Charter Treaty.

¹⁷ Under the provisions on investor obligations and responsibilities, the Egypt–Saudi Arabia BIT (2024), Article 14(1), contains a reference to climate change and adaptation.

¹⁸ Some responsible business conduct provisions also address due diligence, e.g. Chile–EU Advanced Framework Agreement (2023), Article 17.24, and MERCOSUR–Singapore FTA (2023), Article 9.12(3).



2. Digital transformation

Newer IIAs increasingly address areas such as the digital economy, including treaties signed by G20 members. An increasing number of recent treaties promote and facilitate investment through electronic portals, online licence applications and digital payment systems. A small number of treaties also actively encourage capital flows into information and communications technology (ICT) infrastructure and other digital sectors. Moreover, some treaties embed cooperation clauses for joint promotion, technical assistance and capacity-building in areas such as data centres and artificial intelligence, and G20 IIAs with increasing frequency commit the parties to create a digital-friendly business environment via dedicated chapters on electronic commerce. These new IIAs governing the digital economy also frequently introduce bespoke exceptions for data privacy, source code disclosure, and data flows to preserve policy space in priority digital services. In addition, a growing number of recent G20 IIAs include responsible investment considerations in relation to issues such as consumer protection and unsolicited commercial messages.

Promotion and facilitation of digital economy investment

Clauses encouraging or requiring the use of digital tools for investment facilitation. There is a trend for IIAs to increasingly incorporate digital investment facilitation tools. Between 2021 and 2023, 60 per cent of IIAs with investment facilitation provisions incorporated digital tools, up from only 36 per cent of treaties in 2015–2016 (UNCTAD, 2024a). Digital investment facilitation means, for example, not requiring investors to appear in person to make inquiries or request permits. Examples of provisions can be found in the Angola–EU SIFA (2023) such as Articles 9, 10 and 20 on the electronic publication of relevant information, Article

16 on electronic applications for investment authorization, Article 18 on electronic payment of fees, and Article 22 on electronic enquiries at the investment facilitation focal point. Similarly, the Investment Facilitation for Development Agreement negotiated and finalized by participating WTO members contains provisions on electronic publication of relevant information (Articles 6 and 7), electronic application for investment authorization and online payment of fees (Article 18). The Türkiye–United Arab Emirates CEPA (2023) among others, requires the parties to “endeavour to reach the highest possible level of digitalization of procedures related to investments” (Article 10.7).

Active facilitation of investment in the digital economy. A number of new IIAs of G20 members facilitate investment in the digital economy in different ways. The AfCFTA Protocol on Digital Trade (2024), Article 36(c), for example, requires parties to facilitate investment in the ICT sector in accordance with the Protocol on Investment. Other treaties adopt investment facilitation provisions such as transparency obligations or clauses on stakeholder engagement directly with respect to the digital economy. The Cambodia–China FTA (2020), Article 12.1, for example, requires the publication of laws, regulations and procedures relating to all matters covered by the treaty, including the chapter on electronic commerce. The Dominican Republic–Central America–United States FTA (2004) includes a similar obligation specifically with respect to laws and regulations that “pertain to electronic commerce” (Article 14.4). The Australia–United Arab Emirates CEPA (2024), Article 12.28, specifies that the publication of such measures should be carried out, to the extent possible, online. Clauses aimed at the engagement of digital stakeholders can be found in the Australia–Japan FTA (2015), Article 13.5.3, which sets out that parties shall take the importance of industry-led development of electronic commerce into account when formulating any new regulations relating to the sector. Lastly, some treaties

Clauses on the use of digital tools for investment facilitation are increasingly incorporated in IIAs



To support digital business activity, dedicated provisions are included in some recent IIAs

contain investment facilitation provisions with respect to specific digital services. The Türkiye–United Arab Emirates CEPA (2023), Article 9.16, adopts soft language requiring the publication of laws and regulations relating to electronic payments as well as the timely processing of licensing applications relating to electronic payments.

Targeted promotion commitments for investment in the digital economy.

Targeted promotion provisions are currently rare in G20 IIAs. When contained in a treaty, they are usually loosely phrased, leaving significant leeway to the parties. The AfCFTA Protocol on Digital Trade (2024), Article 18(c), for example, broadly refers to promoting investment in digital infrastructure “through partnerships between governments, investors, financial institutions, and development partners”.

Cooperation provisions for investment in the digital economy.

Cooperation provisions in recent G20 IIAs focusing particularly on investment in the digital economy take a variety of forms. For example, the Australia–United Arab Emirates CEPA (2024) Memorandum of Understanding on investment cooperation in data centres and AI projects lists a number of areas of cooperation aiming to explore and assess investment opportunities relating to the digital economy.¹⁹ A second aspect of cooperation on investment facilitation and promotion relates to technical assistance for investment facilitation and promotion measures. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2018), Article 21.2(1) (c), for example, deals with cooperation and capacity-building activities to assist in promoting and facilitating trade and investment of the parties. Similarly, the Regional Comprehensive Economic Partnership (RCEP) (2020), Article 15.3(2)

requires the parties to undertake capacity-building and technical assistance that focuses, among others, on the areas of investment and electronic commerce.²⁰

Clauses that create a digital-friendly investment environment.

Dedicated provisions, and nowadays more commonly entire chapters in trade and investment agreements, deal with e-commerce and digital trade, supporting digital business activity. Such chapters touch, for example, on the acceptance of e-signatures, e-invoices, e-payments, electronic transactions frameworks, non-discrimination of digital goods and rules on data flows, among others. This overall trend is reflected in G20 IIAs such as the Brazil–Chile FTA (2018), Chapter 10 on Electronic Commerce, and the Agreement between the United States of America, the United Mexican States, and Canada (USMCA) (2018), Chapter 19 on digital trade.²¹ Additionally, IIAs can include provisions on training activities, capacity-building, and the provision of technical assistance to enable digital business and enhance the parties’ electronic commerce legal framework such as RCEP (2020), Article 12.4(1) and the AfCFTA Protocol on Digital Trade (2024), Article 42.

Provisions on cooperation to digitalize government.

A number of G20 IIAs aim to support government efforts in digitalizing their administration. Clauses on cooperation between the parties for the exchange of information and experiences on digital government can be found in the Mexico–Panama FTA (2014), Article 14.11(b) and Argentina–Chile FTA (2017), Article 11.9(b). The India–United Arab Emirates CEPA (2022), Article 9.13, contains a more detailed provision: The parties commit to digitally transforming their government operations and services, aiming for more

¹⁹ See also United Kingdom–New Zealand FTA (2022), Article 15.19 on digital innovation and emerging technologies; Australia–United Kingdom FTA (2021), Article 20.4.

²⁰ See also EFTA–India TEPA (2024), Article 7.3(2)(g) and (h) with technological collaboration and digital technology among the areas or fields for cooperation.

²¹ See also Australia–Singapore Digital Economy Agreement (2020), Chapter 14, which replaces the corresponding chapter in the Australia–Singapore FTA (2003); Australia–United Kingdom FTA (2021), Chapter 14 on digital trade; China–Nicaragua FTA (2023), Chapter 12 on digital economy.



accessible, transparent, and inclusive governance by embracing open processes, cross-sector coordination, public digital platforms, emerging technologies (including AI), ethical guidelines, and widespread up-skilling. To advance the digitalization of government, the parties also agree to cooperate – exchanging information, sharing best practices, and providing training to build mutual digital government capacity.

Promotion of the diffusion of digital technologies. A number of recent G20 IIAs recognize that the transfer of technology on mutually agreed terms, for example, through licensing of digital technologies, training of staff, and foreign direct investment can be a valuable catalyst for sustainable investment. For example, the EU–Kenya EPA, Article 83(2)(l) supports the transfer of technology on mutually agreed terms by committing the EU to provide technical assistance and capacity-building to strengthen innovation and transfer of technology, which would include technologies needed for digital transformation.

Right to regulate

Adopting tailored exceptions relating to investment in the digital economy.

Exceptions relating to privacy and data protection, of particular importance in relation to investment in the digital economy, are often found as part of the general exceptions contained in many recent G20 IIAs. The Eurasian Economic Union–Viet Nam FTA (2015), Article 1.9(1) and the Iceland–Liechtenstein–Norway–United Kingdom FTA (2021), Article 14.1(2), for example, incorporate GATS Article XIV(c) by reference, including its subparagraph that allows for the adoption of measures necessary to secure compliance with laws or regulations relating to the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts.

Other exceptions can be more specific to particular areas of activity in the digital economy. The EU–New Zealand FTA (2023), Article 12.11, prohibits a requirement to transfer, or provide access to, source code to authorize the import, export, distribution, sale or use of software or products. However, it allows for source code disclosure requirements when adopted in pursuit of a number of legitimate policy objectives such as a determination of compliance with a party's laws and regulations and the enforcement of competition law. Similarly, free flow of data provisions are often accompanied by safeguards that allow the parties to restrict data flows in the pursuit of legitimate policy objectives. An example of such a provision can be found in the Australia–United Arab Emirates CEPA (2024), Article 12.16(3).²²

Non-conforming measures for particular digital services.

Many recent IIAs include clauses on non-conforming measures that allow the parties to grandfather existing measures and adopt future measures with respect to specific sectors that would otherwise contravene specific investment protection standards. For example, RCEP (2020) parties have submitted reservations relating to investment in the digital economy, and computer-related services, under Article 10.8, the investment chapter's clause relating to non-conforming measures.

Responsible Investment

Clauses requiring the adoption of measures relating to data protection, unsolicited commercial messages and consumer protection. In addition to general clauses on responsible business conduct, there are a number of treaty provisions that aim to promote responsible commercial activity in the digital economy. For example, the China–Mauritius FTA (2019), Article 11.7 requires the parties to take measures to protect the personal information and data of users of electronic

Clauses safeguarding privacy and data protection feature in treaties with digital economy content

²² See also Australia–United Arab Emirates BIT (2024), Annex V – Investment Related to Digital Trade, Article 3.



Recent IIAs increasingly include explicit references to health

commerce.²³ The EU–New Zealand FTA (2023), Article 12.12, contains an obligation on the treaty parties to prohibit fraudulent and deceptive commercial practices, and its Article 12.13 requires the adoption of measures to protect users against unsolicited commercial messages.

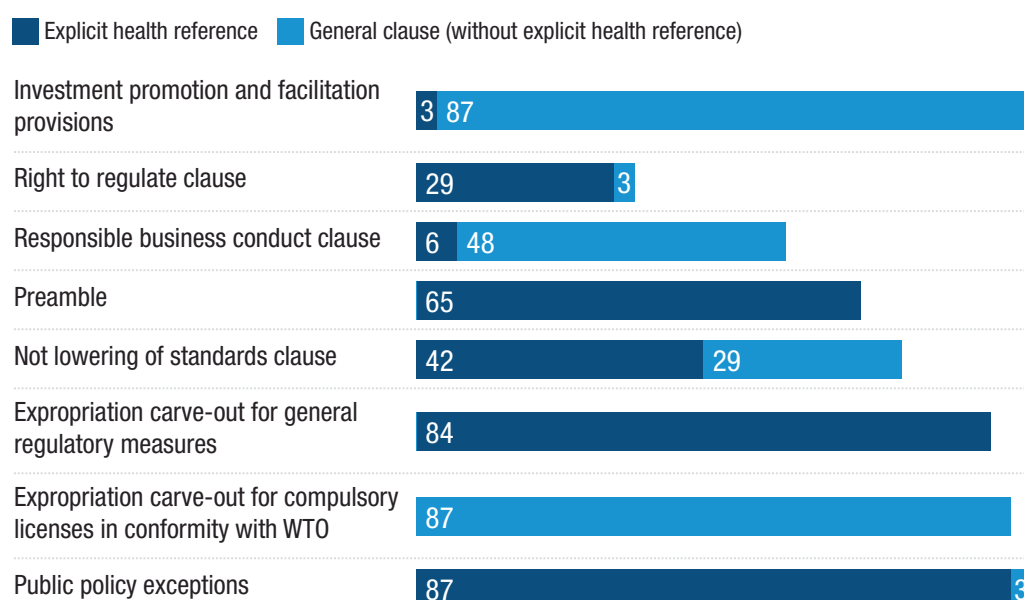
3. Public health

Direct references to “health” increasingly feature in recent IIAs. This has become particularly important after the global COVID-19 pandemic. Yet much more can be done to ensure that investment supports health in IIAs. Many G20 IIAs contain explicit health references in “right to regulate” clauses (about 30 per cent of G20 IIAs concluded between 2020 and 2024) (figure 5).

Furthermore, a vast majority of IIAs feature explicit references to health in the expropriation clause (as part of the carve-out for general regulatory measures) and as part of public policy exceptions. Concerning responsible business conduct provisions, health is rarely mentioned in the respective clauses of G20 IIAs concluded during the reference period. Some IIAs with clauses on responsible business conduct refer to instruments which contain elements related to the protection of human life and health such as the OECD Guidelines for Multinational Enterprises (on Responsible Business Conduct), the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights. Lastly, explicit health references frequently feature in the preambles of G20 IIAs concluded between 2020 and 2024.²⁴



Figure 5.
Prevalence of selected health references in recent G20 IIAs, 2020–2024
Share of agreements (Percentage)



Source: UNCTAD.

Note: Based on a mapping of 31 IIAs concluded by G20 member countries between 2020 and 2024 for which texts were available (20 BITs and 11 TIPs with substantive investment provisions). “Investment promotion and facilitation” broadly covers clauses that contain investment promotion activities or facilitation and cooperation commitments, including on regulatory practices, transparency and entry/stay of personnel.

²³ See also Australia–United Kingdom FTA (2021), Article 14.12 on personal information protection.

²⁴ Examples can also be found in IIAs signed before 2020, for example in the preamble of the CPTPP (2018).



Investment promotion and facilitation

Promotion and facilitation of investment in the health sector.

The AfCFTA Investment Protocol (2023), Article 27(2) contains a provision directly focused on investment in public health, requiring the parties to promote and facilitate investments in the public health sector in accordance with national laws and regulations. Moreover, many G20 IIAs contain general investment facilitation clauses (without explicit references to health), listing investment promotion activities or facilitation and cooperation commitments such as streamlining regulatory practices, publishing relevant laws and regulations and allowing for the entry/stay of personnel. RCEP (2020), for example, includes a list of investment facilitation actions in Article 10.17 that contains a best endeavours commitment to facilitate investment by creating the necessary investment environment, simplifying procedures, promoting the dissemination of information, and establishing or maintaining contact points. Furthermore, the Indonesia–Republic of Korea CEPA (2020), Article 7.17 (under Chapter 7 Investment), contains a clause on investment promotion, recognizing the importance of promoting cross-border investment and providing for activities such as the identification of investment opportunities, sharing of best practices on investment promotion and developing investment partnerships.

Cooperation activities between the parties on attracting investment in health.

Outside of investment chapters, some G20 IIAs contain explicit references to health as part of their economic cooperation chapters. For example, the China–Nicaragua FTA (2023) lists the healthcare industry among “other areas of cooperation” in Article 18.6 (Chapter 18, Economic

Cooperation). Similarly, the Indonesia–Republic of Korea CEPA (2020), Article 8.2 (Chapter 8, Economic Cooperation), states that sectors for cooperation may include areas such as healthcare.

Technological cooperation for medical supplies and related matters.

The Israel–Republic of Korea FTA (2021), for example, contains a chapter on technological cooperation that covers, among others, medicine and medical supplies and healthcare (including pharmaceuticals, medical devices and cosmetics) (Article 17.3). It also establishes a cooperation committee that may facilitate the exchange of information.

Right to regulate

Parties’ right to regulate with an explicit reference to public health.

Explicit health references in right to regulate clauses are included in about 30 per cent of the G20 IIAs concluded between 2020 and 2024. One example is the Türkiye–United Arab Emirates BIT (2023), Article 8, which reaffirms the parties’ right to achieve legitimate policy objectives such as the protection of public health. A similar provision is included in the Angola–EU SIFA (2023), Article 2.2.²⁵ In addition, some G20 IIAs contain right to regulate clauses without health references such as the India–Uzbekistan BIT (2024), Article 3(1).²⁶ Other G20 IIAs contain provisions concerning measures taken to ensure that investment activities are undertaken in a manner sensitive to environmental, health or other regulatory objectives. Examples include the Hong Kong, China SAR–Mexico BIT (2020), Article 12; the USMCA (2018), Article 14.16; and the CPTPP (2018), Article 9.16.²⁷

Few IIAs explicitly list the health sector in investment promotion and facilitation provisions

²⁵ See also EU–Singapore Investment Protection Agreement (2018), Article 2.2; Indonesia–Switzerland BIT (2022), Article 12, Canada Model FIPA (2021), Article 3,

²⁶ The Bolivarian Republic of Venezuela–China BIT (2024), Article 14.

²⁷ See also United Kingdom–New Zealand FTA (2022), Article 14.18; Australia–United Kingdom FTA (2021), Article 13.17.



Most commonly, health is mentioned in public policy exceptions

Public policy exceptions covering measures for the protection of human life and health. Explicit health references in public policy exceptions are included in the large majority of recent G20 IIAs (87 per cent of the IIAs concluded between 2020 and 2024). For example, the Israel–Republic of Korea FTA (2021), Article 21.1(3) provides that States may adopt measures necessary to protect human life or health, subject to the requirement that such measures are not applied in an arbitrary or unjustifiable manner, and do not constitute a disguised restriction on investment. The Australia–United Arab Emirates BIT (2024), Article 16(1) and the Iraq–Saudi Arabia BIT (2019), Article 21 contain a similar provision.²⁸ There are variations in the formulation of public policy exceptions – such as the inclusion of anti-abuse conditions or the varying strength of the nexus required to link the measure and the policy objective.

Safeguards for public health with respect to specified substantive protection standards. Explicit health references are frequently included in the expropriation provisions of G20 IIAs, as part of the carve-out for general regulatory measures (84 per cent of IIAs concluded between 2020 and 2024). For example, the Canada–Ukraine Modernized FTA (2023), Article 17.10(3) clarifies that a non-discriminatory measure of a party that is adopted and maintained in good faith to protect legitimate public welfare objectives, including health, does not constitute an indirect expropriation.²⁹ The USMCA (2018), Annex 14-B on expropriation, and the CPTPP (2018), Annex 9-B on

expropriation use similar safeguards.³⁰ Direct references to the pursuit of public policy objectives, including health, can also be found with respect to other protection standards. The AfCFTA Investment Protocol, Articles 13 and 15, allow for exceptions from national treatment and most-favoured-nation treatment obligations to protect or enhance public health.

Carve-outs for compulsory licensing in conformity with TRIPS obligations. While usually not containing an explicit reference to public health, the carve-out for TRIPS compulsory licensing from the expropriation clause (or from the treaty scope) may be relevant in this context. An expropriation clause carve-out is included, for example, in the Chile–EU Advanced Framework Agreement (2023), Article 17.19(4), which clarifies that the provision does not apply to the issuance of compulsory licenses or the revocation, limitation or creation of intellectual property rights consistent with the TRIPS Agreement. The India–United Arab Emirates BIT (2024), Article 2.4(iii), contains a similar limitation that excludes such action in conformity with the TRIPS Agreement from the scope of the treaty, not only the expropriation provision.

Exclusions of certain health-related services or products through country-specific schedules or annexes. Some G20 IIAs exclude certain health-related services, insurance activities or medical products through country-specific schedules or annexes from post-establishment as well as pre-establishment or liberalization commitments (where applicable). For example, Japan's schedule to the Georgia–

²⁸ See also Commonwealth of Independent States (CIS) Agreement on Services and Investment (2023), Article 9; Kazakhstan–Singapore Services and Investment Agreement (2023), Article 7.7; Türkiye–Uruguay BIT (2022), Article 7; United Kingdom–New Zealand FTA (2022), Article 32.1 general exceptions as well as Article 32.6, which recalls the exclusions and exceptions in the agreement that are applicable to the National Health Service of the United Kingdom and the New Zealand Health and Disability System, including as set out in the investment chapter and annexes on non-conforming measures; Australia–United Kingdom FTA (2021), Article 31.1 general exceptions and Article 31.7, on the National Health Service of the United Kingdom and Australia's health system.

²⁹ The Australia–United Kingdom FTA (2021), Annex 13B 3(b), contains a similar provision, accompanied by a “for greater certainty” clarification, providing some examples of measures to protect public health (such as the regulation, pricing and supply of pharmaceuticals).

³⁰ See also modernized Energy Charter Treaty (2024), Article 13; Angola–China BIT (2023), Annex B; Colombia–France BIT (2014), Article 6; Egypt–Saudi Arabia BIT (2024), Article 10(6).



Japan BIT (2021), exempts, among others, certain measures related to investment in the manufacturing of specially-controlled medical devices. Under the Canada–Ukraine Modernized FTA (2023), Annex II for Cross-Border Trade in Services and Investment Non-Conforming Measures, Canada reserves the right to adopt or maintain measures with respect to the supply of social services established or maintained for a public purpose, including health.³¹ In the RCEP (2020) Annex III Schedules of Reservations and Non-Conforming Measures for Services and Investment, several parties exclude certain measures from the national treatment provisions of the investment chapter that involve health-related economic activities, such as

specific listed activities in pharmaceutical manufacturing (China); medicines and medical devices manufacturing (Japan); human health services (Republic of Korea), and social services established for a public purpose, including health (New Zealand).

Other safeguards with explicit references to health, e.g. addressing measures taken during public health emergencies. G20 IIAs can contain other health-related safeguards. The AfCFTA Investment Protocol (2023), Article 27.1, provides, for example, that parties have the right to adopt or modify their relevant laws and measures in the context of epidemics, pandemics and other public health emergencies in accordance with their international commitments.³²

³¹ A similar provision is included in the Australia–United Kingdom FTA (2021), Annex II(6) for Australia.

³² A few G20 IIAs contain provisions on tobacco control measures in relation to investment chapters, e.g. the Canada–Ukraine Modernized FTA (2023), Annex 17-A, and the CPTPP (2018), Article 29.5.



Responsible investment

Not lowering of standards clauses with a reference to health. An explicit reference to health in the not lowering of standards clause is contained in 42 per cent of the G20 IIAs concluded between 2020 and 2024. For example, the Japan–Morocco BIT (2020), Article 19, states that contracting parties shall refrain from encouraging investments by relaxing their health standards.³³ Another 30 per cent of recent G20 IIAs contain a not lowering of standards clause covering the environment and/or labour standards – without an explicit reference to health. Such a clause is included, for example, in the Türkiye–Bolivarian Republic of Venezuela BIT (2023), Article 14(1).

References to health in responsible business conduct or corporate social responsibility clauses. Responsible business conduct clauses feature in more than half of G20 IIAs concluded between 2020 and 2024. Most do not include direct references to health (figure 5).³⁴ However, a number of G20 IIAs such as the USMCA (2018), Article 14.17, and the Australia–United Kingdom FTA (2021), Article 13.19 refer to instruments on responsible business conduct – such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights, which contain elements related to the protection of human life and health.³⁵

Clauses encouraging investors to refrain from seeking health-related exceptions. For example, the Brazil–India BIT (2020), Article 12(2), requires investors and their investments to endeavour to comply with voluntary principles and standards of responsible business conduct and refrain from seeking special exemptions from domestic rules relating to health. Similarly, the AfCFTA Investment Protocol (2023), Article 38 (Corporate Social Responsibility), encourages investors to refrain from seeking exemptions that are not established in the legislation of the host State relating to health.

Provisions addressing damage to public health in relation to investments. Some G20 IIAs contain a provision addressing damage to public health by investments or investors. A recent example is the AfCFTA Investment Protocol (2023), Article 47.1, which addresses investor liability for personal injuries and loss of life in the host State.³⁶

³³ See also United Kingdom–New Zealand FTA (2022), Article 14.8; Australia–United Kingdom FTA (2021), Article 13.17; earlier IIAs with similar provisions include the Colombia–France BIT (2014), Article 10, and Treaty on the Eurasian Economic Union (2014), Annex No. 16, Protocol on Trade in services, incorporation, activities and investments, Article 1(5).

³⁴ An example with explicit health references is the Egypt–Saudi Arabia BIT (2024), Article 14(1).

³⁵ See also Angola–EU SIFA (2023), Article 34.3.

³⁶ Other examples include the Bangladesh–Türkiye BIT (2012) Article 4(2), which reserves the parties' right to exercise all legal measures in case of loss, destruction or damages with regard to its public health by investments of the other party's investors.





Chapter 3. International investment agreements toolbox for clean energy, digital transformation and public health

The IIA Toolbox builds on the analysis of recent IIAs signed by G20 members and considers insights from investment treaties concluded by G20 members overall. It also draws on UNCTAD's long-standing policy work and guidance on IIA reform. Using these sources, the toolbox extracts the concrete G20 treaty clauses presented in the previous sections and distils them into a menu of policy options currently

employed by G20 countries. These policy options focus on promoting investment into clean energy, digital transformation and public health, while preserving the policy space governments need to regulate in those areas and fostering responsible investment. Cross-cutting issues are addressed under each of the three thematic areas to ensure comprehensive coverage.



	Clean energy	Digital transformation	Public health
Investment promotion and facilitation	<ul style="list-style-type: none"> • Including carefully designed investment facilitation provisions focused on clean energy investments, including (i) transparency, (ii) streamlining and accelerating investment authorization, and (iii) administering investment procedures by an independent authority • Including promotion provisions focused on host and home State measures to support investment in clean energy • Ensuring cooperation for the provision of technical assistance and capacity-building aimed at the implementation of investment promotion and facilitation commitments • Including cooperation commitments to promote investment, e.g. through joint promotion initiatives, matchmaking and exhibition activities • Encouraging the diffusion of clean technology through specific treaty provisions and flexibilities • Facilitating new clean energy investment, e.g. by simplifying the process of connecting to essential infrastructure such as electricity grids • Including cooperation on clean energy technologies, e.g. through joint research and development 	<ul style="list-style-type: none"> • Including carefully designed investment facilitation provisions focused on digital investors, as well as encouraging the digital publication of laws and regulations and the adoption of digital procedures relating to investment • Including promotion provisions focusing on investment for digital transformation • Including cooperation commitments to jointly promote investment in the digital economy • Agreeing to cooperate to jointly build capacity for investment promotion and facilitation • Supporting the diffusion of digital technology through targeted treaty provisions, technical assistance and capacity-building • Creating a digital-friendly investment environment by regulating specific aspects of the digital economy such as paperless business, data flows and cybersecurity • Encouraging the digitalization of government, including through cooperation provisions 	<ul style="list-style-type: none"> • Including carefully designed investment facilitation provisions for investment in public health that increase transparency, streamline procedures and create mechanisms for stakeholder engagement • Including targeted promotion provisions with lists of measures, e.g. joint promotion activities that can enhance flows of investment in public health • Ensuring cooperation for the provision of technical assistance and capacity-building aimed at the implementation of investment promotion and facilitation provisions • Including cooperation provisions for human capital and skills development in the area of public health • Building capacity through the exchange of information and best practices on investment in public health
Regulating in the public interest	<ul style="list-style-type: none"> • Including self-standing right to regulate clauses that refer to the protection of the environment, and refining investment protection standards • Adopting public policy exceptions that apply to measures for the protection of the environment and/or climate change • Adopting carve-outs for liberalization commitments, where included, to ensure a balanced approach under which IIAs provide policy space for the development of clean energy sectors • Excluding certain energy-related assets from the scope of the IIA under the definition of investment 	<ul style="list-style-type: none"> • Adopting public policy exceptions that enable regulatory measures, e.g. to protect privacy • Refining investment protection standards to ensure predictability for digital economy investors and States • Adopting tailored exceptions relating to investment in the digital economy, e.g. with respect to data protection and data flows, privacy, cyber security, source code and national security • Specifying the parties' non-conforming measures with respect to digital sectors 	<ul style="list-style-type: none"> • Including a clause affirming the parties' right to regulate to achieve legitimate policy objectives that explicitly references public health • Adopting public policy exceptions that apply to measures for the protection of health • Reiterating TRIPS flexibilities in IIAs with respect to investment in health • Adding safeguards with explicit references to health, such as relating to measures taken during public health emergencies • Adopting carve-outs for liberalization commitments, where included, to ensure a balanced approach under which IIAs provide policy space for the development of the public health sector • Including lists of existing and future non-conforming measures with respect to the health sector



	Clean energy	Digital transformation	Public health
Responsible investment	<ul style="list-style-type: none"> • Encouraging or requiring investors and their investments to comply with instruments on responsible business conduct/internationally recognized corporate social responsibility standards • Including obligations for energy investors and their investments, e.g. in relation to environmental and social impact assessments and management as well as human capital development • Including a not lowering of standards clause with a reference to the environment 	<ul style="list-style-type: none"> • Encouraging or requiring investors and their investments to comply with internationally recognized corporate social responsibility standards • Requiring treaty parties to adopt measures relating to data protection, unsolicited commercial messages and consumer protection 	<ul style="list-style-type: none"> • Encouraging or requiring investors and their investments to comply with instruments on responsible business conduct/internationally recognized corporate social responsibility standards • Explicitly referring to health in responsible business conduct/corporate social responsibility clauses • Encouraging investors to refrain from seeking exemptions that are not established in the legislation of the host State, related to health • Including a not lowering of standards clause with a reference to health



Conclusions

The reform and modernization of the IIA regime are crucial steps toward an investment governance framework that promotes and facilitates sustainable investment, fosters cooperation, and safeguards public policy interests. New-generation IIAs have the potential to channel much-needed private capital into clean energy, digital transformation, and health — sectors where global demand and social needs are rapidly increasing.

Drawing on G20 members' recent IIAs as well as other treaty examples, the IIA toolbox for clean energy, digital transformation and public health presented in this report offers a non-prescriptive menu of options. It combines investment promotion and facilitation elements with options to preserve policy space and foster responsible investment.

The reform-oriented features, distilled from recent G20 IIA practice, are absent from the majority of older IIAs which were concluded in the 1990s and 2000s. While recent treaties fare better in addressing today's challenges, more needs to be done

to reform the outdated stock of IIAs that continue to form the bulk of the IIA regime.

The emerging trends and innovations in treaty provisions identified in this report can also serve to inform non-G20 countries when engaging in IIA reform and devising priorities for international investment policymaking.

UNCTAD's Annual High-Level IIA Conference, every two years as part of the *World Investment Forum (WIF)*, and its IIA Reform Platform continue to provide universal and inclusive forums for multilateral discussions on the reform of the international investment regime. In addition, UNCTAD's technical assistance continues to strengthen the capacity of investment treaty negotiators and policymakers to reform their IIA networks. The overall objective is to make international investment governance more effective in attracting sustainable investment while balancing investment protection with the flexibility needed to regulate in the public interest.



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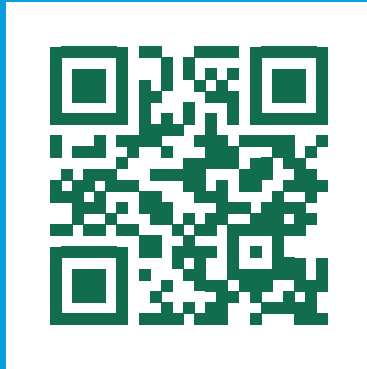
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