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INVESTMENT COMMITTEE****Future of Investment Treaties Track 1 -- Investment Treaties and Climate  
Change****Note on continued work under Track 1**

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This note is for discussion under item 4 of agenda DAF/INV/TR1/RD(2023)2.

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## 1. Introduction<sup>1</sup>

1. The OECD-hosted work programme on the “Future of Investment Treaties” was launched at the 6th Annual Conference on Investment Treaties on 29 and 30 March 2021. The programme comprises two tracks and the initial work programme runs until the end of 2023.
2. Track 1 considers the challenges that investment treaties should address in the future as well as desirable changes to current approaches, with a priority focus on addressing climate change. Governments and Track 1 participants at the OECD have initiated in Track 1, in particular since 2022, the first sustained multilateral work on climate policies for investment treaties, responding to growing demands to take action on the climate impacts of the investment treaty regime. The work has focused on the alignment of investment treaties with the Paris Agreement and net zero goals.
3. For Track 1, a flexible approach to meetings has been foreseen to benefit from input from stakeholders and experts, and to engage a broader community beyond governments. In addition to Track 1 meetings, Track 1 work has formed the basis for the annual Investment Treaty Conferences with public participation in 2022 and 2023.
4. Track 2 considers whether it would be better if specific substantive provisions of older investment treaties were more similar to those now more consistently used in newer treaties, and if so, how interested jurisdictions could align earlier generation treaties with more recent designs in an efficient manner. Track 2 is in principle delivered in an inter-governmental format.
5. As the initial duration of the work programme draws to an end, governments and participants in Track 1 are invited to consider possible continued work under Track 1. Track 1 has not benefitted to date from voluntary contributions from governments; such contributions would allow for an acceleration of the work but input on the work program should take account of available resources.
6. This note provides background and sets out an approach to the work going forward. A chronological description of Track 1 work to date is included in Annex A.

## 2. Background

7. Track 1 work on investment treaties and climate change continues to take place in a fast-changing environment. A few notable climate and investment treaty developments, in particular from the period since the April 2023 Conference on “Investment treaties, the Paris Agreement and Net Zero - Towards alignment?”, are noted below as context for the Track 1 meeting discussions and consideration of future work. Developments in recent months and weeks include an updated net zero energy pathway from the International Energy Agency (IEA), increased

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<sup>1</sup> This note does not necessarily reflect the views of the OECD or of the governments that participate in work on investment at the OECD, and it should not be construed as prejudging ongoing or future negotiations or disputes pertaining to investment treaties.

requirements and encouragement for climate disclosure and alignment by financial and economic actors, and climate-related developments in investment treaty policies. There are many other developments not addressed here, including in particular in connection with the Global Stocktake and preparations for COP 28. It is impossible to capture the range of proposals and action; government and other participants are encouraged to note additional key developments.

## 2.1. Updated analysis of the net zero energy transition

8. In September 2023, the IEA released an Update of its landmark May 2021 Net Zero Roadmap.<sup>2</sup> The original Roadmap translated the temperature goals of the Paris Agreement into practical milestones for the global energy sector. The IEA Roadmap has been a reference point for governments, companies, investors and civil society, helping inform discussions and decision-making on pursuing secure, inclusive and affordable transitions to clean energy. It has been important context for Track 1 discussions and their focus on addressing climate change.
9. The updated Roadmap report surveys developments since 2021, including the impact of Russia's invasion of Ukraine and record-high energy sector carbon dioxide emissions in 2022. It also welcomes record-high growth in solar power capacity and electric car sales since 2021. It sets out an updated pathway to net zero by 2050.
10. The updated Roadmap underlines that urgency of climate action is stronger than ever. July 2023 was the hottest month on record – and 2023 as a whole appears likely to become the hottest year. Severe wildfires, droughts, floods and storms make clear that even short-term costs are mounting. Greater ambition and implementation, supported by stronger international cooperation, will be critical to reach climate goals.
11. The report underlines that energy sector CO<sub>2</sub> emissions are worryingly high, reaching a new record of 37 gigatonnes (Gt) in 2022. Instead of starting to fall, as envisaged in the 2021 report, demand for fossil fuels has increased and so have investments in supply. Progress on energy access has stalled while millions of people still lack access to electricity and clean cooking, notably in sub-Saharan Africa.
12. The report notes important achievements. The combined global market for five key clean energy technologies – solar PV, wind, batteries, electrolyzers and heat pumps – has almost tripled since 2010, a period during which their unit costs declined by around 80%.<sup>3</sup> The report notes that record growth in solar power capacity and electric car sales since 2021 is in line with a pathway towards net zero emissions globally by mid-century. So are industry plans for the roll-out of new manufacturing capacity in those sectors. Those two technologies alone deliver one-third of the emissions reductions between today and 2030 that are foreseen in the net zero pathway.
13. The sharpest jump in clean energy investment is needed in emerging market and developing economies other than China. Clean energy investment in those

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<sup>2</sup> See IEA, [Net Zero Roadmap: A Global Pathway to Keep the 1.5 °C Goal in Reach](#) (Sept. 2023)

<sup>3</sup> IEA 2023 updated Roadmap at p. 43 (measured on a combined deployment weighted average basis).

jurisdictions must increase sevenfold by the early 2030s in the Net Zero Emissions Scenario. The report underlines that this will require stronger domestic policies together with enhanced and more effective international support.

14. The report indicates that clean energy innovation has also been delivering more options and lowering technology costs. Nearly half of the emissions reductions needed for net zero in 2050 in the original Roadmap required technologies not yet available on the market, but that ratio has fallen to around 35% in the Update.
15. All new long-lead-time upstream oil and gas projects are excluded in the updated Net Zero Emissions pathway, as they were in 2021. There must also be no new coal mines, mine extensions or new unabated coal plants. In some existing oil and gas assets and already approved projects, additional investment is needed under the scenario.
16. The report also addresses the impact of fossil fuel supply and demand on the scope for growth of clean energy. It notes that well-designed policies, such as the early retirement or repurposing of coal-fired power plants, are key to facilitate declines in fossil fuel demand and create additional room for clean energy to expand.<sup>4</sup>
17. Overall, the updated scenario requires a huge policy-driven ramping up of clean energy capacity to drive fossil fuel demand 25% lower by 2030. This reduces emissions by 35% compared with the all-time high recorded in 2022. By 2050, fossil fuel demand falls by 80% under the Net zero scenario.

## 2.2. Climate disclosure and alignment

18. In recent months, governments have continued to encourage and to mandate reporting by financial and operating companies on their climate impacts and policies. In the EU, in addition to existing climate impact disclosure requirements<sup>5</sup>, the European Commission has proposed additional requirements in a Directive on Corporate Sustainability Due Diligence and a Corporate Sustainability Reporting Directive which remain under discussion.
19. In a recent consultation, European financial regulators have also proposed that investment funds claiming to pursue a decarbonization strategy should be assessed against a 7% year-on-year carbon emission reduction pathway in order to ensure they are Paris-aligned.<sup>6</sup> Concerns have emerged that funds advertised as ‘climate’ or ‘carbon’ related financial products are attracting substantial assets but may not

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<sup>4</sup> Id. p. 13; see also a recent article by John Kerry, U.S. special presidential envoy for climate, and Fatih Birol, Executive Director of the International Energy Agency: [“Let’s end the silence on this canary in the climate coal mine”](#), Washington Post (19 Sept. 2023) (underlining that emissions from existing coal uses if left unaddressed would preclude achieving the 1.5 degree goal and calling for an immediate end to all new investment in unabated coal).

<sup>5</sup> Climate reporting is required under the Non-Financial Reporting Directive, the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation.

<sup>6</sup> Joint Committee of the European Supervisory Authorities, [Joint consultation on the review of SFDR Delegated Regulation](#) (April 2023); Nadia Humphreys, Bloomberg, [New guidance aims to clarify investment alignment with EU net zero goals](#) (6 Sept. 2023); Nadia Humphreys, Bloomberg, [Behind the buzz of Paris Aligned Benchmarks](#) (10 Dec. 2021)

be aligned with net zero goals.<sup>7</sup> A Bloomberg executive notes that this type of measure can provide a strong incentive for alignment for companies interested in attracting investment funds: “If this idea becomes reality, then companies whose carbon targets are within the 7% pathway will become attractive investment opportunities – as funds with decarbonization objectives will seek to hold qualifying securities.”

20. In the United States, the Securities and Exchange Commission (SEC) is expected to issue new rules requiring more detailed climate disclosures later this year, following a notice and comment procedure on draft rules generating many comments. In California, the governor is expected to sign a climate disclosure bill adopted by the legislature applicable to all large US companies doing business in California (the 5<sup>th</sup> largest economy in the world).<sup>8</sup>
21. Some news reports suggest that with the overlapping requirements to improve climate policies from different jurisdictions, some financial actors and companies are taking action to align with new regulatory requirements even if business federations or others may lobby for their reduction or challenge them in some jurisdictions.<sup>9</sup> At the same time, decisions to scale back some proposed legislative requirements, together with growing open political resistance to climate mandates in some cases<sup>10</sup>, may make the alignment of policies providing economic incentives with climate goals even more important.
22. June 2023 saw the issuance of the inaugural IFRS Sustainability Disclosure Standards by the International Sustainability Standards Board (ISSB). They are designed to provide a global baseline of sustainability-related disclosures for the capital markets. IFRS S1 requires companies to communicate the sustainability-risks and opportunities they face over the short, medium, and long term. IFRS S2 sets out specific climate-related disclosures and is designed to be used with IFRS S1. Both Standards are based on recommendations of the Task Force on Climate-related Financial Disclosures (TCFD).<sup>11</sup>
23. The ISSB’s work has received strong support from investors, companies, policy makers, market regulators and others from around the world, including the International Organization of Securities Commissions (IOSCO), the Financial Stability Board, the G20 and the G7 Leaders. For example, the ASEAN Capital Markets Forum (ACMF, a high-level grouping of capital market regulators from all 10 ASEAN jurisdictions), marked the launch of the two inaugural IFRS

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<sup>7</sup> Nadia Humphreys, Bloomberg, [New guidance aims to clarify investment alignment with EU net zero goals](#) (6 Sept. 2023).

<sup>8</sup> See Coral Davenport, [California Governor to Sign Landmark Climate Disclosure Bill](#), New York Times (18 Sept. 2023) (California often sets the trend for the US and many of the affected businesses are global corporations).

<sup>9</sup> See, e.g., Richard Vanderford, [SEC’s Climate-Disclosure Rule Isn’t Here, but It May as Well Be, Many Businesses Say](#), Wall Street Journal (25 April 2023) (noting some companies are taking climate action to align with expected new rules notwithstanding likely legal challenges due to overlapping regulation in other jurisdictions, investor and consumer pressure).

<sup>10</sup> See, e.g., [Letter of 5 June 2023](#) from Tim Scott, Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, and James Comer, Chairman, House Committee on Oversight and Accountability, to Janet Yellen, US Secretary of the Treasury.

<sup>11</sup> See IFRS, [Ten things to know about the first ISSB Standards](#).

Standards in a Joint ACMF-ISSB Conference and Technical Training meeting in June 2023.<sup>12</sup>

24. In addition to requiring climate disclosures, governments also continue to urge financial institutions to adopt and implement net zero commitments. In a recent example, the US Treasury launched its Principles for Net-Zero Financing & Investment in September 2023.<sup>13</sup> The Principles establish that financial institution net-zero commitments should be in line with the 1.5 degree goal. They should include transition plans with clear practices, targets, and metrics. Transparency of quantitative information that reflects progress towards targets (e.g., the measurement of financed emissions) is particularly important to the evaluation of financial institution net-zero activities. Financial institutions should determine in what format to publish information about their commitments in light of evolving practices, but regardless of format, such information should be made easily accessible to stakeholders, such as in a regular publication or periodic filings. When an institution cannot conform to emerging best practice as it relates to commitments, it should explain the reasons.

### 2.3. Recent developments in climate and investment treaties

25. There have been a number of investment treaty developments since the April 2023 Conference. In July 2023, the European Commission formally proposed a coordinated withdrawal from the Energy Charter Treaty (ECT) by the EU and its Member States. Frans Timmermans, Executive Vice-President of the European Commission for the European Green Deal, explained that the “outdated Energy Charter Treaty is not aligned with our EU Climate Law and our commitments under the Paris Agreement.”<sup>14</sup> The proposed withdrawal for all of the EU followed a series of high-level decisions by EU Member States that the modernised treaty was still not aligned with Paris Agreement or other climate goals and should be terminated.<sup>15</sup>
26. In September 2023, the UK government confirmed that it will be reviewing its ECT membership, and considering withdrawal if a modernisation is not agreed by November 2023.<sup>16</sup> The UK has not faced arbitration of any ECT claim. However, the Minister of State for Energy Security and Net Zero stated that “[i]n its current form, the Energy Charter Treaty will not support those countries looking to make the transition to cleaner, cheaper energy sources such as renewables – and could even penalise [the UK] for being at the forefront of those efforts.” The government has tabled terms under which new investments in all types of fossil fuels would lose protection under a modernised Energy Charter Treaty.

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<sup>12</sup> See ACMF, [ASEAN securities regulators team up with ISSB to mark global launch of sustainability disclosure standards](#) (27 June 2023).

<sup>13</sup> See United States Department of the Treasury, [Principles for Net-Zero Financing & Investment](#) (Sept. 2023); [Remarks by Secretary of the Treasury Janet L. Yellen, Treasury’s Principles for Net-Zero Financing & Investment](#) (19 Sept. 2023).

<sup>14</sup> See [European Commission proposes a coordinated EU withdrawal from the Energy Charter Treaty](#) (7 July 2023).

<sup>15</sup> See [Background note on investment treaties: Market access for climate-friendly investment and recent climate policies on the sectoral scope of investment protection](#) (2 Mar. 2023) DAF/INV/TR1/WD(2022)5/REV2, pp. 8-16.

<sup>16</sup> See UK.gov, [UK reviewing membership of energy treaty](#) (1 Sept. 2023).

27. Canada and the United States, both major fossil fuel producers and consumers, terminated the *inter se* application of ISDS as of July 2023 under the USMCA. The two Parties provide for State-to-State dispute settlement (SSDS) for investment chapter claims as well as for other claims under the USMCA. Mexico and the United States are applying a narrower scope to ISDS under the USMCA.<sup>17</sup>
28. The UK signed a Protocol of Accession to join the CPTPP in July 2023. In sectoral terms, the CPTPP investment chapter and ISDS apply to “every asset” including fossil fuels. Ratification by the UK and the CPTPP Parties is required for accession to take effect. The AfCFTA Investment Protocol, which was discussed at the April 2023 Conference, continues to attract significant attention based on near-final drafts including for its climate-related provisions. However, the final text is not yet available.
29. Other international organisations have also carried out work on climate and investment treaties as well as related areas in recent months. For example, In July 2023, the UN Secretary-General transmitted to the General Assembly a report by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. The report addresses ISDS and sharply criticises its effects on climate and environmental action and human rights.<sup>18</sup> UNCTAD has been active on climate and investment treaties with topical notes and a meeting scheduled in advance of UNFCCC COP28. UNCTAD notes have described ISDS cases involving climate aspects and have set out a number of policy options.<sup>19</sup> UNCITRAL organised a July 2023 colloquium on Climate Change and the Law of International Trade.<sup>20</sup>
30. At the OECD, Track 1 work and issues have recently featured in a range of cross-cutting work involving different committees. For example, a report presenting findings from the first phase of the Net Zero+ project was released in May 2023 (“[Net Zero+: Climate and Economic Resilience in a Changing World](#)”). The report sets out recommendations on building climate and economic resilience derived from climate-relevant work from across OECD policy domains including investment. The [10th annual OECD Forum on Green Finance and Investment](#) on 2-3 October 2023, which focused on “Accelerating policy action to close the credibility gap”, included a session on “Aligning investment treaties with the Paris Agreement”.

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<sup>17</sup> The scope of the legacy provision allowing ISDS claims under NAFTA to be filed between the NAFTA Parties until 30 June 2023 is currently in dispute; the United States and Mexico have stated that they ceased to be bound by the substantive obligations in Chapter 11 of the NAFTA once the USMCA entered into force on 1 July 2020. Consequently, claims during the legacy period can only challenge government measures taken before July 2020.

<sup>18</sup> See [Paying polluters: the catastrophic consequences of investor-State dispute settlement for climate and environment action and human rights](#), A/78/168 (13 July 2023).

<sup>19</sup> For a recent note, see UNCTAD, [Trends in the Investment Treaty Regime and a Reform Toolbox for the Energy Transition](#) (Sept. 2023).

<sup>20</sup> See UNCITRAL, [Climate Change and the Law of International Trade](#).

### 3. Proposed Track 1 work program for 2024-2025

31. The interaction of investment treaties with climate goals is a vast, under-explored and fast-moving subject. Track 1 work to date has only scratched the surface. The notion of the need for Paris alignment of individual investment treaties has emerged only recently. There has been even less attention to the Paris alignment of the investment treaty regime as a whole, despite its far-ranging reach. The affirmation in the survey by over 75% of government respondents that Paris alignment of existing investment treaties and investment treaty policies is very or somewhat important suggests that it is vital to continue work on alignment both at the OECD and elsewhere.<sup>21</sup>
32. No government has suggested that Paris alignment is not important either in the survey or in meetings. Emerging issues such as alignment with more specific Paris provisions such as the art. 2.1c finance flows alignment clause are also seen as important by many survey respondents.
33. The Survey also reveals a need for continued work on methods for Paris alignment. In a question about the most important barriers to Paris alignment with nine proposed answers (plus an “other” option), the top barrier identified was uncertainty about what to do. Only a small percentage of respondents had analysed the climate impacts of their investment treaties.
34. In addition to the Survey findings on the Paris Agreement and other aspects, there have been many occasions for informal input from governments and stakeholders on the direction of the work as Track 1 has progressed. Recent examples include government consultation with business, labour and civil society stakeholders following the Investment Treaty Conference addressing in April 2023, in which the work on investment treaties and climate change attracted extensive comments from stakeholders. The Chair of the Investment Committee noted that all three stakeholders (BIAC, TUAC, OECD Watch) emphasised the importance of the work while expressing differing views on the optimum approaches to reform. Over a dozen governments provided further input in meetings during the course of the week.
35. As outlined in an email to Track 1 participants in July 2023, the Secretariat has also engaged in additional outreach to a range of governments to discuss the work this year.
36. In this context, it is proposed to continue the work on investment treaties and climate change in Track 1 in 2024-2025 taking account of three principles.
37. First, as outlined in proposals to governments by the Chair of Track 1 in April 2023, the work would continue to focus on discussion of methods to effectively align investment treaty policies with the Paris Agreement goals. This overall focus corresponds to the views noted above that (i) it is important to align existing investment treaties and policies with the Paris Agreement; and (ii) a major challenge to alignment is uncertainty about what to do.
38. The work would continue to be structured to help achieve two related and widely-shared goals for investment treaty policies and their impacts on climate goals: (i)

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<sup>21</sup> A note reporting on the survey will be circulated in advance of the Oct. 25 2023 Track 1 meeting [DAF/INV/TR1/WD(2023)2] and will be discussed as part of the agenda for the meeting. [DAF/INV/TR1/RD(2023)2]

to do no harm; and (ii) to help promote and facilitate vital investment. The work would continue to take account of sustainability, market access and implementation aspects.

39. Governments and others have proposed a wide range of proposed actions for consideration under these rubrics. A number of governments and others have noted that the broadminded search for ideas in the Conferences and Track 1 work has raised some challenging new issues. The OECD Track 1 setting has been widely seen as a valuable format for their exploration. Analytical work by a Secretariat with a broad range of expertise including on investment, finance, environment and climate; important and regular contributions by experts and stakeholders to the public consultation and meetings; and the ability to meet together virtually and in person in the absence of negotiating constraints have all been seen as conducive to consideration of a range of new thinking as well as reconsideration of existing approaches.
40. Second, it is proposed to reinforce close and regular interaction with governments, stakeholders and the climate, energy and finance communities, including on the work program as it progresses. Although as noted attention to Paris alignment of investment treaties is recent, there are already a range of views about what it entails. Discussions with governments, experts and stakeholders have revealed a wide range of views about possible reforms and actions, with some shared views and other areas where views diverge significantly. Given the early stage of analysis and the diverging views about specific appropriate themes and actions, it is suggested that the work program continue to be flexible within the general outlines set out above. Attempts to achieve consensus on more specific items for inclusion or exclusion appear to be premature. Maintenance of the current governance structure with regular meetings, a Chair and an informal steering group will also continue to provide regular input on the work.
41. Third, it is proposed to continue to welcome new conversation participants and potential aspects of climate alignment. Strong government interest in Track 1 has been accompanied and supported by strong business, labour and civil society interest. As with Track 2, efforts are ongoing to attract active participation from a broader range of governments.
42. Track 1 work has attracted attention and investment treaties are ceasing to be a “blind spot” in discussions of sustainable finance and investment. As investment treaties are integrated into these broader discussions, mutual exchanges will be valuable. Participants in broader work on sustainable finance and investment could participate in Track 1 work. Conversely, it will also be important for investment treaty policy makers, together with climate and other experts, to contribute their expertise and experience to broader sustainable finance and investment discussions as they consider investment treaties. Track 1 should facilitate such exchanges. Additional fields for potential collaborative participation may also emerge.

## **Annex A – Summary of Track 1 work to date**

43. As noted in the text, governments and other Track 1 participants have placed the alignment of investment treaties with the Paris Agreement and net zero at the core of Track 1 discussions. Attention has notably focused on the importance of achieving greatly increased climate-friendly investment in particular from the private sector in order to mitigate and adapt to climate change; the Paris Agreement temperature goals and current investment treaty support for both Paris-aligned and

mis-aligned investment; the finance flows alignment goal in Article 2.1c of the Paris Agreement and the finance flows associated with investment treaties; new models for investment treaties focused on investment facilitation and their potential contribution to addressing climate change; and the need for better market access for climate-friendly investment and the potential role of investment treaties. Track 1 activities have attracted broad interest with, for example, over 700 government and other registrants for the 2023 Conference.

44. The launch of Track 1 work in March 2021 included a scoping paper [DAF/INV/WD(2021)5] setting out possible issues for attention in Track 1 with climate change noted as a cross-cutting and urgent challenge. A first Track 1 meeting in Nov. 2021 [DAF/INV/TR1/RD(2021)1] provided (i) a general introduction to Track 1 and review of a proposed Track 1 road map focused on sustainability, market access and implementation, with climate change as a continuing focus [DAF/INV/TR1/RD(2021)2]; (ii) an overview of climate litigation; and (iii) a case study on exception clauses reflecting limited practical effects to date in cases involving environmental policies [DAF/INV/TR1/WD(2021)1].
45. A work program circulated to the Track 1 steering group in late 2021 and to Track 1 participants in January 2022 [DAF/INV/TR1/WD(2022)1] set out a range of work with a focus on climate change.
46. A [public consultation on investment treaties and climate change](#) in January-March 2022 generated over 40 responses including innovative ideas and proposals. Some have already been discussed and attracted interest in subsequent Track 1 work.
47. An April 2022 Track 1 meeting [DAF/INV/TR1/RD(2022)1] introduced the notions of Paris Agreement and net zero alignment of investment treaties in advance of the May 2022 annual Conference. Participants considered some of the major climate policy developments in the finance sector since the 2015 launch by the Financial Stability Board of the Task Force on Climate-related Financial Disclosures (TCFD). The discussion also addressed the impact of investment treaties on climate policy space and recent reforms in that area. Track 1 participants benefitted from the [compilation of submissions to the public consultation](#).
48. The virtual May 2022 annual Conference addressed [Investment treaties and climate change: Paris Agreement and Net Zero alignment](#). Well-known lawyers Roger Cox and Philippe Sands addressed litigation over climate issues. The Paris Agreement art. 2.1(c) finance flows alignment goal was explored. Participants discussed the climate disclosure and alignment commitments and activity of financial actors and regulators (TCFD, UNEP FI, Net Zero alliances, OECD export finance, Network for Greening the Financial Sector, etc.) as they seek to use finance to increase sustainable investment and support climate goals. Participants also explored the impact of investment treaties on regulatory policy space and government finances for climate action.
49. The first-ever survey of climate policies for investment treaties was circulated to Track 1 governments in the fall in 2022.
50. A November 2022 Track 1 meeting addressed how investment treaties could contribute to increased climate-friendly investment with a focus on their role in improving market access, with background material prepared by the Secretariat. [DAF/INV/TR1/WD(2022)5/REV1] A business consultant and a professor involved in developing the OECD Services Trade Restrictiveness Index (STRI) addressed barriers to climate-friendly investment in different sectors; they noted

the apparently modest contribution of investment treaties in addressing them to date. Government action on investment treaty sectoral coverage of fossil fuels and the Paris Agreement, in particular with regard to the Energy Charter Treaty (ECT), was also considered. Participants also discussed the survey of climate policies for investment treaties.

51. April 2023 saw the post-Covid crisis return to a full-day Conference in a hybrid format. It addressed [“Investment treaties, the Paris Agreement and Net Zero - Towards alignment?”](#) The Conference notably allowed for presentations and discussions of recent climate science and tipping points developments, and an update on developments at the UNFCCC on the Paris Agreement art. 2.1c finance flows alignment provision; consideration of obstacles to Paris alignment commitments for investment treaties and how they could be addressed; debates over immediate investment treaty climate action in the form of fossil fuel carve-outs, with input on ECT negotiations and developments; and discussion of climate policy space and dispute settlement proposals initially set out in submissions to the OECD public consultation.
52. The Conference topics and Track 1 work were also considered in the government consultation with business, labour and civil society stakeholders following the Conference; in an informal governmental meeting to discuss the Conference and preliminary results from the survey; and in the Investment Committee following a presentation by the chairs of Tracks 1 and 2. Governments took note of preliminary survey results including with regard to views on the importance of alignment of existing investment treaties with the Paris Agreement.