



Recommendation of the Council on
Member Country Exceptions to
National Treatment and Related
Measures concerning Access to
Local Bank Credit and the
Capital Market

**OECD Legal
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Background Information

The Recommendation on Member Country Exceptions to National Treatment and Related Measures concerning Access to Local Bank Credit and the Capital Market was adopted by the OECD Council on 1 December 1989 on the proposal of the Committee on International Investment and Multinational Enterprises (succeeded by today's Investment Committee). The Recommendation is one of five OECD instruments that sought to encourage the levy of restrictions on national treatment in specific areas where a wider use of exceptions had been diagnosed at the time. In addition to stating general principles, the instrument contains country-specific recommendations to lift certain exceptions.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Declaration on International Investment and Multinational Enterprises of the Governments of OECD Member countries of 21 June 1976;

HAVING REGARD to the 1984 Report on the Second Review of the 1976 Declaration and Decisions on International Investment and Multinational Enterprises [C/MIN(84)5(Final)];

HAVING REGARD to the Second Revised Decision of the Council on National Treatment [C(84)91] and in particular paragraph 4 thereof;

HAVING REGARD to the Recommendation of the Council of 16 July 1986 on Member country measures concerning National Treatment of foreign-controlled enterprises in OECD Member countries and based on considerations of public order and essential security interest [C(86)55(Final)];

HAVING REGARD to the Recommendation of the Council of 10 July 1987 on Member country exceptions to National Treatment and National Treatment related measures concerning investment by established foreign-controlled enterprises [C(87)76(Final)];

HAVING REGARD to the fact that a number of Member countries have in recent years abolished restrictive measures concerning access to local bank credit and the capital market and thus extended the application of National Treatment in this area;

On the proposal of the Committee on International Investment and Multinational Enterprises;**RECOMMENDS that:**

- a) Ireland, with respect to its measure whereby local finance institutions may not, without prior permission, loan domestic currency for fixed asset financing to enterprises controlled by non-EC citizens, reconsiders this exception to National Treatment with a view to examining the possibility of removing or relaxing this measure, possibly by adopting alternative means of achieving its objectives in a manner which would be consistent with the principle of National Treatment;
- b) Full account is taken by Member countries in the context of possible reviews of or changes to existing measures, or in considering the introduction of new measures, of the objectives of the National Treatment instrument and that they seek to ensure that such changes do not result in the introduction of new exceptions to National Treatment;
- c) Member countries give attention to the application of the foregoing observation and recommendations at the level of territorial subdivisions.

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