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**REPORT OF THE COMMISSION ON INVESTMENT, TECHNOLOGY  
AND RELATED FINANCIAL ISSUES ON ITS ELEVENTH SESSION**

Held at the Palais des Nations, Geneva,  
from 8 to 14 March 2007

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## **Chapter I**

### **AGREED RECOMMENDATIONS**

1. UNCTAD should continue its global analysis on FDI and its analytical work on the impact of FDI on development to identify productive, beneficial and effective FDI, in order to help developing countries and countries with economies in transition better understand how FDI can contribute to growth and development. The findings should continue to be disseminated through policy briefs and regional seminars and, in particular, the *World Investment Report* (WIR). Member States are invited to continue to participate in the dissemination of the WIR, and briefings should continue to be organized for Geneva-based delegations in the context of the WIR launch. The WIR would benefit from being launched regionally, in addition to Geneva, and within existing resources, by using established partnerships and organizations within the regions. This could help increase and widen the audience, thus strengthening the relevance and impact of this valuable flagship publication.
2. UNCTAD should also continue its analytical work on the multiple factors necessary to attract and benefit from FDI, including through its work on the WIR, and should assist, within its mandate, developing countries and countries with economies in transition in their formulation and implementation of policies conducive to attracting and benefiting from FDI.
3. The Commission welcomes the rising trend of outward FDI from developing countries and countries with economies in transition, which should be encouraged through greater South–South cooperation. UNCTAD should continue to study South–South FDI and its impact and facilitate the exchange of experience.
4. In the light of the deliberations of the Commission, UNCTAD should continue to study FDI in services, such as tourism and infrastructure, as well as recent trends in national FDI policies. The Commission notes the findings and recommendations of the Expert Meeting on FDI in Natural Resources, highlighting the crucial role of extractive industries in many developing economies and the increasing involvement of transnational corporations in those industries. UNCTAD should continue studying and disclosing new experiences in this regard, particularly their impact on the economic and social development of host countries.
5. Stressing the crucial role of timely and relevant information on FDI and TNC activities, the Commission appreciates UNCTAD's support to assist developing countries in improving FDI data collection and analysis, in the area of assessment of FDI impacts on development. UNCTAD could intensify its technical assistance, either from its trust funds on a demand- and needs-based basis or as a result of the beneficiary country having identified such needs as part of its national development plan or PRSP, and where the beneficiary had identified UNCTAD as its preferred implementing agency. The Commission notes further that UNCTAD should continue to work on the trade and development aspects of corporate social responsibility as it relates to all TNCs.
6. The Commission further notes the report on the Expert Meeting on Building Productive Capacities. Investment plays an important role in this regard. The Aid for Trade initiative should give favourable consideration to integrating trade-related investment and enterprise development as important components, particularly in respect of SMEs.
7. UNCTAD's analytical work should draw lessons from successful experiences with the transfer and diffusion of technology through FDI and other channels. It should also

support efforts by developing countries, in particular LDCs, to respond to technological changes, identify best practices in transfer of technology and assess the effectiveness of policies aimed at domestic innovative capability-building.

8. The Commission, in recognition of the further proliferation of international investment agreements and the resultant complexity for developing countries and countries with economies in transition of investment policymaking and implementation at various levels, agrees that UNCTAD should serve as the key focal point in the United Nations system for dealing with matters related to international investment agreements, and continue to provide the forum to advance understanding of issues related to international investment agreements and their development dimension, including with reference to investor-State dispute resolution, involving all relevant stakeholders. In this area of work, particular consideration should be given to the needs of LDCs. The Commission requests UNCTAD to intensify its efforts in capacity-building that is demand-driven by the needs of developing countries and countries with economies in transition with a view to maximizing the contribution of international investment agreements to development.

9. The Commission recommends that member States consider the possibility of establishing a standing expert group to foster a greater understanding of the complex issues related to international investment agreements and their development implications. The decision regarding the standing expert group should be taken at the level of the Trade and Development Board.

10. The Commission notes with appreciation the presentations of the IPRs of Morocco and Zambia and the follow-up implementation report on the IPR of Uganda. The Investment Policy Reviews are a valuable tool for developing countries and countries with economies in transition to improve the environment for both domestic and foreign investment. It asks the secretariat to strengthen its efforts to ensure that the developmental needs and priorities of countries under review form an integral part of the IPR and its follow-up mechanism. The Commission emphasizes the importance of timely follow-up assistance in the implementation of the recommendations, which includes capacity-building and investment facilitation. The Commission notes the pipeline of requests for IPRs and related technical assistance and invites development partners to enable UNCTAD to respond to these requests. The Commission recommends that the intergovernmental discussion of the Investment Policy Review should be in the form of a more interactive exchange of experiences. The Commission invites the secretariat to make a proposal to this end.

11. The Commission notes the Report of the Ad Hoc Expert Meeting on Policy Advocacy and invites UNCTAD to favourably consider requests for technical assistance in this area.

12. The Commission took note of the report of the twenty-third session of ISAR as contained in TD/B/COM.2/ISAR/35, and of the agreed conclusions therein, and approved the provisional agenda that the Group of Experts has proposed for its twenty-fourth session. It also received the report of the seventh session of the Intergovernmental Group of Experts on Competition Law and Policy.

13. The Commission welcomes the cooperation with other organizations active in the area of investment, in particular WAIPA, and would like to see the practice of joint sessions of the Commission and WAIPA continued. In addition, closer cooperation between UNCTAD and investment agencies will be a way to increase the capacity and effectiveness of these investment agencies.

14. The Commission underlines the contribution that UNCTAD can make to the follow-up of major UN conferences, including the Monterrey Consensus on Financing for Development.

## Chapter II

### OPENING STATEMENTS

15. In his introductory remarks, the **Director of the Division on Investment, Technology and Enterprise Development** highlighted the central role of investment, particularly foreign direct investment (FDI), in the development process. He noted that the Expert Meeting on Building Productive Capacities had recommended that the Aid for Trade initiative seek to integrate investment as an important component. The *World Investment Report 2006* had identified an emerging trend, namely FDI from developing and transition economies, an important feature being that South–South FDI had some advantages over North–South FDI, since multinationals from developing countries were bringing a host of technologies, business models and systems, which were both innovative and grounded in the environment and institutions of the South. A number of trends were identified as particularly relevant for the Commission to consider. First, in spite of the increase in South–South investment cooperation, there was still scope for policymakers to share experiences on strengthening South–South cooperation. Secondly, there was a need to ensure, through the sharing of experiences on development-friendly policies and appropriate regulatory regimes, that the global surge of FDI in extractive industries would benefit recipient countries. Thirdly, there were growing signs of protectionism, especially in industries deemed to be significant from a national security perspective, which needed to be monitored.

16. The speaker also stressed the increasing number and complexity of international investment agreements (IIAs). They resulted in a complicated, multilayered and multifaceted structure. He noted that in accordance with the Commission's mandate, UNCTAD served as the de facto secretariat and forum for understanding that structure, and its potential to evolve into a beneficial system encouraging and facilitating international investment. In that regard, a key element of success could lie in the provision of a standing discussion forum to exchange views and advance the understanding of IIAs. A model could be provided by the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR), a body which testified to the role that a standing committee could play in UNCTAD.

17. With regard to support for national policy formulation and capacity-building, UNCTAD had stepped up its technical assistance and advisory activities. One of the best examples was the programme of Investment Policy Reviews (IPRs).

18. The representative of **Honduras**, speaking on behalf of the **Group of 77 and China**, said that there was a need for further analytical research on the development impact arising from the increasing role of developing countries as sources of FDI, and how that role could strengthen South–South cooperation. UNCTAD was encouraged to disseminate as widely as possible the findings of the *World Investment Report*, including through regional seminars involving policymakers. It was also requested to enhance its technical assistance to developing countries, particularly the least developed countries, in order to help them improve their FDI data collection and reporting systems.

19. The Group of 77 and China noted the increasing complexity of international investment agreements (IIAs), while recognizing their usefulness for promoting foreign investment and the opportunities they provided for furthering the implementation of development goals. They highlighted the risks associated with an inconsistent and often non-transparent IIA network, including inconsistency of key obligations, conflicts with national

laws and an increasing number of investment disputes. The Group of 77 and China also stressed that the difficulties involved in managing that complex network threatened to undermine the stability and credibility of the entire investment system. Therefore, they called on the secretariat to continue its recognized efforts in capacity-building and welcomed the proposal that an UNCTAD Standing Expert Group on IIAs and Development be established to exchange views and endeavour to advance international consensus-building.

20. The speaker expressed support for work on Investment Policy Reviews, which were undertaken at the national level and were tailored to individual countries' needs in line with their stated development goals. Those reviews provided a strategic perspective and policy recommendations for developing countries to attract high-quality FDI that contributed to sustainable economic and human development. The importance of follow-up technical assistance to countries for the implementation of recommendations in order to create a positive impact was highlighted, and a request was made both for the preparation of more reviews and for a strengthening of follow-up initiatives. The Group of 77 and China called upon the donor community to provide funding support to address the requests for Investment Policy Reviews and follow-up. It was emphasized that the Aid for Trade initiative should include an investment component that embraced policies to promote technology transfer, enterprise development and the consolidation of productive chains.

21. The representative of **Thailand**, speaking on behalf of the **Asian Group**, said that it was essential for UNCTAD to maintain its research capacity to analyse transnational corporations (TNCs) from developing countries and associated policies for investment promotion, and encouraged analysis of TNCs in extractive industries and the identification of best practices to nurture a sound investment environment. He also called for technical assistance with the collection of FDI statistics.

22. Noting the proliferation of IIAs in the Asian region, and considering the growing significance of investment rule-making, the speaker urged UNCTAD to enhance its research work on IIAs and welcomed capacity-building efforts in that area. He also called for a more frequent and systematic exchange of views on IIAs.

23. Greater attention was required in monitoring and evaluating the implementation of the recommendations of UNCTAD's Investment Policy Reviews. He noted with appreciation UNCTAD's technical assistance aimed at strengthening countries' ability to formulate sound investment policies, improve the investment climate and attract more FDI. In conclusion, he encouraged UNCTAD to continue its work on International Standards of Accounting and Reporting and to collaborate further with the World Association of Investment Promotion Agencies on investment promotion and other joint activities.

24. The representative of **Brazil**, speaking on behalf of the **Latin American and Caribbean Group (GRULAC)**, expressed appreciation for UNCTAD's *World Investment Report 2006* and the analysis it contained, which was useful for his region. He welcomed the report's focus on extractive industries and the importance of keeping the South-South dimension at the centre of the debate.

25. The IPRs remained an important development instrument for the region, in particular through the dissemination of experiences that the IPR process allowed, and the speaker welcomed the work that UNCTAD had done for the IPR of the Dominican Republic. He stressed the importance of the work of the Intergovernmental Working Group of Experts on

International Standards of Accounting and Reporting and the insights provided by the Guidance on Good Practices in Corporate Governance Disclosure.

26. He also noted the importance of UNCTAD's work in cooperation with the World Association of Investment Promotion Agencies for strengthening the Latin American and Caribbean region's capacity and ability to attract FDI. He drew attention to the work carried out in the area of local productive capacities and enterprise competitiveness, especially through EMPRETEC and the business linkages projects in Brazil and Argentina, calling for regional dissemination of the established methodologies. In conclusion, he stressed the usefulness of discussing IIA issues in a standing committee of experts.

27. The representative of **Angola**, speaking on behalf of the **African Group**, acknowledged the activities carried out by the Division on Investment, Technology and Enterprise Development in 2006 for the benefit of African countries. Although inward FDI in Africa was increasing, the region's share of global FDI was still only 3 per cent, the bulk of which was in mining and oil exploitation. Noting that the topic covered by the *World Investment Report 2007* — namely, TNCs and extractive industries — was timely, he commended UNCTAD for its work on FDI statistics. Since it was important for African countries to improve their FDI data collection and reporting systems, he called on UNCTAD to strengthen its technical assistance in that area.

28. African countries had been very active in 2006 in concluding bilateral investment treaties and other international agreements with investment provisions, and he thanked the secretariat for its continuous support. He hoped that UNCTAD would continue its analytical work in that area and further disseminate information on investment agreements through its dedicated databases. Furthermore, he welcomed the idea of establishing a Standing Expert Group on International Investment Agreements that could enable African countries to better integrate into the global IIA network.

29. He noted with appreciation that 16 African countries had benefited from IPRs, and concluded by acknowledging UNCTAD's capacity-building programmes in the areas of investment and enterprise development.

30. The representative of **Benin**, speaking on behalf of the **least developed countries (LDCs)**, noted that although LDCs were attracting more FDI than in the past, the volume of foreign assets invested in those countries remained insignificant. That further delayed the integration of LDCs into the global economy. The bulk of those investments were concentrated in a few LDCs, which were rich in natural resources, and he warned that they would not have a positive impact on the socio-economic life of those countries. Thus, there was a need for adequate technical assistance, enabling FDI in extractive industries to benefit recipient countries. The Expert Group Meeting on FDI in Natural Resources had made interesting recommendations in that respect. A global and multifaceted approach was necessary in order to provide a better business environment in LDCs. The LDCs acknowledged the UNCTAD project aimed at helping developing countries mobilize their internal resources and would like to see a greater boost given to South-South investment flows.

31. The speaker highlighted the proliferation of IIAs, which now constituted the instruments most used to protect FDI. However, LDCs often lacked the capacities to negotiate such agreements, which looked more and more like accession contracts and thus did not provide the room for manoeuvre that would allow development. He therefore called for

more technical assistance and analytical work on the evolution of IIAs, in order to address the issues stemming from their systemic incoherence and to help achieve consensus at an international level.

32. The LDCs acknowledged the organization of the joint high-level session with WAIPA, and noted the high level of participation in the session by investment promotion agencies from LDCs. They also acknowledged the IPR process, but stressed the importance of setting up adequate financial mechanisms to ensure that follow-up activities were carried out. Lastly, the peer review process could be reinforced through greater participation by the private sector, and the preparation of investment guides for LDCs should be part of the follow-up to IPRs.

33. The representative of **Germany**, speaking on behalf of the **European Union (EU)**, stressed that UNCTAD had become a focal point for investment and technology issues in the United Nations system as a result of its successful work over the years. Its role was increasingly important in improving the collective understanding of the complex aspects of FDI, enabling developing countries to attract FDI. He underscored the quality of UNCTAD's *World Investment Report 2006*, noting the analysis of the activities of developing country TNCs and their impact on both home and host economies. He recommended the holding of sessions devoted to the presentation of the *World Investment Report* to Geneva-based delegates, welcomed the theme of the *World Investment Report 2007* and urged caution with regard to rising investment protectionism. He acknowledged UNCTAD's work in the area of investment promotion, especially in relation to investment promotion agencies (IPAs) and linkages between host economies and TNCs.

34. The EU supported the establishment of a Standing Expert Group on International Investment Agreements, provided that further clarifications were made and that consistency with the Eminent Persons Report was ensured.

35. He highlighted the Investment Policy Reviews of Morocco and Zambia as useful instruments in sharing the experiences of developing countries' investment policies and regimes, and praised the quality of UNCTAD's work in that respect. He also recognized the work of ISAR and associated his Group with its agreed conclusions.

36. The representative of **Belarus**, speaking on behalf of **Group D**, praised the secretariat for the high-quality analysis and information provided in the *World Investment Report 2006*, which enjoyed a solid reputation in his Group's region and served as a reference tool for its policymakers, and expressed an interest in its wider dissemination in the countries with economies in transition. Although in recent years South-East Europe and the Commonwealth of Independent States had become increasingly active in terms of both inward and outward FDI flows, recording the fastest rate of growth in FDI flows in 2006, the distribution of those flows was uneven. He also stressed the importance of new trends in FDI, which had led to a shift in terms of a new geography of investment, and in particular a significant increase in outward investment from developing countries and transition economies, and he requested UNCTAD to continue its analysis of the impact of both inflows and outflows on the region's economy with a view to maximizing those trends' net positive effects. Group D endorsed the theme of the *World Investment Report 2007*, namely "FDI in natural resources", and was looking forward to its findings.

37. The speaker commended the work of the secretariat in the area of IIAs and acknowledged the support provided to the region. He also expressed his Group's appreciation

for the IPR process, one of UNCTAD's flagship projects in the field of its technical cooperation, and hoped that the mechanism that had been set up to provide a timely response to follow-up requests and had been implemented for Rwanda could be replicated in other countries, including countries with economies in transition, as mandated by paragraph 53 of the São Paulo Consensus. Indicating that his Group supported the recommendations of the Ad Hoc Expert Meeting on Advocacy for Investment Policies, he requested further investment promotion activities in the region, in particular capacity-building workshops to train IPAs in establishing, implementing and evaluating a full range of tools for policy advocacy.

38. In addition, he acknowledged the activities of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting, in particular the support provided to the international conference on the practical implementation of International Financial Reporting Standards in the countries with economies in transition.

39. The representative of **Argentina** expressed gratitude for UNCTAD's work in the area of investment and viewed its *World Investment Report 2006* as a significant example of the organization's solid analytical and research quality. The impact of UNCTAD's work was particularly important to IPAs and the dissemination of country experiences in a regional context, such as that of MERCOSUR. UNCTAD's activities in the field of enterprise competitiveness and the analysis of FDI's impact on domestic economies and SMEs were particularly relevant. In that regard, he praised the practical nature of the EMPRETEC and business linkages projects. Finally, he welcomed the finalization of the latest IPRs, namely those of Morocco and Zambia.

40. The representative of **Indonesia** acknowledged the *World Investment Report 2006* for its comprehensive approach and analytical research. He encouraged UNCTAD to continue its research work with a view to improving policies for investment in developing countries. In particular, a set of priorities should be established in addressing the issue of development; in that regard, access to accurate statistical information on FDI and TNCs' activities was essential. He stressed the importance of IIAs, commending UNCTAD for its analytical work and technical assistance in that area and indicating that Indonesia had recently benefited from UNCTAD's advisory services. He requested UNCTAD to establish a Standing Expert Group on IIAs focusing on systemic issues relevant to developing countries. In addition, he highlighted the benefits of IPRs and welcomed the holding of a joint high-level meeting of the Commission and WAIPA.

41. The representative of the **Russian Federation** expressed satisfaction that the *World Investment Report 2006* included a discussion of transition countries. In the past year, there had been larger inward and outward FDI flows, which reflected a greater role of developing and transition countries in the world economy. With regard to natural resources, he agreed with UNCTAD's analysis that the revenue derived from exploitation needed to be used to solve domestic problems, and added that national sovereignty remained an important issue in that respect. He expressed support for the idea of UNCTAD seeking to develop best practices and recommendations on investment policies. Given the increasingly complex web of investment regulations and the potential for investment disputes to create serious consequences for developing countries, UNCTAD's work on such disputes was important, and establishing an Expert Group on investment agreements was regarded as a good idea. In conclusion, he said that it was important to continue undertaking IPRs, but that geographical coverage should be extended.

42. The representative of **China** called for UNCTAD to intensify its work on FDI data collection for even more reliable analysis of FDI flows and impact. He praised UNCTAD's work in relation to IIAs and called for increased technical assistance in that area. He referred to the IPR process as a very valuable instrument for improving investment policies and supported UNCTAD's follow-up efforts in that regard.

43. The representative of **Peru** called for deeper analysis of the increased role of developing countries in outward FDI flows. While FDI flows had increased to all regions, the main challenge was to ensure that they contributed to host country development. The speaker stressed the importance of implementing the recommendations of the IPRs. With regard to technical assistance, she valued the collaboration with UNCTAD on the development of entrepreneurs, work on developing links between small and micro-enterprises and TNCs, efforts to assimilate and derive maximum benefit from foreign investment, and cooperation in the promotion of investment in specific sectors. In addition, she expressed an interest in analysing transfer of technology and science and technology policy. The proliferation of investment agreements and disputes between investors and host countries meant that more analysis, together with technical assistance to train negotiators and provide advice to developing countries on investment disputes, was very important. In that regard, she requested increased donor support for projects in which UNCTAD had expertise.

## Chapter III

### POLICY ISSUES RELATED TO INVESTMENT AND DEVELOPMENT (Agenda item 3)

44. For consideration of this item, the Commission had before it the following documentation:

*World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development* (UNCTAD/WIR/2006);

“The emerging landscape of FDI: some salient issues. Note by the UNCTAD secretariat” (TD/B/COM.2/77);

“Report of the Expert Meeting on Building Productive Capacities” (TD/B/COM.2/EM.19/3);

“Report of the Expert Meeting on FDI in Natural Resources” (TD/B/COM.2/EM.20/3);

“Report of the Ad Hoc Expert Meeting on Advocacy for Investment Policies with Particular Reference to the Development Dimension” (TD/B/COM.2/AHM.1/3).

#### Chairperson's summary

45. The Head of the Investment Issues Analysis Branch of the Division on Investment, Technology and Enterprise Development (DITE) introduced item 3 entitled "Policy issues related to investment and development", reviewing two expert meetings held by the Division over the previous year and outlining the remarkable expansion during the previous decade of foreign direct investment (FDI) from developing and transition countries, the topic of the *World Investment Report 2006*. That represented a long-term structural phenomenon caused by three groups of factors. The first was the need to respond to the pressures created by the process of globalization. The second was a set of home country drivers or push factors (small market size, rising production costs and increasing levels of competition), while the third was a set of host country pull factors (large markets, natural resource abundance, labour resources and opportunities arising from liberalization of policies, including privatization). FDI from those developing and transition countries was mostly directed towards other developing countries, which meant greater diversity in sources of investment for developing countries and opportunities for greater South-South cooperation but also raised potential concerns. The phenomenon had implications for both developed and developing countries. In developed countries, concerns had in several cases been expressed about loss of control in strategic industries and job losses related to investment from developing countries. There were also potential implications for international rules on foreign investment. The speaker commented that as the phenomenon was recent, there was a need for further research. Encouraging both South-South and South-North dialogue on the phenomenon could also prove useful.

46. She said that the rise of developing country FDI was closely related to the growing importance of FDI in natural resources, particularly extractive industries (oil, gas and minerals), which was the subject of the *World Investment Report 2007*. The growth of such investment had been fuelled by large increases in the prices of natural resources in recent years. Also, she highlighted the need to effectively diffuse the results of research and noted the Division's efforts to disseminate findings and stimulate discussion with policymakers through regional workshops. Finally, she stressed the importance of capacity-building in the

field of statistics and of the technical assistance activities undertaken to follow up the recommendations of the Commission's session of the previous year.

47. The Secretary General of the International Chamber of Commerce, commenting on current investment issues as seen from a business perspective, reaffirmed the importance of strengthening cooperation among UN bodies in the promotion of international trade and investment. Cooperation with UNCTAD in the production of investment guides and the establishment of an Investment Advisory Council provided an example of joint efforts to promote FDI in LDCs. He raised several concerns about the obstacles faced by foreign companies in their investment decisions, and urged the Commission to include those issues in its agenda. It was important to work with Governments to reverse the trend towards investment protectionism, which would be detrimental to FDI and to developing countries.

48. Two experts from developing countries presented their views on the new trends and investment flows and the importance of the South–South dimension for developing countries. The first expert emphasized the significance of the extractive industries and the growing importance of agro-business. He questioned the sustainability of investments and noted that the growing role of TNCs from the South could also help to create new opportunities for developing countries. The other expert raised concerns about the role of FDI from the South in host-economy development. He emphasized the role that a sound regulatory environment could play in incorporating FDI into a country's development objectives. He explained how host Governments should organize their incentives and leveraging framework in the light of domestic alternatives, and concluded by calling for good corporate social conduct in developing countries.

49. In discussions on the presentations, the issue of the impact of intellectual property rights (IPRs) on inflows of FDI into host countries was explored. It was stated that market size and growth were the most important factors driving FDI flows and that intellectual property was clearly of secondary importance; at the same time, however, countries that introduced and implemented good IPRs were more attractive for foreign investors. Also, it was suggested that UNCTAD undertake research on whether foreign exchange reserves could be used effectively to fund infrastructure investment. One delegate asked if UNCTAD had evidence about whether South–South FDI had helped to benefit developing countries by creating backward and forward linkages. He emphasized that South–South FDI should not be seen as a substitute for North–South FDI. A question was raised concerning a possible contradiction between the *Trade and Development Report 2006* and the *World Investment Report 2006*. In response, it was pointed out that the latter referred solely to FDI flows rather than broad capital markets.

50. One delegate said that the goal of FDI must be to strengthen development in developing countries, and suggested that the Commission consider concrete indicators of the impact of FDI in those countries in order to judge its impact on development. Countries should be responsible for their sectoral choices. It was not clear whether the increase in the number of mergers and acquisitions as part of FDI really benefited developing countries. Those countries needed to find alternative arrangements for FDI and to develop complementarities at the regional level that would benefit all partners. Some concrete examples were the development of social programmes and the development of joint ventures such as ALBA (the Bolivarian Alternative for the Americas), which in a few months had provided the speaker's country with concrete results on development issues. Another delegate added that developing countries should decide for themselves which sectors they viewed as

being desirable for opening up to FDI, adding that this represented a legitimate policy option for them.

51. In her response, the Head of the Investment Issues Analysis Branch said that there was no definitive conclusion on the importance of strong IPR protection in attracting FDI and that the impact varied by sector. UNCTAD was undertaking a programme of study to investigate the role of IPRs in the context of access to medicines. As for the issue of research topics, infrastructure was a topic that the Division was developing, and it would include the issue of financing investment. With regard to the linkages created in developing countries by FDI from other developing countries, some surveys had been conducted by organizations such as UNIDO; these had provided some preliminary evidence on employment, but little evidence was available as yet on technology transfer, given the recent nature of the phenomenon. Finally, the speaker assured delegates that South–South FDI was an important issue for UNCTAD that would continue to be studied.

### **Expert Meeting on FDI in Natural Resources**

52. The Chairperson of the Expert Meeting on FDI in Natural Resources, which had been held from 20 to 22 November 2006, said that the event had been very timely because issues related to the supply of, and demand for, natural resources were at the top of the international agenda. At the meeting, the role and operations of TNCs had been discussed, with particular emphasis on the importance of State-owned companies. The meeting had addressed how TNC involvement affected development, including the creation of local linkages, how important the legal and institutional framework was for countries and, in that context, the need to improve governance and transparency. The experts had also considered human rights violations and steps taken at the international level to ensure that firms complied with agreed standards and procedures, with a view to promoting or strengthening benefits for countries. The experts had stressed the importance of technical assistance and the role that UNCTAD could play in assisting developing countries endowed with natural resources in implementing and monitoring appropriate policies. They had recommended that technical assistance also aim at improving the regulatory framework and institutional capabilities in order to allow countries to benefit more from extractive industries. Technical assistance was also needed to strengthen the capability of developing countries to negotiate with TNCs. More policy analysis should be undertaken to encourage industrialization, improve taxation schemes, develop geological survey data to attract investors and encourage international initiatives. Finally, experts had recommended that the scope for South–South collaboration be further explored.

### **Expert Meeting on Building Productive Capacities**

53. The Commission noted that the Expert Meeting had focused on the development and effective utilization of productive capacities. Experts agreed that this should be at the heart of national and international policies to promote sustained economic growth, wealth creation and poverty reduction in developing countries. In the light of the issues highlighted by the experts, Governments and development partners were encouraged to improve the type and form of aid and how it is administered in order to maximize benefits to developing countries through the Aid for Trade initiative; to create a virtuous circle between trade and domestic capacity development; and to strengthen local institutions in order to support supply capacity programmes. Experts also urged UNCTAD to continue to provide advisory services and country reviews of investment policies, identifying best practices and facilitative measures that would enhance benefits from FDI; to cooperate with development partners within the

Aid for Trade initiative; to integrate investment and enterprise development as key components; to enhance South-South cooperation mechanisms in the area of investment and enterprise development; and to implement the five technical assistance projects for Africa prepared by the UNCTAD Insurance Programme.

54. One delegation highlighted the outcome of the work of the WTO Task Force on Aid for Trade. The deliberations of that body underscored the need to enhance developing countries' ability to compete in world markets and to identify gaps beyond market access. The scope of aid for trade should be wide and include measures to strengthen the demand side at the national level and to support the establishment of a positive climate for business and investment, trade policies, trade infrastructure and private-sector development, capacity-building and regional integration. Finally, UNCTAD should take part in efforts to develop a road map for Aid for Trade implementation.

### **Ad Hoc Expert Meeting on Policy Advocacy**

55. After introducing item 3, the Chairperson gave the floor to the Executive Director of the Uganda Investment Authority in her capacity as the Chairperson of the Ad Hoc Expert Meeting under discussion.

56. The speaker noted that over 130 advocacy experts, investment promoters, public officials, private sector representatives, international organization staff and members of civil society had shared experiences and perspectives in an effort to identify common challenges and arrive at best practices. The meeting had benefited from lessons learned from UNCTAD's technical assistance activities in policy advocacy, which included three regional workshops in Africa, Asia, and Latin America designed to stimulate and improve for investment promotion agencies (IPAs) policy advocacy. Representing 45 countries and 25 organizations, the participants had brought a wealth of expertise to the two days of presentations and interactive debates. From those discussions there had emerged a wide range of guidelines and implementable recommendations, which IPAs could use in order to become more effective policy advocates.

57. It was pointed out that policy advocacy remained a nascent IPA function in need of clearer articulation and greater rigour. Mention was made of UNCTAD's forthcoming advisory study on the subject and a presentation of its preliminary findings and recommendations made earlier that same day at the parallel WAIPA conference.

58. The speaker concluded by commending UNCTAD's efforts in the field of policy advocacy and encouraging their continuation.

59. The floor was then opened to comments. The delegate from Indonesia expressed gratitude for the investment promotion training which had been provided by UNCTAD to his country's diplomatic corps in November 2006 and was to be provided again in April 2007. He remarked on the importance of that training in meeting national goals pertaining to economic growth, job creation and poverty reduction. In conclusion, he encouraged UNCTAD to continue delivery of its training to as many developing countries as possible.

### **High-Level Segment — Joint Meeting of the Commission and WAIPA**

60. The joint high-level session of the World Association of Investment Promotion Agencies (WAIPA) and the UNCTAD Commission on Investment, Technology and Related Financial Issues focused on new sources of FDI and the role of emerging economies. The

President of WAIPA pointed to the fierce competition for foreign direct investment (FDI) among countries and said that investment promotion was becoming an important business in itself. That was why WAIPA's main mission was to enhance the capacity-building of investment promotion agencies (IPAs), particularly through networking and the exchange of best practices. The multidimensional nature of modern investment, with the ever-increasing role of emerging economies, required more active cooperation between WAIPA and UNCTAD in sustaining the growth of global investment.

61. The Prime Minister of Morocco commended WAIPA and the IPAs for their efforts to make the world a village of tranquillity and prosperity, and their contribution to the achievement of the Millennium Development Goals. After noting the profound disparities between different regions of the world, he drew attention to new sectoral and geographical dimensions of world investment, including the strengthening of South–South investment cooperation and the growing flow of investment from developing countries. Further investment growth would depend on meeting a number of preconditions, including the removal of protectionist measures, liberalization of competition, improvement of governance and strengthening of institutions, modernization of infrastructures, and optimization of the interaction between trade and investment. Morocco was aiming at integration into the world economy, and dynamic economic and political reforms being undertaken in the country were contributing to that process. Morocco was a partner in the Euro-Mediterranean Partnership and participated in the European Neighbourhood Policy, and also played an active role in various South–South economic cooperation schemes on a multilateral and bilateral basis, including with Mediterranean and Middle Eastern developing countries. A great deal of attention was paid to trade and investment cooperation with sub-Saharan African countries, including to support for the New Economic Partnership for Africa's Development (NEPAD), as well as to cooperation with the Arab countries. Morocco, which fully supported WAIPA's activities, would welcome the strengthening of that organization's work in Africa and in the Arab world.

62. The Secretary-General of UNCTAD expressed his satisfaction that joint high-level sessions of the Commission on Investment and the WAIPA World Investment Conference had become a regular event. He agreed that the issue of FDI from emerging economies was of particular importance, as it was indicative of the changing role of developing countries in global FDI and the international production system. FDI from the South, which in 2005 had accounted for 17 per cent of world outward flows, as opposed to just 5 per cent in 1990, was opening up new sources of finance, technology and management know-how, which were critical ingredients for economic development. South–South FDI had several advantages over North–South investment, including the fact that the technologies and business models of developing country transnational corporations often had a great deal in common. That enhanced the scope for linkages and technology spillovers. The emergence of new sources of FDI required attention from policymakers and investment promoters, and necessitated a more active exchange of views and experience-sharing. UNCTAD, WAIPA and other international organizations had a major role to play in that context by providing analysis, technical assistance, and a forum for discussion and consensus-building. In conclusion, he noted that WAIPA had held two of its investment conferences in parallel with UNCTAD's quadrennial conferences, and invited it to consider holding its next annual investment conference in Accra in 2008 in parallel with UNCTAD XII.

63. The Vice Minister of the Ministry of Commerce of China stressed that since its founding in 1995 WAIPA had served as a bridge for communication, cooperation and

common development among member agencies and thanked UNCTAD, WAIPA and other IPAs for their support for China's investment promotion efforts. Since 1978, when China started reform and opening-up, its economy had been developing rapidly and the living standards of the Chinese people had improved notably. After 28 years of opening-up, the Chinese economy was now deeply integrated into the global economy in the context of win-win and mutually beneficial development with other countries. China's accession to the WTO had fast-tracked its reform and opening-up. China had faithfully followed WTO rules, fully honoured its WTO commitments and obligations, actively adjusted its foreign trade policy, consistently built on its market economy and strengthened the protection of intellectual property rights.

64. Attracting FDI was an important element of the basic State policy of opening up. China had attracted FDI totalling more than \$700 billion and had occupied the number one position among developing countries for 16 consecutive years. Through FDI, it had brought in a large amount of advanced technology, talents, investment, management expertise, marketing models and international competition mechanisms, as well as international rules and standards. As domestic demand grew, China was rapidly becoming the third largest importer worldwide, creating more manufacturing and job opportunities for many trade partners. While boosting inward investment, the Chinese Government encouraged outward FDI. The country's total overseas investments (excluding financial-sector investment) had reached \$73 billion; investments in 2006 alone stood at \$16.1 billion, occupying thirteenth place in the world. Already the world's fourth largest economy, China was going to continue to implement a number of measures to sustain economic growth and social development, including further improvement of the investment climate.

65. The Chairman of the First Eastern Investment Group, Hong Kong (China), in his keynote address said that the global flow of FDI was no longer one-way traffic. Many companies in emerging economies were being transformed into producers of reliable low-cost products with emerging international brands. After confirming the existence of individual cases of investment protectionism, he expressed the view that this phenomenon was due to a certain extent to a lack of understanding of cross-cultural differences among investors and the local rules of the game. He called on all sides to demonstrate a commitment to maintaining and strengthening open markets. The creation of strategic alliances and partnerships might contribute to enhancing the capacity of emerging-economy companies. Also, considerable liquidity available in certain developing countries might be used for large investment projects in other developing countries with the participation of stakeholders from developed and developing countries. Given that competition for FDI was ever increasing and becoming global, the ability to add value globally was becoming particularly important. The new dimension of FDI was also associated with its contribution to improving corporate governance and corporate social responsibility.

## Chapter IV

### **INTERNATIONAL INVESTMENT AGREEMENTS AND THEIR DEVELOPMENT DIMENSION**

(Agenda item 4)

66. For its consideration of this item, the Commission had before it the following documentation:

“International investment rule-setting: Trends, emerging issues and implications. Note by the UNCTAD secretariat” (TD/B/COM.2/73).

#### **Chairperson's summary**

67. In his opening remarks, the Director of the Division on Investment, Technology and Enterprise Development (DITE) noted that the evolution of the international investment rules system was a dynamic process that posed new challenges for countries at the beginning of the 21st century. Among them were the issues of policy coherence, the balancing of private and public interests in matters relating to international investment agreements (IIAs), and the development dimension, all of which were aimed at ensuring that developing countries retained sufficient regulatory autonomy to pursue their economic and social development goals. The main purpose of the meeting would be to discuss could be done to strengthen the means for more multilateral consensus-building on those core IIA issues. Without such an effort, there was a risk that the system might degenerate into an increasingly non-transparent jumble of diverging rules that capacity-constrained developing countries would find more and more difficult to cope with.

68. The Chief of the International Arrangements Section of DITE explained those considerations in greater detail. He gave an overview of the recent trends in international investment rule-making, its main characteristics and the role of UNCTAD as a "backstopping agency". Referring to the continuing growth and complexity of IIAs, the increasing role of developing countries in treaty-making and the increase in the number of investor-State disputes, he described the current IIA universe as highly atomized, multilayered, multifaceted and innovative, with uniformity at its core but increasing variation on the periphery. There was a need to strengthen developing countries' capacities to deal with the systemic issues resulting from an increasingly complex IIA universe. In addition to the existing main pillars of UNCTAD's IIA-related work (monitoring trends, analysing issues and development implications, and providing technical assistance and a platform for exchange of experiences and consensus-building), possibilities could be considered for a more coordinated and collective approach to those issues, namely the establishment of a standing expert group on IIA-related matters. Such a group could significantly enhance understanding of the relevant issues and improve further multilateral consensus-building on key IIA issues. Among the group's tasks could be to monitor and examine the rapidly growing IIA universe, including the evolving jurisprudence from investment disputes; to seek more consensus-building through identification of core commonalities based on similarities in IIAs, bearing in mind the diversity of the system; to analyse the implications of the system-inherent problems of the IIA patchwork, including its systemic inconsistencies; to advocate viable solutions to existing and emerging systemic problems; and to pay particular attention to the development dimension of those issues with a view to facilitating multilateral cooperation. In the view of the UNCTAD secretariat, such an effort could help considerably to ensure that the existing international investment rules system functioned more effectively and efficiently and promoted growth and

development. That could gradually increase the clarity and stability of investment relations, improve the consistency of rules, serve as a primary reference for international investment rule-making at all levels, and ensure that all countries, irrespective of their level of development, could participate equally in the process.

69. Three panellists shed further light on IIA trends and features, their implications for developing countries and the way forward.

70. The first panellist said that African countries were active participants in the evolution of the IIA universe at the bilateral and regional levels. The proliferation of IIAs in Africa had been accompanied by an increase in the number of investor-State disputes, which placed a heavy financial burden on African developing countries. Moreover, those countries lacked the necessary knowledge to deal properly with the complicated matters related to IIA negotiations and implementation. That might undermine the ability of developing countries to participate in the system and prevent their integration into the global economy. Expressing her appreciation of UNCTAD's work in the area of IIAs, the speaker stressed the need to explore what more could be done to streamline the existing IIA patchwork and to address issues of policy coherence. She welcomed the proposed establishment of a standing expert group on IIAs and development that would go beyond the current level of technical assistance. Such a group would have two main merits: it would provide a venue for collective learning, and it would enable an interactive debate amongst Governments and other stakeholders. UNCTAD would be the "natural" home for such an initiative. The proposed group would be a major step towards achieving the development objectives of African countries with regard to the IIA network.

71. The second panellist presented an overview of the challenges faced by South Africa in negotiating IIAs. He explained the historical background of South African IIAs and the political rationale behind the Government's decision in 2001 to suspend bilateral investment treaty (BIT) negotiations with capital-exporting countries and the ratification process, namely a perceived imbalance between the rights of investors and those of the host country. As South Africa was becoming a capital-exporting country, it was in the process of revising its BIT model. The expert explained some key features of the new model: definition of "investment" excluding portfolio investment and shell companies, and adaptation of the national treatment clause to black economic empowerment policies. He also mentioned that South Africa was re-examining the meaning and implications of other key IIA provisions, such as fair and equitable treatment, measures tantamount to expropriation, the free transfer of funds and dispute settlement provisions (the issue of frivolous claims). He commended UNCTAD's approach to establishing a standing expert group so that developing countries had a forum in which their interests in investment rule-making were properly recognized.

72. The third panellist focused on the way forward, on how to improve capacity to deal with existing challenges and on how to advance further international consensus-building. He referred to the Ad Hoc Expert Meeting on Issues Related to the Existing International Investment Rulemaking: Stocktaking, Challenges and Way Forward, held on 12 March 2007, which had dealt with those issues. The following challenges had been identified: lack of cohesion in the IIA universe and the resulting difficulties in identifying a systematic structure; diverging jurisprudence emanating from a decentralized dispute settlement system and the need for dispute avoidance; policy space and countries' right to regulate; and the option of plurilateral IIAs. In the light of those challenges, maintaining the current system was not a viable option. With regard to the modalities for establishing a policy forum, given the difficulties encountered in other organizations, consensus-building was essential. Four issues

were identified as being crucial for achieving consensus on the establishment of an expert group: adequate representation of all stakeholders (range of interest and expertise); a wide disciplinary dimension in terms of issues (in particular the social dimension); adequate institutional support; and the need for a transparent body (openness and interaction).

73. The ensuing discussion focused on the concerns and challenges facing developing countries in connection with the growing complexity of the IIA network. At the same time, the benefits of IIAs were recognized as important tools for investment protection, confidence-building and cooperation between countries.

74. Challenges resulting from the growing number and diversity of IIAs made it more difficult for countries to keep their IIA network cohesive. At the same time, different interpretations of the same principle within IIAs (such as fair and equitable treatment) added to the confusion. Delegates mentioned the need to strengthen the development dimension of IIAs and to balance private and public concerns. In that connection, many delegates raised the issue of the existing imbalances in the negotiations between capital-exporting and capital-importing countries. Developing country delegates reaffirmed their concerns about the lack of understanding of key concepts in IIAs. In that respect, it was pointed out that UNCTAD's training activities should extend to local governments. Some delegates requested UNCTAD to shed light on the impact of IIAs and the openness of the investment regime in attracting investment flows.

75. In order to meet those challenges, it was necessary to improve the capacity and understanding of developing countries and to consolidate the existing system by seeking multilateral consensus. In that respect, most delegations welcomed the suggested standing expert group as a possible forum to advance understanding, share experiences and help relaunch an international debate on investment issues.

76. Delegates expressed their appreciation of the secretariat's policy research and analysis and technical assistance efforts, mentioning specific activities in their respective countries. They emphasized that UNCTAD was an important source of information on IIAs and had the competence and expertise to provide assistance to developing countries.

77. One group of countries expressed the opinion that further reflection was needed with regard to the possible mandate and composition of a standing expert group. A final decision on the establishment of an expert group on IIA-related matters should be taken only within the framework of UNCTAD XII.

78. In conclusion, the Chief of the International Arrangements Section of DITE identified three main challenges facing countries, particularly developing countries. First, there were systemic challenges resulting from the growing number and diversity of IIAs that made it more difficult for countries to keep their IIA network cohesive. Likewise, there was a need to balance investor interests and public concerns and to give sufficient consideration to the development dimension of IIAs. A second challenge related to capacity constraints. The increasing complexity of IIAs could well undermine the capacity of developing countries to participate fully in international investment rule-making. The proliferation of investor-State disputes, their proper management and dispute-avoidance strategies were mentioned as a third challenge. There was therefore a need for UNCTAD to continue with its current technical assistance and policy analysis work. Against that background, the Chief of the International Arrangements Section asked for continuing financial support. In conclusion, he called for consideration of the establishment of a standing expert group on IIA-related issues as a

common policy forum for collective learning to advance understanding of key IIA matters and for international consensus-building.

## Chapter V

### INVESTMENT POLICY REVIEWS: EXCHANGE OF NATIONAL EXPERIENCES (Agenda item 5)

79. For its consideration of this item, the Commission had before it the following documentation:

- “Executive summary of the Investment Policy Review of Morocco” (TD/B/COM.2/76);
- Examen de la politique de l'investissement du Maroc* (UNCTAD/ITE/IPC/2006/16);
- Investment Policy Review of Zambia* (UNCTAD/ITE/IPC/2006/14);
- “Report on the implementation of the Investment Policy Review of Uganda” (TD/B/COM.2/75);
- “Report on the implementation of the Investment Policy Review of Uganda — Appendices” (TD/B/COM.2/75/Add.1).

#### **Investment Policy Review of Morocco** **Chairperson's summary**

80. The consideration of the Investment Policy Review (IPR) of Morocco took place on 9 March 2007. The UNCTAD secretariat began by thanking Morocco for its exemplary performance in terms of investment promotion, stressing that it had become one of the most attractive investment destinations in Africa. The secretariat then explained the main features of the review, which described investment policy efforts as well as the need to diversify investment flows with a view to making them less volatile and more sustainable. The secretariat then briefly presented the review's main recommendations: modernization of the legal and institutional framework for investment (drafting of investment, tax and trading codes); establishment of a national investment promotion agency; preparation of strategies for the promotion and targeting of foreign direct investment (FDI) in the sectors identified by the “Plan Emergence”; and reinforcement of the national innovation system in order to attract investments in higher-value-added sectors. In conclusion, the secretariat noted that the review's recommendations were consistent with Morocco's development policy.

81. In his opening remarks, the Prime Minister of Morocco thanked the UNCTAD secretariat for the excellent quality of the review and underlined the importance of the recommendations for his country. He then explained the advantages of the investment promotion policy, which was geared to modernizing infrastructure and the investment framework, identifying priority sectors for the country and reforming the educational system. Also, he stressed how important it was for Morocco to participate in regional free trade agreements conducive to FDI. In conclusion, he stated that his country was prepared to implement the review's recommendations with the assistance of UNCTAD and development partners.

82. The delegations as a whole noted the quality of the IPR from both an analytical and a forecasting perspective, underscoring the relevance of the practical recommendations put forward. They welcomed the fact that UNCTAD's proposals were consistent with the current situation in Morocco, a country which, following courageous reforms, was now achieving concrete and encouraging results in attracting investments. All delegations also stressed the

importance of the report's recommendations for sustaining that momentum, in particular through the constant improvement of the investment framework. Lastly, they underscored the importance of regional free trade agreements as a tool for effective investment promotion, particularly with regard to relations between Morocco and the European Union (EU) as well as South-South relations.

83. Many delegations expressed their appreciation for the high priority given to the legal and institutional framework for investment, the constant improvement of which required not only purely legal reforms but also a comprehensive, innovative approach that included training, research and development.

84. Numerous delegations also noted that the measures proposed were designed to strengthen ties between the Government and private investors, thereby reinforcing public-private partnerships. In that connection, the delegations stressed the need to set up a national investment promotion agency that was financially and operationally independent.

85. The representative of the EU expressed the hope that the measures proposed in the plan of action would be applied as a whole, and emphasized their interrelated nature. The EU welcomed the reforms undertaken by Morocco while underscoring the importance of the challenges that remained (tax system, competition, intellectual property, and so forth). In that respect, the EU was prepared to study the recommendations set out in the report and to assist the Moroccan Government in modernizing the legal and institutional framework for investment.

86. Some delegations stressed the need to provide greater security for the jurisdictional regime in connection with efforts to liberalize FDI, especially from the tax standpoint. In that respect, one delegation pointed out that systematically cutting corporate and personal income taxes was not mandatory for attracting investments.

87. Representatives of the private sector noted that on the whole, the IPR reflected investors' concerns and that implementing its recommendations would surely facilitate matters for investors in Morocco. They also emphasized the need to create a network of subcontracting firms via the introduction of an investment-seeking policy geared to small and medium-sized enterprises. Those same participants further called for an investment policy for the rural world. In that respect, one private entrepreneur described the potential benefits of the proposed measures for the rural sector, particularly in terms of employment, and urged all private-sector actors operating in rural areas to consider such measures.

88. The consideration of the IPR for Morocco was particularly rewarding. In the course of the discussions, it became clear that the proposed recommendations enjoyed broad support among the participants, leading to converging views. The delegations expressed the hope that the recommendations proposed in the report would indeed be implemented, in particular the measures pertaining to the legal (Code of Investments) and fiscal framework. They also hoped that technical assistance would be available to guide and assist the Government in implementing investment reforms and strengthening its capacity for innovation.

89. Many delegations appealed to donors to help UNCTAD and the Government of Morocco implement the IPR's recommendations.

## **Investment Policy Review of Zambia**

### **Chairperson's summary**

90. The Investment Policy Review (IPR) of Zambia, the nineteenth in the series, was presented on 12 March 2007 in the presence of the Minister of Commerce, Trade and Industry of Zambia.

91. Countries that provided comments and feedback were Angola, representing the African Group, Benin, China, Japan, the Russian Federation, Senegal, Tunisia, the United Republic of Tanzania and Uganda. A representative from Dunavant SA also participated, giving his views on the investment climate in Zambia.

92. The secretariat presented the main findings and recommendations of the IPR. The latter had found that Zambia had considerable investment potential and a record of political stability. FDI inflows had been responsive to market reforms and privatization policies but remained strongly correlated with copper prices. The IPR provided recommendations in four key areas in order for Zambia to significantly increase FDI inflows and bring about development benefits: addressing key weaknesses in the investment framework, ensuring high-quality infrastructure services, encouraging integration of foreign investors into the domestic economy and increasing coherence in investment promotion. Key recommendations included adopting a more integrated approach to the fiscal framework, streamlining procedures for the allocation of work permits, reviewing the privatization of ZESCO, promoting business linkages and making the Zambia Development Agency fully operational.

93. The Minister of Commerce, Trade and Industry of Zambia thanked UNCTAD for the IPR and its recommendations, and said that the IPR underpinned the Government's strategy to attract increased FDI and promote diversification. He stressed that the Government was committed to following through the recommendations outlined in the IPR. He informed the meeting of the steps taken over the past two years to improve the investment environment, including under the Fifth National Development Plan and Vision 2030. The measures had also enabled Zambia to create a stable economic environment, by reducing inflation and interest rates and stabilizing the exchange rate.

94. In 2006, the Government had launched the Private Sector Development programme (PSD) and a steering committee of all stakeholders had been put in place. The PSD had set up working groups with private-sector leadership on labour law reform, telecommunication reform, public-private partnership infrastructure development and administrative barriers in areas such as tourism and land acquisition. The groups were to address obstacles to investment and promote policy dialogue. Other actions under way included holding consultative discussions among stakeholders on liberalizing the international gateway, establishing the International Trade and Tariff Commission, and developing a multi-facility economic zone (MFEZ). The Government had also established the Zambia Development Agency, a one-stop body bringing together agencies dealing with investment and export promotion, MFEZs, privatization and small enterprise development.

95. One representative from the private sector commented positively on the improvements to the investment climate in recent years. He nevertheless urged the Zambian authorities to tackle a number of remaining bottlenecks for investment, such as high inflation, the strength of the kwacha against the dollar, distortions in the trade regime and the policy focus on traditional export sectors at the expense of more dynamic ones such as cotton. The

representative illustrated the positive impact that FDI in the cotton sector could have on the livelihood of rural families. He stressed the quality of the Zambian labour force, which was considered to be diligent and highly trainable, and offered examples of successful farmer training programmes to increase productivity and combat HIV/AIDS.

96. One delegate highlighted the need to nurture private-sector development in countries emerging from a long tradition of socialist policies, such as Zambia. The experience of the United Republic of Tanzania was cited as an example, and the positive results of public-private partnerships in fostering dialogue and building trust between the public and the private sector were stressed.

97. In addition to fundamental horizontal issues such as the state of infrastructure development in Zambia and the need to maintain strong political and macroeconomic stability, a number of specific regulatory issues affecting investment were addressed. Those included the Government's intervention in land transfer issues, the level of taxes, the work permit system and the effectiveness of investment incentives. With regard to the latter, delegates noted that incentives should be selective, of limited duration and effectively monitored.

98. Delegates praised UNCTAD for the quality of the IPR and for its recommendations to improve the investment climate in Zambia and promote development. They called on UNCTAD and the donor community to support the Government of Zambia in implementing the IPR's recommendations. Follow-up technical assistance was seen as crucial to the IPR process, as countries usually lacked the ability to implement recommendations on their own. A number of projects to further assist Zambia were highlighted, including the Blue Book on best practices in investment promotion and the "Triangle of Hope" initiative. Some delegates emphasized that it was important to provide for funding for implementation projects from the beginning of the IPR process so that countries did not have to wait too long to benefit from follow-up technical assistance.

99. Delegates congratulated Zambia on the progress made in improving the investment climate over the past decade. They also underscored weaknesses in the economy and key constraints on investment. Finally, they called on Zambia to address forcefully issues related to transport, telecommunications, electricity, law enforcement and taxation.

### **Report on the Implementation of the Investment Policy Review of Uganda Chairperson's summary**

100. The secretariat introduced the main findings of the report on the implementation of the Investment Policy Review (IPR) of Uganda, which had been completed in 2000. The report had been made possible by the financial support of the Government of Italy. The general assessment was that Uganda had introduced a focused investment policy reform agenda over the period 2000–2006. There had been important achievements in certain areas, including investment promotion and banking reforms, but some key constraints and bottlenecks remained, including in the power sector and transport. It was also found that the pace of implementation of reforms had been slower than hoped, and that moving from conceptualization to realization was sometimes slow and difficult. Nevertheless, the implementation record was solid, and FDI flows had displayed an upward trend since 2006

and had become more diversified. There were also encouraging signs that reforms were continuing.

101. The delegate from the Uganda Investment Authority (UIA) stressed Uganda's progress in a number of areas in the past few years, including political stability and multiparty democracy, a welcoming attitude to investors backed by the "Team Uganda" initiative, and reforms of the investment framework. Reforms had benefited domestic as well as foreign investors, and both types of investments had increased over the past few years. There had also been some very recent improvements, including the establishment of one-stop-centre facilities for investors at the UIA, progress in the establishment of multi-facility economic zones and better availability of electric power. The reform process and the implementation of the recommendations of the IPR had been led from the highest level of government, as illustrated by the Presidential Investors Round Table initiative.

102. A number of issues were pending in terms of implementation of the recommendations of UNCTAD's Investment Policy Review. Some were for the Government of Uganda to implement alone (adoption of the investment and free-zone bills), but others required further technical assistance from UNCTAD. The delegate called for UNCTAD to assist in presenting the findings of the implementation report to the President and stakeholders in Uganda, setting up monitoring and benchmarking systems for client charters in order to further strengthen the "Team Uganda" initiative, launching the Investment Gateway for Uganda, and providing help in ensuring that Uganda benefited from future investments in the mining sector.

103. Commenting on the IPR process, a delegate stressed the importance of both ownership and awareness of the recommended reforms. However helpful, recommendations would not be implemented unless there was sufficient awareness of them at the highest level of government and civil society. The need to involve all stakeholders in the IPR process was stressed, and the secretariat was commended for involving national Parliaments in a number of IPRs.

104. Many delegates emphasized the need to ensure that follow-up technical assistance was available to assist countries in implementing the recommendations of the IPRs. Countries often lacked the capacity to implement the reforms alone, and technical assistance to implement the recommendations of the IPRs was therefore deemed essential for reforms and for the success of the IPRs. The financing mechanism for the Rwanda IPR, whereby the Government of Germany provided funding for the IPR itself and for some initial implementation-related projects, was commended and cited as an example that should be replicated for all future IPRs. Delegates also called for the strengthening and formalization of the peer review mechanism, which would allow more dynamic, substantive and interactive sessions and a more genuine exchange of views on the recommendations of the IPRs.

105. One delegate stressed that the implementation reports were valuable tools with which to assess progress in implementing reforms as well as to evaluate the impact of IPRs. A number of delegates noted that IPRs were useful for improving the investment climate and generating higher levels of investment.

106. Delegates commended Uganda for the progress it had made in reforming its investment climate over the past few years. They generally agreed with the findings of the secretariat that further reforms were needed and that progress had been slower than anticipated in certain areas. One delegate identified the reason for slower-than-expected progress as the shortage of capacity in government to implement the reforms and called on

UNCTAD, other multilateral agencies and the donor community to provide increased support for capacity-building and implementation of the recommendations.

## Chapter VI

### REPORTS OF THE SUBSIDIARY BODIES OF THE COMMISSION (Agenda item 6)

107. For its consideration of this agenda item, the Commission had before it the following documentation:

"Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting on its Twenty-third Session" (TD/B/COM.2/ISAR/35);

"Report of the seventh session of the Intergovernmental Group of Experts on Competition Law and Policy" (TD/B/COM.2/CLP/57).

#### **Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR)**

##### **Chairperson's summary**

108. The Chairperson of the twenty-third session of ISAR presented his report to the Commission. He said that the session had attracted the largest number of participants in any ISAR session so far, with participation by over 280 experts from 80 member States. He provided an assessment of the session and elaborated on ISAR's deliberations on the two main agenda items that it had dealt with, namely the review of practical implementation issues relating to International Financial Reporting Standards (IFRS), and the comparability and relevance of existing indicators on corporate responsibility. The Chairperson also reported on activities that the UNCTAD secretariat had undertaken on behalf of ISAR.

109. In sharing his observations on ISAR, the Chairperson noted that it was the intergovernmental working group best placed to deal with corporate transparency issues at the international level as the competition for investment continued to grow and debates on implementing good corporate transparency became more important. Thus, it had been playing a strategic role in world economic policy. Furthermore, it attracted the best available expertise from around the world on the subjects it dealt with. The Chairperson also noted that ISAR provided a good example of an efficiently functioning intergovernmental working group.

110. A number of delegates commented on the work of UNCTAD and the Group of Experts. One delegate Belarus thanked UNCTAD for its contribution to a recent regional conference in Kyiv on the practical implementation of IFRS in countries of the Commonwealth of Independent States. Economies in transition were facing a number of challenges in the area of accounting and reporting, and were therefore grateful for UNCTAD's contribution to the organizing of the annual sessions of ISAR and to the dissemination of its work at regional events. ISAR served as a model working group for UNCTAD's intergovernmental process, linking together consensus-building, research and practical guidance for member States.

111. Another delegate stressed the strong bilateral cooperation between his country and UNCTAD, including in the area of accounting and reporting. Following up on ISAR's consensus-building and research work, his country was working with UNCTAD to coordinate a regional event in Cairo on corporate governance disclosure. Regarding a related area of

cooperation, UNCTAD was working with the American University in Cairo on a research project under the guidance of ISAR. The delegate emphasized the importance of the subject for his country and the neighbouring region. The relative novelty of the subject of corporate governance in the region could be seen in the development of new language to describe the concept. In that context, ISAR's work in helping to contribute a greater awareness of corporate governance issues was greatly appreciated.

**Report of the seventh session of the Intergovernmental Group of Experts on  
Competition Law and Policy**

112. The Commission took note of the secretariat's report on the seventh session of the Intergovernmental Group of Experts on Competition Law and Policy.

## Chapter VII

### IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMISSION (Agenda item 7)

113. For its consideration of this item, the Commission had before it the following documentation:

“The implementation of recommendations of the Commission” (TD/B/COM.2/74);  
*DITE Activities Report 2006* (UNCTAD/ITE/2007/1).

#### Chairperson's summary

114. The Director of the Division on Investment, Technology and Enterprise Development (DITE) presented a report on the implementation of the recommendations of the Commission at its tenth session. He provided a brief overview of the overall performance of the Division in 2006, a more detailed description of which was contained in the unedited advance version of the *DITE Activities Report 2006* made available in the conference room.

115. The Director outlined major activities in the area of research and development, capacity-building and policy analysis, highlighting indications of results and impact, where possible. Stressing UNCTAD's cooperation with public and private institutions, he also pointed to some major forthcoming events, including the organization of a China–India–Brazil–Africa Business Forum and of the Second Silk Road Investment Forum. He also mentioned the request, by the Government of Ghana, that an Investment Summit be organized in the context of UNCTAD XII. The Director pointed to the continued efforts to mobilize extrabudgetary resources, reminding the Commission of the growing number of requests for technical assistance and capacity-building to be addressed.

116. The Secretary of the Commission on Science and Technology for Development (CSTD) briefed the Commission on the revised mandate and method of work of the CSTD, particularly with respect to the follow-up to the World Summit on the Information Society (WSIS). He also provided details about the strengthening of the CSTD, highlighting the multi-stakeholder approach used. He then presented the agenda of the tenth session of the CSTD, indicating that the substantive theme for the intersessional period 2006–2008 would be “Promoting the building of a people-centred, development-oriented and inclusive information society”, with a view to enhancing digital opportunities for all people. The session would focus on the follow-up to the outcome of the WSIS and would comprise a ministerial segment, a joint event with the Global Alliance for ICT on Development and various parallel events of WSIS clusters.

## Chapter VIII

### OTHER BUSINESS (Agenda item 9)

#### Chairperson's summary

117. The Chairperson of the session opened the meeting devoted to the Meeting of Experts on FDI, Technology and Competitiveness with a special tribute to the late Professor Sanjaya Lall, whose work with UNCTAD, UNIDO and other UN organizations had provided the inspiration for the event. The Secretary-General of UNCTAD followed with remarks stressing Professor Lall's contribution to UNCTAD's activities, especially in the area of technology and technology transfer. He announced the launch of the UNCTAD–UNIDO–ITC joint training initiative on industrial, investment and trade policy management. The Director of UNCTAD's Division on Investment, Technology and Enterprise Competitiveness stressed the importance and significance of that initiative. The Director-General of UNIDO underlined the importance of policy coherence and the contribution of the training initiative to that end. In addition, the Deputy Executive Director of ITC expressed his appreciation for Professor Lall's contribution to the work of international organizations, emphasizing the role of women and SMEs in the promotion of economic development. Rani Lall, the wife of Professor Lall, then expressed her gratitude for the tribute paid in the session and explained her efforts to establish a Chair in his honour at Oxford University, in order to institutionalize the intellectual legacy of this distinguished researcher.

118. The Commission was then briefed on the Meeting of Experts. Among the major issues identified were the following:

- Both industrial (e.g. in China) and primary sectors (e.g. in parts of Africa) could be key drivers for sustainable development.
- Some crucial implications of the rise of large-scale economies, such as India and China, for other developing countries had not yet been adequately addressed.
- TNCs from developing countries were here to stay and would remain an important issue for some time, especially in the context of South–South cooperation. The relevant trends should be monitored and analysed, especially regarding the impact on host and home economies.
- Major institutional and infrastructure inequalities contributed to the varying FDI attractiveness of developing countries, with Africa specifically suffering from such deficits. Efforts needed to be made to address those inequalities at a fundamental level.

119. The representative of India then praised Professor Lall's work and expressed his support for the establishment of a Chair in his honour at Oxford University.

## **Chapter IX**

### **ACTION BY THE COMMISSION**

#### **Action by the Commission**

120. At its closing plenary, on 14 March 2007, the Commission adopted its agreed recommendations (see chapter I).

121. It took note of the report of the Expert Meeting on Building Productive Capacities (TD/B/COM.2./EM.19/3), the report of the Expert Meeting on FDI in Natural Resources (TD/B/COM.2/EM.20/3) and the report of the Ad Hoc Expert Meeting on Advocacy for Investment Policies with Particular Reference to the Development Dimension (TD/B/COM.2/AHM.1/3).

122. It took note of the secretariat's report on the implementation of recommendations of the Commission (TD/B/COM.2/74).

123. It took note of the report of the Intergovernmental Group of Experts on International Standards of Accounting and Reporting (TD/B/COM.2/ISAR/35), endorsed the agreed recommendations contained therein and approved the provisional agenda for the twenty-fourth session of that body.

124. At the same meeting, under agenda item 8, the Commission decided that the provisional agenda for its twelfth session and the timing of the latter, as well as topics for expert meetings, would be decided on by the Trade and Development Board in April 2007.

## **Chapter X**

### **ORGANIZATIONAL MATTERS**

#### **A. Opening of the session**

125. The eleventh session of the Commission on Investment, Technology and Related Financial Issues was opened at the Palais des Nations, Geneva, on 8 March 2007, by Mrs. Carmen Elena Castillo-Gallandat (El Salvador), Vice-Chairperson of the Commission at its tenth session.

#### **B. Election of officers** (Agenda item 1)

126. At its plenary meeting on 8 March 2007, the Commission elected the following officers to serve on its Bureau:

Chairperson: H.E. Mr. Makarim Wbisono (Indonesia)

Vice-Chairpersons: Mrs. Mercy Mathlo (Botswana)  
Mr. Dario Celaya (Argentina)  
Mr. Miguel Bautista (Philippines)  
Mr. Emmanuel Farcot (France)  
Mr. Dmitry Godunov (Russian Federation)

Rapporteur: Mr. Edward Brown (United Kingdom)

#### **C. Adoption of the agenda and organization of work** (Agenda item 2)

127. At the same meeting, the Commission adopted the provisional agenda circulated in document TD/B/COM.2/72. Accordingly, the agenda for the eleventh session was as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Policy issues related to investment and development
  - (a) Interaction with WAIPA
4. International investment agreements and their development dimension
5. Investment policy reviews: Exchange of national experiences
6. Reports of the subsidiary bodies of the Commission
7. Implementation of recommendations of the Commission
  - (a) Interaction with international and regional organizations on their work in the area of investment

8. Provisional agenda for the twelfth session of the Commission
9. Other business
10. Adoption of the report of the Commission to the Trade and Development Board.

**D. Adoption of the report of the Commission to the Trade and Development Board**

128. At its closing plenary meeting, on 14 March 2007, the Commission adopted its draft report (TD/B/COM.2/24 and Adds. 2-9), subject to any amendments of the summaries of the statements; decided to include in its report the Chairperson's summaries of the proceedings under each of the substantive agenda items; and authorized the Rapporteur to finalize the report, taking into account the proceedings of the closing plenary.

**Annex****ATTENDANCE\***

1. Representatives from the following States members of UNCTAD attended the session of the Commission:

Algeria	Italy
Angola	Jamaica
Argentina	Japan
Austria	Kazakhstan
Bangladesh	Kenya
Barbados	Lebanon
Bahrain	Lithuania
Belarus	Madagascar
Belgium	Mali
Benin	Mauritania
Bosnia and Herzegovina	Mexico
Botswana	Morocco
Brazil	Nicaragua
Bulgaria	Nigeria
Cape Verde	Oman
Chile	Pakistan
China	Peru
Congo	Philippines
Côte d'Ivoire	Poland
Cuba	Portugal
Czech Republic	Qatar
Djibouti	Republic of Korea
Ecuador	Russian Federation
Egypt	Rwanda
El Salvador	Saudi Arabia
Ethiopia	Senegal
France	Slovenia
Gabon	South Africa
Germany	Spain
Ghana	Sri Lanka
Greece	Sudan
Guinea	Suriname
Haiti	Sweden
Holy See	Switzerland
Honduras	Syrian Arab Republic
India	Thailand
Indonesia	Timor-Leste
Iran (Islamic Republic of)	Tunisia
Iraq	Turkey
Israel	United Arab Emirates

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\* For the list of participants, see TD/B/COM.2/INF.1.

United Kingdom of Great  
Britain and Northern Ireland  
United Republic of Tanzania  
United States of America  
Uruguay

Venezuela (Bolivarian Republic of)  
Viet Nam  
Yemen  
Zambia

2. The following intergovernmental organizations were represented at the Commission:

African Union  
Agency for International Trade Information and Cooperation  
European Community  
League of Arab States  
Organisation for Economic Co-operation and Development

3. The following United Nations agencies were represented at the Commission:

Economic Commission for Africa  
International Trade Centre

4. The following specialized agencies and related organization were represented at the Commission:

International Monetary Fund  
World Bank  
World Trade Organization

5. The following non-governmental organizations were represented at the Commission:

*General Category*  
Latin-American Parliament  
Organization of African Trade Union Unity  
World Association of Investment Promotion Agencies

6. The following panellists were present at the Commission:

### **8 March**

Mr. Kai Hammerich, President of WAIPA, Geneva  
S.E.M. Driss Jettou, Premier ministre, Royaume du Maroc  
Mrs. Xiuhong Ma, Vice-Minister of the Ministry of Commerce, People's Republic of China, Beijing  
Mr. Victor CHU, Chairman, First Eastern Investment Group, Hong Kong (China)

### **9 March – Investment Policy Review of Morocco**

H.E. Mr. Mohamed Saleck Ould Mohamed Lemine, Ambassador, Permanent Mission of Mauritania, Geneva  
S.E. M. Driss Jettou, Premier ministre, Royaume du Maroc  
S.E. M. Jean-Maurice Ripert, Ambassadeur de France, Genève  
M. Jean-Luc Martinet, Chambre Française de Commerce et d'Industrie au Maroc  
S.E. M. Swashpawan Singh, Ambassadeur d'Inde  
M. Gilbert Vuillemin, Argane S.A

S.E. Mme King Bee Hsu, Ambassadeur de Malaisie

Mme Emanuelle Gautier, Teuchos

S.E. M. José Caetano da Costa Pereira, Ambassadeur du Portugal auprès de l'OMC

M. Elias Attia, Chambre Arabe-Suisse du Commerce et de l'Industrie

S.E. M. Joaquín María Aristegui, Ambassadeur, Représentant permanent adjoint d'Espagne

### **9 March – Report on the implementation of the Investment Policy Review of Uganda**

Ms. Maggie Kigozi, Executive Director, Uganda Investment Authority, Kampala

H.E. Ms. Venetia Sebudandi, Ambassador of Rwanda, Permanent Mission, Geneva

Ms. Masekgoa Masire-Mwamba, Chief Executive Officer, Botswana Export Development and Investment Authority, Gaborone

### **12 March – Investment Policy Review of Zambia**

H.E. Mr. Makarim Wibisono, Ambassador, Permanent Mission of Indonesia, Geneva

H.E. Mr. Kenneth Konga, Minister of Trade and Industry of Zambia

Mr. Rickard Laurin, Dunavant S.A

H.E. Mr. Matern Y.C. Lumbanga, Ambassador, Permanent Mission of United Republic of Tanzania, Geneva

H.E. Mr. Makio Miyagawa, Ambassador, Permanent Mission of Japan

Mr. Sun Peng, Deputy General Director, Ministry of Commerce, Republic of China

Ms. Maggie Kigozi, Executive Director, Uganda Investment Authority, Kampala

M. Guy Sebban, Secrétaire Général de la Chambre de Commerce Internationale, Paris

Mr. Ingo Ploger, President, IP Desenvolvimento Empresarial e Institucional Ltd., Brazil

S.E. M. Arcanjo Maria Do Nascimento, Ambassadeur, Représentant permanent de l'Angola, Genève

H.E. Ms. Sarala M. Fernando, Ambassador, Permanent Mission of Sri Lanka, Geneva

H.E. Ms. Mia Horn Af Rantzien, Ambassador, Permanent Mission of Sweden, Geneva

### **13 March**

Mr. Peter Muchlinski, Professor, School of Oriental and African studies, University of London

Mr. Randal Williams, Director, Department of Trade and Industry, South Africa

Mr. Rudolf Muller, Chairman of ISAR

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