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TRADE AND DEVELOPMENT BOARD  
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Item 10

**DRAFT REPORT OF THE COMMISSION ON INVESTMENT, TECHNOLOGY  
AND RELATED FINANCIAL ISSUES AT ITS TENTH SESSION**

Rapporteur: Mr. Johan Van Wyk (South Africa)

Speakers:

Secretary-General of UNCTAD  
Pakistan for the Group of 77 and China  
Sri Lanka for the Asian Group and China  
Guatemala for the Latin American and  
Caribbean Group  
Zimbabwe for the African Group  
Benin for the least developed countries

Austria for the European Union (EU)  
and the acceding countries of  
Bulgaria and Romania  
Russian Federation  
Thailand  
Peru  
India  
Cuba

**Note for delegations**

This draft report is a provisional text circulated for clearance by delegations.

Requests for amendments to statements by individual delegations should be communicated by **Tuesday, 14 March 2006** at the latest, to:

UNCTAD Editorial Section, Room E.8106, fax no. 917 0056, tel. no. 917 1437.

## Chapter I

### OPENING STATEMENTS

1. In his introductory remarks, the **Secretary-General of UNCTAD** highlighted the important role of the Commission on Investment as a forum for policy discussions related to foreign direct investment and development. He noted that transnational corporations were at the heart of the globalization process, and that their investments influenced the allocation of productive resources. A number of trends were identified as particularly relevant for the Commission to consider. First, the current upswing in FDI flows was fuelled by an increase in the number of mergers and acquisitions, which more than before also involved firms from developing countries. This had triggered strong policy responses in a number of countries. Second, increased FDI from developing countries provided important opportunities for South-South economic activity, and there was a need to consider ways of leveraging this process for development. Third, the scope of activities affected by the globalization process was expanding, now involving increasingly varied service functions – from call centres to research and development. Fourth, rising commodity prices had contributed to record inflows of FDI into countries rich in natural resources, thus raising questions about how policies could help ensure long-term benefits for the recipient countries. The Secretary-General noted that these trends had implications for both economic development and international relations. It was important that the Commission consider what policy approaches at national and international levels were needed in order to address both expectations and fears.

2. He also stressed that among the most important global policy trends in recent years would be the increasing number and complexity of international investment agreements (IIAs), which would give rise to a number of challenges for countries and investors. He noted the increase in the number of investor-State disputes, and the lack of capacity in developing countries to cope with it. Also, the development dimension needed to be adequately addressed in IIAs, reflecting a proper balance of rights and obligations between States and investors. Noting that the burden of addressing these challenges was likely to weigh disproportionately on developing countries, he underlined the importance of capacity-building. In this context, he called for a review of the past decades of international rule making in the investment area and its implications for the development process.

3. With regard to positive corporate contributions to the economic development of host developing countries – the so-called economic dimension of corporate responsibility – he reiterated that companies could maximize their contributions through a variety of means, and that to realize the full potential of these contributions, Governments had a role to play too. The latter needed to design and set up appropriate regulatory mechanisms and incentive schemes to encourage firms to do their share, an undertaking in which UNCTAD could help.

4. The representative of **Pakistan**, speaking on behalf of the **Group of 77 and China**, noted that attracting FDI had assumed a prominent place with regard to development strategies. He observed that the need for a more cautious approach with regard to premature liberalization must be inferred from the Asian crises. He called for a rethinking of the conventional wisdom on the one-sided emphasis on FDI and its replacement with a more balanced and strategic approach tailored to specific economic conditions and challenges. Referring to the Expert Meeting on FDI statistics, he expressed his Group's great interest in the subject and requested UNCTAD to implement the recommendations made during that meeting, with particular reference to the collection, dissemination and exchange of information and experience on a regular basis.

5. Regarding international investment arrangements, the speaker observed that the IIAs that had been concluded created logistical problems for developing countries. He stressed the importance of policy coherence and noted that the new generation of IIAs included interrelated and complex issues that touched upon a whole range of domestic concerns. He emphasized two main concerns for developing countries. First, IIAs needed to strike a proper balance, creating a favourable environment for foreign investment and retaining sufficient regulatory power and discretion for host country Governments. Second, in order to advance development objectives, IIAs should put more emphasis on the responsibilities of foreign investors in the host country. His Group was of the view that translating treaty obligations into domestic legislation was difficult and might require major adaptations of the relevant laws and regulations. The Group therefore called on UNCTAD to intensify its work in the area of policy coherence and its technical assistance activities relating to IIA negotiations and implementation.

6. The Group of 77 and China expressed their appreciation for the Investment Policy Review (IPR) programme. The exchange of experience had contributed to raising awareness of a favourable investment environment. The Group stressed the importance of the follow-up to the implementation activities of the IPR programme and encouraged donor countries to support these activities through their development assistance mechanisms. The Group also appreciated UNCTAD's efforts aimed at strengthening developing countries' capacity to better attract FDI and benefit from it. It recommended that UNCTAD continue to work closely with the World Association of Investment Promotion Agencies, as indicated in the São Paulo Consensus.

7. The representative of **Sri Lanka**, speaking on behalf of the **Asian Group and China**, highlighted a number of issues that were of particular interest to the Asian Group and China. She stressed that the Commission should monitor the growing investment among developing countries in order to understand which policy measures and institutional factors could play a key role in promoting greater South-South cooperation. The Asian Group welcomed the recommendations made at the Expert Meeting on FDI statistics, particularly those contained in paragraphs 41 and 42 of the report, and emphasized the need for accurate and timely data to support policy analysis and formulation. She pointed out that the data collecting and reporting systems of many Asian developing countries, particularly LDCs, were still weak. The Asian Group supported the Commission in its examination of what could be done to improve this situation and help those countries enhance their capacity in the area of FDI and TNC statistics.

8. She stressed that the debate on issues related to IIAs came at the right time. Asian countries were among the most active not only in the conclusion of IIAs but also in regional economic agreements containing specific investment provisions. She drew the attention of the Commission to the consistency and compatibility of IIAs and the protection of Asian investments abroad. She also pointed out emerging problems in IIAs and in particular the increase in the number of investor-to-State disputes. She therefore called for UNCTAD to become the focal point for all information related to international investment rule making, the need for further research and technical assistance in the area of investment dispute settlement, and emphasis on the development dimension of IIAs, in particular in the area of technological progress.

9. The Group congratulated the secretariat on the publication of the *World Investment Report* and welcomed the forthcoming publication of *Asian FDI in Africa*. In conclusion, she noted with satisfaction the efforts of the secretariat to assist Governments and regional groupings in strengthening their research and policy analysis on FDI.

10. The representative of **Guatemala**, speaking on behalf of the **Latin America and Caribbean Group (GRULAC)**, said that the *World Investment Report 2005* had proved to be a useful tool for discussion of FDI trends. The seminar in Latin America in January 2006, organized jointly with the Economic Commission for Latin America and the Caribbean, had facilitated discussion and improved investment experts' understanding, and should be continued. With regard to outward FDI from developing countries, the trends, impact and policy issues were of great interest to the region, it being the second largest developing-region outward investor.

11. She noted that international investment agreements were of particular significance for the region, and analysis by UNCTAD of how to maximize their benefits was needed. In particular, given the large number of investment disputes that had arisen in the region, research, analysis, training and capacity building were required on this issue. UNCTAD's work in this area should be strengthened.

12. She expressed GRULAC's appreciation for the Investment Policy Review of Colombia, which was the kind of analysis needed for other countries in the region. GRULAC therefore called on UNCTAD to continue its work in collaboration with other international organizations in this area.

13. The representative of **Zimbabwe**, speaking on behalf of the **African Group**, observed that although FDI inflows were increasing, the bulk of them went into the oil and other natural resource industries. His Group called on the Commission to deliberate on what could be done to position more African countries as attractive destinations for FDI. Although a few countries might have been able to attract some reasonable manufacturing investments, especially in the textiles industry, they had not achieved the level of competitiveness that they needed in order to remain global players in that industry. He said that Africa placed South-South trade at the centre of development efforts; in this regard, the emergence of TNCs based in developing countries was a welcome development and UNCTAD should therefore address itself to this phenomenon. He also drew attention to the Trade and Development Board's request to UNCTAD that it organize periodically a forum on investments by the countries of the South. He hoped that the findings and conclusions of the report entitled *Economic Development in Africa: Rethinking the Role of FDI* would be reflected in the deliberations of the Commission.

14. He noted that bilateral investment treaties and regional cooperation arrangements with investment provisions had increased in the region. However, African countries lacked the technical capacity and expertise to participate effectively in international negotiations on investment treaties as well as in the implementation of those treaties. His Group therefore called for assistance in negotiating future international investment agreements (IIAs), as well as for the provision of expertise in analysing existing arrangements in order to identify possible overlaps and inconsistencies. He called for the continuation of UNCTAD's assistance to African countries, including within the context of the COMESA negotiations on a Common Investment Area. The large number of investor-State disputes caused his Group great concern, and UNCTAD needed to carry out comprehensive research and analysis on IIAs, particularly as they related to development objectives.

15. The Group acknowledged the value of Investment Policy Reviews (IPRs) in enhancing FDI flows to developing countries, enhancing domestic capacities, encouraging private sector development and improving developing countries' export capacities. However, FDI had not flowed in sufficient quantities to enable African countries to integrate into the global economy despite the enhanced investment climate following UNCTAD-recommended

policy reforms. The Group therefore requested an examination of what more needed to be done to enhance African countries' attractiveness with regard to FDI, in addition to the useful IPR processes. The speaker welcomed all efforts aimed at investment promotion, including the various activities of the World Association of Investment Promotion Agencies. Referring to the Expert Meeting on FDI statistics held in December 2005, he said that it had been greatly appreciated by his Group; it was a crucial activity, and the secretariat should continue this work. The Group remained concerned that the UNCTAD insurance programme had not fully addressed the building of national supply capacities in the African region. It believed that the African Insurance Organization and UNCTAD needed to strengthen their cooperative and collaborative partnership. In conclusion, he said that it was a matter of some regret for his Group that donors were increasingly assuming the funding of the technical assistance programme, and that this was an area that deserved serious discussion in the Commission.

16. The representative of **Benin**, speaking on behalf of the **least developed countries (LDCs)**, pointed out that although the LDCs had implemented various policies to provide attractive conditions for FDI, actual inflows remained relatively small, poverty had increased and economic growth was disappointing. The international community must intensify its efforts to help address the long list of difficulties faced by LDCs as regards infrastructure, productive capacity, financing, trade protectionism, unstable commodity prices, limited foreign aid, low domestic investment and heavy external debt. The dearth of domestic resources and heavy external debt made increased FDI and ODA and further debt relief especially critical for enabling the financing of long-term development in the LDCs. Investment was required in particular to finance the basic physical infrastructure necessary for supporting development. LDCs could also benefit from FDI in the services sector.

17. The speaker thanked UNCTAD for its support as regards Investment Policy Reviews and the negotiation of bilateral investment treaties and investment promotion, and called for continued and intensified efforts in this regard. His Group welcomed UNCTAD's work on FDI promotion in services; continued collaboration by UNCTAD with the World Association of Investment Promotion Agencies should be strengthened; and more countries should benefit from the Blue Book programme on investment promotion in cooperation with the Japan Bank for International Cooperation. UNCTAD and other LDC partners must continue to provide the assistance needed to ensure the implementation of the Millennium Declaration and the third Programme of Action in favour of the LDCs.

18. The representative of **Austria**, speaking on behalf of the **European Union (EU) and the acceding countries of Bulgaria and Romania**, stressed that UNCTAD, as a focal point in the United Nations system for investment and technology, should continue to contribute to the understanding of the complex interrelationships between globalization issues. The *World Investment Report 2005* provided a wealth of information and analysis on the present situation, with a useful focus on the internationalization of research and development, and highlighted the implications for both host and home countries, as well as the need for appropriate policy responses. She addressed the key elements of what constituted a "conducive investment climate" and suggested that the Monterrey Consensus had assigned to the international community the duty to support partner countries' efforts in creating a "conducive environment". In this regard, UNCTAD had its role to play together with other organizations.

19. She referred to the new EU strategy for Africa, which provided for the establishment of the EU–Africa Business Forum, with a sub-Saharan emphasis, which would bring together entrepreneurs and public and private investors from both Europe and Africa. It was important to ensure that the development dimension was adequately addressed in international

investment law, and that international investment agreements enabled countries to attract and benefit from FDI. The EU appreciated the work of UNCTAD in the field of corporate contributions to help partner countries attract and benefit from FDI. She called for UNCTAD to provide a forum for constructive dialogue between Governments, business and other development stakeholders, with a view to taking stock of best practices and ensuring their scalability, sustainability and replication. In conclusion, she said that the EU appreciated the work of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting.

20. The representative of the **Russian Federation** said that the *World Investment Report* was important with regard to providing countries with an update on trends in FDI. He hoped that the countries of the Commonwealth of Independent States would receive due attention in future reports. Regarding the debt problems of developing countries, the CIS countries together with the G-8 countries were working to alleviate the debt burden of the developing countries. The speaker also noted the usefulness of UNCTAD's database on IIAs.

21. The representative of **Thailand** said that his country had a programme to encourage outward FDI, regarding which UNCTAD might be able to provide assistance. He supported the recommendations of the Expert Meeting on FDI statistics and reiterated the need for capacity building in this area. He also said that UNCTAD's database on international investment agreements was useful for policymakers in developing countries.

22. The representative of **Peru** noted that although FDI in Latin America had increased, it was mostly in the area of natural resources. Furthermore, despite the fact that research and development was becoming more international, it affected only a few developing countries. It was suggested that UNCTAD could help by providing analysis on technology transfer via FDI and develop its work on Science, Technology and Innovation Policy Reviews. In its work programmes, the Commission should be more closely linked with the work on science, technology and innovation. She stressed the need to strengthen UNCTAD's follow-up work on Investment Policy Reviews. UNCTAD should also give its attention to the increase in the number of investor-State disputes arising from investment treaties.

23. The representative of **India** said that changes in world demography were effecting changes in the world economy. Investment was increasingly based on production in the lowest-cost locations. Referring to the expansion of FDI from developing countries, he mentioned some examples of Indian programmes in this area. India was increasingly liberalizing its investment framework through both national measures and international agreements.

24. The representative of **Cuba** noted that countries continued to require adequate policy space in making decisions concerning the types of FDI that they considered to be either desirable or undesirable. With regard to international investment agreements, the issue of balance in the rights and obligations of investors versus those of host countries was paramount, and additional research was needed. This should include the area of positive corporate contributions. Research on developing country participation in outward FDI would also be beneficial.

## Chapter II

### ORGANIZATIONAL MATTERS

#### A. Opening of the session

25. The tenth session of the Commission on Investment, Technology and Related Financial Issues was opened at the Palais des Nations, Geneva, on 6 March 2006, by H.E. Mr. Love Mtesa (Zambia), Chairperson of the Commission at its ninth session.

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

26. At its plenary meeting, on 6 March 2006, the Commission elected the following officers to serve on its Bureau:

Chairperson:	H.E. Mr. Ian De Jong (Netherlands)
Vice-Presidents:	H.E. Mr. Luis Alfonso de Alba (Mexico) Mrs. Carmen Elena Castillo-Gallandat (El Salvador) Mr. Mohammad Ali Zarie Zare (Islamic Republic of Iran) Mr. Dmitri Fomchenko (Belarus) Mr. Kiminori Iwama (Japan)
Rapporteur:	Johan Van Wyk (South Africa)

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

27. At the same meeting, the Commission adopted the provisional agenda circulated in document TD/B/COM.2/67. Accordingly, the agenda for the tenth 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. Issues related to investment arrangements
5. Investment policy reviews: Exchange of national experiences
6. Reports of the subsidiary bodies of the Commission
7. Implementation of agreed conclusions and recommendations of the Commission
8. Provisional agenda for the eleventh session of the Commission
9. Other business
10. Adoption of the report of the Commission to the Trade and Development Board

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