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Exchange of experiences: investment policy reviews, lessons learned and best practices

Note by the UNCTAD secretariat

Executive summary

UNCTAD's investment policy reviews (IPRs) are intended to help countries improve their investment policies and to familiarize Governments and the international private sector with an individual country's investment environment. The reviews are considered at the Investment, Enterprise and Development Commission. IPRs undertake an objective evaluation of the policy, regulatory and operational framework for foreign direct investment (FDI) in developing countries and economies in transition.

This document provides a brief overview of the IPR programme. It also presents the summaries of the IPRs of the Dominican Republic and of Nigeria. The document also includes a summary of the deliberations which took place at the intergovernmental peer review of the IPR of Viet Nam.

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Contents

I. Overview of the investment policy review programme

1. Over the past few years, UNCTAD has experienced a growing demand from member States for strategic advice on foreign direct investment (FDI) with concrete and actionable recommendations. The investment policy review (IPR) programme, launched by UNCTAD in 1999, provides an independent and objective evaluation of the policy, and regulatory and institutional environment for FDI, and proposes recommendations to Governments to attract and maximize the benefits from increased flows of investment.[1]

2. The IPR is a multi-phase programme that starts with a country-specific evaluation and advisory report. This report undergoes a national and international technical peer review and intergovernmental review at the ministerial level. The report's outcome leads to technical assistance activities to support beneficiary countries in implementing the policy recommendations.

3. The IPR programme has had significant impact in generating consensus among stakeholders and obtaining the endorsement and commitment of national authorities at the highest levels to implement the recommended actions. It also benefits from continued support from donors and has been recognized as valuable for evaluating the investment environment.

4. The programme has played a key role in consolidating UNCTAD's solid reputation as a provider of technical assistance on FDI-related policies. Through the IPRs, UNCTAD has advised and assisted many countries in Africa, Asia and Latin America, including least developed countries (LDCs), post-conflict countries, middle-income economies and economies in transition. Since its inception in 1999, 25 member States have completed IPRs, 3 countries are being reviewed and an additional 23 countries have requested an IPR. (See the annex for a detailed list.)

A. An integrated assistance approach

5. The IPR and follow-up activities are requested by member States and tailored to their needs in order to promote strong ownership. The process involves taking into account the views of a broad array of interested parties.

6. The IPR process takes place in five consecutive phases, which are sequenced to promote synergies:

(a) Government request to UNCTAD expressing commitment to policy reforms;

(b) IPR evaluation and advisory report, including an action plan;

(c) Intergovernmental review and country ownership;

(d) Implementation and follow-up technical assistance, including capacity-building; and

(e) Implementation report and additional follow-up actions.

[1] For additional information, see UNCTAD (2008). *The Investment Policy Review Programme: a Framework for Attracting and Benefiting from FDI*. March. New York and Geneva (UNCTAD/ITE/IPC/2008/3).

7. The preparation of the IPR report, a central element of the programme, starts with a diagnostic phase that includes a fact-finding mission to the field by UNCTAD technical staff, and a detailed and comprehensive examination of the investment environment. At this stage, policymakers at the highest level and a wide range of stakeholders are brought into the process, including government ministries and agencies, such as the line ministries, the central bank, the central statistical office, as well as universities and research institutions. Meetings are also held with representatives of the private sector, non-governmental institutions and the donor community active in the country. If considered necessary, UNCTAD carries out survey questionnaires and structured interviews to gather additional information and data.

8. Next, the beneficiary countries agree to go through a review process, which includes a national stakeholders' workshop to discuss the findings and recommendations of the draft report and an intergovernmental peer review within UNCTAD's Investment, Enterprise and Development Commission, a subsidiary body of the Trade and Development Board. The reviews draw upon the experiences of other countries in attracting and benefiting from investment, including benchmarking against international best practices in policy making and investment promotion. Based on a variety of input over 10–12 months, the IPRs are finalized.

9. The IPR takes into account each country's socio-economic context to ensure that the recommendations are specific, concrete and actionable. The IPR recommendations are put into operation through short-term action plans and multi-agency medium-term technical assistance, to help the Governments meet their development objectives.

10. Throughout the process, UNCTAD liaises closely with relevant ministries and government agencies – through a high-level official counterpart – as well as other key stakeholders, to keep them informed. About five or six years after the completion of the IPR, UNCTAD prepares an implementation report and provides recommendations for further and longer-term technical assistance.

B. The IPR evaluation and advisory report

11. Without accurate and reliable FDI data, policymakers are hindered in the formulation of appropriate investment policies. This is particularly true in LDCs, where data collection is a major challenge. To ensure a high degree of quality and accuracy in the IPR, UNCTAD assesses the data for impartiality, reliability, comprehensiveness and timeliness.

12. In doing this work, UNCTAD benefits from being the main authority on international FDI statistics, as well as from its research and analysis on investment, produced most notably in the context of the annual *World Investment Report*. Furthermore, UNCTAD can also tap into its in-house expertise on a wide range of issues, including notably trade, macroeconomic policies, competition and consumer policies, commodity diversification and technology.

13. The IPR methodology is based on transparent sources and publicly available comments and documents. In addition, the IPRs are subject to a thorough peer review process. The technical peer review, undertaken by both internal and external experts at the national and international level, focuses on sound analysis, factual verification, identification of missing elements, and gauging the suitability and feasibility of recommendations.

14. The IPR evaluation and advisory report consists of four main chapters:

(a) Analysis of FDI trends and impact;

(b) Assessment of the policy and regulatory investment framework;

(c) Focus on country-specific FDI strategy; and

(d) Outline of findings, recommendations and action plan.

C. Intergovernmental peer review and country ownership

15. The IPR programme puts a strong emphasis on the ownership of recommendations by the requesting Government. It also recognizes the importance of involving national stakeholders for the successful implementation of proposed reforms. As no recommendations are binding, ownership is essential. Thus, in addition to the technical peer review, the IPR also benefits from peer reviews in national workshops and feedback from other countries.

16. During a national workshop, the IPR is presented in draft form to the Government and national stakeholders, including private investors, civil society representatives and other key actors involved in investment policy. The forum is designed to promote open and candid discussions between UNCTAD and national stakeholders. The draft report is later finalized by the UNCTAD secretariat, based on the comments and feedback received during the workshop.

17. The finalized version is presented in Geneva at an intergovernmental meeting, which takes place at UNCTAD’s Investment, Enterprise and Development Commission, a subsidiary body of the Trade and Development Board. The meetings are usually attended by more than 100 countries and include wide non-governmental stakeholder participation at senior levels. The value of the process is acknowledged by the beneficiary Governments and has included participation at the level of the Prime Minister and cabinet ministers of the countries being evaluated.

18. The peer review provides a forum for Governments to exchange experiences in investment policy and share success stories as well as failures. It provides an opportunity for the Government undertaking the IPR to publicly endorse the recommendations it seeks to put into practice, and formally ask UNCTAD and others for follow-up technical assistance. The peer review marks the end of the preparatory phase of the recommendations and the beginning of their implementation.

D. Implementation of recommendations and follow-up technical assistance

19. UNCTAD’s technical assistance to implement the recommendations of the IPR is entirely demand driven, as Governments select the recommendations they wish to act upon. While in many cases further technical assistance is needed for a period of time, in others implementation will not require further support from UNCTAD or any other multilateral agencies.

20. Governments may call upon the expertise of UNCTAD’s different divisions in their requests for follow-up. Areas where UNCTAD has provided technical assistance in the past include (a) drafting investment codes and tax policies; (b) formulating plans to attract higher-skilled labour; (b) collecting and analysing investment statistics; (c) promoting good corporate governance and other investment strategies; (d) building capacity to negotiate international investment agreements; and (e) implementing international commitments.

21. In cases where UNCTAD may not have the capacity or expertise to deliver further technical assistance, sister agencies from the United Nations may be called upon. In addition, Governments may also appeal for bilateral support or for help from other multilateral organizations or private consulting firms.

E. Implementation report and further actions

22. When funding is made available, UNCTAD is committed to continue work with beneficiary Governments throughout the implementation process of the recommendations. Under typical circumstances, a stock-taking exercise is carried out five to six years after an IPR has been peer reviewed. A team from UNCTAD evaluates the extent to which the recommendations have been implemented and identifies additional steps to further enhance the investment environment, taking into account the evolving investment policy trends and emerging development challenges in the country being reassessed. A formal implementation report is presented and reviewed at the intergovernmental level.

23. Designed to evaluate the impact of the IPR programme in a given country, the reassessment also analyses the strengths and weaknesses of the process and the ability of the beneficiary country to manage external factors and sustain results over time. So far, UNCTAD has completed two IPR implementation reports – for Egypt and Uganda. The outcome of the reviews is quite positive overall.

F. Conclusion

24. Since its inception at the end of the 1990s, IPRs have been completed for 25 countries. Their recommendations have led to concrete policy changes in the beneficiary countries and tangible results on the ground. Through this programme, UNCTAD has cooperated extensively with several international, regional and national organizations, as well as a wide range of stakeholders that help developing countries improve their legal, regulatory and institutional framework for investment.

25. Overall, the technical assistance activities in the area of investment have been well received by member States. The beneficiary countries have shown their appreciation for the IPR programme and their commitment at the highest policymaking level.

26. The success of the programme has led to a long list of new requests from other developing countries and economies in transition, including for follow-up activities. Through its research and analysis, technical assistance activities, knowledge-sharing forums and intergovernmental deliberations, UNCTAD will continue to seek ways to strengthen and improve the IPR programme.

II. Investment policy review of the Dominican Republic: summary

27. The Dominican Republic has long been receptive to FDI, except for a period of nationalization in the 1950s and subsequent entry restrictions in selected industries. Export manufacturing in free zones and tourism development have received rising levels of FDI for more than 30 years, leading the Dominican Republic's diversification from an agricultural commodities-based economy. This has been the major impact of FDI on the Dominican Republic's development and has introduced new competencies in producing for international markets.

28. FDI inflows have grown very strongly since a more open FDI regime was adopted in 1995 and capitalization (i.e. privatization) was relaunched in 1997. The United States is the principal source. In recent years, FDI inflows were above $1 billion annually, reaching $1.7 billion in 2007. This is a significant increase compared to the level of a decade ago, despite the setbacks of the 2002–03 financial crisis and continuing electricity shortages. While the current period of worldwide financial and economic downturn poses a challenge to a further increase of FDI flows to the Dominican Republic, the Dominican Republic–Central America Free Trade Agreement constitutes a major opportunity to further boost FDI attraction.

29. The Dominican Republic can aim to further increase FDI inflows and should seek to maximize its impact on development in two respects. One is to ensure that some of this FDI contributes to a second wave of diversification into more advanced export goods and services that can support higher labour costs and up-skill the workforce. This is happening, but slowly. The other is to facilitate FDI that can inject more competitive practices into domestic industry and services. The Government has developed a national competitiveness plan with a key focus on local entrepreneurship and innovation. FDI can make a contribution in this regard as well.

30. These are major challenges both in attracting FDI and maximizing its developmental impact. They require responses from the Government in line with its commitment to upgrading the international competitiveness of the Dominican economy. The IPR assesses two aspects of these responses – the regulatory framework for investment and the investment promotion effort.[2] On the basis of a thorough analysis, the IPR proposes a number of concrete and policy oriented recommendations to improve these two aspects.

A. Modernizing the investment framework

31. In respect to **general measures for business,** much has been achieved in the last decade in modernizing legislation to best international standards. But gaps remain and there is too often a frustrating lack of follow-through in the essential tasks of developing implementing regulations and high-level administrative capacity:

(a) Recently modernized laws on the environment, land, intellectual property, telecommunications and foreign exchange control stand out as exemplary;

(b) The absence of a competition law until its adoption in January 2008 was a serious gap and suggested diffidence about exposing long-established domestic business to competition. There also seem to be weak competitive outcomes in areas of public infrastructure concessioning. Proper enforcement of the new Competition Law is critical;

(c) Environmental permitting, land titling and effective enforcement of the rule of law and contracts are top priorities for administrative improvement. All require more public resources. Environmental permitting and land titling should be self-funding if appropriate user charges based on cost-recovery are applied;

(d) Taxation policy has served past objectives well, but needs to be reoriented to meet new objectives of upgrading, modernization and innovation. Measures to be considered include a general reduction in corporate taxation and withholdings of payments

[2] The IPR of the Dominican Republic, initiated at the request of the Government, received the financial support of the Government of the Dominican Republic and of the Inter-American Development Bank. The first draft of the report was presented at a national workshop, organized jointly with the Centro de Exportación e Inversión de la Republica Dominicana and the United Nations Development Programme office in the Dominican Republic, in Santo Domingo on 6 December 2007.

abroad, removal of most corporate tax exemptions in favour of better-targeted incentives, and creation of a window to formulate specific fiscal and financial arrangements for large, strategically significant projects. The incentive proposals would work better if the current system of crediting dividend tax against corporate tax were reversed.

32. Apart from these priorities, a package of incremental improvements should be considered in (a) labour law (moderating the accumulation of severance pay rights so as to reduce job hopping); (b) foreigner residence permitting (clearer regulations to the law, removing the restriction on remuneration when a position is localized and having a more active programme of talent attraction); (c) land law (providing for corporate title); and (d) upgrading the civil code and modernizing corporate governance provisions.

33. The important theme for the next five years is implementation. It is difficult to identify a single general measure which combines (a) a high standard law, (b) well-developed implementing regulations and (c) first-class administration of the licensing or permitting process.

34. If the Dominican Republic can continue its drive to modernize law and can follow through in regulatory and administrative processes, it could achieve a highly competitive investment climate within five years. Apart from better protecting the public interest and providing a high-quality regulatory environment for local business, this outcome could have a surprisingly high payoff in FDI attraction. It would help to differentiate the Dominican Republic from other countries in the region with whom it shares very similar investment attraction fundamentals.

35. The **specific legal framework for FDI** of the Dominican Republic is open and liberal, and contains very few sectoral restrictions since its modernization in 1995. Some aspects of the foreign investment law have fallen behind the good treatment of foreign investors in practice, and the law is less forthcoming on standards of treatment and protection than in the Dominican Republic's international treaties. It is recommended that the investment law be revised alongside the development of a model bilateral investment treaty (BIT) with consistent provisions that:

(a) Guarantee basic FDI treatment and protection provisions such as national treatment and fair and equitable treatment;

(b) Guarantee access to domestic and international dispute resolution mechanisms;

(c) Offer protection provisions in respect to expropriation, based on the principle of prompt compensation at market value; and

(d) Eliminate the ceiling on the repatriation of dividends.

36. The model BIT so developed should be used in future negotiations and be used to renegotiate existing BITs to bring greater clarity and consistency.

37. The investment law itself should:

(a) Remove the FDI registration requirement and address the need for accurate FDI statistics by introducing compulsory investor surveys;

(b) Remove the references to health and environment in the FDI negative list, as these matters are fully covered by the relevant national legislation; and

(c) Remove the screening of technology transfer contracts in favour of a more modern approach to the important public interests involved.

38. FDI entry restrictions in other laws covering professional services, transportation, oil and mining should be revisited to see if they remain consistent with the goal of upgrading national competitiveness.

B. Enhancing investment promotion and creating a national system of investment promotion

39. The Investment Promotion Department of the Centro de Exportación e Inversión de la República Dominicana (CEI–RD) has played its part in the highly creditable FDI attraction performance of the Dominican Republic to date. In order to equip CEI–RD to meet the more ambitious future agenda for FDI promotion, it is recommended to:

(a) Organize CEI–RD functionally for greater specialization and clarity of roles;

(b) Double staff to around 35;

(c) Appoint a chief executive officer without ministerial responsibilities;

(d) Implement various new systems and procedures in line with good practice in other investment promotion agencies;

(e) Dispense with its legacy regulatory roles in investment and transfer of technology registration; and

(f) Create a one-stop shop facility.

40. CEI–RD should see itself as the hub of an overall national investment promotion effort including the work of the zones, ministries such as agriculture, mining and tourism, sector regulatory authorities and other specialized agencies. It should lead on country marketing, investor facilitation and supplier development, but should contribute its special sales and other skills on an as-agreed basis to leverage the expertise and efforts of these other stakeholders. Moreover, these relationships should be formalized through voluntary service-level agreements.

41. The integration of national investment promotion efforts should be formalized as a national investment promotion system and be coordinated by a newly appointed minister of investment. The minister should ensure that priorities and execution of the overall promotion effort are consistent with the Dominican Republic’s development strategies. There should be no gaps or confusion, and there should be appropriate accountability.

42. The minister should have political level responsibility for the CEI–RD and agencies with direct investment functions (such as the Corporation de Fomento Industrial, Consejo Nacional de Zonas Francas de Exportacion, the Border Zones’ Council and the Commission for the Reform of Public Enterprises). A supporting ministry of investment should handle policy advocacy and manage a proposed strategic projects window to coordinate the Government’s response to incentive packages put forward for large strategic projects. The minister should convene an international investment advisory panel and appoint an ombudsman.

C. Conclusion

43. The finalization of the IPR report, a central element of the IPR programme, only marks the beginning of a process. To reap the benefits of the report and maximize the developmental impact of FDI, it is key to put into action the proposed recommendations. In this regard, the Government of the Dominican Republic has demonstrated its commitment at the highest level and started working on the implementation of these recommendations.

To this end, UNCTAD delivered assistance to the Dominican Republic in a number of areas, including (a) providing a model BIT for current and future negotiations; (b) assisting in the amendment of the foreign investment law and the foreign investment agency law; (c) carrying out training sessions on BIT negotiations, current trends in the treatment and protection of FDI, and on building capacity to improve the collection and analysis of FDI statistics; (d) holding a national workshop on investor–State dispute settlement; (e) launching the creation of an Empretec centre in support of entrepreneurship development and of a linkages programme; and (f) establishing a competition legislation and agency.

III. Investment policy review of Nigeria: summary

44. In recent years, Nigeria has attracted increasing levels of FDI, essentially concentrated in the oil sector. Beyond this sector, however, FDI has remained low and not played a significant role in industrial development. As articulated in its home-grown strategy, the Government of Nigeria is promoting a private sector-led approach to achieving its national development objectives. In this regard, the National Economic Empowerment and Development Strategy (NEEDS) emphasizes the central role of broad-based investment and focuses on the need to attract FDI in a variety of economic activities. Based on the philosophy presented in NEEDS, the role of the Government is therefore evolving towards one of regulation and facilitation of investment rather than direct involvement in business. This was reiterated by the current administration. Against this background, the authorities have removed virtually all restrictions to FDI entry and are currently extending the scope of FDI by inviting private investment into areas such as public infrastructure and utilities. As new measures are put in place to improve the investment environment, and once the world economy will have recovered from the current economic slowdown, greater volumes of FDI can be expected to enter Nigeria.

45. In this context, the investment policy review of Nigeria prepared by UNCTAD considers what needs to be done to enable FDI, outside the oil sector, to make its full contribution to the orientation set by the Government.[3] According to the analysis presented in this report, the conclusions call for the adoption of a national investment policy based on an FDI strategy that would lead to dynamic investment growth with a focus on a strong manufacturing sector, including the agro-allied industries. In this regard, Nigeria should adopt policies that induce and support foreign affiliates to focus on high value added as a necessary condition for reaping and maximizing the potential benefits of FDI to the economy. The report also emphasizes the need to improve the overall environment for doing business and to adopt an effective investment promotion approach. Against this background, the report makes the following recommendations.

A. Designing and implementing a strategy to attract non-oil FDI

46. The proposed FDI strategy needs to be consistent and coherent with the economic and social objectives set out by the Nigerian Government in its national development strategy. To meet these objectives, Nigeria should tap its comparative advantages, including its abundant oil resources. Thus, the revenues generated by the exploitation of the oil

[3] The IPR of Nigeria was initiated at the request of the Government. The project was financed by United Nations Development Programme office in Nigeria, and the first draft of the report was presented at a national stakeholders' workshop in Abuja on 24 July 2008. On that occasion, following a briefing by the Secretary-General of UNCTAD on the IPR's key recommendations, President Umaru Yar'Adua assigned his Chief Economic Advisor to follow up on their implementation.

resources will remain significant. In this context, and if the fiscal responsibility demonstrated in recent years persists, Nigeria is well positioned to implement an ambitious programme to fully develop its economy. This would entail the reconstruction and modernization of key infrastructure, including transport, electricity and telecommunications. This in turn will contribute to enhance the competitiveness of Nigerian enterprises and increase their ability to take advantage of the larger market opportunities provided by Economic Community of West African States (ECOWAS).

47. The worldwide trend towards liberalized markets has enabled transnational corporations (TNCs) to lead a process of globalization and regionalization of production networks. As a result, country-level operations within global/regional supply chains are now a key dimension of corporate strategy. Components of the supply chain are thus located in the country where their activities can be performed best. On the basis of the analysis of this report, it is recommended that Nigeria adopt a strategy to induce and support foreign affiliates, both existing and new ones, to be able compete regionally and globally in activities with high domestic value addition.

48. Increased competition will most likely increase the need to place more emphasis on securing more competitive supplies, including nurturing local suppliers. To this end, free zones could be converted into economic development zones, where businesses will have access to excellent facilities, including high-quality services. These zones could then be used as incubators for the development of local industrial capacity and insertion into the global value chain.

49. Against this background, the proposed strategy is articulated around a set of key measures which aim at:

(a) Improving the regulatory framework;

(b) Investing in physical and human capital;

(c) Taking advantage of regional integration and reviewing external tariffs;

(d) Fostering linkages and local industrial capacity; and

(e) Strengthening institutions dealing with investment and related issues.

B. Improving the regulatory framework

50. The Nigerian authorities fully appreciate the serious difficulties investors face in their day-to-day dealings with the country’s rules and administrative processes. While in some areas reforms have been remarkable, challenges remain. Some of the proposed measures to address them include:

(a) **Enhancing foreign investor legal protection.** Nigeria has negotiated many BITs, but only a few have been ratified so far. A more comprehensive network of BITs, including with countries emerging as potential sources of FDI, should be negotiated and ratified. In addition, double tax treaties should be energetically pursued to support inward and outward investment in ECOWAS;

(b) **Streamlining procedures for business visas and entry of foreign workers**. The requirements for obtaining business visas are onerous and difficult to fulfil. At the same time, working permit regulations are discretionary and discriminate against foreign investors, especially small-sized investors and start-ups. It is proposed to streamline the procedures to make them more flexible and hospitable so as to support FDI attraction;

(c) **Reforming land policy and administration.** The problems affecting the land system in Nigeria include (i) lack of adequate occupancy protection; (ii) undue incentives for public expropriation and limited compensation; (iii) governors' approval for all title transfer procedures, including straightforward ones; and (e) a backlog of unresolved land disputes. To remedy them, the report proposes to compensate expropriated land at market value and remove State governors' approval for certain types of land transactions that could be registered by the deeds' registry. The measures also include the outsourcing of land surveying and administrative support to land registries to specialized commercial enterprises;

(d) **Speeding up and deepening tax reforms.** Several aspects of the taxation system would require attention. For example, value added tax (VAT) arrangements act in part as a sales tax and disadvantage exporters. Also, the tax system is characterized by high corporate tax rates together with overly generous incentives. Therefore, the zero rating of exports for VAT should proceed along with a restructuring of the VAT. More fundamental reform should also be considered, in particular the introduction of a lower corporate tax rate compensated by the elimination of an overly generous and selective pioneer industry scheme;

(e) **Improving the administration of environmental protection**. Though the legislation seems to be adequate, its enforcement remains an issue. The creation of a special agency to oversee oil industry practices will fill a gap, but comprehensive regulatory coverage is still required;

(f) **Enacting the proposed new labour law**. While Nigeria already has a liberal labour regime, the new act will fully modernize it by codifying fundamental principals and minimum standards of treatment that comply with internationally-agreed labour standards. For example, it will bring to best practice standard the dispute resolution mechanism;

(g) **Adopting the proposed new competition law.** This law is long overdue. However, the proposed text appears overly cumbersome and bureaucratic. UNCTAD, following a request made by the Government, stands ready to provide assistance to revise it before its presentation to Parliament.

C. Investing in physical and human capital

51. Nigeria cannot depend on private investment to provide sufficient funds to secure the required levels of improvement in infrastructure, particularly within the power sector. As indicated above, the improved fiscal outlook, resulting notably from high oil prices and debt relief, provides Nigeria with the opportunity to significantly boost public **investment in infrastructure.** Public sector investment should still benefit from private sector discipline. Therefore, in promoting public–private partnerships in critical infrastructure, the Government should:

(a) Lead initial construction with public expenditures; and

(b) Seek private investment in management and operations to impart commercial discipline.

52. Firms operating in Nigeria face an acute **human capital** deficit, particularly at the managerial level. For policymakers, the challenge is to address this immediate shortfall, while making improvements to the overall education system. Against this background, the budget priority set by the Government on education should be maintained. At the same time, some additional measures should be envisaged, comprising, among others:

(a) Establishing joint ventures with renowned international business schools; and

(b) Supporting measures to attract skills from the Diaspora by notably providing tax support and pre-departure orientation programmes.

D. Taking advantage of regional integration and reviewing external tariffs

53. To fully tap the potential of its regional market, Nigeria should aim at becoming a base for pan-African sourcing and focus, as a first step towards the global market, on export opportunities within ECOWAS. In this regard, the country needs to play a more prominent role in moving forward the ECOWAS agenda, with a view to accelerating integration in the region. In this regard, the Government should deal, among other things, with the existing tariff structure, including import protection policies. This would promote the evolution of Nigeria's foreign affiliates in the pan-African supply chain of their TNC groups. In this context, Nigeria should aim at becoming a regional hub to attract domestic and foreign investors in sectors other than oil. To this end, specific recommendations include:

(a) Setting specific and actionable priorities with timescales for the short, medium and long term, with respect to a free trade area, customs union and common market;

(b) Defining a long-term path of tariff reduction, mainly on the import protection regime necessary to exert competitive pressures on businesses; and

(c) Reviewing individual industry needs for temporary departure from the general tariff regime.

E. Fostering linkages and local industrial capacity

54. So far, foreign affiliates outside the oil sector have played a limited role in Nigeria's economy, as their operations have had little interaction with local enterprises. Previous Nigerian local sourcing initiatives highlight problems relating to suppliers' inability to meet cost and quality standards, to be able to supply in sufficient volumes, to avoid production gaps among customer TNCs, and to maintain stable relationships in areas such as pricing policies. Special consideration should therefore be given to policy measures aimed at encouraging foreign investors to assist value chain integration and linkages with the local productive sector. In particular, this report recommends to:

(a) **Convert free zones from export-oriented facilities to multi-facility zones** (or economic development zones). The key objective is to broaden their integration into the economy rather than letting them operate in closed circles. To this end, the Government should grant them domestic market access (with domestic sales income subjected to standard taxation), upgrade the infrastructure facilities made available, allocate permits and provide state-of-the-art business facilitation services. In addition, it should encourage industrial clustering and supplier development by means of fiscal incentives to zones' suppliers;

(b) **Design a supplier linkages programme to stimulate and promote local sourcing and the local supply base**. Programme components will include elements of technology transfer and upgrading, provision and sharing of information, financial support, training and benchmarking. International best practices show that selection, training and mentoring of potential local suppliers are key to motivating them to attain world-class manufacturing standards. The programme should be carried out by the Nigerian Investment Promotion Commission (NIPC).

F. Strengthening institutions dealing with investment and related issues

55. A solid institutional framework is a necessary condition for achieving the ambitious development objectives set by the Government. This IPR identifies several shortcomings

associated with the institutional framework in charge of issues related to investment, including promotion. Among those are problems of funding, weak managerial capacity, lack of coordination mechanisms as well as unclear division of labour between institutions dealing with investment, in particular FDI. The report recommends changes to existing institutions and the creation of new ones. Furthermore, these institutions, to be fully effective, will need to rely on adequately trained staff members who have the capacity to deal with the broad issues related to investment, including FDI. The report therefore recommends to:

(a) **Establish a new entity responsible for investment policy advocacy and coordination**. The entity should be supported by a small policy team and have responsibility for policy advocacy. It could take the form of a ministry of investment, or a policy team reporting to the Vice-President or to a senior policy advisor to the President. It should oversee key investment related institutions, including the NIPC, the Bureau of Public Enterprises, the Nigerian Export Processing Zones Authority and the Small-Medium Enterprise Development Agency Nigeria;

(b) **Further strengthen NIPC.** The primary role of NIPC would be to attract and support investment. In this sense, the promotion function should be more active at targeting investors in niche areas with higher developmental impact and at raising awareness about the potential benefits of FDI. Furthermore, its investor support function should administer the supplier development and the aftercare programmes;

(c) **Create an independent international trade commission**. Its role would be to advise the Government on (i) the pace and strategy for liberalization of the import protection regime; (ii) extraordinary requests for protection from selected industries; and (iii) the application of safeguards, anti-dumping and countervailing measures;

(d) **Revise the mandate of NOTAP**. The Nigerian Office for Technology Acquisition and Promotion (NOTAP) is currently involved in regulating the entry of foreign technology in Nigeria while the international practice has evolved from regulation to facilitation in this domain. Therefore, the report recommends that the mandate of NOTAP focus on providing training to Nigerian businesses, especially small and medium-sized enterprises, in accessing foreign technology, including the negotiation of favourable terms. The regulatory matters would be better handled by the tax and competition authorities;

(e) **Establish coordinated federal–State investment promotion relationships**. At the moment, though interaction is cordial, the relationships between the various entities dealing with the attraction and facilitation of investment at the State and federal levels are not systematically defined. Joining forces at all levels of Government would contribute to ensuring that promotion messages are consistent, information asymmetries are addressed and prospective investors get the same quality of treatment. This exercise should be coordinated by the proposed Ministry of Investment.

G. Conclusion

56. To reap the expected benefits of the FDI strategy proposed in this IPR report, a coordinated and consistent approach to implementing the recommendations is key. The Nigerian Government has already committed at the highest level to move forward with a programme to implement, with the support of the private sector and the international community, the recommendations of the report. In this regard, UNCTAD has delivered assistance on Nigeria's incentive schemes and required fiscal reform, strengthening of investment promotion, and reorientation of current export processing zones into industrial development zones. Subsequently, UNCTAD's recommendations were adopted by the

Presidential Committee on the Review of Waivers, Incentives and Concession and incorporated into its report. Furthermore, UNCTAD, with the financial support of the Japanese Government, has started the preparation of an action plan – the Blue Book – which will contain practical investment-related measures that can be implemented within a 12-month period.

IV. Investment policy review of Viet Nam: report on the deliberations of the intergovernmental review

57. The presentation of the Investment Policy Review of Viet Nam took place on 9 February 2009 at the Palais des Nations in Geneva, Switzerland. It was an occasion for all to share and learn from the country's experience in attracting FDI, deriving the benefits thereof, and making a successful transition from a planned economy to a market economy. Viet Nam is a country that achieved remarkable successes in improving the living conditions of its people in a short time span, cutting poverty rates from more than 60 per cent in the mid-1980s to less than 20 per cent in the middle of this decade. As the IPR highlighted, this was the result of a strong agenda of structural reforms under Doi Moi and a successful integration into the world economy, culminating in the country's accession to the World Trade Organization in 2007. As stressed in the report, FDI played a significant role in these achievements as well.

58. Mr. Hoang Trung Hai, Deputy Prime Minister of Viet Nam, elaborated upon the benefits that FDI had brought to his country in the past 20 years, including modern technologies, skills and know-how, tax revenue, job creation and industrial development. He pointed out that Viet Nam still had considerable untapped potential to attract FDI, but that this required proactive efforts on behalf of his country, particularly in the context of a world economic crisis.

59. Mr. Nguyen Chi Dzung, Vice Minister of Planning, and Mr. Do Huu Hao, Vice Minister of Industry and Trade, provided further details on Viet Nam's investment policy. They also commented upon the recommendations of the IPRs. It was pointed out that the Vietnamese authorities were fully aware of the existing and potential limitations to physical and human infrastructure, which could become bottlenecks for future growth and development. A number of priority actions were highlighted, and the Vice Minister of Planning and Investment indicated that Viet Nam would welcome UNCTAD's technical assistance in the area of skills attraction and development, among others.

60. Discussion and comments revolved mainly around the six main areas of recommendations of the IPR: (a) promoting FDI in new areas of Viet Nam's economy, particularly the services sectors; (b) adopting a less intrusive approach to investment regulation and reducing the administrative burden; (c) forcefully addressing potential constraints to sustained growth, including the availability and quality of infrastructure and skilled workers; (d) ensuring a fair and equitable treatment between commercially-oriented State-owned enterprises and private companies, for reasons of effectiveness and competitiveness; (e) simplifying the tax system and reviewing fiscal incentives to investment based on a cost/benefit analysis; and (f) absorbing the reforms recently adopted and ensuring their coherent application throughout Viet Nam's 64 provinces.

61. The recommendations of the report were widely endorsed by the commentators, both from the private and public sectors. Tan York Chor, Ambassador of Singapore, insisted that an investment climate was always a work in progress and that it needed constant improvement. Senior business executives, in turn, all expressed great satisfaction about their investments in Viet Nam. They provided feedback on a number of issues that should be improved, however. In particular, they expressed their agreement with

UNCTAD's recommendation that Viet Nam adopt a less intrusive approach to investment regulation, and that stronger efforts be made to ensure the adequate and consistent application of national laws at the provincial level.

62. Business executives also encouraged Viet Nam to forcefully address bottlenecks in terms of human capital and physical infrastructure. The representative from Electricité de France highlighted the large need for investment in generating capacity in electricity and that State-owned enterprises were not in a position to respond to increasing demand by themselves. He saw an increasing role for private investment – including FDI – in the sector, and encouraged the authorities not to eliminate sovereign guarantees on power purchase agreements.

63. Probed by the representative of Burundi on what was Viet Nam's recipe for success, the Deputy Prime Minister cited three key factors: (a) the people's energy and will to develop; (b) Viet Nam's commitment to integrate into the world economy; and (c) the country's commitment to education and skills development.

64. Further discussion touched upon the issues of South–South FDI, which was very significant in Viet Nam. The issue of the quality of FDI vs. the quantity of FDI was also addressed. In Viet Nam, the impact of FDI had been extremely positive on the whole. Participants nevertheless agreed that the quality of FDI was an important aspect to bear in mind.

Annex. Investment policy reviews and follow-up activities

Status as of February 2009

Status	Countries
Completed IPRs (25)	**LDCs (10):** Benin (2005), Burkina Faso (2009), Ethiopia (2002), Lesotho (2003), Mauritania (2008), Nepal (2003), Rwanda (2006), Uganda (2000), United Republic of Tanzania (2002) and Zambia (2007) **Others (15):** Algeria (2004), Botswana (2003), Colombia (2006), Dominican Republic (2007), Ecuador (2001), Egypt (1999), Ghana (2003), Kenya (2005), Mauritius (2001), Morocco (2007), Nigeria (2008), Peru (2000), Sri Lanka (2004), Uzbekistan (1999) and Viet Nam (2007)
IPR ready for national workshop with stakeholders (1)	Belarus
IPRs ready for presentation at an intergovernmental review (4)	Burkina Faso, Dominican Republic, Mauritania and Nigeria
IPRs in preparation (2)	Burundi and Sierra Leone
Follow-up activities (16)	**Completed (8):** Botswana, Ecuador, Egypt, Lesotho, Mauritius, Peru, Sri Lanka and Uganda **Ongoing (8):** Benin, Colombia, Dominican Republic, Ethiopia, Ghana, Morocco, Rwanda and Zambia
Report on the implementation of the IPR completed (2)	Egypt and Uganda
Report on the implementation of the IPR in preparation (1)	Ghana
Requests for IPRs (23)	**LDCs (7):** Bangladesh, Central African Republic, Chad, Democratic Republic of the Congo, Guinea-Bissau, Madagascar and Mali **Other countries in Africa (3):** Gabon, Congo and Swaziland **Asia (1):** Philippines **Central Asia (3):** Azerbaijan, Kyrgyzstan and Mongolia **Europe (1):** Moldova **Latin America and the Caribbean (6):** Bolivia, Chile, El Salvador, Nicaragua, Suriname, and Trinidad and Tobago **Middle East (2):** Bahrain and Kuwait
Requests for IPR follow-up activities (5)	**LDCs (1):** Mauritania **Other countries in Africa (2):** Kenya, Morocco and Nigeria **Asia (1):** Viet Nam **Latin America and the Caribbean (1):** Dominican Republic
Requests for report on implementation of the IPR (1)	Mauritius