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TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology
and Related Financial Issues
Ninth session
Geneva, 7-11 March 2005
Item 2 of the provisional agenda

PROVISIONAL AGENDA AND ANNOTATIONS

1. PROVISIONAL AGENDA*

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* This document was submitted on the above-mentioned date so that reference could be made to the current discussions in the United Nations on the follow-up to the Millennium Declaration.

II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Introduction

1. The Trade and Development Board guidelines (TD/B/(S-XIX)/7) state that the Commissions should conduct a policy discussion on the basis of secretariat research, reports of expert meetings and other relevant inputs, including from panellists and from other intergovernmental organizations and civil society. They should also place the outcome of the discussions within the appropriate policy context and framework. While considering the outcome of expert meetings, the Commissions should complement the issues dealt with by expert meetings, and avoid duplicating their debates as much as possible.

2. When deciding on the nature of the outcome, a main objective should be to maximize the time devoted to substantive dialogue among government representatives so as to build consensus on issues within UNCTAD's competence and reduce to the necessary minimum the time devoted to drafting exercises. The Bureau and the regional coordinators will indicate the nature of the outcome they seek from the Commissions. Whenever possible the outcome should be a Chairman's summary reflecting substantive dialogue and separate concise recommendations to the UNCTAD secretariat. Further options for the outcome may include: principles, guidelines, best practices, agreed conclusions, etc.

3. To this end, the Commission will have before it the reports of the expert meetings held during the previous months, as well as background documentation prepared by the secretariat identifying policy questions for discussion by the Commission.

Item 1: Election of officers

4. In accordance with rule 18 of the rules of procedure of the main Commissions of the Trade and Development Board, the Commission is to elect a Chairperson, five Vice-Chairpersons and a Rapporteur from among the representatives of its members, taking into account the need to ensure equitable geographical distribution. Moreover, rule 19 of the rules of procedure states that the Bureau of the Commission is to consist of seven members (i.e. four members from Lists A and C combined, two members from List B and one member from List D referred to in the annex to General Assembly resolution 1995 (XIX) as amended).

5. Accordingly, following the cycle of rotation established after UNCTAD IX, the bureau for the ninth session of the Commission will be as follows: Chairperson from List A (Africa), Rapporteur from List C; and five Vice-Chairpersons (2 from List A and C combined, 2 from List B and 1 from List D).

Item 2: Adoption of the agenda and organization of work

6. The ninth session of the Commission is scheduled for 7-11 March 2005. At the closing plenary of its eighth session (26-30 January 2004), the Commission approved the provisional agenda for its ninth session and topics for the related expert meetings.

7. With regard to the organization of the work of the session, the Commission has five days available to it, but it is anticipated that it will complete its work by 1 p.m. on Friday, 11

March. The first plenary meeting, on Monday 7 March, will be devoted to procedural matters and introductory statements. Under item 9, “Other business”, it is suggested that the Commission discuss the topical issue of the follow-up process to the Millennium Declaration and the role of investment, technology and enterprise competitiveness in that regard.

8. The secretariat will prepare a detailed programme, which will be available on the first day of the session.

Documentation

TD/B/COM.2/61

“Provisional agenda and annotations”

Item 3: Policy issues related to investment and development

9. Recent trends in FDI have highlighted the emergence of FDI from developing countries, particularly but not only from Asia. From low levels of outward FDI, a number of developing countries are now emerging as dynamic sources of FDI, not least in other developing countries. The Commission may wish to consider the possible policy implications of this trend for home and host countries, in particular in a South-South context, and explore how policies at the national and international level could promote development benefits from South-South FDI.

10. To facilitate the deliberations, the Commission will have before it an issues note on emerging FDI from developing countries. In addition, a panel discussion is envisaged.

11. The Commission will also discuss the outcomes of the two expert meetings that took place following requests by the Commission at its eighth session. The first meeting – the Expert Meeting on Good Governance in Investment Promotion – took place in November 2004 and the second one – the Expert Meeting on the Impact of FDI on Development – in January 2005. The reports of these meetings will be presented by their respective Chairmen in order to guide the discussions.

Documentation

TD/B/COM.2/64

“Policy issues related to investment and development: Emerging FDI from developing countries”

TD/B/COM.2/EM.15/3

“Report of the Expert Meeting on Good Governance in Investment Promotion”

TD/B/COM.2/EM.16/3

“Report of the Expert Meeting on the Impact of FDI on Development”

UNCTAD/WIR/2004

World Investment Report 2004: The Shift Towards Services

Item 4: Issues related to investment arrangements

12. International investment disputes arising from investment agreements are on the rise, at times involving tens of millions of dollars. The cumulative number of treaty-based cases brought before the World Bank Group's International Centre for Settlement of Investment Disputes (ICSID) rose from three at year-end 1994 to 106 in November 2004. In addition, there are at least 54 cases (cumulative) outside ICSID, as compared to two at the end of 1994. The cumulative total of all known cases brought under bilateral, regional (e.g. NAFTA) or plurilateral (e.g. Energy Charter Treaty) agreements that contain investment clauses, or international investment agreements (IIAs), is now 160. Well over half (92) of the 160 known claims were filed within the past three years.

13. Over 50 States have brought to international tribunals, of which 31 are developing countries, 11 developed countries and 8 transitional economies. The cases cover a wide range of economic activities and various types of foreign involvement, and are related to key provisions in investment agreements. These developments raise a number of systemic and substantive issues and development implications.

14. Under agenda item 4, an international policy dialogue will be held to clarify some of the policy issues that arise in this connection. It is meant to facilitate an exchange of views, take stock, and explore relevant issues and development implications. The policy dialogue will include policy-makers, practitioners, civil society representatives and representatives of international organizations.

15. To facilitate the deliberations, the Commission will have before it an issues note that presents the current state of affairs in investor-State dispute settlement and highlights procedural and substantive questions, as well as development implications. In addition, the study *Dispute Settlement: Investor-State* will be made available as a background document.

Documentation

TD/B/COM.2/62

“Investor-State disputes and policy implications: Note by the UNCTAD secretariat”

UNCTAD/ITE/IIT/30

*Dispute Settlement: Investor-State***Item 5: Investment policy reviews: Exchange of national experiences**

16. This item deals with the review of national policies related to investment at the intergovernmental level. The rationale for such a process is to exchange national experiences in attracting and utilizing FDI in an effective and efficient manner, through in-depth policy reviews in individual countries and peer review at the intergovernmental level.

17. The Commission will have before it one policy review (Brazil). The deliberations will follow the format of the previous sessions of the Commission, which proved to be acceptable to the Commission, and will be in the form of a peer review. The review panel will consist of

a high-level representative from the Government, an international expert, and representatives from the domestic private sector and the international private sector. The secretariat and the high-level representative will introduce the country report, and this will be followed by comments by the panellists and general discussions. As at the previous session, the discussions of the review will be summarized by the secretariat in the final report of the Commission.

18. The Commission will have before it the chairpersons' summaries of those reviews conducted since its last session (Algeria, Benin and Sri Lanka). The secretariat will also present an oral report on the follow-up to the recommendations of previous policy reviews.

19. Under this item, the Commission will hold a joint session with the World Association of Investment Promotion Agencies (WAIPA), which is holding its tenth annual conference – the World Investment Conference 2005 – in parallel with the Commission. A high-level panel discussion will be organized on the topic “Cluster Development in Services”.

Documentation

UNCTAD/ITE/IPC/MISC/2005/1 “Investment Policy Review of Brazil”

TD/B/COM.2/65 “Summary of deliberations of the Investment Policy Reviews of Algeria, Benin, and Sri Lanka”

Item 6: Reports of the subsidiary bodies of the Commission

20. Under this item, the Commission will consider the report of the twenty-first session of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR) and the report of the sixth session of the Intergovernmental Group of Experts on Competition Law and Policy.

Documentation

TD/B/COM.2/ISAR/26 “Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting on its twenty first session”

TD/B/COM.2/CLP/48 “Report of the Intergovernmental Group of Experts on Competition Law and Policy on its sixth session”

Item 7: Implementation of agreed conclusions and recommendations of the Commission, including post-Doha follow-up

21. The guidelines adopted by the Trade and Development Board at its nineteenth special session (TD/B(S-XIX)/7) state that: “Commissions’ agendas will continue to include an item on follow-up and implementation of past recommendations. The secretariat will report on its implementation of recommendations addressed to it, and member States will be invited to report on their own implementation in statements to the Commission.” In this context, the

UNCTAD secretariat has prepared a progress report on the implementation of agreed recommendations adopted at the eighth session of the Commission.

22. Under this item, the Division on Investment, Technology and Enterprise Development will make a presentation on its implementation of recommendations addressed to it and related activities during the period between the eighth and ninth sessions of the Commission. The Commission will have before it the DITE Activities Report for 2004.

Documentation

TD/B/COM.2/63

“The implementation of recommendations of the Commission”

UNCTAD/ITE/2005/1

“DITE Activity Report 2004”

Item 8: Provisional agenda for the tenth session of the Commission

23. A draft provisional agenda for the tenth session of the Commission will be submitted for consideration and approval.

Item 9: Other business

24. In light of the importance attached to the follow-up process for the Millennium Declaration, the Commission will, under this item, focus its discussions on the progress achieved to date and, in particular, on the role of investment, technology and enterprise competitiveness in the implementation of the Millennium Development Goals (MDGs). The topic will be introduced by a high-level panel.

25. As at previous sessions, under this item representatives of other international and regional organizations will be invited to report on their activities, with particular emphasis on how their work can assist developing countries in benefiting from FDI. In this same context, a briefing will also be provided on activities carried out within the framework of the Commission on Science and Technology for Development (CSTD), and the President of WAIPA will report on the outcome of WAIPA's Annual Conference.

Item 10: Adoption of the report of the Commission

26. The report of the Commission will be submitted to the Trade and Development Board at its thirty-sixth executive session in April 2005.