UNITED
NATIONS

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United Nations
Conference
on Trade and
Development

Distr.
GENERAL

TD/B/COM.2/65
8 February 2005

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology and Related Financial Issues
Ninth session
Geneva, 7–11 March 2005
Item 5 of the provisional agenda

SUMMARY OF DELIBERATIONS OF THE INVESTMENT POLICY REVIEWS OF ALGERIA, BENIN AND SRI LANKA*

Executive summary

UNCTAD conducts national investment policy reviews at the request of member States. The main objective of the reviews is to assess existing investment policy and regulatory frameworks and recommend ways in which they can be improved with a view to enhancing investment, both domestic and foreign, and its impact on development. UNCTAD's investment policy reviews give particular emphasis to foreign direct investment and the measures that developing countries should introduce to improve FDI inflows and maximize benefits from them. In addition to presentations at the national level, investment policy reviews are also considered within UNCTAD as part of intergovernmental discussions. This document contains summaries of the deliberations on three countries, namely Algeria, Benin and Sri Lanka.

* This document was submitted on the above-mentioned date for technical reasons.

GE.05-50235

I. INVESTMENT POLICY REVIEW OF ALGERIA

1. The Investment Policy Review of Algeria was presented on 24 January 2004. Introducing the Review, the representative of the UNCTAD secretariat underlined that Algeria had made considerable efforts in liberalizing the investment framework by implementing a programme of economic reforms initiated in the early 1990s, complemented by the "ordonnance 2001". The privatization of key economic sectors had been initiated and had led to the attraction of considerable FDI in several sectors. As a result, in 2002, Algeria had been ranked third in Africa – and first in the Maghreb region – in terms of FDI inflows. The United States was the largest investor, and Egypt ranked as the second largest, representing a positive example of South-South partnership. Investors from the European Union, especially Spain, Italy and France, were increasingly present.

2. Despite the significant increase in recent years, FDI inflows remained concentrated in a few specific sectors. Moreover, they seemed not to have a significant impact on the national economy in terms of job creation, access to markets and technology transfer. In addition, several legal and administrative obstacles to foreign investors still existed, inhibiting the country's FDI potential. In order to increase FDI inflows and better benefit from it, there was a need to further modernize the country's investment framework, implement a more proactive investment strategy, reinforce the local private sector and develop human resources.

3. The Director General of the Investment Division, Ministry of Participation and Investment Promotion of Algeria, highlighted the positive results achieved by the country in a relatively short period of time in terms of economic liberalization and macroeconomic stabilization and the objectives of his Government with regard to FDI. He reaffirmed the commitment of his Government to reinforcing investors' confidence in the country. Several reforms had already been implemented and would be pursued. He stressed the importance of follow-up in the implementation of the policy recommendations of the report.

4. **Many participants took note of the remarkable progress achieved by Algeria in recent years as a result of the courageous process of economic liberalization.** The need was stressed to monitor the application of existing rules rather than enacting further legislation. Supporting the local private sector and pursuing international and regional economic integration were considered the most appropriate policy measures, along with the dissemination of success stories of businesses established in the country. This could help improve the country's image and facilitate linkages between foreign companies and dynamic Algerian small and medium-size enterprises (SMEs). Furthermore, European SMEs could play an important role in terms of both know-how and direct investment.

5. Some participants mentioned the importance of modernizing Algeria's investment environment and making it more accessible to English-speaking investors. Reforms in the banking sector and improvements in infrastructure (especially telecommunications) were considered crucial. Arrangements for the repatriation of profits and dividends, perceived as one of the main obstacle by foreign investors, should be simplified.

6. Another participant reaffirmed the strategic role played by Algeria in the Mediterranean region. He stressed that development cooperation and partnership were pivotal in ensuring that economic liberalization translated into benefits. One delegation emphasized the strategic value of improving African countries' image and invited the international community to help African countries in their economic modernization efforts by recognising their achievements.

7. Private sector representatives emphasized the positive impact produced by economic reforms on private investors' perception of the country, as a result of which several partnership agreements had recently been established between foreign companies and the local private sector. However, they noted problems still faced by private investors in the country, such as the ambiguities of the Algerian investment code, which hindered the rule of law, time-consuming administrative procedures and a lack of knowledge of and confidence in alternative dispute resolution mechanisms, especially arbitration. Land access and profit repatriation remained two of the most urgent problems in Algeria. They also noted that the creation of a national agency dealing exclusively with FDI should be a priority for national authorities. In this regard, the role of one-stop shops should be clarified, and their role as facilitators of foreign investment throughout all the phases of an investment project should be improved.

8. The peer review on Algeria was considered very productive and constructive. The session successfully engaged the Government of Algeria in a policy dialogue with the international community and the private sector. The review process was endorsed as a useful mechanism in experience sharing. The representative of Algeria was appreciative of the open and constructive views given by delegates and private sector representatives; he reiterated the importance of continuing the dialogue on these issues and affirmed that implementation should be the next stage. UNDP called upon the development partners to support the follow-up programme of technical assistance. The representative of the UNCTAD secretariat took note of the request for follow up.

II. INVESTMENT POLICY REVIEW OF BENIN

9. The Investment Policy Review of Benin was presented on 2 November 2004 at the Expert Meeting on Good Governance in Investment Promotion. The UNCTAD secretariat introduced the central features of the IPR, starting with the recent trends in foreign direct investment. FDI inflows had become significant in Benin only after the establishment of a market-oriented economy in the late 1980s. Privatizations had been the main engine behind the FDI flows, though the dependence upon too few investing countries had not permitted proper differentiation. Overall, however, the impact of FDI on Benin's economy had been relatively small due to the limited size of the flows.

10. While the political and macroeconomic stability in Benin were important factors in attracting FDI, the IPR nevertheless highlighted certain weaknesses relating to the investment framework. Particular attention should be paid to land access, investment regulation, competition laws, infrastructure, the informal market and governance.

11. In terms of strategic perspectives, the Review action plan pointed to the cotton and food-processing sectors and the port of Cotonou as providing high-potential investing opportunities. A dynamic civil society and the active role of the Association of Businesswomen and heads of enterprises had also been noted.

12. The Review action plan recommended that action be taken to review and update the current investment legislation, to reform land access, to strengthen the local investment promotion agency, to promote good governance and to devise proactive policies dedicated to the promotion of national and regional investment opportunities.

13. The autonomous port of Cotonou played a strategic role in the economic development of the country, and its further development and modernization would aid Benin on a national and regional level. The action plan also noted the role of the domestic private sector in

establishing ties with transnational corporations, as well as the interrelationship between the public and private spheres.

14. The Minister of Industry, Trade and Work Promotion of Benin stated that his Government had accepted the recommendations of the report and, with the help of UNCTAD, was interested in implementing them quickly. Highlighting the economic reforms in his country since the end of the 1980s, he stated the need for further reforms and an increase in the role of the private sector and FDI in improving sustainable development in Benin. The proposed plan of action would be the basis for the Government's new investment policy, and special attention would be given to agribusiness, cotton and the autonomous port of Cotonou. Implementing the IPR recommendations could improve Benin's capacity to attract FDI and benefit from FDI by reforming the regulatory and institutional investment framework. He called on the private sector to work with the Government in order to implement UNCTAD’s recommendations and called on donor countries to consult with UNCTAD and UNDP to ensure effective implementation of the IPR action plan.

15. Delegations noted that the reviews were unique occasions for public dialogue between world enterprises, particularly foreign investors, and the Government of the country subject to the review. This activity showed that UNCTAD was concerned with the development of less advanced countries, particularly regarding their productive capacity and international competitiveness. The review of Benin was a special opportunity for delegations to show support for Benin.

16. Participants noted that Benin had instituted reforms intended to create a favourable investment climate for the private sector, re-establish economic stability, and integrate Benin into the global economy. Of particular note were the establishment of democracy and the adoption of a judicial code that would encourage FDI. However, Benin needed further infrastructure improvements, particularly in the areas of energy and telecommunications, to respond to investment and production needs.

17. A delegation noted that, under the UNCTAD least developed countries (LDC) programme, Benin had signed a bilateral treaty for investment promotion and protection. This treaty improved the investment climate and encouraged investment. It would be helpful if LDCs could have further bilateral and multilateral treaties. Another delegation said his country had already responded favourably to a request from Benin to negotiate such a bilateral trade agreement.

18. For the African group of countries, a delegation noted that private property protection was ensured in the constitution of Benin and that foreign ownership was allowed, transferring dividends and obtaining currency had been made easier, and granting of work permits to foreigners was guaranteed. These measures were positive signs for foreign investors. The geographic location of Benin, its membership in ECOWAS, its close business ties with Nigeria, and its natural resources highlighted the investment potential of the country.

19. Delegates noted the importance of cotton in Benin's sustainable development and poverty reduction strategy. The private sector shared the concern that, while cotton market reform by the Government of Benin was needed, external factors such as cotton subsidies provided by Northern countries had a negative impact on the world cotton market. The São Paolo consensus underlined that there was not just one method of development, and Benin should benefit from the best practices and experiences of other countries in attracting FDI.

20. One delegation highlighted the importance of coordination and simplification of administrative procedures regarding customs and taxes, as well as the consolidation of the Centre for Investment Promotion. The revision of the status of the autonomous port of

Cotonou was noted as being a central issue for development, and the creation of industrial zones and free trade areas close to the port would encourage investment. Additionally, there was great competition for FDI, so to be good was not sufficient; a country had to be better or even the best to attract FDI. Benin should therefore implement the recommendations made in order to attract foreign investment

21. For the Group of 77 and China, a delegation noted that the report was an important step for Benin following the good progress already made after the country was opened up to become a free-market economy in 1990. Benin was today among the most open countries, but was still awaiting the benefits of liberalization. LDCs called for the opening of markets and the elimination of subsidies in sensitive products, like cotton for Benin, which could further help in the development of less advanced economies. The case of cotton in Benin illustrated the inequity of the multilateral trade system.

22. A private sector participant noted that the main weaknesses of the investment climate in Benin were the lack of coordination between government ministries, the lack of clarity and security about ownership rights, and the strict investment code and procedures. Coordination and efficiency of procedures would be of great help to investors, and heavy taxation would only favour the informal business sector over the formal. Agricultural subsidies by industrial countries had a negative effect on development in Benin. Political and economic stability, the openness of the Government, and the labour force were among Benin's assets, but the weakness of the Government and of the judicial system and the need for greater regional economic integration were noted.

23. The representative of UNDP stated his full satisfaction with the report and called for further efforts to achieve results in reducing poverty. UNDP would fund implementation of the action plan and would follow its recommendations, in cooperation with UNCTAD and local partners.

24. In conclusion, delegations expressed their confidence in the political leadership and economic situation in Benin and in its capacity to be competitive and improve the investment climate. The Minister of Benin thanked delegates and the private sector for their constructive criticisms and UNCTAD for undertaking the IPR, and reiterated his Government's intention to implement the action plan with the help of UNCTAD and its partners. The Government was already working on some of the problems pointed to by the meeting.

III. INVESTMENT POLICY REVIEW OF SRI LANKA

25. The Investment Policy Review (IPR) of Sri Lanka was presented on 6 October 2004. The high-level delegation of Sri Lanka was led by H.E. Mr. Arjuna Ranatunga, Deputy Minister of Industry, Tourism and Investment Promotion. The Chairman of the Sri Lankan Board of Investment, Mr. Saliya Wickrasuriya, was also part of the delegation.

26. The lead discussants included the Ambassadors of China, India and Singapore, the representative of the State Secretariat for Economic Affairs of Switzerland, and the Deputy Chief of the Embassy of Japan in Sri Lanka. Two private sector commentators from the Japanese affiliate FDK Lanka Pvt Ltd based in Colombo and Galvao Gems of Switzerland gave their views on the investment climate in Sri Lanka. The Resident Representative of UNDP in Sri Lanka also participated in the meeting and shared lessons from the Invest-in-Peace project in Sri Lanka, of which the Investment Policy Review had been a component. Other commentators included the representatives of Afghanistan, Algeria, Peru, Rwanda,

Venezuela and the International Confederation of Trade Unions, and regional coordinators for Africa, Asia and China, Latin America and the Caribbean, the LDCs and the Group of 77.

27. In presenting the main findings of the IPR of Sri Lanka, the representative of the UNCTAD secretariat noted that Sri Lanka's FDI performance, influenced by prevailing economic policies, had been negligible until 1977, when there had been a partial liberalization in the context of the economic processing zones. FDI had expanded in the 1990s due mainly to the privatization programme. Regionally, Sri Lanka compared well with the South Asian countries but it lagged behind the dynamic South-East Asian economies. The positive impact of FDI had not been sufficiently far reaching due to low overall inflows, and this had been reflected in the low level of change in the productive structure since 1970. Sri Lanka had the potential to attract more FDI and to increase the benefits from it. The Government would be following up on the implementation of the recommendations of the IPR, which related to modernizing the FDI entry regime, strengthening Board of Investment (BOI) core functions and reforming the tax regime on investment.

28. The Deputy Minister for Industry, Tourism and Investment Promotion thanked UNCTAD for a high quality report and the useful recommendations, which could be put to practical use in the framework of the new Government's policies to strengthen economic policy, increase FDI, promote SMEs and reduce poverty. Sri Lanka remained open to trade and investment as a means to achieve the goals of poverty reduction. The country's productive human capital base, good port facilities, ease of business immigration and Free Trade Agreement with India were attractive factors for FDI. The Government would implement the IPR recommendations to meet the goals of social and economic development, and looked forward to working with UNCTAD and UNDP to improve the investment climate. He welcomed a constructive dialogue.

29. Most participants underlined the importance of FDI in promoting private sector development, employment creation, encouraging transfer and diffusion of technology, export diversification, and meeting the goals of poverty reduction. Delegations recognized that UNCTAD's IPRs had assisted developing countries in improving the investment environment. Participants also welcomed the Investment Policy Review process as a constructive mechanism for countries wishing to attract FDI. It allowed for an exchange of views in a friendly setting and provided feedback on policies to Governments keen on attracting FDI. UNCTAD was commended for its thorough, balanced and high-quality report. Many speakers underlined that it was important to implement the follow-up recommendations of the IPR, and the Sri Lankan Government’s commitments to do so was appreciated. There was an expression of overall confidence that Sri Lanka could do better. It was widely recognized that its key assets were a trainable labour force, relatively low wages, tax incentives, generally good-quality governance (a low level of corruption) and the existence of a dynamic domestic private sector. These assets were buttressed by more than two and a half decades of open market policies, which had created a business-friendly environment favourable to investment and economic growth. Sri Lanka was also complimented for its development efforts in difficult circumstances. The commentator from Switzerland underscored that Sri Lanka was well poised to attract more investment from SMEs, which reflected the current global trend. However, as SMEs were more risk-averse, there was a greater need to ensure stability and good fundamentals.

30. The private sector commentator from Japan was upbeat about the firm's investments in Sri Lanka. Attracted by trainable and productive labour, the company had started its operations in 1990 and had today expanded its output, capital investment and employment more than tenfold. The private sector commentator from Switzerland emphasized Sri Lanka's

low labour costs and high skill levels, which had attracted his firm to Sri Lanka 10 years before. However, some factors in the environment today might be discouraging to investors, particularly the heavy bureaucracy, the lack of coordination between ministries and departments, the and poor customs' administration. The commentator from Japan cited a JETRO survey in November 2003, which highlighted certain weaknesses, namely frequent change of governments regimes, the labour laws, slow VAT refunds and poor infrastructure.

31. The commentators from China, India and Singapore, which had growing economic relations with Sri Lanka, were optimistic that Sri Lanka could do better in expanding trade and investment, especially in view of its continued efforts in pursuing economic reforms. They were also confident that free trade arrangements would help companies to use Sri Lanka as a regional export base. The Sri Lanka/India Free Trade Agreement, signed in 2000, had already led to a quantum jump in FDI from India to Sri Lanka, and in fact about 40 per cent of India's total outward investment to SAARC countries was to Sri Lanka. India and Sri Lanka would cooperate further under a Comprehensive Economic Partnership Agreement (CEPA) that would include investment and services, in addition to goods.

32. The commentator from the International Confederation of Free Trade Unions (ICFTU) welcomed the integration of labour market issues into the IPR and to a degree supported its policy recommendations, including the desirability of a formula to calculate labour severance payments. Government approval should continue to be necessary for layoffs involving over 25 people. Also the BOI should stop dealing with industrial relations issues, particularly in the economic processing zones. This role should rest with the Ministry of Labour. Unfair labour practices and unfair dismissals should be dealt with quickly and seriously, and the Government should not undermine trade unions' right to organize by accepting employees' councils in the economic processing zones.

33. The Resident Representative of UNDP in Sri Lanka shared his experience on the Invest-in-Peace initiative in Sri Lanka, a strategy that focused on revitalizing private investment to promote peace building. On key lessons for post-conflict dimensions, he underlined that business leaders tended to be pragmatic problem solvers and were comparatively free of ideological rigidity. The smaller local firms and regional business leaders had been quickest to enter into the peace building process. Public-private sector partnership could be a powerful force, and in Sri Lanka, the Ministry of SMEs had partnered the project's Business for Peace Alliance of regional Chambers of Commerce to facilitate SMEs' access to affordable commercial bank credit and to implement quick starts for low-budget projects by building capacities in the construction industry in former conflict areas. Ultimately, however, Invest-in-Peace could not succeed without courageous regulatory reforms, as the framework must be transparent, equitable and responsive to be competitive. Representatives of Afghanistan and Rwanda endorsed the Invest-in-Peace initiative of Sri Lanka as timely for their countries, which had emerged from conflicts. The representative of Afghanistan underscored that institutional reforms to promote predictability and transparency in the investment area had been put in place in his country, and an IPR under an Invest-in-Peace type of initiative could help his country to pursue reforms and adjustments to attract FDI.

34. In concluding, the Chairperson emphasized that many delegates had appreciated the commitments expressed by the Minister with regard to implementing the recommendations of the IPR and taking them fully into account in the reform process. She noted the interest that delegates had expressed in the "Invest-in-Peace" initiative. Many countries, particularly those in post-conflict situations, would follow with great interest the further development of this initiative in Sri Lanka.

35. In his concluding remarks, the Deputy Minister for Industry, Tourism and Investment Promotion of Sri Lanka thanked delegates for the constructive feedback and their solidarity with Sri Lanka in its continuing efforts to make economic progress. He also thanked UNCTAD and UNDP for their continued valuable contribution to peace building and post-conflict reconstruction. He credited UNCTAD with developing individual studies of national investment situations that did not apply a “one size fits all” approach. He also underscored the priority that the Government of Sri Lanka gave to building strong economic integration with its neighbours.