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Expert Meeting on Effectiveness of Foreign Direct Investment Policy Measures
Geneva, 25–27 June 2003

REPORT OF THE EXPERT MEETING ON EFFECTIVENESS OF FOREIGN DIRECT INVESTMENT POLICY MEASURES

held at the Palais des Nations, Geneva,
from 25 to 27 June 2003

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Chapter I

CHAIRPERSON'S SUMMARY

1. The Expert Meeting on Effectiveness of Foreign Direct Investment Policy Measures focused on selected general policy measures (labour, business immigration and taxation) and proactive measures in selected industries important for developing countries (garments/textiles, agribusiness, tourism, and information and communication technology). The Meeting also considered the Investment Policy Review of Nepal. Experts noted with appreciation the quality of the resource persons and the insight of private sector participants into industry trends, opportunities and obstacles to be overcome in attracting foreign direct investment (FDI).

Effectiveness of policy measures

2. Countries seek to attract FDI for the package of benefits it brings and the positive impacts it can generate in the host economy. Policy measures to attract FDI include laws and codes that define the investment framework for foreign investors, as well as the general standards and policies that affect all investment activity, domestic and foreign. There is broad uniformity among countries in their specific investment frameworks governing FDI, which reflects the overall trend in policy liberalization of the past decade. However, the variety in country conditions with respect to the general standards and policies that affect investment activity makes this an area of attention for Governments seeking to increase the effectiveness of their policy measures to attract FDI.

3. In considering the general regulatory environment, experts emphasized the need for effective policy measures in the areas of labour, business immigration and taxation. Other areas include competition policy, exchange control, intellectual property protection, and sectoral and environmental regulation. In all areas, the effectiveness of measures depends on policy transparency, good governance, social consensus, and economic and political stability.

4. Governments can apply proactive policy measures to augment their country's dynamic economic determinants. Trading agreements can enlarge the market size of small economies. A constant theme of industry speakers was the importance of the host country being able to offer relevant skills and good infrastructure to influence the location of FDI. Thereafter, a country's facilitation services in the investment commitment and start-up process are also critical. Privatization is a way to improve infrastructure.

5. Home country measures can also contribute to encouraging FDI inflows and to enhancing the benefits of FDI, particularly in the least developed countries and other structurally weak economies. Such measures include tax incentives and trade preferences, and more importantly, the use of official development assistance for capacity building, infrastructure development, enterprise support, and training and technological upgrading programmes. The combination of home country measures and host country proactive measures can be a powerful stimulus to attracting FDI in developing countries.

6. Public–private dialogue can increase corporate awareness and encourage socially responsible actions by companies. From a development perspective, corporate responsibility may involve facilitating the transfer of appropriate technology, assisting in the development

of social services, training of local workers and building of linkages with domestic enterprises. National business councils can be effective in promoting dialogue, particularly when local enterprises and other stakeholders are involved.

Selected general policy areas

7. Low-cost labour is considered an advantage in many developing countries, but the state of industrial relations can be a significant factor in investor decisions. Studies reported by the International Labour Organization show a positive relationship between adhering to core international labour standards and attracting FDI. Lesotho's positive experience includes introducing codes and guidelines to implement and comply with the provisions of labour legislation. Tripartite consultation – between employers and the Government – has helped reconcile conflicting views on minimum wages and issues of occupational safety and health. Also, there is an autonomous public body, composed of professional arbitrators and conciliators, to prevent and to resolve labour disputes by providing advisory services on best labour practices. Thus, resolution of difficult issues is transparent and quick.

8. All countries have immigration policies, but the way in which immigration matters are handled can cause bottlenecks for investors. A private sector participant stressed that investors need clear rules and reasonably prompt processing of applications. Problems arise from unwritten policies, inconsistent procedures, cumbersome administrative systems, onerous labour tests and rigid quota schemes for residence permits. Governments can assist through a coordinated ministerial response to immigration issues, a flexible policy on quotas, reconciliation of written policy with practice and greater speed in processing. The lessons to be drawn are that a robust immigration system is essential for attracting FDI, and that there is a need to balance the corporate requirement for a global workforce with national concerns regarding local recruitment, to link immigration policy and national training programmes to actual skills shortage, and to use "post issue" checks to manage legal and illegal immigration.

9. Taxation is a key general regulatory measure affecting FDI, particularly in export-oriented activities where products must be globally competitive. Many countries maintain high general taxes coupled with specific fiscal incentives for priority areas. Some incentives seem excessively generous, unclear or prone to change, and this casts doubts on their sustainability and efficiency. Many incentive policies focus only on headline rates of corporate tax and neglect other important business costs such as import duties. Policy makers can assess the competitiveness of their fiscal regimes by using UNCTAD's comparative tax tool, which covers 25 countries in up to 12 sectors and measures the burden of taxation on investment cash flow. Typical problems in tax policy design include incentive regimes that discriminate between similar businesses or offer incentives only to larger investors; frequently such incentives must be applied for and the granting and the monitoring of them become bureaucratic. It was emphasized that countries first try to design a competitive general fiscal regime that covers the widest number of activities and is consistent with national investment strategy. Special variations may be required in certain sectors and activities in order to be competitive in attracting FDI. These should be available on a non-discriminatory and automatic basis. A well-designed incentive scheme can be critical to the success of investor targeting.

Proactive measures in selected industries

10. Experts identified a number of proactive policy measures for attracting and better benefiting from FDI in selected industries. The effectiveness of proactive measures hinges on a sound investment framework and general regulatory environment.

11. Some segments of garments and textile production are footloose and highly competitive, and developing countries have been successful in entering this industry by attracting investors seeking preferential market access and low-cost labour. But these "entry" advantages need to be complemented with "upgrading" advantages if investors are to reinvest and shift production to higher-value-added activities. Proactive measures to develop such dynamic advantages include expanding the pool of skilled labour, improving infrastructure and providing business support to local suppliers and producers to meet the more exacting demands of international retail chains (which include quality, social and environmental accountability, innovation and manufacturing capability, speed to market and flexibility). Cost analysis of textile production shows the relative importance of infrastructure, particularly energy and water, vis-à-vis wages in determining the overall competitiveness of the industry. Among specific proactive policy measures to attract FDI, experts identified the encouragement of subcontracting, the privatization of energy suppliers and the establishment of multi-facility economic zones. The next wave of investment will be in fabric weaving, knitting and finishing, and FDI will favour locations that can build such capacity. In the meantime, a number of least developed countries have not tapped the benefits of existing preferential market access provisions, and those that have could benefit from an extension of privileges, particularly those of the African Growth and Opportunity Act, which is an important mechanism for promoting investment in Africa.

12. FDI in agribusiness is expanding in developing countries and economies in transition, largely attracted by the need to locate close to markets, both input and consumer. The benefits include employment, productivity and quality improvements, and branding of products for world markets. A private sector participant noted that every one job in a foreign affiliate creates seven additional jobs in the national economy. Industry experts identified a range of factors influencing location decisions, including transparency and legal certainty of land rights; intellectual property protection; control of capital and management; market potential, with increasing consumer wealth and consumer safety; a prospering local private sector as a partner and competitor; and legislation and support for marketing and handling. Industry experts also indicated the importance of home country measures, such as the programmes of the European Union (EU) to provide technology support for upgrading agriculture, and preferential trade arrangements (e.g. the EU free trade agreement with Mediterranean countries) that extend market access for developing countries and economies in transition. Also, Governments could help address the pressure on social and environmental issues, and review protection policies in agriculture that affect investment.

13. A number of developing countries have been successful in promoting tourism around natural advantages that favour leisure activity, as well as cultural and historical attractions. Attractions can also be created, such as golf courses, music festivals and recreational parks and marinas. FDI in tourism can help develop these advantages and help countries tap into the global networks of tour operators, hotel chains and airline reservation systems. FDI is sensitive to a variety of factors, including security for clients and staff, foreign exchange

convertibility, protection of brand names, tax incentives, quality of labour skills and permanent air links established by international carriers. Proactive measures by host countries

include privatization of hotels, development of linkages in the tourist industry, protection of the environment, and preservation of local culture and historical sites. Targeting strategies should not only attract investors for mass tourism but also differentiate the host country as a specific tourist destination; it is important to brand the image of the country, region or continent. In this regard, peer mechanisms (such as the New Partnership for Africa's Development) could play an important role in promoting a positive image of good governance.

14. In the information and communication technology (ICT) industry, software is the fastest-growing segment for FDI in developing countries, closely followed by telecommunications services, particularly in mobile phones and wireless. The software segment is made up of small companies, typically with fewer than 50 employees, each generating less than US$ 10 million in revenue. The key FDI determinants are size of domestic market, proximity to clients, availability and scalability of a skilled workforce, and the types of information technology/software clusters in the market. Experts suggested the following proactive measures to attract FDI: a needs assessment of a country's advantages and shortfalls in ICT; a targeted strategy for positioning within the many niche segments of the industry; privatization of telecommunications services; an adequate education system and vocational training institutions; science and technology parks to initiate the build-up of clusters, with competitive tax and financial benefits for firms, large and small alike; linkages between national innovation and education systems within the country and internationally with "best practice" institutions, preferably with developed nations using expatriates; and the making available of venture capital through both the private sector and, in the early stages of development, the public sector.

Other matters

15. The highlight of the meeting was the presentation of the Investment Policy Review of Nepal, which allowed senior government officials to exchange views with their peers, including the private sector participants and experts, and to discuss the challenges of attracting FDI into a landlocked least developed country. While Nepal's investment framework is considered to be generally open and investor-friendly, it will need improvement in order to keep pace with changing global FDI trends. The areas of improvement include business taxation, labour laws, modernization of investment laws and the establishment of an investment promotion agency. The Government of Nepal requested UNCTAD to assist in the implementation of the recommendations made in the review.

16. UNCTAD has carried out 12 investment policy reviews so far and has enhanced its capacity to carry out reviews, for which 15 requests are in the pipeline. The Organisation for Economic Co-operation and Development has a parallel exercise, and there is value in encouraging joint work within the framework of UNCTAD's Commission on Investment, Technology and Related Financial Issues. Experts considered the investment policy reviews a core activity of UNCTAD.

17. Several experts reported on follow-up to the investment policy reviews carried out in the their countries. The presentation on the follow-up to the recommendations of the

Investment Policy Review of Egypt could serve as an example for country reporting on completed reviews.

18. UNCTAD gave a presentation on the Investment Compass, a web-based benchmarking tool that policy makers in developing countries can use to benchmark their own investment environment relative to other countries, and assess advantages and deficiencies. The Investment Compass uses information on investment regulatory framework and taxation provided by a network of national experts from investment promotion agencies and validated by Governments. A dozen experts expressed interest in the benchmarking analysis and commended UNCTAD for developing this tool. They also emphasized the need to review the methodology, the validation process and access for users. Some experts expressed willingness to participate actively in the programme and to be included in the Investment Compass. They also highlighted the need for training and for discussion forums.

19. UNCTAD also presented an update on its work on good governance in investment promotion.

20. Experts suggested the following topics for possible consideration in follow-up discussions on country experiences:

- Good governance in investment promotion. This includes the efforts that countries are making to fight corruption through involvement of a coalition of stakeholders; instruments to improve corporate governance; and mechanisms to help increase corporate awareness and encourage socially responsible actions by investors.

- Privatization as a source of FDI. This involves a more detailed look at the problems that have arisen in practice and the lessons to be learned for efficient administration of the privatization process, as well as the need for accompanying policy and regulatory institutions.

- Technology transfer through FDI. This encompasses the variety of FDI experiences in encouraging technology transfer and developing technological capabilities through investment targeting and industrial policies, support institutions and home country measures.

Chapter II

ORGANIZATIONAL MATTERS

A. Convening of the Expert Meeting

21. The Expert Meeting on Effectiveness of Foreign Direct Investment Policy Measures was held at the Palais des Nations, Geneva, from 25 to 27 June 2003.

B. Election of officers

(Agenda item 1)

22. At its opening meeting, the Expert Meeting elected the following officers to serve on its bureau:

Chairperson:	Mr. Jean-Luc Le Bideau (France)
Vice-Chairperson-cum-Rapporteur :	Mr. Eric Escobar (Bolivia)

C. Adoption of the agenda

(Agenda item 2)

23. At the same meeting, the Expert Meeting adopted the provisional agenda circulated in document TD/B/COM.2/EM.13/1. The agenda for the Meeting was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Effectiveness of foreign direct investment policy measures
4. Investment Policy Review of Nepal
5. Adoption of the report of the Meeting

D. Documentation

24. For its consideration of the substantive agenda item, the Expert Meeting had before it a note by the UNCTAD secretariat entitled “Effectiveness of foreign direct investment policy measures” (TD/B/COM.2/EM.13/2).

E. Adoption of the report of the Meeting

(Agenda item 5)

25. At its closing meeting, the Expert Meeting authorized the Rapporteur to prepare the final report of the Meeting under the authority of the Chairperson.

Annex

ATTENDANCE *

1. Experts from the following States members of UNCTAD attended the Meeting:

Algeria
Argentina
Bangladesh
Barbados
Benin
Bolivia
Chile
China
Cuba
Egypt
Ethiopia
Finland
France
Georgia
Ghana
Greece
Guinea
Kenya
India
Indonesia
Iran (Islamic Republic of)
Lebanon
Lesotho
Libyan Arab Jamahiriya
Madagascar
Malaysia
Mexico
Morocco
Netherlands
Nicaragua
Nigeria
Panama
Paraguay
Peru
Philippines
Portugal
Republic of Moldova
Rwanda
Saudi Arabia
Senegal
Singapore
Sri Lanka
Switzerland
Syrian Arab Republic
Thailand
Turkey
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Yemen
Zimbabwe

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

African, Caribbean and Pacific Group of States
Organisation for Economic Co-operation and Development
World Tourism Organization

3. The following specialized agency and related organization were represented at the Meeting:

United Nations Industrial Development Organization
World Trade Organization

4. The following non-governmental organizations were represented at the Meeting:

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* For the list of participants, see TD/B/COM.2/EM.13/INF.1.

General Category

World Confederation of Labour
World Federation of Trade Unions

5. The following resource persons attended the Meeting:

Mr. Vicenzo Caputo, President, Consultant and Researcher, Development Researchers Network, Rome, Italy
Mr. Giuseppe Gherzi, Gherzi Consulting, Zurich, Switzerland
Mr. Yuba Raj Khatiwada, Member of Planning, Kathmandu, Nepal
Mr. Herbert Oberhänsli, Nestlé, Vevey, Switzerland
Mr. Henry Loewendahl, Director, OCO Consulting, Belfast, United Kingdom
Mr. Massimo Meloni, Consultant, Red Cross, Geneva
Mr. Bharat B. Thapa, Director General, Department of Industry, Tripureshwar, Kathmandu, Nepal