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EXECUTIVE SUMMARY and INTRODUCTION

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EXECUTIVE SUMMARY

During the past decade, the number of international investment agreements among developing countries increased substantially, both in number and geographical coverage, pointing to growing South-South cooperation in investment. The recent proliferation of bilateral investment treaties, double taxation treaties and various types of preferential trade agreements with investment components establishes this trend. After a slow growth rate in their early years, both bilateral investment treaties and double taxation treaties registered fast growth rates during 1995-2001 (which, however, slowed down since then). The number of bilateral investment treaties between developing countries leaped from 47 in 1990 to 603 by the end of 2004, involving 107 developing countries. Double taxation treaties between developing countries also rose, from 96 in 1990 to 345 in 2004, involving 90 developing countries. Preferential trade and investment agreements also intensified among developing countries in the 1990s, rising to more than 73 in 2004, involving some 122 developing countries.

Despite rapid growth, and a large number of South-South investment agreements, a significant share of outward foreign direct investment stock by developing countries in other developing countries is not covered by South-South agreements. This indicates a potential for further South-South cooperation.

Developing countries are actively signing international investment agreements among each other as "tools" to encourage and facilitate investment flows among themselves. Although they vary in the extent to which they contain provisions aimed at strengthening the development impact of these agreements, they are one aspect of South-South cooperation that – more broadly – aims to achieve developmental goals.

INTRODUCTION

The universe of international investment agreements (IIAs) consisted, as of end 2004, of over 2,350 bilateral investment treaties (BITs), over 2,500 double taxation treaties (DTTs), numerous bilateral and regional preferential trade and investment agreements (PTIAs) and various multilateral agreements. Over the past decade, the number of such agreements has risen substantially, and their geographical scope has widened. The result is a multilayered and multifaceted network of international investment instruments, with agreements differing in regard to their geographical coverage, their scope and the content of their obligations and commitments.[1] The structure of this network has been undergoing changes, most importantly with respect to the composition of IIA signatories. In particular, the past decade has seen a rise in IIAs between developing countries, pointing to a wave of South-South cooperation in investment.

This phenomenon is occurring as developing countries are increasingly becoming home countries for FDI flows and their companies start to figure more prominently amongst the world's major transnational corporations (TNCs). In fact, the outward FDI stock of developing countries has grown considerably since 1990, with a particular leap since 1995. In addition, FDI flows originating from, and going to, developing countries appear to be growing faster than those from developed to developing countries since the late 1990s (UNCTAD 2004a, p. 20).

Thus, developing countries are currently part of a parallel growth trend of South-South FDI flows and of South-South investment agreements that may be mutually reinforcing: increasing FDI flows may provide an impetus to strengthen the protection of investment by means of IIAs, while IIAs, in turn, may play a role in promoting and facilitating investment flows.[2]

This volume seeks to provide a brief overview over the emerging patterns of South-South IIAs.[3] It first describes trends over time, with respect to the geographical coverage of South-South IIAs. Next, it analyzes salient features of South-South IIAs, in terms of their main objectives and content, as well as their development dimension. Finally, it raises issues related to further South-South cooperation in the investment context.

[1] For further discussion, see UNCTAD 2003 and 2004a.

[2] However, the existence of a causal link between increased numbers of IIAs and increased FDI activity is not easy to establish. See further UNCTAD 2003, pp. 89-90.

[3] The texts of the instruments cited herein (excluding DTTs) can be found in UNCTAD 1996, 2000a, 2001a, 2002, 2004b and 2005, and at the UNCTAD website (www.unctad.org/iia).