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Making investment work for development

Most countries conclude international investment agreements (IIAs) at the bilateral, regional and multilateral levels. Host countries do so mainly to help attract foreign direct investment (FDI). Home countries use IIAs mostly to make the regulatory framework for FDI in host countries more transparent, stable, predictable and secure – and thereby reduce obstacles for future FDI flows. The number of IIAs, especially at the bilateral and regional levels, has greatly increased in the past decade, reflecting the importance of FDI in the world economy.

It is therefore not surprising that today virtually all countries seek to attract FDI. It brings not only capital to the host country, but also technology, management know-how and access to new markets. In other words, it helps countries build up the productive capacity they need to benefit from the global economy.

FDI is also more stable than other forms of capital flows as it involves a long-term commitment to the host economy. Most countries not only establish national legal frameworks aimed at reducing obstacles to FDI, they also conclude IIAs at the bilateral, regional, interregional, intra-regional and multilateral levels. They do so in the belief that, on balance, the legal stability, predictability and transparency of these arrangements will make them more attractive to foreign investors.

Developing countries' efforts to attract FDI and benefit from it continue to intensify and proliferate. At the end of 2003, over 2,200 bilateral investment treaties (BITs) and nearly 2,300 double taxation agreements (DTTs) had been signed, involving a total of 176 countries. The number of bilateral, regional and interregional trade agreements dealing directly with investment matters is also growing. The trend is towards comprehensive agreements that include both trade-related and investment-related provisions. Out of the 197 bilateral trade agreements (BTAs) currently in force, 55% have clearly identified provisions on investment and an additional 22% make reference to investment.

Despite the complexity and sheer volume of the issues at stake, this suggests that policy makers and negotiators from developing countries, as well as the private sector, are familiar with both the key issues in FDI and IIAs – especially their development dimension – and the key concepts of international investment law.

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What does UNCTAD do to assist developing countries?

Since 1997, UNCTAD's IIA programme has striven to bridge this knowledge and capacity gap. Today, the programme includes the following:

Policy analysis and development: The programme involves a thorough analysis of key issues in IIAs; it explores all aspects of the issues and identifies developing-country interests and the best way to address them. The main output is the UNCTAD Series on Issues in International Investment Agreements, which defines the issue and examines how it is used, what the principal economic spin-offs are, and how the development implications can be maximized.
A Second Series on Issues in International Investment Policies examines the more complex issues of international rule setting, such as the right to regulate, objective transition criteria, safeguards, etc. The World Investment Report 2003: FDI Policies for Development – National and International Perspectives gives an overview of the issues at stake.

UNCTAD also publishes a Compendium on International Investment Agreements. The 12 volumes issued so far provide the "raw material" of international investment rule making: the texts and/or excerpts of agreement instruments and prototype drafts of arrangements at the bilateral, regional and multilateral levels.

Capacity building: A series of regional training courses and negotiation workshops and seminars are organized for government officials from capitals. Similar courses and workshops are held for delegates based in Geneva.

The intensive training courses are designed and delivered in collaboration with regional institutions that will eventually take over the courses and offer them themselves. Over the last two years, UNCTAD, on its own or together with the World Trade Organization (WTO), has held a number of courses in Africa, Asia, Latin America and the Caribbean. A distance-learning course, accessible through the UNCTAD website, has also been developed.

In 2003, the programme concluded a series of national seminars on improving investment rule making through capacity building and the involvement of civil society – non-governmental organizations, research institutes, etc… Other topics included the formulation of investment components in bilateral free trade agreements and regional integration agreements, particularly in the context of South-South cooperation. In response to member States' requests, the programme also provides advice and assistance to negotiators of BITs and DTTs.

Finally in order to facilitate exchanges and experiences on IIA issues between international negotiators of both developed and developing countries, UNCTAD has launched an interactive Internet-based network of IIAs. The Internet forum is accessible at *www.unctad.org/iia*.

Consensus building: UNCTAD facilitates exchanges among governments, civil society and business on investment matters. Since 1996, the programme has provided inputs to the deliberations of the WTO Working Group on Trade and Investment.

UNCTAD works closely with civil society representatives in organizing training activities and carrying out research. For instance, during its two-year collaboration with CUTS (Consumer Unity and Trust Society of India), six workshops were organized at the national, regional and global levels on the theme "Awareness and capacity building for civil society on investment regimes and international investment issues". Similar cooperation is now being sought with the International Institute for Sustainable Development (IISD) and other non-governmental organizations.

For more information, check the UNCTAD website at http:www.unctad.org/dite
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