



United Nations Conference on Trade and Development

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Trade and Development Board
Investment, Enterprise and Development Commission
Multi-year expert meeting on investment for development
Geneva, 10–12 February 2009
Item 2 of the provisional agenda

Provisional agenda and annotations

I. Provisional agenda

1. Election of officers
2. Adoption of the agenda
3. The development dimension of international investment agreements
4. Adoption of the outcome of the meeting

II. Annotations to the provisional agenda

Item 1. Election of officers

1. It is recommended that the expert meeting elect a Chair and a Vice-Chair-cum-Rapporteur.

Item 2. Adoption of the agenda

2. The provisional agenda for the meeting is reproduced in section I above. A detailed programme will be available one week before the meeting.

Documentation

TD/B/C.II/MEM.3/1 Provisional agenda and annotations

Item 3. The development dimension of international investment agreements

3. In its session on 10 July 2008, the Trade and Development Board decided that the Investment, Enterprise and Development Commission should convoke a multi-year expert meeting on investment for development, the first session of which should deal with issue of the development dimension of international investment agreements (IIAs). This expert meeting will review trends and look at salient features of IIAs that have been implemented, such as the management of investor-State dispute settlement. It will also analyse key emerging issues, analyse benefits and challenges identified in IIAs, and assess the impact of IIAs on development.

4. The IIA universe is growing both numerically and in its intricacy, with each new treaty adding to the complexity of the system as a whole. As of June 2008, there were 2,619 bilateral investment treaties, 2,759 double taxation treaties and 259 free trade agreements or other treaties on economic cooperation containing investment provisions, making a total of nearly 5,700 IIAs. As a result, the current international system of investment rules is highly atomized, complex, multi-layered, multi-faceted, only slightly transparent, and rapidly evolving.

5. This system poses a number of systemic, development-related and capacity-related challenges to developing countries, and in particular to the least developed countries. New issues have arisen that have an impact on IIA negotiations, namely the protection of strategic industries, the economic crisis, investor rights, and the fact that a growing number of emerging economies have become outward investors. These developments create both benefits and challenges for developing countries.

6. IIAs are an important policy tool for enhancing a host country's attractiveness to foreign investment, but there are concerns that they are not effective enough in triggering new investment inflows. A key question, therefore, is how to strengthen the promotional character of IIAs. Another question has to do with the high degree of fragmentation of the IIA system, and the resulting need to seek consistency in a country's IIA network and its underlying investment-related policies. Furthermore, IIA negotiators have to ask themselves how to enhance the development dimension of these treaties, how to balance private and public interests in IIAs, and how to deal with investor responsibilities. Overall, the increasing complexity of the IIA system creates a serious capacity challenge for many developing countries, including in the area of investor-State dispute settlement.

7. The purpose of this meeting is to bring together experts and practitioners from government, civil society, academia and the private sector to address the development implications of these challenges, with a view to developing a checklist of issues that need to be further analysed and clarified, including at future expert

meetings, in order to enhance the capacity of developing countries to harness the development potential of IIAs.

8. To facilitate the discussions, the UNCTAD secretariat has prepared an issues note on the development dimension of international investment agreements. In addition, experts are encouraged to prepare brief papers on the subject under discussion. These papers will be made available at the meeting in the form and language in which they are received.

Documentation

TD/B/C.II/MEM.3/2 The development dimension of international investment agreements

Item 4. Adoption of the outcome of the meeting

9. The expert meeting is expected to “facilitate an exchange of experiences on investment and development... [and] draw lessons from such experiences, with a view to helping developing countries secure greater benefits from investment” (TD/B/55/9, para. 30). The outcome of the expert meeting will be used as input for the final session of the multi-year expert meeting, with a view to formulating pragmatic policy instruments, in line with paragraph 207 of the Accra Accord.

Inputs from experts

Experts nominated by member States are encouraged to submit brief papers (approximately five pages) as contributions to the work of the meeting. The papers will be made available at the meeting in the form and language in which they are received. They should be submitted to the UNCTAD secretariat in advance of the meeting, and addressed to Mr. Joerg Weber, Palais des Nations, CH-1211 Geneva 10, Switzerland; fax: +41 (0)22 917 0194; e-mail: joerg.weber@unctad.org