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Report of the Investment, Enterprise and Development Commission on its first session

Contents

	<i>Page</i>
I. Agreed conclusions	2
A. Agreed conclusions	2
B. Agreed conclusions on the outcomes of expert meetings	3
II. Proceedings	6
A. Chair's summary	6
B. Action by the Commission	16
III. Organizational matters	17
A. Opening of the session	17
B. Election of officers	17
C. Adoption of the agenda and organization of work	17
D. Adoption of the report of the Commission to the Trade and Development Board	17
Annex Attendance	18

I. Agreed conclusions¹

A. Agreed conclusions

The Commission *requests* UNCTAD to take into account the different needs and circumstances of countries according to paragraph 10 of the Accra Accord when implementing these conclusions.

1. The Commission *expresses its concern* about the impact of the global economic crisis on foreign direct investment (FDI) flows. Their drastic decline threatens to erode development gains made thus far. The Commission *encourages* the secretariat to continue its analytical research on the impact of the economic crisis on FDI, especially in developing countries, and explore appropriate policy options to restore and improve conditions for FDI to contribute to growth and development. Particular attention should be given to the crisis' impact on the level, structure and evolution of investment, and policy responses by home and host countries.

2. The Commission *notes with appreciation* the analysis contained in the *World Investment Report 2008* and UNCTAD's other investment-related analytical work. It looks forward to the *World Investment Report 2009* on FDI in agriculture, an issue of vital importance to most developing countries. It *requests* UNCTAD to continue strengthening its analytical research on FDI and its development implications, including on, for example, regional integration, South–South investment, investment in green and renewable energies technologies, and FDI and workforce gender balance. The Commission *encourages* UNCTAD to further strengthen its research and analysis in the area of science, technology and innovation as per paragraph 158 of the Accra Accord, including within international investment agreements (IIAs).

3. With a view to supporting policymakers in designing and implementing investment policies that work for development based on sound analysis and reliable statistics, the Commission *requests* UNCTAD – taking into account the different needs and circumstances of countries according to paragraph 10 of the Accra Accord, in particular least developed countries (LDCs) – to assist in collecting quality data on FDI and transnational corporation activities, and building related institutional capacity. The Commission *calls upon* development partners to support UNCTAD's technical cooperation in this field.

4. The Commission *welcomes* UNCTAD's work on best practices in investment policies and calls for its continuation.

5. The Commission *welcomes* the recently reiterated commitments to refrain from raising barriers to – and to further promote – investment, and *underscores* the importance of fulfilling those commitments to mitigate the adverse impact of the global economic crisis. It also *welcomes* the call on international bodies to monitor and report on investment measures within their respective mandates, and *encourages* UNCTAD to collaborate with other relevant international organizations in this endeavour.

6. The Commission *notes with appreciation* the presentations of the Investment Policy Reviews (IPRs) for the Dominican Republic and Nigeria. IPRs are valuable tools to improve investment environments. The Commission *emphasizes* the importance of timely follow-up assistance in the implementation of the recommendations. Noting the pipeline of

¹ As adopted at the final plenary meeting on 8 May 2009.

requests for IPRs and their follow-up, it *invites* development partners to enable UNCTAD to respond to these requests.

7. The Commission *calls upon* UNCTAD to continue its role as the United Nations focal point for all matters related to IIAs, through its research and policy analysis, technical assistance and capacity-building and intergovernmental deliberations.

8. The Commission *expresses its appreciation* for UNCTAD's work in investment promotion and facilitation for development, especially its technical assistance programme in support of investment promotion agencies. It *welcomes* the cooperation with other organizations active in this area, in particular the World Association of Investment Promotion Agencies (WAIPA).

9. The Commission *notes with satisfaction* UNCTAD's assistance to help countries, in accordance with paragraph 10 of the Accra Accord, boost administrative efficiency through e-government practices. It *requests* UNCTAD to extend its support to more countries, to reinforce its analytical work towards identifying relevant good practices and policies, and to facilitate sharing them amongst member states. It *encourages* donors to support UNCTAD's assistance to countries for enhancing administrative efficiency.

10. The Commission *highlights* the significant contribution of UNCTAD's Empretec work in entrepreneurship development in Africa and Latin America. It *recognizes* the contribution of UNCTAD's Business Linkages programme in integrating small and medium-sized enterprises in global value chains, and its work on tourism. The Commission *encourages* UNCTAD to develop more such projects, especially in LDCs.

11. The Commission *welcomes* the work undertaken by the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR), which is particularly important at the present time. It encourages donors to support capacity-building efforts in corporate transparency and accounting.

12. The Commission *calls on* UNCTAD to support the African Insurance Organization to strengthen the Africa insurance sector through advisory services and capacity-building.

13. The Commission *expresses its appreciation* for the secretariat's efforts to implement the Accra Accord and to further strengthen synergies within the secretariat and among its three pillars of work.

B. Agreed conclusions on the outcomes of expert meetings

1. Multi-year expert meetings

(Agenda item 3 (a))

The Investment, Enterprise and Development Commission

1. *Welcomes* the successful launching of the multi-year expert meetings;

2. *Takes note* of the reports of the Multi-year Expert Meeting on Investment for Development (TD/B/C.II/MEM.3/3); the Multi-year Expert Meeting on Enterprise Development Policies and Capacity-building in Science, Technology and Innovation (STI) (TD/B/C.II/MEM.1/4); and the Multi-year Expert Meeting on International Cooperation: South-South Cooperation and Regional Integration (TD/B/C.II/MEM.2/3);

3. *Requests* the Secretary-General of UNCTAD to ensure the greatest possible dissemination of the outcomes of the expert meetings, in particular to government policymakers;

4. *Reiterates* that funding for the participation of experts from countries – taking into account the different needs and circumstances of countries according to paragraph 10 of the Accra Accord, in particular LDCs – must be sustainable and predictable. Funding will come from the trust fund that exists for this purpose, and the Secretary-General of UNCTAD is requested to make a redoubled, renewed and sustained effort to attract contributions to the fund on a priority basis. Member states are encouraged to contribute to the fund. Member countries are encouraged to propose panellists for the expert meetings;
5. *Encourages* the secretariat, while organizing future expert meetings, to schedule meetings and to make documentation and detailed meeting programmes available well in advance. The secretariat should strive to have fewer – but balanced and equitable geographical participation of – panellists, and promote interactive debate. In this regard, the Commission welcomes the Multi-year Expert Meeting on Investment for Development in terms of its structure;
6. *Encourages* the secretariat to follow up on issues identified by the expert meetings, in accordance with the Commission's conclusions;
7. *Requests* UNCTAD to take into account the different needs and circumstances of countries according to paragraph 10 of the Accra Accord when implementing these conclusions;

Multi-year Expert Meeting on Investment for Development

8. *Reconfirms* UNCTAD's role as the key focal point in the United Nations system for dealing with matters related to international investment agreements (IIAs), and as the forum to advance understanding of issues related to IIAs and their development dimension;
9. *Endorses* the suggestion that experts in the field of IIAs should meet annually for the purposes of collective learning and collective advisory services, involving all stakeholders in developing countries, with a view towards facilitating increased exchanges of national experiences and sharing best practices;
10. *Welcomes* the utilization of UNCTAD's existing online IIA network as a platform for continued sharing of experiences and views on key and emerging issues;
11. *Requests* that UNCTAD, within its mandate, continue to analyse trends in IIAs and international investment law, and provide research and policy analysis on key and emerging issues, development implications, and impact of technical assistance and capacity-building in this area, in accordance with paragraphs 149 and 151 of the Accra Accord;
12. *Welcomes* UNCTAD's work on data collection, in close cooperation with national authorities' capacity-building and surveys regarding investment, and *requests* the secretariat to disseminate the finding of the surveys in a timely manner;

Multi-year Expert Meeting on Enterprise Development Policies and Capacity-Building in Science, Technology and Innovation (STI)

13. *Recommends* to the Trade and Development Board for approval the topics suggested (para. 59 of the report of the expert meeting);
14. *Welcomes* the commitments by the experts to collaborate in a number of areas (para. 60 of the report);
15. *Endorses* the conduct of voluntary peer reviews on enterprise development policies and innovation (para. 60 (b) of the report), building on already available material;
16. *Encourages* mechanisms to enable UNCTAD's programmes on entrepreneurship to fully benefit from partnerships with relevant learning, research and other institutions (para. 60 (e) of the report);

17. *Welcomes* the proposal to establish networks on specific issues of interest to the expert group (para. 60 (a) of the report);

18. *Encourages* UNCTAD to improve the existing collaboration on this topic within the United Nations system, particularly with the Commission on Science and Technology for Development and the Regional Commissions;

19. *Requests* UNCTAD to examine the possibility of using real-time transcripts to facilitate dissemination, remote participation and reporting;

20. *Requests* UNCTAD to make the online forum a permanent feature of the work of the expert group meetings;

Multi-year Expert Meeting on International Cooperation: South–South Cooperation and Regional Integration

21. *Reiterates* that South–South cooperation, as a complement to North–South cooperation, could be an important vehicle to strengthen domestic capacities (para. 68 of the report of the expert meeting). All relevant United Nations organizations and multilateral institutions, especially UNCTAD, should intensify their efforts to effectively mainstream the use of South–South cooperation in the design, formulation and implementation of their regular programmes, and consider increasing allocations of human, technical and financial resources for supporting South–South cooperation initiatives (A/RES/58/220); *invites* the international community to honour its commitments to development, and find ways of sustaining financing for development assistance – according to the different needs and circumstances of countries in accordance with paragraph 10 of the Accra Accord, in particular LDCs – to support their efforts to counter the economic crisis and promote development (para. 68 of the report);

22. *Invites* UNCTAD, within its mandate – taking into account the different needs and circumstances of countries in accordance with paragraph 10 of the Accra Accord, in particular LDCs – to assess the investment and development impact of the financial and economic crisis, including on South–South cooperation, and develop policy responses as appropriate and strategies to rejuvenate growth and development (para. 79 of the report).

2. Single-year expert meetings

(Agenda item 3 (c))

Expert Meeting on Trade and Climate Change: Trade and Investment Opportunities and Challenges under the Clean Development Mechanism (CDM)

The Commission

1. *Encourages* UNCTAD, in fulfilling the mandate contained in paragraph 100 of the Accra Accord, to enhance its support to sustainable development and consider climate change in its ongoing work of assisting developing countries with trade- and investment-related issues in development strategies, taking into consideration the United Nations Framework Convention on Climate Change.

3. Intergovernmental Working Group of Experts

(Agenda item 3 (b))

The Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR)

The Commission

1. *Takes note* of the report of the twenty-fifth session of ISAR as contained in TD/B/C.II/ISAR/51, and of the agreed conclusions therein; and
2. *Approves* the provisional agenda that the Group of Experts has proposed for its twenty-sixth session.

II. Proceedings

A. Chair's summary

1. Opening of the session

1. The UNCTAD Secretary-General, Dr. Supachai Panitchpakdi, made an opening statement. Statements were also made by (a) the representative of Thailand on behalf of the Group of 77 and China; (b) the representative of Sri Lanka on behalf of the Asian Group; (c) the representative of Brazil on behalf of the Group of Latin America and Caribbean Countries (GRULAC); (d) the representative of Côte d'Ivoire on behalf of the African Group; (e) the representative of the Czech Republic on behalf of the European Union; (f) the representative of Bangladesh on behalf of the Least Developed Countries (LDCs) Group; (g) the representative of Kyrgyzstan on behalf of Group D; and (h) the representative of the Economic and Social Commission for Asia and the Pacific (ESCAP). Representatives of the following member states also made statements on behalf of their individual countries: China, Ecuador, Indonesia, Switzerland, Rwanda and Nepal.

2. Referring to recent meetings of the Bretton Woods institutions, the Secretary-General noted that, so far, very little had been said on the impact of the crisis on foreign direct investment (FDI) and that the first session of the Investment, Enterprise and Development Commission was timely. Despite the appearance of the first signs of recovery, the economic environment was still highly uncertain and at least three major sources of concern could be identified: the persistence of toxic assets in banks' balance sheets, the persistence of capital outflows from developing countries, and the inadequacy of financial sector support. In addition, the exit strategies that were being discussed for developed countries would not automatically benefit developing countries where a new crisis could emerge. With regard to FDI flows, and as stressed by the study "Assessing the impact of the current financial and economic crisis on global FDI flows", all indicators – including the sharp fall of the profits of enterprises, the limitation of resources and the reduced propensity to invest overseas – pointed to a far deeper decline in FDI in 2009 as well as a negative impact on the operations of transnational corporations (TNCs) in developing countries. Despite such predictions, there were nevertheless some positive forces favourably affecting FDI, such as the tremendous decline of asset prices, the possibility of larger South–South FDI flows, the opportunities offered by environment-related industries or energy, and increasing demand in some emerging economies. Overall, according to the *World Investment Prospect Survey 2009–2011* (UNCTAD/DIAE/IA/2008/1), the most probable scenario for FDI recovery was a U-shaped recovery, with a real positive impact on investment and employment by 2011. Thus, the right policies would be key.

3. The Secretary-General suggested that the Commission work on possible policy options and that UNCTAD should analyse both home and host countries' measures taken to promote investment. Although there were still no signs of protectionism, it had been suggested during the discussions of the G-20 that the Organization for Economic Cooperation and Development (OECD) and UNCTAD should be monitoring the investment measures that may not favour investment. Similarly, the increasing number of international investment agreements (IIAs) should be carefully monitored to ensure that a basis for sound economic regulations was being set up. The opportunities offered by regional integration should also be explored, in particular for LDCs and landlocked developing countries. Lastly, UNCTAD should help countries prepare for the post-crisis global economy, which would see the emergence of new sectors and new geography for investment.
4. Acknowledging the preparation by the secretariat of an update of its study on the impact of the crisis on FDI, several delegations called on UNCTAD to continue regularly updating the study and to monitor and analyse national and international policy developments in the area of investment, particularly from a development perspective.
5. Many delegations commended UNCTAD for the quality of its publications on FDI and other investment-related issues. In particular, the *World Investment Report 2009* was judged particularly timely. Most of the delegations stressed that UNCTAD should continue its analytical work on the multiple factors necessary to attract and benefit from FDI. All delegations expressed their appreciation for UNCTAD's work on Investment Policy Reviews (IPRs) and were looking forward to the presentation of the IPRs for the Dominican Republic and Nigeria. One beneficiary country of a previous review noted that UNCTAD's assistance had led to an increase of investment flows in the country, and called on UNCTAD to strengthen its programme, especially in the current times of crisis. It was also noted that efforts in building infrastructure and the productive capacities in LDCs remained crucial. In that light, it was felt that best practices that could be replicated in LDCs should be examined.
6. Amid the global financial crisis and reforms addressing the regulation of international financial flows, the role of IIAs – in terms of providing stability and predictability – was becoming ever more important. As countries were using IIAs to attract FDI and to promote development, there was a need to strengthen their development dimension, including by focusing on how IIAs could advance development interests of LDCs. Delegations appreciated UNCTAD's work on policy analysis and research on IIAs, and called upon UNCTAD to continue monitoring developments and emerging issues, including in the context of investor–state dispute settlement. Delegations also appreciated the technical assistance provided in this regard. One group, for example, expressed its appreciation for the work UNCTAD was undertaking for Asia-Pacific Economic Cooperation (APEC) countries.
7. Delegations also congratulated UNCTAD for the organization of successful multi-year and single-year expert meetings. The novel format and interactive discussions of the first session of the Multi-year Expert Meeting on Investment for Development was considered particularly useful.
8. UNCTAD's work in strengthening supply-side capacities of small and medium-sized enterprises (SMEs), in particular through programmes such as Empretec, was highlighted, as were efforts made in the area of business facilitation and e-government. Several delegations were of the view that, considering the current economic context, it was particularly important that UNCTAD continue its work in the area of administrative efficiency.

2. High-level session – Joint Meeting of the Commission and the World Association of Investment Promotion Agencies

(Agenda item 5)

9. Experts and delegates reaffirmed the positive contribution that FDI had made and could make in economic and social growth, including through its positive employment and balance-of-payments effects, transfer of skills and technology, competition effects and productive capacity-building, particularly for emerging economies. While such positive effects were particularly needed in the current environment, characterized by the global financial and economic crisis, many countries expressed concern and uncertainty regarding the types of policies that would be most conducive to generating FDI inflows and attendant development contributions. Sharing of experiences and best practices on investment policies was therefore particularly welcome, and participants commended UNCTAD for its initiatives, both in terms of implementing the best practices project (as launched at UNCTAD XII in Accra, Ghana) and offering an opportunity for interactive exchange of views in the context of the 2009 meeting of the Investment, Enterprise and Development Commission.

10. In light of the economic crisis and governments' fiscal stimulus packages, participants discussed the role of FDI in financing infrastructure projects, specifically those of roads and electricity. Although there was general agreement on the advantages of using FDI for this purpose (given shortfalls in domestic credit availability), some stressed the need to implement policy frameworks for maximizing the development effects of FDI. Identifying best-fit policies and the proper pacing and sequencing were considered crucial in this context – an issue raised, amongst others, by LDCs. Preparing the private sector for long-term public–private partnerships in infrastructure was also considered important.

11. A second issue linked to the current crisis related to the recent G-20 commitments to refrain from raising barriers to international trade and investment. Participants praised those commitments, along with the monitoring of those commitments by relevant international organizations.

12. In terms of attracting FDI, participants highlighted the need for effective investment promotion agencies, amongst others, to provide foreign investors with a “one-stop shop”. Well-executed investment promotion marketing was seen as a valuable tool with which to improve perceptions held by foreign investors, or to raise the profile of small developing economies. Participants stressed the benefits of adhering to simple and transparent investment rules for attracting FDI, and shared examples of countries that had shown significant progress in those areas. For example, some countries reported reducing the time necessary for certain procedures and improving their score in the World Bank's “Doing Business” report. Administrative capacity and efficiency were crucial for creating an environment that attracted foreign investment, and many delegates highlighted their countries' experiences, including in the context of training public officials. Overall, it was considered important to ensure that efforts to attract FDI would not result in a competitive “race to the bottom”.

13. One point of debate during the meeting addressed the role of the state in managing FDI and ensuring positive outcomes for the local economy. On the one hand, concerns were expressed that the pre-crisis foreign investment boom may have resulted in large inflows of FDI, but that the potential benefits of FDI, such as technology transfers, were not being absorbed by host countries. Inadequate regulatory and policy frameworks, lack of administrative capacity and the lack of pre-prepared project packages could result in poor long-term outcomes. To counter this problem, it was argued that specific conditions or directives regarding FDI may be used to maximize its positive local effects. One suggestion was for host governments to focus on parallel policies that targeted SMEs to ensure that

they had the capacity to build networks with FDI and capture more benefits for the host country. On the other hand, some delegates emphasized the spontaneous nature of the positive spillovers that FDI had generated in their countries, and recommended focusing on general openness to foreign investment, as well as broad-based improvement of national infrastructure and human capital, particularly that which matched the skill needs of foreign investors.

14. In that context, participants also discussed best practices for attracting FDI and making FDI work for development. Participants benefited from the experience shared by the G-8+5 Investment Working Group, a dialogue based on a new partnership between countries with a view to forging common understandings of foreign investment, specifically the policies, regulations and business practices involved. Dialogue Partners had focused on policy strategies to maximize the positive impact of international investment as a catalyst for economic development and higher standards of living, highlighting the importance of appropriate institutions and policies for fully taking advantage of FDI for sustainable development and ensuring that globalization was fair and inclusive. Dialogue Partners also noted that the number of bilateral investment treaties (BITs) and other IIAs might raise questions concerning the coherence of the system, and therefore considered that there was value in exploring the contribution that a multilateral framework could make. In that context, countries reported on their experiences with IIAs and the extent to which such agreements helped attract FDI or helped stem protectionist tendencies, including in the current crisis.

15. Attendees also emphasized the role of South–South cooperation in diffusing better FDI strategies among developing countries. Some delegates presented plans to work with neighbouring countries to develop positive perceptions of investment attractiveness in the region, and several invitations were extended to delegates to visit various FDI success stories.

16. The participants appreciated UNCTAD's efforts to help countries improve their institutional environment to attract FDI and make it work better for development. Numerous participants commended UNCTAD for its technical assistance and advisory work in the area of investment policies, and expressed their commitment at the highest policymaking level to such processes. The meeting greatly valued UNCTAD's efforts to encourage collective learning through its FDI Best Practices series, including in the context of that particular meeting. UNCTAD's role in helping devise policies to cope with the current situation was seen as highly critical, and collaboration between UNCTAD and the World Association of Investment Promotion Agencies (WAIPA) in organizing the session was cited as a promising development.

17. One delegate stated his country's belief that the main reason for the financial crisis was systemic failure, which could also be the cause for the decline in FDI.

3. Report of the Multi-year Expert Meeting on Enterprise Development Policies and Capacity-Building in Science, Technology and Innovation (STI)

(Agenda item 3 (a)(i))

18. For its consideration of this agenda item, the Commission was provided with the "Report of the Multi-year Expert Meeting on Enterprise Development Policies and Capacity-Building in Science, Technology and Innovation (STI) on its first session" (TD/B/C.II/MEM.1/4). The meeting was held in Geneva, 20–22 January 2009. Mr. Miguel Angel Alcaine Castro (El Salvador), the Chair of the expert meeting, presented the report of the meeting. He expressed satisfaction with the good participation and the innovative organization of the meeting. He noted that about 167 experts from 62 countries had attended the multi-year expert meeting, which was on track on enterprise-related issues. He

reported that an online forum had been set up to encourage networking and gather ideas from experts who could not travel to Geneva.

19. He highlighted the fact that experts had addressed the key elements of an entrepreneurship policy and strategies for promoting entrepreneurship and innovation and capacity-building. To promote entrepreneurship, experts suggested that policy measures should seek to create awareness, help creative minds realize the opportunities and enable those who took the risk of starting a business or firm to survive and grow. Key strategy components included (a) public-private partnerships; (b) strategic financing products; (c) advisory services; (d) entrepreneurship training such as Empretec and education early in life; and (e) networking of successful entrepreneurs and innovators.

20. In terms of capacity-building in STI, the experts' discussions focused on the role of open innovation and the use of STI and entrepreneurship for poverty reduction. It was noted that open approaches to innovation activities could be beneficial to developing countries, provided that the regulatory frameworks for intellectual property were adequately updated to protect and facilitate sharing and collaboration. It was pointed out that in some cases, new approaches to innovation policy might be warranted. The Chair of the expert meeting also noted that various national experiences were presented. For example, changes in regulation had improved business formation by reducing the number of procedures in Mozambique and Senegal, while new entrepreneurship policies in Brazil and Italy had enabled small firms to access government contracts and bank loans, respectively. Similarly, high-value innovations that used open innovation approaches from Brazil and China were presented.

21. Experts took the initiative to recommend the next topics to be addressed in future sessions of the multi-year expert meeting, and requested that the Commission consider endorsing the recommended topics.

22. The Chair of the expert meeting also reported that experts had agreed to establish networks on specific issues, undertake voluntary peer reviews after May 2010, and establish an inventory of best practices online and various proposals of cooperation. Other proposals included improving the existing collaboration within the United Nations system, examining the possibility of using real-time transcripts, and making the online forum a permanent feature of the work of the expert group meetings.

4. Report of the Multi-year Expert Meeting on International Cooperation: South-South Cooperation and Regional Integration

(Agenda item 3 (a)(ii))

23. The Commission considered the "Report of the Multi-year Expert Meeting on International Cooperation: South-South Cooperation and Regional Integration on its first session" (TD/B/C.II/MEM.2/3). The meeting was held 4–5 February 2009.

24. Mr. Johan van Wyk (South Africa), Vice-Chair-cum-Rapporteur of the multi-year expert meeting, presented the conclusions of the meeting. He highlighted the development of South-South FDI, the impact of the global economic crisis on South-South FDI, and the relations between FDI and regional integration. FDI from developing countries had grown rapidly over the previous two decades, and its share of the world outward FDI stock had risen from 8 per cent in 1990 to 14.7 per cent in 2007. The number of investing countries from the South had also increased, and a significant proportion of FDI from developing countries was to other developing economies. South-South FDI was a substantial source of investment for some LDCs. He further stated that regional integration could have a positive influence on FDI and intraregional investment, but the impact could vary across regions, depending on the depth of integration and economic complementarities, as well as TNCs' response to the new economic realities of regional groupings. The current economic crisis

was likely to affect South–South FDI flows, though the nature and extent of the impact were likely to differ across regions.

25. The Vice-Chair of the expert meeting emphasized the key recommendations made by the experts. Those included that South–South initiatives on investment should be actively promoted and that UNCTAD should undertake further analytical research work on South–South FDI and regional integration, including examining the precise nature of salient impacts and effects on individual countries and regions. It was felt that UNCTAD should also assess the impact of bilateral investment treaties and IPRs in attracting investment, on a South–South basis. He also stressed a number of other specific recommendations to facilitate the growth of South–South FDI and increase the contribution of South–South FDI to regional integration.

5. Report of the Multi-year Expert Meeting on Investment for Development

(Agenda item 3 (a)(iii))

26. For its consideration of this agenda item, the Commission had before it the “Report of the Multi-year Expert Meeting on Investment for Development on its first session” (TD/B/C.II/MEM.3/3), which had addressed the development dimension of international investment rule-making. The meeting was held 10–11 February 2009.

27. Mr. Joannes Tandjung (Indonesia), Vice-Chair-cum-Rapporteur of the multi-year expert meeting – presented the report to the Commission. He commended UNCTAD for the success of the meeting, both in terms of attendance (more than 220 experts from 82 countries, more than half of which were developing countries) and in terms of its highly flexible format, which had moved away from panellist presentations and instead allowed for a rich and in-depth debate and exchange of experiences. He noted the relevance of the meeting in light of the continuously accelerating process of investment rule-making at the international level and in light of the current crisis. As explained during the meeting, international investment agreements (IIAs) could play a role in stemming the rising tide of protectionist dangers and in helping attract FDI, an issue of particular importance given the decreasing FDI flows across the world. He also recalled the policy suggestions that had emerged from the meeting, including, among others, suggestions for minimizing the risks arising from investor–state dispute settlement, suggestions for addressing the lack of coherence in IIA rules and suggestions for continuing this type of meetings on an annual basis.

6. Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR)

(Agenda item 3 (b))

28. For its consideration of this agenda item, the Commission had before it the “Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting on its twenty-fifth session” (TD/B/C.II/ISAR/51). The meeting was held 4–6 November 2008.

29. Mr. Nelson Carvalho (Brazil), Chair of the twenty-fifth session of ISAR, joined the Commission’s session via videoconference and presented the report of ISAR. He noted that ISAR had reached an important milestone when it held its twenty-fifth anniversary session in November 2008. He highlighted the fact that the session was a great success in organizational as well as substantive terms. He underscored the growing importance of ISAR in tackling the challenges the financial crisis posed on investors’ confidence in corporate reporting. He elaborated on the main agenda item as well as other topics that the group of experts dealt with at its twenty-fifth anniversary session. He then elaborated on other activities the UNCTAD secretariat had undertaken on behalf of the group of experts.

Those included various conferences, workshops, publications and liaison with other international organizations. In concluding his presentation, he called on member states to provide additional resources to the work programme of ISAR so that the UNCTAD secretariat would be able to meet the ever-increasing demand for further work, particularly in the area of capacity-building.

7. Creating an environment conducive to productive capacity-building

(Agenda item 4)

30. The agenda item was introduced by the Chair, who called on the UNCTAD Secretary-General to elaborate on the subject in some opening comments. The UNCTAD secretariat further elaborated on the agenda item, clarifying that the subject to be addressed during the meeting was the issue of administrative efficiency and its impact on boosting productive capacity in times of crisis. Administrative efficiency covered three major topics: transparency, simplification and automation of business-related administrative procedures (automation is often referred to as “e-government”). The secretariat further demonstrated the use of the UNCTAD “e-regulations” system, a turnkey e-government software application allowing governments to present administrative procedures on the Internet; this “e-regulations” system was the subject of many of the subsequent examples presented during the deliberations.

31. The Chair called on a wide range of speakers from developing and developed countries who delivered comments addressing different aspects of the issue of administrative efficiency. (Please see list of speakers in the annex.) Most of the comments highlighted the practical experience of several member states in developing a “one-stop shop” within their countries for streamlining applications for the formation of enterprises and their operations.

32. Most speakers underlined the importance of administrative efficiency to alleviate the administrative cost weighing on enterprises, boost productive capacities and bring entrepreneurs to the formal sector. Enhancing administrative efficiency was also seen as a way to diminish administrative misconduct and as a useful approach against corruption.

33. The role of new technologies, particularly the use of Internet technologies (including UNCTAD’s “e-regulations” system), was emphasized by most speakers as a key tool for improving transparency and efficiency in the conduct of necessary administrative procedures. Many speakers also emphasized that the use of new technologies led to, indeed often required, new procedural reforms.

34. Several speakers also addressed broader policy issues related to administrative efficiency. Those issues included the need to maintain the quality of the regulatory system while at the same time reducing or streamlining administrative procedures. High-level political support was mentioned as essential in undertaking and institutionalizing the necessary changes in the regulatory framework and in the administrative structures, processes and practice. Broader policy issues also included the need to imbed an approach to administrative efficiency within any larger reform programmes, so that broader structural reforms were consistent with micro-level administrative reforms.

35. The speakers identified a number of findings emanating from their experiences, including:

- (a) Increasing administrative efficiency and customer-friendly “one-stop shops” helped informal enterprises to formalize their operations;
- (b) Increases in administrative efficiency and transparency reduced corruption;

(c) Use of “one-stop shops” and Internet technology clarified procedures for both domestic and foreign investors, thereby lowering administrative barriers to investment;

(d) The use of Internet technology significantly boosted transparency in administrative procedures; and

(e) The use of “one-stop shops” in some countries had significantly boosted the rate of registration for new enterprises, even in the middle of the current financial crisis. (One country, for example, reported a 50 per cent year-on-year increase.)

36. Key policy recommendations emanating from the discussions included:

(a) Countries should create “one-stop shops” for enterprise creation and investment licensing, and make maximum use of Internet technology in this process;

(b) Governments should embed the development of “one-stop shops” within a broader reform process;

(c) Governments should consider including members of the private sector in the design (and possibly the implementation) of the resulting “one-stop shops” to ensure the process is responsive to users needs;

(d) Transparency is key to administrative efficiency and the concept of “global administrative law” would be useful to disseminate guidelines on administrative transparency; and

(e) Countries should exchange experiences with each other as part of a continuing improvement process of identifying new tools (especially software tools) and new ways to streamline administrative procedures without sacrificing the quality of regulations. In particular, South–South cooperation should be encouraged.

37. One developed country with extensive experience in creating a “one-stop shop” for enterprise registration announced that it would be willing to share its experiences and know-how through presentations to be organized in developing countries. Several developing countries which had developed successful solutions to improving administrative efficiency offered their support to other developing countries that would be interested in implementing similar solutions.

38. A delegation asked UNCTAD to make available – if possible on the World Wide Web – more information and references on the good practices that were mentioned concerning the issue, but which were not prepared for the meeting.

39. In that regard, the UNCTAD secretariat announced the ongoing development of a new platform for the exchange of country good practices and policies in administrative efficiency, titled the “Business Facilitation Exchange”, which would be found as from July at: www.businessfacilitation.org.

8. Investment Policy Review of the Dominican Republic

(Agenda item 5)

40. The meeting considered the Investment Policy Review (IPR) of the Dominican Republic (UNCTAD/ITE/IPC/2007/9).

41. The Secretary-General of UNCTAD welcomed the high-level participation from the Government of the Dominican Republic and commended the authorities for progress made on economic modernization. He highlighted in particular the contribution of FDI to capital formation and employment, as well as its key impact in leading the country’s diversification from an agricultural commodities-based economy into an export platform for manufactured goods.

42. There was consensus among member countries on the significant progress that the Dominican Republic had achieved in the past decade in terms of economic reforms, stabilization of the economy and liberalization of the investment and trade regimes. Major improvements in the last decade had included, among others, the adoption of modern legislation in areas such as intellectual property protection, company law, competition, government procurement, environment, land, telecommunications and foreign exchange. Those changes had paid off and the country had significantly increased the flows of FDI and the benefits it obtained from them.

43. Since 2004, FDI inflows to the Dominican Republic had been consistently increasing. Member countries noted the important diversification of FDI and economic activities in areas such as tourism, telecommunications, manufacturing, mining, electricity and, more recently, investment in biofuels, medical equipment, pharmaceutical products, auto parts and electronics. The increasing FDI into the Dominican Republic was also manifested in the fact that some countries requested the negotiation of BITs.

44. Following the recommendations of the IPR, member countries pointed out that the Dominican Republic's vision of leading a new economic transformation into high-value-added manufacturing and services required a major shift in policy approach. In particular, there was a need to refocus from investment promotion efforts based on a low-cost labour supply and generous fiscal incentives to one based on improvement of the economic and investment climate and the quality of the infrastructure. The resilience of FDI inflows to external shocks and the ensuing 2003–2004 economic and financial crisis was also noted. That crisis was a catalyst for further reforms that consolidated the economic transformation initiated in the 1990s.

45. Despite the significant progress already made, the Dominican Republic and other participants also recognized that many challenges remained ahead. Those included more progress on poverty reduction and expansion to cover insufficient infrastructure, particularly in electricity and roads. In that regard, many countries voiced support of the policy recommendation from the IPR concerning the need to link FDI objectives with the government development goals on issues such as poverty reduction, education, research and development, and attracting quality FDI in, for example, services and upscale tourism.

46. Investors participating in the discussion confirmed the positive effect of the new investment climate as highlighted by their fresh investment in areas such as telecommunications, services, mining, tourism and clothing. Consensus was expressed on the fact that remaining gaps existed in the effective implementation of new laws, particularly concerning land environmental permits, governance, intellectual property and immigration. Several countries also noted that, until 2008, no competition law existed and that competition remained a key issue to be addressed. (UNCTAD was already assisting in the establishment of a competition authority as part of the IPR follow-up.) Improvement of the tax regime was also required, with actions such as establishing free zones and putting all businesses on an equal footing of competitive business tax rates.

47. Following on the IPR recommendations, it was noted that the Investment Code needed to be revised to (a) remove anachronisms; (b) enhance the treatment and protection clauses of the FDI law; (c) provide guarantees with respect to expropriation; and (d) increase access to domestic and international dispute settlement mechanisms.

48. Investors and member countries pointed out that there was a need to strengthen the institutional investment framework and establish a National System of Investment Promotion to improve coordination among the several entities that had some responsibilities for investment promotion (ministries of Tourism, Agriculture, Mining, regulatory authorities and other government agencies). The Centre for Export and Investment of the Dominican Republic (CEI–RD) had played an important role in FDI

attraction performance. However, the IPR noted that government objectives required a national effort for a new systemic approach and the creation of a new Ministry of Investment to infuse strong political leadership.

49. The Dominican authorities emphasized that the Dominican Republic had already made progress in implementing different recommendations with UNCTAD's assistance and donor support (with a model BIT already in use). It had also (a) made progress in the revision of investment law; (b) provided a new methodology for FDI data collection; (c) developed a new competition law and agency; (d) provided support for domestic firms (Empretec); and (e) called for continued support of the donor community to further implement the IPR's recommendations. UNCTAD reaffirmed its commitment to assist with follow-up support actions on those recommendations accepted by the government.

9. Investment Policy Review of Nigeria

(Agenda item 5)

50. The meeting considered the IPR of Nigeria (UNCTAD/DIAE/PCB/2008/1).

51. In his opening remarks, the Secretary-General noted that, while FDI could be a powerful driver for development, in Nigeria's case there was vast untapped potential. FDI had made a significant contribution to capital formation, exports and fiscal revenue generation from the oil sector, and to the development of telecommunications and ports. He indicated, however, that there was limited FDI impact in agriculture and manufacturing. Nigeria could thus make better use of its large local and regional market, natural resources, revenues from oil, sound economic fundamentals and its very liberal FDI regime.

52. UNCTAD encouraged the government to put in place policies to stimulate non-oil growth, promote higher value addition by TNCs and establish linkages with local firms. It was felt that Nigeria should also aim to become a pan-African business hub. To this end, the IPR recommended five key areas of action: (a) improving the regulatory framework (including reforming land administration and the fiscal regime); (b) investing in human and physical capital; (c) taking advantage of regional integration and reviewing external tariffs; (d) fostering linkages and local industrial capacity; and (e) strengthening and coordinating institutions dealing with investment and related issues.

53. The Government welcomed the IPR as timely and important to its reform process. It noted the potential of FDI for meeting the objectives of the President's Seven-Point Agenda and the Vision 2020.

54. To this end, the Government of Nigeria had taken important steps and allocated resources to strengthen the coordination of institutions dealing with investment, improve the rule of law, enhance security and combat corruption. Acknowledging the important shortcomings in electricity supply and transport infrastructure, the government pledged to continue reforms to improve the regulatory framework and stimulate foreign investment in those areas. It also stressed that Nigerian officials stood ready to effectively assist investors.

55. Member countries and investors participating in the discussion provided positive feedback on their experiences doing business in Nigeria. They highlighted the country's achievements in terms of restoring political stability and strong economic fundamentals, its commitment to reform and the efforts to fight corruption at all levels. All discussants stressed the strategic importance of Nigeria in terms of market potential and availability of labour supply and natural resources. The fast-growing banking sector was also highlighted as a positive example of Nigeria's progress in reforming the business environment.

56. Discussants supported the IPR recommendations on the need for the government to continue investing in the rehabilitation of key infrastructure and in human capital

development. Both issues were considered essential to increase Nigeria's attractiveness to FDI and the capacity of the local productive sector to benefit from it.

57. Member countries and investors also called for further improvements in the legal and regulatory environment, particularly in the areas of investment permitting, skills attraction, access to land and customs processing times. Delegates expressed concern regarding instances of trade protectionism. It was also stressed that the government had an important role to play in promoting public-private sector dialogue and improving the image of Nigeria as an investment destination. Investors called for an improved partnership between the government and the private sector to address the shortcomings of the investment climate, including shortages of electricity and development of human capital.

58. The Nigerian Government confirmed its strong commitment to implementing the recommendations of the IPR, and to proceed with the action plan prepared by UNCTAD and contained in the Blue Book of Nigeria on Best Practice in Investment Promotion and Facilitation.

10. Promoting and strengthening synergies among the three pillars

(Agenda item 6)

59. The Officer-in-Charge of the Division on Investment and Enterprise Development (DIAE) presented a report on the implementation of the provisions of the Accra Accord related to the areas of work covered by the Investment, Enterprise and Development Commission. After a brief overview of the overall performance of the division in 2008, he presented the strategic orientation of the programme. Using the seven main products of the division (the *World Investment Report*, FDI Statistics, *Investment Policy Reviews*, the UNCTAD series on issues in international investment agreements, investment facilitation, ISAR and enterprise development) as concrete examples, he illustrated how synergies among the three pillars of UNCTAD's work were strengthened and promoted. The Officer-in-Charge also pointed to the continued efforts to mobilize extrabudgetary resources, reminding the Commission of the growing number of requests for technical assistance and capacity-building to be addressed. A lively debate followed, during which delegations acknowledged the impact of DIAE's work. In particular, one delegation reported an UNCTAD-supported meeting on investment law issues in Latin America and related follow-up activities. The secretariat's reporting on the implementation of recommendations and strengthening synergies of the three pillars was lauded by several delegations as an exemplary presentation.

B. Action by the Commission

60. The Commission adopted its agreed conclusions as presented in chapter I. It decided to defer discussion of one of the paragraphs of its agreed conclusions – dealing with South-South cooperation, including regional integration, in the context of the current global economic crisis – to the Trade and Development Commission.

III. Organizational matters

A. Opening of the session

61. The first session of the Investment, Enterprise and Development Commission was opened at the Palais des Nations, Geneva, on 4 May 2009, by Mr. Eduardo Ernesto Sperisen-Yurt (Guatemala) Chair of the Commission at its first session.

B. Election of officers

(Agenda item 1)

62. At its opening plenary meeting, on 4 May 2009, the Commission elected the following officers to serve on its Bureau:

Chair: Mr. Eduardo Ernesto Sperisen-Yurt (Guatemala)

Vice-chairs: Mr. Rui Livramento (Angola)
Mr. Jorge Ferrer (Cuba)
Ms. Rubanti Ariyaratne (Sri Lanka)
Ms. Andriani Falkonaki-Sotiropoulos (Greece)
Ms. Heli Niemi (Finland)

Rapporteur: Ms. Madina Karabaeva (Kyrgyzstan)

C. Adoption of the agenda and organization of work

(Agenda item 2)

63. At its opening plenary meeting, the Commission adopted its provisional agenda (TD/B/C.II/1). The agenda was thus as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Reports of expert meetings
 - (a) Reports of the multi-year expert meetings
 - (i) Multi-year Expert Meeting on Enterprise Development Policies and Capacity-Building in Science, Technology and Innovation (STI)
 - (ii) Multi-year Expert Meeting on International Cooperation: South-South Cooperation and Regional Integration
 - (iii) Multi-year Expert Meeting on Investment for Development
 - (b) Report of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting
 - (c) Reports of the single-year expert meetings
4. Creating an environment conducive to productive capacity-building
5. Exchange of experiences: investment policy reviews, lessons learned and best practices
6. Promoting and strengthening synergies among the three pillars
7. Other business
8. Adoption of the report of the Commission to the Trade and Development Board

D. Adoption of the report of the Commission to the Trade and Development Board

(Agenda item 8)

64. At its closing plenary meeting, the Commission authorized the Rapporteur, under the authority of the Chair, to finalize the report after the conclusion of the meeting.

Annex

Attendance*

1. Representatives of the following states members of UNCTAD attended the Commission meeting:

Afghanistan	Israel
Algeria	Italy
Argentina	Jamaica
Austria	Japan
Azerbaijan	Kenya
Bahrain	Kyrgyzstan
Bangladesh	Lao People's Democratic Republic
Belgium	Lesotho
Bosnia and Herzegovina	Maldives
Brazil	Mali
Burkina Faso	Malta
Burundi	Mexico
Cameroon	Mongolia
Canada	Morocco
Chad	Mozambique
China	Myanmar
Colombia	Nepal
Cuba	Netherlands
Cyprus	Nicaragua
Czech Republic	Niger
Democratic Republic of the Congo	Nigeria
Djibouti	Oman
Dominican Republic	Pakistan
Ecuador	Paraguay
Egypt	Peru
El Salvador	Philippines
Estonia	Poland
Ethiopia	Portugal
Finland	Qatar
France	Romania
Germany	Russian Federation
Greece	Saudi Arabia
Guatemala	Senegal
Haiti	Serbia
Holy See	Sierra Leone
Hungary	Singapore
India	South Africa
Indonesia	Spain
Iran (Islamic Republic of)	Sri Lanka
Iraq	Sweden
	Switzerland

* For the list of participants, see TD/B/C.II/Inf.1.

Syrian Arab Republic
Tajikistan
Thailand
Trinidad and Tobago
Tunisia
Turkey
Uganda

United Kingdom of Great Britain
and Northern Ireland
United Republic of Tanzania
United States of America
Venezuela (Bolivarian Republic of)
Yemen
Zambia
Zimbabwe

2. The following observer attended the session:
Palestine

3. The following intergovernmental organizations were represented at the session:
African Union
Common Market of Eastern and Southern Africa
East African Community
European Community
Organization for Economic Cooperation and Development
Organisation internationale de la Francophonie
South Center

4. The following United Nations organization was represented at the session:
Economic and Social Commission for Asia and the Pacific

5. The following specialized agencies or related organizations were represented at the session:
United Nations Industrial Development Organization (UNIDO)
World Intellectual Property Organization (WIPO)

6. The following non-governmental organizations were represented at the session:
General Category
BPW International
Ingenieurs du monde
Ocaproce Internationale
Village Suisse ONG

Special Category
World Association of Investment Promotion Agencies

7. The following panellists were invited to the session (agenda item 4):
Mr. Mansour Haidara, Director General, Investment Promotion Agency, Mali
Mr. E. Fonseca, Director General, Chamber of Commerce of Nicaragua
Mr. S. Vardanian, Director General, Moscow Investment and Export Promotion Agency
Mr. C. Lombard, Director, Symbiotics Investment, Switzerland
Mr. J.P. Méan, Vice-President, Transparency Switzerland
Ms. M. Drzeniek, Senior Economist, World Economic Forum, Global Competitiveness Report

Mr. L. Moquin, Deputy Chief, Competitiveness and Development of SMEs, Ministry of Finance,
France
Mr. J.C. Silva, Director, Confederation of Chambers of Commerce and Industry, Colombia
Mr. I. Tallo, E-governance Academy, Estonia
Mr. J.M. Mas, Regulatory Reform expert, United States Agency for International Development
Mr. H. Smahi, Director, Ministry of the Interior, Morocco
Mr. M. Mbarki, Agence de l'Oriental, Morocco
Mrs. M. Alfaro de Moran, Director, Presidential Programme "El Salvador Eficiente"/Coordinator
of Administrative Innovation
Mr. Ngo Hai Phan, Deputy Director, Administrative Reform Programme, Prime Minister's Office,
Viet Nam
Mr. R.L. Howse, Professor, New York University School of Law
Mr. P. Andres-Amo, Policy Analyst, Regulatory Policy Division, OECD
International Rubber Research and Development Board
