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WORLD INVESTMENT REPORT 2012

TOWARDS A NEW GENERATION OF INVESTMENT POLICIES

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Transition economies: South-East Europe and the Commonwealth of Independent States.

Developing economies: in general all economies not specified above. For statistical purposes, the data for China do not include those for Hong Kong Special Administrative Region (Hong Kong SAR), Macao Special Administrative Region (Macao SAR) and Taiwan Province of China.

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PREFACE

Prospects for foreign direct investment (FDI) continue to be fraught with risks and uncertainties. At $1.5 trillion, flows of global FDI exceeded pre-financial crisis levels in 2011, but the recovery is expected to level off in 2012 at an estimated $1.6 trillion. Despite record cash holdings, transnational corporations have yet to convert available cash into new and sustained FDI, and are unlikely to do so while instability remains in international financial markets. Even so, half of the global total will flow to developing and transition economies, underlining the important development role that FDI can play, including in least developed countries.

A broader development policy agenda is emerging that has inclusive and sustainable development goals at its core. For investment policy, this new paradigm poses specific challenges. At the national level they include integrating investment policy into development strategy, incorporating sustainable development objectives, and ensuring relevance and effectiveness. At the international level it is necessary to strengthen the development dimension of international investment agreements, manage their complexity, and balance the rights and obligations of States and investors.

Against this background, this year's World Investment Report unveils the UNCTAD Investment Policy Framework for Sustainable Development. Mobilizing investment for sustainable development is essential in this era of persistent crises and pressing social and environmental challenges. As we look ahead to the post-2015 development framework, I commend this important tool for the international investment community.

Ki Moon Ban

BAN Ki-moon
Secretary-General of the United Nations

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ABBREVIATIONS

ADR	alternative dispute resolution
ASEAN	Association of Southeast Asian Nations
BIT	bilateral investment treaty
BRIC	Brazil, Russian Federation, India and China
CIS	Commonwealth of Independent States
CSR	corporate social responsibility
EPF	Entrepreneurship Policy Framework
FDI	foreign direct investment
FET	fair and equitable treatment
FPS	full protection and security
FTA	free trade agreement
GATS	General Agreement on Trade in Services
GCC	Gulf Cooperation Council
GDP	gross domestic product
GSP	Generalized System of Preferences
GVC	global value chain
ICC	International Chamber of Commerce
ICSID	International Centre for Settlement of Investment Disputes
IIA	international investment agreement
IP	intellectual property
IPA	investment promotion agency
IPFSD	Investment Policy Framework for Sustainable Development
IPM	Investment Policy Monitor
IPR	Investment Policy Review
ISDS	investor–State dispute settlement
LDC	least developed countries
LLDC	landlocked developing countries
M&A	mergers and acquisitions
MFN	most-favoured-nation
MST-CIL	minimum standard of treatment – customary international law
NAFTA	North American Free Trade Agreement
NEM	non-equity mode
NGO	non-governmental organization
NT	national treatment
PPP	public-private partnership
PR	performance requirement
PRAI	Principles for Responsible Agricultural Investment
SD	sustainable development
SEZ	special economic zone
SDT	special and different treatment
SIDS	small island developing States
SME	small and medium-sized enterprise
SOE	State-owned enterprise
SPE	special-purpose entity
SWF	sovereign wealth fund
TNC	transnational corporation
TPP	Trans-Pacific Partnership
TRIMs	Trade-Related Investment Measures
UNCITRAL	United Nations Commission on International Trade Law
WIPS	World Investment Prospects Survey

KEY MESSAGES

FDI TRENDS AND PROSPECTS

Global foreign direct investment (FDI) flows exceeded the pre-crisis average in 2011, reaching $1.5 trillion despite turmoil in the global economy. However, they still remained some 23 per cent below their 2007 peak.

UNCTAD predicts slower FDI growth in 2012, with flows levelling off at about $1.6 trillion. Leading indicators – the value of cross-border mergers and acquisitions (M&As) and greenfield investments – retreated in the first five months of 2012 but fundamentals, high earnings and cash holdings support moderate growth. Longer-term projections show a moderate but steady rise, with global FDI reaching $1.8 trillion in 2013 and $1.9 trillion in 2014, barring any macroeconomic shocks.

FDI inflows increased across all major economic groupings in 2011. Flows to developed countries increased by 21 per cent, to $748 billion. In developing countries FDI increased by 11 per cent, reaching a record $684 billion. FDI in the transition economies increased by 25 per cent to $92 billion. Developing and transition economies respectively accounted for 45 per cent and 6 per cent of global FDI. UNCTAD's projections show these countries maintaining their high levels of investment over the next three years.

Africa and the least developed countries (LDCs) saw a third year of declining FDI inflows. But prospects in Africa are brightening. The 2011 decline in flows to the continent was due largely to divestments from North Africa. In contrast, inflows to sub-Saharan Africa recovered to $37 billion, close to their historic peak.

Sovereign wealth funds (SWFs) show significant potential for investment in development. FDI by SWFs is still relatively small. Their cumulative FDI reached an estimated $125 billion in 2011, with about a quarter in developing countries. SWFs can work in partnership with host-country governments, development finance institutions or other private sector investors to invest in infrastructure, agriculture and industrial development, including the build-up of green growth industries.

The international production of transnational corporations (TNCs) advanced, but they are still holding back from investing their record cash holdings. In 2011, foreign affiliates of TNCs employed an estimated 69 million workers, who generated $28 trillion in sales and $7 trillion in value added, some 9 per cent up from 2010. TNCs are holding record levels of cash, which so far have not translated into sustained growth in investment. The current cash "overhang" may fuel a future surge in FDI.

UNCTAD's new FDI Contribution Index shows relatively higher contributions by foreign affiliates to host economies in developing countries, especially Africa, in terms of value added, employment and wage generation, tax revenues, export generation and capital formation. The rankings also show countries with less than expected FDI contributions, confirming that policy matters for maximizing positive and minimizing negative effects of FDI.

INVESTMENT POLICY TRENDS

Many countries continued to liberalize and promote foreign investment in various industries to stimulate growth in 2011. At the same time, new regulatory and restrictive measures continued to be introduced, including for industrial policy reasons. They became manifest primarily in the adjustment of entry policies for foreign investors (in e.g. agriculture, pharmaceuticals); in extractive industries, including through nationalization and divestment requirements; and in a more critical approach towards outward FDI.

International investment policymaking is in flux. The annual number of new bilateral investment treaties (BITs) continues to decline, while regional investment policymaking is intensifying. Sustainable development is gaining prominence in international investment policymaking. Numerous ideas for reform of investor–State dispute settlement have emerged, but few have been put into action.

Suppliers need support for compliance with corporate social responsibility (CSR) codes. The CSR codes of TNCs often pose challenges for suppliers in developing countries (particularly small and medium-sized enterprises), which have to comply with and report under multiple, fragmented standards. Policymakers can alleviate these challenges and create new opportunities for suppliers by incorporating CSR into enterprise development and capacity-building programmes. TNCs can also harmonize standards and reporting requirements at the industry level.

UNCTAD'S INVESTMENT POLICY FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

Mobilizing investment and ensuring that it contributes to sustainable development is a priority for all countries. A new generation of investment policies is emerging, as governments pursue a broader and more intricate development policy agenda, while building or maintaining a generally favourable investment climate.

"New generation" investment policies place inclusive growth and sustainable development at the heart of efforts to attract and benefit from investment. This leads to specific investment policy challenges at the national and international levels. At the national level, these include integrating investment policy into development strategy, incorporating sustainable development objectives in investment policy and ensuring investment policy relevance and effectiveness. At the international level, there is a need to strengthen the development dimension of international investment agreements (IIAs), balance the rights and obligations of States and investors, and manage the systemic complexity of the IIA regime.

To address these challenges, UNCTAD has formulated a comprehensive Investment Policy Framework for Sustainable Development (IPFSD), consisting of (i) Core Principles for investment policymaking, (ii) guidelines for national investment policies, and (iii) options for the design and use of IIAs.

UNCTAD's IPFSD can serve as a point of reference for policymakers in formulating national investment policies and in negotiating or reviewing IIAs. It provides a common language for discussion and cooperation on national and international investment policies. It has been designed as a "living document" and incorporates an online version that aims to establish an interactive, open-source platform, inviting the investment community to exchange views, suggestions and experiences related to the IPFSD for the inclusive and participative development of future investment policies.