

Ministerial Round Table – Revisiting Investment Policies

It is clear that FDI leads to economic growth through improving competitiveness, enhancing the productive capacity, and creating positive externalities from the transfer of knowledge and technology. However this must be combined with robust domestic regulation.

In this respect government policy needs to incentivize FDI in the secondary and tertiary sector and comprehensive regulatory frameworks need to be developed in order to promote sustainable development and ensure that the environment is protected.

The best solution to these problems is to enhance host country capacity to regulate and establish international environmental standards. The prospects for sustainable development pursuant to FDI could be improved through a set of attainable policy instruments.

Considering the specific case for LDCs, steps need to be taken to increase FDI in the manufacturing and services sectors. This could include discounted investment guarantees to LDCs in non-natural resource sectors and the promotion of ethical investment funds.

Investor agreements must recognize the necessary limits to liberalization that subordinates investor rights to a country's achievement of sustainable development. The benefits host countries receive from requirements placed on incoming investors such as the forming of joint ventures, hiring of local personnel and mandatory technology transfer provisions - must not be eroded by further liberalization.

In view of this it may be pertinent to consider new international legislation. This should call for minimum standards for environmental conduct which must be introduced to prevent the greenest firms being undermined by unscrupulous competitors. International rules should focus on environmental management processes, transparency and consultation.

It is equally important that the role of local communities and civil society – in both home and host countries – be strengthened to deter irresponsible corporate behavior. On a broader issue of economic and social governance, human and workers' rights must be respected and good market structures promoted.

The focus shall be to promote fair competition; enforce core labor standards and reduce corruption.

Much has been said about protectionism. The distinction between protecting legitimate public policy objectives and protectionism is not always easy to determine. The vagueness of the key concepts involved inevitably creates the risk of abuse for protectionist purposes.

Therefore it is imperative that a right balance between the rights and responsibilities of foreign investors on the one hand and those of governments on the other are achieved.

It needs to be a balance that combines the stability and transparency that firms need to make investment decisions with the policy space that governments need to pursue legitimate domestic policy objectives.

Finding regulatory solutions to this challenge is not easy. It is important that the process of rebalancing, which is already underway, proceed in a manner that strengthens the overall international investment regime.

Several colleagues have mentioned about the issue of International Investment Agreements, and that there is no correlation between the number of these and FDI.

The challenge is very complicated due to the various interactions among an expansive patchwork of IIAs as the task of gauging the full legal and policy implications of any such agreement becomes difficult and the risk of investment disputes increases.

One of the main issues in this context relates to maintaining policy coherence. Policy coherence, in general, requires that the provisions of a country's IIAs be consistent with the country's investment policy. In particular, IIAs should not be significantly over-inclusive (i.e. they go further than the underlying policy requires), or significantly under-inclusive (i.e. they do not go as far as the underlying policy requires). Policy coherence also requires that a country's IIAs are consistent with one another.

Thank you.