



University of St.Gallen



VALE



MINISTRY FOR FOREIGN
AFFAIRS OF FINLAND



VALE COLUMBIA CENTER
ON SUSTAINABLE INTERNATIONAL INVESTMENT
A JOINT CENTER OF COLUMBIA LAW SCHOOL AND
THE EARTH INSTITUTE AT COLUMBIA UNIVERSITY

Fourth Columbia International Investment Conference

FDI, the Global Crisis and Sustainable Recovery

**November 5-6, 2009
Faculty House
Columbia University**

PROGRAM

**Vale Columbia Center on Sustainable International Investment
Columbia Law School/The Earth Institute**

The University of St. Gallen/ Max Schmidheiny Foundation

Ministry for Foreign Affairs of Finland

With support from

Vale

Conference Organizers

Vale Columbia Center on Sustainable International Investment Columbia Law School/The Earth Institute

The Vale Columbia Center on Sustainable International Investment promotes learning, teaching, policy-oriented research, and practical work within the area of foreign direct investment (FDI), paying special attention to the sustainable development dimension of this investment. It is a joint center of Columbia Law School and The Earth Institute. For more information, see: www.vcc.columbia.edu.

The University of St. Gallen

The University of St. Gallen (HSG) is among Europe's leading business universities, recognized for teaching at all levels of life-long learning and for the research in fields of great social relevance. The profile is shaped by an integrative view of Business Administration, Economics, Law, Social Sciences and Humanities. The Max Schmidheiny Foundation, sponsoring the Conference on behalf of the HSG, has long supported the University, first by the annual, internationally renowned freedom prize (winners include Kofi Annan, the ICRC, Médecins sans frontières, Jorma Ollila, Romano Prodi, and Muhammad Yunus) and currently by sponsoring i.a. professorships as well as the St. Gallen Symposium.

Ministry for Foreign Affairs of Finland

Finland's Development Policy Programme and its Aid for Trade Action Plan emphasise the importance of creating economic growth as a means to meeting development goals such as poverty eradication. One of the main components of the Action Plan is assistance to the creation of an enabling business environment in developing countries. Within the Action Plan the Ministry launched this spring in cooperation with the OECD secretariat a new programme to unlock investment potential in Southern Africa by using the Policy Framework for Investment (PFI) to advance investment policy reform. For more information see: <http://formin.finland.fi>

Vale

Vale is a global company headquartered in Brazil, operating in five continents through its mining operations, mineral surveying, steel production, energy production, logistics and commercial offices. For Vale, sustainable development is achieved when its activities add value to its shareholders and other stakeholders. Vale's principle is to leave a positive social, economic and environmental legacy in the areas where it operates, through strong social and environmental policies and partnerships with other stakeholders. For more information, see <http://www.vale.com>.

Chatham House Rule

“When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.”

Background

The global economic crisis has already had a serious effect on foreign direct investment (FDI)—affecting both flows and the patterns of FDI. After reaching an all-time high in 2007 (\$2 trillion), world FDI flows were down by 14% in 2008. And the end is not yet in sight—FDI flows are expected to decline by another 40-50% in 2009. Since economic growth is the single most important FDI determinant for attracting investment, the global economic slowdown, accentuated by the financial crisis, makes key markets less attractive for foreign investors—and hence depresses FDI flows. The financial crisis and the credit crunch add to this impact as it severely restricts the ability of firms to invest abroad. It is quite certain that FDI flows will continue to decline in 2009 – the only question is by how much and for how long.

At the same time, the deepening recession has made the need for such investment, and especially investments that contribute to a sustainable recovery, ever more important. Promoting sustainable recovery and, beyond that, sustainable development, requires a comprehensive approach that considers domestic and international policies and legal frameworks, the role of multinational enterprises, and the role of other “new” players in the international investment field.

As many have now said, “A crisis is a terrible thing to waste.” The financial crisis and recession require us to take stock of the changing trends in FDI and to discuss policy implications for contributing to a sustainable recovery and sustainable development. This will be addressed systematically at this Conference, organized by the Vale Columbia Center on Sustainable International Investment, the University of St. Gallen, and the Ministry of Foreign Affairs of Finland, with support from Vale. More specifically, the Conference will address how the crisis is affecting FDI (including the impact on flows, new players, changing patterns of agricultural sector FDI), the changing business environment for FDI (including the effect of the crisis on social conditions, CSR and resource nationalism), and public policy opportunities for a sustainable recovery and sustainable development (including public-private partnerships, a global bankruptcy law and a sustainable investment regime).

This Conference will be an opportunity to take stock as the impact of the crisis becomes clearer and the need to ensure a sustainable recovery from this crisis—in light of worsening environmental conditions and insufficient attention to development needs in poor countries—has never been more important. It offers a neutral platform to understand better the views and concerns of the principal players; understand the economic, social and environmental implications of the global economic crisis in the FDI field; facilitate knowledge sharing; and explore the way forward. Participants include leading economists, representatives of governments and intergovernmental organizations, legal practitioners, and development experts.

The proceedings of the Conference will be published.

Program

November 5, 2009, Thursday

8:30 - 9:00 **Breakfast and registration**

9:00 – 9:30 **Opening remarks**

Karl P. Sauvart, Executive Director, Vale Columbia Center on Sustainable International Investment

Anne van Aaken, Max Schmidheiny Foundation Tenure-Track-Professor for Law and Economics, Public, International and European Law, University of St. Gallen

Ritva Jolkkonen, Consul General, Ministry of Foreign Affairs, Finland

9:30 – 10:30 **Welcome by Lee C. Bollinger**, President, Columbia University, and **Keynote Speech**: “The dimensions of the global crisis and challenges for sustainable FDI”, **Jeffrey D. Sachs**, Director, The Earth Institute at Columbia University; Quetelet Professor of Sustainable Development, Columbia University

10:30 – 11:00 *Coffee/tea*

11:00 - 13:30 **Session I**: How does the global crisis affect FDI?

Chair: Katharina Pistor, Professor, Columbia Law School

1. “The impact of the financial crisis and recession on global FDI flows,” **Gary Clyde Hufbauer**, Reginald Jones Senior Fellow, Peterson Institute for International Economics, and **Lauge Skovgaard Poulsen**, Ph.D. candidate, London School of Economics

The speakers will assess the overall impact of the crisis on the quantity and patterns of FDI flows by region, sector and mode of entry (especially of M&As), including a discussion of the staying power of FDI in times of crisis, and some policy implications arising from the findings.

2. “The impact of the crisis on new players: are they ready to pounce?”, **Ravi Ramamurti**, CBA Distinguished Professor of International Business; Director, Center for Emerging Markets, Northeastern University

The speaker will deal with the new landscape of players in global FDI (emerging market MNEs, SWFs, SOEs, private equity firms) and will analyze what they are currently doing and especially what they will do in the future. Are they ready to pounce?

3. “Sustainable FDI in agriculture: the challenges ahead,” **James Zhan**, Director, Division on Investment and Enterprise, UNCTAD

The speaker will briefly highlight the key emerging trends in TNCs' activities in agriculture (including the evolving pattern of agriculture FDI and contract farming) and the related development challenges. The speaker will then discuss the policy implications that arise from this trend for developing countries, and the international efforts underway to promote responsible investment in agriculture.

Lead discussants:

Jorge Héctor Forteza, Professor of Strategy and Competitiveness, University of San Andrés, Buenos Aires

Rainer Geiger, Attorney-at-law, Senior Advisor, Arab Centre for the Development of the Rule of Law and Integrity

Laza Kekic, Director of Country Forecasting Services, Economist Intelligence Unit

Lilach Nachum, Professor of International Business, Baruch College, City University New York

13:30 – 15:30 **Lunch, sponsored by Ontario, Canada**



Introduction by **Daniel Sullivan**, Consul General of Canada, and **Luncheon address:** “U.S. recovery, global sustainable development and FDI,” **Joseph E. Stiglitz**, University Professor, Columbia University

15:30 – 18:00 **Session II:** The crisis and the changing business environment for FDI

Chair: Richard N. Gardner, Professor of Law and International Organization, Columbia Law School

1. “Managing at a time of deep crisis,” **John D. Daniels**, Samuel N. Friedland Chair, University of Miami

The speaker will comment on the local and international responsibilities of MNEs at a time of crisis, including a discussion of the following questions: What are the effects on employment? What happens when an MNE closes production facilities? How has the crisis affected expatriate workers? What should be the central employment principles and practices during and after the crisis? Should more of an emphasis be put on training? What are MNEs' responsibilities, if any, toward employees of its contractors in global supply chains? The speaker will focus especially on developing countries.

2. “Enhancing the contribution of FDI to development: a new agenda for the corporate social responsibility community,” **Theodore H. Moran**, Marcus Wallenberg Chair in International Business and Finance, Georgetown University School of Foreign Service; Non-Resident Senior Fellow, Peterson Institute of International Economics.

The speaker will analyze how corporate social responsibility (CSR) programs have been affected by the crisis and, most importantly, what the role for CSR will be in achieving a sustainable recovery.

3. “The rise of FDI protectionism,” **Daniel M. Price**, Senior Partner for Global Issues, Sidley Austin LLP; Former Assistant to the President and Deputy National Security Advisor for International Economic Affairs in the Bush Administration

The speaker will assess what the impact of the crisis has been on the attitude toward inward and outward FDI and, in particular, what policy and regulatory actions have been taken. How to deal with the rise of FDI protectionism? The speaker will also expound on the effect of various bail-outs of national industries and firms and the possible international investment law implications of these bail-outs.

4. “Multinational enterprise strategy after the crisis: responding to new challenges,” **Alan M. Rugman**, Professor of International Business and Director of Research, School of Management, Henley Business School, University of Reading

The speakers will discuss some of the implications of the crisis for the strategy of MNEs. Some of these relate to the increased emphasis that is being given to sustainable development, including as regards the use of energy and climate change. Others have to do with the use of subsidies, the rise of FDI protectionism and the promotion of national champions.

Lead discussants:

Anne van Aaken, Max Schmidheiny Foundation Tenure-Track-Professor for Law and Economics, Public, International and European Law, University of St. Gallen

Stephen Canner, Vice President for Investment Policy and Financial Services, U.S. Council for International Business

Kathryn Gordon, Senior Economist, Organisation for Economic Co-operation and Development

18:00 – 21:00 **Drinks followed by dinner**

Dinner address: “Climate change, FDI and the Copenhagen Summit,” **Robert Orr**, Assistant Secretary-General, Strategic Planning Unit, Executive Office of the Secretary-General, United Nations

November 6, 2009, Friday

8:30 – 9:30 **Breakfast**

9:30 – 13:00 **Session III: Public policy for FDI and sustainable recovery**

Chair: José E. Alvarez, Professor of Law, New York University Law School; Former President, American Society of International Law

1. “Public-private partnerships and FDI,” **Geoffrey Hamilton**, Chief, Cooperation and Partnerships Section, United Nations Economic Commission for Europe, Economic Cooperation and Integration Division

The speaker will discuss how FDI can contribute to a sustainable recovery, including a discussion of long-term financing, creating international support for a ‘green recovery,’ the development and role of infrastructure banks, and assuring finance for sustainable FDI through export-credit agencies, risk insurance agencies, the IFC and the like.

2. “Do we need an international bankruptcy law for MNEs?,” **Jennifer Clift**, Senior Legal Officer, United Nations Conference on International Trade Law

The speaker will discuss the desirability and feasibility of developing an international bankruptcy law and its importance to sustainable recovery and development against the background of growing numbers of insolvencies with international, cross-border dimensions and the work currently being undertaken on enterprise groups and cross-border insolvency.

3. “Elements of an international investment regime that encourages sustainable international investment,” **Gus Van Harten**, Associate Professor, Osgoode Hall Law School, York University

The speaker will discuss how the current international investment law and policy regime can be moved in a direction that makes it more supportive of sustainable development—including through treaties, voluntary initiatives, contract negotiation, and the like.

4. “Investor State Arbitration and the Financial Crisis: A perspective from ICSID,” **Meg Kinnear**, Secretary-General, International Centre for Settlement of Investment Disputes

The number of investor-State disputes has risen considerably in recent years, and the financial crisis may well lead to more disputes. Issues that may become more relevant in this context include considerations of the rights of host countries to take certain actions (e.g. the question of essential security interests) and considerations of sustainable development in dispute settlement. Will the crisis influence the decisions of governments to strengthen existing investor-State dispute settlement mechanisms or, on the contrary, weaken them? The speaker will provide an institutional perspective from ICSID’s experience with financial crises-related disputes.

Lead discussants:

Kevin P. Gallagher, Associate Professor, Department of International Relations, Boston University

Howard Mann, Senior International Law Advisor, International Institute for Sustainable Development

Maya Steinitz, Associate-in-Law, Columbia Law School

13:00 – 15:00 **Lunch**

Lunch address: “FDI and African economic development,” **Kaire M. Mbuende**, Ambassador and Permanent Representative of the Republic of Namibia to the United Nations

15:00 – 17:45 **Concluding Roundtable:** FDI, the global crisis and sustainable recovery: the way forward

Panelists will discuss things that we can learn from this crisis for the future of FDI and government-business relations. How can this crisis be used as an opportunity to help FDI play a role in a sustainable recovery? (Each panelist is invited to present new ideas.)

Chair: Karl P. Sauvant, Executive Director, Vale Columbia Center on Sustainable International Investment

Participants:

Karin Lissakers, Director, Revenue Watch Institute; Former U.S. Executive Director on the Board of the International Monetary Fund

Daniel M. Price, Senior Partner for Global Issues, Sidley Austin LLP; Former Assistant to the President and Deputy National Security Advisor for International Economic Affairs in the Bush Administration

Jeffrey D. Sachs, Director, The Earth Institute at Columbia University; Quetelet Professor of Sustainable Development, Columbia University

Manfred Schekulin, Chairperson, OECD Investment Committee

17:45 – 18:00 **Closing Remarks**

Anne van Aaken, Max Schmidheiny Foundation Tenure-Track-Professor for Law and Economics, Public, International and European Law, University of St. Gallen

Karl P. Sauvant, Executive Director, Vale Columbia Center on Sustainable International Investment

Rapporteur: Ucheora Onwuamaegbu, Senior Counsel, International Centre for Settlement of Investment Disputes

This Conference is dedicated to the memory of John H. Dunning.