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Toward a multilateral framework for investment

by
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Business needs a stable and predictable investment environment, especially in times of economic uncertainty, to continue to generate employment and create wealth. Although foreign direct investment (FDI) flows rose for two years after plummeting in the wake of the global financial crisis, they fell again by 18% to US$ 1.4 trillion in 2012.[1] According to UNCTAD, the major factors contributing to this sharp decline were economic fragility and policy uncertainty in several economies. Moreover, investment regulations classified as "restrictive" rose to 25% in 2012, compared to just 6% in 2000; "liberalizing" regulations were 75% of the total in 2012, compared to 94% in 2000.[2] The result of these regulations is, therefore, not surprising: businesses are holding back on new investments, with multinational enterprises reporting record cash-holdings of between US$ 4 to 5 trillion.[3]

The fall in FDI does not just stem from increased use of industrial policies and restrictive measures. The International Chamber of Commerce (ICC) has repeatedly noted that the varying breadth and depth of coverage of the international investment agreement (IIA) regime – coupled with the risk of new austerity measures – also contributes to policy uncertainty, thus making investment predictability increasingly difficult for businesses. Given this state of the IIA regime, global business is cognizant of the need for serious thinking on how investment should be governed in the decades to come. Broad discussions should be encouraged on investment issues, such as dispute settlement in IIAs, the rising importance of international investment by state-owned enterprises and how public-private partnerships can help break down barriers to investment.

As noted in earlier *Perspectives*, current regional negotiations present a potential opportunity to consolidate the IIA regime and provide increased predictability for business. Given that the United States is currently negotiating with the European Union and China, it is likely that new provisions setting the foundation for global standards will emerge. This first step to consolidate the IIA regime will be a difficult and long process as the issues under negotiation are both substantively and politically sensitive. From a global business perspective, these negotiations should be pursued in tandem with other more long-term discussions being held in formal and informal forums: the Group of Twenty (G20) Summit and the Helsinki Process, respectively.

The objectives of the discussions in these forums should be to promote mutual understanding among governments, between government, business and civil society, and to build a common framework for dialogue on international investment in the interest of all stakeholders.

International investment will be one of the key policy areas G20 leaders will issue a recommendation on when they meet in Saint Petersburg in September 2013. From the perspective of international business, the G20 – bringing together leading industrialized and emerging economies that account for 80% of world trade, 85% of global GDP and two-thirds of the world's population – represents the highest-level policy forum for international economic cooperation and global governance. Since 2009, the global business community has been conveying its priorities to G20 leaders, placing the G20 in a unique position to address some of the world's most important economic challenges that bear on core business goals for trade, investment, economic growth, and job creation. For the past four years, ongoing year-round engagement between business and G20 governments has taken place across many policy areas, including international investment. Ahead of this year's Summit, global business as represented by the B20 coalition is recommending that the G20 "agree upon a set of recommendations governing G20 multilateral investment framework, setting minimum standards to be endorsed by all G20 governments, and acting as a model for other countries […]. The 2012 [ICC] Guidelines for International Investment could be used as a template for such a framework".[4]

The discussions on international investment conducted in the framework of the Helsinki Process, chaired by Finland and Tanzania, are a valuable parallel process precisely due to their "inclusive, informal, but structured multi-stakeholder consensus-building nature".[5] The failed MAI discussions of the 1990s should be a reminder of the need to lay a proper foundation before engaging in negotiations on international investment at the multilateral level. Thus, the current negotiations at the bilateral and regional levels are necessary first steps toward addressing the overly-cumbersome spaghetti bowl of agreements through which businesses must currently attempt to sift through in setting their long-term investment strategies. As further foundational preparatory work, the discussion processes underway in the G20 and the Helsinki Process are equally important, albeit with much longer time horizons. Global business is actively engaged in these processes, with the objective that the IIA landscape will eventually reflect a comprehensive high-standard regime that businesses can rely upon to generate sustainable growth.

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[1] UNCTAD, *World Investment Report 2013* (Geneva: UNCTAD, 2013), p. xii.

[2] *Ibid*., p. 93.

[3] *Ibid*., p. 26.

[4] "B20-G20 for Partnership and Jobs: Recommendations from Business 20," *The White Book* (Moscow: Russian Union of Industrialists and Entrepreneurs, 2013), available at: http://www.b20russia.com/B20_WhiteBook_web.pdf, p. 27.

[5] Karl P. Sauvant and Federico Ortino,"The need for an international investment consensus-building process," *Columbia FDI Perspectives*, No. 101, August 12, 2013.

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