



The **E15** Initiative

STRENGTHENING THE GLOBAL TRADE AND INVESTMENT
SYSTEM FOR SUSTAINABLE DEVELOPMENT



**An International Support Programme
for Sustainable Investment Facilitation**

Karl P. Sauvant and Khalil Hamdani

July 2015

E15 Task Force on
Investment Policy

Think Piece

ACKNOWLEDGMENTS

Published by

International Centre for Trade and Sustainable Development (ICTSD)
7 Chemin de Balexert, 1219 Geneva, Switzerland
Tel: +41 22 917 8492 – E-mail: ictsd@ictsd.ch – Website: www.ictsd.org
Publisher and Chief Executive: Ricardo Meléndez-Ortiz

World Economic Forum

91-93 route de la Capite, 1223 Cologny/Geneva, Switzerland
Tel: +41 22 869 1212 – E-mail: contact@weforum.org – Website: www.weforum.org
Co-Publisher and Managing Director: Richard Samans

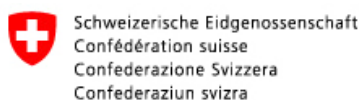
Acknowledgments

This paper has been produced under the E15 Initiative (E15). Implemented jointly by the International Centre for Trade and Sustainable Development (ICTSD) and the World Economic Forum, the E15 convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business and civil society geared towards strengthening the global trade and investment system for sustainable development. For more information on the E15, please visit www.e15initiative.org/

Karl P. Sauvart (karlsauvant@gmail.com) is Resident Senior Fellow, Columbia Center on Sustainable Investment, a joint center of Columbia Law School and The Earth Institute at Columbia University, New York.

Khalil Hamdani (khalilhamdani@gmail.com) is Visiting Professor at the Lahore School of Economics, Pakistan, and board member of the Consumer Unity and Trust Society (CUTS) International, Geneva. The authors would like to acknowledge helpful peer reviews by Rudolf Adlung, Abdel-Hamid Mamdouh and Gerry Mattios, as well as very useful comments by Sean Doherty, Shaun Donnelly, Ana Escobedo, Patrick Low, Herbert Oberhaensli, Pedro Roffe, Harsha V. Singh, Hans-Peter Werner, and members of the E15 Task Force on Investment Policy on an earlier version of this paper.

With the support of:



And ICTSD's Core and Thematic Donors:



Citation: Sauvart, Karl P. and Khalil Hamdani. *An International Support Programme for Sustainable Investment Facilitation*. E15 Initiative. Geneva: International Centre for Trade and Sustainable Development (ICTSD) and World Economic Forum, 2015. www.e15initiative.org/

The views expressed in this publication are those of the authors and do not necessarily reflect the views of ICTSD, World Economic Forum, or the funding institutions.

Copyright ©ICTSD and World Economic Forum, 2015. Readers are encouraged to quote this material for educational and non-profit purposes, provided the source is acknowledged. This work is licensed under the Creative Commons Attribution-Non-commercial-No-Derivative Works 3.0 License. To view a copy of this license, visit: <http://creativecommons.org/licenses/by-nc-nd/3.0/> or send a letter to Creative Commons, 171 Second Street, Suite 300, San Francisco, California, 94105, USA.

ISSN 2313-3805

ABSTRACT

The global challenges of poverty, sustainable development, and climate change are being tackled with renewed vigour in international negotiations of sustainable development goals for 2016–2030. New commitments also mean increased demands for investment—quantitatively more and qualitatively more sustainable. The latter depends on unleashing the inherent package of benefits embedded in capital and on creating shared value for all stakeholders. Much evidence suggests that sustainability can be commercially viable under appropriate policy frameworks. Hence, the need to put such frameworks in place, globally and nationally, to ensure meeting the increased investment demands of the future. Actions at the national level will require international support.

This note advances the case for an international support programme for sustainable investment facilitation. As it explains, potentially all investments are sustainable, but the appropriate policy frameworks need definition, often in novel ways and increasingly in partnership with multiple stakeholders, domestic and foreign. Facilitating investment for future needs, therefore, is not a matter of promotion-as-usual, but a process of discovery and diffusion of new approaches and applications, a process that needs nurturing and support by the international community. Ways in which such backing can be provided to an international support programme for sustainable investment facilitation are discussed in detail, including making use of the World Trade Organization- (WTO) led Aid-for-Trade Initiative and the recently adopted WTO Trade Facilitation Agreement.

The issues mentioned for possible inclusion in the support programme, as well as the options outlined on how such a programme could be put in place, are illustrative. The key premise is the importance—and urgency—of creating more favourable conditions for sustainable FDI flows to meet the investment needs of the future. As governments and the private sector increasingly share this view, they will hopefully muster the political will and find the appropriate venue to put an international support programme for sustainable investment facilitation in place.

CONTENTS

Introduction	1
Background and Rationale	1
The Contours of an International Support Programme for Sustainable Investment Facilitation and Options to Implement It	3
Conclusions	6
References	7

LIST OF ABBREVIATIONS

BIT	bilateral investment treaty
FDI	foreign direct investment
G20	Group of Twenty
GATS	General Agreement on Trade in Services
OECD	Organisation for Economic Co-operation and Development
SMEs	small and medium-size enterprises
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organization

INTRODUCTION

The global challenges of poverty, sustainable development, and climate change are being tackled with renewed vigour in international negotiations of new development goals for 2016–2030. The exercise has credence in light of notable progress under the 2015 Millennium Development Goals, and evident dynamism in the developing world. New commitments would brighten global prospects now clouded by slow growth of developed economies and humanitarian crises and armed conflicts in fragile regions. However, new commitments also mean increased demands for investment—quantitatively more and qualitatively more sustainable. The latter depends on unleashing the inherent package of benefits embedded in capital and on creating shared value for all stakeholders. Much evidence suggests that sustainability can be commercially viable under appropriate policy frameworks. Hence, the need to put such frameworks in place, globally and nationally, to ensure meeting the increased investment demands of the future. Actions at the national level will require international support.

This note advances the case for an international support programme for sustainable investment facilitation. As explained in Section 2, potentially all investments are sustainable, but the appropriate policy frameworks need definition, often in novel ways and increasingly in partnership with multiple stakeholders, domestic and foreign. Facilitating investment for future needs, therefore, is not a matter of promotion-as-usual, but a process of discovery and diffusion of new approaches and applications, a process that needs nurturing and support by the international community. Ways in which such support can be provided is the focus of Section 3.

BACKGROUND AND RATIONALE

Perspectives on foreign direct investment (FDI) have evolved greatly over the years. The broad trend since the 1980s has been from closure to openness, from positive to negative lists, and from screening authorities to promotion agencies. To be sure, investment remains a contentious multilateral issue, disputes are recurrent, and corporate conduct is subject to close scrutiny by regulators, civil society, and the media—particularly in developed countries. Still, it is fair to say that all countries without exception welcome FDI today.

The convergence of country perspectives is evident at several levels. First, regulatory changes have remained overwhelmingly friendly to FDI (80 percent of the changes in national investment policies in 2000–2013 involved liberalization or promotion) (UNCTAD 2014: 106). Second, countries have signed a large number and variety of bilateral, regional, and international investment agreements (totalling 3,268 at the end of 2014) (UNCTAD 2015: 1). Third, virtually every country has an investment promotion agency, and in many cases a number of them, to attract FDI (the World Association of Investment Promotion Agencies has 170 members from 130 countries). Fourth, countries are increasingly both host and home to FDI (the number of countries with outward FDI rose from 68 in 1980 to 175 in 2013, according to UNCTADSTAT).

In addition, countries are evolving more sophisticated policy approaches and forms of cooperation to integrate FDI in their growth and development. These include policies to reduce the costs of transacting business and trade, and programmes and partnerships to improve the domestic skill and supplier base, and physical and technical infrastructure. Countries with natural resources want FDI to be more than extractive. Countries with large domestic markets want FDI to create domestic capacity and also be export-oriented. Countries that are export platforms want FDI to move up the value chain of international production. Countries that receive FDI also want to benefit from outward FDI.

The demand for FDI is part of a larger demand for investment, not just for current growth, but also to rebuild infrastructure for sustaining future growth. The demographic and energy transitions will require big investments in education, energy, and infrastructure. There is the need to invest in education to prepare youth for productive jobs, as well as the need to invest in infrastructure to mitigate and adapt to the threat of climate change. These needs outstrip the ability to finance investments through public expenditure, even in developed countries. The needs are acute in developing countries but dwarfed by global requirements. To illustrate, the financing requirements for water infrastructure in the developed countries, plus Brazil, Russia, India, and China, for the next 10–15 years are estimated by the Organisation for Economic Co-operation and Development (OECD) at US\$770–1,040 billion per year, compared to the present annual spending of about US\$550 billion (Brabeck-Letmathe 2015). The requirements for all other developing countries are only US\$100 billion per year. However, it is global demand that will drive innovation in technologies, financial instruments, and production systems for improved water and sanitation, waste-water collection and treatment, and water resource development. These improvements would need to spread concurrently everywhere, and FDI is one mechanism for worldwide diffusion.

If other infrastructure needs (such as electricity, transport, and telecommunications) are added to those of water, the gap in global investment is estimated at least US\$ 1 trillion

per year (WEF 2014: 3). Can the gap be bridged? The investor perspective is affirmative—"There is no fundamental scarcity of private capital—investors are frequently falling short of their target allocations. Despite infrastructure's in-principle attractiveness as an asset class and the reduced role of traditional financing, investors struggle to find opportunities that are globally competitive on a risk-adjusted return basis" (WEF 2014: 1). It is a matter of policy, not money.

There are high expectations in developing countries. Countries are expected to double, even triple, their investment demands in the implementation of the Sustainable Development Goals for 2030—in aggregate, they will need investments in the range of US\$4 trillion per year (UNCTAD 2014). Moreover, investments will be sought also in areas traditionally earmarked for the public sector and official development assistance. Meeting these needs will require innovative public-private-civic partnerships that would incentivize private investment in social infrastructure such as education, health, water, and sanitation. It will require the involvement of non-governmental organisations in fashioning new business models and technologies to reach larger populations at a lower cost and with a smaller environmental footprint. It will require enlightened self-interest and an unleashing of the purchasing power and business potential of the "bottom billion" (Prahalad 2004; WEF 2009). Domestic enterprises and entrepreneurs will need to mobilise the capital for this undertaking, for which FDI can be catalytic.

Can such expectations be met? Global financial markets are flush with funds, including for niche activities such as impact investing, microfinance, and green investment. Civil society is already playing an active role in education and health (for example, Gavi, the vaccine alliance), and engaging companies in the extractive sector (for example, the multi-stakeholder Extractive Industries Transparency Initiative and the Kimberley Process Certification Scheme) and recently in the garment industry (for example, the Accord on Fire and Building Safety in Bangladesh). Following the 1992 Rio conference on sustainable development, world industry associations have prepared responsibility guidelines for their members. Surveys of international business leaders suggest a strong commitment to sustainability (Accenture 2013).¹ However, the private sector and civil society expect governments to lead by putting in place policies that facilitate sustainable FDI. In some areas, notably response to climate change, global frameworks need strengthening. In most cases, national policies, ideally formulated with stakeholder input, provide the critical enabling environment for investment. Potentially, all investment is sustainable. It is a matter of discovering and putting in place the appropriate policy and institutional frameworks.

When it comes to national policies—given the overall economic situation, locational advantages, and development priorities of the host country—the basic policy levers for enhancing investment outcomes are regulation and promotion. While most countries have liberalised their laws

governing the entry, treatment, and exit of FDI, these often fall short of good practices. Importantly, investment regimes frequently lack depth, missing the supplementary legislation, rules, procedures, and institutions to make laws fully operational. Where the regulatory support infrastructure exists, there may still be need for clarification, simplification, or improved coordination among different levels of government. In many countries, the overall regulatory environment can be made more transparent and investor friendly, and the costs of doing business lowered (World Bank 2014). There is a reservoir of good practices that countries can learn from peers on smart regulation that encourages investment and also safeguards the national interest.

As regards promotion, in the global competition for FDI, it is easy to forget that investment should advance larger development objectives. Governments, all too often, offer generous fiscal incentives and waive public ordinances (for example, on consumer health, worker safety, and environmental protection). Incentives can be useful but should be carefully designed to induce specific developmental activities. Regulatory exceptions should avoid sacrifice of long-term objectives for short-term gains. Investment promotion agencies should broaden their focus from image building to investor targeting, and to creating public-private partnerships for developing infrastructure and expanding trade. Governments can work with industry to foster linkages with small and medium-size enterprises (SMEs) and encourage broader corporate social responsibility. Thus, there is considerable scope to enhance national investment policies.

The policy experience in incentivising private investment in sustainable development activities is as yet nascent. There is need for demonstration projects, pioneering partnerships involving multiple stakeholders, and institutional capacity in the public sector receptive to positive engagement with the private sector. Governments should nurture an inclusive and broad-based policymaking environment, accepting that there are no universal policy prescriptions, model public-private partnerships, or ready criteria to screen sustainability. Finding the right policy mix will involve a collective process of discovery.

Apart from developmental needs, investment is also critical for trade. The recent WTO Trade Facilitation Agreement promises to reduce transaction costs at the country level by 10 to 15 percent (OECD 2014). The costs are estimated on the basis of arm's length trade—buy, ship, pay. However, as much trade—46 percent or more—is through corporate networks (UNCTAD 2013: 135, Figure IV.14), cost reductions have implications for investment and the rationalisation of international production. Reduced trading costs improve a country's locational advantages that attract efficiency-

1 "Sustainability" is defined here as "the active management of social, environmental and governance issues as a part of core business" (Accenture 2013: 11).

seeking FDI in the absence of other impediments. If FDI is not forthcoming, then the advantages of trade facilitation are less compelling. Alternatively, the potential benefits to a host country would multiply if trade facilitation proceeds in tandem with investment facilitation to attract FDI and promote linkages with domestic enterprises and SMEs that are active in segments of arm's length trade. Investment facilitation, therefore, is critical to the successful implementation of the Trade Facilitation Agreement.

This year, governments will finalise agreement on the post-2015 development agenda. They will embark on the design of national development strategies for 2030. They will also announce their Intended Nationally Determined Contributions for lowering global carbon emissions. The World Trade Organization (WTO) Trade Facilitation Agreement is expected to enter into force. Investment is common to all. The recent UN conference on financing for development (Addis Ababa, 13-16 July 2015) called on countries to enhance their investment capabilities, and governments agreed to "support these efforts through financial and technical support and capacity-building, and closer collaboration between home and host country agencies" (UN 2015, paragraph 45).

Is such support likely? Development fatigue and budgetary constraints notwithstanding, governments are receptive to partnering with the private sector (as seen at the Busan Forum on Aid Effectiveness, Korea, 2011). In a follow up to that meeting, 161 countries and 56 organisations have endorsed the principles of the Global Partnership for Effective Development Cooperation (see <http://effectivecooperation.org>). Also, the Council of the European Union adopted (in December 2014) a framework for catalysing a stronger private sector role in development cooperation, which includes innovative financial instruments and mechanisms; scaling up of structured dialogue and inclusive business models; and corporate social responsibility. The rationale for such cooperation is enlightened self-interest—leveraging donor assistance to enlist private resources (burden sharing) to support recipient countries in implementing shared commitments on trade and sustainable development.

THE CONTOURS OF AN INTERNATIONAL SUPPORT PROGRAMME FOR SUSTAINABLE INVESTMENT FACILITATION AND OPTIONS TO IMPLEMENT IT

What is required, therefore, is an international support programme for sustainable investment facilitation. It would focus on practical ways and means—the “nuts and bolts”—of encouraging the flow of sustainable FDI to developing countries and, in particular, the least developed among them. It would be situated in a context in which all countries seek to attract FDI in general, typically through national investment promotion agencies (but increasingly also through a growing number of sub-national agencies), but would concentrate specifically on sustainable FDI. However, developing countries, especially the least developed countries, simply do not have the capacity to compete successfully in the highly competitive world market for FDI (IFC 2012). They need assistance—not only to obtain more FDI but also to obtain sustainable FDI. This is all the more important in light of the substantial investment needs that must be met, going forward.

Such a programme would complement the various efforts to facilitate trade, as undertaken in particular through the WTO-led Aid-for-Trade Initiative and the recently adopted WTO Trade Facilitation Agreement (which focuses on practical issues related to trade and does not deal with contentious issues that remain such as the access conditions for agricultural and other products). In a world of global value chains, the Aid-for-Trade Initiative and the Trade Facilitation Agreement address one side of the equation, namely trade, while an international support programme for sustainable investment facilitation would address the other side of the equation, namely international investment. But it would be unrealistic to expect that in today's world economy trade facilitation alone would achieve the benefits that are being sought without investment facilitation. If anything, the intertwining of trade and investment calls for a close alignment of investment and trade policies. Analogous to the WTO efforts (and in support of them), a sustainable investment support programme would be entirely technical in nature, focussing on a range of practical

actions to encourage (assuming economic FDI determinants are favourable) the flow of sustainable investment to developing countries, in particular the least developed among them, with a view to contributing to their economic growth and development. All these efforts, in turn, need the support of official development assistance, especially for least developed countries, to strengthen the basic economic determinants of FDI.

Before outlining the contours of such a programme, discussing the notion of "sustainable FDI" is in order. As outlined earlier, future investment needs are tremendous, especially if the world economy is meant to shift towards sustainable development—a key focus of the post-2015 international agenda. Such a shift will require not only quantitatively more FDI, but also qualitatively different FDI, and it will require that governments make special efforts to attract such investment, including through minimising risk associated with it. In particular, more capital will need to be attracted into sectors and activities that, traditionally, did not obtain as much FDI as is required to advance the sustainable development agenda. This applies, for instance, to infrastructure, health, and education, and may require special targeting efforts. At the same time, as countries translate the sustainable development agenda into laws and regulations, governments can be expected to facilitate and encourage sustainable FDI. This is commercially viable investment that makes a maximum contribution to the economic, social, and environmental development of host countries and takes place in the context of fair governance mechanisms, as concretised by host countries and reflected, for instance, in their incentives schemes.

There is of course the challenge of defining the sustainability characteristics of international investments. An international organisation or a non-governmental organisation could establish a working group to prepare, in a multi-stakeholder process, an indicative list of FDI sustainability characteristics that could be considered, for purposes of guidance, by interested governments seeking to attract sustainable FDI (including, for example, carbon dioxide-neutral foreign affiliates). The identification of such characteristics would also be helpful for governments wanting to encourage sustainable domestic investment. (UNCTAD's Investment Policy Framework for Sustainable Development and the OECD Guidelines for Multinational Enterprises could provide inspiration in this respect.) A definition of "sustainable FDI" is also increasingly required for investor-state disputes, as arbitration tribunals take the development impact of investments into account—as they should—when considering claims before them and, for that purpose, need criteria to evaluate such impact. The same applies to international investment agreements, as more and more of them make reference to "sustainable development" (see Gordon et al. 2014). Norway's new model bilateral investment treaty (BIT), in fact, speaks specifically about "sustainable investments" when it declares in its preamble, "Recognising that the promotion of sustainable investments is critical for the further development of national and global

economies as well as for the pursuit of national and global objectives for sustainable development."² The preamble of India's 2015 model BIT seeks to "align the objectives of Investment with sustainable development and inclusive growth of the Parties."³ Such a working group could also identify mechanisms that could be used to encourage the flow of sustainable investment, both at the national and international levels, that is, mechanisms that go beyond those used to attract FDI in general and benefit from it. At the national level, special incentives could be one of the tools used by governments for this purpose. At the international level, the working group could examine, among other things, what can be learned from established mechanisms, for example, the Clean Development Mechanism and the Clean Technology Fund.

To return to the sustainable investment support programme, it could address a range of subjects, beginning with transparency.

- *Host countries* could commit to making comprehensive information easily (online) available to foreign investors on their laws, regulations, and administrative practices directly bearing on incoming FDI, beginning with issues relating to the establishment of businesses, including any limitations and incentives that exist. Information about investment opportunities, as well as help in project development, would also be desirable. Host country governments, be they of developed countries or emerging markets, could also provide an opportunity for comments to interested stakeholders when changing the regulatory framework directly bearing on FDI, or when introducing new laws and regulations in this area. At the same time, they would of course retain ultimate decision-making power.

2 A draft version (13 May 2015) is at <https://www.regjeringen.no/contentassets/e47326b61f424d4c9c3d470896492623/draft-model-agreement-english.pdf>. The Joint Committee foreseen in that draft has, among its responsibilities (Article 23): "where relevant, discuss issues related to corporate social responsibility, the preservation of the environment, public health and safety, the goal of sustainable development, anticorruption, employment and human rights." See also the recent Brazil-Mozambique BIT (<http://www.iisd.org/publications/side-side-comparison-brazil-mozambique-and-brazil-angola-cooperation-and-investment>), which provides in its preamble: "Acknowledging the essential role of investment in the promotion of sustainable development, economic growth, poverty reduction, job creation, expansion or productive capacity and human development" and proceeds to say, in Article 10, entitled "Corporate Social Responsibility:" "The investors and investments shall strive to carry out the highest level possible of contributions to the sustainable development of the host State and the local community, by means of the adoption of a high degree of socially responsible practices, taking as a reference the voluntary principles and standards defined in Annex II – 'Corporate Social Responsibility.'" The Annex then spells out in some detail these principles and standards.

3 See "Model Text for the Indian Bilateral Investment Treaty" at https://mygov.in/sites/default/files/master_image/Model%20Text%20for%20the%20Indian%20Bilateral%20Investment%20Treaty.pdf. The Model Text also makes observing certain investor obligations a precondition for benefiting from the provisions of the treaty.

- From the perspective of investors, however, transparency is not only important as far as host countries are concerned, but also with the support offered to outward investors by their *home countries*. Thus, home countries (through a designated focal point) could commit to making comprehensive information available to their foreign investors on the various measures they have in place, both to support and restrict outgoing FDI. Supportive home country measures include information services, financial and fiscal incentives, and political risk insurance. Some of these measures are particularly important for SMEs.
- *Multinational enterprises*, in turn, could make comprehensive information available on their corporate social responsibility programmes and any instruments they observe in the area of international investment (such as the OECD Guidelines).

On the national institutional side, investment promotion agencies as one-stop shops could be the focal points for matters related to a sustainable investment support programme, possibly interacting and coordinating with the national committees on trade facilitation to be established under the Trade Facilitation Agreement.⁴ The role of such agencies in attracting sustainable FDI and increasing its benefits for the sustainable development of host countries could be recognised, and undertaken within the framework of a country's long-term development strategy. This could include their role in the following.

- Improving the regulatory framework for investment.
- Establishing time-limited and simplified procedures for obtaining permits, licenses, and so on.
- Identifying and eliminating unintended barriers to sustainable FDI flows.
- Engaging in policy advocacy (part of which could relate to promoting the coherence of the investment and trade regulatory frameworks).
- Rendering after-investment services.
- Facilitating private-public partnerships.
- Identifying opportunities for inserting the country in global value chains and targeting these.
- Promoting backward and forward linkages between foreign investors and domestic firms.
- And—very important—finding ways and means to increase the sustainable development impact of FDI in host countries.

Policy benchmarking could help investment promotion agencies further to foster their performance.

Investment promotion agencies could also play a role in the development of investment risk-minimising mechanisms needed to attract investment, especially in various types of infrastructure. They could also have a role in the prevention and management of conflicts between investors and host countries, including through providing information and advice on the implementation of applicable international investment agreements. If conflicts arise, they could seek to resolve them before they reach the international level. Institutionalised regular interactions between host country authorities and foreign (as well as domestic) investors would be of help in this respect.

Finally, as in the Aid-for-Trade Initiative and the Trade Facilitation Agreement, donor countries could provide assistance and support for capacity building to developing countries (especially the least developed ones) in the implementation of various elements of a sustainable investment support programme, beginning with an assessment of their specific needs and the identification of sources of international assistance. Support could focus on strengthening the capacity of investment promotion agencies as country focal points for the implementation of the sustainable investment support programme, and central country institutions to attract FDI and increase its benefits for sustainable development.

There are several ways in which a sustainable investment support programme could be moved forward. One option is to extend the Aid-for-Trade Initiative to cover investment as well. (It has already been expanded to cover infrastructure.) This would be a logical and practical approach that recognises the close interrelationship between investment and trade. It would also be in tune with already existing international frameworks such as the WTO's General Agreement on Trade in Services (GATS; transactions falling under Mode 3—"commercial presence"—account for nearly two-thirds of the world's FDI stock). The initial emphasis could thus be on investment in services, with a focus on sectors key to promoting sustainable development. Relevant initiatives might require a broader interpretation of the current Aid-for-Trade mandate. This approach could also benefit from the OECD's Creditor Reporting System that monitors where aid goes, what purposes it serves, and what policies it aims to implement. The matter could be taken up at a Global Review on Aid for Trade, as a first step in an exploratory examination of the desirability and feasibility of this approach. Alternatively, the current Aid-for-Trade Initiative could be complemented with a separate Aid-for-Investment Initiative; but, given the tight interrelationships between trade and investment, this would be a second-best solution.

4 In some countries, the trade and investment promotion functions are combined in one agency. Even in the absence of an investment support programme, it would make sense for the trade and investment focal points at the national level to cooperate.

Another, more ambitious and medium-term option to put a sustainable investment support programme in place is to expand the Trade Facilitation Agreement to cover sustainable investment as well. This could conceivably be done through an interpretation of that Agreement or through amending that Agreement; in either case, member states would have to agree. A subsidiary body of the Committee on Trade Facilitation (to be established in the WTO when the Trade Facilitation Agreement enters into force) could provide the platform to consult on any matters related to the operation of what would effectively be a sustainable investment module within the Trade Facilitation Agreement. Apart from such a module complementing the Trade Facilitation Agreement, such an approach could also build on the WTO's GATS and, more specifically, its commercial presence provisions.

However, it is uncertain when the required two-thirds majority of the WTO membership will have ratified the Trade Facilitation Agreement. It is also uncertain how the Trade Facilitation Agreement Facility (which is linked to the Trade Facilitation Agreement and was launched in July 2014) will function in its quest to act as a financing facility to support developing countries that are unable to access funds from other funding agencies. Moreover, member states would presumably wish to gather some experience with the operation of the Agreement before expanding it.

A third, and also ambitious, option is for all—or a group of interested—WTO Members to launch a Sustainable Investment Facilitation Understanding that focuses entirely on practical ways and means to encourage the flow of sustainable FDI to developing countries. It could be inspired by, and complement, the Trade Facilitation Agreement. Work on such an Understanding could be undertaken once the Doha Round is completed. Work could also begin in another international organisation with experience in international investment matters, especially the United Nations Conference on Trade and Development (UNCTAD), and also in the OECD or the World Bank. Or a group of leading outward FDI countries could launch such an initiative (which would, in effect, be a plurilateral approach); for instance, the top ten outward FDI economies (which include four emerging markets) accounted for four-fifths of world FDI outflows in 2014. The impetus could also come from the Group of Twenty (G20), which could mandate the initiation of such work, should it be judged desirable to put such an Understanding in place.

Finally, the objectives of a support programme for sustainable investment facilitation can also be reached if its elements were to be incorporated in international investment agreements. Some of these agreements contain commitments by the treaty partners to consult on the promotion of investment flows between them. But few contain binding commitments. Notable exceptions are the 2015 Brazilian investment treaties with Angola and Mozambique—among other things, they mandate the establishment of “thematic agendas” for cooperation and

investment facilitation, as well as dispute prevention, and the development of an institutional infrastructure, including a joint committee and ombudsperson, to implement the agreements.⁵ This is an approach that should be emulated in other international investment agreements, going forward—though it would be a piece-meal approach.

Every one of these options, the coverage of an investment support programme, and the policy implications of the interrelationships of investment and trade in a global value chain world would require careful study, discussions, and consultations. This could be done by any of the organisations mentioned in the preceding paragraphs or by a credible non-governmental organisation. It could be kick-started in pilot countries through a scoping exercise undertaken by a neutral organisation with good relations to governments and business to ascertain the interest of principal stakeholders in a sustainable investment support programme. Moreover, it would be desirable if a knowledge bank jointly organised by intergovernmental organisations with experience in the various aspects of international investment could be established, with a view towards helping developing countries attract sustainable FDI and benefitting from it as much as possible.

CONCLUSIONS

The issues mentioned for possible inclusion in an international support programme for sustainable investment facilitation, as well as the options outlined on how such a programme could be put in place, are illustrative. Some issues may not need to be included, while others might need to be added, and all of them need to be seen against the background of the importance of economic FDI determinants. If these determinants are unfavourable and investments are not commercially viable, even the best support programme is likely to have little effect. Concomitant productive capacity building is therefore critical. Similarly, options other than those outlined above of how a sustainable investment support programme could be implemented are conceivable. The key premise is the importance—and urgency—of creating more favourable conditions for sustainable FDI flows to meet the investment needs of the future. As governments and the private sector increasingly share this view, they will hopefully muster the political will and find the appropriate venue to put an international support programme for sustainable investment facilitation in place.

⁵ See “Cooperation and Investment Facilitation Agreement between the Government of the Federal Republic of Brazil and the Government of the Republic of Mozambique,” <http://www.iisd.org/publications/side-side-comparison-brazil-mozambique-and-brazil-angola-cooperation-and-investment>.

REFERENCES

Accenture. 2013. *The UN Global Compact-Accenture CEO Study on Sustainability 2013*. <http://www.accenture.com/SiteCollectionDocuments/PDF/Accenture-UN-Global-Compact-Acn-CEO-Study-Sustainability-2013.pdf>.

Brabeck-Letmathe, P. 2015. "Finance for a Water Secure World." <https://www.water-challenge.com/posts/finance-for-a-water-secure-world>.

International Finance Corporation. 2012. *Global Investment Promotion Best Practices 2012*. Washington, DC: World Bank, https://www.wbginvestmentclimate.org/uploads/Global%20Investment%20Promotion%20Best%20Practices_web.pdf.

Gordon, Kathryn, Pohl, Joachim and Bouchard, Marie. 2014. "Investment Treaty Law, Sustainable Development and Responsible Business Conduct: A Fact-finding Survey." OECD Working Papers on International Investment, Paris: OECD, <http://dx.doi.org/10.1787/5jz0xvgx1zlt-en>.

OECD. 2014. *The WTO Trade Facilitation Agreement: Potential Impact on Trade Costs*. <http://www.oecd.org/trade/facilitation>.

Prahalad, C. K. 2004. *The Fortune at the Bottom of the Pyramid: Eradicating Poverty through Profits*. Philadelphia: Wharton School Publishing.

UN. 2015. "Addis Ababa Action Agenda of the Third International Conference on Financing for Development." http://www.un.org/ga/search/view_doc.asp?symbol=A/CONF.227/L.1

UNCTAD. 2013. *World Investment Report 2013. Global Value Chains: Investment and Trade for Development*, http://unctad.org/en/PublicationsLibrary/wir2013_en.pdf.

UNCTAD. 2014. *World Investment Report 2014. Investing in the SDGs: An Action Plan*. http://unctad.org/en/PublicationsLibrary/wir2014_en.pdf.

UNCTAD. 2015. "Recent Trends in IIAs and ISDS." IIA Issues Note, No. 1, Feb., http://unctad.org/en/PublicationsLibrary/webdiaepcb2015d1_en.pdf.

World Bank. 2014. *Doing Business 2015: Going Beyond Efficiency*. <http://www.doingbusiness.org/reports/global-reports/doing-business-2015>.

WEF. 2009. *The Next Billions: Unleashing Business Potential in Untapped Markets*. Geneva: World Economic Forum..

WEF. 2014. *Infrastructure Investment Policy Blueprint*. Geneva: World Economic Forum.

Implemented jointly by ICTSD and the World Economic Forum, the E15 Initiative convenes world-class experts and institutions to generate strategic analysis and recommendations for government, business, and civil society geared towards strengthening the global trade and investment system for sustainable development.



International Centre for Trade
and Sustainable Development



COMMITTED TO
IMPROVING THE STATE
OF THE WORLD