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**CENTRE FOR CO-OPERATION WITH NON-MEMBERS
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Emerging Market Economy Forum

**WORKSHOP ON "FOREIGN DIRECT INVESTMENT POLICY AND PROMOTION
IN LATIN AMERICA"**

Main Issues for Discussion

Lima, Peru, 15-17 December 1998

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INTRODUCTION

1. The main purpose of the workshop is to set up a policy dialogue between experts and policy makers in the OECD and EU countries and in Latin America on current international investment issues. The workshop will be held against the background of intensified efforts by Latin American governments to attract more foreign direct investment (FDI) to their countries, which are feeling the effects of the financial crisis that originated in Asia. It is expected that governments and regional organisations in Latin America, on the one hand, and those in the OECD and EU, on the other, have a mutual benefit in fostering foreign investment in Latin America, debating current international investment issues and spreading best practice in policy and promotion. This paper elaborates on the proposed agenda and sets out the main themes and issues for consideration by participants.
2. The agenda will consist of a policy-oriented part and an FDI promotion part. The former will provide participants with the opportunity to discuss the outlook for foreign direct investment in the light of the current financial crisis which has also affected this region of the world. It will discuss the policy responses that this new situation requires. The international policy framework for foreign direct investment including the efforts by the OECD to create a multilateral framework for investment will be discussed as well.
3. The latter part of the agenda will discuss the concept of best practice in promoting FDI in Latin America and ways to create an attractive environment for investors. The role of governments, FDI promotion agencies and international organisations will be highlighted, and case studies of promotion agencies' and investors' experiences will be presented.
4. The workshop will be concluded by an evaluation of the main findings and by drawing conclusions on the policy implications and responses and a possible follow-up.

I. FOREIGN DIRECT INVESTMENT: TRENDS, ASSESSMENTS AND POLICIES

1. *FDI In Latin America in the Current Financial Environment*

5. The first session will set the background on global investment trends and deal with the prospects for FDI in Latin America, in particular in the light of the recent financial crisis that originated in Asia, but has also hit Latin America. Indeed, a number of countries have experienced sharp reversals of their capital inflows. At present, Latin American countries are confronted with the challenge to continue to attract long-term foreign capital in the wake of a general flight of capital away from many emerging markets.

6. Participants will have the opportunity to consider the implications for Latin America of this rapidly changing environment and the new challenges it poses.

7. Foreign direct investment world-wide grew strongly in the 1980s and, after a brief relapse in the early 1990s, grew faster than both world trade and output. International direct investment is one of the major engines of economic integration. Its growth has encompassed an increasing number of countries and companies.

8. Among the main drivers of this changing environment have been :

- the world-wide move towards free trade and free market economies with increased deregulation and privatisation;
- more global competition between companies, coupled with the unrelenting demand for competitive costs and quality products;
- new technologies which have enabled, for example, communication and transportation to dispense with or dilute the barrier of distance from markets;
- emerging new industry sectors based on new technologies and innovations (for example, electronic commerce, multimedia, new materials, biotechnology);
- ecological factors demanding new standards and services;
- and the ever-increasing competition between countries and investment promotion agencies (IPAs) to attract investment.

9. FDI has entailed a structural transformation of various economies. Many countries have reversed a legacy of inward-looking policies through far-reaching liberalisation, *i.a.* of FDI, and economic reform. In many countries, foreign firms have played a major role in the process of growth and diversification and FDI has been a key part of the outward-oriented development strategies of successive governments.

10. Historically, FDI has played a prominent role in economic development in Latin America. Before the 1980s, the region was the prime recipient of FDI among developing countries, accounting for nearly 50 per cent of total FDI to these countries. From the 1980s on, competing destinations, such as the South East Asian countries began to attract increasing shares of the total FDI flows to non-OECD countries. However, there has been a resurgence of investor interest in Latin America in recent years: *e.g.*

over 1996, over US\$38 billion, representing 30 per cent of all FDI inflows to developing regions, was invested in the wider Latin American and Caribbean region. Another feature of FDI patterns in Latin America in recent years has been the increasing level of FDI by Latin American countries in countries in the same region.

11. Nevertheless, the region is regularly hit by general crises of confidence, which originate in a particular country in the region (Mexico, 1994), or even in countries outside the region (as at present). In some Asian countries, the present crisis has provoked a tendency to revert to more protectionist policies, including notably controls on cross-border capital flows. However, in other countries (such as Thailand), certain restrictions on FDI have been relaxed. In Latin America, the response has generally been not to deviate from the policies pursued in the past few years, which have a record of serving the countries well. Participants may want to discuss the reasons for these different responses and their merits in dealing with the current difficulties. They may also want to assess the prospects for reversing the recent capital outflows and the policies that would help bring this about.

Issues for discussion

- *What has been the effect of the recent financial crisis on FDI trends and prospects in Latin America ?*
- *What should be the policy response to cope with the current problems and to seek a reversal of recent capital outflows ?*
- *Do participants agree that the current problems are no reason to deviate from the liberalising policies pursued until now, or that such policies may even help to meet the attendant challenges ?*

2. The International Policy Framework for Foreign Direct Investment

12. At the second session, participants will be invited to discuss the efforts to develop a multilateral framework for investment and the involvement of Latin American countries in these efforts and in developing inter-American investment policies.

13. More and more aspects of foreign investment are governed and guided by international instruments. These take a variety of forms such as:

- legally binding multilateral instruments (for example, the OECD Code of Liberalisation of Capital Movements and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions);
- bilateral investment protection treaties;
- policy recommendations of international bodies (such as the World Bank/IMF Development Committee “Guidelines for the Treatment of International Investments” of 1992).

14. The OECD Members, via their work on, e.g., bribery and harmful tax competition, have been seeking agreement on ways to ensure fairness and transparency in international policy. They have agreed

on the need for and value of a multilateral framework for foreign investment, while noting that serious concerns have been raised during the negotiations of a Multilateral Agreement on Investment. These include issues of sovereignty, labour relations, environment, culture and other important matters.

15. The OECD Members have agreed that time is needed to take stock of these concerns and to assess how to accomplish the goal of developing a multilateral framework for investment. They will want to broaden the participation of non-OECD Members and engage in further discussions with business, labour, NGOs and other relevant groups. This implies an opportunity for Latin American countries to be more involved in this process.

16. OECD representatives will outline the recent initiatives of the OECD to develop a multilateral framework for investment and on the way existing instruments and other work by the organisation could be used as building blocks for this effort. Experts from Latin America and elsewhere will be asked to assess how efforts in the region to create multilateral rules for investment could contribute to the development of a multilateral framework. Presentations on inter-American investment policies will be made. Participants may wish to discuss the way in which Latin American countries could become involved in this international dialogue on framework policies for FDI.

Issues for discussion

- *What is participants' view on the efforts to develop a multilateral framework for investment? What should be the framework's main features?*
- *To what extent could existing investment policies and instruments in Latin America be used as building blocks for these efforts?*
- *How could Latin American countries become involved in the efforts to develop a multilateral framework?*
- *What issues arise from inter-American investment policies and in the current world financial environment what development of these policies should be considered?*

II. BEST PRACTICES IN PROMOTING FDI IN LATIN AMERICA

3. *Creating an Attractive Environment for Investors*

3.1 The role of government departments and regional authorities

17. Liberalisation of the legal framework for FDI is an integral part of the overall reform process undertaken by countries that have been the most successful in attracting FDI. Many multilateral rules for investment stipulate that the legal environment for potential international investors should provide a non-discriminatory environment for foreign investors and adequate legal protection of investors and their investments. In addition, there are codes of corporate conduct, including the OECD Guidelines for Multinational Enterprises. Government departments have a central role and responsibility in creating this legal and institutional framework for FDI.

18. In the privatisation of telecommunications, for example, clear regulation will be the key to success for governments trying to stimulate new international investment. Good intentions are abundant and policy documents often recite the mantra that fully competitive regimes will only be achievable if the state withdraws its interest, if strong independent regulators are set up and if transparent rules are put in place. Bold steps at the political and administrative level seem in order for establishing the necessary regulation. The creation of a transparent and non-bureaucratic regulatory environment can potentially be a powerful advantage in competing for FDI.

19. Similarly, government departments and regional authorities have a vital role to play in a myriad of systems and approvals that can impact on investors: issues of work permits, certification of investors, import of essential equipment, *etc.* 'One-stop shops' have sometimes become just another level of regulation for investors. Are there issues here that need to be prioritised and addressed in improving the environment for FDI? What are the experiences of participants in tackling issues to improve the regulatory environment? What are the views of investors and potential investors on these issues and what appropriate action should countries take to address them?

3.2 The role of regional organisations

20. An expert from the Peruvian Eurocenter for Business Co-operation will make a presentation on the role of AL-INVEST in forging EU-Latin American Company Partnerships. The European Union is a significant trade partner and source of investment for the Latin American region. Forging trade and investment links entails business co-operation at numerous levels, for example, in marketing/distribution, technology exchange and licensing and joint-ventures. The presentation will describe the role of AL-INVEST (which has the objective of increasing European investment in Latin America and of enhancing trade between both regions), and set the background for discussion by participants on this important subject.

21. There is an increasing pattern of new sources of FDI emerging within regions. The role of regional organisations, in particular the Andean Community, in the promotion of intra-Latin American direct investment will also be presented and assessed.

Issues for discussion

- *How could administrative and regulatory reform help promote FDI? What has been the experience in facilitating administrative procedures for foreign investors in the region?*
- *What is the scope of activity and the record of multilateral organisations and Latin American regional organisations in stimulating investment? How can this be developed?*

4. *Expanding Business in Latin America: Case Studies*

4.1 *The Peruvian and Chilean Experiences: Case studies*

22. Continuing the discussion on investment promotion policy and practice experts from the Peru and Chilean Foreign Investment Agencies will present their experiences in promotion of foreign direct investment. This session will describe the programmes undertaken by these countries to attract investment and the level of success and progress to date. It will highlight the practical issues and challenges for an agency in the region and allow participants to compare and share their experiences. There is no single model for success in investment promotion, but each country or IPA in developing their own strategies can benefit from the experience of other IPAs.

Issues for discussion

- *What new advice and suggestions can be gleaned from the practical experience of FDI promotion agencies in the region? Could participants identify the key elements defining best practices in investment promotion ?*
- *How do IPAs evaluate their own performance in attracting FDI and how do private investors judge these efforts ?*
- *What is the scope for co-operation among IPAs, e.g. in jointly promoting their region, or in other fields of activity ?*

4.2 *Private Sector Case studies*

23. The views of existing investors in Latin America are an essential ingredient of a constructive dialogue on investment promotion policies in the region. Senior executives from manufacturing and service businesses will present their experiences of investment and expanding their businesses in Latin America. Among the issues to be addressed are the rationale for their investments, the degree to which these investments have realised their investment objectives, and their overall experience of dealing with IPAs and regulatory authorities. In addition, this session should clarify the way foreign investors look upon the region, the advantages and disadvantages of investing in Latin America, how obstacles and barriers were overcome and what key suggestions they might make to assist countries or IPAs in implementing their FDI promotion strategies.

24. Throughout the 1990s, privatisation programmes have given a major impetus to foreign direct investment. Privatisation sales to foreigners accounted for almost one half of total FDI inflows to Argentina between 1992 and 1995. In Chile, the process of privatisation began much earlier than in the rest of Latin America and has proceeded in phases over the past two decades. A third of recent FDI in Brazil is accounted for by privatisation, according to a Central Bank study. These facts illustrate the importance of FDI to the region and its role in supporting privatisation.

25. Much of the privatisation-related investment has been in infrastructure and utilities. Between 1984 and 1997, seven Latin American countries sold all or part of their public telephone companies and netted US\$20 billion in the process. By the end of 1998, at least another five countries expect to follow suit according to a recent *Financial Times* study. Hence, the region is largely committed to having a fully privatised, liberalised telecommunications sector in the next decade, although progress towards this goal is far from synchronised.

26. The significant role played by privatisation in attracting foreign investment and in modernising and commercialising vital infrastructure is undeniable. As a corollary to privatisation, planning and investment in international infrastructure in certain sectors, such as telecommunications, are shifting from the public to the private sector.

Issues for discussion

- *What have been the main driving forces of FDI into Latin America ? How have these factors been affected by the recent financial crisis ? What are the prospects for the future ? What countries and sectors are the best prospective sources for new FDI in Latin America ?*
- *How have patterns of investment within the region changed; why have some countries fared better than others in attracting FDI ?*
- *What is the outlook for a further increase of intra-Latin American FDI and for a wider diversification of FDI by target countries ?*
- *What policy guidance or advice on promotion practices can be derived from the experiences of investors in the region?*

5. Investment Promotion Techniques and The Role of Investment Promotion Agencies

27. Investment promotion is becoming increasingly global and competitive as countries and regions strive to attract FDI. Similar to commercial business, success in investment promotion today may be determined by the policies, strategies and techniques applied and the surrounding legal and institutional framework in a country.

28. This session will provide a forum to discuss the critical need to ensure best practices in designing and implementing marketing and promotion programmes to attract investment and the role of IPAs. Recognising that IPAs are, to some extent, each other's competitors, it will also address the question what the scope is for co-operation among IPAs of different countries and in which fields such co-operation would be beneficial to all parties involved. Key issues here are:

- the mandate, structure and funding of IPAs;
- developing relevant and effective investment policies and promotion strategies aimed at target markets, sectors and investors;
- servicing investors, importance of investor aftercare and repeat investment;
- measuring performance, market share and the costs/benefits of FDI;
- gaining understanding and acceptance of the FDI promotion strategy within the national industrial policy framework;
- seeking action to build essential skills and infrastructure.
- exploring the scope for sharing experiences, joint promotion and increased co-operation between IPAs in the region

III. CLOSING SESSION: POLICY RESPONSES

29. The closing session will draw together the policy responses and conclusions from the earlier discussions. Rapporteurs will present their reports of the discussions at the preceding three days. On this basis, overall conclusions of the workshop will be formulated, including proposals and suggestions for a possible follow-up.

Background materials

- *Overview of the OECD Legal Instruments on International Direct Investment*, February 1998
- *Basic Elements for Foreign Investment Legislation*; OECD Centre for Private Sector Development, 1998
- *Findings of the OECD's Work on Foreign Direct Investment*, SG/DNME/CIME(97)6, 20 November 1997
- *Foreign Direct Investment and Economic Development; Lessons from six Emerging Economies*, OECD Publications, 1998.