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Article

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Suggested Citation: Ferrarini, Benno (2003) : A Multilateral Investment Framework: Would It Be Justifiable on Economic Welfare Grounds?, Aussenwirtschaft, ISSN 0004-8216, Universität St.Gallen, Schweizerisches Institut für Aussenwirtschaft und Angewandte Wirtschaftsforschung (SIAW-HSG), St.Gallen, Vol. 58, Iss. 4, pp. 491-519

This Version is available at:

<https://hdl.handle.net/10419/231039>

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A Multilateral Investment Framework: Would It Be Justifiable on Economic Welfare Grounds?

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Meinungsverschiedenheiten über die sogenannten «Singapore Issues», und insbesondere beim Thema Investitionen, waren eine der wesentlichen Ursachen für das Scheitern der Verhandlungen der 5. WTO-Ministerkonferenz, die Mitte September 2003 in Cancun stattfand. Nach etlichen Jahren sehr kontroverser Diskussionen in der WTO-Arbeitsgruppe «Handel und Investitionen» ist die Zurückhaltung vieler Mitgliedstaaten, formelle Verhandlungen über die Ausweitung der WTO-Regeln auf ausländische Direktinvestitionen aufzunehmen, nicht überraschend. Auch in der wissenschaftlichen Literatur hat sich noch keine erkennbare Unterstützung für ein multilaterales Investitionsabkommen gebildet. Im vorliegenden Artikel werden die möglichen Wohlfahrtswirkungen eines multilateralen Rahmenabkommens über Investitionen untersucht, die sich sowohl in Bezug auf die Herkunfts- und Zielländer von ausländischen Direktinvestitionen als auch auf globaler Ebene ergeben. Im Ergebnis gibt es weder in analytischer noch empirischer Hinsicht überzeugende Gründe, die positive Wohlfahrtswirkungen für überwiegend investitionsempfangende Staaten, d.h. für die ärmsten unter den WTO-Mitgliedstaaten, erwarten lassen.

Keywords: WTO, Multilateral Investment Framework, FDI, welfare effects

JEL-Codes: D61, F13, F21, K33

1 Introduction

After the resounding failure of negotiations on a Multilateral Agreement on Investment (MAI) by OECD members in the mid-1990s, the European Union and a few other industrialised countries have renewed their efforts to put formal negotiations on multilateral investment rules on the World Trade Organization (WTO) agenda. However, these efforts experienced yet another major blow, as the negotiations at the recent WTO ministerial meeting in Cancun, Mexico, broke down, partly because of fundamental disagreements among Members on the very issue of investment.¹ Since 1996, when the WTO established a Working Group with a

1 The biggest controversy characterising the Doha Round, including the Cancun ministerial, is certainly over agricultural protectionism, and in particular rich countries' farm subsidies. Nevertheless, the failure to agree on the so-called "Singapore Issues" (i.e., trade facilitation, transparency in government procurement, international rules on competition, and investment), has had a decisive role in leading to the break-down of the negotiations.

mandate to study investment issues in more detail², its member states have been discussing the desirability of further multilateral disciplines on the national regulation of foreign direct investment (FDI). These discussions have brought forward a number of highly controversial arguments, both within and between the group of *demandeur* countries, such as the European Union, the United States, South Korea, and those countries vehemently opposing an extension of WTO rules to all FDI flows, such as India, Pakistan, and Egypt. FERRARINI (2003) provides a critical analysis of the main arguments presented in the submissions to the WTO Working Group on the Relationship between Trade and Investment (WG TI), and finds that many lines of argumentation by the *demandeur* countries for a multilateral investment framework (MIF) are not compelling on analytical and empirical grounds. Here, in contrast, the focus will be exclusively on the more scholarly literature that has recently formed around the question as to whether a case for a MIF can be made on economic welfare grounds.

The next sections are organised as follows: the second section gives a brief overview of the main issues at stake in the MIF-debate. The third section turns to the economic analysis of the likely welfare effects a MIF. The fourth section concludes.

2 Paragraphs 20-22 of the Doha Declaration specify the matters for discussion within the Working Group:

"20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that session on modalities of negotiations.

21. We recognize the needs of developing and least developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship between Trade and Investment will focus on the clarification of scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation; and the settlement of disputes between members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment." (WTO Doc. No. WT/MIN(01)/DEC/1, p. 5).

2 A Brief Overview of the Main Issues At Stake

Today, most countries let in FDI. This is in part the result of an acceleration of the liberalisation of domestic investment regimes during the 1990s, particularly by developing countries. However, countries tend not to grant unrestricted rights of entry to all investors and to all types of investment. Restrictions on investment typically remain in those sectors considered of national interest, such as telecommunications, health services, and other public utilities. Developing countries, in particular, impose restrictions on entry and on the operation of foreign firms in order to enhance the economic impact of FDI.

The economic rationale for regulating FDI, instead of granting unfettered market access to foreign operations, derives mainly from the fact that FDI typically takes place in concentrated industries and that such FDI generates externalities. Host countries, therefore, see a scope for government intervention so as to close the gap between private and social returns from these investments. In the main, national FDI policies are directed to influence the nature and the impact of FDI, particularly with regard to externalities and spillovers in the domestic economy.

The principal issue in the debate on the desirability of a MIF is the trade-off between any restrictions on the national policy space that such a framework might imply, and the pursuance of efficiency in the allocation of capital. Therefore, the debate between proponents and opponents of an MIF essentially boils down to a long-standing (and unsettled) question as to how far government intervention is necessary to improve investment allocation and economic performance, and to what extent such interventions may lead to further distortions and inefficiencies. In theory, the presence of market failures justifies government intervention and may be necessary to improve economic efficiency. In practice, government intervention frequently exacerbates distortions and hampers static and dynamic economic efficiency. At present, both theoretical and empirical research in the field of FDI is inconclusive, failing to clearly sustain a case in favour of – or against – restrictions on government intervention.

WTO members in favour of a MIF claim that such an agreement would be necessary to overcome the deficiencies of the current patchwork of bi-

lateral, regional, and multilateral rules on investment³, so as to provide international investors with a system of transparent, stable, and predictable set of rules to facilitate these transactions. This, it is said, would not only benefit the countries where such investments originate by raising investment possibilities and returns, but also host countries which would benefit from higher international investment flows to their economies resulting from a more favourable business environment. More generally, it is claimed that host countries would gain from MIF-induced positive changes to their institutions and economic systems, becoming more transparent and less prone to state-created distortions and corruption.⁴

Opponents to a MIF argue that the current system of international rules on investment and unilateral measures provide all of the necessary legal foundations for international investment to take place, while leaving host countries the necessary flexibility to regulate investment so as to meet national development plans. In their view, a MIF would have the effect of limiting the scope for government intervention to an extent that is considered incompatible with the imperatives of economic growth and development. At the same time, they contest the claim that a MIF would lead to significantly higher investment flows.⁵

Some recent economic analysis has focused on the likely global effects from further multilateral disciplines on the regulation of international investment flows. Although most of these studies show that the overall effects from a MIF are likely to be positive, they have not found clear and substantial economic gains for developing countries. Put differently, with the exception of benefits accruing to all countries from multilateral regulation of financial and fiscal incentives for FDI, the welfare gains of other

3. FDI flows are currently influenced at the international level by bilateral investment treaties (BITs) and by regional trade agreements (e.g. EU, NAFTA, ASEAN, etc.). At the multilateral level, the WTO already includes agreements directly regulating FDI or national investment policies that have consequences for international trade. The General Agreement on Trade in Services (GATS) regulates FDI policies of member countries insofar as FDI represents a mode of supply of services. The Agreement on Trade-Related Investment Issues (TRIMS) prohibits a number of operational measures on investment that, to some extent, undermine the effects of trade liberalisation under the General Agreement on Tariffs and Trade (GATT). All of these agreements are legally binding on signatories, and together cover virtually all global FDI flows (also see the *Appendix Table*).

4. For an exposition of this view, see the following submissions to the Working Group on the Relationship between Trade and Investment by the European Commission: WTO Doc. No. WT/WGII/W/110, WT/WGII/W/115, WT/WGII/W/122, WT/WGII/W/140, WT/WGII/W/140, WT/WGII/W/153. See also FERRARINI (2003).

5. A strong opponent to a MIF is India, whose key arguments put forward in the Working Group on the Relationship between Trade and Investment can be evinced from WTO Doc. No. WT/WGII/W/86, WT/WGII/W/148, WT/WGII/W/149, WT/WGII/W/150, WT/WGII/W/152, WT/WGII/W/153. See also FERRARINI (2003).

multilateral initiatives on investment tend to principally accrue to Transnational Corporations (TNCs) and their parent countries. In that case, those countries almost exclusively representing the importing side of FDI (which includes most of the developing economies) would need to be compensated in other fields of multilateral negotiations, such as market access in industrial goods. The following section offers a non-technical assessment of the desirability of a MIF on economic welfare grounds.

3 The Economic Rationale For and Against a Multilateral Framework On Investment

In the scholarly literature, five principal arguments have been put forward in this regard:

1. The “uncertainty” argument: investors may avoid a country because it has a history of frequent policy reversals, or whose commitments to reform are not deemed credible. A multilateral investment framework would anchor investors’ expectations and lead to increased FDI inflows.
2. The “transaction costs” argument: firms may confront significant transaction costs and increased uncertainty from differences in national rules governing FDI and the patchwork of existing bilateral, regional and plurilateral investment treaties. A multilateral investment agreement would lower such transaction costs, mainly by increasing the transparency of existing rules, leading to improved allocation of FDI and higher welfare.
3. The “political economy” argument: a multilateral investment agreement would serve as a means for governments to overcome the impediments to reform prevented by certain domestic constituencies.
4. The “international policy spillovers” argument: domestic law and regulation of FDI may have negative effects (spillovers, externalities) at a global level, leading to distortions in the allocation of investment, and/or to coordination failures which result in inefficient outcomes. A multilateral framework could overcome these problems, increasing global welfare.
5. The “grand bargain” argument: suppose developing countries – as FDI importers – are unlikely to gain much from a MIF. They could consider offering concessions on investment policies and at the same time demand reciprocal concessions in other fields of WTO negotiations where they can gain substantial benefits.

These arguments are now assessed in turn.

3.1 The Uncertainty Argument

Some commentators have argued that a MIF, besides making national policies more transparent, could help raise investor confidence in a country's policy reform programmes, thereby stimulating higher FDI inflows. HOEKMAN and SAGGI (1999, p. 2) note that "governments seeking to attract FDI may be pursuing all the 'right' policies without generating a significant 'supply response' because of a history of policy reversals. If investors are risk averse, they may avoid the country altogether, impose large risk premia, not transfer 'sensitive' technologies, etc. International agreements may then serve as a mechanism through which governments make irrevocable commitments and 'guarantees' against policy reversals, thereby anchoring expectations of investors".

Clearly, investor confidence is a necessary condition for FDI particularly in the case of greenfield investments, which usually involve significant amounts of sunk investment. Once an investment is made, the host country may have incentives to renege the agreement with the investor *ex post*, and directly or indirectly expropriate rents from the investor. Given the sunk costs involved, the TNC would not have much choice but to accept the new conditions imposed by the host, as long as the former continues to accrue some positive benefit.⁶ For investment to take place, therefore, it is essential that a commitment mechanism be in place so that the host country can credibly bind itself not to expropriate, or more generally degrade investments, *ex post*.⁷

There is reason to believe that an international agreement would create a strong incentive for signatories to comply, particularly by providing for trade sanctions to punish non-compliance. However, there are a number of alternative ways that a country has available to credibly commit to obligations, including bilateral investment treaties. Further investment protection is usually guaranteed in these treaties by provisions on international arbitration. Moreover, there is a strong case for arguing that a country will try to keep intact or increase its reputation in international financial markets and so will have a sufficiently strong incentive not to

6 Such a situation is usually referred to as the "hold up risk" in game theory.

7 It is a standard result of game theory that by binding itself not to defect on an agreement, which appears to make the agent worse off by sacrificing flexibility, may turn out to be in fact welfare improving for the same agent. However, studies in the field of incomplete contract theory have also shown that under certain circumstances it can be welfare improving to renegotiate the original contract rather than to comply.

behave in any way that could undermine the flow of future investment.⁸ If a country values its reputation, and many do, then the expectations-anchoring argument for a MIF would largely be undermined.

In sum, the arguments in favour of a MIF on credibility grounds have certainly some appeal, but are ultimately not compelling. Moreover, there is no hard evidence to support the hypothesis that a MIF would significantly increase FDI flows to countries that have already entered binding bilateral investment agreements, which overall seem to provide an adequate degree of investment protection. As far as host country commitments are concerned, the literature does not explain why existing multilateral commitments, particularly of progressive trade liberalisation within the WTO framework, are not considered by international investors to be a sufficient signal for long-term commitment and credibility.

3.2 The Transaction Costs Argument

From its submissions to the WGTI⁹, the European Union's justification for a MIF, on economic grounds, appears to be strongly relying on the assumption that multilateral rules on investment would secure more transparent conditions for long-term investment, and thereby benefiting not only investors, but also host countries through higher inflows of FDI. Furthermore, corruption-ridden host countries are thought to also directly benefit from the curbing effect increased transparency may have on domestic corruption.

Although there is not much dispute among scholars and practitioners alike concerning the fundamental and necessary role transparency plays in the proper working of markets, it is not evident from the existing empirical studies on the determinants of FDI that enhanced transparency alone would lead to significantly higher inflows of capital in the case of those countries that do not meet the fundamental requirements determining FDI flows, such as the size of the domestic market, and the presence and availability of physical infrastructure and human capital. Often-cited

8 A point raised by SINGH (2001). This argument is weakened if reputation is specific to local managers rather than directly to the country (MARKUSEN 1998). HOLEKMAN and SINGH (1999) have questioned the relative importance of multilateral binding rules as compared to the use of a variety of existing institutions devoted to the arbitration of disputes, such as the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID), the International Chamber of Commerce (ICC), and the UN Committee on International Trade Law (UNCITRAL).

9 In particular, WTO Doc. No. WT/WGTI/W/110.

anecdotal evidence on huge amounts of FDI flowing to notoriously non-transparent and corruption-ridden countries, such as China and Malaysia, over the last decade further corroborates the concerns about too much weight being attributed to the degree of transparency among a country's factors determining FDI inflows.

3.3 The Political Economy Argument

This line of argument is sustained on the assumption that an international agreement on investment could represent a necessary means for governments to overcome otherwise insuperable political impediments to removing costly restrictions on FDI flows. Indeed, it is frequently observed that developing countries' governments are unable to overcome opposition by certain local groups that are powerful enough to protect so-called unproductive rents. Such rents may be associated with distortions to the efficient allocation of capital, with deleterious consequences to host economies. Moreover, these rents are frequently accompanied by rent-seeking activities, including bribery and corruption. In such a context, the argument goes, with governments lacking power to impose a change on the *status quo*, an international agreement can in principle be helpful to overcome such resistance mainly for three reasons. First, once signed international agreements may offer the necessary political scapegoat when reformers face powerful local constituencies. Second, if an investment agreement is embodied within the WTO framework, it could be part of a larger package that offers significant benefits that can help "pay off" or compensate current beneficiaries of investment protection. Alternatively, those benefits can help galvanise other economic interests in favour of a comprehensive WTO package, where investment liberalisation is seen as the "price" of reforms abroad. Third, it is argued that a MHF could have stronger binding effects on current and future governments as compared to a bilateral agreement. This last point is related to the credibility argument mentioned above.

The validity of the political economy argument largely depends on one's assessment of the role of rents and rent-seeking processes in the development process. Broadly speaking, in the standard neo-classical framework¹⁰, the presence of rents typically signals inefficiency, and the best

10 "Standard" in the sense of basic, without, for instance, considering the insights from new institutional and information economics, which are fields that have developed within the neoclassical framework.

policy is to remove them altogether. Rent-seeking activities, on the other hand, are associated with a waste of potentially productive resources, adding to costs associated with the presence of rents. Some strands of economic theory distinguish between rents that are productivity-enhancing from those that are not. Accordingly, governments may do well by allocating super-profits to certain capitalists, as long as the latter have an incentive, or are forced, to use those rents productively.¹¹ Logically, if rents can be growth-enhancing, so can rent-seeking activities, provided that the latter make sure that rents are being allocated to those firms or industries that positively contribute to long-term growth, and are withdrawn from those that do not. It should be noted that only a few states¹², and then only in the presence of a combination of specific circumstances, have managed to control this complex process in a welfare-enhancing way. Hence, the reluctance by many authors to view rents as growth-enhancing, except in well-defined circumstances¹³, and the reluctance by many others, scholars and policy-makers alike, to view rents indiscriminately as welfare-reducing.

Notwithstanding these considerations, it may still be argued that a MIF may be necessary for governments otherwise unable to overcome domestic pressures from rent-earners that are in fact retarding growth and development. This may well be the case, but it remains difficult to envisage how this argument would be played out in the context of the WTO. Would those countries opposing a MIF be seen as unable to overcome powerful domestic lobbies? Conversely, could this line of argument be extended to implying that those countries demanding a MIF are not able to overcome pressures from their domestic business-community in search of rents that may come at a cost of host countries' welfare? As a matter of fact, even within advanced 'democracies', power and interest usually prevails over social objectives.

In sum, the political economy argument is a sensitive one. The assessment of the role of rents played in the economy is highly controversial, even at a country-specific level. Notwithstanding theoretical and empirical controversy, it remains difficult to imagine a multilateral framework that helps

but distancing themselves quite radically from some of its assumptions. More sophisticated analysis in the neoclassical framework does in fact recognise the potentially positive effects played by economic rents in the development process. See, for example, HULTMANS, MURDOCK and STEIGLITZ (2000).

11 See, for instance, KHAN and JOMO (2001).

12 Most notably, a number of East-Asian countries. See, for instance, WADE (1992), AXISDIN (2001), and KHAN and JOMO (2001).

13 Typically, in the case of scarce natural resources.

reducing unproductive rents while simultaneously maintaining those that are growth-enhancing. Rather, all rents would gradually be wiped out, to the satisfaction of those who view them as purely distortionary. It appears, from the submissions of low-income countries like India, that it is precisely on these grounds that a MIF is being strongly opposed.

3.4 The International Spillovers Argument

The arguments discussed so far all relate to the potential of a MIF to lead to higher degrees of transparency, credibility, and commitment, as compared to the standards already prevailing in bilateral and regional agreements. SANNA-RANDACCIO rightly notes that such arguments call for rules negotiated within WTO and that are primarily meant to “lock in the results of unilateral liberalisation of national FDI policy or to adopt standards prevailing in bilateral agreements.”¹⁴ Arguably, such rules would mainly reflect the interests of the international business community, so as to have guaranteed market access and investment protection at a multilateral level. From the submissions to the WGTI, it appears that transparency, credibility, and commitment are also the European Commission’s key arguments in favour of a MIF.¹⁵ However, it has just been argued that none of these arguments is ultimately compelling, as they do not make a clear case for cooperative action, at a multilateral level.

Some recent papers¹⁶ have thus pointed towards an alternative set of arguments in favour of a MIF. More specifically, they have questioned whether a MIF would represent a means to overcome international policy spillovers, i.e. the effect of host country policies on other countries, particularly the home countries of FDI, and *vice versa*. In other words, according to these authors, the crucial question in addressing the desirability of a MIF is whether or not its provisions are directed at eliminating market distortions and international policy spillovers caused by host countries on the one hand, and to eliminate market distortions created by foreign investors and home countries on the other hand. The logic of argument in these papers evolves mainly within the Walrasian neoclassical framework

14 SANNA-RANDACCIO (2000) p. 9.

15 See in particular WGTI documents No. WT/WGTI/W/110, WT/WGTI/W/115, WT/WGTI/W/122, WT/WGTI/W/140, WT/WGTI/W/141, and WT/WGTI/W/153, all accessible from the WTO’s webpage at <http://www.wto.org>.

16 See, for instance, HOFKMAN and SAVOGLI (1999; 2002); WORLD BANK (2003); and SANNA-RANDACCIO (2000).

underlying the first welfare theorem¹⁷, some features of which are briefly outlined next.¹⁸

Economic theory establishes that cooperative action is called for if individual actions taken by rational agents – including governments – result in sub-optimal collective outcomes. An outcome is said to be Pareto-inefficient if it is possible to propose some form of action (including an external credible commitment device, such as an international agreement) that raises the welfare of at least one agent or group of agents without making anybody else worse off. Conventional economic theory establishes that a Pareto-inefficient situation may arise in the following instances:

- The presence of market failures or exogenous distortions, such as policy interventions offsetting the efficient working of markets;
- A coordination problem, even in the absence of other market failures.

On this perspective, therefore, the desirability of a multilateral agreement on foreign direct investment depends on whether it represents the appropriate remedy to these causes of inefficiency, so leading to a gain in overall welfare without making some countries worse off.¹⁹ Both sources of inefficiency are considered in turn.

3.4.1 *Market Failures and/or Domestic Policy Distortions*

In theory, if markets were working properly, the so-called first best policy would be not to intervene at either the national or the international level. Here *laissez faire* ensures a Pareto efficient, welfare maximising outcome. In reality, market failures are the rule rather than the exception. Production by TNCs typically takes place in concentrated industries and may involve a variety of externalities²⁰ and spillovers. In the presence of such market failures, there is a clear economic rationale to intervene in the market, so as to improve on an inefficient market outcome.

Intervention may take a variety of forms. Abstracting from other than investment-related industrial policies, interventions may, for example, relate

17 Essentially, it states that a Walrasian general equilibrium always yields a Pareto efficient allocation of the social endowment.

18 This section, rather than simply summarising the main findings of the papers surveyed, lays out the logic followed there, without necessarily arriving at the same conclusions.

19 This analysis abstracts from distributional effects within countries.

20 An externality exists where the utility of a consumer or the production possibility of a producer is directly affected by the actions of another agent in the economy.

to bargaining between the host and the investor over the economic surplus from the TNC's operations in the domestic territory. Such economic super-profits (or rents) can be the result of market power accruing, for instance, from market concentration. FDI will only take place if the TNC perceives a gain and these firms attempt to use their market power to appropriate most of the rents themselves. However, the host nation wants to ensure that it derives benefits from the investment. Hosts respond by using TRIMs and other Host Country Operational Measures (HCOMs, see *Box 1*) to capture rents for their economy or, more generally, to ensure that the domestic benefits from FDI are maximised. HCOMs can be justified as attempts to fill the gap between social and private rates of return for foreign investments that create positive spillovers, such as knowledge transfers, or to deal with other market failures. From an economic theory point of view, such interventions can be welfare enhancing, but ultimately the outcome from intervention is indeterminate, depending on country-specific circumstances.

Empirical evidence, however, tends to demonstrate that only certain HCOMs have benefited host countries implementing them. MORAN (1998), for example, has argued that frequently HCOMs do not stimulate host country growth, and can even hinder it, particularly if they are targeted at protecting inefficient industries. However, MORAN (1998) and other prominent commentators, such as RODRIK (1987), recognise that certain HCOMs, particularly export performance requirements, can increase host country welfare by shifting rents from the foreign investor to the domestic economy. Similarly, BHAGWATI (1998), well known for his market-friendly views, suggests that the choice about FDI policy such as performance requirements should be left with host countries themselves, based on their own assessment of externalities and spillover effects on their economies. As a general rule, however, mainstream consensus on best policy practice requires that interventions, if necessary, should target market failures as directly as possible. For example, the introduction of strict competition policy is seen as a more appropriate measure to regulate market concentration than the use of restrictive investment policies.²¹

21 Also emphasized in HOEKMAN and SYGOT (1999); and DAS (1999).

Box 1 Host Country Operational Measures

Host country operational measures (HCOMs) are those concerning the operation of foreign affiliates in the home country's territory. They cover all aspects of investment and usually take the form of either restrictions or performance requirements. They are usually adopted to influence the location and character of FDI and, in particular, to increase its benefits in the light of national objectives.

1. HCOMs explicitly prohibited at the multilateral level, i.e. by the TRIMs Agreement:

- Local content requirements
- Trade-balancing requirements
- Foreign exchange restrictions related to foreign exchange inflows attributable to an enterprise
- Export controls

2. HCOMs that are prohibited, conditioned or discouraged by interregional, regional or bilateral agreements, but not at a multilateral level:

- Requirements to establish a joint venture with domestic participation
- Requirements for minimum level of domestic equity participation
- Requirements to locate headquarters for a specific region or the world market
- Employment performance requirements
- Export performance requirements
- Restrictions on sales of goods or services in the territory where they are produced or provided
- Requirements to supply goods produced or services provided to a specific region or the world market exclusively from a given territory
- Requirements to act as the exclusive supplier of goods produced or services provided
- Requirements to transfer technology, production processes or other proprietary knowledge
- Research-and-development requirements
- Measures contrary to the principle of fair and equitable treatment

3. HCOMs that are not prohibited (illustrative list):

- Restrictions on employment of key foreign professional or technical personnel, including restrictions associated with the granting of visas and permits
- Requirements to establish a joint venture with domestic participation
- Public procurement restrictions (e.g., foreign affiliates are excluded as Government suppliers or subject to providing special guarantees)
- Restrictions on imports of capital goods, spare parts, and manufacturing inputs
- Restrictions/conditions on access to local raw materials, spare parts, and inputs
- Restrictions on long-term leases of land and real property
- Restrictions to relocate operations within a country
- Restrictions to diversify operations
- Restrictions on access to telecommunications networks
- Restrictions on the free flow of data
- Restrictions relating to monopolies or participation in public companies (e.g., an obligation to provide a public service at a certain price)
- Restrictions on access to local credit facilities
- Restrictions on repatriation of capital and profits (e.g., case-by-case approval, additional taxation or remittances, phase out of transfers over a number of years)
- "Cultural" restrictions, mainly in relation to educational or media services
- Disclosure of information requirements (e.g., on the foreign operations of TNCs)
- Special requirements on foreign firms in certain sectors/activities (e.g. on branches of foreign banks)
- Operational permits and licences (e.g., to transfer funds)
- Special requirements on professional qualifications, technical standards
- Advertising restrictions for foreign firms
- Ceilings on royalties and technical assistance fees or special taxes
- Limits on the use of certain technologies (e.g., territorial restrictions), brand names, etc., or case-by-case approval and conditions
- Rules of origin, tracing requirements
- Linking local production to access or establishment of distribution facilities
- Restrictions related to national security, public order, public morals, etc.
- Training requirements
- Import restrictions, local sales requirements
- Linking export quotas to domestic sales

Source: UNCTAD (2001)

It should be emphasised that there is no consensus on this matter in the economics literature. Notwithstanding such inconclusiveness, it can be argued that in those instances investment policies do in fact raise host country welfare, a multilateral agreement imposing restrictions on the use of such measures could possibly raise the welfare of capital exporting countries by increasing TNC's return, but would not achieve a Pareto efficiency improvement, since the host countries' welfare would be reduced. This argument applies to all HCOMs including those prohibited by the TRIMs agreement.

At the global level, even when HCOMs do benefit the domestic economy, they have the potential of adversely affecting trade and investment flows with neighbours. If all countries were to effectively restrict FDI inflows, there could in theory be scope for cooperation. Yet, the benefits of such cooperation would accrue exclusively to those countries that are large net exporters of capital and those net importers with welfare-reducing policies in place. Taken to the extreme of a zero-sum game, where all benefits accrue to capital exporters and are mirrored by welfare losses to capital importing countries, no cooperative solution could exist.

Besides market failures, the efficient working of markets may be impeded by domestic distortions such as protective trade measures. In this case, an application of the theory of the second best leads to the conclusion that government intervention does not necessarily lower welfare and may well be welfare-improving instead. In this case, there is no clear-cut case for government intervention or for non-intervention.²² In sum, whether market failures or distortions, the preconditions for an international agreement curtailing the use of HCOMs to be globally welfare improving are not necessarily present.

Even in the absence of a coordination problem that can be directly remedied by an international agreement, there is one other set of circumstances where an agreement to curtail the use of HCOMs that raise developing countries' welfare can in fact be beneficial to all. HODKMAN and SAGGI (1999) describe the situation as follows:

"developing countries squarely represent only the host country view of FDI. Consequently, it will be very difficult to devise an international agreement on investment that is welfare enhancing for developing countries that successfully employ policy strategically. In this

22 See LIPSEY and LANCASTER (1956) for the original formalisation of the theory of the second best.

*case a cooperative solution would require that the negotiating agenda be expanded to include issues of interest to developing countries".*²³

In other words, developing countries could enter a "grand bargain" and link the investment-related issues with other issues that offer them substantial benefits. The merits of such an argument are further discussed below.

3.4.2 *Inefficiency as the Result of a Coordination Problem*

A strong argument in favour of a multilateral agreement on investment derives from the fact that incentives aimed at attracting FDI impose negative spillovers on the rest of the world. The extant literature typically examines this matter as a prisoner's dilemma problem, with the finding that only with binding commitments will governments maximise collective welfare. If a nation's government enters a bidding war to attract FDI, principally because it rationally expects other governments do to so, then it is quite possible for governments to pay a higher price for having FDI allocated to their countries than would have been the case. In this situation, investment incentives represent a transfer of resources from the host countries to TNCs and indirectly to their parent countries, as well as a distortion in the worldwide allocation of capital. Enforcing rules on subsidies to foreign investors by means of an international agreement could avert this socially sub-optimal outcome.

Although this is perhaps the most convincing argument in favour of multilateral rules, there are a few caveats that HOEKMAN and SAGGI (1999) have identified. First, a case for international coordination exists only if incentives are actually effective in altering the distribution of FDI flows. If not, countries have no incentive to offer such inducements, and there is no case for international collective action. Second, if there are potentially important externalities and spillovers to the domestic economy from FDI, and investors lack information about country-specific investment possibilities, incentives may act as an important signalling device as to where the return to investment is highest. In this case, incentives may raise locational efficiency of FDI and raise world welfare, though still with the distributional effects related to the transfer of rents from host countries to

23. HOEKMAN and SAGGI (1999) p. 9.

investors. Here, the analysis of investment incentives ceases to be a prisoner's dilemma. Third, investment incentives may take a number of forms, and are often delivered by using a combination of fiscal, financial, and other instruments. Therefore, an international agreement disciplining the use of incentives would necessarily need to be very intrusive by regulating, for example, domestic tax policies, competition policies, etc.

Box 2 Definition of Investment Incentives

Definition:

"Incentives are any measurable economic advantage afforded to specific enterprises or categories of enterprises by (or at the direction of) a government, in order to encourage them to behave in a certain manner. They include measures either to increase the rate of return of a particular FDI undertaking, or to reduce (or redistribute) its costs of risks. They do not include broader non-discriminatory policies, relating to the availability of physical and business infrastructures, the general legal regime for FDI, the general regulatory and fiscal regime of business operations, free repatriation of profits or the granting of national treatment. While these policies certainly bear on the location decision of TNCs, they are not FDI incentives per se. The main types of incentives used are fiscal incentives (e.g. reduction of the standard corporate income-tax rate, investment and reinvestment allowances, tax holidays, accelerated depreciation, exemptions from import duties), financial incentives (e.g. government grants, subsidized credits, government equity participation, government insurance at preferential rates) and market preferences (e.g. granting of monopoly rights, protection from import competition, closing the market for further entry, preferential government contracts). Other types of incentives frequently used include preferential treatment of foreign exchange and subsidised dedicated infrastructure and services."

Economic rationale for incentives:

UNCTAD points out that incentives are mainly used to correct market failures to reflect the wider benefits arising from externalities in production, and to reflect the gains that can accrue over time from declining unit costs and learning by doing. However, they also have the potential to introduce economic distortions that are analogous to subsidies on trade, and they involve financial and administrative costs.

Source: UNCTAD (1998, p. 102 Box IV.4)

Besides the concerns raised above, there are a few considerations that have not yet been clearly addressed. One refers to considering the bidding war as a prisoner's dilemma problem. It seems that some commentators are increasingly applying the prisoner's dilemma in a metaphorical sense, rather than considering its precise implications. For example, it should be noted that there exist alternative means to bring about the socially optimal outcome than a collective agreement not to offer subsidies. In fact, if a prisoner's dilemma game is repeated over time, there may be an incentive by the players to cooperate as long as the expected long run gains from cooperation (offering no investment incentives) more than offset the short run gains from not cooperating (offering incentives). Therefore, from a purely game-theoretical point of view, an explicit agreement with its enforcement machinery – which is what the WTO provides in the international trade context – is not necessary to achieve the optimal out-

come.²⁴ At a practical level, however, so long as investors are attracted by incentives and potential host countries believe they are, then there appears to be indeed a strong case for international coordination. The case for coordination would be even stronger in the case of investment diversion from developing to industrialised countries caused by uneven competition in the “incentives war” between these two groups of countries.²⁵

In sum, so far it seems that the restriction on the use of investment incentives is the single strongest rationale for international collective action. Given the economic interests at stake perhaps it is unsurprising that there has never been much momentum for international rule-making on this matter. The OECD’s MAI largely ignored the incentives issue, and today’s proponents of an investment agreement at the WTO seem not to have given it much consideration. Arguably, MIF proponents are likely to gain on two fronts from investment incentives. First, they have the financial muscle to successfully compete for those FDI projects where incentives do count. Second, government outlays on incentives are partly compensated by the rents accruing to domestic TNC’s profiting from the incentives paid to their subsidiaries abroad.

3.5 The Grand Bargain Argument

According to HOEKMAN and SAGGI (1999),

*“the ‘grand bargain’ argument is one of the raisons d’être of the WTO. In a nutshell, what the WTO process does is to allow countries to define a negotiating set that allows a variety of potential tradeoffs and deals to be crafted that are superior to the status quo ante. Because countries are restricted to the equivalent of barter trade in multilateral trade negotiations to achieve Pareto superior (cooperative) outcome, issues must be linked.”*²⁶

MORAN (1998) suggests developing countries could make concessions on the investment issue, as a *quid pro quo* for concessions by industrialised

24 Whether or not cooperation emerges spontaneously depends also on the relative size of the payoffs and how much policymakers value the future compared to the present. Yet another non-coercive solution is the “morality solution”, where reciprocal trust is a sufficient condition for cooperation to emerge. Arguably, the latter is a rather unlikely solution to emerge, especially if one takes a dim view of the motives of short-term oriented policymakers.

25 Although it should be noted that competition for FDI is mainly at a regional level, and among countries offering similar fundamental conditions (mainly relating to traditional gravity factors).

26 HOEKMAN and SAGGI (1999) p. 18.

economies in other areas of interest to them, such as market access in agriculture or industrial products. HOFKMAN and SAGGI (1999) note that policies other than investment, particularly in terms of further concessions under the existing GATT and GATS agreements, are likely to be more valuable negotiating chips for developing countries.

Implicit in the grand bargain argument is that developing countries have little to gain from multilateral rules on investment. Although this may be the case, if investment policy is one of the main pillars of national industrial policy, then matters differ. From the development perspective, if developing countries' growth prospects were to be negatively effected by multilateral rules on investment, many possible grand bargains are unlikely to be viewed favourably. This is not to say, however, that in a context of what some have termed the *realpolitik* of the WTO, the grand bargain argument may well be stronger than any other mentioned in this paper.

3.6 An Overview of the Likely Welfare Effects of a MIF

Table 1 summarises the main welfare effects of a MIF by focusing on the likely signs of the payoffs from multilateral rules on investment to a FDI-importing developing host country and an industrialised home country. For the sake of the following argument it is assumed here that industrialised countries represent exclusively the home country view of FDI, and developing countries exclusively the host country view. Following a similar classification as adopted in SAXENA-RANDACCIO (2000), multilateral rules on investment are grouped into three categories, as shown in *Table 1*.

3.6.1 *Multilateral Rules That Lock In Minimum Standards Already Prevailing Internationally*

The case for these rules broadly coincides with the transparency, credibility, and political economy argument discussed above. The main assumption here is that TNCs and their parent countries would strongly benefit from a MIF locking in the results of unilateral host country policy reforms and standards contained in bilateral agreements, particularly regarding market access and investment protection standards. Developing countries, in contrast, can potentially benefit from a MIF insofar as it fosters the implementation of growth and welfare-enhancing policy reforms which, in turn, could result in a more favourable environment for FDI.

and therefore increased inflows. Global welfare effects are assumed to be positive, but the intensity of effects is an unsettled empirical question.

3.6.2 *Multilateral Rules Addressing Market Distortions Created by Host Country Policies*

This argument broadly coincides with the international spillovers argument outlined above. More specifically, the likely welfare effects of HCOMs and investment agreements are considered. If a HCOM enhances the welfare of the host country, the effects of a MIF constraining its use is negative for host countries and is likely to be positive for home countries as their overseas investments are freed from the burdens of conditionality. The global effect, in the sense of the overall effect resulting from the interaction of host and home country governments, represents in this case a zero-sum game. In contrast, if HCOMs are inefficient, their removal is obviously welfare-enhancing. Here, there is no case for cooperation, as development countries should have incentives enough to unilaterally remove welfare-reducing performance requirements. (Nevertheless, the political economy argument might rationalise international collective action if consolidated rent-seeking patterns cause states to retain inefficient measures.)

The effects of a MIF constraining the use of investment incentives crucially depends on a number of assumptions: that investment incentives tend to divert FDI towards the highest bidders; that industrialised countries have an advantage in the incentives race by having “deeper pockets”; and that developing countries are only hosts to FDI. Such simplifying assumptions allow to make the point that a MIF constraining the use of investment incentives would probably reduce investment diversion towards industrialised countries, and reduce the transfer of rents from host countries to TNC’s and their parent countries.

With the exception of ‘wars’ over investment incentives, it appears from the above analysis that there is little case for international collective action on investment. However, SANNA-RASDACCIO (2000) and MORAN (1998) have a point in noting that such a case may well arise if a number of issues are linked within the investment framework.²⁷ For instance, host country operational measures could be linked to investment incentives, so

27. Which is not the same as the cross-issue linkage envisaged in the “grand bargain” argument.

Notes:

(+) and (++) denotes a positive welfare effect, respectively; (–) denotes a negative welfare effect; (0) denotes a zero effect, as seen by the players (developing and industrialised countries) according to their payoff structure (welfare effects). This does not imply that the global welfare effect would actually be zero.

(1) From a developing country perspective, higher commitment and credibility can have strong positive effects in terms of stabilisation of long-term development plans, particularly in the face of obstruction by powerful local constituencies. Besides the overall benefits at the domestic level, the international investor community is likely to respond to decreased uncertainty/risk with more and higher-quality FDI inflows to the country. On the other hand, more commitment comes at the price of less flexibility, to some extent, which some developing countries may view as a potential danger to long-term economic development.

(2) Positive, insofar as developing countries are also FDI exporters.

(3) The global effect depends on the positive effects at the national level, in terms of long-term welfare effects and economic growth prospects, and the negative effects, both from a home country and global perspective, from the conditions on FDI. Obviously, from a pure development perspective, the prohibition of beneficial host country operational measures has negative global effects. Therefore, “zero-sum” refers here to the payoff structure as perceived by the two players only.

(4) The global effect may well be positive or negative, depending on whether or not investment incentives act as signals increasing the efficient allocation of capital, or are simply distorting measures.

(5) Similarly to (1), the global welfare effect of a transfer of rents from a developing to industrialised country could be negative, particularly if the potential long-term implications for economic growth are considered (e.g., those arising from differences in return to capital).

(6) Likely to have strong positive effects on global welfare in terms of “long-term sustainability”. Yet, the negative effects of binding rules on investor behaviour may strongly reflect on their overall incentive to invest and the cost of foreign capital.

Source: SANNA-RANDACCIO (2000, Annex Table); adapted and expanded by the author.

creating an incentive for cooperation where there is none on either issue taken singularly (since they are zero-sum). This insight is not reflected within the debate at the WGTT. In fact, developing countries are traditionally opposed to giving up HCOMs, while industrialised countries have shown to be strongly reluctant to forego the use of incentives. Could both groups be persuaded to forgo their preferred measures under the auspices of a multilateral investment framework?

3.6.3 *Multilateral Rules Addressing Market Distortions Created by Foreign Investors*

TNCs can have strongly distorting effects on host countries. Such distortions mainly result from anti-competitive behaviour on the part of TNCs, including Restrictive Business Practices (RBP) such as transfer pricing, price fixing, market allocation agreements, and tied-selling. MORRISSEY (2000) and KUMAR (2001) have shown that RBPs are frequently as market- (including trade-)distorting as TRIMs and other HCOMs are, and therefore the rationale for outlawing the use of RBPs would be at least as strong as it is in the case of TRIMs. Nevertheless, binding rules on RBPs do not exist at a multilateral level. Recently, China, Cuba, India, Kenya, Pakistan, and Zimbabwe have co-sponsored a submission to the WGTT²⁸ demanding binding rules on RBPs to be put on the negotiation agenda, and reinforcing so developing countries' long-standing demand for constraints on TNC's actions as a *quid pro quo* for further liberalisation on their part. Industrialised countries, on the other hand, do not seem particularly inclined to consider such a proposal, in accordance with TNC's desire to face as few restrictions on investment as possible. As shown in *Table I*, this is yet another case where no cooperative international arrangement would be preferred by all parties, except in a context of issue-linkage with other provisions of a potential MIE.

In parallel to the WGTT, the Ministerial Declaration at Singapore has established a Working Group on the Interaction between Trade and Competition Policy (WGTCPP) with a mandate to study the relationship between trade and competition policies. Since it is beyond the scope of this chapter to deal with this issue in any detail, it will be sufficient here to note that FDI and competition are highly inter-related issues, as FDI takes typically place in concentrated industries. Host countries are particularly

28. See WTO Doc. No. WT/WGTFW/152.

concerned with the market power of TNCs since they usually lack effective national competition authorities and policies to deal with anti-competitive practices. Moreover, international cooperation on competition policy, particularly on enforcement matters, is often necessary to deal with anti-competitive behaviour in the global market place. *Table 1* shows that international competition rules would result in a transfer of surplus from TNCs to consumers. Also, increased competition would raise efficiency in production. Overall, the effect from increased competition is positive. Yet, governments in industrialised and developing countries alike may well face opposition to cooperation on competition policy matters if their firms are able to apply strong enough pressure (SANNA-RANDACCIO 2000).

4 Conclusions: Is there a Case for Negotiating a Multilateral Framework for Investment?

The preceding discussion has shown that most arguments in favour of a Multilateral Investment Framework are not compelling. Rather, it appears that there is little case for further international accords on economic grounds, with the important exception of the regulation of incentives to attract foreign investment. The latter are largely considered as beneficial by industrialised countries and their multinationals, and fall outside current proposals for an MIF. Moreover, although a MIF may raise total global welfare, it does not necessarily represent a desirable option for all countries, as it would largely undermine developing countries' flexibility to regulate foreign investment in the domestic economy.

An assessment of whether or not the benefits from multilateral rules on FDI are likely to outweigh the costs associated with the partial loss of scope and flexibility of government intervention in regulating FDI will crucially depend on country-specific instances and, ultimately, on contrasting perspectives on the efficacy of such measures. However, as long as some countries continue to view Host Country Operational Measures as a necessary instrument to ensure that FDI positively contributes to host country economic growth and welfare, and in the absence of compelling evidence against such measures, a MIF would not necessarily represent a Pareto-improvement over the current system of international rules governing FDI.

It is worth recalling that Paragraph 22 of the Doha Declaration requires that "any framework should reflect in a balanced manner the interests of

home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest.” If Paragraph 22 is to be understood as requiring that a multilateral investment framework be as development-friendly *as possible* then this may be reconcilable with *some* constraint on policy flexibility, as implied by the basic features of the EC proposals for a GATS-style, positive list approach to MIF. Having said that, if a MIF constrains the national policy space of host countries, then it should also include binding provisions regulating multinational enterprises’ practices.

If, in contrast, Paragraph 22 is read as requiring a framework on investment to be of benefit to all WTO members, then a MIF would have to be designed in a way so as to distinguish between HCOMs that are growth-enhancing from those that are not. Particular account of country-specific circumstances would be essential. It is not enough to have GATS-type country commitments and exceptions, as circumstances change and the policies that optimise the speed of development may change, too. Arguably, such a high degree of flexibility is practically impossible to be achieved by an MIF, and would partly undermine the very aim of the latter, i.e., to provide a set of stable and transparent rules on FDI. Indeed, given the lack of any intellectual consensus on what policies maximize the benefits from FDI, then a MIF may lock developing countries into a sub-optimal set of policy choices. Lack of predictability of the rules facing foreign investors may well be the price of maintaining sufficient flexibility to optimally respond to evolving national circumstances.

The question remains to be addressed concerning the reasons as to why it would be advantageous to have a MIF embedded in the current system of WTO rules, as compared to using the framework provided by alternative multilateral institutions. A satisfying answer, still outstanding, would need to address at least two sets of issues. First, it remains to be clarified to what extent the trade-focused WTO framework, based on the two pillars of “National Treatment” and “Most Favoured Nation” (MFN) treatment, would represent the appropriate basis on which to build a multilateral agreement on investment. Notwithstanding the obvious inter-linkages between trade in goods and services and foreign direct investment in today’s globalising production networks, a more thorough analysis of the financial aspects of FDI sheds doubts on the implications from analyses limited to the trade-related aspects of FDI alone. Second, the developmental concern WTO members have impinged upon the Doha Round mandate has also put the most controversial developmental aspects of FDI at the

centre of any future negotiation on this issue. It is not clear how the WTO would conform its capacity to appropriately regulate international investment, and thereby address the extremely complex issues concerning development finance in particular, from being merely a trade-oriented negotiation framework. The failure to do so will reinforce the opposition to a MFI by many member states, and could undermine the WTO's effectiveness as a negotiation framework achieving important advances in the progressive abatement of trade restrictions, as the serious failure to achieve an agreement on agricultural liberalisation in the Cancun negotiations has demonstrated.

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Appendix

Appendix Table A Comparison between Bilateral, Regional, and Multilateral Investment Agreements in Terms of Provisions Affecting the Entry and Operations of Foreign Investors

	Bilateral Investment Treaties	Regional and Interregional Agreements									Multilateral Agreements				
		ASEAN (1)	MERCO SUR (2)	APEC (3)	Islamic Conf. (4)	Arab League (5)	COME- SA (6)	Energy Charter Treaty	OECD Codes (7)	OECD Declara- tion (8)	NAFTA (9)	GATS (10)	TRIMS (11)	World Bank (12)	United Nations (13)
1. Restrictions	(a) Entry and Establishment	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Guide	
	(b) Ownership and Control													Guide	
	(c) Operational Conditions	Y		Y		Y	Y		Y	Y		Y		Guide	
	(d) Authorisation and Reporting	Y	Y		Y		Y							Guide, MIGA	
2. Incentives				Y	Y	Y	Y	Y	Y	Y (partly)			Y	Guide	
3. Standards of Treatment	(a) National Treatment		Y	Y	Y (partly)	Y		Y	Y	Y	Y	Y	Y	Guide	
	(b) MFN Treatment	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y		Guide	
	(c) Fair and Equitable Treatment	Y	Y			Y		Y	Y	Y				Guide	
4. Transfer of Funds	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y				Guide	
5. Protection Standards	(a) Minimum International Standard of Protection	Y	Y		Y			Y		Y				Guide, MIGA	
	(b) Expropriation	Y	Y	Y	Y	Y	Y		Y	Y				Guide, MIGA	

[illegible]

Notes: (1) Association of Southeast Asian Nations;

(2) Mercado Común del Cono Sur;

(3) Asia-Pacific Economic Cooperation: non-binding investment principles;

(4) Islamic Conference: Agreement on Investment;

(5) Arab League: Unified Agreement for Investment of Arab Capital among Arab States;

(6) Common Market for Eastern and Southern Africa;

(7) OECD: Codes of Liberalisation of Capital Movements and Current Invisible Transactions;

(8) OECD: Declaration on International Investment and Multinational Enterprises and Related Decisions;

(9) North American Free Trade Agreement;

(10) General Agreement on Trade in Services;

(11) Agreement on Trade Related Investment Measures;

(12) Guide = Guidelines on the Treatment of Foreign Direct Investment;

ICSID = Convention on the Settlement of Investment Disputes between States and Nationals of Other States;

MIGA = Convention establishing the Multilateral Investment Guarantee Agency;

(13) RBP = UNCTAD Multilaterally Agreed Set of Principles and Rules for the Control of Restrictive Business Practices;

GCP = Guidelines for Consumer Protection;

ILO = ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy;

Source: UNCTAD (1996: 140-3, Table V.3)