UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

BILATERAL INVESTMENT TREATIES 1995–2006:

TRENDS IN INVESTMENT RULEMAKING

UNITED NATIONS
New York and Geneva, 2007

NOTE

As the focal point in the United Nations system for investment and technology, and building on 30 years of experience in these areas, UNCTAD, through DITE, promotes understanding of key issues, particularly matters related to foreign direct investment and transfer of technology. DITE also assists developing countries in attracting and benefiting from FDI and in building their productive capacities and international competitiveness. The emphasis is on an integrated policy approach to investment, technological capacity-building and enterprise development.

The term "country" as used in this study also refers, as appropriate, to territories or areas; the designations employed and the presentation of the material do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. In addition, the designations of country groups are intended solely for statistical or analytical convenience and do not necessarily express a judgement about the stage of development reached by a particular country or area in the development process.

The following symbols have been used in the tables:

Two dots (..) indicate that data are not available or are not separately reported. Rows in tables have been omitted in those cases where no data are available for any of the elements in the row.

A hyphen (-) indicates that the item is equal to zero or its value is negligible.

A blank in a table indicates that the item is not applicable.

A slash (/) between dates representing years (e.g. 1994/1995) indicates a financial year.

Use of a dash (–) between dates representing years (e.g. 1994–1995) signifies the full period involved, including the beginning and end years.

References to "dollars" ($) are to United States dollars, unless otherwise indicated.

Annual rates of growth or change, unless otherwise stated, refer to annual compound rates.

Because of rounding, details and percentages in tables do not necessarily add up to totals.

The material contained in this study may be freely quoted with appropriate acknowledgement.

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PREFACE

The secretariat of the United Nations Conference on Trade and Development (UNCTAD) is implementing a programme on international investment arrangements. It monitors the trends in IIAs and analyzes the emerging issues and development implications. It seeks to help developing countries participate as effectively as possible in international investment rulemaking. The programme embraces policy research and development, including the preparation of a series of issues papers; human resources capacity-building and institution-building, including national seminars, regional symposia, and training courses; and support to intergovernmental consensus-building.

The programme is implemented by a team led by James Zhan. The members of the team include Victoria Aranda, Amare Bekele, Anna Joubin-Bret, Hamed El-Kady, Joachim Karl, Marie-Estelle Rey and Jörg Weber. The members of the Review Committee are Mark Koulen, Peter Muchlinski, Antonio Parra, Patrick Robinson, Karl P. Sauvant, Pierre Sauvé, M. Sornarajah and Kenneth Vandevelde. Khalil Hamdani provides overall guidance to the programme.

This paper is part of the programme's research and policy analysis on international investment policies for development. This research builds on, and expands, UNCTAD's *Series on Issues in International Investment Agreements*. Like that series, the paper is addressed to government officials, corporate executives, representatives of non-governmental organizations, officials of international agencies and researchers.

The main objective of this paper is to update UNCTAD's 1998 study entitled *Bilateral Investment Treaties in the Mid-1990s* and to identify trends in the normative developments of each of the elements typically addressed in BITs since this last stocktaking in 1998. The study traces and explains the new issues that have emerged in recent BITs and also sets out the implications of those developments for developing countries.

The study was prepared by Roberto Echandi and Anna Joubin-Bret. Joachim Karl, Amare Bekele, Bertram Boie, Hamed El-Kady and Jörg Weber finalized the paper. Comments at various stages were provided by Victoria Aranda, Rudolf Dolzer, Marie-France Houde, Mark Kantor, Karl P. Sauvant, M. Sornarajah, Ken Vandevelde and Christopher Wilkie. Desktop published by Teresita Ventura.

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Secretary-General of UNCTAD

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Contents

Page

TABLES