

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

INTERNATIONAL INVESTMENT AGREEMENTS IN SERVICES

**UNCTAD Series
on International Investment Policies for
Development**



**UNITED NATIONS
New York and Geneva, 2005**

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 dash (-) 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. 1994/95, indicates a financial year;

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

Reference to “dollars” (\$) means United States dollars, unless otherwise indicated.

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

Details and percentages in tables do not necessarily add to totals because of rounding.

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

UNCTAD/ITE/IIT/2005/2

UNITED NATIONS PUBLICATION
<i>Sales</i> No. 05.II.D.15
ISBN 92-1-112675-4
ISSN 1814-2001

Copyright © United Nations, 2005
All rights reserved
Printed in Switzerland

PREFACE

The secretariat of the United Nations Conference on Trade and Development (UNCTAD) is implementing a programme on international investment arrangements. It seeks to help developing countries to participate as effectively as possible in international investment rule-making. 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.

This paper is part of a new *Series on International Investment Policies for Development*. It builds on, and expands, UNCTAD's *Series on Issues in International Investment Agreements*. Like the previous one, this new series is addressed to Government officials, corporate executives, representatives of non-governmental organizations, officials of international agencies and researchers. The Series seeks to provide a balanced analysis of issues that may arise in the context of international approaches to investment rule-making and their impact on development. Its purpose is to contribute to a better understanding of difficult technical issues and their interaction, and of innovative ideas that could contribute to an increase in the development dimension of IIAs.

The Series is produced by a team led by James Zhan. The members of the team include Victoria Aranda, Anna Joubin-Bret, Martín Molinuevo, Elisabeth Tuerk and Jörg Weber. Members of the Review Committee are Mark Koulen, Antonio Parra, Patrick Robinson, Pierre Sauvé, M. Sornarajah and Kenneth Vandavelde. The Series' principal advisor is Peter Muchlinski.

This paper contains selected parts of the *World Investment Report 2004: The Shift Towards Services* (Sales No. E.04.II.D.36) as well as additional texts, specifically drafted for this publication. It has been prepared by Elisabeth Tuerk, with the assistance of Martín Molinuevo and Pia Buller. Karl Sauvant provided overall guidance. Comments were provided by Mina Mashayekhi.

Geneva, September 2005

Supachai Panitchpakdi
Secretary General of UNCTAD

ACKNOWLEDGEMENTS

UNCTAD's work programme on international investment agreements is implemented by a team of UNCTAD staff members and consultants headed by James Zhan. The team includes Bekele Amare, Hamed El-Kady, Anna Joubin-Bret, Federico Ortino, Anca Radu, Marie-Estelle Rey, Elisabeth Tuerk and Jörg Weber. Administrative support is provided by Séverine Excoffier-El Boutout and Josephine Lamptey. Desktop publishing was done by Teresita Sabico. Khalil Hamdani provides overall guidance.

UNCTAD has carried out a number of activities related to the work programme in cooperation with other intergovernmental organizations, including the Agence pour la Francophonie, Banco Centroamericano de Integración Económica, CARICOM Secretariat, German Foundation for Development, Inter-Arab Investment Guarantee Corporation, Inter-American Development Bank (BTD/INTAL), League of Arab States, Organization of American States, Secretaria de Integración Económica Centroamericana and the Secretaria General de la Comunidad Andina. UNCTAD has also cooperated with non-governmental organizations, including the Centre for Research on Multinational Corporations, the Consumer Unity and Trust Society (India), the Dutch Foundation for Research on Multinationals (SOMO) (the Netherlands), the Economic Research Forum (Egypt), the European Roundtable of Industrialists, the Friedrich Ebert Foundation (Germany), the German Foundation for International Development, the International Confederation of Free Trade Unions, the Labour Resource and Research Institute (LaRRI) (Namibia), Oxfam, the Third World Network and World Wildlife Fund International. Since 2002, a part of the work programme has been carried out jointly with the World Trade Organization (WTO).

Funds for the work programme have so far been received from Australia, Brazil, Canada, France, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the European

Commission. Argentina, Botswana, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Djibouti, Egypt, Gabon, Germany, Guatemala, India, Indonesia, Jamaica, Malaysia, Mauritania, Mexico, Morocco, Namibia, Pakistan, Peru, Qatar, Singapore, South Africa, Sri Lanka, Thailand, Trinidad and Tobago, Tunisia, Venezuela and Yemen have also contributed to the work programme by hosting regional symposia, national seminars or training events.

In pursuing this programme of work, UNCTAD has also closely collaborated with a number of international, regional and national organizations, particularly with the Centro de Estudios Interdisciplinarios de Derecho Industrial y Económico (the Universidad de Buenos Aires), the Indian Institute of Foreign Trade, the Legon Centre of Accra (Ghana), ProInversión (Peru), Pontificia Universidad Católica del Perú, the National University of Singapore, Senghor University (Egypt), the University of Dar Es Salaam (Tanzania), the University de Los Andes (Colombia), the University of Campinas (Brazil), the University of Lima (Peru), the Universidad del Pacífico (Peru), the University of Pretoria (South Africa), the University of Tunis (Tunisia), the University of Yaoundé (Cameroon), the Shanghai WTO Affairs Consultation Center (China) and the University of the West Indies (Jamaica and Trinidad and Tobago). All of these contributions are gratefully acknowledged.

TABLE OF CONTENTS

	Page
PREFACE	iv
ACKNOWLEDGEMENTS	v
LIST OF ABBREVIATIONS	x
EXECUTIVE SUMMARY	1
 I. THE GROWING IMPORTANCE OF SERVICES FDI AND ITS REGULATION.....	 3
A. FDI has shifted towards services	5
B. Liberalization and regulation of FDI in services	8
 II. SERVICES IIAS: THEIR EVOLUTION OVER TIME	 15
A. The growing multifaceted network of services IIAs	15
B. Services IIAs and their impact on FDI flows	16
C. The evolving nature of approaches covering FDI in services.....	17
D. BITs and FDI in services – different approaches	22
 III. SERVICES IIAS: THEIR KEY PROVISIONS AND SALIENT FEATURES.....	 27
A. The definition of investment.....	27
B. Investment liberalization	31
C. Investment protection	33
D. Performance requirements	35
E. Dispute settlement procedures.....	43
F. Approaches to negotiating commitments	46
G. Provisions covering specific service industries	51

	Page
H. Follow-up procedures	53
IV. COMPLEXITIES AND CHALLENGES	61
V. NATIONAL AND INTERNATIONAL POLICIES: A COMPLEX AND DYNAMIC INTERACTION.....	73
VI. CONCLUSION: A DEVELOPMENT-ORIENTED BALANCE	81
REFERENCES	87
SELECTED UNCTAD PUBLICATIONS ON TRANSNATIONAL CORPORATIONS AND FOREIGN DIRECT INVESTMENT	95
QUESTIONNAIRE	111

Figures

1. Reservations by sector in selected IIAs, by sector	49
2. Reservations on investment in services, by industry, selected IIAs	50

Boxes

1. The GATS and FDI in services	20
2. The GATS and subsidies.....	36
3. IIAs and public services	74

Table

1. Examples of services IIAs prohibiting various types of performance requirements pertaining to services, 2004	38
--	----

预览已结束，完整报告链接和二维码如下：

https://www.yunbaogao.cn/report/index/report?reportId=5_10294

