

**PROGRESS REPORT:
IMPLEMENTATION OF POST-DOHA TECHNICAL
ASSISTANCE WORK IN THE AREA OF INVESTMENT**

Report by the UNCTAD Secretariat



IT/2003/Prog/2

NOTE

UNCTAD serves as the focal point within the United Nations Secretariat for all matters related to foreign direct investment and transnational corporations. In the past, the Programme on Transnational Corporations was carried out by the United Nations Centre on Transnational Corporations (1975-1992) and the Transnational Corporations and Management Division of the United Nations Department of Economic and Social Development (1992-1993). In 1993, the Programme was transferred to the United Nations Conference on Trade and Development. UNCTAD seeks to further the understanding of the nature of transnational corporations and their contribution to development and to create an enabling environment for international investment and enterprise development. UNCTAD's work is carried out through intergovernmental deliberations, research and analysis, technical assistance activities, seminars, workshops and conferences.

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INTRODUCTION

1. In response to the mandate contained in paragraph 20-22 of the Doha Ministerial Declaration, UNCTAD developed a technical assistance programme in the area of investment that reflects consultations with a wide range of delegations in Geneva, especially from developing countries, and the Secretariat of the World Trade Organization (WTO).¹ This programme seeks to help implement the follow-up to the Doha mandate in the area of investment in close collaboration with the WTO, taking into account UNCTAD's experience with the implementation of its work programme on international investment agreements (IIAs).² The programme involves three areas of activities that emerged, in order of priority, out of the three elements identified in paragraph 21 of the Doha Ministerial Declaration: policy analysis and development, human resources capacity-building and institutional capacity-building.

2. The report below provides a summary and assessment by the UNCTAD Secretariat of its technical assistance activities carried out jointly with the Secretariat of the WTO, as

¹ See report of the Secretary-General of UNCTAD on "Capacity building and technical co-operation for developing countries, especially LDCs, and economies in transition in support of their participation in WTO Doha work programme" (UNCTAD/RMS/TCS of 1 February 2002), mimeo.

² UNCTAD's earlier work in this area was reported on in the booklets titled "Progress Report. Work undertaken within UNCTAD's work programme on international investment agreements between the 10th Conference of UNCTAD, Bangkok February 2000, and July 2002" (UNCTAD/ITE/Misc.58); and "UNCTAD's work programme on International Investment Agreements: from UNCTAD IX, Midrand (1996), to UNCTAD X, Bangkok (2000) (UNCTAD/ITE/IIT/Misc.26).

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well as independently, in 2002 and 2003, pursuant to paragraphs 20-22 of the Doha Ministerial Declaration. It also provides information on planned activities for the remainder of 2003.

I. IMPLEMENTATION

A. ACTIVITIES

3. The activities undertaken in 2002 and 2003 are listed in annex 1 of this Report. Most of the operational activities were carried out jointly with the WTO.

1. Policy analysis and development

4. Policy analysis and development work in the post-Doha period focussed on the FDI-trade and FDI-development nexus. More specifically, work concentrated on key concepts in international investment agreements, with a view towards deepening the understanding of the issues involved, exploring the range of issues that needs to be considered, identifying and protecting developing country interests and, in particular, ensuring that the development dimension is addressed. In this context, specific policy analysis work was initiated in autumn 2002, with the commissioning of a number of analytical papers on specific topics of relevance to the discussions, including, among others, on objective transition criteria, safeguards, the right to regulate, regional economic integration clauses, and experiences with home country measures. Some of these papers will become available shortly.

5. Work also continued on the UNCTAD Series on *Issues in International Investment Agreements* and the *World Investment Report* series. The IIA series comprised 23 papers

by the middle of 2003 (table 1), with the four outstanding papers (on *Transparency*, *Incentives*, *State Contracts* and *Competition*) nearing completion. To improve the user-friendliness of this Series, work also continued on the translation of these papers into the official United Nations languages. In addition, a *Glossary of Terms* is in the process of finalization, and all IIA papers and the *Compendium of International Investment Instruments* have been published on a user-friendly CD-ROM with interactive search facilities.

6. The *World Investment Report 2002: Transnational Corporations and Export Competitiveness* reported on the global downturn in FDI flows in 2001 and discussed policy options for developing countries to attract FDI and benefit from it. The *World Investment Report 2003: National FDI Policies and International Investment Agreements* will, in its thematic part, analyse ways and means to enhance the development dimension of foreign direct investment in the context of national policies and international agreements. It will also provide updated information about developments in the national and international legal framework for FDI. *WIR03* is scheduled for release on 4 September 2003.

7. In addition, the *Compendium on International Investment Agreements* was complemented with volumes VII, VIII, IX and X (Sales Nos. E.02.II.D.14; 15; 16, and 21 respectively). These new volumes of the *Compendium* contain further multilateral and regional instruments, investment-related provisions in free trade and economic integration agreements, association agreements, bilateral agreements and non-governmental instruments, and, for the first time, prototype bilateral double taxation treaties. Work also progressed with the statistical collection of BITs in electronic format.

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Table 1: IIA Issues Papers published as of June 2003 a/

<i>Admission and Establishment</i> (Sales No. E.99.II.D.10)
<i>Dispute Settlement: Investor-State</i> (Sales No. E.03.II.D.5)
<i>Dispute Settlement: State-State</i> (Sales No. E.03.II.D.6)
<i>Employment</i> (Sales No. E.00.II.D.15)
<i>Environment</i> (Sales No. E.01.II.D.3)
<i>Fair and Equitable Treatment</i> (Sales No. E.99.II.D.15)
<i>Foreign Direct Investment and Development</i> (Sales No. E.98.II.D.15)
<i>Home Country Measures</i> (Sales No. E.01.II.D.19)
<i>Host Country Operational Measures</i> (Sales No. E.01.II.D.18)
<i>Illicit Payments</i> (Sales No. E.01.II.D.20)
<i>International Investment Agreements: Flexibility for Development</i> (Sales No. E.00.II.D.6)
<i>Investment-Related Trade Measures</i> (Sales No. E.99.II.D.12)
<i>Lessons from the MAI</i> (Sales No. E.99.II.D.26)
<i>Most-Favoured-Nation Treatment.</i> (Sales No. E.99.II.D.11)
<i>National Treatment</i> (Sales No. E.99.II.D.16)
<i>Scope and Definition</i> (Sales No. E.99.II.D.9)
<i>Social Responsibility</i> (Sales No. E.01.II.D.4)
<i>Taking of Property</i> (Sales No. E.00.II.D.4)
<i>Taxation</i> (Sales No. E.00.II.D.5)
<i>Technology Transfer</i> (Sales No. E.01.II.D.33)
<i>Transfer of Funds</i> (Sales No. E.00.II.D.27)
<i>Transfer Pricing</i> (Sales No. E.99.II.D.8)

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