

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

LESSONS FROM THE MAI

UNCTAD Series
on issues in international investment agreements



UNITED NATIONS
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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.

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;

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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.

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IIA Issues Paper Series

The main purpose of the UNCTAD Series on issues in international investment agreements is to address key concepts and issues relevant to international investment agreements and to present them in a manner that is easily accessible to end-users. The series covers the following topics:

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Preface

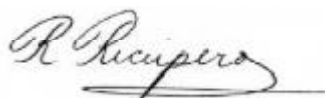
The United Nations Conference on Trade and Development (UNCTAD) is implementing a work programme on a possible multilateral framework on investment, with a view towards assisting developing countries to participate as effectively as possible in international investment rule-making at the bilateral, regional, plurilateral and multilateral levels. The programme embraces capacity-building seminars, regional symposia, training courses, dialogues between negotiators and groups of civil society and the preparation of a series of issues papers.

This paper is part of that series. It is addressed to government officials, corporate executives, representatives of non-governmental organizations, officials of international agencies and researchers. The series seeks to provide balanced analyses of issues that may arise in discussions about international investment agreements. Each study may be read by itself, independently of the others.

The paper's main purpose is to consider the factors that contributed to the decision to discontinue the negotiations on a Multilateral Agreement on Investment, with a view to drawing lessons therefrom that could be of use for future negotiations of international investment agreements. However, that is not to say that the detailed and extensive exchange of views, and the consideration of numerous concepts and provisions, not all of which were traditionally reflected in bilateral investment treaties, did not result in some common understanding. Indeed, there was a convergence of views on some of the substantive areas, but these achievements are beyond the scope of this paper.

The series is produced by a team led by Karl P. Sauvant and Pedro Roffe. The principal officer responsible for its production is John Gara, who oversees the development of the papers at various stages. The other members of the team include S. M. Bushehri, Obiajulu Ihonor and Jörg Weber. The work is carried out under the overall direction of Lynn K. Mytelka. The series' principal advisors are Arghyrios A. Fatouros, Sanjaya Lall and Peter T. Muchlinski. This paper is a slightly revised version of a text contained in UNCTAD's *World Investment Report 1999: Foreign Direct Investment and the Challenge of Development* (New York and Geneva: United

Nations) (Sales no. E.99.II.D.3). The present paper is based on a manuscript prepared by Victoria Aranda, with contributions from S. M. Bushehri. The final version reflects comments received from Lahcen Aboutahir, Charles Arden-Clarke, Marino Baldi, Steven Canner, William A. Dymond, John Evans, Kimberly Evans, Olivier Ferrand, Rainer Geiger, Edward M. Graham, Alicia Greenidge, Amy Holman, Jan Huner, Patrick Juillard, Joachim Karl, Stephen J. Kobrin, Mark Koulen, Robert Madelin, Mansur Raza, Miguel Rodriguez Mendoza, Pierre Sauvé, Rupert Schlegelmilch, Marinus Sikkel, Anthony G. Sims, and Douglas C. Worth. The paper was desktop published by Teresita Sabico.

A handwritten signature in dark ink, reading "R Ricupero". The signature is fluid and cursive, with a long horizontal stroke at the end.

Geneva, November 1999

Rubens Ricupero
Secretary-General of UNCTAD

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UNCTAD's work programme on a possible multilateral framework on investment is implemented by a team of UNCTAD staff members and consultants headed by Karl P. Sauvant and Pedro Roffe and including Victoria Aranda, S.M. Bushehri, Arghyrios A. Fatouros, John Gara, Obiajulu Ihonor, Anna Joubin-Bret, Sanjaya Lall, Peter T. Muchlinski, Miguel Rodriguez and Jörg Weber. Administrative support is provided by Helene Dufays and Antonia Künzel.

UNCTAD has carried out a number of activities related to the work programme in cooperation with other intergovernmental organizations, including the Secretariat of the Andean Community, L'agence intergouvernementale de la Francophonie, the Inter-Arab Investment Guarantee Corporation, the League of Arab States, the Organization of American States, and the World Trade Organization. UNCTAD has also cooperated with non-governmental organizations, including the Centro de Estudios Interdisciplinarios de Derecho Industrial y Económico – Universidad de Buenos Aires, the Consumer Unity and Trust Society – India, the Economic Research Forum – Cairo, the European Roundtable of Industrialists, the Friedrich Ebert Foundation, the International Confederation of Free Trade Unions, Oxfam, SOMO – Centre for Research on Multinational Corporations, the Third World Network, Universidad del Pacífico, University of the West Indies, and World Wildlife Fund International.

Funds for the work programme have so far been received from Australia, Brazil, Canada, France, the Netherlands, Norway, Switzerland, the United Kingdom and the European Commission. Countries such as China, Egypt, India, Jamaica, Morocco and Peru have also contributed to the work programme by hosting regional symposia. All of these contributions are gratefully acknowledged.

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