UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

# INVESTMENT-RELATED TRADE MEASURES

UNCTAD Series
on issues in international investment agreements

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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;

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.

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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 this 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. Since, however, the issues treated closely interact with one another, the studies pay particular attention to such interactions.

The series is produced by a team led by Karl P. Sauvant and Pedro Roffe, and including Victoria Aranda, Anna Joubin-Bret, John Gara, Assad Omer, Jörg Weber and Ruvan de Alwis, under the overall direction of Lynn K. Mytelka; its principal advisors are Arghyrios A. Fatouros, Thomas L. Brewer and Sanjaya Lall. The present paper is based on a manuscript prepared by John Kline. The final version reflects comments received from Mark Koulen, Mina Mashayekhi and Peter T. Muchlinski. The paper was desktop published by Teresita Sabico.

Funds for UNCTAD's work programme on a possible multilateral framework on investment have so far been received from Australia, Brazil, Canada, the Netherlands, Norway, Switzerland, the United Kingdom and the European Commission. Countries such as India, Morocco and Peru have also contributed to the work programme by hosting regional symposia. All of these contributions are gratefully acknowledged.

R Ricupero

Rubens Ricupero
Secretary-General of UNCTAD

Geneva, December 1998

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# Executive summary

Investment-related trade measures (IRTMs) are a diverse array of trade policy instruments that influence the volume, sectoral composition and geographic distribution of foreign direct investment (FDI). Some trade measures classified as IRTMs (such as tariffs, quotas, and export financing programmes) are not principally designed to influence FDI flows but nevertheless can have major consequences on the decisions of international investors. Other devices (such as export processing zones, and co-production or buy-back trade arrangements) are designed with FDI effects more clearly in mind. In either case, whether the FDI consequence is intended or not, the resultant impact on production location decisions and intra-company trade flows exerts an influence on world commerce. IRTMs help, therefore, to shape how international business activities affect both global welfare and the relative distribution of benefits among national economies through their impact on FDI flows. IRTMs are thus relevant to international investment agreements, including discussions about a possible multilateral framework on investment.

The interaction between trade and FDI policies becomes a matter of concern for national governments as FDI assumes an increasingly important role in the global economy. Numerous international negotiations and agreements have historically addressed international trade issues compared to the attention given to FDI. International trade negotiations recently incorporated the impact of FDI policies on trade flows (trade-related investment measures, or TRIMs), but there has been less recognition of the converse effects that trade policies can have on FDI decisions. An examination of IRTMs provides a way to understand some of these effects so that they can be assessed and, if appropriate, addressed in international discussions on trade and FDI policies.

For developing countries, it is important to assess accurately the interactive link between trade and FDI in order to understand the effects of changes in national policy regimes as well as the potential consequences of international investment agreements. For example, the use of import substitution in development policies relies on trade restrictions to encourage local production and thus often attracts FDI. Regional trade agreements that stimulate or induce FDI within member countries, as well as administrative devices such as rules of origin, anti-dumping regulations, safety and health standards, and national security controls can have significant impacts on FDI patterns through their effects on prospective trade flows. These FDI undertakings may also produce impacts on later trade flows, particularly through the coordination of intra-firm trade among the affiliated units of transnational corporations (TNCs). Understanding the effects that trade policies can have on FDI decisions is therefore important to assessing and enhancing the development dimension of national and international economic policies.