

UNCTAD/ITE/IIT/2004/3 (Vol. 13, No. 1)

VOLUME 13

NUMBER 1

APRIL 2004

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# TRANSNATIONAL CORPORATIONS

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United Nations

United Nations Conference on Trade and Development  
Division on Investment, Technology and Enterprise Development

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### Acknowledgement

The editors of *Transnational Corporations* would like to thank the following persons for reviewing manuscripts from January through December 2003.

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### **Oscar Schachter (1915-2003)**

The Editors of the *Transnational Corporations* journal were saddened to learn about the death of Oscar Schachter, Hamilton Fish Professor Emeritus of International Law and Diplomacy, Columbia University, New York, and member of the Board of Advisers of our journal. He was one of the first officials to join the United Nations (in 1946) and a pioneer in the development of international law. He was a leading figure in a wide range of research areas, including the theory of international law, peacekeeping, the United Nations, dispute settlement, international economic law, the outer space and human rights. Professor Schachter was Advisor of the United Nations Committee on Transnational Corporations from 1989 till 1993. He had served on the Board of *Transnational Corporations* since its foundation in 1992. In his personal relations, he was liked and respected for his intellect, humour and gentle spirit. His contributions will continue to benefit the research community for many years to come. We will miss him greatly.

# Multilateral rules on FDI: do we need them? Will we get them? A developing country perspective

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Stephen Young and Ana Teresa Tavares \*

This article reviews the state of play regarding the investment regime in the World Trade Organization, with the objective of contributing to the debate on policy priorities for developing countries. It concludes that substantial progress on an investment regime at the multilateral level is unlikely and perhaps undesirable. A multilateral investment accord appears to be relatively unimportant to investors. Furthermore, institutional and regulatory harmonization derived from rules imposed by the World Trade Organization is costly and may be inappropriate for developing countries, as it may divert resources from higher priorities in development and act as a barrier to experimentation. Focus should be on the domestic policy agenda, including further external liberalization, and principally domestic regulatory and institutional reform. Improving these fundamentals should have a significant positive impact on the attraction of foreign direct investment. Host-country support for a multilateral trading system, nevertheless, continues to be of paramount importance, alongside a gradualist approach to a multilateral investment accord over the long term.

**Key words:** World Trade Organization, Doha Round, multilateral investment rules, foreign direct investment, developing countries

## Introduction

This article provides a review and evaluation of the state of play with respect to multilateral rules on foreign direct investment

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(FDI), focusing specifically on implications for developing countries. It provides comments on a number of linked questions: Where are we now with multilateral investment rules? Is a multilateral investment regime at the World Trade Organization (WTO) desirable? Are multilateral investment rules actually achievable? Where do we go from here, and what are the implications for developing economies?

These issues are the subject of extensive debate, often within the wider context of discussions on globalization and its benefits and costs, and the roles of multilateral institutions (including the International Monetary Fund (IMF), the World Bank and the WTO) within the post-war global architecture of rules for trade and investment. Joseph Stiglitz labels the current system one of “*global governance without global government* ... in which a few institutions ... and a few players – the finance, commerce and trade ministries, closely linked to certain financial and commercial interests – dominate the scene, but in which many of those affected by their decisions are left almost voiceless” (Stiglitz, 2002, pp. 21-22).

The overall objective of the article is to assist developing countries in deciding upon policy priorities. Drawing on available evidence, it concludes that substantial progress on an investment regime at the multilateral level is unlikely, and, without radical changes to the WTO itself and to the underlying principles of an investment regime, probably undesirable. The policy focus for developing countries should, therefore, be on domestic regulatory and institutional reform, while maintaining a strong commitment to the multilateral trading system, and recognizing the potential benefits from progress towards a multilateral investment accord over the long-term.

### **State of play in investment regulation**

#### ***Multilateral investment rules***

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