

**UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT**

# **HOME COUNTRY MEASURES**

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.

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A slash (/) between dates representing years, e.g. 1994-95, indicates a financial year;

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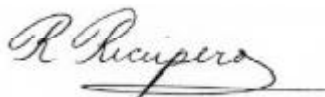
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## Preface

The secretariat of the United Nations Conference on Trade and Development (UNCTAD), is implementing a work programme on international investment agreements. It seeks to help 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. The principal officer responsible for its production is Anna Joubin-Bret, who oversees the development of the papers at various stages. The members of the team include Patricia Mira Pontón, Aimé Murigande and Jörg Weber. The series' principal advisers are Arghyrios A. Fatouros, Sanjaya Lall, Peter T. Muchlinski and Patrick Robinson. The present paper is based on a manuscript prepared by John Kline. Reprinted in the Appendix is the "Agreed Outcome" from an UNCTAD Expert Meeting on Home Country Measures held in Geneva from 8 to 10 November 2000, as it is immediately relevant to the topic of this paper. The final version reflects comments received from Susan Borkowski, Werner Corrales, William Dymond, Corinne Dreyfus, Felipe Jaramillo, Joachim Karl, Mark Koulen, Mansur Raza, Homai Saha, Chak Mun See and Marinus Sikkel. The paper was desktop-published by Teresita Sabico.



Rubens Ricupero  
Secretary-General of UNCTAD

Geneva, June 2001

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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 pour la Francophonie, the Inter-Arab Investment Guarantee Corporation, the League of Arab States, the Organization of American States, la Secretaría de Integración Económica Centroamericana and the World Trade Organization. UNCTAD has also cooperated with non-governmental organizations, including the German Foundation for International Development, the Centro de Estudios Interdisciplinarios de Derecho Industrial y Económico - la 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, la Universidad del Pacifico, the 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, Japan, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom and the European Commission. China, Egypt, Guatemala, India, Jamaica, Japan, Malaysia, Morocco, Peru, Sri Lanka and Venezuela have also contributed to the work programme by hosting regional symposia. All of these contributions are gratefully acknowledged.

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## Executive summary

Most international negotiations on foreign direct investment (FDI) focus on issues involving the paired relationship between transnational corporations (TNCs) and host countries. TNCs desire access to foreign resources and markets to further their strategic global business objectives. Host countries desire FDI that promotes national economic and social objectives. Many host countries, including developing countries, adopt measures to attract FDI by, for example, improving their regulatory framework for FDI, enhancing educational programmes, or offering incentives. In reality, however, this paired relationship between TNCs and host countries is triangular. Home countries also influence FDI flows, including the relative prospects that their TNCs will select developing country investment sites. The question thus arises: to what extent do international investment agreements (IIAs) address home country measures (HCMs) that influence FDI flows to host countries?

A variety of HCMs affect TNC decisions regarding the selection of host country investment sites. In addition to possible restrictions on capital outflows, HCMs can encompass general policy pronouncements, information and technical assistance, transfer of technology, financial and fiscal incentives, investment insurance and market access regulations. A stock-taking analysis of HCMs in IIAs shows that developed countries have removed most national restrictions on outward FDI and embrace declaratory statements in inter-governmental agreements that endorse the promotion of FDI, particularly to developing countries. These policy declarations, however, are often not linked to specific obligations for the adoption of HCMs. Many FDI promotional declarations remain hortatory, particularly in the context

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