



**Third Meeting of the Asia-Pacific Foreign Direct Investment (FDI) Network in
Least Developed Countries (LDCs) and Landlocked Developing Countries (LLDCs)**

*United Nations Conference Centre
Bangkok, Thailand*

19 November 2013

DRAFT REPORT

A. Organization

(1) The Third Regional FDI Network Meeting was held at the UN Conference Centre (UNCC), Bangkok, Thailand on 19 November 2013 as part of the Third Asia-Pacific Trade and Investment Week, 18-22 November 2013, organized by ESCAP. The Meeting was attended by representatives from 8 least developed and landlocked developing countries from the region, namely Azerbaijan, Bangladesh, Bhutan, Cambodia, Kyrgyzstan, Mongolia, Myanmar, and Tajikistan.

(2) In addition to nominated representatives, the Meeting was attended by two resource persons: Mr. Douglas van der Berghe, CEO, Investment Consulting Associates, Amsterdam, the Netherlands, and Mr. Mike Pfister, Senior Policy Advisor, Investment Division, OECD. The complete list of participants, presentations and relevant documents from the Meeting and the Meeting's programme are available online at: <http://www.unescap.org/tid/projects/fdildc.asp>.

B. Introduction

(3) Mr. Marc Proksch, Chief, Business and Development Section (BDS), Trade and Investment Division (TID), ESCAP, delivered the opening remarks and made an introductory presentation. He highlighted the theme of inclusive investment, explaining that investment can have positive impacts on development but that countries need to do a balancing act between satisfying investors and attracting FDI that benefits the livelihood of people at the same time. He stressed that the pressure from different stakeholders, such as consumers, shareholders and home governments, on investors and domestic enterprises to meet international expectations on social and environmental responsibility is growing. This is because the behaviour of businesses is increasingly being scrutinized by the public, e.g. through social media or NGOs, but more so in industrialized countries than in developing countries. He underlined the importance of local government in facilitating FDI projects and that in order for countries to foster a positive investment climate, the rule of law needs to be implemented not only at the national but also at the provincial and municipal levels. Subsequently, Mr. Proksch briefed participants on recent trends and developments in FDI in the Asia-Pacific region as they are presented in the Asia-Pacific Trade and Investment Report 2013 (available at: http://www.unescap.org/tid/ti_report2013/download/index.asp).

C. Promoting inclusive investment for development

(4) Ms. Heini Salonen, Associate Economic Affairs Officer, BDS, TID, ESCAP, made a presentation on inclusive FDI and how countries can ensure more inclusive outcomes of investment. The presentation included policy recommendations for governments to enhance the inclusivity of FDI and support foreign companies investing in the country that adhere to responsible business practices. She observed that there was a need to strengthen the legal framework to ensure an inclusive impact of FDI. Education of the local population was key to make people at large benefit from FDI through more productive employment which would translate into higher wages but special emphasis should be given to provide support to the most vulnerable members of society: women, youth, the elderly and persons with disabilities.

(5) The meeting exchanged views on the problem of jobless growth and the question how FDI can create meaningful employment and economic growth which in turn leads to more equality. It was observed that “impact investment” and “social investment” are increasingly of interest for enterprises. Participants agreed that foreign investors can foster inclusiveness themselves by involving local communities in the negotiation process and by compensating those who were disadvantaged by investment projects. This, in turn, could create a positive business climate and strengthen the investors’ reputation within a given country and beyond. It was also observed that being a WTO member helps in developing a positive investment climate.

D. Promoting inclusive investment in the natural resources sector

(6) The Meeting discussed how countries could ensure that both international and domestic investors follow the rule of law. For instance, Myanmar was working on a unified investment law but had only limited capacity to implement and enforce the new legislation. Both domestic and foreign investors needed to adopt responsible business practices but foreign investors also had to meet international expectations of their stakeholders on social responsibility. In this regard, home governments of investors could play an important role to ensure that government-owned as well as private enterprises behave responsibly when investing abroad. It was also observed that social media were an important tool in monitoring the social behavior of foreign investors.

(7) Ms. Marit Nilses, Economic Affairs Officer, BDS, TID, ESCAP, presented the main findings of a study on “Responsible Business and Sustainable FDI in Natural Resources in the Asia-Pacific Region” commissioned by ESCAP. Natural resources are of high macroeconomic importance to the region in general and particularly for many least developed and landlocked developing countries. However, countries dependent on natural resources, including mining, faced challenges, including how to generate and invest revenue to ensure lasting wealth and how to distribute the benefits from mining in an equitable manner that promotes pro-poor growth. To address these issues governments should focus on the formulation and consistent implementation of strong and clear laws. Efforts should be made to review and optimize fiscal regimes and to strengthen revenue management. It was furthermore recommended that governments integrate sustainable and inclusive development goals into investment contracts (e.g. local content, environmental and social standards, etc.). Investors should implement international responsible business instruments – general and sectoral – and report on progress, using sector relevant guidance documents.

(8) The Meeting addressed the need for countries to diversify their economies from depending heavily on one particular natural resource, such as oil and gas, in order to avoid

economic risks like the Dutch disease. It was stated that it is not only inward FDI which can foster development, but also outward investment which may help countries to acquire or access certain resources, such as technology and skills from overseas. International Investment Agreements (IIAs) formed another area of discussion. It was observed that least developed host countries quite often find themselves in a relatively weak position when negotiating IIAs. In many cases, these agreements include strong investor protection rights and leave only little policy space to host governments if they want to make changes in their legislation. Standstill clauses in investment contracts and articles covering "fair and equitable treatment" were pointed out to be especially problematic as these provisions can lead to potentially costly legal disputes between investing enterprises and host governments. Therefore, when concluding such treaties, governments should be careful that they maintain the necessary policy space to pursue inclusive and sustainable policy objectives.

(9) Subsequently, participants from Azerbaijan, Cambodia and Myanmar presented on how they have promoted inclusive FDI in the natural resources sector in their respective countries. The representative of Kyrgyzstan informed the Meeting that until few years ago, investors in the mining sector in Kyrgyzstan were not socially accountable. Nontransparent licensing processes, environmental degradation, a high number of accidents and - resulting from all this - riots among the local community, were given as examples of the negative effects that FDI in the natural resource sector may have. Recently, local government had become more active by requiring foreign companies to adhere to national rules and provide a programme on social activities to support the local population, which has helped to mitigate the situation. The Meeting also noted that production sharing agreements could ensure benefits from FDI in mining but that investors in this sector required a social license for their own benefit. In addition, it was observed that the natural resources and mining sector was subject to political meddling and catering to political interests, both of those in government and those in the opposition which undermined the social benefits of FDI in this sector. Most countries had specific laws for FDI in the mining sector given the specific issues related to this sector.

E. The role of incentives in FDI attraction

(10) Mr. Douglas van der Berghe, Managing Director, Investment Consulting Associates, presented on the role of incentives in promoting FDI for inclusive and sustainable development. He observed that in many cases, incentives were not the key determinant in enterprises' investment decisions, especially not in the natural resources sector and could add to corporate welfare while undermining the welfare of the host country and lead to competition among host countries resulting in a "race to the bottom". Very often companies made decisions based on the quality of infrastructure, investment environment and workforce in the host country rather than incentives. Nevertheless, incentives were sometimes necessary for countries to stay in the game. He added that incentives could in fact be useful for promoting a certain industry or location, particularly with regard to efficiency-seeking FDI, or for supporting start-ups. Governments should have a clear understanding of the business case behind the investment project before giving incentives and make efforts to link incentives to the development potential of FDI (e.g. linked to the degree of job creation). In any case, if used, incentives needed to be transparent and provide clarity. In addition, a monitoring and evaluation system should be in place to assess the effectiveness of incentives. The presentation was followed by statements by participants from Bangladesh, Bhutan, Kyrgyzstan and Tajikistan in which they gave further information on their countries' current incentive regimes.

F. OECD Investment Policy Reviews

(11) Mr. Mike Pfister, Senior Policy Advisor, Investment Division, OECD, presented the outcome of OECD Investment Policy Reviews (IPRs) and lessons for the Asia-Pacific region. He explained that while for many countries the list of reforms needed to foster a positive investment climate was long, the OECD's IPRs support policy-makers in prioritizing and sequencing those policy adjustments. He said that exposing a country to international competition through trade and investment is a good starting point but that it is crucial for countries to improve the fundamentals of the investment climate. However, he added, governments may be resistant to put reforms into place as disadvantaged groups needed to be compensated. He underlined that reform processes required time and that results were only visible in the long-term. Mr. Pfister pointed out the capacity of investment promotion agencies (IPAs) in that they had an influence on the private sector's investment attitude. He also mentioned policy advocacy and performance monitoring as important tasks of these agencies and recommended that regional cooperation among IPAs should be improved.

G. ESCAP FDI database

(12) Ms. Janika Rath, Intern, BDS, TID, ESCAP, presented on ongoing efforts by the secretariat to create an ESCAP FDI database. The database would generate country profiles providing key information on recent and historical FDI trends, key source countries and sectors, and investment climate indicators based on available data from various international and national sources. ESCAP had faced some challenges in collecting FDI data from national sources, in particular at the country and industry level. Therefore, increased cooperation between the FDI Network members and ESCAP in sharing information on FDI was encouraged. This would enable ESCAP to provide more accurate and detailed statistics on FDI to Network members as well.

H. Future direction of the FDI Network

(13) Concerning the future direction for the FDI Network, it was proposed that countries nominate a fixed focal point based on a particular position related to FDI policy formulation with whom ESCAP can communicate regarding FDI issues. This would reduce the need for governments to nominate new participants if a member was not available to attend a meeting of the Network. Current members would continue as members of the Network. There were also proposals to expand the Network to other members of the region that were not least developed or landlocked developing countries. The Meeting requested the secretariat to review and analyze investment policies of the participating countries in more

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