

COMMUNICATION FROM THE OECD¹

The following communication, dated 10 June 2003, has been received from the Organisation for Economic Co-operation and Development.

**RECENT WORK IN THE OECD COMMITTEE ON
INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES**

I. INTRODUCTION

1. At about the same time a year ago, the OECD Secretariat informed the Working Group on the Relationship between Trade and Investment (WGTI) about ongoing activities in the OECD Committee on Investment and Multinational Enterprises (CIME) of particular interest to the Working Group. It would seem appropriate, now that the Working Group is putting a final touch to its report to the Fifth WTO Ministerial Conference, Cancun, Mexico, 10-14 September 2003, to bring it up to date on the Committee's activities over the last year.

II. CIME MISSION

2. Since its creation in 1961, the OECD has been at the forefront in efforts to promote international investment as a catalyst for sustainable growth, development and poverty reduction. This has come naturally from OECD countries' importance as a source and destination of international investment flows – they still account for around 80 per cent of such flows. Over these years, the OECD has acted as a forum to foster co-operation aimed at encouraging transparent and non-discriminatory investment policies and other government practices and at enhancing the positive contribution of responsible international business.

3. This OECD mission has been entrusted to the CIME. Representing the investment policy community from the 30 OECD Member governments, the Committee is the guardian of the instruments embodied in the OECD Declaration on International Investment and Multinational Enterprises. Argentina, Brazil and Chile, which have an observer status in CIME, have adhered to the Declaration. The other adherents are Estonia, Lithuania, Slovenia and Israel – and very soon Latvia – and they participate as a result in related CIME work. More non-Member applications for adherence to the Declaration are in the pipeline.

¹ This Note draws on a recent address by the Chair of the OECD Committee on International Investment and Multinational Enterprises on CIME's mission and future work to a newly created steering group of NGOs on the OECD Guidelines for Multinational Enterprises.

4. More generally CIME's co-operation with non-Members has expanded very significantly in the recent past. The OECD Global Forum on International Investment (GFII) created under CIME sponsorship addresses a variety of issues of mutual interest. The next annual GFII event will feature the theme of improving governance and transparency for investment². Capacity building activities with investment policy authorities in developing countries and important analytical work on the development dimension of FDI have been undertaken. In addition to the China and Russia programmes, there a number of regional initiatives, including for Africa, Asia, South East Europe, the Black Sea and the Caribbean Rim. This co-operation figures among the most dynamic outreach programmes of the OECD.

5. The CIME has also given special attention to developing good co-operation with civil society. The revisions to the OECD Guidelines for Multinational Enterprises in 1999-2000 provided the opportunity to create a constructive dialogue with business, trade unions and NGOs. Since then, interested stakeholders have been participating in CIME Roundtables on Corporate Responsibility and in consultations back-to-back with National Contact Points (NCPs) annual meetings. They have also been regularly consulted on other FDI matters and invited to Global Forum and regional outreach events.

III. RECENT ACTIVITIES

6. The CIME is a leading source of investment analysis and policy assistance. Its work programme falls into three categories: improving the international investment architecture; mobilising investment for development; and promoting corporate responsibility.

7. In the first two categories, on-going projects include, among others, the following areas:

- *Transparency.* Following the release in April 2003 of a general report on the benefits of public sector transparency for foreign investment and beyond³, CIME is working on the development of a framework on investment policy transparency practices. This framework is to help OECD and non-OECD governments as they conduct self-evaluation, wish to report on measures and engage in peer reviews. OECD work on transparency would also contribute to assisting WTO members in their discussions in Geneva.
- *Checklist on FDI incentives.* The Checklist, released by CIME in April 2003⁴, serves as a tool to assess the costs and benefits of using incentives to attract FDI; to provide operational criteria for avoiding wasteful effects and to identify the potential pitfalls and risks of excessive reliance on incentive-based strategies. The Committee believes that careful evaluations of the Checklist and its application to considerations of investment incentives can have a positive effect in minimising potential harmful effects of incentives both for those that employ them and for other governments seeking to attract foreign investment.
- *Analysis of key obligations in investment agreements:* The proliferation of international investment agreements has led the Committee to engage in a discussion of the implications of the MFN interface among them and of the interpretations of investment protection provisions. This analysis is being conducted on the basis of a

²The first GFII held in Mexico in 2001 focused on New Horizons for International Investment, the 2002 GFII, the 2002 GFII events on Environment and Lessons from the Mining Sector (Paris, February 2002) and Promoting International Investment for Development (Shanghai, November 2002).

³ See <http://www.oecd.org/pdf/M00040000/M00040462.pdf>.

⁴ See <http://www.oecd.org/pdf/M00040000/M00040467.pdf>.

compilation of factual elements of information based on legal literature, evolving arbitral jurisprudence and state practices.

- *Foreign Direct Investment for Development.* This is the title of a major CIME report released in September 2002.⁵ This year's OECD Ministerial Meeting on 29-30 April 2003 – devoted to the central theme of growth and development – provided support for follow-up work by the Committee to develop with non-Member partners a shared strategy to promote investment in developing countries. As part of this strategy, CIME is launching, in co-operation with the Development Assistance Committee, a new project aimed at exploring the role of official development assistance (ODA) in support of developing countries' efforts to attract FDI and maximise its benefits.
- *Country Investment Policy Reviews.* Throughout these reviews, CIME assesses obstacles to attracting and maximising the full benefits of FDI, encourages their removal and recommends alternative, better policies to meet legitimate public interest concerns. Reviews have been carried out for all non-Member adherents to the Declaration and their results have been published.⁶ The release of an Investment Policy Review of China is due for this month. A CIME peer review of Russia is being considered for April 2004.
- *Africa Initiative:* In support of the New Partnership for Africa's Development (NEPAD) and other efforts for Africa, the CIME is expected to launch in the autumn an initiative to enhance the investment policy capacity of African countries with the involvement of other international organisations and stakeholders. This initiative would begin with the preparation of a Discussion Paper on OECD's experience with investment and other peer reviews, which could lead to a pilot country review as a later phase. Initial results are expected for spring 2004.
- *Recent Trends in Foreign Direct Investment:* The new publication "International Investment Perspectives", which is released each year in Fall, provides an analysis of most recent trends in foreign direct investment to and from OECD countries using internationally harmonised statistics according to OECD and IMF recommended standards⁷, and developments in cross-border mergers & acquisitions. FDI in high technology and "new economy" sectors will be the special feature of this year's analysis.

8. The OECD Guidelines for Multinational Enterprises represent another building block of CIME's work. The third year of Guidelines implementation since the 2000 Review has been marked by a clear consolidation of the gains. The Guidelines have figured recently in high level political declarations such as the G8 Summit's Declaration on "Fostering Growth and Promoting a Responsible Market Economy" of 3 June 2003. In addition, the G8's 2002 "Africa Action Plan" noted the importance of their effective follow-up and cited their role in the fight against corruption.

9. The Guidelines' increased visibility is also attributed to the results of the promotional efforts undertaken by the 37 adhering governments and the European Commission as well as those undertaken – and this is a significant development – by business, labour unions and NGOs. Today the Guidelines are available in least 23 languages and the number of web pages with discussion of the

⁵ See *Foreign Direct Investment For Development: Maximizing Benefits, Minimizing Costs*, OECD, 2002.

⁶ See OECD Investment Policy Reviews series, such as *OECD Reviews of Foreign Direct Investment: Israel, 2002* and *OECD Reviews of Foreign Direct Investment: Slovenia, 2002*.

⁷ See www.oecd.org/daf/simsdi.

Guidelines is estimated at around 25,000 web pages (up from under 5,000 last year). Since the 2000 Review of the Guidelines, over 30 “specific instances” have been raised. They concerned company practices, in OECD as well as non-OECD countries, in areas that go to the heart of the current debate on globalisation, including the social implications of resettlement plans associated with natural resource development, child labour and human rights issues.

10. As provided for in the implementation procedures of the Guidelines, the National Contact Points (NCPs) will hold their third annual meeting since the 2000 Review on 23 June 2003. This will be an occasion for NCPs to submit their annual reports and discuss among themselves activities associated with the Guidelines at a national level. In addition, the CIME will hold its third “Corporate Responsibility” Roundtable on 24 June 2003⁸, focussing on companies’ contribution to the fight against corruption and on synergies between the Guidelines and the OECD Anti-Bribery Convention⁹. The results of the NCPs’ annual meetings and roundtables are published in the Annual Reports on the Guidelines.¹⁰

IV. CONCLUSION

11. The present international momentum for promoting investment in developing countries, new perspectives on the global investment architecture following Doha and the OECD mandate on promoting corporate responsibility will offer ample opportunities for the CIME to make a positive contribution in the international investment field and to co-operate with the WTO. The OECD Secretariat will continue to inform and share the results of this work with the WGTI.

⁸ Information concerning these meetings can be found on the OECD website at the following address: www.oecd.org/daf/investment/guidelines.

⁹ Last year’s roundtable was devoted to the subject of responsible supply chain management.

¹⁰ The Annual Report 2002 on the OECD Guidelines for Multinational Enterprises is available on <http://www.oecd.org/EN/document/0..EN-document-90-3-no-11-37318-0.00.html>.