A New Regime for Foreign Direct Investment

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Contents

I. Introduction

The title of this paper—A New Regime for Foreign Direct Investment—might suggest that there exists a current set of international investment rules that can be strengthened or expanded. This is misleading because, despite the importance of international investment to the world economy, there is no international regime for direct investment at all. Instead, investment proceeds under a jumbled mix of regional arrangements, bilateral treaties, and limited multilateral instruments, all differing on many important issues. This stands in sharp contrast to the comprehensive system of norms and principles governing international trade.

The fact that there is no international regime for investment seems particularly paradoxical because events have unfolded as if a strong international regime were in force. There has been a radical and pervasive policy shift in favor of investment liberalization over the past 10 or 15 years and investment has expanded rapidly. In fact, this trend toward liberalization may have made the absence of an international framework seem unimportant for a time.

However, it is probably more accurate to acknowledge that the absence of an international investment regime stems from the propensity of governments to “make policy in a rearview mirror,” to steal a phrase from Marshall McLuhan. As in other areas, policy makers have not anticipated a trend and devised a framework to guide the growth of investment. It is only when they realize that investment has exploded spontaneously and rules have emerged chaotically that action to make sense of the process assumes sufficient importance to act. The first part of this paper will briefly review the reasons for this serious policy lacuna and then turn to the current developments which may, if effectively managed, finally launch comprehensive multilateral investment negotiations.

II. Policy-Making in a Rearview Mirror

The tale of the absent regime for foreign direct investment (FDI) has a long history which starts with the failure to establish the International Trade Organization (ITO) at the end of the 1940s. The ITO did include investment as well as trade but the provisions were heavily circumscribed, reflecting the fears of many developing countries that strong pro-investment rules would lead to foreign control over natural resources and "strategic" industries. In the negotiations leading up to the 1947 Havana Charter that would have created the ITO, developing countries demanded the inclusion of provisions to reserve their right to expropriate foreign investments and to guarantee their freedom from the exertion of political influence by investor countries. These provisions were unacceptable to American business and a major factor in building opposition to the establishment of the trade institution.

The hostility of developing countries to foreign investment was amplified in the 1970s, as reflected in the demand for a New International Economic Order and a wave of nationalization and expropriation. But by the early 1980s, the attitude of many host countries had begun to change, in large part because of the debt crisis, but also because of the growing evidence of the failure of import-substitution policies and the amazing success of the Asian "dragons," the rapidly industrializing countries of Southeast Asia. The early 1980s also marked the beginning of the U.S. effort to launch a new and ambitious round of multilateral negotiations, which included, in addition to traditional GATT-type items, the so-called "new issues" of intellectual property, trade in services, and investment.

The Uruguay Round produced only limited results in investment. The negotiation to *launch* the Uruguay Round took almost as long as the entire Tokyo Round of the 1970s. A U.S. call for new negotiations dated back to 1981. After a number of near-failures, the Uruguay Round was launched in Punta del Este in September 1986 and formally concluded in Marrakesh, Morocco, in April 1994, several years later than the original target date for completion.

The extraordinary difficulty in both initiating and completing the Round stemmed from two fundamental factors: the nearly insuperable problem of finishing the unfinished business of past negotiations, most of all agriculture; and the equally contentious question of introducing the new issues. The Europeans blocked the launch to avoid coming to grips with the Common Agricultural Policy (CAP), while a group of developing countries, led by Brazil and India, bitterly opposed including nontraditional issues such as services, intellectual property and investment because they necessitated negotiation of *domestic policies* such as regulatory and industrial policies and institutional infrastructures such as legal systems. The new issues were thus a radical departure from the traditional GATT world of "shallow" integration and were considered a direct challenge to national sovereignty.

The Americans demanded the inclusion of the new issues to correct the basic structural asymmetry of the original GATT. In the postwar era, the term "trade in services" seemed an oxymoron. Intellectual property was covered by the World Intellectual Property Organization (WIPO). Negotiations on investment had died with the ITO. But in the 1980s, trade in services grew much more rapidly than did merchandise trade, with the United States leading in exports by a considerable margin. The same lead status was evident in investment and technology, with U.S. multinationals controlling 43% of the world stock of foreign investment at the outset of the 1980s and the American technology balance of payments surplus reaching well over $6 billion while every other OECD country faced a deficit. It seems highly improbable that the American business community or politicians would have continued to support the multilateral system for much longer without a fundamental rebalancing of the GATT.

But almost precisely at the time the Round was launched in Punta del Este, the international economy was beginning a process of dramatic transformation. The word "globalization"—part of everyday parlance today—was first used as a term of art in 1986. The term was spawned by the investment surge of the second half of the decade that involved all the leading countries of the OECD and not, as in the earlier period, just the United States. Growth of investment from 1985 to 1990 averaged nearly 30 percent per year, a figure four times the rate of world output and three times the rate of trade. Most of it was undertaken by multinational enterprises (MNEs) in capital- and technology-intensive sectors. Technology flows (as captured from the very inadequate measure of royalties and fees) also exploded, increasing from an annual negative growth rate of 0.1 percent in the first half of the decade to a positive 22 percent growth rate in the second half. After a slowdown in the early 1990s because of recession in the OECD countries, investment flows started to pick up again, but with a difference.

Investment was no longer overwhelmingly dominated by a small group of OECD countries—the United States, Japan, the United Kingdom, Italy, Germany, and France. Instead, non-OECD countries, especially in East Asia, are increasingly important host and home countries (see Tables 1 and 2). Further, a new type of "investment", in the form of strategic technology alliances, has also exploded during the 1980s and 1990s. These alliances are formed by separate, and sometimes competing, firms from different countries to share each other's technology. Although data are scarce, there is enough evidence to show that these alliances involve both OECD and non-OECD firms, again especially in East Asia.

Thus by the time the Uruguay Round ended, the MNEs were the main channels for trade, finance and technology flows—the engines of growth. Once sales of foreign affiliates, licensing and royalties payments for technology, and franchising fees are taken into account, a recent estimate for the United States suggests that 80 percent of earnings for goods and services sold abroad are linked to the activities of American multinationals.[1] Since U.S. firms have the strongest global presence, the comparable figure for other countries would be smaller, but moving in the same direction.

The implications of globalization for establishing a comprehensive, multilateral, rules-based regime for the international economy are now becoming clearer, even in the rearview mirror. For the MNEs, increasingly the dominant actors in high-tech sectors and services, market entry by means of both trade and investment is essential: the two modes are complements, not alternatives. And market presence is a two-way channel for both technology diffusion and technology access. Further, globalization is an ongoing process because the growing global presence and power of the MNEs reflects revolutionary change in the cost and capability of information and communication technology. This revolution is both an enabler and a driver of globalization, fostering innovation in products, in production processes, and in organization at the enterprise and industry levels.

The greatly intensified international rivalry produced by globalization, especially in technology-intensive industries, spurs transnational corporations to capture economies of scale and scope, customize products to satisfy consumer tastes, and gain access to inter- and intra-firm networks and knowledge. These networks, which distribute different parts of the production process on a regional basis, are most evident today in the Japanese electronics industry in East Asia, but they are rapidly spreading to other manufacturing and service sectors. Locational competition for high value-added investment is intensifying and a wide range of distorting incentives is proliferating.

In sum, all these developments make evident the need for a new international regime. It is essential to note that building a new regime does not mean starting *de novo*. The Uruguay Round did launch an agenda of deeper policy integration. It made remarkable progress in two of the three new areas on the agenda, services and intellectual property, although even in these areas much remains to be done. With respect to investment, the trade-related investment measures (TRIMs) negotiations accomplished less, covering only two issues: local content (measures that require the use of domestic products) and trade-balancing requirements (measures that restrict imports to a proportion of exports). Indeed, investment almost dropped off the agenda in the closing hours of the launch at Punta del Este and received little attention in the negotiations—far less than the other two new issues.

There were two reasons for this neglect. Investment was not a top priority for the Americans, who attached less importance to it than to services or intellectual property. There was an implicit trade-off involved, no doubt related to the relative clout of the various business lobbies. But more importantly, perhaps, the European Community was hampered because many member countries had no desire to constrain the use of investment performance requirements as instruments of high-tech industrial policy to increase the competitiveness of European industries in sectors—such as information technology—where both the United States and Japan were rapidly pulling ahead. So while the European Community did rally support for services and intellectual property, the business lobbies were split along national lines on the investment issue. The results reflect this rather blurred strategic focus of the two main players in the negotiations.

It is also important to note, however, that progress on investment issues was also achieved in other negotiations. The services negotiations which resulted in the General Agreement on Trade in Services (GATS) provide in principle that all modes of market entry are ensured, including the establishment of the service supplier in a country. Furthermore, a broad definition of investment would also include intellectual property and thus in that sense the protection provided in the Trade Related Intellectual Property Agreement (TRIPs) might also be considered an investment-related component of the WTO. The TRIPs Agreement sets minimum requirements on copyrights, trademarks, patents, and other issues, and includes requirements for both national treatment and most-favored-nation treatment.

III. The Way Ahead

Shifting from the rearview mirror to focus on the road ahead, there is now widespread agreement that globalization has transformed the landscape and that the absence of comprehensive and coherent rules on investment leaves a gaping hole in the multilateral system housed in the WTO. There is, however, less agreement about when and how to repair the structure.

The first effort in that respect—the 1995 launch of negotiations on a Multilateral Agreement on Investment (MAI) in the OECD—was led (or pushed) by the United States, with only reluctant support from the European Union. Although most European countries have adopted less interventionist investment policies in recent years and globalization has created much stronger business support for a new international regime, the European Commission's negotiating status in the OECD is far weaker than in the WTO. Another, and far more cogent, reason for favoring the WTO is the growing importance of non-OECD countries, especially in East Asia, as both home and host countries. Although an OECD Agreement would be open to accession by non-member countries, it seems clear now that few, if any, especially from Asia, are likely to join any agreement which excludes their participation in the negotiations. Indeed, the rancor the OECD initiative has provoked among many WTO member countries may have hindered rather than hastened an initiative in the WTO, the only appropriate forum for a global agreement. Further, as already noted, since investment-related provisions already exist in the WTO (TRIMs, Services, TRIPs and other agreements such as Subsidies and Countervailing Measures and the Dispute Settlement Body), only a WTO negotiation could ensure overall coherence in a new regime. Adding the OECD MAI to existing regional and bilateral arrangements would only extend the present jumble.

Paradoxically, however, the backlash provoked by the OECD negotiations as well as failure in the Asia Pacific Economic Cooperation efforts to produce more than a vaguely worded declaration of non-binding principles[2] has provided the impetus for a move to the WTO by the United States and this time with support from the European Union. At the first Ministerial Meeting of the WTO the formation of a working group on investment and competition was agreed,[3] although not without significant opposition for a number of countries, especially in Asia. This first step, however tentative and fragile, can be bolstered by the use of the provision in the Final Act of the Uruguay Round that requires the review of the TRIMs Agreement operations by the end of 1999 and that stipulates that this review should include an assessment of the need for provisions relating to investment policy and competition policy. If the working party on investment can proceed expeditiously and present an interim report of discussions for the 1998 Ministerial, it would be possible to launch negotiations before the end of the decade.

The main issues for consideration in these negotiations are widely agreed. As always, the devil is in the detail. A division of labor should be worked out. The WTO itself should focus on the main areas of contention and it should pursue research and policy-analysis in cooperation with UNCTAD.

IV. The New Regime for Foreign Direct Investment

The overall objective of a new regime is to provide transparent and stable rules designed to promote and sustain the liberalization of foreign direct investment flows.[4] Thus there are three substantive components of a new regime: definition and protection of investment flows, liberalization measures, and settlement of disputes. For the purposes of our present discussion, the most pertinent issues relate to liberalization and dispute settlement. It should be noted, however, that NAFTA, and probably also the OECD negotiations, adopt a broad definition of investment which goes well beyond the enterprise-based concept to include portfolio investments and a wide range of asset-based instruments. Such a definition centers on the individual rather than the corporation as the investor and raises a number of issues likely to be controversial in the WTO context. But, as noted, in the context of the current discussion, the more traditional concept of FDI is adopted.

To govern the extent and nature of liberalization the new regime must include four principles or norms:

- right of establishment,
- national treatment,
- transparency,
- non-discrimination or most-favored-nation (MFN) treatment.

There will be difficulties in achieving consensus in the WTO in each of these areas. This is, of course, hardly surprising: this is the 50th anniversary of the GATT and we are still some distance from complete elimination of border barriers. The OECD negotiations will encounter far less difficulty in all these norms. The initial announcement of the MAI touted the objective of achieving a "high standard" accord (which greatly irritated many non-OECD countries, provoking the question, are we "low standard?"). While this high standard objective may be achieved, it remains to be seen whether and to what extent it will provide the model for a global regime. In this regard, the main areas of dispute in the discussion that follows will concentrate on the OECD - non-OECD—essentially the trans-Pacific—divide.

Right of Establishment

An unencumbered right of establishment would require negotiations to eliminate or reduce government screening and "performance requirements" imposed by all levels of host governments. Reducing screening will be difficult because a form of high-tech industrial policy intended to nurture so-called "strategic industries" is now being pursued by many non-OECD countries. This is reflected in the growing use of performance requirements designed to enhance technology diffusion, often involving requirements for advanced technology and training. This is also a major factor driving the proliferation of investment incentives. It is thus a very broad and cross-cutting issue and should be approached as such.

Fulfillment of the perfectly understandable desire of the dynamic industrializing countries to move up the value-added ladder to join the post-war "rich country club" of the OECD will rest mainly on changes in domestic policy to promote deregulation, improve governance, increase the level of education and training, etc. But foreign technology is now and will remain a key input to sustaining growth and FDI will be a major channel for this technology.

It will be difficult, but not impossible, to develop an approach that strikes a balance between the desire of OECD countries for free right of establishment and that of the industrializing countries to impose technology-transfer requirements in order to upgrade their technological capabilities. That balance will involve the OECD countries recognizing the validity of certain types of requirements and the industrializing countries agreeing to restrict their use. Indeed, if the issue of performance requirements is not considered in a sufficiently broad context, their elimination would simply shift the problem to the second norm, national treatment, by increasing the proliferation of incentives.

National Treatment

An obligation to provide national treatment requires that a host country treat the foreign investor in a manner no less favorable than a domestic firm. A key issue in a WTO regime will be treatment of a foreign investor in a manner far *more* favorable than a domestic firm. In this regard, the proliferation of investment incentives in recent years reflects a major feature of globalization—locational competition for FDI. Since globalization is an ongoing process and locational competition is bound to increase, one would have expected that the issue of investment incentives, which create major distortions in investment flows and help feed protectionist pressures in a growing number of host countries because of fear of delocalization, would have been high on the MAI agenda. Not so—the restriction or abolition of incentives is unlikely to be included in the final agreement.

Whatever the reason for this surprising gap—and it probably is linked, *inter alia,* to American reluctance or inability to include the States, where most of the incentives are generated—no international regime of any significance can afford to ignore this key issue. As was the case in the agricultural negotiations, the tit-for-tat subsidy battle between Europe and the United States helped launch the Uruguay Round negotiations. Thus with the incentives issue, cooperative action is the only route to solution.

While technology transfer is not the only force driving incentives, it is very significant in the WTO context of the trans-Pacific divide. One way to tackle it, both in the incentives and performance requirements context, would be to expand and clarify the Uruguay Round subsidies and countervailing measures (SCM) agreement.

This agreement included, for the first time, specified exemptions from countervailing duties for basic and applied industrial research. It permits subsidies for some proportion of R&D expenditure, presumably on the rationale that the private investor cannot fully appropriate the benefits which emanate from the enrichment of a country's knowledge base and thus this spillover merits government intervention to increase investment in research in specific technology-intensive industries. While there are some difficulties with implementation, especially in specifying definitions of non-actionable research assistance and collecting appropriate information, the precedent has now been established. Many economists regard this market failure argument as the last refuge for government intervention, noting the long history of governmental efforts to pick winners in many OECD countries. Maybe they are right, though the debate is ongoing, especially in the new growth literature. But in the world of practical policy-making one has to consider the alternatives. In this instance, the alternatives of proliferation of incentives and the likelihood of growing bilateral confrontation may be far worse.

The definition of subsidies in the SCM agreement is broad enough to cover most incentives, although there may have to be some modest alterations. Another and significant advantage to be gained from using the SCM is that it would ensure linkage between trade and investment in WTO dispute settlements and thus provide for cross-retaliation if necessary. A pronounced asymmetry in the globalization process still exists, since trade flow linkages are more balanced than investment linkages. It is important, therefore, to ensure the cohesion of the system within the WTO. The unified, single dispute settlement mechanism is one of the primary means of doing so.

Another technology issue to be tackled in the new regime is research and development consortia. At present, this is more an issue in the OECD countries but it will increasingly emerge in many other countries. By the end of the l980s, jointly funded public-private research consortia had become a prominent feature of innovation policy in Europe, the United States, and most of all in Japan, where they were first launched a decade earlier. The increasingly contentious issue, not yet settled, concerns participation by foreign subsidiaries in these activities under the principle of "national treatment." A range of U.S. laws includes provisions for what is now termed "conditional national treatment." In some cases, the conditions amount to performance requirements under another name, as well as require reciprocal assets for U.S. firms in the home country of the subsidiary. The European Union also uses performance requirements, but they tend to be less transparent than in the United States, and involve considerable administrative discretion. Because of the acrimonious high-tech battles between the United States and Japan over the 1980s, the rules for foreign participation in Japanese consortia for the most part apply national treatment.

The reasons for including research consortia in a new regime are twofold: they are now likely to involve more non-OECD home and host countries; and they can rightly be included in a broad definition of performance requirements and/or incentives, which would improve the chances of achieving a more balanced package in the contentious technology issues. But if national treatment is eventually to be achieved with respect to subsidies, incentives or consortia, the problem of basic information in these areas must be solved. This relates to our next principle.

Transparency

This GATT-term was conceived in the world of shallow integration which focused on border barriers, mainly tariffs, and their closest proxies such as quotas, voluntary restraints, and domestic subsidies. The new issues of the Uruguay Round moved the focus inside the border, where many of the impediments to effective access stem from domestic legal and regulatory regimes and where the concept of transparency is far more complex and elusive. Investment regimes have elements of both GATT-type barriers, in the form of specific restrictions or exclusions, and of deeper integration impediments as, for example, in countries with no strong tradition of administrative law so that publication of full and reliable information on regulations and administrative procedures is not available. Even in OECD countries, as noted above in reference to research consortia, there is no comprehensive information set on the rules for foreign participation or on the actual numbers of foreign participants.

Since it is not possible to negotiate a reduction of impediments if the impediments are essentially unknown, transparency is basic to a new regime. But the task of improving transparency is clearly both immense and complex. A good way to start would be to build on existing work by UNCTAD. A recent UNCTAD report[5] documents a significant increase in both the number and range of foreign investment incentives since the mid-1980s in both developing and OECD countries. An extension of the UNCTAD initiative, including some effort at quantification, should be accorded a high priority. Ideally, UNCTAD, in cooperation with the WTO, should launch a joint project with the OECD, which has long experience in the statistical field and has developed innovative methodology in the subsidies area. Another useful partner in a joint project could be APEC, which also produced in 1995 a regional survey of trade and investment impediments.[6]

Most-Favored-Nation Treatment

Non-discrimination or MFN is the most basic principle of the original multilateral system. It requires that, if a host country accords more favorable treatment to one country, that same treatment must be accorded to all other parties. At the same time, Article 24 of the GATT does permit certain preferential or discriminatory arrangements. This was a product of the Cold War to promote European integration as a bulwark against the Soviet threat. It was opposed by many economists but their opposition was overruled by the U.S. State Department. Since those days, of course, preferential arrangements have multiplied enormously and since the mid-1980s, American policy has become multi-track, including, in addition to multilateralism, regionalism and unilateralism.

Thus one key issue in a new regime will be whether countries that are members of free trade agreements or common markets will be allowed to grant preferential treatment to investments from other members of the regional arrangement. It is not clear what position either the European Union or the United States will pursue. But most East Asian countries will oppose any preferential arrangements.

Another issue will relate to the coverage of a WTO agreement. If, as seems likely, the initial negotiations are plurilateral, involving the OECD countries and the most advanced of the non-OECD economies, the United States will not yield on reciprocity, i.e., will not accept an agreement which does not provide roughly equivalent effective access arrangements. Thus some sort of conditional MFN, in which only the plurilateral group receives the benefits and accepts the obligations (a precedent established in the Tokyo Round) may be the only way to start the process.

Dispute Settlement

Housing the new international investment regime in the WTO would ensure access to its single Dispute Settlement Body and ensure linkage with the international trade regime. The WTO dispute procedure is based on the historical origins of the GATT involving government-to-government modes of conflict resolution. In the investment field, NAFTA broke new ground by allowing for direct action by investors. Thus an investor can take a host government to binding international arbitration in seeking remedies against government conduct allegedly violating the agreed rules. A number of international arbitration fora are increasingly used in this capacity.

This issue of “direct action” is likely to be demanded by many host countries, most prominently by the United States, as central to a new WTO agreement since it was included in NAFTA and is prominent in the MAI. It would radically change the WTO mechanism since direct action, rooted in the concept of investor rights, aims at monetary compensation or the restitution of property, whereas government-to-government dispute settlement provides for the imposition of “commercially-equivalent” trade sanctions. The core element of direct action is thus individual property rights, i.e., the core element of Western legal systems. The scope for conflict with some Asian countries, especially China, is rather obvious. But the trend to legalization of the trade regime, which began with the Tokyo Round’s detailed legalistic codes on trade remedies, represents another aspect of globalization and the dominant role of the MNEs. Further, the precedent for direct action was established in a little-noted aspect of the Uruguay Round in both the Government Procurement and the TRIPs Agreements.[7] Both require member governments to establish procedures for suppliers to challenge alleged violations, and the TRIPs Agreement includes provisions for right-holders to directly petition customs authorities to block the importation of counterfeits. It is still too early to judge the results of these provisions since they have not yet been tested. But since the precedent exists, it will be difficult to resist its application in the foreign investment regime from which, it may be argued, its logic emanates.

V. Conclusion

Many of the historical barriers to including investment in a global regime have disappeared or at least greatly weakened. Thus, in a very important sense, the time is now ripe to negotiate an international investment agreement. But the road ahead will not be smooth and only concerted cooperative leadership can navigate around the blocks and potholes.

The OECD negotiations, intended to produce a model ("high standard") agreement for adoption by Ministers at their 1997 annual meeting, failed to meet that deadline. But when such an agreement is concluded, even though some non-OECD countries may voluntarily adopt the provisions, these are unlikely to include a number of key countries, especially in Asia. Hence, the OECD agreement will be high standard with limited coverage; the WTO must be the forum for negotiation of a global accord.

The decision by the WTO Ministers to establish a working group on investment was by no means easy and much of the opposition came from key foreign investment host countries, mostly in Asia. But the signal sent by that decision was clear enough. There will be negotiations in the WTO on global rules. The negotiations will be difficult and lengthy. The result may not be "high standard" in the eyes of some OECD countries. But it will be global, eventually including China, Russia and other countries in the WTO accession queue. There is probably a trade-off between quality and scope, but trade-offs are an essential element in all truly significant negotiations. And multilateral, transparent and enforceable rules for investment surely qualify for that designation.

Table 1. Foreign-Direct-Investment, 1985-1990
(In millions of US dollars)

	Outflows						Inflows					
	1985	1986	1987	1988	1989	1990	1985	1986	1987	1988	1989	1990
Global[a]	58,292	93,767	139,629	171,567	216,767	237,471	50,975	76,052	122,175	150,449	190,486	200,434
	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)
U.S.	13,170	18,690	31,040	17,880	29,000	32,690	19,030	34,080	58,140	59,420	67,870	45,140
Japan	6,450	14,480	19,520	34,210	44,160	48,050	640	230	1,170	-520	-1,060	1,760
U.K.	10,643	17,577	31,446	37,314	35,517	17,840	4,732	7,309	14,106	18,263	28,165	32,576
Italy	1,874	2,694	2,362	5,576	2,141	7,637	1,067	-153	4,188	6,789	2,191	6,441
Germany	5,933	10,506	9,197	12,702	18,289	28,377	2,722	722	1,490	875	10,626	8,388
France	2,243	5,403	9,210	14,496	19,426	35,015	2,595	3,256	5,140	8,487	10,313	13,223
Industrialized Nations[b]	40313	66,950	102,775	117,159	148,533	169,609	30,786	45,444	84,234	93,314	118,105	107,528
	(69.1)	(71.4)	(73.6)	(68.2)	(68.5)	(71.4)	(60.3)	(59.7)	(68.9)	(62.0)	(62.0)	(53.6)
East Asia[c]	901	742	1,204	1,142	1,588	2,284	4,847	6,479	11,231	14,663	14,289	16,746
	(1.5)	(0.79)	(0.86)	(0.66)	(0.73)	(0.96)	(9.5)	(8.5)	(9.1)	(9.7)	(7.5)	(8.3)

Source: International Monetary Fund, *Balance-of-Payments Statistics 1994*; United Nations, *World Investment Report 1992*.

a. Total refers to world total.

b. Industrialized nations include the US, Japan, the UK, Italy, Germany, and France.

c. East Asian outflow data includes Korea, Singapore, Taiwan, Thailand, and China. Inflow data includes Korea, Singapore, Taiwan, Thailand, Malaysia, Philippines, Indonesia, Hong Kong, and China.

Note: Figures in parentheses represent percentages.

Table 2. Foreign-Direct-Investment, 1991-95
(In millions of US dollars)

	Outflows					Inflows				
	1991	1992	1993	1994	1995	1991	1992	1993	1994	1995
Global[a]	210,821 (100)	203,115 (100)	225,544 (100)	230,014 (100)	317,849 (100)	15,773 (100)	168,122 (100)	207,937 (100)	225,660 (100)	314,933 (100)
U.S.	33,456	38,978	68,978	45,640	95,509	22,020	17,580	41,128	49,760	60,236
Japan	42,619	21,916	15,471	18,521	21,286	1,730	3,490	234	908	39
U.K.	16,304	18,982	25,671	25,334	37,839	16,208	14,934	14,475	10,085	29,910
Italy	7,222	5,891	7,409	5,106	3,210	2,401	3,105	3,749	2,199	4,347
Germany	23,723	19,698	13,176	14,653	35,302	4,071	2,370	277	-2,993	8,996
France	23,932	31,269	20,403	22,802	17,554	15,153	21,840	20,752	17,136	20,124
Industrialized Nations[b]	147,256 (69.8)	136,734 (57.6)	151,108 (66.9)	132,056 (57.4)	210,700 (66.2)	61,583 (39.0)	63,232 (37.6)	80,615 (38.7)	77,095 (34.1)	123,652 (39.2)
East Asia[c]	8,646 (4.1)	17,314 (8.5)	29,217 (12.9)	32,951 (14.3)	41,588 (13.08)	20,727 (13.1)	26,468 (15.7)	45,461 (21.8)	52,113 (23.1)	61,972 (19.6)

Source: United Nations, *World Investment Report 1996*.

a. Total refers to world total.

b. Industrialized nations include the US, Japan, the UK, Italy, Germany, and France.

c. East Asian data includes Korea, Singapore, Taiwan, Thailand, Malaysia, Philippines, Indonesia, and Hong Kong.

Note: Figures in parentheses represent percentages.

End Notes

1 See UNCTAD, *World Investment Report*, 1995, p. 38.

2 The APEC Ministers endorsed the APEC Non-Binding Investment Principles in Jakarta in November 1994. In the Principles, the Ministers recognize the importance of full implementation of the Uruguay Round TRIMs Agreement and call for members to adhere to principles on transparency, national treatment, investment incentives, performance requirements, expropriation, repatriation, and other issues.

3 "Having regard to the existing WTO provisions on matters related to investment and competition policy and the built-in agenda in these areas, including under the TRIMs Agreement, and on the understanding that the work undertaken shall not prejudge whether negotiations will be initiated in the future, we also agree to:

- establish a working group to examine the relationship between trade and investment; and
- establish a working group to study issues raised by Members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework.

These groups shall draw upon each other's work if necessary and also draw upon and be without prejudice to the work in UNCTAD and other appropriate intergovernmental fora. The General Council will keep the work of each body under review, and will determine after two years how the work of each body should proceed. It is clearly understood that future negotiations, if any, regarding multilateral disciplines in these areas, will take place only after an explicit consensus decision is taken among WTO Members regarding such negotiations.", *WTO Focus*, January 1997, p. 10.

4 For a comprehensive review of the main norms and principles comprising an international investment regime as well as a compendium of all existing instruments see UNCTAD, *International Investment Instruments: A Compendium*, Volumes I and II, Geneva, 1996. See also Edward M. Graham, *Global Corporations and National Governments*, Institute for International Economics, Washington, D.C., 1996.

5 *Incentives and Foreign Direct Investment*, Geneva, April, 1995.

6 *Survey of Impediments to Trade and Investment in the APEC Region*, A Report by the Pacific Economic Cooperation Council for APEC, Singapore, 1995.

7 For an analysis of the implications, see Bernard M. Hoeckman and Petros C. Mavroides, "Policy Externalities and High-Tech Rivalry: Competition and Multilateral Co-operation Beyond the WTO," in OECD, *Market Access After the Uruguay Round: Investment, Competition and Technology Perspectives*, Paris, 1996

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