
Contents at a Glance:

Negotiation Watch

1. Extent of investment rules in Pan-American pact still to be determined
2. Canada has no immediate plans to open up new bilateral investment talks
3. WTO struggles to determine place of investment in Doha Round

Events and Publications

4. IISD-CIEL release results of investment discussions in Miami
5. London event will look at investment treaty arbitration in East Asia
6. Tufts University: FDI not contributing to sustainable industrial development in Mexico

Negotiation Watch

1. Extent of investment rules in Pan-American pact still to be determined,
By Luke Eric Peterson

Regional trade ministers went home from last week's Miami ministerial conference a day early, but no clearer about the extent of investment commitments to be written into such an agreement.

In the end, representatives of 34 nations from North, Central and South America put their signatures to a declaration which looked more like a peace treaty, than a trade agreement.

Thanks to the vaguely-worded declaration ministers managed to avert a collapse in talks similar to that which derailed the World Trade Organization's earlier ministerial conference in Cancun, Mexico.

The declaration decreed that a core agreement would see rules negotiated in a broad range of key areas including investment, intellectual property rights, services and agriculture. However, it also stipulated that "interested parties may choose to develop additional liberalization and disciplines" on a plurilateral basis.

The text, thus leaves wriggle-room for Brazil in particular, which has insisted that it will not be bound by extensive rules in some areas, including investment.

A paper circulated by Brazil and its Mercosur partners (Argentina, Paraguay and Uruguay) in advance of the Miami meetings had signaled its unwillingness to go much beyond those substantive investment disciplines set out in the World Trade Organization's existing agreements on Trade-Related Investment Measures (TRIMs) and Trade in Services (GATS).

Moreover, Brazil indicated that it would not be bound by any dispute settlement mechanism which

provides for investor-state arbitration.

However, it remains unclear, whether FTAA negotiators will succeed in moving Brazil from these positions as talks continue to go forward, or whether countries such as Canada and the US, which harbour greater ambitions in the investment area, will need to channel those ambitions into a more far-reaching plurilateral agreement which would allow a smaller number of interested parties to take on greater obligations.

One thing is certain, the United States has made good on its pledge to pursue more ambitious commitments on a bilateral basis with selected partners in the hemisphere. Last week, bilateral free-trade negotiations were launched with Colombia, Peru and Panama. In addition, the US has announced that it will pursue a bilateral investment treaty with Brazil's Mercosur partner, Uruguay.

2. Canada has no immediate plans to open up new bilateral investment talks, By Luke Eric Peterson

Despite its failure to obtain agreement this past week for a sweeping Pan-American set of investment rules (see previous story), Canada's chief negotiator for the Free Trade Area of the Americas (FTAA), Claude Carrière, says that Canada has no immediate plans to open up new bilateral negotiations on investment rules.

Currently, Canada is engaged in negotiations with Nicaragua, El Salvador, Honduras and Guatemala on a free trade agreement which will include disciplines on investment. Canada has already concluded such a bilateral free trade agreement with another Central American nation, Costa Rica.

Canada's talks with the Central America 4 have been slowed somewhat by the fact that these nations (along with Costa Rica) are also engaged in a separate negotiation with the United States to conclude a broad free-trade agreement.

Speaking at a briefing session in Miami last week, Mr. Carrière indicated that Canada has had expressions of interest from countries in the Andean and Caribbean Community for investment agreements, however, Canada's current plan is to conclude negotiations with the Central America 4 (and also talks which have been under way with Singapore) before opening new negotiating fronts.

With a new administration set to take power in Canada on Dec.12, Mr. Carrière also noted that new Prime Minister, Paul Martin, enjoyed the prerogative to re-examine Canada's trade and investment priorities - in which case, Canada's negotiating objectives could be revised by the new administration.

3. WTO struggles to determine place of investment in Doha Round, By Trineesh Biswas

As informal consultations continue at the World Trade Organisation in Geneva, Members are discussing different options for how to address the so-called 'Singapore issues.'

Since the collapse of discussions in Cancun in September, little progress has been made in informal meetings amongst trade delegates in Geneva.

Geneva-based sources tell Invest-SD that General Council Chair Carlos Perez del Castillo of Uruguay has proposed a 'two plus two' approach to the four Singapore issues (investment, competition, transparency in government procurement, and trade facilitation).

Castillo's proposal would see multilateral negotiations start immediately on the two less controversial issues, trade facilitation and transparency in government procurement

Castillo has asked WTO Members to offer opinions as to whether the remaining two issues, investment and competition, should proceed on a plurilateral track or be subject to further "clarification" and study in the appropriate working groups at the WTO.

A number of countries have reacted unhappily to suggestions that investment and competition might be negotiated, even on a plurilateral basis - insisting that such a step cannot be contemplated without the explicit consensus of all WTO members.

Indonesia, with the support of Malaysia and Bangladesh, rejected the Chairman's proposal, and has said that investment, along with competition and transparency in government procurement should be dropped from the WTO entirely.

However, Costa Rica and Chile both expressed support for a 'two plus two' proposal. Korea has agreed to consider the proposal, but has made clear that it views the idea as "below ambition" - and continues to call for negotiation on all four Singapore issues.

The European Commission, which has long been a proponent of investment negotiations at the WTO, now insists that it is not a demandeur - and is still working out its position with various European Union member-states.

Sources:

INVEST-SD Interviews

"WTO: Informal Consultations on Singapore Issues Ongoing," BRIDGES Weekly Trade News Digest - Vol. 7, Number 38, International Centre for Trade and Sustainable Development, November 13, 2003

"Many Developing Countries Reject Plurilateral Approach for Singapore Issues in WTO Green Room Meeting," by Goh Chien Yen, Third World Network, Geneva, November 13, 2003

Events and Publications

4. IISD-CIEL release results of investment discussions in Miami

A series of recommendations and concerns emerging from a two-day series of workshops and panel discussions on investment were tabled by the organizers of the Americas Trade and Sustainable Development Forum to trade ministers in Miami last week.

As co-conveners of the investment workshops held in advance of the Ministerial meetings, the International Institute for Sustainable Development (IISD) and the Center for International Environmental Law (CIEL) hosted a series of discussions which brought together negotiators, government officials public interest groups, academics and practicing investment lawyers.

The series of recommendations and concerns which emerged from these sessions are posted online at: <http://www.iisd.org/trade/americas/atsdf.asp>

5. London event will look at investment treaty arbitration in East Asia

A one day symposium on arbitration in East Asia will feature a special panel discussion on bilateral and multilateral investment treaties. The event, which is co-sponsored by the London Court of International

Arbitration and UK-law firm Denton Wilde Sapte will take place on Dec.5, 2003 at the Law Society, Chancery Lane, London.

For more information email: hrisso-gill@dentonwildesapte.com or ib@lcia-arbitration.com

6. Tufts University: FDI not contributing to sustainable industrial development in Mexico

A new report prepared by the Global Development and Environment Institute at Tufts University, has found that Mexico's upsurge in foreign direct investment (FDI) over the last decade has not led to sustainable industrial development.

The report's authors, Kevin P. Gallagher and Lyuba Zarsky, note that many of the "hoped-for spillovers, industrial restructuring, and environmental improvements did not materialize." Instead, large investments in Mexico's manufacturing sector have relied "heavily on cheap labor and imports for productive inputs", while remaining "largely disconnected from the domestic Mexican economy."

The Report, "Sustainable Industrial Development? The Performance of Mexico's FDI-led Integration Strategy", can be found on-line at:

<http://www.ase.tufts.edu/gdae/Pubs/rp/MEXICOFDIREPORT11-03.pdf>
<<https://webmail.iisd.ca/exchweb/bin/redirect.asp?URL=http://www.ase.tufts.edu/gdae/Pubs/rp/MEXICOFDIREPORT11-03.pdf>>

INVEST-SD Bulletin is produced By Luke Eric Peterson in Boston, Massachusetts for IISD.

To subscribe to INVEST-SD Bulletin or to visit the archive of earlier editions, visit:
www.iisd.org/investment/invest-sd

Subscribers may submit news articles, notices of events, press releases, analyses, questions and requests for information to lpeterson@iisd.ca

The opinions distributed in the INVEST-SD Bulletin do not necessarily represent the views of the International Institute for Sustainable Development (IISD) or its funders.