EUROPEAN PARLIAMENT 2009 - 2014

Committee on Development

2010/2203(INI)

8.2.2011

OPINION

of the Committee on Development

for the Committee on International Trade

on the future European international investment policy
(2010/2203(INI))

Rapporteur: Bill Newton Dunn

SUGGESTIONS

The Committee on Development calls on the Committee on International Trade, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Considers that investment can have a positive impact on growth and jobs, not only in the EU but also in developing countries, insofar as investors actively contribute to the development goals of the host states, i.e. by supporting the local economy through technology transfer and by utilising local labour and inputs;

2. Notes that future EU investment policy towards developing countries needs to have a strong focus on fostering investment flows that create decent employment and reduce poverty;

3. Expresses its concern that foreign direct investment in least developed countries is extremely limited and tends to be concentrated in natural resources;

4. Stresses that fairness in investment agreements entails allowing developing countries to discriminate between different investments on the basis of their contribution to development objectives;

5. Believes also that, given healthy growth rates and the significant potential of numerous developing nations, many of which enjoy long-standing privileged relationships with Europe, the proposed improvements to investment policy, coupled with effective and efficient cooperation, could be extremely beneficial both to the EU and to developing economies;

6. Notes that the investment risk is generally higher in developing countries, and that good governance, the rule of law and transparency are the key principles for strong, effective investor protection; takes the view that increased investment in developing countries is important for development and that investment treaties can help improve governance and bring about the stable, secure environment that is needed to encourage foreign direct investment; believes, however, that this is possible in the context of an investment framework based not only on investors' rights but also on their obligations, as part of a broader partnership between the EU and developing countries for the purpose of reducing poverty, in line with MDG commitments; believes that, to this end, EU investment treaties ought to contain provisions giving the home country obligations to promote sustainable investment, transfer technology and fight corruption, and giving investors obligations in relation to compliance with human rights, labour rights and corporate social responsibility;

7. Calls on the Commission to focus more strongly on developing countries as potential investment partners; notes too that the Commission's primary concern is to design an EU investment policy that reflects the objective of achieving maximum protection for EU investors; points out, in this respect, that the Treaty on the Functioning of the European Union obliges the EU to practise policy coherence for development, i.e. to 'take account

of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'[1];

8. Warns against developing a policy of double standards regarding the rights and obligations of corporations; calls on the Commission actively to promote corporate social and environmental responsibility (based on international standards such as the OECD Guidelines for Multinational Enterprises and the United Nations Global Compact), in order to permit effective monitoring of the impact – social, environmental and in terms of respect for human rights – of the operations of transnational undertakings and their subsidiaries in developing countries; notes the Commission's approach based on the idea that corporations' obligations should not be legally binding but should remain voluntary under a code of conduct; takes the view that corporations must be obliged to respect international and domestic law, must be held accountable where they are found to be in breach, and must publish up-to-date reports of their activities, including any lack of progress;

9. Stresses the importance of ensuring that investment treaties are consistent with all other policies affecting developing countries, and therefore that they include clauses on human rights, gender equality, the environment, decent work, transparency and the fight against illicit capital flows; accordingly, takes the view that EU agreements should improve on the model provided by existing Member State bilateral investment treaties by broadening the objectives (to include sustainable development), containing more precise provisions (especially on the definition of foreign direct investment and indirect expropriation), building in limitations (to enable control of capital movement), and adding obligations for investors and home-country governments;

10. Notes that there is a balance to be struck between the objective of promoting EU competitiveness, through market access and investment protection, and allowing developing countries the right to regulate in order to pursue their own development agendas;

11. Underlines the need for stronger investment-promotion provisions in investment agreements when they concern developing countries;

12. Calls on the EU to meet its aid-for-trade commitments and to step up support for capacity building and good governance, focusing especially on parliaments, the judiciary, infrastructure, the strengthening of tax systems, the promotion of access to capital and microfinance, including non-profit microfinance, in developing countries, in line with the recent Commission green paper on development policy, so as to make developing countries more attractive as locations for – and help them improve their capacity to manage – foreign investment;

13. Believes that EU investment policy should take into account the differences between middle-income and low-income countries and, in particular, seek to encourage flexibility in relation to foreign investment in developing countries in activities and sectors with a clear and significant impact on sustainable development, which might otherwise not attract investment because of the risks involved; considers that greater support should be

[1] Treaty on the Functioning of the European Union, Article 208.

given to local firms, notably through incentives for strengthening their productivity, engaging in closer cooperation and improving workforce skills – areas of, considerable potential in terms of boosting economic development, competitiveness and growth in developing countries;

14. Encourages, likewise, the transfer of new, green EU technologies to developing countries, as the best way of promoting green and sustainable growth;

15. Points out that industrial development has tremendous transformative potential for national economies and, unlike agricultural exports or natural resources extraction which expose economies to shocks, is likely to offer enhanced scope for long-term productivity growth; therefore calls on developing countries to address this issue by designing and implementing industrialisation policies with a specific focus on manufacturing specialisation and trade-capacity building;

16. Acknowledges the importance of a level playing field in investment relationships but considers, given the huge imbalances that exist between many fragile developing economies and those of EU states, that reciprocity may need to be differentiated in some cases;

17. Urges the EU to respect developing countries' ownership of their economic strategies and to cooperate with them in order to reach investment agreements that are mutually beneficial even if this means the use of a different model of BIT; stresses that these agreements must provide the necessary flexibility for developing countries to enable them to concentrate investments in the sectors most relevant for them and most capable of generating sustainable growth;

18. Stresses the added value of a coherent and integrated EU investment policy; believes that developing countries would benefit greatly from having the EU as main interlocutor on investment arrangements, rather than relying on multiple agreements with individual Member States, provided that the EU investment policy strikes the right balance between the objective of investor protection and host states' development goals; considers it vital, therefore, to establish an appropriate deadline for the replacement of Member States' bilateral treaties by EU-level agreements; takes the view that the EU investment policy should include strong provisions on transparency, especially in relation to arbitration rules, and should oblige investors to exhaust domestic remedies first before turning to international arbitration.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	7.2.2011
Result of final vote	+: 24 –: 0 0: 0
Members present for the final vote	Thijs Berman, Nirj Deva, Leonidas Donskis, Charles Goerens, Catherine Grèze, Filip Kaczmarek, Miguel Angel Martínez Martínez, Gay Mitchell, Norbert Neuser, Bill Newton Dunn, Maurice Ponga, Birgit Schnieber-Jastram, Michèle Striffler, Eleni Theocharous, Ivo Vajgl, Iva Zanicchi
Substitute(s) present for the final vote	Kriton Arsenis, Agustín Díaz de Mera García Consuegra, Santiago Fisas Ayxela, Emma McClarkin, Csaba Őry, Åsa Westlund
Substitute(s) under Rule 187(2) present for the final vote	Andres Perello Rodriguez, Teresa Riera Madurell