INTERNATIONAL INVESTMENT LIMPS INTO 2011

Michael Gestrin, with statistical support from Ayse Bertrand and Emilie Kothe

International investment remains flat well into Q4 of 2010, confirming the end of two years of steep declines in 2008 and 2009 but also signalling that investment globalisation is in a holding pattern.

Figure 1 displays global foreign direct investment (FDI) inflows and international mergers and acquisitions (M&A), an important component of FDI. The FDI projection for 2010 is based upon the international M&A data which is available through mid-November 2010 (see Box 1 on the relationship between FDI and international M&A).

On current trend international M&A investment will reach around US$ 670 billion in 2010, an increase of 6% over 2009. This would be the first increase in international M&A activity since 2007, following declines of 21% in 2008 and 53% in 2009.

Continued on page 2

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Table 1. OECD FDI Inflows and outflows, 2nd Half 2009- 1st Half 2010 (US$ billions)

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Memo items:
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Notes: % change is not calculated for negative values or when the value is 0 for the first period only.
1. Data excludes FDI to/from Special Purpose Entities.
2. Chile became a member of the OECD on 7 May 2010; Slovenia on 21 July 2010; Israel on 7 Sept 2010.
3. Excluding Saudi Arabia.
Source: OECD international direct investment database and IMF.

On the basis of the international M&A investment trend and the fact that a large share of FDI is M&A, global FDI flows are projected to decline by around 8% in 2010. This decline would nonetheless represent an improvement over previous years -- FDI flows declined by 19% in 2008 and 43% in 2009. This projection is consistent with quarterly FDI data available for the first half of 2010 for the OECD countries. These data show the declines in Q1 and Q2 over previous quarters for OECD inflows and flatness for outflows (Figure 2).

International M&A investment should reach US$ 671 billion in 2010, up 6% over 2009

Table 1 provides the most recent data on FDI flows for the OECD and the G20 during the first half of 2010 and compares these with the second half of 2009. FDI inflows decreased by 22% into the OECD and by 4% for the G20. Outflows increased by 21% for the OECD and 12% for the G20. An increasing share of these outflows is going to emerging economies (Box 2).

Box 1. The relationship between FDI and international M&A

The three components of FDI are equity, reinvested earnings, and inter-company loans. International mergers and acquisitions are one type of equity FDI. On average, two-thirds of FDI has taken the form of international M&A investment since 2000. International M&A investment is an important sub-component of FDI because these investments result in full control. Equity FDI is a broader measure of international investment than M&A because it includes smaller cross-border equity investments (as low as 10%) and Greenfield investments.
Box 2. Investors from emerging economies prefer to invest in other emerging economies

The G20 is the source of three-quarters of the world’s international M&A investment – around US$417 billion through mid-November in 2010. Just over a quarter of this, US$106 billion, went to emerging economies.

During the past decade emerging economies have become increasingly important sources of international M&A investment, increasing their share of the global supply of international investment from 1% in 2001 to around 20% today.

This rise of emerging economies as sources of international investment has resulted in more international investment for emerging countries. The reason for this is that a much larger share of investment from emerging economies goes to other emerging economies than is the case for investment from OECD countries.

The figure shows the share of international M&A from emerging economies and from OECD countries that goes to emerging economies. In 2010 over 50%, or US$31 billion, of emerging economies outward M&A investment was directed at other emerging economies. Just over 20%, or US$75 billion, of OECD outward M&A investment went to emerging economies. While investment from emerging economies is lower in absolute terms than from OECD countries, the relative tendency of the former to favour other emerging economies as targets could have important development benefits if the emerging economies continue to grow as sources of international investment.

Lacking any clear momentum of its own, the international investment trend for 2011 will be particularly sensitive to the strength of the economic recovery across the global economy. It will also be sensitive to the ability of the G20 to avoid investment protectionism or any further conflict over foreign exchange policies, which could discourage international investment by creating uncertainty over the pricing of international assets and the valuation of expected future income from these assets.

For further reading on this topic: www.oecd.org/daf/investment
RISING TENSIONS COULD DEGENERATE INTO PROTECTIONISM, WARNS OECD-UNCTAD REPORT

Kathryn Gordon and Joachim Pohl

G20 leaders must remain vigilant against the risk that tensions over current account imbalances could slow investment or, worse, degenerate into a protectionist spiral, according to the OECD and UNCTAD.

In their fourth report to the G20, the organisations find that most new investment measures taken from mid-May to mid-October by governments were aimed at facilitating and encouraging investment flows across borders.

However, some countries have recently put in place capital controls and regulations to buffer their economies from foreign exchange volatility and short-term capital flows. While such measures may serve legitimate purposes under exceptional circumstances, widespread capital controls could lead to a fragmentation of international capital markets along national lines, and may be difficult to dismantle once in place, says the report.

“Foreign exchange intervention is not the most helpful instrument for macro-economic management,” OECD Secretary-General Angel Gurría said. “It can prompt countervailing intervention and may trigger new protectionist responses.”

Besides the desirability of avoiding an escalation of frictions over foreign exchange rates, governments must also wind down emergency schemes as quickly as is prudent. Exit strategies should be transparent and accountable.

“G20 countries have to respect the letter as well as the spirit of the anti-protectionist pledges they have made,” Mr Gurría said. “Keeping international investment open in the months and years ahead will be key to a strong, sustainable recovery.”

Looking ahead, the report warns that governments must remain alert to two principal dangers:

- Signs of intensifying protectionist pressures, as unemployment remains high in many G20 countries and tensions over exchange rates continue;
- The need to manage investment measures taken in response to the crisis. Countries must ensure that exit measures remain transparent and non-discriminatory against foreign investors.

Leaders of the G20, which comprises the world’s largest economies, committed to resist protectionism and promote global trade and investment at summits in 2008, 2009 and 2010. They mandated WTO, OECD and UNCTAD – the leading international organisations in the area of international trade and investment policies – to monitor policy developments and report publicly on countries’ respect of their commitments.

Access the report:
www.oecd.org/daf/investment/foi
STATE-CONTROLLED INVESTORS AND IMMUNITY: AN EMERGING ISSUE FOR INVESTMENT POLICY

David Gaukrodger

State-controlled investors – such as sovereign wealth funds and public pension funds – have recently expanded their foreign investments. This investment can bring significant benefits. But concerns can arise about whether foreign state immunity may either hinder private parties’ legitimate claims against such investors or create regulatory gaps for host countries.

The doctrine of foreign state immunity bars a national court from adjudicating or enforcing certain claims against foreign States. At one time, States enjoyed “absolute” immunity – all proceedings against foreign states were barred without their consent. As States became more involved in commercial activities, many jurisdictions began to apply a “restrictive” approach to immunity at least in cases brought against foreign state entities by private parties. Under the restrictive theory, courts continue to recognise immunity for “sovereign” acts, but deny it for “commercial” acts. The restrictive approach is now widely reflected in case law, national statutes and international conventions, although it cannot yet be said to be universally recognised.

In addition, there are important variations in national laws, such as different definitions of a foreign State. State-controlled investors may significantly affect their degree of immunity by structuring their investments and choosing the host jurisdiction.

**Increased international efforts could strengthen the legitimacy and effectiveness of regulation of foreign state-controlled investors**

National and international efforts to codify the law of foreign state immunity in statutes or treaties, including a 2004 United Nations convention, have focused on private lawsuits and generally skirted the issue of immunity from regulation. A comparison of some key areas of national regulation reveals divergent approaches to immunity.

For criminal law, absolute immunity remains the general rule although exceptions are conceivable. In the tax area, countries apply divergent approaches to immunity from tax of foreign states in their domestic tax laws. These include broad exemptions from all direct taxes; exemptions limited to non-commercial activities (variously defined); and no exemptions. In the area of competition law, both EU and US regulators have taken the position that immunity is at least limited, but the law is not well-developed.

For policy-makers, the impact of foreign state immunity on host state regulation of foreign state-controlled investors is perhaps best analysed in functional terms on a sliding scale depending on a number of factors which would affect the strength of the case for applying a restrictive theory of immunity (or otherwise limiting immunity).

Key factors for consideration by policymakers at various levels include the nature of remedies to be applied (whether they are compensatory or punitive in nature), the public or private nature of the enforcement agency; and the applicable definition of the foreign state and type of foreign state entity at issue.

Increased international efforts to seek common approaches to similar regulatory issues could strengthen the legitimacy and effectiveness of regulation of foreign state-controlled investors by making it both more predictable and more uniform across different jurisdictions.

Access the report: [www.oecd.org/daf/investment/foi](www.oecd.org/daf/investment/foi)

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**Share of global M&A accounted for by state-controlled investors in 2009**

20%
Reforms over the past decade have done much to improve the resilience of the Indonesian economy, and the government has made substantial progress in creating a better climate for investment. New laws have been enacted in almost all sectors, and new institutions have been created to advise the government, implement and enforce laws, regulate newly liberalised sectors and settle disputes. Foreign investors have taken notice. Foreign direct investment in Indonesia in the past five years has exceeded the earlier peak achieved in 1996, before the Asian financial crisis in 1997-98 brought economic contraction and net outflows of foreign investment. This investment is also becoming increasingly diversified by sector and by country of investor.

However, to boost chances of attracting even more much-needed private sector investment, the first OECD Investment Policy Review of Indonesia recommends that the government lift restrictions on foreign investment, improve access to land, better enforce competition rules, further strengthen protection of investor assets and continue cutting red tape.

The report recommends that Indonesia pay greater attention to how regulations are designed, implemented and reviewed, so policy objectives are achieved with the least possible disruption to the business climate.

This publication and the OECD's latest economic survey of Indonesia were released on 1 November 2010 at a launch event in Jakarta attended by the OECD Secretary-General Angel Gurría and Indonesia’s Finance Minister, Mr. Agus DW Martowardojo.

For further reading on this topic: www.oecd.org/daf/investment/development

OECD Secretary-General Angel Gurría and Indonesia’s Finance Minister, Mr. Agus DW Martowardojo, at the launch event in Jakarta on 1 November 2010
RESPONSIBLE BUSINESS CONDUCT

OECD STANDARDS TAKEN UP IN FIGHT AGAINST CONFLICT MINERALS

Lahra Liberti and Tyler Gillard

Efforts to end trade in conflict minerals advanced when 11 African countries endorsed an OECD system for the responsible sourcing of minerals at a meeting in Nairobi, Kenya, on 29-30 September 2010.

Mining ministers from the International Conference on the Great Lakes Region (ICGLR) agreed to forward the OECD’s guidance to heads of state slated to participate in the next regional summit towards the end of the year.

Public and private sector officials agreed that the OECD’s Due Diligence Guidance for Responsible Supply Chain Management of Minerals from Conflict-Affected and High-Risk Areas should be part of wider plans to improve transparency and accountability across the central African minerals sector.

Illegal exploitation of natural resources in fragile African states has been fueling conflict across the region for a decade. Exploited minerals include diamonds, gold and tin, as well as those commonly found in electronic equipment such as cassiterite (used in laptops), coltan (mobile phones) and wolframite (light bulbs). While data is scarce, it is estimated that up to 80% of minerals in some of the worst-affected zones may be smuggled out. The illegal trade stokes conflict, boosts crime and corruption, finances international terrorism and blocks economic and social development.

The OECD’s guidance clarifies how companies can identify and better manage risks throughout the entire mineral supply chain, from local exporters and mineral processors to the manufacturing and brand-name companies that use these minerals in their products.

For further information, visit: www.oecd.org/daf/investment/mining

OECD – November 2010

7
INVESTMENT FOR GREEN GROWTH

HELPING COMPANIES MAKE THE SHIFT TO A LOW-CARBON ECONOMY

Céline Kauffmann and Cristina Tébar Less

While many companies are taking action to address climate change, many are questioning whether the investments required to reduce GHG emissions make sense in the face of uncertainty about climate policies.

This is the first time that the OECD reviews in-depth the drivers for business in shifting to a low-carbon economy. The book is particularly relevant at a time when governments are looking to breathe new life into their negotiations to shape the global climate change policy framework. Drawing on experiences from OECD countries, China, India and South Africa and a survey to companies, this new OECD research shows that companies are ready to do their share in creating a new low-carbon business model – but that governments need to help.

Four out of five of the Fortune Global 500 companies measure and disclose their GHG emissions

Corporate reporting of GHG emissions is one example. Following the adage “you can manage what you know”, most of the largest companies (4 out of 5 of the Fortune Global 500) today measure and disclose their GHG emissions. At present, though, there are no internationally-agreed standards for corporate GHG emission reporting. Methodologies to measure emissions vary across reporting schemes. Consequently, comparability of corporate information is weak and so is its credibility. Companies may end up paying a double price: the cost of multiple GHG reporting exercises and a stained reputation. Governments can do a lot to ensure consistency of GHG accounting methodologies and standards by building on emerging good practices and recognised protocols in this area - the Greenhouse Gas Protocol developed by WBCSD and WRI is one of these useful tools. They can also help at international level, by promoting discussions on how to harmonise methodologies.

What are companies actually doing to go from GHG reporting to emission reduction? Energy conservation is an obvious first step for 61 of the 63 companies that took part in the OECD survey. Other measures, such as reducing waste generation, adopting low-carbon technologies, optimising logistics and shifting to renewable energies, are more costly and have a longer return on investment. Only frontrunners have gone further and act beyond the company’s borders to involve their suppliers and consumers into their emission reduction efforts.

What can governments do to scale up companies’ efforts to mitigate their impact on climate? Promoting good practices and public-private partnerships to build capacity and awareness are all essential. Beyond that, strong policy incentives, including a price on carbon, are needed to bring about ambitious corporate action on emissions.

For further information about this book: www.oecd.org/daf/investment/cc
HELPING GOVERNMENTS BOOST INVESTMENT IN AGRICULTURE

Karim Dahou and Mike Pfister

The world population is expected to grow by 2.3 billion between 2009 and 2050. It is therefore already clear that feeding the world will be one of the toughest policy challenges of the 21st century. Increasing land and water scarcity, as well as climate change, will further add to the challenge.

The G20 Summit in Seoul therefore requested international organisations to develop options for promoting responsible investment in agriculture.

At the OECD, the Policy Framework for Investment (PFI) has been adapted specifically with a view to increasing private investment in agriculture – the Policy Framework for Investment in Agriculture (PFIA).

The PFIA complements a multi-agency initiative to develop “Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources”, involving the Food and Agriculture Organisation (FAO), the International Fund for Agricultural Development (IFAD), the World Bank Group and the United Nations Conference on Trade and Development (UNCTAD). While this initiative is mainly focused on international investors, the PFIA aims to support host countries in strengthening their policy frameworks to attract more and better investment in agriculture.

Although the PFIA can be used anywhere, African countries took the lead in its development. This owes to the fact that 60% of the world’s remaining uncultivated farmland is in Africa. As a result, Africa has attracted large-scale foreign investments in agriculture. The PFIA was developed to ensure that such investments contribute their full potential to development. It is being tested by the Government of Burkina Faso to assess and reform its agricultural policies.

Sustainable growth in agriculture relies on a wide set of policies that go beyond agricultural policies. The PFIA provides guidance in nine policy areas for improving the quality of a country’s environment for investment in agriculture:

- Investment policy
- Investment promotion and facilitation
- Human resource and skills development
- Trade policy
- Environment
- Responsible business conduct
- Infrastructure development
- Financial sector development
- Taxation

For further reading on this topic: www.oecd.org/daf/investment/development
The co-operation between [the UN, the OECD and NEPAD] will contribute to renewed efforts to accelerate Africa’s progress towards the Millennium Development Goals and reduce the continent’s vulnerability to external shocks and food price instability”.

Mr. Cheick Sidi Diarra
UN Special Adviser on Africa
New York, 11 October 2010

A recent report jointly produced by the UN, the OECD, and NEPAD argues that African economies are dependent on too few export commodities and sectors. This makes them vulnerable to variable commodity prices on the demand side and extreme weather events such as droughts and floods on the supply side.

A main recommendation is that African governments need to do more to improve their policy frameworks for business and private investment. According to the report, “the private sector is the core driver of economic diversification, and thus all actions taken by government and stakeholders should aim to strengthen support to the private sector by creating a business-enabling environment. The implementation of international trade agreements, direct support in the context of public-private partnerships, capacity building mechanisms for the private sector, and partnerships with donors and trading partners are some of the key ways governments can enhance the business-enabling environment.”

In addition, the report recommends that governments establish sectoral priorities for diversification, that they strengthen international partnerships, and that they improve public governance.

The report recognises that addressing these recommendations will not be easy because “capacity building is needed at all levels”. For this reason, the report emphasizes that the international development community, including the donor community and development banks, has a crucial role to play. While the report recognises that African governments bear the main responsibility for reforms that will support economic diversification, it is also clear about the level of responsibility that rests with Africa’s development partners -- they “can and must play a part”.

Download the full publication and read more about the launch event:
www.oecd.org/daf/investment/development

(left to right) Dr. Ibrahim Assane Mayaki, Chief Executive Officer of NEPAD, Mr. Cheick Sidi Diarra, UN Special Adviser on Africa, and Mr. Eckhard Deutscher, Chair of the OECD Development Assistance Committee launched the joint study at UN Headquarters in New York on 11 October 2010.
LAUNCH OF THE LATIN AMERICA AND CARIBBEAN-OECD INVESTMENT INITIATIVE

On 27-28 September 2010, Chile hosted the first meeting of the Latin America and Caribbean-OECD Investment Initiative on “Investment for Jobs and Development in Latin America and the Caribbean”.

This conference brought together senior government policy makers and representatives from business, labour, civil society and leading regional organisations. Several areas of consensus emerged from the discussions during this Davos-style event:

- The social and development dimensions of private investment are viewed as vital to the investment policy debate in Latin America.
- Countries in the region would benefit from deeper regional co-operation across a range of investment policy issues.
- Many countries in the region know what they need to do to improve their investment environments but need to develop stronger capacities to pursue these objectives.

Colombia will host the second Latin America and Caribbean-OECD Investment Initiative meeting on 17-18 February 2011 with a focus on public-private partnerships in infrastructure (see back page). Costa Rica will host the third meeting in Q4 2011.

For more information about this regional initiative and the launch event: www.oecd.org/daf/investment/lac

EGYPT SHOULD IMPLEMENT FURTHER REFORMS TO ATTRACT INVESTMENT

Egypt has made impressive strides toward improving its business environment in the past five years. But far-reaching reforms are still needed to attract greater amounts of foreign investment and meet the country’s full economic potential.

The OECD’s Business Climate Development Strategy for Egypt recommends that Egypt should urgently update business regulation, find financing for much-needed industrial infrastructure, boost enforcement of anti-corruption laws and provide better education and skills training to the next generation of workers.

This report assesses progress in 12 key policy areas - building on the Policy Framework for Investment, ranging from investment and trade policy to tax, anti-corruption, infrastructure and human capital development. It identifies areas where reform has progressed, including an improved investment policy framework, effective income tax reform, tariff reductions, improved customs services and far-reaching banking reforms.

This report was presented in Cairo on 7 November 2010 in the presence of Egyptian Minister for Trade and Industry Mr. Rachid Mahmoud Rachid and World Bank Managing Director Mr. Mahmoud Mohieldin, who launched the business climate development project while serving as Egyptian Minister of Investment.

For further information about this book: www.oecd.org/officialdocuments/digilib/oecd-ilibrary/en

(left to right) Mr. Richard Boucher, OECD Deputy Secretary-General and Mr. Raul Saez, Ambassador of Chile to the OECD.
9 DECEMBER 2010, CANCUN, MEXICO
High-level discussion on tackling climate change together: scaling up the private sector contribution

High-level representatives of government, business, trade and NGOs will meet to review key messages from new OECD research on corporate practices in the transition to a low-carbon economy and identify priorities for international and national policy action to scale up private finance in low-carbon infrastructure and technology.

This event takes place within the framework of the United Nation’s COP 16 and will be chaired by OECD Secretary-General Angel Gurría.

For further information contact celine.kauffmann@oecd.org

14 DECEMBER 2010, PARIS, FRANCE
Symposium on international investment agreements and investor-state dispute settlement

International investment agreements as well as the number of investment disputes have increased over the last decade. The architecture of investment agreements has also evolved during this period and the investor-state dispute settlement system poses new challenges to governments and investors alike.

Co-organised by the OECD and UNCTAD, with the participation of ICSID, this Symposium will provide an opportunity for government policy makers and experts in international investment law to share their perspectives on the emerging issues in this field and to explore areas where further work is required in order to respond to the needs of governments and the investment community.

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17-18 FEBRUARY 2011, CARTAGENA, COLOMBIA
Second Latin America and Caribbean-OEC Investment Initiative meeting

The need for infrastructure investment in Latin America and the Caribbean in the coming decades far exceeds the financial resources of governments alone. The private sector therefore needs to be involved. This conference will consider policy issues such as:

- the Latin American experience with public-private partnerships;
- the social dimension of critical services, such as water and sanitation;
- how to adapt tools such as the OECD’s Principles for Private Sector Participation in Infrastructure in Latin America.

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3 DECEMBER 2010
2010 Annual Report on the OECD Guidelines for Multinational Enterprises

This Annual Report provides an account of the actions taken by the 42 adhering governments over the 12 months to June 2010 to enhance the contribution of the Guidelines to the improved functioning of the global economy.

Ten years after the 2000 revision of the Guidelines, work is starting on an update of the Guidelines to ensure their continued role as a leading international instrument for the promotion of responsible business conduct. This edition focuses on three core issues for consideration during the update: supply chains, human rights, and climate change.

For further information, visit www.oecd.org/daf/investment/guidelines