



CEFTA 2006

Monitoring and the Implementation of the Investment-Related Clauses

With the support of the European Commission



Project description

- Part of a larger project funded by the **European Commission** on supporting the CEFTA Structures in monitoring and implementing the agreement.
- The project has two main outputs:
 - An assessment of the **implementation of CEFTA 2006** investment-related clauses
 - An analysis of the **impact of the CEFTA 2006** on industry concentration and FDI
- For the second component, there were not enough data observations on current signatory countries. For that reason, we relied on **data from CEFTA and BAFTA countries** which went through regional and EU integration simultaneously

Results of the review of the investment-related clauses

- **Restrictions to national treatment**
- **Consistency of bilateral investment treaties in Annex 6**
- **Review of IPR regimes in the CEFTA Parties**
- **Public Procurement**

Restrictions to national treatment

- Trans-sectoral approval procedures are not applied by CEFTA Parties.
- Previous reciprocity conditions have been removed by Croatia, Montenegro and Serbia.
- Sector specific screening mechanisms used in banking, insurance, air transport, maritime transport and fishing. E.g., home country regulator of the foreign investor is required to confirm the foreign investors activities before the host-country regulator will approve the investment.
- Foreign ownership limitation in sectors related to arms manufacturing (nearly all Parties) .
- Foreign ownership of agricultural land prohibited in nearly all CEFTA Parties.

Restrictions to national treatment

Options for further action

- The CEFTA Parties could publish their restrictions to national treatment similar.
- Institute periodic exchanges of information to monitor the level of non-discriminatory treatment in their economies.

Consistency of bilateral investment treaties in Annex 6

- BITs use similar definitions for terms such as “investment,” “investor,” and “returns.”
- MFN and national treatment at post-establishment phase of investment is included in nearly all BITs.
- Standard provisions on expropriation; transfers; and dispute settlement mechanisms at the state-to-state and investor-to-state level.
- Majority of BITs contain standard consultation clauses. 4 BITs include additional transparency clauses specifying consultations or exchanges of information on the impact of laws, regulations, or other policies.
- Majority of treaties cover only investments made after entry into force. However, 3 BITs include investments made prior to entry into force.

Consistency of bilateral investment treaties in Annex 6

Options for further action

- Initiate clarification of certain elements of the CEFTA Agreement:
 - terms such as “investment” and “investors” are undefined;
 - CEFTA is unclear whether investments made prior to entry into force of the Agreement are covered by its provisions;
- The Parties could work toward harmonising elements of their BITs in preparation for EU accession.

Review of IPR regimes in the CEFTA Parties

Strengths

- Solid regulatory frameworks – existence of laws and regulations in particular governing all or the most important forms of IPRs.
- Accession to all or the most of the international conventions governing IPRs, as introduced by Annex VII of the CEFTA 2006.
- Creation of *Intellectual Property Offices* as separate state authorities competent for IPRs registration.
- General and commercial courts are key judicial institutions to resolve IPR disputes.

Areas for improvement

- Undeveloped or modestly developed court practice.
- None or partial publicly available statistics on IPRs court cases.
- No specialized IP courts.
- Mild penal policy (probation sentences and low monetary fines).

Review of IPR regimes in the CEFTA Parties

Options for further action

- Exchange best practices on improving court practice and efficacy in IPR enforcement.
- Assess the possibility of introducing specialized IP courts to improve the judicial systems' efficacy.
- Discuss the efficacy of public awareness campaigns.

Review of Public Procurement Market

Findings (based on SIGMA review)

- Solid regulatory frameworks – all Parties have made progress in transposing the relevant EC Directives into national legislation
- Appropriate institutions (Public Procurement Agencies, Review Boards etc) have been established - although many need institutional strengthening in terms of personnel, training and in some cases even office equipment
- Greater use of IT and e-procurement is enhancing overall transparency but sharp differences remain
- By 1 May 2010, there will be no price preferences for domestic suppliers among the CEFTA Parties

Review of Public Procurement Market

Options for further action

- Instigate systemized information exchange among the national PP agencies
- Increase use of IT to facilitate more transparency
- Promote “single market” in public procurement to the business community in the region

Results of the impact of the CEFTA

- **Impact of the CEFTA on industry concentration**
- **Impact of the CEFTA on FDI stocks**
- **Policy conclusions**

Results of model investigating integration's impact on industry concentration

VARIABLE	RELEVANCE	EXP. SIGN	OBS. SIGN	SIGNIFICANCE*	COMMENT
NRG	Market forces	+	-	Yes	CEEC industries seem to have followed less mobile resources
LABhs	Market forces	+	+	Yes	Availability of skilled labour has a positive effect on industry concentration (Dumais 1997; Hildebrandt and Wörz, 2004)
SCALE	Market forces	+	+	Yes	In line with theory, presence of internal scale economies lead to geographical concentration of industries
<i>TECH</i>	<i>Market forces</i>	+			<i>dropped due to high correlation with SCALE</i>
INTRA	Market forces	+	-	Yes	Regional integration may have led to weakening of existing intra-industry linkages (Krugman&Elizondo, 1996) - trade reorientation
INTER	Market forces	+	-	No	
FDI	Integration	+/-	+	Yes	Foreign investments seem to have contributed to increased geographical concentration of industries
EXPO	Integration	+/-	-	Yes	Not necessarily surprising, lower trade costs may lead to producers locating at greater distance and supplying markets via exporting
IMPO	Integration	+/-	-	No	
NTB	Integration / IP	-	-	Yes	Industries facing higher levels of NTBs locate at greater distance from each other
VAL	IP	-	-	Yes	Overall, there is some tentative evidence that vertical industrial policies may be targeted at profitable industries and those of strategic importance leading to greater dispersion of those industries
EMPO	IP	-	-	No	

* variable statistically significant at commonly accepted levels (here either 95% or 99% level)

Results of model investigating integration's impact on FDI stock

VARIABLE	RELEVANCE	EXP. SIGN	OBS. SIGN	SIGNIFICANCE*	COMMENT
MPOT	Traditional	+	+	Yes	Market size features in all specifications significantly and indicates that foreign investors may be market seeking
LABcai	Traditional	+	+	Yes	But also efficiency seeking, all else equal, 1% increase in LABcai results in circa 1.5 % increase in inward FDI stock
NATres	Traditional	+/-	-	No	
REER	Traditional	+/-	+	Yes	A positive sign indicates that REER appreciation in the CEEC context may serve foreign investors as an indicator of macro-economic stability
TAXcorp	Traditional	-	+	No	
OPEN	Traditional	+	+	Yes	Taken together, the two variables show that regional integration can contribute to higher FDI inflows. All else equal, increasing OPEN by 1% while being a member in FTA increases inward FDI stock by ca. 1.2%.
FTAeast	Traditional	+	+	Yes	
INFRAref	Transition	+	+	Yes	INFRAref is positive and significant in all specifications, indicating that foreign investors value and depend on developed infrastructure networks
PRIVref	Transition	+	+	No	
ENTrest ¹	Transition	+	+	Yes	Though weakly significant, positive sign on ENTrest suggest that the degree of market access plays a role in investors decision where to locate
COMPref	Transition	+	-	No	
EFW	Newer	+	+	Yes	Overall institutional quality is highly significant and an important location factor. All else equal, 1% increase in EFW leads to ca. 1.3% increase in inward FDI stock

* variable statistically significant at commonly accepted levels (here either 95% or 99% level)

1) significant at 90% level

* Furthermore, we conduct a robustness check by introducing one IC variable at a time into our preferred specification of the model. Again, all variables keep their signs and significance levels with COMPref now featuring the expected sign and being also statistically significant.

Policy conclusions

- In general, our results show that **increasing integration has led to more disbursed economic activity**, as CEEC industries have followed less mobile resources, including labour.
 - To take advantage of this fact, peripheries must make sure that their **business climate is not too unfavourable** (e.g. high business operation costs from corruption, poor infrastructure) to render their comparative advantage meaningless.
- Specifically, we find:
 - Regional integration will contribute to higher FDI inflows.
 - Foreign investors require developed infrastructure networks.
 - The degree of market access plays a role in investors' decisions where to locate.
 - The quality of institutions is an important location factor.
 - Implicit tax rates do not impact inward FDI stocks.

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