
This document contains comments by delegations on the "CIME Draft Programme of Work" [DAFFE/IME(2000)12]. Some further comments were received by the Secretariat concerning Revision 1 of this document but these comments are not reproduced here.

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CIME DRAFT PROGRAMME OF WORK
COMMENTS BY DELEGATIONS

AUSTRIA

1. We support the overall thrust of the document, i.e.

   - the role of CIME as a central forum for the discussion (and solution) of issues relating to investment
   - the commitment to a balanced approach taking into account the interest of business as well as the concerns raised by civil society (and developing countries)
   - the intensified co-operation with other parts of OECD and with other international organisations (we would add academia)
   - the opening of CIME towards non members.

2. On time frame and the relationship between chapters III. and IV.: The document is too strictly focussed on the 2 year period. While this is important it should be supplemented by

   1. some longer term perspectives of the role of CIME (the “vision”) – this could be constructed around the “investment policy forum” idea and developed in chapter III, while chapter IV could focus on the activities for 2001/2002.

   2. a breakdown of activities within the 2001/2002 period, presumably starting (besides implementation of the guidelines and work on the sustainable development project) predominantly with analysis in order to “identify policy issues for future work” as Annex 2 calls it. The second year could then (after the end or at least scaling down of the sustainable development exercise) be oriented more towards policy initiatives. This would show the true impact on resources and facilitate to take decisions on priorities. Maybe a “mid term review” after one year could mark the two phases.

3. On paragraph 10.: A reference to intensified co-operation with academia and the possible synergies that it could bring seems appropriate.

4. On paragraph 11 (and 14): The term “investment climate” is too narrow – the work programme should explicitly address the driving forces behind globalisation, the reasons, why companies invest abroad and why they do it in a specific way and how this has changed over time. This is where “technology” (I have seen the reference in paragraph 14, I’d like to see a similar one in the “vision” section, e.g. paragraph 11) is important.
5. On paragraph 17: I can live with the term “harmful policy competition” but it should be formulated in such a way as to cover not only concerns on possible social and environmental dumping but also financial (including fiscal) investment incentives.

6. On non-members: In its operational part the document does not contain anything on relations to non members except paragraph 24 (adherence to the Declaration). It should at least refer to the other priority areas such as the work programmes on Russia, China and the Balkans.

7. On meeting schedules (paragraphs 30-33): While we agree to the idea to reduce meeting times and strongly support a more predictable meeting schedule, the suggested approach seems too mechanical, especially since we do not see the role of the WP in the way indicated in the document. For the time being we suggest having three or four Committee-meetings per year, supplemented by (hopefully not too many) meetings of the WP on the Guidelines and the possibility of additional meetings of specific task forces and the bureau. We support the idea of regular consultations, maybe twice a year, with BIAC, TUAC and the NGOs and of (not mentioned) ad hoc events with non-members as indicated in the non-members document.

8. On Working Parties (paragraphs 34-36): We think it would be premature to decide on the revitalisation of the WP on Investment Policies let alone on its possible merger with the WPG. The latter could, for example, be interpreted as a lack of commitment to the implementation of the Guidelines. We do, on the other hand, strongly support the idea of steering groups of interested delegations (as long as they are really open to everyone interested) on a) outreach (following the example of the CFA) and b) other topics (e.g. on parts of the analytical agenda or the publication policy of the Committee) and would not exclude that it could be found useful in the future to transform such a steering group into a standing Working Party.

9. On Annex 2: In order to be suited for a decision on Committee-priorities it needs a time perspective, i.e. a scheduling as referred to in 2.b. Among the activities mentioned Austria would assign a lower priority to 2.d. “Performance Requirements”.

10. On procedure I would like to repeat my proposal to devote one day of the September-meeting of CIME to an in-depth discussion of the work programme. Especially careful preparation of such a meeting will be necessary. In the light of 7. we hope that the exact dates of this meeting (and the December meeting) can be fixed and communicated as soon as possible.

CANADA

11. Our priority is focussed on two areas of work: incentives; and corporate social responsibility.

a. With regard to incentives:

12. Investment incentives should be a main priority for the CIME’s analytical work programme.

Such analytical work should go much further than the type of “analysis/discussion” done last year. This analytical effort should focus on harmful competition to attract investment through the provision of distortionary incentives, either of a financial or legislative nature. The research programme in this area should focus
on recent trends in the use of incentives, on the economic impact of competition to attract investments through incentives (e.g. distortionary impact on effective allocation of capital, strain on governmental expenditures and revenue stream), on the impact of incentives on investment location decisions, on an economic analysis of the costs/benefits of the provision of incentives, and on the impact of competition on the size and number of incentives offered (e.g. bidding contests).

Once economic analysis is completed, analytical work centred on policy implications could be undertaken, such as an identification of the most distortionary types of incentives practices and a discussion on the possible ways to limit the negative effects of competition to attract investments through incentives and maximise transparency.

With regard to the text of the draft WPG note, we support the general thrust of paragraphs 17 and 18 but are concerned that too much focus is put on the issue of not lowering standards. Also, the clarity of paragraph 18 could be improved and should be redrafted as the second paragraph to a work item entitled “harmful competition to attract investments”.

Our specific drafting changes are the following:

- Paragraph 17: change the title from “harmful policy competition” to “Harmful competition to attract investments”.

- Replace the existing text for paragraphs 17 and 18 with the following:

  “Liberalisation of investment regimes as well as the rise of FDI flows associated with improvements in communication and information technology has been accompanied in many countries by increased efforts to attract FDI through the provision of incentives of various kinds. Concerns have been expressed about the economic and financial costs of that competition, as well as fears of negative effects on the evolution of environmental and health standards.”

Work could be undertaken to better understand the extent and types of incentives provided, their overall economic costs/benefits, and their impact on investment flows and investment location decisions. Further analysis of harmful competition to attract investment in the areas of social and environmental policies could look at the characteristics of policy competition and quantitative and qualitative evidence of any downward pressure on social and environmental standards. Work undertaken in the CFA on harmful tax practices could also be assessed in the context of competition to attract investments. Conclusions from this research could lead to identification of the most harmful or distortionary types of practices. Once the analysis is completed, the Committee could give consideration to revisiting the OECD instrument on incentives and disincentives.

We would like to see the work item described by the two paragraphs above accorded high resource intensiveness and high priority.
b. With regard to corporate social responsibility:

16. We have drafted a paragraph to replace paragraph 21 of the draft WPB which is a combination of Secretariat text and our text. It is the following:

“Multinational enterprises are making a positive contribution to the development of economies in which they operate and, increasingly, they are addressing the social dimensions of their investment activity in response to public concerns about globalisation. Corporate social responsibility (CSR), and codes of conduct, have become a major feature of business management, especially for large multinational enterprises. In co-operation with the Trade Committee, the CIME has been engaged in a corporate responsibility project divided into two phases: ‘fact finding’ and ‘analytical’. It was decided to proceed with the fact finding phase, but both Committees wanted to review the results before agreeing to proceed to the analytical phase. There are important areas for analysis, including the important role that corporate codes of conduct could play in MNEs' observance of the OECD Guidelines. Members would benefit from a greater understanding of the work of other international organisations in this area. Finally, CSR is becoming an important horizontal issue for the OECD and one for which the CIME could play a central role.”

17. We are cognisant that the Committee has agreed to review the factual material on codes of conduct currently being prepared by the Secretariat before agreeing to proceed with further analytical work in this area. The paragraph above will give delegations a better idea of the types of work that could be done in addition to what has already been put forward for consideration. Corporate social responsibility is of growing importance to Members and is an area of study in which we feel the OECD should continue to be involved.

18. We accord corporate social responsibility a high priority in the CIME and feel that the resource intensiveness should be increased from “low” to “medium”.

c. Other areas of the WPB:

19. As we noted in our intervention on this subject at the last CIME meeting, we accord low priority for carrying out further reviews on the instruments of the Declaration, especially the National Treatment instrument.

FRANCE


a. Sur le contenu du programme

- Il serait souhaitable que les finalités des travaux relatifs au « climat de l’investissement » (point 2 du § IV) soient précisées ; en l’état, il semble que la libéralisation des investissements internationaux soient incluse dans cette expression, auquel cas il convient de rappeler que les travaux sur ce thème ne doivent pas dépasser le stade de l’analyse exploratoire ; par ailleurs, nous pensons que le programme de travail en matière
d’investissement doit être établi à la lumière des résultats des précédents travaux menés sur ce sujet.

- De même, le concept de « responsabilité d’entreprises » nécessite quelques éclaircissements ; il conviendrait notamment de savoir ce que sont les finalités exactes des travaux proposés sur ce thème : simples travaux analytiques comme le suggère le document (annexe 2) ou élaboration d’un nouvel instrument de l’OCDE (auquel nous ne serions a priori pas favorables) ?

b. **Sur les méthodes de travail**

- Le calendrier des rythmes de travail proposé semble intéressant, mais incompatible avec la lourdeur du programme de travail.

- Le groupe de travail sur les Principes directeurs de l’OCDE à l’intention des entreprises multinationales doit être maintenu. En effet, son existence se justifie largement par la nécessité d’un travail de suivi de la mise en œuvre des Principes, d’une part, et par la poursuite d’une réflexion constante susceptible d’aboutir le moment venu à un nouveau réexamen des Principes (objectifs compromis en l’absence de groupe de travail dédié).

- Enfin, il faudrait clarifier les modes de constitution des « groupes de pilotage » auxquelles le document fait allusion.

**MEXICO**

21. As promised, I express here some comments with respect to the CIME work programme, based on the sentence that appears in the draft communiqué: “OECD will take further analytical work on ways to realise the benefits of investment liberalisation and avoid harmful competition for investment through lowering of environment and labour standards”.

a) We highly welcome work on the benefits of investment liberalisation.

b) On harmful competition for investment, if a new item on this issue would be of interest this should be “investment and non-discrimination on financial and fiscal incentives”. Analysis of this topic would cover the aspects of harmful competition through financial/fiscal incentives, the possibility of positive discrimination to FDI and would as well be in line with CIME work on reviewing the elements of the Declaration on Investment and Multinational Enterprises.

c) On lowering environment and labour standards, the OECD has already obtained conclusions on lowering standards (see, in particular, chapter 3 of “Policy competition for FDI” by the Development Centre, and the update of the study on Trade, Employment and Labour Standards, where no evidence of “race to the bottom” was found). Furthermore, if the objective is to analyse EPZs, the Secretariat should explain how the proposed work would differ from the extensive analysis recently done by the ILO on the topic.
NETHERLANDS

Guidelines:

22. Paragraph 5 second sentence “somewhat”: We cannot foresee the impact of the completion of the review on resources for next year, but to assume that there will be a reduction seems a bit premature. In our opinion the draft programme needs to take account of the fact that in all likelihood the profile of work on the guidelines will remain high.

23. Item IV sub 3: With the activities relating to guidelines described in paragraph 20 there is a distinct necessity to make sufficient resources and time (paragraph 31, 34) available.

Investment instruments.

24. Item IV sub 4, paragraph 23: We do agree with the first sentence that a review of the NT-instrument is premature.

Investment policy analysis:

25. Para 11: The phrase "to identify key issues that call for national or international action and to consider ways of addressing them” and the second indent of paragraph 11 are key.

26. Item IV, 2: (Para 14, directly relating to 17 and 18 and Annex II, 2a): In the light of the above consideration the ideal approach for the Netherlands would be to use consultations as a means to decide upon our priorities for investment policy analysis. By way of seminar/workshop/formal consultations, as pointed out in sub a no.2 of annex 2 (investment climate), especially business and labour representatives could be given the opportunity to provide suggestions for further work. With input from the respective stakeholders, CIME then could decide on which specific issues it would focus (sub b-d under no.2 of Annex II).

SWEDEN

27. In accordance with the invitation by the Chairman, Ambassador Baldi, to make further comments and contributions to the preparation of the CIME work programme in written form, Sweden wishes to summarise its position and proposals as follows.

28. The existing OECD instruments in the field of investment – the Codes of Liberalisation and the Declaration on International Investment and Multinational Enterprises – are, as the Secretariat notes, core responsibilities of the CIME and the CMIT. The review and strengthening of the Guidelines having now been concluded, priority in CIME activities should be given to reviewing the other elements of the Declaration. This work should start with the matters of harmful policy competition and investment incentives with the aim of updating commitments and strengthening disciplines [Second Revised Decision of the Council (May 1984) on International Investment Incentives and Disincentives]. The timeframe should be to present the review results to the Ministerial meeting in 2001.

29. Undertaking this work as a priority is in line with the Decision by the OECD Council on International Investment Incentives and Disincentives (May 1984). In this Decision, it is stated that a
review shall be done “at the latest in six years”. Now that the MAI negotiations are over and the review of the Guidelines has been concluded, there is no excuse for a further delay in following the Directives of the OECD Council.

30. While understanding the need for analytical work in many areas, on this particular point we see no reason to delay the review by extensive fact-finding. The facts are there and substantial analysis has been done, for example by the OECD Development Centre. The CIME could use this work as a basis for the review.

UNITED KINGDOM

General

31. We support the general direction of the document in particular the need for CIME to reinforce its leadership in investment matters. Productive dialogue with all investment stakeholders is very important in this respect.

Investment Policy Analysis of CIME Activities for 2001-2002

FOREIGN DIRECT INVESTMENT AND DEVELOPMENT

32. The arguments as to whether, to what extent, and in which ways, trade and investment benefit development have become particularly topical in recent months. Work is about to get under way in the Trade and Development Committees on the benefits of trade for development and it would be useful to mirror this work on investment. The CIME, in close co-operation with the Development Committee, will conduct analytical work on the benefits of foreign direct investment for development. Areas which could be covered by analytical work include examining which investment policies are successful/unsuccessful in developing countries and why; how government action affects investor perceptions and behaviour in developing countries; the positive impact of foreign direct investment on developing country economies and domestic industries; and areas where developing countries may benefit from technical assistance and capacity building. The work would build upon analysis undertaken in the OECD and other fora, including UNCTAD.

33. Such analysis would

− help ensure and reinforce CIME's leadership on investment (see paragraph 5 of Draft Work Programme and Budget 2001-2002 DAFFE/IME(200)12);
− fit neatly with other CIME analytical work proposed for 2001-2002 and give a higher profile to development aspects of investment;
− be a valuable contribution to the wider debate on investment, including in other international fora;
− by analysing the benefits of investment, contribute to the need to build public support for investment liberalisation as highlighted in OECD Priorities for 2001-2002 (C(2000)36 paragraph 16).
CIME Working Procedures

34. It is important to review the Committee’s working methods particularly in its interface with other Committees and the outside world. CIME needs to strike a balance between flexibility and not having a proliferation of Working Groups/Parties reporting to it. We would welcome more discussion of this in September.

Investment Policy Forum

35. Agree that an investment policy forum (paras. 7-8) would provide a valuable opportunity to discuss the whole range of investment issues with those outside CIME. We support this proposal.

Guidelines for MNEs

36. We feel it is important to maintain the dialogue on the Guidelines (paragraph 20). Exchange of views on promotion, implementation, etc is crucial to their success and relevance to those outside CIME and the necessary resources should be devoted to this.

Development

37. The United Kingdom has already proposed “The benefits of FDI for Development” as an additional area under “Investment Policy Analysis” (see separate paper). We also support references to development in the other activities.

UNITED STATES

38. These written comments by the United States government reiterate and elaborate on the intervention by the United States delegation during the CIME meeting 17 May 2000. In reviewing the Draft Programme for Work and Budget (DAFFE/IME(2000)12), the United States government had a number of general observations, as well as specific comments on language in the proposed programme.

General Observations

39. Analytical Work: A critical first step is to sequence the work. The analysis should come first, with a wide-ranging assessment of the current situation of international investment vis-à-vis the instruments. A later phase might involve decisions about what should be done with the existing instruments of the Declaration. CIME should take a broader perspective, to look at the changing world economy and attempt to identify the critical investment issues. The focus should include examination of real world issues confronting OECD member country investors as they move into new markets, not just with the OECD area. In that context, CIME should evaluate the instruments of the Declaration in a very broad sense, while questioning if they are effective and adequate for the future. Based on such assessments, CIME could start to think about how its work should evolve on the policy front, whether to revise the existing instruments or take a new approach to the challenges we face. We are cautious about agreeing to a conventional review of the other instruments of the Declaration, on a prescribed schedule, without much more reflection on whether this will serve our purposes best.
40. **Investment Policy Analysis:** The premise for organising future work, as described under Investment Policy Analysis, paragraphs 14-19, appears to orient work around specific topics and outcomes, an approach that may be too rigid and too limiting for the Committee.

41. **Corporate Responsibility:** There will be further work needed on Guidelines follow-up including promotion, but operational implementation will shift to the National Contact Points as the primary actors. The CIME will of course continue its activities in clarifications.

42. **Working Party on Investment Policies:** We do not believe that it is necessary to revive the Working Party on Investment Policies. A possibility would be to look at steering committees, although responsibility for investment policies resides with the CIME.

43. **Outreach to Non-Members:** This issue must be given more emphasis. The proposals to broaden outreach through several vehicles are an excellent first step. For non-Member economies willing and able to adhere to the 1976 Declaration, particularly those that meet the mutual benefit criterion but are not major players, encouraging their adherence and enabling their participation on issues pertaining to the Declaration will broaden support for investment rules. For other non-Member economies, which are major players and key recipients of investment flows (Russia, China) but not yet ready to adhere to the Declaration, deepening the dialogue with the OECD on issues and challenges faced by investors will assist in bringing those economies more in line with OECD precepts.

44. **Fact-finding on Corporate Responsibility:** It is not clear that further work is necessary, and the CIME should consider whether it would be at all useful to do any analysis on this topic. We are not convinced that a new phase is required.

**Specific Comments, Keyed by Paragraph**

**Introduction**

45. Para 1-2: CIME is required this year to identify its highest and lowest priorities and what it would add or subtract if three per cent additional or fewer resources were available. This was a United States proposal. It is known as “plus or minus three per cent”.

46. Para. 1: Technically correct in that Council approves the Program of Work and Budget of the OECD, but CIME must reach consensus on its own programme of work before sending a proposal forward to the Council. We regret there was so little time for discussion of the Program of Work during the May meeting.

47. Para. 4, first bullet: The sequence seems out of order: the last sentence, “Active follow-up . . .” should follow the third sentence, “Consultations with BIAC, TUAC, and NGOs . . .”, as this is the follow-up we are discussing. Its current placement appears to refer to active follow-up on corporate responsibility (the fact-finding work), which we believe is unnecessary, and in any event has not been agreed to at this time.

**An Investment Policy Forum**

48. Para. 7: We agree on the need to continue outreach with civil society, and see the Committee as a forum for addressing these important issues. We would suggest, however, deleting “major” in describing
the role that CIME may play in the globalisation debate, as it is difficult to project what CIME’s role will ultimately be.

49. Para 8: Appears to incorporate CIME’s broad goals, but the last sentence on relations with other organisations may be questionable in current form. The expression “strategic partnership” in the last sentence should be changed to “co-operation”, or simply “partnership”.

50. Paras. 9-11: This appears to draw partially from recent United States statements and proposals, especially the idea of integrating investment work with broader trends and concerns.

**Investment and Sustainable Development**

51. Para. 12: During 2000-2001, we would like to have the opportunity in the CIME to review and remain involved in considering the material on “trade and investment”, an element of the OECD work on Globalisation and Sustainable development.

52. Para. 13: This workshop follows up the “non-discrimination and environment” meeting and previous conference in The Hague, and enjoys broad support.

**Investment Policy Analysis:**

Please see previous comment on how work is organised.

53. Para. 14: We are not convinced that we need a “broad survey of investment conditions in OECD and selected non-member countries”. We do not believe this is the best use of scarce resources. We are also not sure “issues for developing countries” should get special attention at this time. If we are expanding CIME outreach work with non-members, it should provide new insights but at this time we would be very reluctant to embark extensive work on developing country issues. While we do recognise that Development Centre is a source of “competition” at the OECD on this topic, and its conclusions on investment issues are not always consonant with the views of CIME members, this subject needs further review in the Committee before resources are devoted to new work.

54. Para. 15: There is no context given for discussion of the important issues of non-discrimination and investor protection or right to regulate. We would need to have a very careful focus and structure for this analytical work. It is very difficult to address these issues effectively on a “stand alone”, hortatory basis, and out of context. We are not clear on why we would pursue a CIME clarification of NT.

55. Para. 16: Again, we need to think through what CIME could do on labour standards. Analytical work could be useful. This topic needs further discussion in the Committee.

56. Paras. 17-18: We are concerned that focusing on harmful policy competition gives credence to critics of FDI who see mainly the downside. We would not agree to a review of existing rules (paragraph. 17) or to a review on the Declaration instrument on incentives at this time.

57. Para. 19: We note that the OECD has done work in the past on FDI statistics, but are not sure what additional value would be gained here
Corporate Citizenship

58. Para. 20: We agree to continued outreach, follow-up, and promotion per revised Guidelines. We are not sure, however, that the Secretariat needs to develop briefs on human rights, bribery, etc. for the NCPs.

59. Para. 21: We see difficulties here. Is future work on corporate responsibility (private sector codes) truly worthwhile? We are not yet convinced of this, and we have encountered strong opposition from business constituencies. CIME may need to review the first phase of the fact-finding work in the fall, but we would advocate ending further work on this issue.

Investment Instruments

60. Paras. 22-23: We are not in a position to support automatic reviews of all other instruments in the Declaration at this time. We understand the Secretariat, in designing a programme of work with outputs and results, is considering delegation views. We agree we need to take a broader and more global approach to investment issues, but believe that “auto-pilot” reviews of the other instruments will not serve us well for 21st century. Para. 23 proposes review of exceptions to national treatment under the National Treatment Instrument, which we would oppose.

61. Paras. 24-25: We will have to review selected non-members if we launch closer relationships with them, for example Israel, inter alia. Publishing new member reviews (post-accession) is acceptable if the subject countries agree.

Priorities and Resources

62. Para. 26, first sentence: We are unclear as to who will be making decisions on resource allocations, as the sentence is currently drafted. Would it be the Secretariat? We believe transparency is essential in this process. Will the results be available in the document for written procedure review?

63. Para. 27: Plus or minus 3 per cent.

64. Para. 28: Available resources for CIME.

Working Methods

65. Paras. 30-31: We agree we need a lighter meeting schedule in CIME. We are not sure, however, that we need two working party meetings between now and next February.

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66. We would like to make the following comments:

− III and IV should be merged.

− The vision and role for CIME should develop into:

  a) a policy forum to develop and maintain domestic liberal investment policies, contribute to explain and defend the continuing relevance and the legitimacy of these policies; in relation to this, intensification of dialogue with social partners/stakeholders should be of particular need and relevance;

  b) develop further policy dialogue win non-members, to foster development of more liberal investment policies there; international rule-making on investment is not the only instrument, pro-investment domestic rule-making is essential.

− Presentation of the annex: is too “arid”; there is a confusion between issues for policy analysis and concrete activities (e.g. workshops); there exists also a risk of falling into a MAI-like presentation (e.g. labels such as “investor protection”); it should concentrate more on issues for analysis.

− Guidelines: role of CIME will have to be qualitatively and quantitatively different than in the past.