SUMMARY RECORD OF THE CONFERENCE
ON "FOREIGN DIRECT INVESTMENT IN SOUTH-EAST EUROPE: IMPLEMENTING BEST POLICY PRACTICES"

Vienna, 8-9 November 2000

This document is circulated for information.
CONFERENCE SUMMARY RECORD

"FOREIGN DIRECT INVESTMENT IN SOUTH EAST EUROPE: IMPLEMENTING BEST POLICY PRACTICES"

8-9 NOVEMBER 2000, VIENNA

Overview

1. South-East Europe (SEE) has been experiencing a difficult political and economic transition. Wars, slow reform and recession have widened the gap with other European countries. According to a new study commissioned for the conference, the countries of SEE attracted a mere $3.3 billion in the form of foreign direct investment (FDI) in 1999, out of total cross-border direct investment flows of $865 billion worldwide. However, recent changes in Yugoslavia and positive economic signs in some other countries in SEE present this region with an opportunity to revive trade, attract foreign investment and achieve renewed economic growth.

2. The conference was co-organised in Vienna on 8-9 November 2000 by the OECD and the Government of Austria within the framework of the Stability Pact Investment Compact for South-East Europe. It was opened by Mr. Martin Bartenstein, Austria’s Federal Minister for Economic Affairs and Labour; Mr. Seiichi Kondo, Deputy-Secretary General of OECD; and Ambassador Richard Sklar, United States Special Representative for the South-East Europe Initiative.

3. Some 180 participants attended, including high-level officials and experts from the OECD and South-East Europe countries, representatives of business and investment groups, international organisations associated with the Stability Pact, research institutes and consultant firms. The Conference took place under the auspices of the OECD Committees on International Investment and Multinational Enterprises and Fiscal Affairs.

4. The primary objective of the conference was to discuss the contribution that the implementation of best policy practices like those in various OECD instruments could make in helping overcome the severe barriers and obstacles to foreign direct investment facing South-East Europe, improving their investment climate and attracting increased foreign investment into the region.

1. The agenda of the Conference is attached.

2. Dr. Gabor Hunya, Vienna Institute for International Economic Studies, “Recent FDI trends, policies and challenges in SEE countries in comparison with other regions in transition”.


5. A major part of the conference was devoted to the review of these OECD best-practice FDI policies – notably those embodied in the OECD Liberalisation Codes, the OECD Declaration on International Investment and Multinational Enterprises – and its core National Treatment Instrument – the OECD Corporate Governance Principles and the OECD Convention to Combat Bribery – and the role they have played in creating a welcoming and enabling environment for FDI in OECD countries. SEE countries presented their experience in applying these principles to their own situation. This part of the discussion benefited from the participation of high level OECD investment officials and members of the OECD Committee on International Investment and Multinational Enterprises, senior level officials from SEE countries and a wide representation form the business community.

6. Participants also discussed, against the background of increased worldwide competition for FDI, the comparative merits and effectiveness of various forms of investment incentives, and more particularly the importance of designing fiscal incentives responsive to the development needs of SEE countries. It was felt that costly and counter-productive investment incentives could not serve the purpose of attracting more FDI. Speakers underlined that effective rule of law, coupled with stable and sound economic policies, supporting legislation and institutions and facilitating attitudes on the part of governments were the essential elements for attracting foreign direct investment.

7. The conference concluded with a proposal for a “Vienna FDI Action Plan” that calls for concrete and result-orientated measures aimed at institutional capacity building in and policy dialogue with South-East European countries on investment issues. This draft Action Plan will be further discussed at the next Investment Compact Project Team meeting, scheduled to take place on 1 December 2000 in Brussels.

8. The remainder of this note summarises the main points emerging from the Conference.

Opening Remarks and First Session
“Recent Trends and Characteristics of FDI in South-East Europe”

9. In his opening remarks, Austrian Minister for Economic Affairs and Labour Martin Bartenstein set the tone of the two-day deliberations to follow. He underlined that the depleted capital stock of the SEE region would not be sufficient to finance the necessary investment and that therefore a major share of investments would necessarily fall on private capital from abroad. He said that given the limits of currently flowing official bilateral or multilateral assistance, the engagement of the private sector would be critical for ensuring the economic development of South-East Europe.

10. The OECD’s Deputy Secretary-General Seiichi Kondo indicated that private capital was available to fill the existing gap of investment in the region, but he cautioned that “New FDI will have to be competed for and won. Investment will not come to South-East Europe as a right – it will come when investors perceive the region as a profitable place to do business”. He also outlined the key features of the Investment Compact and the role and strong support of the OECD in helping formulate and implement policy reform across the region.

11. Ambassador Richard Sklar of the United States echoed a similar view. He emphasised the importance of getting over the fear of ownership in today’s global economy. He called on SEE policymakers to institute true competition, reasonable predictability, and anti-corruption measures. Speakers both from within the region and outside highlighted the pressing need to fight firmly against corruption, which acted as a strong deterrent to FDI. They held that investment was severely hampered by the suspicion that the returns could easily be siphoned off by dishonest officials. Calls were made for sustained and visible improvement in this area if there is to be any real long-term progress on foreign investment.
12. There was a general agreement among participants that establishing best practice FDI policies within SEE countries was key to attracting more FDI, both in quantity and quality. One speaker identified the basic ingredients of a favourable investment climate. They include (1) ensuring security and stability, (2) strengthening the rule of law, (3) abandoning barriers to trade and investment, (4) upgrading infrastructure, and (5) improving the skill base.

13. Dr. Gabor Hunya of the Vienna Institute for International Economic Studies advised that SEE countries could only cope in the present circumstances with simple and straightforward policies. They are not ready to run very sophisticated programmes or apply complicated policy tools. He also compared the experience of the Central European countries with that of SEE on both economic growth and international competitiveness terms, arguing that transformation would proceed much more slowly without greater penetration of foreign capital.

14. Several participants suggested viewing the South-East European region as a whole rather than merely on the basis of the individual countries. This would mean targeting more than 130 million consumers in the wider SEE region – if Turkey and Greece were to be included. Participants agreed that regional integration could be a powerful policy tool to attract FDI because of the attraction of the larger markets that regional integration creates. Small, closed economies do not generate sufficient demand to sustain growth, and small economies that are surrounded by instability and conflict would also be unattractive for investment. In this context, participants welcomed the return of the Federal Republic of Yugoslavia into the regional process and characterised this development as a positive move toward the practice of good-neighbourly relations in the region and to the sustainable success of the Stability Pact.

15. Mr. George Tabakov of the Bulgarian Foreign Investment Agency gave a practitioner's perspective. His analysis of the weaknesses and strengths of SEE countries attracted attention. In his view, weaknesses included the still unpredictable political environment, the underdeveloped infrastructure, the insufficient regional co-operation, and the lack of sufficient information sources. He also shared his organisation's strategies in promoting FDI inflow, stressing that his country attracted more than $800 million of FDI last year and that this year the amount was likely to exceed the $1 billion mark.

16. Another instructive lesson from the first session was the lively discussion that took place on the FDI experience in Hungary. Senior Hungarian officials stressed that FDI played a crucial role in stabilising and developing their national economy and was now moving to high value-added sectors and away from labour-intensive industries. The successful experience of the city of Gyor, presented by its deputy mayor, carried useful lessons for participants including in particular the importance of high education standards and investor-friendly attitude and policies. The representative of the Philips company, which has large-scale operations in this border city, explained why his company chose to invest in Gyor.

Session II “Investment Protection”

17. Ambassador Marino Baldi from Switzerland and Chairman of the CIME, introduced the session by referring to the importance of the issue of "predictability". Investors can cope with difficulties and obstacles and do so in many business situations as investments are undertaken. However, they have the greatest difficulties in coping with legal uncertainty. One way in which legal certainty can be provided is through investment protection.

18. Mr. Marinus Sikkel from the Netherlands and Chairman of the OECD Working Party of the Guidelines presented the main types of guarantees generally found in over 2000 bilateral investment protection agreements which have negotiated to FDI around the world between home and host country. They represent the collective wisdom about the main guarantees to be provided to foreign investors and
their investments in a given country. With the increasing emphasis on sustainable development there is also a tendency to consider other factors, such as environmental protection. This development could also have significant consequences for foreign investors.

19. If there are those who question the necessity of providing guarantees to foreign investors who are in the business of dealing with risks, a recent survey conducted by the EU Trade Group confirms the importance of investment protection. Discrimination is still a problem for many investors (e.g. customs tariffs). Non-implementation of rules on, for example, intellectual property rights, is common. Fund flow restrictions apply through exchange controls. Expropriation still happens and is disastrous for a country’s investment climate. Four main areas were suggested for particular attention: the track record of a country in dealing with investors; reliability of rule of law; level of corruption and the scope and level of protection resulting from bilateral investment treaties.

20. Ambassador Mihai Croituru from Romania stated that investment protection was a pre-requisite for attracting FDI. Romanian legislation was described as predictable and FDI is flowing to the country as demonstrated by recent major investments by German, Italian and United States investors. The Romanian GDP has recently resumed with economic growth and the Romanian Government is conscious of the need to improve its promotional efforts. He also felt that the issues of corruption and land ownership, for example, needed to be tackled. The launch of the infrastructure projects will stimulate further progress.

21. Professor Christoph Schreuer from the University of Vienna gave a short description of the Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID) which came into force in 1966. It is a multilateral agreement which provides an avenue for the resolution of investment disputes through advanced written consent. Once consent is given under ICSID it cannot be withdrawn unilaterally. Investors can go to ICSID arbitration without going through local courts. Also ICSID arbitration is proofed against political interference. ICSID awards are final and enforcement is automatic. The ICSID process thus offers a high degree of assurance to investors on the specific area of dispute settlement.

22. Mr. Christian Doerner from Siemens Austria gave the perspective of a long-standing investor into the SEE region. Investment protection could be seen as the gap between the institutional framework dealing with investment within countries and investment entrepreneurship. Closing this gap requires, on the part of the host country, a better definition of the goals of FDI and privatisation and a better understanding of the objectives and intentions of investors. Within that framework clear rules and regulations and transparent procedures are needed. The SEE region requires both a unified FDI strategy and a country by country FDI strategy. Achieving this requires *inter alia*, industry participation on economic and FDI policy design decisions.

23. Ms. Anna Joubin-Bret from UNCTAD outlined her organisation’s activities in organising and facilitating rounds of BITs and Double Taxation Treaties for developing countries. Some SEE countries already have a significantly large number of BITs. The UNCTAD negotiating rounds are conducted worldwide and are typically in response to requests from individual or groups of countries. They lead to conclusion of treaties or signing of agreed minutes. These agreements provide strong signals to existing and potential investors. Croatia is the only SEE country to have been involved in this exercise.

24. The delegate from Croatia proposed that a round of negotiations on BITs for SEE countries be conducted in Dubrovnik in April 2001. Bosnia and Herzegovina indicated that it has signed 10 BITs (6 ratified) up to October 2000 and would welcome further guidance on the negotiation of such agreements.
25. It was concluded that ICSID, BITs, and other guarantee schemes could be seen as providing positive and constructive contributions to the issue predictability and in helping the investment climate in FDI-recipient countries. However these are not the only solutions. A number of speakers warned against too much emphasis on BITs and recommended focus on national legislation as equally important.

Session III “Non-Discrimination and Liberalisation”

26. The chairman, Mr. Wesley Scholz from the United States, introduced this session by stressing that the principles of non-discrimination, liberalisation and transparency should be seen as the most crucial elements of any FDI policy. These principles should therefore ultimately underpin all domestic regulations. The stakes are very high: according to the newly released World Investment Report, some 63 000 firms have established some 690 000 foreign affiliates around the world.

27. Ms Marie-France Houde from the OECD described the main features of OECD liberalisation disciplines relating to international direct investment, noting that they could be traced back to the efforts deployed under the Marshall Plan to restore normal economic relations among European economies in the early 50s. The OECD can claim ownership of the national treatment, non-discrimination and transparency principles in the field of foreign direct investment. These principles now constitute best policy practices not only in OECD countries but in many other developing countries as witnessed by the regulatory changes that have taken place over the last decade in these countries.

28. However, the OECD disciplines are not just a one-sided affair. The Declaration on International Investment and Multinational Affairs also contains specific recommendations to OECD multinational enterprises that they act in harmony with the policies of the countries in which they operate. These recommendations have been substantially extended this year. Another unique feature is the reliance of the OECD instruments on “unilateral” and “progressive” liberalisation. This has been the avenue followed by many developing countries in recent years. Finally, international investment has become the major focus of OECD co-operation with non-OECD countries. An important decision has been taken: at the last Ministerial Meeting the OECD has been invited to encourage non-members to adhere to the Declaration on International Investment and Multinational Enterprises. This opens new prospects for non-members willing and able to meet the requirements of the Declaration.

29. Ms Corinne Dreyfus from the European Commission presented the broad meaning of non-discrimination and an open investment regime. Non-discrimination helps the process of openness, predictability and transparency. Non-discrimination helps maximise the benefits of FDI. Non-discrimination is consistent with the right to regulate economic activity with flexibility. The *acquis communautaire* provides for the application of this fundamental principle in the regulation of economic activity.

30. Ms Suzana Arsova-Kostadinova from Macedonia underlined that the hospitable FDI environment offered by her country is based on the principle of national treatment. Macedonia has no restrictions on foreign investment. Equal treatment to all investors also governs privatisation and the new laws on concessions and competition. She also presented an overview of FDI inflows in her country in the last five years.

31. Mr. Laszlo Csernenszky from Hungary and Ms Ewa Sadowska-Cieślak from Poland presented the experiences of their respective countries in applying, as new Members of the OECD, the non-discrimination and liberalisation principles. In both cases in a matter of few years, FDI has brought drastic structural changes which have led not only to the modernisation of the economic structures and to an upgrading and increased specialisation of economic activity but a deep entrenchment through trade into the
European and world economy. FDI has thus responded positively to the open regime installed at the very beginning of the transformation process in the early 90s. Hungary and Poland thus provide concrete examples of the effects of best OECD policy practices.

32. Mr. Stephen Sarjeant from Cisco Systems, Mr. Imer Abos from MATAV Hungarian Telecom and Mr. Charles Kovacs from BAC provided the business perspective. They confirmed the importance of fair treatment as a pre-requisite for long-term FDI relationship. They also emphasised the importance of the OECD disciplines being applied on a *de facto* and *de jure* basis. “Good policy” matters at the end of the day.

**Session IV “Competition and Investment Incentives”**

33. Mr. Josip Kardun, Assistant Minister, Ministry of Economic Affairs of Croatia, introduced the session by highlighting the major dilemmas facing SEE countries in the context of the prevailing fierce competition for FDI and the necessity of finding common solutions to this problem. Investment facilitation should be the prevailing consideration in investment promotion.

(a) *Business Perspectives on the Prospects and Competition for New FDI in SEE*

34. Mr. Konrad Eckenschwiller, from MEDEF and BAC, noted that substantial policy reforms still need to be made to render the wider region of South-East Europe more competitive in attracting FDI. This will not be an easy task. According to EBRD calculations, it is estimated that an injection of $6 billion private sector investment a year would be necessary to achieve reasonable progress in transition and revived economic activity. The recent FDI flows are not encouraging. There is also still too much “institutional and policy uncertainty” in the region. Policy reforms must be made not just on paper but implemented. Property laws are still confusing and deficient; better training of judges and improvements in court procedures is needed.

35. On the question of competing for FDI the reality of the market should be recognised. With a total population of approx. 56 million people and average GNP per capita of $2,200 the SEE region represents a potential consumer market of one tenth of France or Italy. Investors want critical mass when they invest. A strong regional approach is therefore indispensable. Investment will sooner or later come to SEE countries but the pace will be heavily influenced in scale, timing and quality by the level of policy reform and the competitive stance adopted by SEE countries.

(b) *Experience of an International Organisation on Competition for FDI in SEE*

36. Ms Jackie Coolidge from FIAS described FDI patterns in the region and the work of its organisation. Investors are concerned with profits and degree of risk. The potential “deal breakers” (war, severe crime/corruption, corporate governance problems, administrative barriers, lack of access to land, problems with customs, lack of recourse to courts, enforcement, arbitration) as well as obstacles to FDI in various countries were outlined. She cautioned that FDI statistics should be examined carefully as they are inflated by privatisation. The solution to attracting FDI should not be sought in aggressive tax and incentive approaches, which were shown to be costly and ineffective in many countries but in improving the environment and removing obstacles to investment. This will require continued action at a regional and national level. FIAS in collaboration with individual governments and other organisations is working to support efforts on improving the business environment.
37. Mr Agu Remmelg of the Estonian Investment Agency explained how one small country adopted both a regional market approach and national strategy for attracting investment. Mr Remmelg described the work of his agency. Over 4,000 companies have invested in Estonia. With 192 countries worldwide there are now more agencies than ever competing for FDI, the competition is fierce. This has led to the creation of Baltic Sea Regional Co-operation between countries in that region. Its main role is to enhance FDI policy and promotion efforts of the countries in the region. A special regional structure, in addition to each country’s national promotion strategy, was established to drive this process. It is clear that individual countries in the Baltic Sea Region will need to compete hard and co-operate more.

38. Mr. Costas Masmanidis from the Black Sea Economic Council outlined the work of his organisation in fostering both FDI and SME development. The council seeks to lobby for reforms and removal of disincentives to investment. For example, more transparency, more stable tax/legal environment, removal of bureaucracy, and more focus on these issues than incentives. Part of the solution to this challenge lay in strengthening business institutions that can represent the private sector interest. Other private sector representatives from both BIAC and BAC endorsed this point.

39. A number of key messages emerged from the session. FDI and enhanced private sector investment is fundamental to the development of SEE. The major challenge facing SEE countries needs to be seen in a world environment. FDI will need to be competed for as competition is increasing from many other countries and regions. The SEE region is seriously lagging behind in the growth rate of FDI and compared to the level of FDI attracted to other comparable regions. Strong and urgent action is needed on policy reform and particularly on implementation. More regional co-operation will be crucial to progress in competing for FDI.

(c) Fiscal Incentives

40. In his opening comments on this topic, Mr. Emil Zhetchev of the Foreign Investment Review Agency of the Republic of Bulgaria explained that during the last decade, Bulgaria had tried and tested a range of tax incentives to encourage FDI. The list included tax holidays, reduced tax rates, special tax allowances, tax credits and more. He gave a detailed review of changes in the tax incentive landscape in Bulgaria over the past ten years, focusing first on the period 1990-1995 which saw the use of tax holidays, duty free zones and a separate Law on Foreign Investment (1991). A new Law on Profit Tax (1996) brought in new corporate tax incentives over the period 1996-1998. This legislation was followed by the Law on Corporate Income Tax (1998) which introduced further changes.

41. In the second half of 1998, a new approach to tax incentives began to emerge, as explained by Mr. Zhetchev. Many of the tax incentives that had been brought into play over the 1990s were found to be complex, hard to manage for taxpayers and tax collectors, and subject to widespread tax abuse. Lastly, he noted that the new approach of his country was, in general, to push towards a broadening of the tax base and a lowering of tax rates. He added however that special measures were needed to encourage small and medium-sized businesses.

42. In his follow-up presentation, Mr. Steven Clark of the OECD Fiscal Affairs Division first noted that two papers had been prepared for the agenda item on corporate tax incentives for FDI, one drawn from a recent OECD report on the subject, the other giving a first-round analysis of past and current tax incentives in Bulgaria, Croatia and Bosnia-Herzegovina. He expressed regard and thanks to Mr. Zhetchev, Ms. Javor and Mr. Dragisa, officials from the above-noted countries, for their assistance in gathering detailed information. The presentation focused in broad terms on the main issues, with technical details and analysis found in the accompanying papers. The role of the OECD in this area, it was explained, is to
provide technical assistance on how to approach the use of incentives, including important factors to be addressed and tools to be used.

43. The discussion addressed the need for a careful assessment of arguments for tax incentives for FDI, including a review of basic investment conditions, and a balancing of revenue requirements, equity, efficiency and international competitiveness concerns. Where tax incentives are adopted, efforts should be made to minimise leakage to non-targeted sectors. OECD countries have a long history of using tax incentives, with many insights to share on how to maximise efficiency in the delivery of tax relief. It was noted that recent empirical work confirms the increased sensitivity of real manufacturing capital over time to host country taxation. At the same time, a now wide body of evidence offers insights on how real and financial effects differ depending on the mechanism used to lower host country tax burdens. Lastly, the discussion addressed current developments at the international level (including the application of the EU State Aid rules) concerning the use of tax incentives. Current tax policy should be addressed with the knowledge of such developments, for example in knowing where exemptions to possible policy constraints are likely to apply.

44. Mr. Robert Horvath, Director of Government Programs for the company IBM Inc. (Central and Eastern Europe / Middle East / Africa), then gave a private sector view of tax incentives. In short, he argued that business is typically keen to receive a tax incentive for its FDI, but in general tax incentives are not a final determining factor. In particular, companies first look to political and economic stability, to the state of infrastructure, and to the availability of a skilled workforce. As an example, he drew attention to a business decision of his company involving tax incentives. In deciding where to expand its storage production, IBM had narrowed its focus to Hungary and another (unspecified) country. Hungary offered a highly skilled labour force and, among other attributes, a 10-year tax holiday. The other country competing to attract the business offered a 15-year tax holiday. However, the latter country did not win the contract, despite the richer incentive relief offered, given that Hungary was able to offer access to a more skilled labour force.

45. In closing the session, the Chair explained that timing constraints would not permit questions from the floor at that time. Questions on the issue of tax incentives could be addressed perhaps later in the day when follow-up work would be discussed.

Session V “Good Governance and FDI”

46. Mr. Rainer Geiger, from the OECD, began his presentation by outlining the context for good governance and FDI. He noted that while investment protection and liberalisation are key to successful government strategies to attract FDI, the private sector also has an important role to play to ensure good governance.

47. In fact the roles of the public and private sector were complementary and reinforcing: in the private sector the accountability of managers, leadership, business ethics and long-term profitability can all mutually aid efforts by the public sector. Public sector efforts can focus on the legal and institutional framework for business and investors. An efficient and reliable judiciary, and the integrity of public administration (in eliminating corruption, for example) were just two example of how the public sector efforts can in turn pave the way for enhanced and efficient private sector activity.
48. The OECD explicitly recognises this public/private sector symbiotic relationship by making governance a top priority item. Most recently, Mr. Geiger explained, OECD governments approved three instruments that help in this process:

1. The 1997 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Convention represents an important step in the concerted international effort to criminalise bribery and reduce the rampant corruption in world economies. It aims to stop the flow of bribe money for the purpose of obtaining international business deals and to strengthen domestic anti-corruption efforts aimed at raising standards of governance and increasing civil society participation.

2. The 1999 OECD Principles on Corporate Governance. The Principles cover five basic aspects of corporate governance. The principles focus on five key elements: the rights of shareholders, the equitable treatment of shareholders, the role of stakeholders, disclosure and transparency, the responsibilities of the board, all with a view to building market confidence and encouraging more stable, long-term international investment flows.

3. The revised OECD Guidelines for Multinational Enterprises, which were successfully reviewed at this year’s Ministerial meeting in June. The year 2000 MNE Guidelines are an update of an instrument that has been reviewed four times since 1976. They provide a robust set of recommendations for responsible corporate behaviour worldwide consistent with existing legislation. They are part of the OECD Declaration on International Investment and Multinational Enterprises, which provides a balanced framework to improve the international investment climate and encourage the positive contributions multinational enterprises can make to economic, social and environmental goals.

49. All these instruments are part of a broad and comprehensive approach involving all actors in the investment process. Implementation, monitoring, and peer pressure are key tools for the effective implementation of these instruments, which can also aid in managing successful governance strategies in both the public and private sectors.

50. Professor Giorgio Sacerdoti, from the Bocconi University in Italy and Vice-Chairman of the OECD Working Group on Bribery further expanded on Mr Geiger’s remarks about the role of the OECD in Anti-Corruption Work drawing on the views expressed in his recent paper, “To Bribe or not to Bribe?” in the OECD publication No Longer Business as Usual – Fighting Bribery and Corruption.

51. Mr. Engjell Skreli, Deputy Minister of Economic Co-operation and Trade of Albania, spoke frankly about Albania’s governance problems such as high level of taxes, lack of sufficient transparency and consistency in tax and custom offices, unfair competition from the unofficial economy, poor road infrastructure, weak enforcement of legislation by the judiciary, unfavourable exchange rate policy, street and organised crime as well as corruption. He also acknowledged the importance of good governance to increase FDI. The Investment Compact activities could in particular assist in changing the way of carrying out economic policy: supporting the productive sectors of the economy through enhanced macro-economic stability, promoting a constructive debate when laws are being discussed, furthering the creation of institutional business lobbying and establishing a professional negotiating team within the government.

52. Ms. Francesca Pissarides from the EBRD, Mr. Tom Price from the OSCE and Ms. Branislava Stankov from SECI summarised the role of each of their organisation’s work. This includes an increased focus on governance issues in SEE countries. The EBRD Transition Report 1999, for example, underlines the importance of public governance in the transition towards a market economy. A special chapter (Chapter 6) is devoted to the specific problems of governance in SEE countries.
53. There was broad support for further work on both public and private governance issues in the SEE region.

Concluding Session

54. The concluding session, chaired by Mr. Manfred Schekulin from Austria and Vice-Chairman of CIME, was devoted to a roundtable discussion on practical steps and future work for improving the investment climate in SEE countries. A number of proposals were presented for consideration by the Investment Compact Project team at its meeting on 1 December 2000 in Brussels.

55. All the panellists, Mr Josip Kardun, Assistant Minister, Ministry of Economy of Croatia and Country Economic Team Leader – Investment Compact for South East Europe, Mr. Jean-Marie Demange on behalf of the French Presidency, Mr. Konrad Eckenschwiller on behalf of the Business Advisory Council of the Stability Pact for South-East Europe, Mr. Robert Zeldenrust, on behalf of the Stability Pact Secretariat, Mr. Geoffrey Hamilton from the UN Economic Commission for Europe, Mr. Harold Freeman, United Kingdom and Mr Rolf Alter, OECD, the co-chairs of the Investment Compact Project Team, highlighted the importance of the open exchange of views that took place at the Conference and of building upon the impulse and dynamism it created for the co-operation between the international community and SEE countries on investment issues.

56. The panellists also welcomed the various proposals for result-orientated actions submitted at the conference and agreed that they should be given the greatest attention at the Investment Compact Project Team meeting, scheduled to take place on 1 December 2000 in Brussels. They also welcomed the readiness of the OECD Committee on Investment and Multinational Enterprises and the OECD Fiscal Affairs Committee to contribute to the enhancement of the investment policy dialogue with SEE countries.

57. Mr. Schekulin thanked all the participants and organisers for their contribution to the success of the Conference.
ANNEX

CONFERENCE

FOREIGN DIRECT INVESTMENT
IN SOUTH EAST EUROPE:
IMPLEMENTING BEST POLICY PRACTICES

Parkhotel Schönbrunn, Vienna, Austria
8-9 November 2000

Organised within the framework
of the South East Europe Compact for Reform, Investment, Integrity and Growth

and

Hosted by the Government of Austria

AGENDA

GENERAL DESCRIPTION OF THE CONFERENCE

Purpose

The purpose of the Conference is (a) to highlight the crucial role of foreign direct investment (FDI) in the reconstruction of SEE countries; (b) to emphasise the importance of following best practice policies for

3. Web sites have been set up for this conference and may be consulted at:
   http://www.oecd.org/daf/conference/vienna/index.htm
   www.bmwa.gv.at
attracting such foreign equity capital, maximising its economic benefits and ensuring compatibility with societal objectives; and (c) to outline a strategy for establishing the necessary conditions for achieving a favourable environment towards FDI in the SEE region.

The Conference is co-organised by the OECD\(^4\) and the Government of Austria within the framework of the South East Europe (SEE) Compact for Reform, Investment, Integrity and Growth.\(^5\) It is part of a broad effort by the international community to assist the SEE region in devising and implementing the policy reforms necessary for sustainable economic growth.

This event will mark the first step in mapping out a regional strategy to compare policies and measures among SEE countries; to propose, implement, and monitor the necessary reforms that can realistically be achieved by the conclusion of the present phase of the Stability Pact Investment Compact.

The conference will provide a platform for future partnership between OECD countries, international organisations and SEE countries for the creation of an attractive investment environment and the implementation of best policies and practices in the SEE region.

The conference will conclude with the adoption of a concrete action plan. Another conference will be called in eighteen months’ time to assess the progress made under this programme and identify further actions that could be pursued.

**Rationale**

In today’s highly competitive international economic environment, the establishment of high policy standards and an attractive environment for FDI has become a necessity. FDI, together with trade, are the main vehicles for globalisation. Failing to attract FDI entails the risk that a country, however economically successful in the past, may be deprived of the main sources of economic growth, namely capital, managerial and production capacity, jobs competitiveness and productivity. As with other countries actively involved in the world economic system, SEE countries need to set the conditions right to harness and promote their comparative advantages.

The conference occurs at a crucial phase in the reconstruction of the SEE region. Foreign capital has started to flow in to build up the economic infrastructure of SEE countries and their economic strength. It is important that foreign investors, big or small, participate in the renewal and expansion of economic activities and work hand in hand with local entrepreneurs towards this end.

Experience has shown that the rule of law, stable and sound economic policies, supporting legislation and institutions and a facilitating attitude on the part of the government are all prerequisites in any attempt to attract FDI. OECD regulatory frameworks embody high-level policy norms for the treatment of foreign

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4. The OECD Member Countries are: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The Republic of Slovakia has recently been invited to adhere to the Organisation. The Conference forms part of the activities with the Non-Member countries of the OECD Committee on International Investment and Multinational Enterprises and the OECD Committee on Fiscal Affairs.

5. The Investment Compact, launched in 1999, outlines a broad agenda of legal, regulatory and institutional reforms for SEE countries. It aims to create a favourable climate for domestic and foreign investors and private sector development, with full protection of property rights, not only by the letter of the law but also by administrative implementation and judicial enforcement.
direct investment. These norms and behavioural principles, captured by instruments developed by the OECD for FDI, constitute the most comprehensive set of disciplines for foreign investment at the international level to date. SEE countries could benefit from OECD experiences in developing and implementing these policy norms.6

Issues to be covered

The conference will inter alia:

− discuss the crucial role that FDI can, and should, play in the economic development of SEE countries;
− highlight the importance of ensuring high-level policy norms and best practices for attracting and retaining foreign capital, maximising its economic benefits and ensuring compatibility with societal objectives in the region;
− diagnose the existing barriers and obstacles;
− elaborate practical recommendations and monitor implementation at the regional and individual country levels on the improvement of the FDI legislative, regulatory practices and promotional capacities.

Participation

The event will bring together key players from within and outside the SEE region working on FDI matters. It will involve high level officials and experts from OECD countries, non-OECD countries that have adhered to the OECD-investment instruments7 and the SEE countries. The list of participants will also include representatives from the European Commission, FIAS, EBRD, UNECE, OSCE, UNIDO, UNCTAD, SECI, the Business Advisory Council and non-governmental organisations. Overall, 150 participants will attend the conference, hosted by the Government of Austria.

6. OECD countries accounted in 1999 for 79 per cent of world investment inflows and 97 per cent of world investment outflows.

7. All 29 OECD countries plus Argentina, Brazil and Chile.
FOREIGN DIRECT INVESTMENT IN SOUTH EAST EUROPE: IMPLEMENTING BEST POLICY PRACTICES

CONFEREECE
AGENDA

VIENNA, AUSTRIA
8-9 NOVEMBER 2000

WEDNESDAY, 8 NOVEMBER 2000

07.30 Registration

09.00 Opening Remarks

Mr. Martin Bartenstein, Federal Minister for Economic Affairs and Labour of Austria
Mr. Seiichi Kondo, Deputy-Secretary General of OECD
Mr. Richard Sklar, Ambassador, U.S. Special Representative for the South East Europe Initiative

09.30-13.00 Morning sessions

Chairperson: Ambassador Marino Baldi, Chairman of the OECD Committee on International Investment and Multinational Enterprises, Switzerland

09.30 Session I: Recent Trends and Characteristics of FDI in South East Europe

This session will highlight the main characteristics of direct investment in SEE countries and the roles of large and small investors in the context of SEE economic needs. It will also discuss the major prerequisites for maximising the economic impact of FDI, drawing from successful experiences of transition economies.

Presentation by Mr. Gabor Hunya, Vienna Institute for International Economic Studies, on recent FDI trends, policies and challenges in SEE countries in comparison with other regions in transition.
Presentation by Mr. George Tabakov, President of the Bulgarian Foreign Investment Agency and Country Economic Team Leader – Investment Compact for South East Europe, on the current experience and progress with FDI in the region.

Presentation by Mr. Richard Sklar, Ambassador, U.S. Special Representative for the South East Europe Initiative – perspectives from a major investor country on some successful experiences in Central and Eastern Europe in attracting FDI.

Discussants:
- Mr. Imre Eredics, Deputy Mayor for Economic Development, City of Gyor, Hungary
- Mr. Tibor Melega, Director of the Hungarian Investment and Trade Development Agency
- Mr. Hans-Martin Maier, Managing Director, Philips Components Ltd.

Question period

11.15 Coffee break

11.30 Session II: Investment Protection

In general, foreign investors seek fundamental guarantees on the protection of their assets, such as the right to repatriate profits and dividends, to move funds freely and to be ensured of prompt and effective compensation in case of expropriation, war or strife. There are no “multilateral” agreements on the protection of the assets of investors. Bilateral investment treaties (BITs) usually cover this matter.

The session will be devoted to the typical guarantees found in the existing 1800 bilateral investment treaties in existence – which themselves derive from the “Model Treaty” developed by the OECD in the early 70s. It will consider the need and desirability of concluding BITs. It will also discuss the merits of developing a “model treaty” for the region which could meet the expectations of investors and minimise the resources devoted to the negotiation of such agreements.

Presentation by Mr. Marinus W. Sikkel, Head of Investment Policy and International Organisations, Ministry of Economic Affairs of the Netherlands, and Chairman of the OECD Working Party on the Guidelines, on the fundamental guarantees sought by foreign investors.

Discussants:
- Mr. Mihai Croitoru, Ambassador, Deputy National Co-ordinator for the Stability Pact, Ministry of Foreign Affairs, Romania, and Country Economic Team Deputy Leader – Investment Compact for South East Europe on SEE experiences with BITs.
- Professor Christoph Schreuer, International Law Chair, University of Vienna, on The World Bank/ICSID dispute settlement procedures.
− Mr. Christian Dörner, International Relations, Siemens Austria
− Mrs. Anna Joubin-Bret, Project Officer, Division on Investment, Technology and Enterprise Development, UNCTAD, on UNCTAD rounds of bilateral investment treaty negotiations.

Question period

13.00 Lunch (provided by host country)

15.00-17.00 Afternoon session

Chairperson: Mr. Wesley Scholz, Director of the Office of Investment Affairs, U.S. State Department, Member of the OECD Committee on International Investment and Multinational Enterprises

**15.00 Session III: Non-Discrimination and Liberalisation**

*Session III will focus on the elements of a non-discriminatory and liberal regime promoted by the OECD instruments – Transparency, National Treatment and Most Favoured Treatment – and highlight the importance attached to them by the business community. It will discuss, on the basis of representative examples in OECD countries, economies in transition and emerging market economies, the application of these principles to market access situations such as privatisation, demonopolisation or the granting of concessions. It will demonstrate that these OECD norms are fully compatible with the sovereign right of nations to “regulate” economic activity in their territory.*

Presentation by Ms. Marie-France Houde, Principal Administrator, (Foreign Direct Investment), Capital Movements, Investment and Services, OECD

Presentation by Ms. Corinne Dreyfus, Administrator, European Commission, DG Trade/F/2

Discussants:

− Ms. Suzana Arsova-Kostadinova, Senior Advisor, Ministry of Economy of the Former Yugoslav Republic of Macedonia, and Country Economic Team Member – Investment Compact for South East Europe

− Mr. Laszlo Csernenszky, Deputy Director-General of the Ministry of Economic Affairs of Hungary, on the Hungarian experience with liberalisation, privatisation and demonopolisation and the application of OECD liberalisation obligations.

− Ms. Ewa Sadowska-Cieslak, Senior Economist, Research Department, National Bank of Poland, on the recent Polish experience with Foreign Direct Investment.
16.00 Coffee break
16.15 Continuation of Discussion:

- Ms. Slobodanka Gavric, Republic of Srpska Prime Minister’s Office, Director of ACDU (Aid Coordination and Development Unit), and Country Economic Team Member – Investment Compact for South East Europe

- Mr. Stephen Sarjeant, Regional Manager, South Eastern Europe, Cisco Systems Inc.

- Mr. Imre Abos, Senior Advisor, MATAV Hungarian Telecom

- Mr. Charles Kovacs, Senior Advisor, Arthur Andersen Kft. and Vice Chairman, BIAC (Business and Industry Advisory Committee to the OECD) Expert Group on Transition Economies and Development Issues

Question period

19.30 Buffet-Dinner (Heuriger), Hosted by the Austrian Federal Ministry of Foreign Affairs

THURSDAY, 9 NOVEMBER 2000

09.00-12.30 Morning sessions

Chairperson: Mr Josip Kardun, Assistant Minister, Ministry of Economy of Croatia and Country Economic Team Leader – Investment Compact for South East Europe

09.00 Session IV: Competition for FDI and Investment Incentives

In view of intense competition world-wide for highly mobile capital, pressure on host economies to make use of “rules-based” and “incentive-based” measures has been on the rise. While several studies have called into question the cost effectiveness of such schemes, SEE countries may be compelled to introduce investment incentives, given their widespread adoption in competing countries. The OECD has done extensive work on the merits and effectiveness of both financial and fiscal incentives. Undoubtedly the best FDI incentive policy is a coherent policy framework and adequate institutional capacity at national and regional levels.

(a) Business Perspectives on the Prospects and Competition for New FDI in SEE

Presentation by Mr. Konrad Eckenschwiller, MEDEF Paris, Representative of BAC (Business Advisory Council of the Stability Pact for South East Europe)
(b) Experience of an International Organisation on Competition for FDI in SEE

Presentation by Ms. Jacqueline Coolidge, Program Manager, Europe and Central Asia, Foreign Investment Advisory Service (FIAS), The World Bank Group

Discussants:

- Mr. Agu Remmelg, Director, Estonian Investment Agency, on the experience of the Baltic States in competing world-wide as a region and as individual countries for FDI.

- Mr. Costas Masmanidis, Secretary General, Black Sea Economic Cooperation Business Council

Question period

10.15

(c) Fiscal Incentives and the Role of Policy Co-ordination

Tax incentives are unlikely to be effective in countering significant market or government policy-related impediments to FDI. In other cases, if used carefully, tax incentives for FDI can help address instances of “market failure” (e.g., financing gaps for SMEs, under-investment in R&D, regional capital gaps). Yet in each of these areas, there are important design considerations, including the inter-action of host and home country tax systems, which affect the efficacy of tax incentives.

Another major challenge is ensuring that windfall gains (tax relief over and above what is necessary to attract business) are avoided. Co-ordinated approaches to the use of tax incentives (such as the efforts at the EU level) would also appear to be desirable to prevent distortions in the allocation of FDI within the SEE region.

Presentation by Mr. Emil Zhetchev, Head of Legal and Integrational Department, Bulgarian Foreign Investment Agency, on pressures leading to introduction of tax incentives, the experience with their use and the results observed to date.

Presentation by Mr. W. Steven Clark, Administrator (Corporate Taxation), Tax Policy Analysis Unit, Fiscal Affairs, OECD, on the pros and cons for tax incentives, key design considerations and recent trends in the use of such incentives in SEE countries.

Discussants:

- Mr. Besim Culahovic, General Manager, Foreign Investment Promotion Agency, Bosnia and Herzegovina, and Country Economic Team Member – Investment Compact for South East Europe

- Mr. Robert Horvath, Director of Government Programs, IBM, Vienna, Austria

Question period

11.30 Coffee break
The 1997/1998 financial crisis and the substantial liberalisation of foreign direct investment which has occurred world-wide in the last decade have underscored the decisive role of good governance in attracting and retaining foreign direct investment. Governance problems in transition economies can be particularly severe – ranging from the non-existence of appropriate legislation and institutional support to administrative barriers of various sorts, state “capture” and corruption. Past experience shows that effective implementation is indeed crucial to transition to a viable market economy. Multinational Enterprises (MNEs) too have corporate responsibilities in these areas.

Presentation by Mr. Rainer Geiger, Deputy Director, Directorate for Financial, Fiscal and Enterprises Affairs, OECD, on the OECD Principles of Corporate Governance, the OECD Guidelines for Multinational Enterprises and the Convention on Combating Bribery of Foreign Public Officials in International Business.

Presentation by Mr. Engjell Skreli, Deputy Minister, Ministry of Economic Co-operation and Trade of Albania and Country Economic Team Leader – Investment Compact for South East Europe, on governance challenges facing SEE countries.

Discussants:
- Mr. Giorgio Sacerdoti, Professor of International Law, Bocconi University, Italy, and Vice-Chairman of the OECD Working Group on bribery
- Ms. Francesca Pissarides, Principal Economist, EBRD
- Mr. Tom Price, Co-ordinator of Economic and Environmental Activities, OSCE
- Ms. Branislava Stankov, Assistant Coordinator, SECI (Southeast European Cooperative Initiative)

Question period

13.15 Lunch (provided by host country)

15.00-17.00 Afternoon sessions

Chairperson: Mr. Manfred Schekulin, Director, Ministry of Economic Affairs and Labour, Austria, and Vice-Chairman of the OECD Committee on Investment and Multinational Enterprises
15.00 Session VI: Roundtable Discussion – Practical Steps and Future Work for Improving the Investment Climate in SEE Countries. Recommendations for Action

Panellists:

- Mr Josip Kardun, Assistant Minister, Ministry of Economy of Croatia and Country Economic Team Leader – Investment Compact for South East Europe
- Mr. Jean-Marie Demange, Economic and Commercial Counsellor, French Embassy, Vienna
- Mr. Konrad Eckenschwiller, BAC (Business Advisory Council of the Stability Pact For South East Europe)
- Mr. Robert Zeldenrust, Director, Working Table I, Private Investment Promotion, Stability Pact
- Mr. Geoffrey Hamilton, UN/ECE Regional Adviser and Co-ordinator for the Regional Flagship Initiative on Public-Private Partnerships for Infrastructure Development
- Mr. Harold Freeman, Deputy Head, Economic Policy Department, U.K. Foreign and Commonwealth Office, Joint Chair of Investment Compact Project Team
- Mr. Rolf Alter, Counsellor, Directorate for Financial, Fiscal and Enterprises Affairs, OECD

16.45 Chairperson’s conclusions