

MONITORING THE INVESTMENT RELATED CLAUSES IN CEFTA

BACKGROUND

In addition to implementing traditional trade-related liberalisations such as tariff reductions, CEFTA obligates the Parties to undertake commitments related to investment policy. The investment-related clauses of CEFTA provide for non-discriminatory treatment of investments underpinned by the principle of national treatment, a commitment by the Parties to broadly coordinate their investment policies, progressive opening of their government procurement markets to one another and effective protection of intellectual property rights (IPRs).

The CEFTA Parties mandated the CEFTA Secretariat to ensure periodic reviews of these investment related commitments.

OVERALL OBJECTIVE

The overall objective of the project was to facilitate the CEFTA Parties' efforts to monitor implementation of the investment related clauses of the Agreement, through an independent review of the current status of the legal framework and compliance.

ACTIONS AND ACTIVITIES

The OECD was commissioned to carry out a series of reviews and assessments on different aspects of the investment related commitments in CEFTA.

These included:

Study on Trade Integration, Industry Concentration and FDI Inflows

An econometric analysis of the extent to which the patterns of geographical concentration changed during the transition of the Central and Eastern European countries to a market economy was conducted by OECD. The changes wrought by this



transition, including the signing of regional free trade agreements - the Baltic Free Trade Area (BFTA) and the original Central European Free Trade Agreement (CEFTA) and the countries' accession agenda with the EU had a significant impact on the location of economic activity. It was deemed useful to review this experience so that the CEFTA 2006 Parties could gain insights into their expected evolution and potentially use the findings as policy benchmarks for their regional and European integration process.

Assessment of Intellectual Property Rights in CEFTA Parties

A comprehensive review of the legal frameworks covering IPR in each of the CEFTA Parties, specifically the IPRs noted in Article 37 of the Agreement, was carried out. The Parties are obliged to implement the obligations arising from the Intellectual Property related international conventions listed in Annex VII of the Agreement as well as to accede to those conventions they are not yet members of by 1 May 2014. The review revealed a mixed picture with respect to IPR compliance but noted that

all Parties were making progress towards meeting their commitments.

Assessment of National Restrictions and Review of Bilateral Investment Treaties

Article 32 (2) of CEFTA commits the Parties to apply national treatment at the pre and post establishment phase of investment. It also commits them to not adopt any new discriminatory regulations or measures against companies from any of the other Parties. The assessment found that in line with the Agreement, the CEFTA Parties had taken appropriate steps to modify or reduce restrictions to national treatment in their primary and /or secondary legislation. No evidence was found to suggest that a CEFTA Party was trying to reverse reforms or impose new restrictions to national treatment.

The review of the Bilateral Investment Treaties (BITs) identified in Annex 6 to the Agreement

found that these were broadly consistent in terms of the treatment and protection they provide to investors and their investments. The report highlighted commonalities in the BITs and also potential gaps.

IMPACT ON CEFTA

The comprehensive information and analysis provided by the various reports contributed to a greater understanding among the CEFTA Parties as to their progress in implementing the investment related clauses of CEFTA and in particular some of the challenges remaining. For example, it acted as a prompt for the Parties to take specific action to meet the obligation to accede to relevant IPR conventions or abolish restrictions to national treatment. These actions contributed to an improved investment climate in the region.

SUMMARY PROJECT INFORMATION

| | |
|----------------|----------------------------------|
| Dates: | March 2009 - March 2010 |
| Budget: | <i>n.a.</i> |
| Partners: | OECD, CEFTA |
| Financiers: | EU (IPA) |
| Beneficiaries: | Ministries responsible for trade |

CONTACT PERSON/FURTHER INFORMATION

Antonio Fanelli - Senior Policy Advisor, OECD ✉ Antonio.FANELLI@oecd.org

Edo Omic - Junior Economist, OECD ✉ edo.omic@oecd.org

Aleksandra Rakovic, Technical Expert, CEFTA Secretariat ✉ Aleksandra.rakovic@cefta.int



INVESTMENT POLICY REVIEW OF SOUTH EAST EUROPE

BACKGROUND

One of the key objectives of the SEE 2020 Strategy is to deepen regional trade and investment links. SEE 2020 stipulates that the SEE region must establish a free and open investment regime by removing intra-regional investment barriers, facilitating the free flow of factors of production (goods, services, and human capital), pursuing policies and actions that support the attraction and inflow of foreign direct investment (FDI), as well as intra-regional investments, and promoting further integration of the regional markets.

To support the achievement of the above objectives, CEFTA and the RCC Secretariat (SEE Investment Committee) as the coordinators of the Integrated Growth Pillar have requested the United Nations Conference on Trade and Development (UNCTAD) to prepare an Investment Policy Review (IPR) for the SEE region. This review of all CEFTA Parties will assist in the delivery of effective investment related policy reforms.

OVERALL OBJECTIVE

The project aims to develop and produce (i) a detailed analysis of investment policies in the SEE region, benchmark these among the SEE peers and (ii) provide proposals for investment policy improvement and reform on an individual economy level but also through synergies with regional cooperation mechanisms.

The project will deal with investment policy issues taking into account the objective of increasing foreign direct investment (FDI) flows (SEE 2020 Integrated Growth Pillar), and economic competitive-

ness (SEE 2020 Sustainable Growth Pillar), including the promotion of private sector development and business linkages.

ACTIONS AND ACTIVITIES

The study is anticipated to intervene at two different levels: regional and individual-economy level.

At the regional level, a benchmark study is to be provided with a broad overview and direction for investment policy.

At the national level, a more in-depth assessment of the investment regulatory framework and climate will be provided, upon individual request, through country-specific Investment Policy Reviews, followed by tailored concrete and action-oriented recommendations.

UNCTAD will develop a methodology for the benchmarking study and apply this through using quantitative and qualitative information. It will benchmark each beneficiary's investment policies against a regional standard as envisioned in pillar 1 of the *SEE 2020 Strategy*, while defining the regional standard as an open investment policy that is: non-discriminatory, transparent, predictable and conducive to greater FDI flows. It will highlight and focus on the issues that are more relevant to the region, namely:

- Investment laws and FDI entry, protection and treatment
- International investment agreements (IIAs)
- Streamlining procedures to create a business
- Fiscal policy, corporate taxation and investment incentives