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Session: Integrating sustainable development in IIAs: the case of the Asia-Pacific LDCs and LLDCs

Arriving at sustainable FDI characteristics
by
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Thank you very much for this opportunity to participate in this conference. I regret of course that I cannot be in Bangkok in person, but welcome the opportunity to participate at least via video.

The starting point of my discussion is that the SDGs have become the lodestar of international development-policy making. At the same time, we know that the financial needs to reach the SDGs are tremendous and that official development assistance and domestic resource mobilization cannot be expected to generate the required resources.

In this context, FDI can make a contribution (in 2017, FDI flows amounted to US$1.4 tr). FDI flows need to rise considerably to make a real difference—and there is potential: FDI accounts for only around 10% of gross domestic capital formation.

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But issue is not only *more* FDI but *better* FDI, or what I call **sustainable FDI**. A rough definition of “sustainable FDI” is: “commercially viable investment that makes a substantial contribution to the economic, social and environmental development of host countries and takes place in the framework of fair governance mechanisms”.

So what would tell us whether a given FDI project is a **sustainable** FDI project?

Howard Mann and I suggested that FDI needs to have certain **sustainability characteristics**, i.e., attributes that make the investment contribute as much as possible to sustainable development. We have done this in the context of a project co-sponsored by the International Centre for Trade and Sustainable Development and the World Economic Forum.

So how to arrive at the FDI sustainability characteristics?

One way to do so is to decide on our own what these characteristics could be. Another way would be to examine what principal stakeholders, beginning with governments, have decided are desirable characteristics of FDI.

The approach that Howard Mann and I have taken is indeed to examine what the principal stakeholders in the relationship between host countries and international investors themselves identify as those characteristics that are most important to them. Among stakeholders, it is governments who should know best how, given all relevant variables and constraints, FDI can contribute best to sustainable development; similarly, the private sector should know best what it can contribute towards this objective.

More specifically, the principal stakeholders are listed in table 1.

Table 1: Stakeholders

• Negotiators of international investment agreements • Host country governments and IPAs seeking to attract sustainable FDI • Home country government supporting their firms to invest abroad • Arbitrators in international investment disputes	• Intergovernmental organizations seeking to develop their own guidelines • Global business associations seeking to provide guidance to members • Private institutional investors seeking to provide guidance to clients • Industry associations seeking to provide guidance to members	• International investors seeking to maximize benefit for themselves and host countries • Civil society organizations or communities seeking to monitor particular FDI projects or responsible business conduct

Source: Karl P. Sauvant and Howard Mann, "Towards an Indicative List of FDI Sustainability Characteristics" (Geneva: ICTSD and WEF, 2017), available at SSRN: https://ssrn.com/abstract=3055961

These stakeholders have indicated in various instruments formulated by them what they consider to be desirable FDI characteristics. Interestingly—and importantly—when looking at 150 mostly recent instruments, a **substantial** number of these stakeholders, ranging from governments to MNEs and their business associations, indicate the same characteristics. We call these "common FDI sustainability characteristics". They are listed in table 2.

There are also a number of "emerging common FDI sustainability characteristics". These are characteristics that have also been identified by a number of stakeholders, but fewer times than the "common" SFDI characteristics; they are also identified in table 2.

Table 2: Common and Emerging Common FDI Sustainability Characteristics

The dimensions of sustainable FDI and their sustainability characteristics

Note: bold = common FDI sustainability characteristics; italic = emerging common FDI sustainability characteristics

	Characteristic		Characteristic
Economic dimension	• *Employment* • *Local linkages* • Technology transfer • Infrastructure • *Community development* • *Equitable distribution of wealth* • Tax accountability • Promote research & development (R&D)	Social dimension	• **Labour rights** • *Skills enhancements* • *Public health* • **Workplace safety** • **Non-discrimination** • *Fair wages* • *Benefits* • **Human rights** • *Indigenous rights* • *Gender* • **Resettlement** • *Cultural heritage protection/diversity*
Environmental dimension	• *Resource management* • *Pollution controls* • **Low carbon/greenhouse gases footprint** • *Waste reduction* • *Biodiversity protection* • Climate change • *Water* • *Renewable energy*	Governance dimension	• **Transparency** • Local management • **Supply chain standards** • Consumer protection • **Stakeholder engagement** • *Anti-corruption* • **Legal compliance** • *Risk management systems* • Environmental management systems • *Environmental impact assessment/social impact assessment* • Human rights due diligence • Corporate governance

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It is noticeable that many of the SFDI characteristics belong to the social and environmental sustainability dimensions. Economic sustainable FDI characteristics, on the other hand, figure only among the **emerging** common FDI sustainability characteristics. This may reflect the fact that social and environmental issues are particularly championed by developed countries and their civil societies (including trade unions). Since most of the instruments in the FDI space traditionally have reflected the views of developed countries and their civil societies, as well as the views of the business community, economic development issues typically received only general attention. With developing countries becoming more assertive in the negotiation of international investment agreements, this picture is changing.

More generally, what emerges from this analysis is that there is a remarkable overlap in the type of contributions governments and intergovernmental agencies expect international investors to make to the sustainable development of host countries on the one hand, and private sector stakeholders, especially multinational enterprises and business organizations, envisage themselves as making to the sustainable development of their host countries on the other hand.

This suggests, in turn, that, de facto, an international consensus seems to exist across a range of stakeholder groups as to what sustainable FDI is.

Therefore any government that would want to include any of the sustainability characteristics in any of their international investment agreements—and especially any of the **common** sustainability FDI characteristics—should feel rather confident that these are widely accepted FDI sustainability characteristics, supported also by MNEs and/or business associations.

This convergence, in turn, could have a strong signaling effect for all stakeholders seeking to promote sustainable FDI for sustainable development. By providing broad-based precedents and a common language across stakeholder groups, the most widely accepted sustainability characteristics, in particular, give not only guidance as to what is acceptable, but they also confer a certain amount of legitimacy on those stakeholders that propose, use or promote them. This should be particularly important for least developed countries in that it strengthens their bargaining position.

Let me conclude by returning to the point I made at the beginning of my brief presentation, namely that FDI can contribute to reaching the SDGs, that FDI flows have to increase considerably to make a real difference **and** that what matters most **are especially higher sustainable FDI flows**.

In this context, the structured discussions in the WTO concerning a multilateral investment framework on investment facilitation are particularly important. They ought to be supported, in particular in terms of encouraging the governments involved to focus not only on facilitating higher FDI flows, but facilitating especially higher **sustainable FDI flows**.