



Business and Industry Advisory Committee to the **OECD**

Comité Consultatif Economique et Industriel Auprès de l' **OCDE**

BIAC CONSULTATION WITH OECD LIAISON COMMITTEE

BIAC Discussion Paper

6 December 2005

THE OECD POLICY FRAMEWORK FOR INVESTMENT: CREATING INVESTMENT FOR DEVELOPMENT

PFI – Why this project is critical

The Policy Framework for Investment (PFI) is intended to assist governments in their efforts to create a good investment environment. The OECD together with over 20 non-OECD countries (including Argentina, Brazil, Chile, China, India, Russia and South Africa) have been trying to promote shared views on what constitutes best practises in policy areas impacting on investment. The PFI will take the form of questions addressed to policy makers and consist of ten chapters, one for each of the policy areas covered.¹ Its policy recommendations will mainly be addressed to non-OECD countries. After investment was taken off the Doha Development Agenda at the WTO, the PFI is currently the only significant multilateral initiative aimed at improving the international investment environment. Thus, the OECD is in a unique position today to take the lead on a project which will stimulate global investment for development.

PFI – What it should become

For the PFI to provide added value for international business, participating countries must make investment promotion the central goal of the PFI. Investment is best promoted when countries provide a well functioning legal, political, social and economic environment in which companies can operate successfully. An attractive investment environment includes in particular government accountability and transparency, rigorous enforcement of the rule of law, a strong commitment to fighting bribe solicitation and corruption, open trade and investment regimes, a level playing field between domestic and foreign investors, reduction of investor risk (excepting inherent entrepreneurial risks), labour market flexibility, human resource and infrastructure development.

¹ The ten policy areas are investment policy, investment promotion and facilitation, trade policy, competition policy, tax policy, corporate governance, corporate responsibility and market integrity, human resource development, infrastructure and financial services, and public governance.

PFI – What it should not become

For business, it is critical that the PFI not start new debates about the relationship of commercial issues on the one hand, and social and environmental issues on the other. When the chapter on “Corporate responsibility (CR) and business integrity” – which has not yet been drafted – is produced, it is important that it clearly distinguish between legal obligations and voluntary corporate initiatives. Furthermore, BIAC would like to underline that the corporate responsibility part of PFI should not go beyond the scope of existing OECD integrity instruments nor should it suggest policies that would unnecessarily restrict commercial activity and investment.

The PFI should not just become “just another paper” which disappears in the drawers of policy makers’ desktops. This would clearly be another missed opportunity to promote investment on a multilateral level. In order to prevent the PFI from this fate, the OECD and non-OECD countries must formulate sound policy recommendations which can have a real and positive impact on investment. The standards and scope of the policies suggested in the PFI must not fall behind the expectations of international private investors. Otherwise the PFI will not achieve its potential.

Provided that the PFI is constructed properly, the OECD Secretariat and OECD countries also have to market it correctly. Identifying good policies does not help if countries cannot be convinced to apply them. The OECD should encourage countries to take the PFI questions and explanatory background notes seriously, and the OECD should use a properly constructed PFI as an additional benchmark for its investment reviews. In order to effectively promote good policies impacting on investment, the OECD countries should consider giving the final PFI high political status.

Where do we stand?

Thus far, the OECD has drafted the background papers on all chapters with the exception of the chapter “Corporate responsibility and market integrity”. In addition, a first draft of a consolidated PFI has been produced which includes the questions addressed to policy makers plus an annex with annotations to each question. BIAC has been an active member of the PFI Task Force. We have provided written comments on the investment policy, trade policy, and tax policy background papers. Currently, BIAC is also preparing comments on the background papers related to corporate governance, infrastructure and financial services, and human resources.

BIAC support is critical to the success of the PFI. Both potential investors and non-OECD countries will be interested in how the business advisory body to the OECD views this project. The OECD business community welcomes the comprehensive approach of the PFI. Countries that want to attract and retain investment must develop coherent policy approaches across all the policy areas that impact on investment. BIAC commends the OECD for the overall good quality of many of the draft background documents. Most of them need further improvement, though, if they are to become real benchmarks for policy makers who are committed to improving the investment environment. We consider some of the existing draft background papers -- namely those concerning public governance and competition policy -- to have been well done. We also agree with the statements expressed in the tax policy background paper which could be further enhanced in some parts. The draft background on the infrastructure and financial services chapter is also a good first attempt which should be further improved.

The core chapter of the PFI concerns investment policy. The revised background on this chapter² has been improved compared to the first draft. However, although the paper

² DAF/INV/TF(2005)8/REV1

addresses many key issues, it still falls short of setting good benchmarks with regard to all aspects of investment policy that are important. BIAC would welcome significant improvements. In our view, the OECD should provide existing strong empirical evidence about the advantages of good investment policies in order to convince policy makers to create better investment environments. In addition, it is important to discuss initiatives that have already been undertaken, by aid-agencies for example, to overcome the major obstacles to transparency-enhancing reforms. The OECD should also better define in the chapter what exactly it means by “investment”, as countries and investors need to be clear about the extent and scope of coverage that is being addressed in the PFI. The section on IPR protection should also be improved. Finally, the investment chapter should highlight the ways in which non-member countries provide for fairer compensation of investors in cases of expropriation, it should more clearly advocate the free transfer of capital and it should underline the positive relationship between foreign and domestic investment.

With regard to the overall structure of the PFI, BIAC believes that the final PFI must include the background texts and not only the questions addressed to policy makers accompanied by brief annotations. The more extensive background texts are the backbone of the PFI. They provide explanations and guidance. Without them, the PFI will not provide the substance, guidance and persuasiveness needed to positively impact the global investment environment.

BIAC suggestions to Ambassadors

BIAC would like to ask the Ambassadors to the OECD to:

- ensure active country participation in the important work on the PFI;
- help ensure that the OECD encourages countries to apply policies that can actually make a real positive difference for domestic and foreign investment;
- provide high-level support for the PFI and its promotion.