



**THE HELSINKI PROCESS INVESTMENT
REGIME SEMINAR
10-11 APRIL 2013, HELSINKI**

Conference report



**MINISTRY FOR FOREIGN
AFFAIRS OF FINLAND**



HELSINKI
PROCESS +10

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INTRODUCTION

The Helsinki Process on Globalisation and Democracy was initiated by the Governments of Finland and Tanzania in 2002, to bring together representatives of governments, international organisations, NGOs, the business community, research institutes, religious organizations, and the media to identify ways of improving global governance and making globalisation work to the benefit of all. The Helsinki Process +10 conference in February 2012, which concluded that phase of the Process, reaffirmed that the basic working philosophy of the Helsinki Process – to bring together different stakeholders in search of alternative and innovative solutions to the most pressing global challenges – remains as relevant today as it was ten years ago, if not more so. Among the issues that that conference identified as requiring attention was the current international investment regime.

From the left: Dr Federico Ortino, Dr Karl Sauvant, Minister for Foreign Affairs Erkki Tuomioja, Ambassador Ilari Rantakari, Director of the Unit for Trade Policy of the MFA Finland Okko-Pekka Salmimies, Minister for International Development Heidi Hautala.



Accordingly, the Minister for Foreign Affairs of Finland, Erkki Tuomioja, the Minister for International Development, Heidi Hautala, and the Minister of Trade, Alexander Stubb agreed that the improvement of the international investment regime should be the focus of the Helsinki Process beginning in 2013.

The Steering Group of International Investments of the Ministry for Foreign Affairs of Finland began preparations for the Helsinki Investment Seminar, entitled "Improving the International Investment Regime", during the autumn of 2012. At the same time, a study on "Improving the international investment law and policy regime: Options for the future" was commissioned from Dr. Karl P. Sauvant (Columbia University, New York) and Dr. Federico Ortino (King's College, London), to serve as a background report for the Helsinki Investment Seminar, 10-11 April 2013. The study concluded that the regime can – and must – be improved, not only to take into account the changes in the international investment law and policy landscape but, most importantly, in the interest of its own legitimacy.

The Seminar's program is attached to this report, as are the opening and closing speeches. The about 60 participants (see attachment) were from the principal stakeholder groups involved in the international debate and political processes around the theme of the Seminar. An open debate and wide-ranging stock-taking took place at that event, reflecting its objective of being primarily a fact-finding, listening and recording session about the issues at stake. There was no intention at any phase to turn the Seminar into international negotiations. Neither was the Seminar a decision-making forum, where participants would be expected to make commitments on behalf of their constituencies. Rather, the Helsinki Process was and is solely interested in finding out whether there is a need and an interest in taking the dialogue forward and in exploring the themes in greater detail. The Seminar showed that there is indeed a clear consensus in this respect.

This Seminar Report covers, in a concise fashion, the main points made during the discussions and outlines the way forward. Since the Helsinki Seminar took place under Chatham House Rules, neither the identity nor the affiliations of the speakers are provided. The Helsinki Process Secretariat was pleased with the strong interest of the attendees and grateful for their valuable contributions, and it welcomes any further suggestions or comments regarding the Helsinki Process and its current focus.

PRINCIPAL THEMES OF THE DISCUSSIONS

While the discussion among the various participants raised a range of issues, many of the interventions revolved around the following themes.

Participants highlighted that it is fundamental first clearly to identify the **main purpose of future treaty-making in the area of investment**. States need to identify the specific provisions to be included in the future international investment treaties (IIAs) that will most likely help to achieve the chosen purpose. The identification of the objective(s) depends on the contracting parties' specific political, economic and social situations and aspirations. Future clarifications with regard to individual countries' objectives underlying their investment policies and treaties will directly affect the purpose of the whole investment regime.

Interventions highlighted that private investment is essential for economic growth, both in developed and developing countries. A number of the challenges concern sustainable development, poverty alleviation and taking into account host countries' economic and social policies. While in the past many have favored a market-based approach to development (that is, integrating developing countries' economies into the global market economy through different structural adjustment processes), some participants felt that there is a growing consensus that this approach needs to be complemented by new thinking and models for development.

In this regard, considerable attention was paid to the link between the global investment regime and sustainable development. Many interventions mentioned the need to bring sustainable development into the investment agreements' main area of progress. While IIAs would continue to support the rights of

investors, the regime could not solely concentrate on investment protection but needed to be linked to sustainable development. This might include the recognition that not necessarily all investment is equally good for development, but that states have to ensure that investment makes as much a positive contribution to their sustainable development as possible. It requires a shift of focus from looking at the quantity of investment as the only issue to the quality of that investment as a key issue. Incorporating elements of sustainable development in IIAs would strengthen the legitimacy of the current regime by complementing investor rights and freedom of investment.

Moreover, new investment is needed when an economy is steered from unsustainable production methods and products to sustainable ones. Governments often cannot make the primary investments needed today to move from unsustainable to sustainable practices and products: they must come from the private sector. From an environmental perspective, FDI can be a valuable way to disseminate new technologies and thus more rapidly advance the goal of sustainable development in communities, states and globally.

Civil society organizations in particular strongly supported a comprehensive change in the international investment regime, following from a change in its underlying purpose. Several interventions, however, highlighted the difficulties facing such a dramatic change, particularly in political terms. Thus, some of the participants expected that the status quo will continue to characterize at least the ongoing larger negotiating process.

Another significant question to emerge from the seminar was why the investment regime continues to address primarily the issue of investor rights and does not address the full set of investment relationships between foreign investors, host countries and local communities. More specifically, a number of participants expressed the view that a **better balance between investment protection and governments' right to regulate** needed to be found in IIAs.



A number of participants pointed to the fact that several governments have spent considerable sums defending what they considered legitimate environmental, health and human rights related measures against investor-state claims. Even in the developed world, it was argued, there is sometimes a perception that the mere threat of being sued and going through an expensive legal process can prevent governments from taking certain regulatory actions. A regulatory chill of IIAs can have negative effects on the future capacity of governments trying to ensure environmental, worker and human right standards.

Much time was devoted to discussing the development of a more balanced legal framework for investment protection concerning property rights. For example, it was suggested that the international minimum standard for regulatory expropriation must balance the need for stability of the investment framework, state regulatory autonomy, sustainable development objectives, and respect for other legitimate domestic public policy choices. Ac-

cordingly, host countries should have a certain degree of discretion in regulating property rights. Equally, the obligation of fair and equitable treatment has its protective value for investors but also exposes governments to a number of risks. Some tribunals have interpreted the fair and equitable treatment provision very broadly, and that could have an impact on states' right to regulate in the public interest. The challenge is to arrive at the right balance between predictability and flexibility.

Some interventions also noted that there is a lack of certainty regarding investment protection standards. Typically, these are drafted in general and open-ended terms and can be subject to inconsistent interpretations. Moreover, the regime becomes difficult to manage when one government is subject to some obligations and another to other obligations. Other interventions pointed out that a refinement of obligations is underway and that this issue would be resolved over time.

As discussed in many interventions, **investor-state dispute settlement** is one of the critical areas for all stakeholders, given the central role it occupies in IIAs. The arbitration system that has evolved around the investor-state dispute-settlement system was seen as a major issue in many interventions. In particular, participants from civil society and the academic community considered that the dispute-settlement mechanism needed substantial reform, or even should be abolished. The growth of FDI in general is one of the reasons for the past two decades witnessing a substantial growth of investment treaty arbitrations.

The problems highlighted by a number of participants were numerous: the costs that these disputes can involve, the role of arbitrators and others in the process, the trend toward an increasing number of disputes, questions of consistency, and the possibility that the great number of IIAs that contain an investor-state dispute-settlement clause can give rise to many more disputes. Opposition to the current arrangements among a growing number of countries seems to be rising. In sum, while IIAs with robust

dispute-settlement provisions continue to be concluded (since alternatives such as state-to-state dispute-settlement mechanisms or recourse to local courts are perceived by investors, in particular, as a much less effective means of dispute settlement), there is dissatisfaction with the current dispute-settlement regime, and pressure on it is increasing.

Treaty shopping, or nationality planning, requires attention in the opinion of a number of participants. Similar to some controversial practices of tax planning, some practices of obtaining the protection of IIAs via the incorporation of certain types of foreign affiliates (which often are not more than simple offices) in countries that have IIAs with a host country in which an investment is to be made may extend the protections of a given treaty in a manner that the treaty partners may not have anticipated when concluding the treaty. Since this is a specific issue (and it is recognized that treaty shopping can be used opportunistically), it might be relatively easy to formulate a model clause through which treaty partners can protect themselves against an abusive use of this practice (or certain aspects of it) in the future if they so desire; perhaps it would even be possible to find ways to clarify this matter in regard to past treaties that are not clear in this respect (e.g., through joint statements of interested governments).

Transparency of investment regimes – or the lack of it – remains one of the top concerns of investors and some states worldwide, in the view of a number of participants. Transparency requirements under IIAs can provide a valuable source of information about domestic regulatory investment frameworks. Adhering governments may be called upon to notify regulatory changes, respond to special enquiries or requests for consultations or subject themselves to peer reviews. Enhancing transparency could be one of the most effective actions that public authorities may take to meet domestic and foreign investors' expectations. In particular, it could reduce business risks and uncertainties, help combat bribery and corruption and ultimately promote "patient" investment that is good for all parties, some participants argued.

Public authorities may not always be aware of these benefits or simply take them for granted. Conscious efforts are therefore required to promote regulatory transparency, including in the framework of international investment agreements. This would not only eliminate institutional risks facing investors, but provide an additional focus for balancing state and investor rights and obligations to facilitate the sustainable development of host countries.

Finally, **capacity building** in developing countries was considered of high importance by a number of participants. In order to have an inclusive and effective regime, it is important that developing countries have the resources and expertise fully to take part in building and implementing the international investment regime (whether at the level of negotiating investment treaties or investment contracts, or at the level of managing disputes with investors).



THE WAY FORWARD

The Seminar had brought together a wide range of stakeholders, although not all stakeholder groups were represented equally. The event itself, and the dialogue that took place during it, was generally found useful. The discussions were rich and, by design, wide-ranging, going beyond the main themes mentioned earlier and touching on virtually all aspects of the international investment regime. A lively discussion took place on the way forward.

There was a feeling that a multilateral framework for investment was not an option for the near future. At the same time, though, the current regime can be improved. Views differed however widely about the extent to which this should and can be done. They ranged from virtually abandoning the regime, to refocusing it on broader objectives, to seeking improvements in such critical areas as the dispute- settlement regime, to dealing with specific issues that require attention (“low hanging fruits” such as abusive nationality planning, frivolous suits). Dealing with any issue would require a more structured and focused approach, based perhaps on a thorough stock-taking on what already exists and, when dealing with specific issues, the elaboration or alternatives that can be discussed further.

In any event, any further discussions of this subject matter require confidence building and idea-shaping, to examine systematically what the concerns are and to discuss how to address them, building on the work already done by the principal international organisations active in this field. Furthermore, any such discussions need to involve representatives of the principal stakeholder groups, in an inclusive, informal, trust-building and structured multi-stakeholder consensus-building process. It is of course entirely in the hands of the Governments of Finland and Tanzania whether they would want to initiate such a process and, if so, how it would be structured and pursued.

NEXT STEPS

After the Seminar the Helsinki Process has assessed its own role in the further work concerning the international investment regime. This assessment has covered both internal discussions and with some stakeholders including the European Commission.

The Helsinki Process view on continuation remains very much the same as earlier. As long as the stakeholders see that the Helsinki Process can add value to the process it remains available. As it was signaled by the Seminar, the Helsinki Process value added is mainly provided in maintaining the dialogue and contributing to confidence-building between and among the stakeholders through an inclusive and informal multi-stakeholder approach.

The Helsinki Process will reflect the following consideration:

- The current international investment regime contains thousands of BITs and related arrangements, and exploring the pros and cons of the current regime calls for continued and inclusive dialogue between all the major stakeholders in order to increase the understanding between the different views.

The next steps may cover, but not necessarily be limited to dialogues with

- UNCTAD, WTO and OECD
- Private sector
- INGOs
- Research institutions and think-tanks

Helsinki Process is also prepared to commission and fund some additional research on current investment regime and its various elements as may be required by the success of the process.

ATTACHMENTS

Programme

Helsinki Investment Regime Seminar, 10-11 April, 2013

Venue: Hotel Hilton Kalastajatorppa, Helsinki

Tuesday, 9 April 2013

Arrival of participants

Wednesday, 10 April 2013

Briefing Session 10.00-12.00

Briefing on the Helsinki Process and the Background of the Seminar

Mr. Ilari Rantakari, Ambassador & Mr. Kimmo Sinivuori, Commercial Councillor, MFA Finland

Tour de table, floor open to all participants

Lunch 12.00-13.00

Opening Minister Erkki Tuomioja 13.00

Introduction by Mr. Karl P. Sauvant, PhD, Vale Columbia Center on Sustainable International Investment and Mr. Federico Ortino, PhD, King's College London

Session I 13.30-15.30

The Current Investment Regime and its Strengths and Weaknesses

Chair: Okko-Pekka Salmimies, Director, MFA Finland

Lead Discussants: Mr. James Zhan, Director of the Investment Division, UNCTAD

Mr. Wesley Scholz, Director of the Investment Division, OECD

Ms Sanya Smith, Legal Advisor, Third World Network

Mr. Michael Tracton, Director of the Office of Investment Affairs, State Department, USA

Mr. Jukka Seppälä, Vice-President, Metso Corporation

Coffee break 15.30-16.00

Session II 16.00-18.00

Improving the International Investment Regime: Challenges ahead

Chair: Pertti Ikonen, Director, MFA Finland

Lead Discussants: Mr. Martin Khor, Executive Director, South Centre

Mr. Hamid Mamdouh, Director of Trade in Services Division, WTO

Mr. Norton Rapesta, Ambassador to Finland of Brazil

Mr. Clem Naylor, Department for Business and Innovation, UK

Ms Nicolle Graugnard, Policy Manager, ICC

Ms Cecilia Olivet, Economic Justice Programme Coordinator, Transnational Institute

Dinner 20.00

Host: Minister Erkki Tuomioja

Thursday, 11 April 2013

Session III 9.00-11.45

The Way Forward: Options and Next Steps

Chair: Mr. Pertti Majanen, Ambassador, MFA Finland

Lead Discussants: Minister Ms Anabel González, Costa Rica

Mr. Rupert Schlegelmilch, Director of Services and Investment,
EU Commission

Mr. Xavier Carim, Department of Trade and Industry, South Af-
rica

Mr. Daniel Bahar, US Trade Representative for Investment,
USTR, USA

Conclusions of the Seminar 11.45-12.00

Concluding Remarks: Minister Heidi Hautala

Lunch 12.30-14.00

Departures

OPENING STATEMENT BY MINISTER TUOMIOJA AT THE HELSINKI INVESTMENT REGIME SEMINAR, 10 APRIL 2013



Finland's Minister for Foreign Affairs Erkki Tuomioja

Dear Friends,

I wish to welcome all of you to Finland, Helsinki and Kalastajatorppa, to this international seminar on improving the international investment regime, which we have organized within the framework of the Helsinki Process on Globalization and Democracy.

The Helsinki Process is a multi-stakeholder initiative, launched by the governments of Finland and Tanzania back in 2002. The Helsinki Process in its original form was ended in 2008, but in 2011 our two governments decided to arrange a review meeting which took place as the HP + 10 Conference in Hana-saari in February 2012.

The main conclusion of that very constructive conference was, that the basic principles and the framework of the Helsinki Process can still be used as a forum for multi-stakeholder dialogue in specific global issues where the Helsinki Process can bring added value and offer its services. One of the specific global issues that was identified during the discussion and in the co-chairs' conclusions was the international investment regime, how it has evolved over the years, what are the challenges and problems we are facing, and what could be the ways and means to improve the regime.

This is a high priority issue for the Finnish government. Our Government's program states that we will make efforts to influ-

ence the development of international trade rules, taking into account of the needs of the environment and consumer protection, human rights and core labor standards in accordance with ILO Conventions and other international agreements. We wish to underscore corporate and social responsibility in trade policies. And we support the adoption of a global agreement concerning investments, negotiated on a broad basis, in which rights and obligations of states and investors are addressed in a balanced manner.

With regard to bilateral investment treaties, Finland has had a long and successful negotiating program. The first Finnish BIT was negotiated with Egypt in 1980 and has been in the following years extended to presently include some 65 agreements in force. Content wise, Finnish BITs have not remained carved in stone since the first Egyptian agreement but have been adapted to take into account different needs be it they from the civil society or the investors. Particularly important in the development of the Finnish BITs were the talks held in the OECD during the late 1990s. It was at that time when concepts like sustainable development and respect for international labor rights were introduced to the Finnish agreements.

In 2009, the Finnish negotiating program was suspended due to the entry into force of the Lisbon Treaty in which competences relating to international investment agreements were given to the European Union. With the Lisbon Treaty, investment protection agreements are now primarily negotiated by the EU while the Member States having the possibility under certain condition to negotiate their own agreements as well.

Finland has considered that the emerging role of the European Union as an agreement negotiator not only offers a possibility to advance the true and tested elements of our own BITs but also an opportunity to bring in fresh and interesting ideas to further advance the role of investment protection agreements in sustainable growth. It is in this context that the entry of the EU into the

arena of international investment policy making provides for a pivotal moment to promote such ideas.

Thus, it is not by accident that the investment issues have appeared on the Helsinki Process agenda. Or rather reappeared, since the issue has been there all along the earlier stages of our dialogue.

The Helsinki Process was launched not long after the failure of the negotiations on a Multilateral Agreement on Investment in the OECD. I was myself an active member in many of the NGOs which started the successful campaign to stop the treaty and I was happy with the outcome. This was a good result in my opinion because the draft MAI treaty would in many respects have tilted the balance of rights and obligations between multinational companies and governments clearly in favour of the former.

This did not mean that we were satisfied with the status quo. Indeed we did occasionally discuss the issue of Foreign Direct Investment also in the process. I personally raised the issue some years ago more or less in the same spirit in which the Finnish government has now included it in its program, but there was no follow-up. That we now have done so again is obviously not based on a wish to return to the draft MAI as such, for I hope that we all have learnt are lessons from its failure.

We all know that in spite of some efforts some ten years ago it was not possible to proceed to real negotiations within the WTO or elsewhere on this topic. However, in spite of the prevailing stalemate at the level of negotiations, some progress has been made. Particularly the policy Framework for investment, an instrument developed within the Investment Committee of the OECD through much more inclusive consultations, has tried to piece together the issues relevant for states and governments when developing their legislation regarding foreign investments. Another example is the business linkage program of UNCTAD, which tries to develop a model for linking investments to the

needs of the local economy and job creation for the poor. Finland has supported both initiatives financially.

In the absence of a global agreement, we have seen an immense proliferation of bilateral investment agreements and other trade agreements covering investment issues. The international investment regime has become a virtual jungle of different and contradicting rules and regulations that all stakeholders seem to suffer from. In a regime based on bilateral agreements there is also a tendency for them to show a bias in favour of the interests of the stronger party.

This situation is causing a constantly increasing number of disputes – the all time record of 46 cases of investor-state disputes was filed in 2011. The arbitration itself has grown into a costly business that is lacking transparency and suffering from many procedural and legal weaknesses.

It is our firm belief that an agreement negotiated with full participation of the developing countries, with the right balance safeguarding the rights of governments and taking proper account of the need to ensure respect for environmental, consumer and labour standards as well as corporate social responsibility is still very much needed.

However, the pertinent question is whether time is ripe for moving forward in this area?

Let me be very clear on one point. Neither the Finnish Government nor the Helsinki Process is on the move to try to sell one particular solution or model to the challenges we face. Our primary interest at this stage is to sound out whether there is momentum enough to move into a more inclusive and systematic global dialogue about the investment issues.

Based on the diversified but encouraging feedback we received last year in Hanasaari, we have so far decided to do two things.

Firstly, we decided to commission an independent study on “Improving the International Investment Law and Policy Regime”. Dr Karl Sauvant, well-known to all people seriously involved in issues related to the international investment discourse, took the responsibility for this study, which is now available as a background document to this seminar. His convincing conclusion is that taking into account the profound changes in the international investment law and policy landscape, the regime can and must be improved. But we shall hear more about this in a while from Dr Sauvant himself, whom I wish to thank for his work and commitment.

Secondly, we decided to convene this seminar, inviting all key stakeholders involved in the international debate and political processes around the theme, to an open stock-taking and debate. As we have said in the concept paper attached to the seminar invitation, this is primarily a fact finding, listening and recording session about the issues at stake. We have no intention to try to turn this exercise into anything looking like international negotiations. Neither is this a decision-making forum, where participants would be expected to make commitments on behalf of their constituencies. But we are seriously interested in finding out whether there is interest enough to take this dialogue forward and further. I hope the deliberations at this seminar will give an answer to that question.

The way forward is paved with many alternatives that do not necessarily exclude each other, could be complementary, and also succeed each other in sequence.

- 1) The atomization of the current regime could naturally continue, each player trying to create a system and rules that best suit his purposes. This development would take place at the cost of the reliability, the predictability and the credibility of the regime.
- 2) The incremental improvement of the current regime that is taking place haphazardly here and there.

- 3) The latter might yield a collection of best practices and material for model agreements to be applied on a voluntary basis.
- 4) The development of different regional and plurilateral arrangements and tool-kits for their common use.
- 5) A multilateral frame agreement covering the general principles and code of conduct for the functioning of the regime, possibly divided into sub-agreements on specific issues.
- 6) A comprehensive multilateral general agreement on international investments.

All these alternatives deserve attention in our discussion. But I would tend to recommend to start realistically with a modest alternative of creating a working group of experts including representatives of all the relevant stakeholders that would start with a stock-taking exercise of the present regime and then move on through confidence building towards a proposal on how to improve the present international investment regime.

Finally, but very importantly the objectives of the Helsinki Seminar remain as follows:

1. Identifying the strengths and weaknesses of the current investment regime
2. Assessing whether there exists a favorable atmosphere among stakeholders to continue the process in one form or another
3. Identifying possible ways forward

Provided that we are sufficiently in agreement on point 2 – on the existing will to go forward – a good outcome to our Seminar would be the establishment of an informal expert group of all stakeholders. The basic objective of the Helsinki Process has been to facilitate official negotiations by temporarily providing a second track based on a multi-stakeholder approach. It looks to me that the current situation of the international investment regime is an obvious case for this kind of an informal approach as provided by Helsinki Process tradition and experiences.

CLOSING REMARKS BY THE MINISTER FOR INTERNATIONAL DEVELOPMENT, HEIDI HAUTALA



At the Helsinki Investment Regime Seminar, 11 April 2013

Honourable Ministers, Excellencies, distinguished experts.

The topic of this Helsinki Investment Regime Seminar has truly been challenging and important. The question 'how we could promote the role of private sector investment, not only to boost competition, trade and employment, but particularly in sustainable and inclusive development' is the key to poverty eradication and increase in welfare.

Ladies and gentlemen,

We all know that private investment is the biggest flow of resources in the world that could potentially benefit the developing countries. The volume of private investment is manifold compared to the official development assistance, and yet much bigger than what the world's migrants send money back to their countries of origin.

All these financial resources, together with the mobilization of developing countries' own resources and trade, could easily make huge changes in any country's living conditions and welfare if allocated in a way that the resources benefit all the people in the country in an equal manner.

Private investment is therefore a key to achieving sustainable development. It plays a crucial role in generating potential for economic growth, job creation, income generation and poverty reduction. The role of the private sector in job creation in poor countries is really crucial; in many countries as much as 90 % of new jobs are created in the private sector.

Foreign Direct Investment (FDI) can play a very important role, especially in developing countries where domestic resources are scarce. In addition to providing much needed capital, FDI is a source of advanced technologies, management skills, know-how and can provide access to new markets and local and global value chains. As a matter of fact, these spillover effects can be much more important for a developing country's prosperity than the mere contribution to the capital stock.

However, there are no quick and easy solutions to increase the level of domestic private investment or FDI flows. The only way is to create a legal, regulatory and institutional environment that is conducive for both domestic and foreign investors. Part of that equation is also the set of treaties that specify how investments are safeguarded and that there is a level playing field for all types of investment and for all investors.

The Ministry has actually had dialogue many times with entrepreneurs and investors both in developing countries and in Finland. What we hear is that investors and business people value good governance, rule of law, protection of human rights and macroeconomic stability. They also appreciate the predictability of the legal system, enforceability of contracts and the general openness of the economy. People must have the needed skills and they must be healthy. Investment doesn't come to a country where these basic fundamentals are not right.

This is where the development policy and development cooperation can make the best contribution. Finland's human-rights-based development policy is, hence, of crucial importance also for investors. We have emphasized good governance, rule of law

and people's participation as key themes of our cooperation. We have also made efforts to improve business environment and investment climate in the framework of Aid for Trade. All in all, I believe that we have been doing the right things in our partner countries, also from investors' perspective.

Distinguished guests,

We all know – and you as the leading experts in investment issues in particular – that the current situation with several thousand bilateral investment treaties is far from satisfactory. You can imagine that if it's a headache for the world's leading experts and politicians in rich countries, it must be a nightmare for the governments and business people in developing countries.

We need open and inclusive dialogue with all stakeholders, including governments, private sector and civil society, both in rich and poor countries. I can't underline openness and inclusiveness too much if we are to avoid unnecessary confrontation and somebody feeling that his or her voice is not heard. My advice is to start small, and see what flies, then scale it up.

Sustainable development needs to be mainstreamed in investment policy discussions in general. Sustainable development must also be factored in in the "next generation" investment treaties. This is imperative since investments have such a huge impact on the potential for sustainable development but can also harm sustainability if not properly managed.

I also want to emphasize the importance of corporate accountability in investment. The social and environmental impacts are enormous and can also be detrimental if investors fail to meet the corporate accountability requirements. Finland welcomes all the valuable work that the OECD, UNCTAD and ILO have done to contribute to international agreements and guidance in the field of corporate accountability.

As a final word, I'd like to put some conclusions on the table as well as some recommendations for the future.

The Helsinki Investment Regime Seminar is based on the tradition and experiences of the Helsinki Process on Globalization and Democracy jointly launched by the Governments of Finland and Tanzania in 2002.

This Helsinki Seminar was convened with the objectives of 1) identifying the strengths and weaknesses of the current investment regime, 2) assessing whether there is a favorable atmosphere among stakeholders to continue the process in one form or another, and 3) identifying possible ways forward. The participation covered stakeholders from the governments of the rich countries, developing countries and emerging economies as well as from international organizations, private sector, civil society and academic community.

In conclusion, it was generally underlined that foreign investment can play a very important role in the economic and social development of all countries;

- The international investment regime is composed of several thousands of bilateral investment agreements and other trade agreements covering investment issues. The regime is far too intricate with different and often contradicting rules and regulations. The investor-state disputes are on the increase. Most of the stakeholder groups seem to suffer from the situation and agree that some improvements are necessary also taking into account the recent changes in the international investment law and landscape;
- The arbitration has grown costly and also suffers from many procedural and legal weaknesses. It requires special attention and improvements for which there are already a number of suggestions;

- There was a general will to continue an open and inclusive dialogue for the improvement of the regime between the stakeholders in an informal manner. A proposal was made to establish an informal International Investment Expert Group / Dialogue Forum based on a multi-stakeholder approach and composed of the stakeholder groups present at the Helsinki Seminar. The Group would start with stock-taking from the present regime, move forward in confidence building and towards ideas and proposals for the improvement of the international investment regime. In establishing such a group, any potential overlaps with the existing and functioning options should be avoided.
- Many of the experts of this Seminar could offer valuable insights into the work of the Expert Group.

With these words, I thank you all for most informed and interesting exchange of ideas and enthusiasm to continue this work in other circles.

I also want to express our sincere thanks to Dr. Karl Sauvant and Dr. Federico Ortino for their excellent background paper to this seminar. Finally, I'd like to extend our gratitude from all of us to Ambassador Pertti Majanen and the steering group that organized this event. Thank you and let the good momentum continue.

LIST OF PARTICIPANTS

Minister

Erkki Tuomioja	Minister for Foreign Affairs	Finland
Heidi Hautala	Minister for International Development	Finland
Anabel Gonzalez	Minister for Trade	Costa Rica

Investment study

Karl P. Sauvant	Vale Columbia University of Sustainable International Investments	USA
Federico Ortino	King's College London	UK

IGOs

Rupert Schlegelmilch	Directorate General for External Trade	European Commission
Roberto Echandi	Service Director	International Finance Corporation
Wesley Scholtz	Head of the Investment Division	OECD
Martin Khor	Executive Director	South Centre
Hamid Mamdouh	Director of Services and Investment	WTO

INGOs and Unions

Cecilia Olivet	Economic Justice Coordinator	Transnational Institute
Sanya Smith	Legal Advisor	Third World Network
Pradeep Mehta	Secretary General	CUTS International
Judith Kilton-Darling	Confederal Secretary of ETUC	TUAC
Susan George	Honorary President	ATTAC
Lori Wallach	Expert on Investment Component of FTAs	US Public Citizen
Sarah Anderson	Global Economy Project Director	Institute of Policy Studies
Howard Mann	Senior International Law Advisor	International Institute of Sustainable Development
Mark Halle	Vice-President	IISD
Thomas Kruse	Program Officer	Rockefeller Brothers Fund
Helena Laukko	Director	Citizens Global Platform

Timo Lappalainen	Director	KEPA
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