Foreign Direct Investment: an overview

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FOREIGN DIRECT INVESTMENT: AN OVERVIEW

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Introduction

This first chapter commences with an analysis of the nature of foreign direct investment, including its meaning and perceived significance to foreign direct investors and host states. It analyzes key ways of regulating foreign direct investment both historically and today. It highlights the principles, standards, and rules governing direct foreign investment that have evolved in modern times. Finally, it underscores direct foreign investment's most salient impact upon conventional international investment law and practice.

The remainder of the chapter identifies the basic elements of foreign direct investment and provides the context within which they are best understood. We discuss the basic components of foreign direct investment in order to facilitate the foundation for further analysis.

I. Defining Foreign Direct Investment

Foreign direct investment (FDI) is a significant part of international business and of the global economy. Companies that engage in FDI can expand to new marketplaces; shift their production facilities across national boundaries; and secure more advanced technologies, products, skills, and modes of financing. Foreign companies can provide host countries and their domestic economies with the infusion of capital, updated technologies, improved and more efficient production processes, organizational capacities, management skills, market networks, improved job prospects and employment skills, access to more competitive products, and prospects of economic development generally.[1]

A World Trade Organization (WTO) report on trade and investment provides the following definition of FDI:

> Foreign direct investment (FDI) occurs when an investor based in one country (the home country) acquires an asset in another country (the host country) with the intent to manage that asset. The management dimension is what distinguishes FDI from portfolio investment in foreign stocks, bonds and other financial instruments. In most instances, both the investor and the asset it manages abroad are business firms. In such cases, the investor is typically referred to as the "parent firm" and the asset as the "affiliate" or "subsidiary".
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> There are three main categories of FDI:
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> 1. Equity capital is the value of the multinational corporation's (MNC) investment in shares of an enterprise in a foreign country. An equity capital stake of 10 per cent or more of the ordinary shares or voting power in an incorporated enterprise, or its equivalent in an unincorporated enterprise, is normally considered as a threshold for the control of assets. This category includes both mergers and acquisitions and Greenfield investments (the creation of new facilities). Mergers and acquisitions are an important source of FDI for developed countries, although the relative importance varies considerably.
> 2. Reinvested earnings are the MNC's share of affiliate earnings not distributed as dividends or remitted to the MNC. Such retained profits by affiliates are assumed to be reinvested in the affiliate. This can represent up to 60 per cent of outward FDI in countries such as the USA and the UK.
> 3. Other capital refers to short- or long-term borrowing and lending of funds between the MNC and the affiliate.[2]

FDI can therefore assume various forms. For example, it may involve a company from one country making a physical investment or taking a management interest in an industry in another country. Typically, a purchase by a company located in one country of a factory, machinery, or equipment in a neighboring country would constitute FDI. Similarly, building a plant or factory where none previously existed in that neighboring country would also constitute FDI.

In contrast, acquiring stock or shares as part of a portfolio investment in another country would ordinarily not be considered as FDI, unless some element of management

[1] *See* http://www.going-global.com/articles/understanding_foreign_direct_investment.htm.

[2] WTO, "Trade and Foreign Direct Investment", Oct. 9, 1996, *available at* www.wto.org/english/news_e/pres96_e/pr057_e.htm.

control is attached to the purchase. Precisely how much control would give rise to FDI is primarily a question of fact, one answered by demonstrating that the investment establishes sufficient de facto control to be considered a "direct" as distinct from an "indirect" investment. The factual test would ordinarily be both quantitative and qualitative. De facto control would usually involve owning 50 percent or more of the stock in a foreign company. However, a significantly lesser investment might qualify as a "direct" investment. The qualitative nature of "control" may be equally variable, depending on the nature and extent of that control, such as it being through voting rights, a voice on the board of directors, or some other means of "control."

FDI can also be determined by its "direction" or by its "target." In classifying it by direction, "inward FDI" occurs when foreign capital is invested in local resources. "Outward" FDI—sometimes referred to as "direct investment abroad"—arises when local capital is invested in foreign resources. In classifying FDI by "target," the target may be expressed through a so-called "Greenfield investment," or through a merger or acquisition. FDI that takes place through new facilities, or the expansion of existing facilities, is referred to as a "Greenfield investment," which is sometimes described as "insourcing."

Greenfield investments often are controversial. Host nations often favor them in particular on grounds that they are capital investments that may directly create new jobs, conceivably at higher rates than is generated by local firms. Greenfield investments may also increase production capacity, such as through the transfer of technology and know-how, through investments in research and development, and through increased linkages to the global market.

However, Greenfield investments may lead to a reduction in market share for competing domestic firms that may be less efficient or cannot produce to the same standards as can the Greenfield investment. Greenfield investments may also be attacked for channeling profits away from the domestic economy to the home economy of the MNC, or to a third country in which that MNC or other entity has economic interests.[3]

Notwithstanding the growth of Greenfield investments, the main category of FDI is through mergers and acquisitions. Such mergers and acquisitions occur through the transfer of existing assets from local firms to foreign firms. For example, a cross-border merger may occur when the assets and operations of firms from different countries are combined in order to establish a new legal entity. A cross-border acquisition may arise when the control of assets and operations is transferred from a local to a foreign company, including when the local company becomes an affiliate of that foreign company.[4]

3 On Greenfield Investments, *see* http://www.investopedia.com/terms/g/greenfield.asp.

4 Horst Raff, Michael Ryan & Frank Stähler, *The Choice of Market Entry Mode: Greenfield Investment, M&A and Joint Venture*, 18 INT'L. L. REV. ECON. & FIN. 3–9 (2009); Holger Gorg, *Analysing Foreign Market Entry—The Choice between Greenfield Investment and Acquisitions*, 27 J. ECON. STUD. 165 (2000).

A growing feature of modern FDI is the development of joint ventures across national boundaries. FDI joint ventures arise when parties based in different home states engage in joint enterprises in one or the other home states and/or in third jurisdictions. Such joint ventures often are employed to capitalize investments; to secure know-how, such as specialized skills in conducting that joint venture; and to gain access to foreign markets.

Joint ventures may include a combination of investment options discussed above, as when they engage Greenfield investments, mergers, and acquisitions. Joint ventures are also important to developing countries whose governments are keen to avoid majority foreign ownership or material control of domestic companies. Joint ventures provide useful vehicles by which those governments can engage the partnership of a foreign company without relinquishing control to it.[5]

II. What Is the Value of FDI?

Debate over the value of FDI in general and in its different manifestations is understandably intense. Much depends on the position adopted by the proponent and the economic, political, and social interests involved. Strong supporters of FDI in general argue that it usually provides economic benefits to both host and home countries and to individuals and companies engaged in FDI, as well as socially through spill-off benefits such as higher standards of living, a wider choice of goods and services, more and better paying jobs, etc. The central argument is that FDI creates "more," and that "more" is better than "less."[6]

A countervailing argument is that FDI privileges the already privileged. Given that MNCs traditionally dominated FDI and that MNCs are identified with developed states and their economic interests, critics of FDI contend that these interests benefit at the expense of developing countries, fledging industries in such countries, and their local interests. Critics argue, too, that even the benefits of FDI to developing countries, such as through specialized products and services, are undermined by the fact that products and services produced domestically may be destined for foreign markets. FDI may also lead to the increased employment of foreign workers who are brought in from developed countries to develop FDI markets at the expense of domestic workers.[7]

A mixed concern is that FDI may benefit select sectors of the domestic economy at the expense of others. FDI may satisfy discrete domestic markets for goods and services while undermining other sectors of the domestic economy that cannot compete

[5] Useful Web sites include: www.unctad.org; www.oecd.org; www.columbia.edu/cu/libraries/indiv/business/guides/fordinv.html; www.doc.gov; www.ita.gov; and www.worldbank.org; www.opic.gov.

[6] *See generally* Danachi Tan, *Foreign Market Entry Strategies and Post-Entry Growth: Acquisitions vs. Greenfield Investments*, J. Int'l. Bus. Stud. 1046 (2009).

[7] *See generally* H. Dunning, Global Capitalism at Bay? (2001).

effectively with the FDI. These concerns are endemic to both developed and developing countries.[8]

An attempt to present a balanced view of the virtues and pitfalls associated with FDI is expressed by Jeffrey P. Graham and R. Barry Spaulding in "Understanding Foreign Direct Investment" (2004):

> Proponents of foreign investment point out that the exchange of investment flows benefits both the home country (the country from which the investment originates) and the host country (the destination of the investment). Opponents of FDI note that multinational conglomerates are able to wield great power over smaller and weaker economies and can drive out much local competition. The truth lies somewhere in the middle.
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> For small and medium sized companies, FDI represents an opportunity to become more actively involved in international business activities. In the past 15 years, the classic definition of FDI . . . has changed considerably. This notion of a change in the classic definition, however, must be kept in the proper context. Very clearly, over 2/3 of direct foreign investment is still made in the form of fixtures, machinery, equipment and buildings. Moreover, larger multinational corporations and conglomerates still make the overwhelming percentage of FDI. But, with the advent of the Internet, the increasing role of technology, loosening of direct investment restrictions in many markets and decreasing communication costs means that newer, non-traditional forms of investment will play an important role in the future. Many governments, especially in industrialized and developed nations, pay very close attention to foreign direct investment because the investment flows into and out of their economies can and does have a significant impact. In the United States, the Bureau of Economic Analysis, a section of the US Department of Commerce, is responsible for collecting economic data about the economy, including information about foreign direct investment flows. Monitoring this data is very helpful in trying to determine the impact of such investments on the overall economy, but is especially helpful in evaluating industry segments. State and local governments watch closely because they want to track their foreign investment attraction programs for successful outcomes.[9]

[8] *See, e.g.*, Foreign Ownership and the Consequences of Direct Foreign Investment in the United States (Douglas Woodward & Douglas Nygh eds., 1998).

[9] *Available at* http://www.going-global.com/articles/understanding_foreign_direct_investment.htm.

III. What Is the Future of FDI?

A. FDI in New Technologies

A growing trend in FDI is in a shift from traditional models associated with investments in goods and services toward investments in "new" goods and services that do not involve extensive outlays on plant and facilities, but rely instead on the development and transfer of high-tech information and know-how. These developments are accentuated by the growth of the World Wide Web and the use of the Internet. They are also evident in different kinds of foreign investors than traditional MNCs, such as "start-up" companies that make limited financial outlays and function in a virtual world without physical facilities and labor support beyond a few individuals, a computer, and limited office space. In place of complex manufacturing facilities, stores and warehousing and stockpiling of goods are new forms of FDI devoted to developing and protecting intellectual property rights, such as through patents and copyright. Under development may be a software program or process that is pioneered in a single office, or even in someone's home.

These new manifestations of FDI are important both quantitatively and qualitatively. Although it is difficult to assess the percentage of FDI that is identified with such new technologies, it is apparent that they are growing in both number and variety. It is also apparent that successful start-ups can evolve into massive businesses, as is evident by once-upon-a-time start-up companies such as eBay.

At the same time, these new developments may sometimes operate below the radar of regulators of FDI (i.e., not per se illegally), as such activities are often associated with a subsector industry that is neither resource intensive nor often profitable in fact. Most start-ups do not progress to profitability, and cross-border venture capital is often prefaced on the expectation that twenty or more FDI investments may fail for every one that succeeds. However, with limited capital outlay associated with start-up investments, the benefit of an occasional success may well be worth the risk associated with those that fail.

A further feature of these new FDI developments is that they often function under the rubric of more traditional trans-border FDI. One-time start-ups (the likes of Microsoft) invest billions in developing and protecting their software and licenses in that software including through FDI. They also engage in technology start-ups, or more often technology "buy ups," as when they purchase the technology of start-up innovators that they either absorb into their own software, or sublimate the technology to avoid software competition with their own developments.

B. FDI in the Developing World

A further development in FDI is the realization that new technologies are not limited to the developed countries that resource and export FDI. In some respects, new technologies can evolve anywhere at anytime. Just as the Republic of Ireland and Israel became second "Silicone" havens to California in decades past by attracting FDI investment and expertise, developing countries that are receptive to new technologies can do the same. Such is already clearly the case in developing countries such as India.[10] Coupled with this is the realization that developing countries, not least of all China, are not only well resourced in attracting FDI, but in recent years have engaged increasingly in both in- and outbound-FDI at levels not foreseen historically.[11]

C. Illustrations of FDI at Work

Here are a few illustrations of categories of high technology in which FDI takes place, identified by Jeffrey P. Graham and R. Barry Spaulding in *Understanding Foreign Direct Investment* (2004):[12]

- **Licensing and technology transfer.** Licensing and technology transfer have been essential in promoting collaboration between the academic and business communities. Ever since legal hurdles were removed that allowed universities to hold title to research and development done in their labs, licensing agreements have helped turned [*sic*] raw technology into finished products that are viable in competitive marketplaces. With some help from a variety of government agencies in the form of grants for R&D as well as other financial assistance for such things as incubator programs, once timid college researchers are now stepping out and becoming cutting edge entrepreneurs. These strategic alliances have had a serious impact in several high tech industries, including but not limited to: medical and agricultural biotechnology, computer software engineering, telecommunications, advanced materials processing, ceramics, thin materials processing, photonics, digital multimedia production and publishing, optics and imaging and robotics and automation. Industry clusters are now growing up around the university labs where their derivative technologies were first discovered and nurtured. Licensing agreements allow companies to take full advantage of new and exciting technologies, while limiting their overall risk to royalty payments until a particular technology is fully developed and thus ready to put new products into the manufacturing pipeline.
- **Reciprocal distribution agreements**. Actually, this type of strategic alliance is more trade-based, but in a very real sense it does in fact represent a type of direct investment. Basically, two companies, usually within the same or affiliated

[10] *See, e.g.,* Dizan Shira & Associates, Doing Business In India, chs 1–3 (2012).

[11] On China's spectacular emergence in inbound and outbound investment, *see* Eliyathamby A. Selvanathan, Saroja Selvanathan & Sumei Tang, China's Economic Miracle: Does FDI Matter? (2012); Chunlai Chen, Foreign Direct Investment in China: Local Determinants, Investor Differences and Economic Impacts (2012); Nick J. Freeman and Frank L. Bartels, The Future of Foreign Investment in Southeast Asia (2012).

[12] *See* http://www.going-global.com/articles/understanding_foreign_direct_investment.htm.

industries, agree to act as a national distributor for each other's products. The classical example is to be found in the furniture industry. A US based manufacturer of tables signs a reciprocal distribution agreement with a Spanish-based manufacturer of chairs. Both companies gain direct access to the other's distribution network without having to pay distributor support payments and other related expenses found within the distribution channel and neither company can hurt the other's market for its products. Without such an agreement in place, the Spanish manufacturer might very well have to invest in a national sales office to coordinate its distributor network, manage warehousing, inventory and shipping as well as to handle administrative tasks such as accounting, public relations and advertising.

- **Joint venture and other hybrid strategic alliances**. The more traditional joint venture is bilateral, that is it involves two parties who are within the same industry who are partnering for some strategic advantage. Typical reasons might include a need for access to proprietary technology that might tip the competitive edge in another competitor's favor, desire to gain access to intellectual capital in the form of ultra-expensive human resources, access to heretofore closed channels of distribution in key regions of the world. One very good reason why many joint ventures only involve two parties is the difficulty in integrating different corporate cultures. With two domestic companies from the same country, it would still be very difficult. However, with two companies from different cultures, it is almost impossible at times. This is probably why pure joint ventures have a fairly high failure rate only five years after inception. Joint ventures involving three or more parties are usually called syndicates and are most often formed for specific projects such as large construction or public works projects that might involve a wide variety of expertise and resources for successful completion. In some cases, syndicates are actually easier to manage because the project itself sets certain limits on each party and close cooperation is not always a prerequisite for ultimate success of the endeavor.
- **Portfolio investment.** Recall our definition of foreign direct investment as it pertains to controlling interest. For most of the latter part of the 20th century when FDI became an issue, a company's portfolio investments were not considered a direct investment if the amount of stock and/or capital was not enough to garner a significant voting interest amongst shareholders or owners However, two or three companies with "soft" investments in another company could find some mutual interests and use their shareholder power effectively for management control. This is another form of strategic alliance, sometimes called "shadow alliances." So, while most company portfolio investments do not strictly qualify as a direct foreign investment, there are instances within a certain context that they are in fact a real direct investment.[13]

[13] *Id.*

D. Looking Ahead

The precise future of FDI in new technologies, as well as shifts from developed to emerging and developing countries, remains somewhat uncertain. Developments in FDI seldom occur overnight. Competition is often fierce, and investment products and services in the marketplace are often in constant flux. As an illustration, the value of FDI in new technologies is often uncertain for a significant part of their incubation periods, and profitability is often a distant aspiration that may pleasantly surprise proponents just as it may disappoint them.

What is apparent is that, despite the collapse of many so called "dot.com" FDI initiatives at the turn of this century, the "dot.com" bubble has not fully burst. If anything, it has grown in value and momentum, and by all accounts will continue to do so. Considering that online shopping was a novel technology just a decade ago, and software technology that supported it was in its infancy, one can anticipate that FDIs in online consumer and producer industries will reinvent themselves repeatedly as they become the dominant means of engaging in both international trade and investment.

IV. How Significant Is FDI to Internationalization?

FDI has important strategic economic, social, and political significance beyond its immediate investment prospects. In particular, it may enable foreign investors to limit direct and indirect trade barriers on FDI, to build joint ventures with partners in host countries, to shift from domestic export sales to sales both in and out of those host countries, to increase total production capacity, etc. It may also function to avoid pressure from home states to confine production and services to domestic consumption.

The result is that foreign investors, not limited to MNCs, can build global markets through strategic investments in selected host states. In some measure, this enables foreign investors to cater to foreign markets in accordance with their respective financial, production, and related capacities, rather than force them to operate at a global level with multiple international points of entry into and out of international investment markets. These developments favoring small and middle-sized foreign investors do not offset the capacity of MNCs to compete both globally and through specific host states.

Rather, they enable foreign investors who historically lacked capacity to enter international markets incrementally, and to build strategic relationships with host governments without having to overextend their foreign commitments. They are assisted in doing so in some measure by the greater ease involved in communication across national boundaries, most recently with the advent of the Internet, along with e-mail and podcasting, and other new developments in technology. An attendant result is the capacity of small and middle-sized foreign investors to run foreign operations with limited capital outlays, limited operational costs, and limited costs of travel to and in host countries. These advantages are most evident in high-technology industries, such as software development and e-production and e-commerce generally. These new technologies also provide greater access, not only to foreign investors and host country partners, but also to markets and customers.

A related benefit, not to be underestimated, is the capacity to conduct sophisticated analysis of market conditions and improve market access from a distance. While cultural barriers to international investment ought not to be underestimated, the Internet has contributed both its own cultural dynamics, as well as technological means of overcoming traditional cultural barriers, such as are associated with national legal systems and the distinctiveness of domestic markets. Access to host country legal systems, statutes and their interpretation, and to customs and usages among trades and industries in foreign markets is increasingly possible, including through the Internet. In fact, it is often a key to the success of FDI ventures. Not to be underestimated, too, is the extent to which foreign investors can identify, record and respond to domestic, foreign and international competition by these and related means.

The result is that foreign investors are generally better able to assess their own capabilities in relation to intrusive—subtle or otherwise—government regulation and market forces in host countries. Adept foreign investors also have far more sophisticated means of utilizing their capabilities in addressing these political, economic, and social forces than was available to them historically.

None of these results are assured in particular cases. Typically, readily available information on the Internet about foreign laws, regulations, and competition may be overly voluminous, unreliable, outdated, and subject to manipulation. However, foreign investors also have access to a variety of quantitative and qualitative means of assessing such information, not least of all by falling back on traditional market resources, such as employing local marketing firms and personnel to lobby governments and to both gauge and counter competitors in host countries.[14]

V. How Should Governments Regulate FDI?

Just as foreign investors face a variety of competitive forces in deciding when, how, and to what extent to invest abroad, host countries need to develop policies, principles, standards, and rules of application by which to regulate FDI. Like foreign investors who face the risk of economic exclusion or sublimation at the hands of both market forces and government regulations in host countries, host countries face the risk of having their domestic needs marginalized as a result of FDI. In the same way as foreign investors can gain access to less expensive capital, labor, production, transportation, and regulatory costs, not least of all taxation, host governments need to ensure that

[14] On the issue of whether FDI promotes developments, *see* Does Foreign Direct Investment Promote Development? (Theodore H. Moran, Edward M. Graham & Magnus Blomström eds., 2005).

these benefits do not erode local interests. At issue for foreign investors and host governments are a series of political, economic, and social risks that FDI may facilitate rather than redress.

Among these risks is an assortment of the following:

- Corruption;
- Policy instability or uncertainty;
- Crime, theft, kidnapping, or social disorder;
- Presence of organized crime or localized mafia;
- Reintroduction of inflation;
- Problems securing financing;
- Exchange rate difficulties;
- Anticompetitive practices;
- Infrastructure deficiencies;
- Unclear systems of taxation and unclear tax regulations;
- Unreliable judiciary and differences in the legal system; and
- Property seizures, such as confiscation, expropriation, and nationalization.

For the host nation, positive impacts of foreign investment include:

- Increased domestic capital formation;
- Innovation and advanced technology transfer;
- Management skill transfer;
- Increased marketing networks;
- Targeted regional and sector development;
- Fostering of internal competition and entrepreneurship;
- Favorable effect on balance of payments;
- Increased domestic employment; and
- Increased economic development.

Potential negative impacts of foreign investment may include, among others:

- Industrial sector dominance in the domestic market;
- Technological dependence on foreign technology sources;
- Disturbance of domestic economic plans in favor of FDI-directed projects;
- Cultural change created by the infusion of foreign culture and foreign business practices;
- Corruption of local officials by unethical foreign investors; and
- Potential interference in domestic economic and political decision making in the host country by the home government of the multinational corporation.

These risks are unlikely to deter FDI, especially when the benefits of FDI are seen to outweigh the costs. However, what ought not to be trumpeted is the view that FDI is a panacea for foreign investors and host countries. Developing reliable, profitable, and socially responsive FDI bridges across national boundaries usually requires inspiration, innovation, and ultimately, hard work. Some of the greatest challenges to FDI may arise in times of recession.[15] But negative economic and political conditions sometimes are themselves the source of inspiration in overcoming barriers to foreign investment and taking FDI to greater heights than in eras past.[16]

VI. The Future of FDI

Risks to the geometric development of FDI notwithstanding, the extent and reach of FDI has grown dramatically in recent decades. Most notable was its growth between 1985 and 1995 during which the total FDI globally increased from US$60 billion to US$315 billion. Notable, too, is the estimate that in 2007 the total flow of FDI had reached an estimated US$1.5 trillion.[17] That growth continues notwithstanding the 2008 recession. Important, too, is the across-the-board growth of FDI, with FDI flows increasing from 2006 levels among developed countries, developing countries, and countries in transition alike; and with countries such as China, India, and Brazil leading the outbound growth of FDI globally.[18]

Also significant is the observation that the sales of foreign affiliates of MNCs now exceed the value of world trade in goods and services. In particular, intra-firm trade among MNCs accounts for approximately one-third of world trade; MNC exports to nonaffiliates account for another one-third of world trade, while the remaining one-third accounts for trade among national (non-MNC) firms.[19] These high levels of FDI and intra-firm trade would not have been possible without the reduction of tariffs and other barriers to FDI that are wrought by a combination of formidable forces: the General Agreement on Trade and Tariffs (GATT) and the World Trade Organization (WTO); advances in communication, information systems, and shipping technologies;

[15] *See, e.g.*, discussion on the growth of transatlantic investment as a response to the global recession; *see also, e.g.*, http://www.europesworld.org/NewEnglish/Home/Article/tabid/191/ArticleType/ArticleView/ArticleID/21380/Default.aspx; World Bank Group, World Investment and Political Risk (2010), *available at* http://books.google.com.au/books?id=pZ-WHvkSd_AC&printsec=frontcover&dq=foreign+direct+investment+2010&source=bl&ots=-wMOQoPBYL&sig=ebITIs8B1Epfm1PfLuaVOVShxfU&hl=en#.

[16] *See generally,* Peterson Institute, Does Foreign Direct Investment Promote Development? New Methods, Outcomes and Policy Approaches (2005); Theodore H. Moran, Beyond Sweatshops: Foreign Direct Investment and Globalization in Developing Nations (2002).

[17] *See* Press Release, United Nations Conference on Trade and Development (UNCTAD), Foreign Direct Investment Reached New Record in 2007 (Jan. 8, 2008), *available at* www.unctad.org/Templates/webflyer.asp?docid=9439&intItemID=1528&lang=1.

[18] On these emerging markets, see Siegfried Hotter, International Joint Ventures in Brazil's Markets (2012); China and the Multinationals: International Business and the Entry of China into the Global Economy (Robert Pearce ed., 2012). *See also supra* notes 10–11.

[19] *See* WTO, "Trade and Foreign Direct Investment," Oct. 9, 1996, *available at* www.wto.org/english/news_e/pres96_e/pr057_e.htm.

and the willingness of host countries to permit foreign investment, albeit so as to further their own domestic development.

It is too early to predict the extent of the impact of the financial and credit crisis that began in late 2007 that worsened in 2008 and began to abate in 2009, only to be heightened in 2011 with the economic crises in Europe. The most likely scenario is that these developments will impact on the total volume of FDI, as companies struggle worldwide to deal with declining demand and experience difficulties in raising capital and securing credit, and as companies across the globe again may issue profit warnings that reverberate across national boundaries. Preliminary data affirm these concerns with an estimated reduction in total FDI of more than 20 percent in 2008 and with the United States and European countries being viewed as particularly vulnerable to these economic forces.[20] Uncertainty remains over the recovery predicted for the global community into the future and its impact on FDI,[21] and over the impact of politics on foreign investments.[22]

What can be fairly stated is that the development of FDI, like any other global economic phenomenon, cannot be expected to rise each year, despite China's meteoric growth as an outbound and now, inbound FDI destination. Nor can the development of FDI be immune to global and domestic political forces that inevitably impact on it. What is reasonably likely is that FDI will not only recover its monumental foothold in the development of commerce globally, but also provide leadership in economic, political, and social reform in the future.[23]

[20] Reduction in Europe includes the UK being down 51 percent, Germany down 49 percent, and Italy down 94 percent. FDI in Singapore dropped 57 percent, while in the United States it dropped only 6 percent. Russia (18 percent), China (11 percent), and Brazil (21 percent) all gained. *See* Press Release, UNCTAD, Global Foreign Direct Investment Now in Decline—and Estimated to Have Fallen during 2008, (Jan. 19, 2009), *available at* www.unctad.org/Templates/webflyer.asp?docid=10930&intItemID=1528&lang=1. *See also* The Future of Foreign Direct Investment and the Multinational Enterprise (Research in Global Strategic Management) (Ravi Ramamurti & Niron Hashai eds., 2012)

[21] *Id. See generally* Angelos Dimopoulos, EU Foreign Investment Law (2012).

[22] *See* Nathan M. Jensen et al., Politics and Foreign Direct Investment (2012).

[23] *See e.g. UPDATE 2-Brazil Raises 2012 FDI Forecast Despite Global Slowdown: Economic Recovery Attracting Foreign Investment*, Sept. 25, 2012, *available at* http://in.reuters.com/article/2012/09/25/brazil-economy-currentaccount-idINL1E8KP4XO20120925.