

FOREIGN INVESTMENT AND GLOBAL NEGOTIATIONS : EMERGING ISSUES

*Jawahar Lal Kaul**

I. INTRODUCTION

International trade and Foreign Direct Investment (FDI) has grown over the years substantially. It has grown at much faster rates than national income and production. International trade has proved to be an important factor in increased interdependence between the nations with serious challenges to domestic constituencies, particularly the decision making authorities. In spite of this, the trading nations have pursued vigorously the liberalization of international trade mainly through General Agreement on Trade and Tariffs (GATT). The Uruguay Round of Trade Negotiations was the penultimate and indeed a comprehensive round in terms of liberalization of international trade. In addition to fortifying the substantive GATT structure, it endeavours to expand its jurisdiction in various other subjects, which had hitherto been outside the GATT discipline. It has also brought into existence; a most powerful international trade organization (WTO), which forms the centre piece of GATT to administer the rules in new dispensation and also to deliberate on all issues linked directly and indirectly to international trade.

Foreign investment has come to the centre stage in the new GATT dispensation also. With an independent and separate chapter on Trade Related Investment Measures (TRIMs) in GATT, FDI has taken the shape of a core issue in international trade in any future negotiations having a profound impact particularly on developing countries (LDCs). The Singapore Ministerial Declaration (1996) underscores the importance of FDI in global negotiations vis-a-vis international trade, although negotiations on FDI have simultaneously continued in separate channels.

The object of this paper is to examine the issues pertaining to FDI, which have been focussed in global negotiations (bilateral and multilateral) and the linkages between FDI and international trade, to the extent as to whether FDI should be covered under WTO discipline. Part II will give an overview of FDI in the present scenario. Part III deals with the restrictions on foreign investment which have been in vogue and have been on the negotiating table between the developed countries (DCs) and LDCs. Part IV analyses the reasons for a thinking on multilateral dispensation on foreign investment. Part V discusses

the theme issues involved in any discussions on foreign investment. Part VI deals with summary and conclusions.

II. FOREIGN INVESTMENT : GROWTH AND TRENDS

Foreign direct investment have played an important role in the international economy since latter part of 19th century. The economic climate of investments have improved drastically after the Second World War, when foreign companies opened majority or wholly owned subsidiaries for productive purposes overseas. Initially much of the investment took place in the developed countries. However, over the years the volume of direct investment has expanded in 'absolute and relative terms' in the LDCs as well.¹ At the same time foreign investment around the world has taken place in newer forms, as contrasted to the traditional forms of investment.²

The reason for the growth and increase of foreign investment over the years has been the tremendous growth of transnational corporations (TNCs). They have become responsible for internationalization of production and they are the ones to whom LDCs look forward for capital, technology and other expertise. TNCs form an essential link between the governments and the investments as they provide the much needed access to the resources. Since the TNCs sharply react in the movement of factors of production³ in the event of unfavourable operating base(s), it has paved the way for drastic changes in the economic policies of the governments particularly in LDCs.⁴ Over the years, these policies have been favourably disposed toward the TNCs thus leading to an overall increase in FDI in LDCs.

The 1980s have radically altered the international economic scene, in expanding the role and importance of FDI. It grew faster than the merchandise exports or average gross domestic product with total FDI stocks reaching nearly \$1.9 trillion by 1991. Investment decisions have also influenced world trade flows.⁵ FDI has undoubtedly been the most important manifestation of transnationalization. Admittedly the flows of FDI have shifted in direction from the production of goods to production of services; the leading areas being ones related to finance and trade. At the aggregate levels FDI has become as important as trade, as a means of delivery of services to foreign markets apart from enormous investments made nationally to provide services in trade and other areas. This indicates that not only the magnitude but even the sectoral compositions and organizational forms of investment have undergone considerable changes over the years.⁶

Investment flows in 1995 increased by 40%, to an unprecedented \$315 billion. Developed countries were the key force behind the record FDI flows, investing \$ 270 billion. The spectacular growth of FDI among developed

countries was accompanied by a hefty rise in flows into developing countries, which at \$100 billion set another record in 1995. Outward investment from developing countries also rose reaching \$47 billion. Investment flows to Central and Eastern Europe nearly doubled to \$12 billion in 1995 after stagnating in 1994.⁷

The latest surge in investment flows reflects the fact that an increasing number of firms including the ones from the LDCs are becoming more active globally in response to competitive pressures, liberalization and the opening up of newer areas of investment by LDCs *e.g.*, infrastructure investment provides a great opportunity. At the same time new techniques are being used by the companies to gain market and competitive advantages.⁸

FDI is a major component in shaping of globalization. It has acted as an incentive for international integration in the international economy. Over the years all countries have realized the importance of FDI as an important factor in sustaining economic growth. In the developing world, China, East and South-East Asia have become the favourite targets of FDI.⁹

III. RESTRICTIONS ON FOREIGN INVESTMENT

The emergence of TNCs in the post war era posed unique challenges to the national governments. These corporations were directly subject to each nations authority, where they operated, yet appeared fully controllable by no single political sovereign. The host countries particularly the LDCs were averse to the free entry of TNCs in their economies. Some countries through express investment legislations, some through administrative guidelines kept away these enterprises, and in case they did allow, they were subjected to restrictions of various sorts. Essentially the move was to curtail the dominance of TNCs in their national economies and to 'preserve' and 'prevent' the outflow of their costly foreign exchange.

Seidman¹⁰ has characterized the strategy evolved by the LDCs towards the foreign enterprises in their initial phase of development planning. The strategy that emerged from the new thinking of the LDCs was to impose (limits upon FDI) rather than to induce it. Rather than freeing the surpluses earned by the foreign capital, law should ensure against its export and its redistribution into new productive investment within the country. Rather than granting freedom from import licensing, the poor country should ensure that foreign exchange goes to purchase only truly necessary imports, the poor countries must insist upon openness and disclosure by the foreign enterprises. Instead of tax heavens to the foreign investors, the host countries should tighten its tax administration to ensure against leaks by way of transfer pricing and other fiddles. Rather than angling indiscriminately for foreign investors, a poor

country should admit into the country only the few foreign investors who can uniquely contribute to the countries' development. Rather than laws that encourage a dependant alliance between the great corporations and the host government and its beauracracy, laws should ensure that officials use their powers and discretion in country's interest.¹¹

Despite the above strategies, the character of TNCs allowed them to disregard local governments' regulations and policy directives. The TNCs could because of their composition yield resources and options for international integration avoiding hosts' policy and other constraints.¹² Consequently, LDCs suffered a double disadvantage, in the sense that they could neither invite a commensurate investment, nor could they properly regulate these corporations. Thus during sixties and seventies frequent clashes occurred between TNCs and national governments particularly the LDCs, and even between the home countries of the investors and the host countries over a range of regulatory provisions affecting the TNCs.¹³ Asante notes that these measures were essentially an expression of the permanent sovereignty over natural resources by the LDCs. Further they were an instrument of an effective control over the development of their economic resources.¹⁴

However, by the end of the decade, the earlier post war approaches to investment, which often stressed control and restrictions on the FDI were reversed mainly as a result of debt crises and of the changing perception about the role of FDI.¹⁵

As a result a shift from 'ideological hostility' to 'warm response' to FDI was clearly emerging in the LDC leading to liberalization and promotion of FDI in these countries.¹⁶

Changes in the international economy has posed greater opportunities for international integration particularly for LDCs. With FDI providing greater stimulus to improved growth, job creation and development, the same has provided greater challenges in terms of requirements of adjustments by the host countries, particularly the LDCs. The LDCs have had to reciprocate. They did so in terms of their renewed invitation to the foreign investment. The emphasis in the new thinking is that foreign investment is necessary for securing scientific, technical, industrial knowledge and capital equipment. For securing that an encouraging atmosphere in terms of laws and policies governing investment had to be, and in fact are evolved. The emphasis on the selectivity of the past has given way to consciously encouraging the FDI inflow.¹⁷

It must however, be emphasised that changes were not only induced, but were necessary even economically, particularly for the TNCs. Because of mega-competition among them, there was an intense pressure for them to

rationalize production, cut internal costs and search for least expensive productive bases, later could only be found in the LDCs. This has led to what one author calls 'decolonization of production'.¹⁸ At the same time international trade was squeezing because of increased barriers to international trade, which led to the realization of FDI as a substitute. Although regional arrangements for fostering international trade were entered into, even they also created a niche for fostering and promotion of foreign investment.¹⁹ The above suited not only the TNCs but even their home countries, which constitute the maximum bases of these corporations. Because of high stakes in 'trade and investment' the home countries initiated bilateral and even multilateral investment promotion programmes²⁰ in the form of FCN treaties, bilateral investment treaties (BIT) and Free Trade Agreements (FTA).²¹ These arrangements vouched for a broader framework within which foreign investment had to be treated. These arrangement also provided an institutional device for the developed countries to push in their terms and conditions on foreign investment.²² They provided a filip to finalize the changes in the investment policies of the LDCs and to facilitate relaxation of investment restrictions by the LDCs.²³ The home countries caught up the tempo for alterations in international economic arrangements for securing a better access to their corporations overseas in order to expand their export markets for goods and services.²⁴ The IMF and World Bank were being made instrumental in initiating changes in the investment policies of the LDCs. The World Bank (1992) Guidelines on Treatment of Foreign Investment is symptomatic of the evolving thinking on the subject.²⁵

IV. TOWARDS A MULTILATERAL FRAMEWORK ON FOREIGN INVESTMENT

The question of a multilateral framework on foreign investment has come to the forefront. Already same aspects concerning investment have figured in the Uruguay Round of negotiations, namely GATS, TRIPs and TRIMs. Although there was a discernible disagreement between the developed and the developing countries on bringing these items for discussion in the international trade negotiations particularly the GATT, but in the ultimate the latter yielded because of some pressures.

The inclusion of investment as an agenda of multilateral negotiations must be seen in the hindsight of its past. As we have seen foreign investment had been subject to tighter controls by the LDCs. Since investment has become important for the DCs therefore it was but natural that issues concerning investment came to centre stage. Because FDI has become a vehicle and stimulus for home countries export, nations know very well that investment is an excellent way to develop markets for parts and components made in their countries; thus a sift towards liberalization of controls on investment.²⁶ It has

been argued that measures that liberalize trade also tend to encourage investment. Evidence suggests that most direct investment takes place between countries that trade large amounts with each other rather than between countries that trade less.²⁷

With the growing appreciation of the role of foreign investment in development, and the convergence of national attitudes in favour of market oriented policies, the home countries particularly the US has showed a new 'aggressiveness' to internationalize the investment question. In order to create new 'domestic constituencies', the US sought to internationalize the subject of de-regulation of controls on foreign investment. It emphasizes an international framework within which all questions of investment has to be dealt with. At bilateral levels, wherever it has found a receptive partner, it entered into bilateral investment treaties.²⁸ It was evidently because foreign countries had closed their home markets for infant industries and had used a variety of 'unfair' practices. Clearly as Lovet explains, the only appropriate US response was to : (1) seek more open markets overseas; (2) tougher American bargaining; (3) stronger American trade laws; (4) increased US adjustment assistance; and (5) a stronger industrial policy with new institutions.²⁹

The renewed interest about the international concern on FDI should also be viewed from the point of interlinkage between trade and investment. It is strongly argued that these interlinkages are important for several reasons.³⁰

1. The role of trade as positive factor in growth and development has been long recognized and gets reflected in trade policies. FDI increasingly influences the size, direction and composition of world trade, as do FDI policies.
2. Similarly the FDI has also a positive factor in growth and development. Trade and trade policies can exert various influences on the size, direction and composition of FDI flows.
3. Both have a synergistic effect on the maximization of development objectives.
4. Since both trade policies and FDI policies are autonomous and formulated independently, the two sets of policies may not fully support each other in policy objectives and their efficient implementations.

From a functional viewpoint, there does exist an important relationship between trade and development. The LDCs wanted to have the best of investment and thus chose to effectively monitor the entry and even the performance of the foreign investors. Nevertheless, governments do sometimes through their policies resort to practices that may distort, restrict or place

unnecessary restrictions on FDI.³¹ But in all these the important missing link is the extent of their impact on trade. TNCs would not like to have separately evolved, frequently conflicting FDI and trade policies, often administered by loosely connected agencies. These inconsistent policies risk creating an environment in which trade and FDI policies neutralize each other or even could prove counter productive.³²

Because investment is fundamentally inter-twined to trade, trade issues being linked to investment, it has been argued that, it should be incongruous to negotiate a trade regime intended to open the border and not do the same for investment. For, the businessmen do not separate trade issues from investment.³³

The attempts to negotiate a multilateral framework are not new. Several attempts to reach an agreement on foreign investment have failed. After much deliberations a sub-chapter on 'international investment' was added to the much debated Havana Charter (1948), ICC Code of Fair Treatment for Foreign Investment (1949), the Abs-Shawcross Convention on Investment Abroad (1958) and OECD Draft Convention on the Protection of Foreign Property (1963) are some other endeavours to provide an operative framework for investment at multilateral levels.³⁴

A distinction should be made between the earlier approaches and the new initiatives. While the earlier discourses were concerned only with some of the contentious issues of foreign investment namely nationalization and the settlement of disputes. The new attempts would deal with whole range of foreign investment activities right from making investment, investment concerning activities of the host governments, repatriation of profits and the legal protection to the foreign investors and their investment. It would be as one author argues 'Bill of Rights' for western TNCs investment. What is being argued is that the LDCs should undertake binding legal commitments in the area of foreign direct investment in as much as they have agreed in international trade. Although most of the LDCs have opened up their economies to foreign investment in a big way, yet they are not favorably disposed towards a binding international dispensation on foreign investment. Because for them foreign investment represents a core issue of the exercise of their sovereign powers. And particularly in the context of development, developing countries would like to utilize FI in the way they deem it fit. On the other hand the TNCs would not like to have any kind of barriers to their investment anywhere in the world. The proposed multilateral agreement on foreign investment would certainly confer overriding rights to the TNCs and their investments across the globe, which in turn could be taken up by their home countries through WTO. Already TRIMs have found acceptance in the WTO. Its deliberate incorporation underpins the greater aspirations of the US and other western investors. Even

if TRIMs was discussed with a limited objective of their impact on exchange of goods and services, but as American policy has shown, they viewed investment as one of the key areas, which needed to be dealt with precisely and separately. Thus they have demanded an absolutely open environment for American investment and have argued for a 'scorched-earth razing' of investment barriers, a 'wide open' investment regime, taking investment in broadest possible sense. Secondly, the American intransigence has been derived from the belief that LDCs are going to concede in due course of time, although playing tough for some time.³⁵

Major new efforts in this direction include the OECD (1995) initiative to draft a binding international agreement on investment, to which non-members will also be invited. Also the APEC has also drafted Guidelines on investment (1994). The WTO has in fact an ambitious 'inbuilt agenda' which would cover foreign investment also. Many obstacles however, stand in the way as has been shown in the December (1996) Ministerial meeting at Singapore, although it did establish, a working group to study 'relation between trade and investment'.³⁶ With these dispensations in mind, it should be quite determinative in shaping the scope and content of eventual discourse on the whole gamut of foreign investment at multilateral levels.

V. FOREIGN INVESTMENT : CORE ISSUES

The importance of the foreign investment in the international economy has thrown open issues of 'public policy' and 'legal relevance' in meeting the new challenges and requirements.³⁷ The international legal order does not present a widely accepted balanced formulations on how to protect the genuine rights and interests of the foreign investors and how to meet the requirements of the host countries. Intuitively the problems concerning investment are inextricably linked to the perceptions of new world economic order, which is increasingly beyond the confines of existing situations.³⁸

The discussions on the core issues of foreign investment have continued in adhoc negotiations in the form of 'investment friendly' treaties for 'securing and protecting' investment apart from other non-binding guidelines. The immediate object of these negotiations were : to steadily decontrol the barriers to investment; to treat the foreign investor and his property according to certain internationally accepted rules and to create an environment conducive to attracting foreign investment.³⁹ To some it reflected a pragmatic approach to the profound changes in the global trading environment. And practically because it was a way to overcome the deficiency of the international legal order and also to maintain 'mutuality and exclusivity'.⁴⁰ These deliberations were necessary because of greater interaction between FDI, trade, finance, labour movements and exports.⁴¹

The discussion on the promotion and protection of investment has become important for three main reasons. Firstly, partly as a reaction to the wave of international measures for the regulation of TNCs in eighties⁴² and partly because DCs have intensified their efforts for securing assurances for the protection of the investments of their TNCs. Secondly, LDCs faced with mounting indebtedness have turned to TNCs as a possible source of resource flow. Thirdly, there is a wide divergence between the countries about internationally accepted principles about treatment of foreign investment.⁴³

Given the nature and complexity of the foreign investment, common interest requires that both the capital exporting and importing countries seek mutually acceptable principles on investment related issues. However, in the context of present dispensation, it seems to be heavily loaded in favour of protection of TNCs and their interests. The existing treaty and state practice suggest that the following aspects of FI would be too contentious to achieve consensus among the DCs and LDCs. In the event of an eventual multilateral agreement on investment, the LDCs would be forced to compromise on their earlier approaches to foreign investment, as has been the case with GATT negotiations. These areas are;

- I. Admission of Investment.
- II. Principles of Treatment.
- III. Expropriation and Compensation.
- IV. Guarantees,
- V. Transparency of Laws and Procedures.
- VI. Settlement of Disputes.

These are not the exclusive area. There are other issues *e.g.* concerning RBP, employment, transfer of funds and the right of temporary entry of foreign investors in relation to the investment related activities.⁴⁴

VI. THE FUTURE

The emerging order on international trade is absolutely different, yet so intertwined to GATT philosophy. Not only has it undertaken a study of wide areas of international trade (with large implications for LDCs) but has also been posited to overcome weaknesses in international trade law and advance it along the path towards global government. Indeed some commentators have spied into the WTO a 'judicialization' that contributes to the steady accumulation of legal process in international trade.⁴⁵

The policy implications of GATT/WTO discipline only indicates the ideal of 'one rule for all', that is stoic. It does not take into consideration the

exigencies of economic cooperation which the members of the international community are required to develop in an increasingly inter-dependant world. The progress of the international trade law suggests that governments often and do rely on both utopia and cynical views in their interaction with international legal structures. In that context foreign investment is not an exception. Of course, the initiative smears of a renewed attempt to secure legal commitments to aim at international standards of treatment much higher than national treatment. Be that as it may, the vital question for GATT/WTO is whether development through liberalization is more likely with a model that aims at deregulation with certain 'exceptions' for certain measures; or with a model that aims at uniform rules and standards across national boundaries. Foreign investment is perhaps not yet ready for the latter, for the requirements are too many and possibilities too uncertain. As Carlisle notes : A premature effort to free countries out from all protection would almost certainly fail and would probably damage WTO negotiations already under way. A strong appreciation of political reality in avoiding any giant leaps to global free trade is well in order.⁴⁶

While one accepts the idea that there are economic (and consequently social) gains from international trade, yet these theoretical foundations say little about how the economic benefits of liberalization should be distributed. Indeed the dogma is 'first secure trade liberalization with which to pursue other ends'. The consensus on trade liberalization speaks of political compulsions into the deliberations on the components of trade, rather than immaculate measures to achieve objectives of sustainable development. The requirements of developing countries are too big which just can not be achieved by a mere liberal order. Unless the international order seeks equity in the international economic relations, a mere collection of rules do not meet the requirements of a sustainable development.

NOTES & REFERENCES

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- 1. See OECD, INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES : RECENT INTERNATIONAL DIRECT INVESTMENT TRENDS (1981).
- 2. See C. Oman, NEW FORMS OF INTERNATIONAL INVESTMENT IN DEVELOPING COUNTRIES. (OECD, 1984).
- 3. This was a new challenge to Ricardian principles of international trade. See Charles Michalet, *Transnational Corporations and the Changing International Economic System*, 3 TNC, 1 (1994) 9-21.
- 4. See UN. CTC, 2 (1993) Dec., 148-62.
- 5. John Kline, *International Regulation of Transnational Business*, 2 TNC (Feb. 1993) 153-64.

6. See Nagesh Kumar, *Multinational Enterprise and Industrial Organization* (1994) at 40.
7. See UNCTAD WORLD INVESTMENT REPORT (1996), E. 96-11-a-14.
8. *Id.* at 86.
9. *Id.* at 90.
10. See Robert Seidman, *Foreign Private Investor and the Host Country*, 19 JOURNAL OF WORLD TRADE, No. 6 (1985), 637-665.
11. *Id.* at 660.
12. Kline, *supra* n. 5 at 153; see particularly John Martinusen, REGULATIONS IN VAIN, (1990) for an indepth analysis of the impact of section 29 of FERA on foreign TNCs in India.
13. See UN TRANSNATIONAL CORPORATION IN WORLD DEVELOPMENT (1988), ST/CTC/89.
14. Expropriation and Nationalization of foreign investor's property was deemed to be an ideological weapon of exercise of such sovereignty, particularly by Latin American Countries. See Samuel Asante, *International Law and Foreign Investment : A Reappraisal*, 37 INTERNATIONAL COMPARATIVE LAW QUARTERLY (1988) 588-628 at 594. See also Amy Chua, *Privatization-Nationalization Cycle*, 95 COLUMBIA LAW REVIEW (1995) 223-303.
15. Kline, *supra* n. 5 at 155.
16. *Supra* n. 7 at 103.
17. Nagesh, *supra* n. 6 at 158. According to P. Chidambaram, ".... attractive policies will have to be put in place if \$ 10 billion FDI has to be met. We must ensure that regulations governing FDI are transparent and attractive in comparison with other Asian Economics...". See THE HINDUSTAN TIMES, January 18, 1997.
18. See, Klaus Schwab & Claude Smadja, *Power V Policy in New Economic World Order*, HARVARD BUSINESS REVIEW, (December, 1994), 20-36.
19. Wu and Langley, *A US-Mexico Free Trade Agreement*, 25 JOURNAL OF WORLD TRADE, No. 3 (1991) 5-14.
20. See Jackson, THE LEGAL PROBLEMS OF INTERNATIONAL ECONOMIC RELATIONS (1986) at 1035.
21. See UN TNC IN WORLD DEVELOPMENT : TRENDS AND PROSPECTS (1988) ST/CTC/89, 331-68.
22. See. Rabby *infra*.
23. Wu, *supra* n. 19.
24. Paradoxically however, the US irrespective of its open policy on investment, has been adopting in an adhoc manner specific restrictions that discriminate against foreign investors, e.g. Exon-Florio prevision, 1988 authorizes the President to suspend or halt a merger, acquisition or take over of a US firm by a foreigner on the ground that it would threaten national security. Villa, *Legal Aspects of Foreign Investment in the US*, 16 INTERNATIONAL LAW (1982) at 1; see also Fry and Radebaugh ed., REGULATION OF FOREIGN DIRECT INVESTMENT IN US AND CANADA (1984).
25. See Jackson, *supra* n. 20.
26. See. J. Rabby, *The Investment Provision of the Canada-US Free Trade Agreement*, 84 AMERICAN JOURNAL OF INTERNATIONAL LAW(1990) 399 at 402.
27. A. Rughman quoted in *id.*
28. See. M. Sornajah, *Protection of Foreign Investment in A.P. Economic Co-operation Region*, 29 JOURNAL OF WORLD TRADE, No. 2 (1995) 105-30.

29. *Supra* n. 26.
30. *Supra* n. 7 at 92-97.
31. Rabby, *supra* n. 26.
32. *Supra* n. 7 at 101.
33. The earliest attempt was the International Treatment of Foreigners (1929). See Nwogugu, LEGAL PROBLEMS OF FOREIGN INVESTMENT IN DEVELOPING COUNTRIES (1965).
34. See *id.* at 137-59.
35. Rabby, *supra* n. 26. See also Book Review in 89 AMERICAN JOURNAL OF INTERNATIONAL LAW, (1995) 666-8.
36. See ECONOMIC TIMES, December 14, 1996.
37. See Whiting Jr., THE POLITICAL ECONOMY OF FOREIGN INVESTMENT IN MEXICO (1992).
38. UN declarations on the NIEO are earlier examples of frustrations of LDCs with the economic order. See S.K. Chatterjee, *Forty years of Trade Liberalizations*, JOURNAL OF WORLD TRADE (1989) 45.
39. See *supra* n. 13.
40. Free trade agreements and other regional treaties were essentially of this class. See R. Hudec, DEVELOPING COUNTRIES IN THE GATT LEGAL SYSTEM (1987).
41. Charles Michalet, *Transnational Corporation and the Changing International Economic System*, 3 TNC3 (1994) 9-21.
42. The negotiations for the UN CODE OF CONDUCT ON TNC have not yielded any result because of differences on some key provisions of the CODE. See *supra* n. 13.
43. *Id.*
44. See Sornajah, *supra* n. 28; see also *supra* n. 7.
45. See e.g., Proceedings of ASIL, 86 (1992) 69.
46. *Is the World Ready for Free Trade*, FOREIGN AFFAIRS, (December, 1996) 113-27 at 114.