World Investment Forum 2014: Investing in Sustainable Development

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Argentina reaffirms the central importance of productive investment as a driving force behind sustainable and inclusive economic growth in social terms. In this context, foreign direct investment (FDI) can represent a potentially strategic component to economy's productive capacity

However, as reflected by global experience over the past two decades, FDI inflows by itself do not guarantee high economic growth (Figure 1). From our perspective, this is because not all FDI is equivalent and therefore an international investment agreements (IIA) regime that allows a country to establish what type of FDI it seeks in terms of its development strategy represents a better approach than relying on a purely quantitative criterion of "more is always better".

The criterion "more is always better" underlies the current regulatory framework of BITs, driven by the core countries at the height of the Washington Consensus. Under this framework, emerging and less developed countries were encouraged to give up their regulatory capacity in exchange for an alleged "flood" of new FDI.

However, the scenario in reality has been very different. On the one hand, from a factual point of view, there is no significant statistical correlation between signing more BITs and receiving higher FDI inflows (Figure 2).

On the other hand, the current regulatory framework for BITs has generated a series of abuses, distortions and imbalances that need to be corrected.

One of the areas that most clearly requires attention is the ambiguity of the concept of indirect expropriation included in investment agreements. Virtually any changes in economic policies, such as modifications made to tax, employment or environmental legislation, may be considered expropriation by a foreign investor and the subject of litigation in the field of ICSID.

The case of Argentina is highly illustrative in this regard. Twelve years ago, in the midst of the worst economic crisis in two centuries of history, Argentina abandoned the 1:1 currency peg to the dollar that had been in place for a decade.

The measure, which extended cross every sectors and applied to all companies operating in Argentina, regardless of origin, was considered an expropriation by several foreign investors and triggered a series of lawsuits in the orbit of ICSID.

The claim, in addition to distorting the concept of expropriation, revealed the preferential treatment that BITs guarantee foreign investors over domestic investors, which is unfair.

In light of these distortions, Argentina believes it is necessary to move forward with a deep structural reform of the regulatory framework for FDI and the mechanisms for dispute settlement.

As UNCTAD expressed in one of the background documents prepared for the WIF 2014, “this path of action is the only one that can bring about comprehensive and coherent reform to today’s shared challenge of promoting investment for the Sustainable Development Goals”.

We believe that the new regime should be flexible enough to include the needs of the different countries involved, given their different structural conditions and different development strategies, allowing them to adapt regulatory tools to their specific needs.

In the case of Argentina, and probably other emerging countries seeking to diversify their economies through industrialization, the new FDI regulatory framework should address some key challenges such as:

i) Provide tools for promoting the development of local suppliers aimed at generating more productive and technological capacities in host economies rather than encourage a permanent increase in imports of intermediate goods by large transnational corporations;

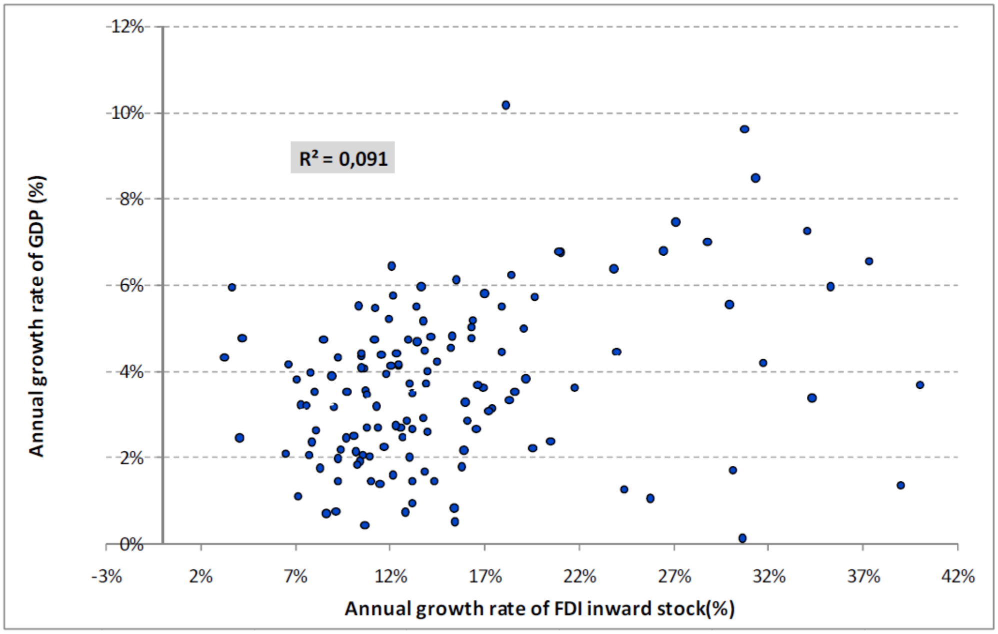
ii) Encourage FDI in high value-added activities in host economies, instead of limiting their presence in extractive industries or undifferentiated services;

iii) Achieve an acceptable balance for all parties in regard to remission of profits. In the case of Latin America, they have grown strongly over the past two decades, intensifying in times of crisis, which places pressure on the balance of payments of FDI host countries (Figure 3)

Finally, I want to emphasize the desirability of an organization with a proven track record and capacity such as UNCTAD becoming a major driver of a comprehensive reform. Undoubtedly, the role of UNCTAD as the multilateral focal point would provide a suitable platform to channel debates, evaluate alternatives, build consensus and implement agreed changes.

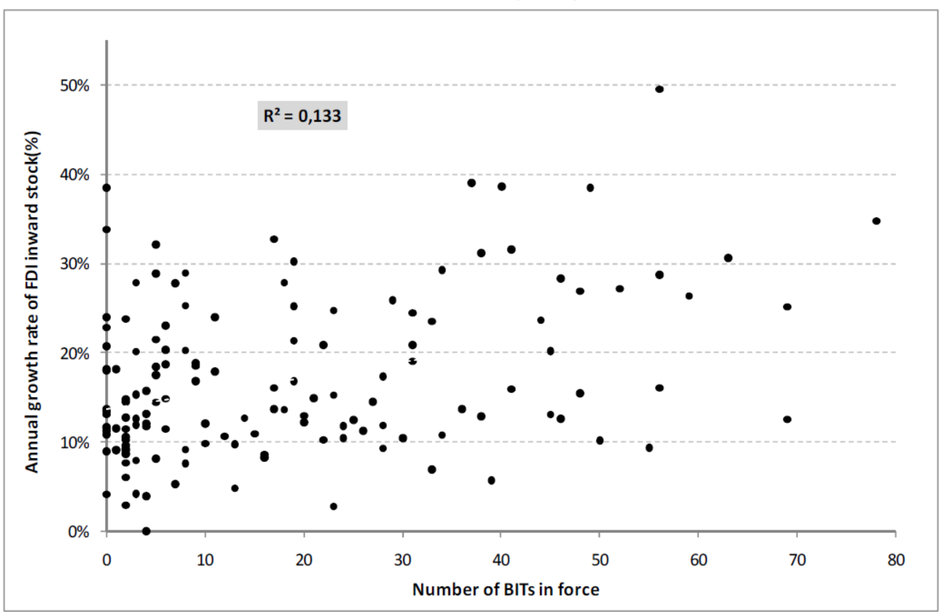
Thank you very much

Figure 1
FDI inflows do not guarantee high economic growth
Correlation between FDI inward stock and economic growth by country
1990-2013 (in %)



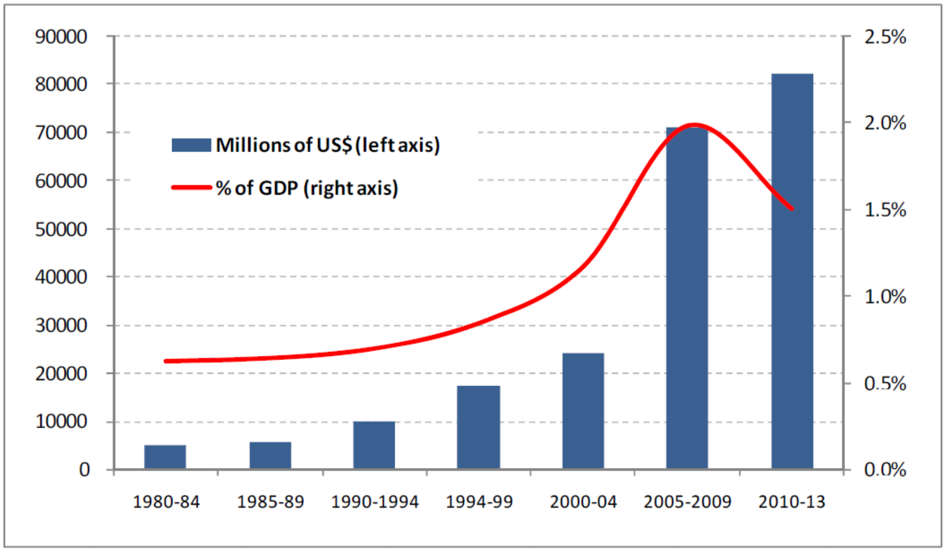
Source: Ministry of Foreign Affairs of Argentina based on UNCTAD data

Figure 2
A greater number of BITs in force does not imply higher FDI inflows
Correlation between the number of BITs in force and the rate of inward FDI by country
1990-2013 (in %)



Source: Ministry of Foreign Affairs of Argentina based on UNCTAD data

Figure 3
The expansion of FDI increased profit remittances from Latin America
Remittance of profits in current dollars in relation to GDP
1980-2013



Source: Ministry of Foreign Affairs of Argentina based on UNCTAD data