The Role of States in Attracting Foreign Direct Investment: A Case Study of Florida, South Carolina, Indiana, and Pennsylvania

Adis Maria Vila
THE ROLE OF STATES IN ATTRACTING FOREIGN DIRECT INVESTMENT: A CASE STUDY OF FLORIDA, SOUTH CAROLINA, INDIANA, AND PENNSYLVANIA

Adis Maria Vila, Esq.*

1. INTRODUCTION

In recent years, state governments have played an increasing role in promoting and attracting foreign direct investment (FDI). Florida, South Carolina, Indiana, and Pennsylvania use effective processes, approaches, policies, and promotional activities to promote and attract FDI. Among the tools used by these four states are developing industry clusters, lowering taxes, enhancing education and research, providing venture capital and incentives, and preparing the work force. These states have professionals both at home and overseas performing promotional activities and developing extensive ties with potential investors. In an increasingly interdependent world, it is no longer enough to maintain an “Open Door” policy and reduce tariff and non-tariff barriers. To attract sizable FDI, states must develop comprehensive, long-term oriented public policies and individualized incentives that meet the needs of the investors and take advantage of the state’s competitive advantages. In so doing, states “transform” their economies and propel themselves into the “New Economy.”

Beginning with the early history of the United States, the federal government did the “heavy lifting” with regards to attracting foreign investment until 1980; but due to the spread of globalization and the resulting exponential growth in FDI, states have taken a more prominent role. FDI reached its highest level in 2000; although the next few years showed a substantial decrease in foreign investment, FDI has continued to promote states’ investment projects. Since 2000 many states, including these four, made a big push to promote and attract FDI.

* Dr. Vila is a visiting scholar in Residence Rollins College’s Winter Park Institute in Winter Park, FL. The author would like to thank Dana Research Assistants Amanda West and Kirsten Midura, for their research assistance while she was a Visiting Assistant Professor of International Business at Dickinson College in Carlisle, PA.

This paper is divided into three parts. Part I gives an overview of FDI in the United States. Part II discusses the role of the federal Departments of Commerce and Treasury, and the federal government’s legislative and policy responses to the American public’s reaction after 9/11, particularly with regards to efforts by two foreign government-controlled companies to buy assets of U.S. companies. Part III focuses on the role that state governments in Florida, South Carolina, Indiana, and Pennsylvania have played in attracting FDI. In particular, this paper analyzes the approach these four states have taken in organizing promotional and policy initiatives, roles assigned chief executives, and work done by overseas offices. On the policy side, each of these states has encouraged industry clusters, revamped state taxes, improved education, research, and work preparedness, developed venture capital, and offered incentives. The paper concludes by examining an “unexplainable” decision by Honda to invest in a small community in Indiana. Although everything covered in the paper is not true of all fifty states, many of the effective processes, approaches, policies, and promotional activities that Florida, South Carolina, Indiana, and Pennsylvania use are also used by other states. In large part, the successes of these four states are due to the holistic, long-term oriented approach each state has taken.

II. OVERVIEW OF FDI IN THE US

Foreign direct investment is defined as ownership or control, either direct or indirect, by one foreign entity of ten percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise. The ultimate beneficial owner (UBO) must be a foreign person, corporation, or firm. The law provides that the ownership must be of ten percent or more, because ten percent allows for control.2

Although inward FDI decisions are driven primarily by market conditions, resource-seeking motives, knowledge, or cheap labor,3 there are many reasons why firms invest in foreign countries. Individuals and firms invest in a foreign country to avoid foreign government pressure for local production, circumvent trade barriers, move from domestic export sales to a locally based national sales office, increase total production capacity, or take advantage of opportunities for co-production, joint ventures with

2. Organization for Economic Co-Operation and Development (OECD), Benchmark Definition of Foreign Direct Investment (3rd ed. 1996), http://www.oecd.org/dataoecd/10/16/2090148.pdf. A second type of investment made by foreigners is “portfolio investment.” Portfolio investment involves nonvoting securities or voting stock in which the foreign interest controls less than twenty-five percent of the total ownership. Portfolio investment involves ownership or financial interest; direct investment involves a sufficient ownership interest to provide a degree of control.

3. Marilyn Ibarra & Jennifer Koncz, Direct Investment Positions for 2006, 87 Surv. of Current Bus. 21, 28 (July 2007) (giving the definition of inward vs. outward foreign direct investment).
local partners, joint marketing arrangements, and licensing.4

As early as 1791, the U.S. government indicated its desire for foreign investment. If the country was to develop its infrastructure, it needed foreign capital to exploit its abundant natural resources. In 1791, Alexander Hamilton, Secretary of the Treasury said: “Rather than be judged as a rival, [foreign investment] ought to be considered an auxiliary all the more precious because it alone permits an increased amount of productive labor and useful enterprise to be set to work.”5 During the latter part of the eighteenth century and the beginning of the nineteenth century, the United States relied heavily on foreign capital to industrialize. For example, the Erie Canal, the Louisiana Purchase, and railroad construction “were financed with foreign capital from Britain, France, Germany, and Holland.”6

Since the 1930s, the United States has pursued a liberal trade policy encouraging the free flow of goods and capital among the nations of the world. The [United States] has a stable economy and political system. The U.S. Government places few restrictions on FDI. Foreign investment does not require prior authorization nor is it generally subject to registration or approval at the federal level. Virtually no restrictions exist on foreign capital investment in manufacturing operations on the repatriation of capital, on the remittance of profits, dividends, interest and other income, nor on the transfer of royalties and fees. There are no special laws governing acquisitions or takeovers of existing companies by foreign investors and no federal laws governing new investment or expansion of investment in the United States. The United States has no federal company law. With the exception of a few restrictions imposed by the federal and state governments, foreign investors enjoy “national treatment.”

Additionally, foreign investors come to this country because the United States offers a “predictable and transparent legal system, outstanding infrastructure, and access to the world’s most lucrative consumer market.”7 With more than 300 million people and the largest economy in the world, the United States is potentially the most important market for any company. The United States accounts for forty-two percent of global consumer goods market, and has a per capita disposable income of ap-

6. Adis Marie Vila, Legal Aspects of Foreign Direct Investments in the United States, Int'l. Law. 16, 1 (1982). Not until 1971 did foreigners begin to show a greater interest in direct investment than in portfolio investment. In 1972, foreign-held U.S. securities were estimated to be worth $38.6 billion; more than two and one-half times the value of FDI in the United States. Since 1972, however, there has been a steady increase in FDI in the United States.
proximately $35,000. Per capita GDP is about $48,000.

In 2006, the United States was responsible for forty-five percent of total OECD research and development expenditures. Six of the ten top universities in the world are in the United States. Of 196,000 patents granted in 2006, 47.9% originated from a foreign country. The U.S. workforce ranks as one of the best educated, most productive, and most innovative in the world. Indeed, "since 2000, U.S. business productivity has risen at an average annual rate of 3.2%." The United States also "has the largest roadway system, railway network, number of airports, and quantity of Internet hosts." A nation of immigrants, the United States is a friendly country where many foreigners live and invest. The United States affords all foreign investors "fair and equitable treatment."

Some investments have clearly been designed to establish vertically integrated operations or to secure knowledge. Congressional studies show foreign direct investments are made in the United States for the same economic and profit-maximizing reasons U.S. citizens invest abroad. Furthermore, Congress has found little need to change the open door policy that freely admits foreign investment. Congressional examinations, however, have revealed a lack of detailed information on the nature and extent of FDI in the United States. To remedy the problem, Congress enacted in October 1974 the Foreign Investment Study Act. On signing the Act, then-President Gerald Ford said:

As I sign this act, I reaffirm that it is intended to gather information only. It is not in any sense a sign of a change in America's traditional open door policy toward foreign investment. We continue to believe that the operation of free market forces will direct worldwide investment flows in the most productive way. Therefore my administration will oppose any new restriction on foreign investment in the United States except where absolutely necessary on national security.

8. Id.
9. Id.
14. Id.
15. For more information on fair and equitable treatment in foreign direct investment, see, IOANA TUDOR, THE FAIR AND EQUITABLE TREATMENT STANDARD IN INTERNATIONAL FOREIGN INVESTMENT LAW (2008).
16. The exceptions are the aftermath of 9/11, the failed purchase of UNOCAL by a Chinese government controlled company, and the failed attempt by a UAE controlled firm to buy a UK company that administers six terminals at US ports. These two investments are analyzed Part II.
grounds or to protect an essential national interest.\textsuperscript{17}

While foreign investment is not a new phenomenon in the United States, the quality and quantity of the investment has changed dramatically. As a result, some U.S. citizens have become uneasy both with the amount of foreign participation in the country's economy and the country of origin of those participating. Since the early 80s, countries investing in the United States increasingly have included Japan, the OPEC countries, and Middle Eastern countries.

Since September 11, 2001, however, U.S. policy makers and civil society have argued that the motivation for investing in the United States has changed and that because of security issues, the government must be careful to prevent FDI from certain firms and countries. For example, an Abu Dhabi company was denied major investments in U.S. ports because some officials saw a potential threat to national security. Increased concerns for national security or the perceived difference in the motivation of foreign investors may impact the U.S. open door policy towards FDI. The U.S. government will not needlessly multiply barriers or add more regulations exclusively applicable to FDI as legal sanctions would likely follow a breach by the United States of its treaty commitments and such breaches may invite foreign retaliation against U.S. multinational corporations operating abroad. Thus, even after 9/11, the U.S. government continues to support an open door policy to foreign direct investment. As recently as May 10, 2007, Treasury Secretary Paulson said that “foreign investment in the United States strengthens our economy, improves productivity, creates good jobs, and spurs healthy competition. Americans have prospered as foreign companies have put their money to work here.”\textsuperscript{18}

III. IT IS A TWO WAY STREET

The U.S. market is good for the foreign investor; the foreign investor is good for the U.S. economy. FDI contributes to productivity growth, generates U.S. exports, and creates high-paying jobs. Historically, the United States has been the most attractive destination for inflows of foreign investments.\textsuperscript{19} In the period 2002-2006, foreign companies announced or opened nearly 2,900 new projects, yielding $82 billion in investment and about 170,000 new jobs.\textsuperscript{20} In 2006, FDI inflows totaled $175.4 billion; the year before FDI inflows totaled $101.0 billion. At the

\textsuperscript{17} President Gerald Ford, Remarks at the signing of § 2840, the Foreign Investment Study Act of 1974, 10 Wkly Comp. of Pres. Doc. 1375 (1974).


end of 2006, total foreign direct investment in the United States was $1.789 trillion or 13.5% of U.S. GDP. For 2008, the U.S. Department of Commerce reports record increases in FDI. Preliminary data shows $325.3 billion of FDI in 2008, up from the previous record of $321.3 billion in 2005 and a thirty-seven percent increase over 2007 of $237.5 billion.  

U.S. affiliates of foreign companies employ 5.5 million U.S. workers, and "an additional 4.6 million U.S. jobs indirectly depend on foreign investment in the [United States]." Foreign companies support an annual U.S. payroll of $403.6 billion with an average annual compensation per employee of $73,124. On average, U.S. subsidiaries of foreign firms pay 34.7% higher wages and salaries than U.S. companies.  

Ninety-four percent of cumulative investment came from companies in Organization for Economic Co-Operation and Development, or OECD, countries. Seventy percent of all FDI in the U.S. comes from Europe. The top five countries are the UK with $303.2 billion, Japan with $211 billion, Germany with $202.6 billion, The Netherlands with $189.3 billion, and Canada with $159.0 billion.

Over the years, Congress has found little need to change the open door policy that freely admits foreign investment. In October 1974, while Ford was President, Congress passed the Foreign Investment Study Act, which called for reporting. In 1988, the Defense Production Act of 1950 was amended in part by the Exon-Florio provision. This provision provides the President with authority to suspend or prohibit any foreign acquisition, merger, or takeover of a U.S. corporation that is found to be a threat to the national security of the United States. According to the Exon-Florio Provision, the President may block a foreign acquisition of a U.S. corporation only if he finds:

1. there is credible evidence that the foreign entity exercising control might take action that threatens national security, and
2. the provisions of law, other than the International Emergency Economic Powers Act do not provide adequate and appropriate authority to protect the national security.

21. Id.
22. Id.
25. OECD countries are committed to democracy and a market economy. The 30 OECD member countries are: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States. About OECD, http://www.oecd.org/pages/0,3417,en_36734052_36734103_1_1_1_1_1,00.html (Last visited Apr. 2, 2008).
27. Id.
To assist in making this determination, Exon-Florio provides for the President or his designee to receive written notice of an acquisition, merger, or takeover of a U.S. corporation by a foreign entity.

The Committee on Foreign Investment in the United States (CFIUS), an inter-agency committee chaired by the Secretary of Treasury, reviews the transaction. These reviews are aimed to "protect national security while maintaining the credibility of the U.S. open investment policy and preserving the confidence of foreign investors here and of U.S. investors abroad that they will not be subject to retaliatory discrimination."\textsuperscript{28} Information provided by companies contemplating a transaction subject to Exon-Florio is held confidential and is not made public, except in the case of an administrative or judicial action or proceeding.\textsuperscript{29}

The Exon-Florio Act was amended on July 26, 2007 by the Byrd Amendment. The Act, as amended, expands and clarifies the definition of national security, makes the review process longer and more rigorous, outlines more precisely the participation and duties of various government agencies, imposes on CFIUS expanded Congressional reporting obligations, and provides for civil penalties for certain violations.\textsuperscript{30}

This amendment was prompted by efforts by two foreign government controlled entities to buy U.S. ports and energy assets. One was Dubai Ports World, a UAE government-controlled entity. It tried to buy a UK owned company (already a foreign investor) called the Peninsular and Oriental Steam Navigation Company (P & O). P&O operated terminals at six U.S. ports. The other was China National Offshore Oil Corp. (CNOOC), a Chinese Government controlled company that tried to buy energy assets of UNOCAL.

The Chinese government owns or controls most of the Chinese companies with the resources and size to invest abroad. Further, during the 1990s and 2000s, China was involved in high-profile breaches of technology transfer of sensitive export-controlled technology and in espionage. The state control, technology transfer, and espionage, taken together, were excessive given that China is not a "strategic or political ally" of the United States.

These two failed acquisitions are examples of a "combustible political mix" of foreign ownership and national security.\textsuperscript{31} This legislation reflects the views of the American people. In a poll conducted by The Pew Research Center for the People and the Press, fifty-eight percent of the American people said Congress acted appropriately when it blocked the

\textsuperscript{29} \textit{Id.}
acquisition.32

Since 9/11, civil society has become increasingly concerned that foreign investment may threaten our national security and that the motivations of many of the foreign investors are different than those of earlier foreign investors. For example, a March 2006 poll found that fifty-three percent of Americans believed that foreign ownership of U.S. companies was "bad for the [United States]."33

In spite of these numbers and perhaps as a consequence of the Dubai and China examples, the U.S. Department of the Treasury launched a key initiative to reinforce the U.S. open investment policy titled, "Keeping the U.S. Economy Growing: Open Markets, Investment & Trade." In May 2007, President Bush issued a policy statement reiterating the U.S. commitment to an "open door policy for foreign direct investment. In part, the President said:

The United States has a longstanding commitment to open economies that empower individuals, generate economic opportunity and prosperity for all, and provide the foundation for a free society. Economic freedom, supported by the rule of law, reinforces political freedom by encouraging and supporting the free flow of ideas. To continue the advance of liberty and prosperity, my Administration will work vigorously to promote open investment policies and free trade on a level playing field.

A free and open international investment regime is vital for a stable and growing economy, both here at home and throughout the world. The threat of global terrorism and other national security challenges have caused the United States and other countries to focus more intently on the national security dimensions of foreign investment. While my Administration will continue to take every necessary step to protect national security, my Administration recognizes that our prosperity and security are founded on our country's openness.

As both the world's largest investor and the world's largest recipient of investment, the United States has a key stake in promoting an open investment regime. The United States unequivocally supports international investment in this country and is equally committed to securing fair, equitable, and nondiscriminatory treatment for U.S. investors abroad. Both inbound and outbound investment benefit our country by stimulating growth, creating jobs, enhancing productivity, and fostering competitiveness that allows our companies and their workers to prosper at home and in international markets. My Administration is committed to ensuring that the United States continues to be the most attractive place in the world to invest. I urge other nations to join us in supporting an open

33. Id.
investment policy and protecting international investments.\footnote{Press Release, President George W. Bush, Press Release Concerning Foreign Investment in the United States (May 10, 2007), available at http://www.cov.com/files/Publication/3789e4e0-63d3-4649-b038-2ec35251b2da/Presentation/PublicationAttachment/e2d8ee5-7804-48d6-91a8-2f64e53544dd/809.pdf.}

Immediately thereafter, Treasury Secretary Paulson began reassuring the public, foreign investors, and potential foreign investors that national security is a consideration, the Open Door policy remains the U.S. policy. At one forum he attended in 2007, Secretary Paulson reassured investors that “only 10 percent of foreign direct investments were reviewed by CFIUS, and the vast majority of those received a review which was resolved without controversy.”\footnote{Sec. Henry Paulson Jr., Remarks at Forum on International Investment (May 10, 2007) (transcript available at http://www.ustreas.gov/press/releases/hp398.htm (last visited Feb. 21, 2009)).}

Beyond the President’s Executive Order and the Secretary of the Treasury’s reinforcement of the Open Door policy, the U.S. Department of Commerce was tasked with promoting FDI. The Department created the Invest in America Program to “coordinate inward investment promotion.”\footnote{US Dept. of Commerce, supra note 9, at 8.}

The Invest in America Program is located in the U.S. Department of Commerce’s International Trade Administration and is supported in eighty countries through trade specialists located in D.C. and commercial officers located in U.S. embassies abroad. For U.S. states that have done little to prepare themselves to attract FDI, the Commerce Department’s initiative is a plus. For states like Florida, South Carolina, Indiana, and Pennsylvania, the program is seen as promotional in nature, a good effort that keeps potential investors from seeing the United States as a fortress that will keep FDI out, a source for leads, and a help when visa problems become acute. From the perspective of these states, the federal government can help with visas and perceptions but the real work of identifying potential foreign investors is done at the state level. None of the representatives responsible for attracting FDI in these states expect “any additional investments because of Invest America.”\footnote{Phone Interview with Wilfred Muskens, Deputy Secretary, International Business Development, Pennsylvania Department of Community Development (Mar. 3, 2008) and Manny Mencia, Senior Vice President of International Trade and Business Development, Enterprise Florida, Inc. (Feb. 25, 2008).}

Broader efforts to enhance global trade and investment also favorably affect FDI. Yet, none of the government officials interviewed stated that foreign investors made direct references to international economic legislation like Bilateral Investment Treaties or Trade Agreements like NAFTA. But these federal measures are evidence of an open and welcoming policy environment that encourages direct investment.
III. THE ROLE OF STATES AFTER 2000

FDI in the United States reached an all time high in 2000. After 2000, the amount of FDI inflows began to decrease in part because of the national security reasons, in part because of the American public’s predilection for “Made in America” and “Owned by Americans,” and, in part, because the U.S. economy suffered significantly between 2000 and 2006. FDI increased in 2005 and 2006 although it has not yet reached the 2000 levels.

Although many U.S. states began to develop programs, processes, and strategies to attract FDI into their own states as early as 1980, after 2000 states took a more highly structured approach. Globalization, interdependence, job loss, economic restructuring, and many other “maladies” affected states. Visionary governors interested in attracting FDI hired consultants to identify their competitive advantages and recommend long-term comprehensive efforts. Governors and savvy business persons worked side by side to take advantage of their state’s “competitive advantages.” In so doing, states brought home FDI and the better paying jobs that accompany it.

A. CASE STUDY OF FLORIDA, SOUTH CAROLINA, INDIANA, AND PENNSYLVANIA

Florida, South Carolina, Indiana, and Pennsylvania are successful in their efforts to attract FDI because each has analyzed its competitive advantages, and for more than ten years developed and implemented long-term comprehensive plans. Each uses a different “structure” to coordinate FDI, but all have the state’s chief executive play an active role, use trade missions to engage the public and private sectors, rely on foreign offices to identify potential investors, and develop comprehensive public policies that speak to the foreign investors they are trying to attract to their respective state.

B. STRUCTURES USED TO ATTRACT FDI DIFFER

The structures used by each state to attract FDI differ. In the 1980s, Florida had a Department of Commerce. Governor Bush who had served as Secretary of Commerce in the late 1980s privatized the functions of the Department of Commerce including economic development. A public private partnership called Enterprise Florida (EF) was charged to do the state’s economic development, and to increase FDI in the State. The Chair of EF reports directly to the Governor. Even though some Members of the Board are appointed by the Governor, Speaker of the House, and President of the Senate, EF is fairly insulated from “politics.”38 There is continuity in the leadership. Executive Vice President Manny Mencia has had responsibility for bringing FDI into Florida since

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38. Phone Interview with Manny Mencia, Senior Vice President of International Trade and Business Development, Enterprise Florida, Inc. (Feb. 25, 2008).
the creation of EF in 1996. EF has an International Advisory Committee, and a long-term focus.

Besides the governmental appropriation EF receives from the Florida House, it has a supplemental budget of over $2 million dollars raised by its private board members. Private board members bring valuable expertise and donations of about $50,000 each. EF uses the private funds for items for which public funds may not be used including serving “alcohol” at functions and paying bonuses to executives who exceed performance goals.

In South Carolina, the Department of Commerce, a state agency with all of the benefits and limitations of a governmental unit, is responsible for attracting FDI. The Secretary of Commerce is appointed by the Governor. Over the last twelve years, South Carolina has had three Governors and four Secretaries of Commerce. Both Governors and Secretaries have been pro-business and pro FDI. The Department has been blessed with continuity in its professional staff. South Carolina’s present Governor appointed a Deputy Secretary to focus on attracting FDI. A high-level professional, the Deputy Secretary ensures that FDI receives the visibility required at home and abroad and that potential investors can access senior decision makers.

Like Florida, Indiana has a quasi-corporate model called The International Development Corporation (IDC). The IDC has its own Board of Directors comprised of business executives. The director of the IDC however is a state employee giving the position permanence and professionalism. The IDC gets the majority of its funds from the State’s budget through the Secretary of Commerce’s appropriation. It may also raise its own funds through the Indiana Economic Development Foundation. The Foundation provides about $500k for outreach efforts to the overseas missions.

Like Florida, Indiana believes one of its strengths is its quasi-corporate structure. The laws creating the IDC provide the organization with much flexibility not available to other state agencies. Like in the other states, in Indiana there is continuity of the organizational leadership, longevity among the professional staff, and support by both the present and past governors. The former Governor has remained active even though he is no longer in office.

In Pennsylvania, it took eight years to set up the State’s FDI office. For five years, the office was a one person shop. Subsequently, the State created a Center for Direct Investment, a Governor’s Action Team, and a Team Pennsylvania Foundation. The Center for Direct Investment sits in the Department of Community Development. It has an Executive Director. The Deputy Secretary of the Department of Community Development was the Center’s first director. The continuity and professionalism of these individuals serves Pennsylvania well. The Governor’s Action Team, a team of economic professionals, serve as a single point-of-contact for businesses considering locating or expanding in the state.
Governors play an important diplomatic and leadership role in states’ international trade and competitiveness by leading activities to unite state clusters, trade associations, universities, businesses, and state agencies. Governors lead not only within their states, but also internationally as state diplomats. They head trade missions abroad and welcome foreign business and trade leaders to build networks that are indispensable for expanding U.S. trade. Governors’ roles in promoting global integration are increasingly important as companies expand across national borders and states establish trade offices around the world to support trade relationships and partnerships.

In all four states, the former and present governors set an example worth following in the diplomatic and leadership role. All Governors head trade missions abroad, welcome foreign business and trade leaders at home, and use the pulpit to develop and implement policy. In Pennsylvania, for example, Governor Rendell tripled the budget of World Trade Organization from $6 million to $20 million. In South Carolina, Governors as far back as Fritz Hollins in the 1960s supported efforts to attract FDI. It was Governor Hollins’ commitment to technical colleges during his tenure that led to the preeminent role these played in retraining workers losing jobs in the textile industry as those jobs went off shore. Today, South Carolina ranks number two in the percent of its workforce that is employed by foreign affiliates. Similarly, South Carolina ranks number three in the United States in the percent of its manufacturing workforce employed by foreign affiliates.

The Governors in each of the four states leads trade missions as the cache associated with being the head of a state usually opens more doors for businesspersons participating in the trade mission. For example, during Governor Jeb Bush’s eight-year term his brother served as President.

D. ROLE OF TRADE MISSIONS & INTERNATIONAL EXPOSITIONS IN attracting FDI

The Governors of each of these states focused on marketing their states by foreign offices and working with industries to provide access to trade opportunities. Governors participate in conferences, funds, and trade expos. A few governors developed agreements or collaborative relationships for a specific industry or technology. Florida, for example, holds between 45-75 international events every year. Florida also is present in many trade exhibitions each year. Florida uses the Team Florida Concept through which 50 to 320 business persons accompany state government officials. Florida uses a multi-layer approach. For example, at one of the major Air Shows Florida might have the Governor lead the Florida Team. Contemporaneously with the mission, Florida sets up a pavilion where it demonstrates its competitive advantages and the numerous aviation companies that already call Florida home. At the same time, Florida
holds an investment seminar, sets up one-on-one meetings, calls on the 
CEOs of five or six aviation companies present, provides marketing 
materials, and has media availability. This comprehensive approach is 
seen at Air Shows annually and at the 63rd Annual World's Fair Exposition in Aichi, Japan in 2005 where Florida showcased the state's businesses and tourism. Japan is Florida's third-largest trading partner, with more than $4.9 billion in trade.

Similarly, Indiana has built on its outreach to Asia. Governor Mitch Daniels led a trip to Japan and Taiwan in 2005 to seek new opportunities for economic growth. The delegation included over eighty individuals including leaders from the corporate, academic and government and civic sectors. Since the 2005 mission, several Japanese companies have announced expansions in Indiana. Similarly, more than 45,000 Hoosiers work for Asian-based companies. Europe and Latin American were visited frequently and a few governors traveled to Israel, Canada, and Qatar. Florida's Governor led a Trade Mission to Colombia, Florida's sixth-largest trade partner. The meeting included one-on-one business appointments with Colombian companies, a targeted promotional campaign to attract prospective clients, and networking receptions with the U.S. Ambassador and professional trade organizations.

In 2008, South Carolina took trade missions to Brazil, Canada, China, India, and Israel. Of these destinations, South Carolina has overseas offices in Canada and China. For the period January 2003 to December 2007, OCO Monitor recorded that in South Carolina, 107 investment projects were made by eighty-four foreign companies. States must balance protecting the destinations of primary UBOs with efforts to develop potential new UBOs.

E. ROLE OF FOREIGN OFFICES IN ATTRACTING FDI

Florida has offices in fourteen countries including the Andes, Brazil, Canada, China, Czech Republic, Germany, European Union, Israel, Japan, Mexico, South Africa, Spain, Taiwan, and the UK. South Carolina has foreign offices in Canada, China, Germany, and Japan. The first Japanese investment in South Carolina was in 1947. In the 1980s as the tex-

40. OCO Monitor, Investment Intelligence, FDI-SC Jan. 2003 to Dec. 2007, 3 (Mar. 12, 2008). According to OCO, the top three sources for those investments were France, Finland and Belgium with four investments, companies from Japan and Germany with three investments. OCO Monitor is now known as fDi Markets. fDi Markets is an online database that has been tracking foreign direct investment projects worldwide since 2003. More information about fDi Markets can be found at http://www.ocomonitor.com/.
tile industry left the State, South Carolina opened its first foreign offices in Tokyo and Frankfurt. In the 1980s three significant Japanese and German companies, Fuji film, Bosch and BMW, invested in South Carolina. More recently, South Carolina opened a foreign office in Shanghai, China and in Canada. At that time, the U.S. Ambassador to Canada was South Carolina native David Wilkins.42

Since the 1980s, Pennsylvania has grown its foreign presence from two representatives in Japan and Germany to fifteen representatives working on attracting FDI, and from twelve trade representatives to twenty-four representatives working to increase trade.43 Today, Pennsylvania has international representatives in the UK, Finland, France, Germany, The Netherlands, Spain, Italy, China, India, Japan, Korea, Taiwan, Canada, Australia, Brazil, and Israel. Pennsylvania has the largest network of international offices and representatives and at $40 million makes the largest annual investment of any state in foreign offices used to attract trade and investment. There is no doubt that having representatives in countries from which a state is trying to attract investment is a smart thing to do. Often the local representative is a national of that country, has excellent business ties, and understands the culture of that locality. Pennsylvania authorized an international representative in France about two years ago. Since then it has seen a lot of interest from France.

F. Role of Comprehensive Public Policies: Industry Clusters Attract FDI

States have turned to designing comprehensive public policies that include “Clusters,” tax policies, education and research, venture capital funds, workforce initiatives, and individualized incentives to attract FDI into their respective states. The National Governors’ Association has developed the Cluster strategies to strengthen state industries. Among the “clusters” identified by different states are energy, life sciences, the film industry, and nanotechnology. In the area of energy, twenty states developed traditional and nontraditional industry including ethanol, wind, solar, and biofuels. Sixteen states have developed the life sciences cluster by creating tax incentives, providing startup capital, and launching training programs. Eleven states provide tax incentives, market to the film industry, and build film production capacity. Nanotechnology involves working with atoms and molecules and is important to medicine, biotechnology, environmental sciences, aerospace, the defense industry, the energy industry, materials science, and health care. It is the focus of six governors’ efforts in higher education research, funding, and training.

For example, Indiana's IDC established initiatives focused on developing industries in which the state has an existing or potential competitive advantage in attracting high growth, high wage businesses.

South Carolina, Indiana and Pennsylvania hired experts to identify industries in which the state had a competitive advantage and developed plans of action around these clusters. Indiana and South Carolina hired Harvard professor Michael Porter. Pennsylvania hired IBM. Professor Michael Porter noted that geographically bounded concentrations of similar, related, or complementary businesses have common opportunities and threats. He concluded that "these business clusters form peer networks and share transactions, information, and specialized infrastructure and labor markets," and that "cluster-based strategies align as many economic development tools as possible in a manner that aids the clusters."  

In 2005, IBM published its first Global Competitive Initiative for Pennsylvania. IBM identified a number of assets that can make Pennsylvania a global competitor. Pennsylvania ranked first among all states for the number of new cross-border investment projects, and number one for manufacturing projects in the United States. In 2006, IBM modified the methodology of its analysis of FDI to focus on job creation. IBM urged that state officials examine the State's capabilities "through the lens of prospective investors." The follow-up IBM report urges Pennsylvania to focus its clusters strategy on four major industry clusters and twenty-two sub-sectors including integrated bio-pharmaceutical manufacturing, biotech research, integrated medical devices, alternative energy including solar panels, waste fire coal, biofuels, and wind turbine assemblies, agro-food processing, digital media, prefabricated housing, fine chemicals production, and printing and publishing.

A common economic vision requires that state and regional economic development groups work more closely together. This further requires that the state focus on "labor markets" rather than focusing on geographic, political or historical areas. The IBM study draws on data derived from actual investment projects that Pennsylvania was unable to attract during the past several years. In so doing, Pennsylvania is the only state to employ this methodology. Successful governors leverage state investments with federal, private, and non-profit funds to expand states' foreign direct investment that supported more than five million U.S. jobs in 2004.

44. Harvard Professor Michael Porter's ideas on clusters, first introduced in 1990, have given rise to a large body of research on new cluster-based economic development approaches and hundreds of public-private cluster initiatives. Professor Porter's research on clusters is summarized in Clusters and Competition: New Agendas for Companies, Governments, and Institutions, in On Competition (1998); see also, http://www.eda.gov/Research/ClusterBased.xml.


46. Id.
Additionally, among the deliverables IBM provided Pennsylvania it provided an “electronic, interactive, data-driven business development” tool that enables Pennsylvania’s economic development officials to “better target prospective investment projects.”\textsuperscript{47} The tool enables economic development practitioners to provide prospective investors with detailed site-selection analyses. This analyses if outsourced to a firm would cost the foreign investor thousands of dollars to prepare.

These four states are representative of the larger find that economic development efforts work best when federal, private, education and not for profit funds, higher education, and training available are leveraged. For example, on April 1, 2008, RTI International Metals Inc. announced it is relocating its executive offices from Ohio and will create within the next three years at least thirty-five high-paying, new jobs in Pennsylvania. RTI is on three continents. It is a fabricated-metal-components company. Moving its new global headquarters to Pittsburgh speaks well for the Governors Action Team (GAT). GAT coordinated the \$255,000 funding package, which includes a \$50,000 opportunity grant, \$25,000 in customized job training funds and \$180,000 in job creation tax credits.\textsuperscript{48}

G. Role of Comprehensive Public Policies: Effective Tax Policies Attract FDI

Florida’s Qualified Target Industry (QTI) Tax Refund program provides an incentive for target industries to expand existing facilities or to locate new facilities in Florida. The program provides tax refunds of \$3,000 per new job created. The incentive is increased to \$6,000 per job if the company locates in a rural county or an Enterprise Zone. Higher awards are available to companies paying very high wages. To qualify for the QTI program, a company must create at least ten new jobs,\textsuperscript{49} pay an average of at least 115\% of area wages, have a significant positive impact on the community, and have local financial support.

South Carolina cut the state income tax rate for small businesses from seven percent to five percent over four years. One component of the Governor’s broader income-tax relief proposal, income tax relief for small businesses will return roughly \$200 million to the State’s economy.

Indiana Governor Mitch Daniels signed legislation to support entrepreneurship and innovation by providing tax credits to small businesses, specifically those conducting research and development (R&D). Indiana will offer a fifteen percent R&D credit on the first one million dollars of qualified expenses and a phase-in of a sales tax exemption on research and development equipment beginning at fifty percent and increasing to

\textsuperscript{47} Id.


\textsuperscript{49} Florida companies wishing to expand must provide a ten percent increase in number of jobs.
a hundred percent by fiscal year 2007-08. Indiana also has increased the annual allocation of Venture Capital Investment Tax Credits from $10 million to $12.5 million.\textsuperscript{50}

The Tax Foundation and the Council on State Taxes have lauded Pennsylvania for its business friendly tax code, and for ranking as one of the lowest states in business taxes. According to the Tax Foundation, Pennsylvania's 2008 Business Tax Climate, which is ranked at 27th, is more favorable than its neighbors New York, New Jersey, West Virginia, and Ohio but less favorable than Delaware or Maryland. The Index compares the states in five areas of taxation that impact business: corporate taxes; individual income taxes; sales taxes; unemployment insurance taxes; and taxes on property, including residential and commercial property.\textsuperscript{51}

As of January 1, 2008, state corporate income tax rates for Florida, South Carolina, Indiana, and Pennsylvania are 5.5, 5, 8.5, and 9.9, respectively.\textsuperscript{52} Florida, Indiana, and South Carolina are ranked as 5, 12, and 26.\textsuperscript{53} Of course, this is all relative. In an OECD study, most U.S. states were noted to have a higher tax rate status than all but one OECD member, Japan.\textsuperscript{54}

\section*{H. Role of Comprehensive Public Policies: Innovative University Research and Development (R&D) Initiatives Attract FDI}

The University of Florida launched a spin-off research and innovation venture, the Applied Genetic Technologies Corporation (AGTC) that licensed the University's ground breaking gene therapy technology. The AGTC collaborates with biotech giant Genzyme Corporation to develop Adeno-Associated Virus (AAV) vectors into gene therapies. This venture is expected to produce highly productive manufacturing capabilities with the potential to support future clinical trials and product development.

To South Carolina, research remains a top priority. In January 2006 six core countries created an alliance devoted to hydrogen and fuel initia-

\textsuperscript{50} Press Release, Indiana Governor Mitch Daniels, Governor Daniels signs key economic development bill (May 11, 2005), available at http://www.in.gov/presscal?PF=gov2&Clist=196&Elist=83758.

\textsuperscript{51} The Tax Foundation, Background Paper, 2010 State Business Tax Climate Index 3 (2009), http://www.taxfoundation.org/files/tb59.pdf. For FY2008 neighboring states ranked as follows: New York (48th), New Jersey (49th), Delaware (9th), Maryland (24th), West Virginia (37th) and Ohio (46th).


Similarly, industry financed R&D at South Carolina colleges and universities rose forty-three percent during the period 2000-2005. According to U.S. News and World Report, five Pennsylvania schools in its 2008 list of America’s Best National Universities rank in the top 100 including the University of Pennsylvania (#5); Carnegie Mellon University (#22); Lehigh University (#31); University of Pittsburgh (#58), and Drexel University (#100).

The Indiana Counter-Terrorism and Security Council (CTASC), Crane Division of the Naval Surface Warfare Center, Indiana University, and Purdue University have signed a Cooperative Research and Development Agreement (CRADA) for the development, application, and advancement of technologies designed for homeland security or military use. Each example demonstrates the commitment these four states have made to improving research and development and the close efforts that universities, business and government have made to leverage each sector’s strengths in advancing education.

I. ROLE OF COMPREHENSIVE PUBLIC POLICIES: TECHNOLOGY FUNDS & VENTURE CAPITAL INITIATIVES ATTRACT FDI

Florida’s Centers of Excellence program is designed to bridge the gap between academia and industry and give university-produced innovations a push toward commercial viability. Starting with three in 2003, Florida currently has a total of nine such Centers dedicated to a variety of disciplines at leading research universities around the state in life sciences, optics/photonics, alternative energy, and advanced materials.

Since 2002, South Carolina has been active in promoting research legislation. Among South Carolina’s successes are the Research Centers of Economic Excellence (2002), the Research Infrastructure Bond Act (2004), Venture Capital Investment Act (2004, 2005), and the Innovation Center Act (2005). South Carolina’s Research Infrastructure Bond Act make South Carolina’s three research universities eligible to receive up to $220 million for research infrastructure appropriated through 2010. The three research universities in South Carolina are Clemson University, University of South Carolina, and Medical University of South Carolina. At Clemson University the Centers of excellence focus on areas that can support the growth of the automotive sector. The Centers at the University of South Carolina also focus on automotive but in a totally different

area that include hydrogen fuel cells, oxide fuel cells, nanostructures, and polymers.

Indiana adopted a Twenty-First Century Research and Technology Fund strategy to establish academic/industrial partnerships and foster industry specific expertise and capacity. The fund is designed to produce economic initiatives by providing matching funds for collaborative research involving Indiana universities and private businesses. The objectives are to increase federal and private funding for R&D in Indiana, encourage an environment of innovation and cooperation among business and academic sectors to promote research activity, develop new technologies which will diversify Indiana’s economy and build businesses requiring more high-skill, high-wage jobs, stimulate the transfer of research and technology into marketable products. For every dollar invested by the state of Indiana, two dollars in external investments return to the state. This fund unlocks venture capital and federal research and development dollars for Indiana. After five rounds of funding, more than twenty spin-off companies have been created leveraging over $120 million in external support.60

Pennsylvania has $60 million in venture capital funding available through the New PA Venture Capital Investment Program. Administered by the Commonwealth Financing Authority, the program provides loans for venture capital partnerships investing in technology-based Pennsylvania-related companies. This state-supported commercialization fund invests in entrepreneurial ventures that demonstrate an opportunity to transfer high technology research and development into job creating enterprises, particularly in the areas of medical, informatics, energy, advanced manufacturing, and communications. The Fund makes awards typically ranging from $100,000 to $2 million.

The Ben Franklin Technology Development Authority (BFTDA), a state-funded network dedicated to fostering technology innovation provides funding for technology initiatives and supports four Ben Franklin Technology Partners throughout Pennsylvania that identify the most promising technological ventures and provide them with technical assistance and capital.61

In 2006, Governor Rendell launched World Trade PA initiative of $15 million to “accelerate and expand trade and investment activities.”62 An example of its success was attracting Osstem, the top dental implant manufacturer in the Asia Pacific market to Pennsylvania. Osstem’s managing

60. Purdue University, Operating Budget Request, 2005-2007, available at https://www2.itap.purdue.edu/bot/memberDocuments/FinanceFiles/Legis_Operating_budget.pdf.
director said: "It was an easy decision to locate Osstem’s first U.S. operations in Bucks County when considering the affordable business taxes and the incentives offered by the commonwealth. We also feel the area’s reasonable cost of living will make it easier to attract a skilled sustainable workforce." Osstem will make a $70 million dollar investment, purchase 23 acres in Falls Township and construct facilities totaling 160k square feet. The two buildings will serve as U.S. corporate headquarters, sales and marketing offices and manufacturing plant. The project is expected to create 200 new jobs within three years and 600 jobs by 2012.

Pennsylvania put together a $2.55 million financial package for Osstem that includes loans of up to $2.25 million through the Pennsylvania industrial Development Authority, and $300,000 in customized Job Training Funds. Osstem is eligible to apply for a $10 million low interest loan through the Citizens’ Job Bank program. Besides the Center for Direct Investment and the Governors Action Team, many organizations worked to bring Osstem to Pennsylvania. These included the International Visitors Council, the University of Pennsylvania, Select Greater Philadelphia, Bucks County Economic Development Corp., Incheon Trade Office, and PECO. States that use their assets wisely and work smartly with the business community, regional organizations, and civil society to leverage assets prove most effective at attracting FDI.

J. ROLE OF COMPREHENSIVE PUBLIC POLICIES: EFFECTIVE WORKFORCE INITIATIVES ATTRACT FDI

Effective workforce initiatives are necessary to attract FDI. Foreign investors are looking for skilled work forces, and state programs that help identify workers and train them are necessary. All four of the states under examination are at will employment states. This means that unless a contract exists between a worker and the employer, the employment relationship is an “at will relationship” and both the employee and the employer may quit or be dismissed for any reason not protected by law. Employees may not be fired for blowing the whistle nor may employees be discriminated against; however, an employer does not have to show “cause” for firing an employee.

Additionally, both Florida and South Carolina are “right to work” states. In right to work states, unions may not generally negotiate for a clause in their contract that requires all employees to pay union dues. South Carolina has one of the lowest manufacturing unionization rates in the U.S. at 2.8% and a work stoppage rate of .01% of worker time lost due to strikes. In part, these statistics explain why South Carolina has

63. Id.
been able to attract so many manufacturing jobs to the State. The second part of the explanation is its top quartile U.S. ranking in productivity and workforce training. Ranked the number four best training program in the United States by Expansion Magazine in 2007, South Carolina’s workforce training program, ReadySC, trained more than 246K South Carolinians over the past forty-five years and worked with nearly 2000 South Carolina companies. The training programs are “custom-designed, company specific, state funded and red tape free.” South Carolina recruits applicants, performs preliminary screening and assessment, provides instructor recruitment, training and payment, provides site for training, develops the instructional materials and provides quality management for all aspects of the training.

Florida has a Quick Response Training program that provides grant funding for customized training to new or expanding businesses. The program is flexible and structured to respond quickly to meet business training objectives. A local training provider, a community college, area technical center or university, is selected and available to assist in the application process and program development. If the business has a training program in place, a state training provider will supervise and manage the training program and serve as the fiscal agent for the grant funds. Reimbursable training expenses include instructors’ or trainers’ salaries, curriculum development, textbooks, manuals, and materials and supplies.

In 2007, South Carolina launched the statewide nationally affiliated Career Readiness Certificate Program based on WorkKeys. Further, Quick Job Centers, a new investment strategy for Community Development Block Grants, operated by the Technical Colleges in South Carolina brings needed job skills to underserved residents of the State.

The Indiana Department of Workforce Development (DWD) provides workforce literacy training and strategic skills as part of the 21st Century Workplace Skills Initiative. Working as demonstration projects in basic workplace skills education, DWD funds pilot programs that can reach out to employers with concrete strategies to improve their workers’ basic skills. Indiana launched this initiative to identify and alleviate projected shortages that exist in critical occupations and specific skill sets within high-wage Indiana industries. The approach uses workforce investment boards and regional teams to assess supply and demand issues and develop solutions to skills shortages.

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Pennsylvania has increased its workforce preparedness with Governor Rendell's JobReady package that includes $91 million in new state funds. The investment will leverage $2 billion in the commonwealth's workforce and education systems to ensure workers have the skills they need to compete in the global economy, increase options for students to receive post-secondary education, and boost the skills of high school graduates. By working directly with groups of employers in key industries, JobReady Pennsylvania will help current workers upgrade their skills and train for higher demand, higher paying jobs. Targeted industries include nursing and nurse educators and life sciences research faculty. Funding will help support working students, community colleges, and students enrolled in college courses while in high school. Pennsylvania implemented these efforts in response to IBM's findings in October 2007 that prospective investors see work force readiness as "critical" to investment decisions.

K. Unexplainable: Indiana Beats Out Ohio & Wisconsin's $140m Incentive Package and Gets Honda Auto Factory

Indiana won the competition over Ohio and Wisconsin despite the more than $140 million in incentives offered by Wisconsin to bring the Honda factory to their State. The decision to go to Indiana underlined that, while comprehensive policies and customized incentives are important, a small town's "sheer enthusiasm" for the bid could determine the outcome and win over Honda executives. The town, with just 10,000 residents, conducted activities that included letter-writing campaigns by local citizens and a photo of 100 Greensburg residents posing in an H formation sent to the Board of Directors of Honda in Tokyo. Koichi Kondo, Head of Honda North America said: "It's the first time we've ever seen this kind of display from an American community." The welcome sign above the Open Door policy seals the deal for the foreign investor.

L. Conclusion

The Open Door policy to FDI is in our national security interest. Barriers alienate allies and isolate the United States in an increasingly interdependent world. As Florida, Pennsylvania, South Carolina, and Indiana underline, states with holistic approaches that include comprehensive public policies and individualized incentives that meet the needs of the investors and take advantage of the state's competitive advantages, are

70. GLOBAL COMPETITIVENESS INITIATIVE, supra note 45, at 12.
72. Id.
long-term oriented, and are developed and implemented at home and abroad by knowledgeable professionals are most effective in attracting FDI. FDI best serves the interests of these States’ residents as without FDI, employment competitiveness, innovation, and manufacturing are at risk. With successful FDI, on the other hand, a state can transform and propel itself to the “New Economy.”

The New Economy brings with it continuous structural economic changes. Meeting those challenges in the short and long-term require the same elements required to attract FDI. These include world-class education and training, innovation, and entrepreneurship.

States with leaders willing to challenge institutions across their states to work well together so that all regions prosper, able to inspire civil society to adapt to ambiguity and uncertainty, and skilled at establishing partnerships between governmental and non-governmental institutions are most effective in attracting FDI into their states. In turn, FDI helps propel the economies of these states into higher rungs of the New Economy ladder. FDI propels Florida, Pennsylvania, Indiana, and South Carolina up the ladder of the New Economy.

Comments and Casenote