



World Investment Forum 2014: Investing in Sustainable Development

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First of all I would like to greet you all on behalf of the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina and my own behalf. It is an honour and pleasure at the same time to be here among you and have the opportunity to share with you views and ideas on this important issue.

Before presenting overview of my country's network of bilateral investment treaties (BITs) and investment policy in general, I would like to express gratitude to UNCTAD for organizing this important and timely conference on International Investment Agreements (IIAs) in the context of the World Investment Forum 2014. For countries in transition like Bosnia and Herzegovina it is important to have an all-inclusive forum for discussion on this issue the importance of which is ever growing. Your presence gives me right to believe we share the same opinion in this regard.

To present, Bosnia and Herzegovina has concluded 39 BITs. All of them have been negotiated and concluded over the last 20 years and their content and structure generally follow the same set of elements. Being a country in transition which, unlike other, needed also to recover from 1992-1995 war destructions, creation of an attractive and investor-friendly environment was and still is among top policy objectives of all post-war governments. BITs, in this regard, were not considered as sole but surely an important pillar of such policy.

The application of BITs, however, emphasised a number of open questions and constraints for the government as a party and regulator at the same time, which were not so visible at the beginning. Namely, countries in transition are lacking developed legislative framework as transformation from one to another system requires a substantial and comprehensive change in almost all areas of life. Having already concluded a number of BITs, over time this became quite restrictive element for further legislative regulation. Additionally, Bosnia and Herzegovina could not afford lagging behind other countries in the region when it comes to different integration processes. Thus, it became a real challenge so as how to reconcile frequently opposing objectives while keeping the integration dynamics.

Aiming to contemplate and propose possible improvements, in 2010 the competent services of my home Ministry started almost two-year long research and analysis of the trends and specificities of both investment regimes and BITs concluded by other countries. Apart from in-house experts and academia, at certain point of time, we also asked UNCTAD for their assistance which proved to be very beneficial.

As a result, in 2012 we came up with a revised model BIT text for negotiations. In substance, it was not a breakthrough change in the policy itself, but a step forward in the process of reform. The regional training course on international investment agreements organized by UNCTAD in partnership with my home Ministry and other institutions held in Sarajevo in October 2013 further stimulated discussions on the reform and its substance.

For countries like Bosnia and Herzegovina, reflecting sustainable development in our BITs network is of particular importance. Therefore, we are in search for solutions which would serve this cause. We also believe that a reformed international investment regime should effectively support these objectives as legitimate ones while preserving attractive investing climate.

Having this said, it is clear that we believe reform is not only needed but inevitable. Reforms are needed also to regain trust and to restore a balance of expectations, rights and obligations between the two sides, i.e. states and investors. Sixty years ago when first treaties were signed, they served the sole and narrow purpose of investor protection. However, changes that affected all aspects of both economies and international relations, call for adequate action in reforming international investment agreements to reflect a more balanced approach. Until present, UNCTAD again played and excellent role by taking on board all experiences and information that were available, processing them and offering them back to us in the form of a valuable tool, i.e. Investment Policy Framework for Sustainable Development (IPFSD). In this regard we see no reason why UNCTAD would not be entrusted to develop a roadmap for IIA reform and serve in the future as a multilateral focal point and platform which is to provide us with the infrastructure as well as institutional backstopping. The fact that great work has been done so far and we all gathered here to share views and ideas tells me that common understanding on the necessity of the reform is already there.

Another important issue we believe deserves our attention is transparency. It is ever present aspect of international investment regime and it is getting more and more importance over time. Therefore we join other countries in welcoming UNCITRAL Rules on Transparency in Treaty-based investor-State Arbitration. We strongly support increase of transparency in other areas of the international investment agreements including the process of reform.

What path should Bosnia and Herzegovina take in the reform process?! Based on analysis as presented in the World Investment Report 2014, UNCTAD identified four policy options in the international investment agreements reform. It is up to each country to decide what option or their combination would best fit national needs. In case of Bosnia and Herzegovina, we the experts believe that, in a short term, only a gradual and very careful case by case approach is possible. That in no way means that comprehensive reforms are deemed impossible or unnecessary. On the contrary, we believe that reforms in our country should be phased in over certain period of time and include set of different actions which currently fall into at least two policy options offered by UNCTAD. In this regard, our work continues at both national and international level.

To conclude, Bosnia and Herzegovina shall closely follow further developments in this area at multilateral level and take active participation whenever possible.

Thank you for your attention.