



## World Investment Forum 2014: Investing in Sustainable Development

### IIA Conference - 16 October 2014

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The Mongolian Delegation would like to express its gratitude to UNCTAD for organizing this important conference on International Investment Agreements (IIAs) in the context of the World Investment Forum 2014.

We read with great interest the investment policies chapter in the WIR 2014, and our intervention today largely draws on some of the aspects addressed in this report, especially with regard to the reform of the IIA regime.

The international investment protection regime of the Government of Mongolia is complex and is composed of large network of bilateral investment treaties (BITs). We are also party to a number of economic agreements with investment components.

We are realizing that investment protection treaties are becoming increasingly sensitive, primarily owing to the spread of BIT-based investment disputes cases which limit the right of state to regulate investment for public policies these include the protection of the environment and health. We have faced four such disputes in international arbitration so far. Also, we note that the trend towards introducing provisions aimed at balancing the rights and obligations of investors and clarifying certain provisions in details such as fair and equitable treatment remains a geographically delimited trend that unfortunately did not spread across the globe.

There are different possibilities of reforming the IIA regime, and we hope that in today's conference we will together find a broader consensus for the need to reform the IIA regime, and how to go about it. We call on UNCTAD to operationalize its policy recommendations in the WIR 2014, especially with regards to a comprehensive and gradual reform of the IIA regime.

Ladies and gentleman,

Our government wishes to join in the force to find comprehensive and sustainable solutions to make IIA regime more manageable and less prone to broad interpretations by arbitral tribunals. We wish to do so without reducing the protective value of our network.

Finding the most suitable balance between these two objectives remains one of our main concerns.

We hope that today's conference will help us to draw the broad guidelines for a roadmap for IIA reform. We believe that UNCTAD is the institution that is most suited to take the lead in devising such guidelines based on best practices in IIA reforms. This roadmap for reform can be drawn in the context of UNCTAD's response to the shared challenge of promoting investment for the Sustainable Development Goals (SDGs). In this context, it is important to highlight that while a roadmap can be adopted by individual countries, it would be more effective if adopted and implemented simultaneously by a large group of countries. We hope that today's conference can represent the first building block of a comprehensive IIA reform roadmap.

We understand that we can introduce selective adjustments to our IIA network, by way of including for example "soft" (i.e. non-binding) provisions. But our aim goes beyond cosmetic modifications. Our objective is to truly reform our IIA regime to put in line with modern international investment law developments, which is characterized by balancing investors rights with obligations, and by protecting public policy concerns.

We would like to ask UNCTAD to conduct more research on the specific ways and mechanisms available to countries to amend their treaties in a concrete way through a step by step approach. In this regard a toolkit for negotiators wishing to amend their IIAs would be more than welcome. We would also like to learn the potential and perceived legal and policy implications arising from reforming the IIA regime. What kind of repercussion or response if any, especially from our developed country partners? As stated before, our aim is to reform our regime without reducing the level of investment protection currently accorded to foreign investors.

Finally, the Government of Mongolia appreciates all the work done by UNCTAD on issues related to IIAs. More specifically, we would like to commend UNCTAD for its investment policy framework for sustainable development (IPFSD) which provides specific policy options to IIA negotiators, backed by an analysis of their sustainable development implications. We perceive UNCTAD as a safe hub of international investment policies and sustainable development in a world increasingly characterized by tensions between public and private interests. We look forward to further guidance on all these issues and to a roadmap for a gradual and comprehensive IIA reform.