UNCTAD Meeting on the Transformation of the International Investment Agreement Regime

Geneva, 25 February 2015

James X. Zhan
Director, Investment and Enterprise
Team Leader of the World Investment Report
UNCTAD
Countries concluded one international investment agreement (IIA) every other week

- In 2014, 27 new IIAs were signed, bringing the total number of IIAs to 3,268

**Trends in IIAs signed, 1980-2014**

*Source: UNCTAD, IIA database.  
Note: Preliminary data for 2014.*
Investors continue to use the investor-State dispute settlement mechanism

- In 2014, 42 new ISDS cases were filed, bringing the total number of known ISDS cases to 608

**Trends in known ISDS cases, annual and cumulative, 1987–2014**

*Source: UNCTAD, ISDS database.*

*Note: Preliminary data for 2014.*
By the end of 2013, more than 1,300 BITs reached the stage where they can be terminated or renegotiated at any time

- Treaty expiration provides a window of opportunity for improving the IIA regime
- Countries need to analyze the pros and cons of treaty termination and its implication for the overall investment climate and existing investments

Cumulative number of BITs that can be terminated or renegotiated

Source: UNCTAD, WIR 2013.
UNCTAD has defined five options for reforming the ISDS system

• ISDS is a system of *application* of the law; improvements to the ISDS system should go hand in hand with progressive development of substantive int’l investment law

**Source:** UNCTAD, WIR 2014.
Reform of the IIA regime – four paths of action in WIR 2014

<table>
<thead>
<tr>
<th>Path</th>
<th>Policy action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Status quo</td>
<td>Abstaining from substantive changes to IIA policies</td>
</tr>
<tr>
<td>Disengagement</td>
<td>Eliminating international investment-related commitments</td>
</tr>
<tr>
<td>Selective adjustments</td>
<td>Pursuing selective changes to integrate selected sustainable development elements and other features into future IIAs</td>
</tr>
<tr>
<td>Systematic reform</td>
<td>Redesigning IIAs to promote sustainable development, balance rights and obligations and reform ISDS, including in existing treaties</td>
</tr>
</tbody>
</table>

Source: UNCTAD, WIR 2014.
THANK YOU!

The Investment Policy Hub: http://investmentpolicyhub.org

UNCTAD websites:
www.unctad.org/diae
www.unctad.org/wir
www.unctad.org/fdistatistics
www.unctad-worldinvestmentforum.org

@unctadwif