

# UNCTAD Expert Meeting on Taking Stock of IIA Reform

Geneva, 16 March 2016

## Serbia

Ms. Bojana Todorovic  
Assistant Minister  
Ministry of Trade, Tourism and Telecommunications  
Republic of Serbia

Mr. Chairman, distinguished participants,

Let me, first of all, thank you for this opportunity to attend this meeting and to present to you some essential views of the Republic of Serbia on the reform of IIA.

Republic of Serbia has enacted a series of laws and other regulations in order to develop more favorable environment for foreign investors, such as laws and provisions regulating securities, financial markets, transfer of capital, bankruptcy, additional stimulations in tax regime for foreign investors, Company Law, etc. However, a lot of work need to be done in future. By enacting the necessary systemic laws and enforcing their implementation, the Government is continuously improving the business and investment climate in Serbia in order to attract domestic and foreign investment, boost production and exports and reduce unemployment.

The Government of the Republic of Serbia, in September 2014 adopted a new BIT model, as a legal basis and framework for bilateral negotiations. In accordance with the recommendations from the Investment Policy Framework for Sustainable Development, we tried to combine national investment policy guidelines and core BIT elements. In drafting that text we used the instructions and handbooks delivered by UNCTAD. The attendance to similar events like UNCTAD regional training courses on IIA reform in Minsk in September 2015, was also very useful.

In the republic of Serbia, bilateral investment treaties, after signing, fulfillment of the ratification process, and entering into force, become the part of national legislation. While drafting the text, as well as during the negotiation process, we are trying to deliver a good legal instrument. It's a major responsibility. We consider that the duty of a negotiator lays in capturing a proper balance by establishing enough legal protection to investments, in order to fulfill the treaty's objective, and, at the same time, provide well-defined rules and standards, of both substance and procedure, which give legal certainty and prevent, to a reasonable extent, frivolous claims and awkward interpretations. This is not always easy and it may take some time.

Let me add a few words on the new BIT model of the Republic of Serbia now. In drafting it we tried to implement all internationally recognized standards and to avoid provisions that can be open to subjective interpretations. The recommendations and analysis in UNCTAD's Investment Policy Framework for Sustainable Development and the Roadmap for IIA Reform were very useful. In brief, I would mention just a few of these standards:

- Definition of investment (Art 1.);
- Fair and Equitable Treatment and Full Protection and Security (Art. 2);
- National Treatment and Most-Favoured-Nation Treatment (Art. 3);
- Compensation for Losses (Art. 4);
- Compensation for Expropriation (Art. 5);
- Free Transfer of Payments (Art. 6);
- Provisions on settlement of the investment disputes (between States and between an Investor and the Host State (Art. 13 and 14);
- Internationally recognized health, safety, environmental standards and corporate social responsibility (Art. 9 and 10).

All these standards are subject to further changes and improvement and that is field for specific UNCTAD's role in future, by organising multilateral fora for exchange of experiences or providing research and policy analysis, policy development on IIAs including capacity building.

Being in the process of accession to the EU, Serbia has to harmonise the relevant legislation with the EU and in that process the Republic of Serbia, is looking carefully on the recent changes in the settlement of investment dispute mechanism introduced in TTIP that may become a cornerstone of future changes in BITs.

Finally, I would like to thank UNCTAD for their hard and dedicated work on taking a systemic approach that examines the universe of national and international policies through the lens of key investment policy changes, mainly presented in national BITs.

Thank you for your attention.