

Ladies and gentlemen, distinguished participants,

It is a pleasure to participate in this high-level conference, which provides an important opportunity to exchange experiences on reforming the international investment agreement regime.

The Guiding Principles on International Investment Agreement Reform, developed by UNCTAD, incorporate valuable comments and perspectives provided by experts throughout the consultation process. They are particularly welcome as a comprehensive and practical tool to assist countries in developing national processes for reviewing and reforming their existing IIAs.

They also provide guidance for developing and negotiating new-generation IIAs, reflecting evolving investment policy priorities and sustainable development objectives.

In light of UNCTAD's efforts, I'd like to focus on one of the main practical challenges facing countries: how to effectively address the existing stock of old-generation BITs.

In this regard, countries generally follow one of two main approaches: either renegotiating old BITs to update them, or adopting the approach followed by South Africa and India, which involves terminating old-generation BITs.

This is consistent with Guiding Principle 2.5 developed by UNCTAD, which encourages countries to consider all available reform options, including terminating or renegotiating existing old-generation treaties in full.

In this context, allow me to share my practical experience in negotiations to update IIAs in a number of countries.

International practice indicates that some countries, particularly capital-exporting countries, may not respond positively to requests to renegotiate old-generation BITs.

This presents a real challenge for countries seeking to update their existing stock of BITs.

On the other hand, the economic circumstances of some developing countries may not allow them to adopt the same approach pursued by India and South Africa in terminating old-generation BITs.

Some developing countries, particularly those facing economic difficulties, may hesitate to terminate old BITs for fear that such termination could send a negative signal about the attractiveness of their investment environment or harm their efforts to create an attractive and investment-friendly climate.

In light of these challenges, and based on my practical experience in efforts to update regional investment agreements, I believe that one possible solution is to replace old-generation BITs with updated regional investment agreements.

In this context, allow me to share two practical experiences that I was closely involved in.

The first experience is the New Arab Investment Agreement, which is being developed within the League of Arab States. I was entrusted by the League with drafting its provisions.

The possibility of replacing existing BITs between Arab countries with the New Arab Investment Agreement was one of the key issues discussed between Arab countries while preparing the draft agreement.

The second experience is about updating the Investment Agreement of the Organisation of Islamic Cooperation (OIC). I have the honour of working with Professor Makan on drafting the updated version of this agreement. OIC member states may wish to consider replacing their existing BITs with this updated agreement.

These experiences highlight the importance of considering updated regional investment agreements as one possible way to address the challenges posed by the existing stock of old-generation BITs.

In conclusion, I'd like to stress that reforming old-generation IIAs requires a practical and flexible approach that takes into account the different economic, political, and legal circumstances of countries, without assuming that one approach fits all.

From this perspective, strengthening the role of updated regional investment agreements and considering replacing old BITs with them are worth further study and discussion as part of international efforts to reform the IIA regime.

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