Moritz Lumma: Speech - High-Level International Investment Agreement Conference
Sunday, 25. October 2026, 15:45 - 18:00, venue: Lusail Tent

Ladies and Gentlemen, dear participants,

First of all, my thanks go to the hosts in Qatar and to UNCTAD, to the many people who have organized this impressive World Investment Forum.

For about 15 years, the recognition that old BITs are outdated, and the commitment that such agreements should be reformed, have actually been political common ground. There is also no shortage of concepts for what reformed investment protection could look like.

UNCTAD now targets an important "market gap": The Guiding Principles are an amazing talent-building-textbook, a comprehensive and detailed check list that helps government officials to build the necessary know how to reform BITs.

The Guiding Principles are directly connected with policy-making. Following the Guiding Principles requires crucial policy choices. When answering the question, what is needed to reform the existing stock of old-generation BITs, the key point is: How do I stand on ISDS? ISDS is the most sovereignty-sensitive element in BITs. It is therefore logical that the most important international negotiation process in investment protection, the UNCITRAL Working Group III revolves around the reform of ISDS.

Not every old-generation BIT is the same as every other old-generation BIT: As you know, there are also old-generation BITs without ISDS. They do not cause any headaches from a defensive perspective regarding BITs.

It is therefore about old-generation BITs with ISDS. When a government looks at such a BIT and asks itself what to do with it, prior to the question of whether it wants to reform the BIT, the question arises as to whether it wants to keep the BIT at all. The policy choice is: to terminate or to reform.

If the policy choice falls on reform, a whole array of follow-up questions arises. One of the most important is: Do I have or can I get the necessary personnel resources for individual renegotiations? Precisely in times when public administrations are under cost-cutting pressures, the resource question is particularly acute. In addition, reformed agreements are incomparably more complex than old-generation BITs. While an old German BIT still fits on seven pages, a reformed agreement requires around ten times as many pages.

In view of this, Guideline 2.6, which stresses "coordinated reform actions at all levels" including the "regional and multilateral" level, appears highly relevant to me. Given that BIT reform generally is not anywhere close to a policy priority in domestic politics and therefore personnel resources in governments are mostly scarce in this area, finding unified solutions at multilateral levels for as many BITs as possible is a very realistic pathway. I have already mentioned

UNCITRAL. As a further approach, I see the pooling of negotiation and treaty partners. This way, a large number of BITs can be reformed in one fell swoop. I believe that the particular benefit of an EU treaty policy lies precisely here. Negotiation partners of the EU get a single international legal framework with 27 European states and at the same time existing old-generation BITs with up to 27 states will be replaced. After all, only by reformed agreements will we get fairer and more balanced international investment protection on the road. [520 words]