

High-level International Investment Agreements Conference 2023

Statement by Ms. Angela Pretorius, Deputy Director, Ministry of
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15:30 – 18:00 CET, Wednesday, 18 October 2023

Thank you for according me the opportunity to address this important Conference.

By now we are all aware that climate change is a reality of our times, especially against the backdrop of many weather extremes in every region across the globe that we are constantly being reminded of. While global commitments have been made under the UN climate framework, such pledges will require State parties to implement measures and regulations to align with the global agenda of transitioning from a brown to a green economy in all economic sectors. This means that policy-makers globally have to up their efforts to adopt measures and regulations to regulatory frameworks, including investment related laws, that have so far existed for business operation in the brown economy.

As Namibia we are party to the Paris Agreement and committed to its climate change obligations and attempt to reduce the global carbon footprint. However, we believe that adding climate related requirements to the reform processes around investment policy and agreements indicates that modernisation of investment policy making and treaty language needs to be expedited. Unfortunately, old-generation treaties, if not terminated, still remain a risk for investor claims being initiated as it presently is the case.

As a member of the Southern African Development Community (SADC), Namibia values the SADC model Bilateral Investment Treaty Template, which provides for a sustainable development-centred investment agreement, with a focus on preserving adequate policy space for host States to legislate on key domestic social and environmental policy objectives. Furthermore, SADC already made vast progress with regards to green investment, including developing the Green Strategy and Action Plan for Sustainable Development, which promotes policies and investments towards a range of green sectors. As we are also a state party to the Africa Continental Free Trade Agreement

(AfCFTA) it is worth mentioning that the Protocol on Investment, which forms part of the overall Agreement does designate an article to investment and climate change, which undertakes promoting and facilitating investments that support actions to mitigate climate change.

At national level, Namibia has developed green and blue economic development strategies that emphasise on optimising stewardship and sustainable utilisation of natural resources. In addition, we underscored in our draft investment policy the right to regulate, as well as responsible investment. We are however of the view, that there is not only need for reforming investment treaties, but also a need to support national investment policy making, which likewise is required to transform, adjust and align to global climate change commitments.

I would like to note here that, though Namibia appreciates the noble intentions of the global climate agenda, we are equally concerned of meeting these obligations. Implementing climate change mitigations and policy reforms could cause potential breach of existing investment provisions provided for under treaties, contract or national investment laws. Furthermore, the fossil fuel industry currently remains an important source of investment for most African nations, Namibia included, and the transition to a green economy means that domestic strategies aimed at achieving sustainable development goals and industrialised status need to undergo serious adaptations. For now, we have to maintain a carve-out for the fossil-fuel industry, while creating a conducive environment for the transition to low-carbon energy. Also though policy reforms around regular investment provisions have made considerable progress, more work is still necessary with regard to green energy investments. Currently, several jurisdictions are in the process to define what type of activity can be called sustainable green investment or be classified as a green investment, but it would be helpful to have a better consistency and coherence throughout the IIA regime. It should also be emphasised that aligning to the global climate change agenda requires expediting commitments of channelling more capital towards climate investments for developing countries, which presently still remains a challenge.

In conclusion, I would like to state that Namibia recognises the importance of discussions and information exchange, such as this platform, regarding the IIA reform process. We

also value UNCTAD's efforts of continuously developing tool kits for transforming IIAs, which of latest includes a toolbox for promoting sustainable energy investment. It is therefore our hope as a country that further expert engagement will indeed foster added coherence of the reform process and achieve the much desired synergies for an improved IIA regime, especially towards global climate goals.

I thank you.