

Blog



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[Investment Facilitation: An Action Menu \(/blogs/51/investment-facilitation-an-action-menu\)](/blogs/51/investment-facilitation-an-action-menu)

Author: Preliminary draft for peer review, based on UNCTAD's Investment Policy Framework for Sustainable Development

Mobilizing investment and maximizing its positive contribution to growth and sustainable development is a priority for most countries. Concerted efforts are required to boost cross-border investment, within the context of an overall policy framework aimed at maximizing the benefits of such investment for host countries and minimizing any negative side effects.

[Reforming the IIA regime: are we getting there? Lessons from recent treaty practice \(/blogs/46/reforming-the-iaa-regime-are-we-getting-there-lessons-from-recent-treaty-practice\)](/blogs/46/reforming-the-iaa-regime-are-we-getting-there-lessons-from-recent-treaty-practice)

Author: Elisabeth Tuerk, Chief of International Investment Agreements Section, Investment and Enterprise Division at UNCTAD

Comparing treaty practice over time suggests that first steps towards reforming the IIA regime are already happening.

A draft UNCTAD working paper reviews data on the prevalence of key IIA reform options and their evolution over time.

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How to make IIA reform work? A formidable challenge

The investment and development community faces complex questions concerning the future direction of the international investment agreement (IIA) regime. Indeed, the debate has moved on and it's no longer a question whether or not to reform. The pressing need for systematic reform of the IIA regime is evident across different countries and various stakeholder groups.

Today's debate has to deliver answers on "what to reform, how and to what extent". Taking stock of IIA reform is a first step towards this goal, and subsequently the reason for UNCTAD's Expert Meeting on this topic.

The UNCTAD Expert Meeting on "Taking Stock of IIA Reform" (<http://unctad-worldinvestmentforum.org/switzerland2014/follow-up-event-unctad-expert-meeting/>) will give the investment and development community an opportunity to share experiences on country and stakeholder approaches to IIA reform. More than 40 high-level experts will speak at the event on 16 March and many more will attend the discussions in person in Geneva or via webinar. Even if they cannot travel to Geneva, all stakeholders can have a voice – be it governments, intergovernmental organizations, the private sector, civil society or academia.

In terms of substance, the main objective of the meeting is to discuss:

- What IIA reform actions are currently being undertaken?
- How to make IIA reform work in light of the challenges ahead?
- How are UNCTAD tools on IIA reform used, particularly UNCTAD's Investment Policy Framework for Sustainable Development (http://investmentpolicyhub.unctad.org/Upload/Documents/POLICY_FRAMEWORK%2025_JAN_2016.pdf) and UNCTAD's Roadmap for IIA Reform (http://unctad.org/en/PublicationChapters/wir2015ch4_en.pdf)?

The discussions will help to identify lessons learned, best practices and the way forward.

A preliminary stocktaking of IIA reform prior to the Expert Meeting suggests that efforts towards a more sustainable-development-friendly IIA regime are already happening at all levels of governance. In the run-up to Expert Meeting, UNCTAD published an IIA Issues Note (<http://investmentpolicyhub.unctad.org/Publications/Details/142>) on "Taking stock of IIA Reform". It documents the following reform efforts at various levels:

National

At least 110 countries have reviewed their national and/or international investment policies since the launch of UNCTAD's Investment Policy Framework. Many of those reviews resulted in the development of an IIA model in line with the new generation of investment policymaking.

Bilateral

There is a clear shift in drafting practice. Recently signed IIAs contain a number of policy options that preserve countries' right to regulate or are otherwise conducive to sustainable development.

Regional

Megaregionals or regional IIA models include reform-oriented policy options. Some inputs into megaregional negotiations break new ground with respect to reform of IIAs and investment dispute settlement.

Multilateral

A number of multilateral forums touch upon issues related to IIA reform. For example, UNCITRAL (on transparency in ISDS), the Working Group on the issue of human rights and transnational corporations (TNCs) and other business enterprises, the Annual Forum on Business and Human Rights (on human rights and investment policymaking) or the Third International Conference on Financing for Development (on the ability to pursue public policy objectives).

IIA reform was also a prominent issue at UNCTAD's World Investment Forum (<http://unctad-worldinvestmentforum.org/>) in 2014 and the Investment Commission session in 2015. Both will continue to provide a global platform for engaging policymakers and the investment and development community at large.

UNCTAD's latest IIA Issues Note (<http://investmentpolicyhub.unctad.org/Publications/Details/142>) illustrates the multiplicity of reform actions at the national, bilateral, regional and multilateral level (see chart 1).



IIA reform is a formidable challenge. Significant progress has been made, but much remains to be done. Comprehensive reform requires a two-pronged approach: modernizing existing treaties and treaty models and formulating new ones. Only a common approach at all levels will deliver an IIA regime in which stability, clarity and predictability help achieve the objectives of all stakeholders: effectively harnessing international investment relations for the pursuit of sustainable development.

The IIA Issues Note provides guidance for IIA reform in the form of a “Roadmap for IIA Reform”, which also serves as a discussion basis for the Expert Meeting (see chart 2). The Note suggests that IIA reform should address five main challenges, take place at four levels of policymaking and be directed by Six Guidelines.



UNCTAD has been advocating for IIA reform since 2010 and stands ready to continue providing the investment and development community with the necessary backstopping in this regard. Benefiting from 20 years of experience with its Work Programme on IIAs, UNCTAD is a global center for research and policy analysis, technical assistance, policy development and intergovernmental consensus-building in this area.

The IIA Conference at the 2016 World Investment Forum (<http://unctad-worldinvestmentforum.org/>), scheduled for 19 July 2016 in Nairobi, Kenya, will be the next UNCTAD multi-stakeholder conference after the UNCTAD Expert Meeting in March. Expert Meeting participants will also chart the way forward towards the WIF IIA Conference, sharing ideas for possible discussion topics, themes and outcomes of the IIA Conference.

IIA reform is being undertaken at all levels of policymaking and it is time to identify possible answers to the challenges ahead. Join the debate (<http://unctad-worldinvestmentforum.org/switzerland2014/follow-up-event-unctad-expert-meeting/>) to find out what is happening and how to make IIA reform work.

We look forward to hearing your views on how to help shape a sustainable-development-friendly international investment framework.

Further reading

- UNCTAD Investment Policy Framework for Sustainable Development (2015) (<http://investmentpolicyhub.unctad.org/ipfsd>)

- UNCTAD Roadmap for IIA Reform (2015)
(http://unctad.org/en/PublicationChapters/wir2015ch4_en.pdf)
- UNCTAD Action Menu on Investment Facilitation (2017)
(http://investmentpolicyhub.unctad.org/Upload/Documents/Action%20Menu%202023-05-2017_7pm_web.pdf)
- UNCTAD World Investment Report series 2010-2015
(<http://investmentpolicyhub.unctad.org/Publications>)

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