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United Nations meeting seeks reform of investment treaties

Geneva, Switzerland, 22 October 2014

More than 50 high-level representatives from governments, the private sector and civil society convened in Geneva on 16 October to address the challenges arising from international investment agreements (IIAs) and consider ways to reform the international investment policy regime at a United Nations meeting held during UNCTAD's World Investment Forum at the Palais des Nations.

The meeting took place against the backdrop of growing dissatisfaction regarding the more than 3,000 existing IIAs, as well as public debate surrounding so-called "mega-regional" agreements such as the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP).

Existing treaties, and negotiations for new ones, have come under criticism, with opponents arguing that they constrain governments' regulatory powers and give excessive rights to international corporations.

According to United Nations records, investors' use of such treaties has led to more than 560 international arbitrations against governments, often resulting in awards of significant financial compensation.

"UNCTAD offers a unique platform for exchange for all countries engaged in the process of improving their investment regime," Rupert Schlegelmilch, Director of the European Commission's Directorate in charge of international investment negotiations, said.

Participants of the high-level meeting called upon UNCTAD to look into comprehensive reform of the IIA regime.

"UNCTAD provides the policy know-how for moving from the traditional investor-centric model to the new sustainable development model," Niki Kruger, Chief Director, International Trade and Economic Development Division, Department of Trade and Industry (DTI), South Africa, said.

South Africa has faced international investor claims challenging a number of post-apartheid policies, and has since officially withdrawn from some IIAs.

Reforms suggested by UNCTAD would support governments when updating their model agreements and when negotiating new IIAs. They could also guide regional and inter-governmental organizations and arbitration institutions in their reform efforts.

"Comprehensive reform of the IIA regime would bring on board all countries and result in a new international investment regime that effectively fosters sustainable development," James Zhan, Director of UNCTAD's Division on Investment and Enterprise, said.

Channelling investment to the sustainable development goals (SDGs) is today's central policy challenge, and the overarching theme of the World Investment Forum that hosted the IIA Conference.

"It is paramount that reform efforts are inclusive and transparent," said Nathalie Bernasconi-Osterwalder, Director of the Economic Law and Policy Group of the International Institute for Sustainable Development (IISD), one of the think tank that joined the debate.

Wafaa Sobhy Ibrahim, Vice Chairman, General Authority for Investment (GAFI), Egypt, said: "Most countries acknowledge that their investment policies are in need of reform to alleviate concerns related to investment dispute settlement and public policymaking. What we miss is a framework to implement their efforts."

Other stakeholders similarly expressed their desire for reform and underlined UNCTAD's contribution to identifying avenues for change.

"The future of the IIA regime is also important for the private sector: IIAs need to function better for governments and investors alike," said Stormy-Annika Mildner, Head of Department External Economic Policy, Federation of German Industries, (BDI). "We stand ready to work with the international community during the reform process and support UNCTAD's efforts."

Meg Kinnear, Secretary-General of the International Centre for Settlement of Investment Disputes (ICSID), which administers the majority of investor-State arbitrations, chaired one of the sessions. "ICSID is committed to supporting member States and UNCTAD in their examination of reform efforts and will bring its experience in investment dispute settlement to this discussion," she said.

More information regarding trends and reform of the IIA regime and a database with the IIA texts can be found on UNCTAD's Investment Policy Hub (<http://investmentpolicyhub.unctad.org/IIA>).

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