

UNCTAD Expert Meeting on Taking Stock of IIA Reform

Geneva, 16 March 2016

Brazil

Thank you, Mr. Chairman.

I would like to thank UNCTAD for hosting this very important meeting.

As you all may know, Brazil has recently developed and negotiated its new Cooperation and Facilitation Investment Agreement.

As the name of the agreement says, differently from the traditional model of investment agreement based mainly on protection, this new model focuses more on Cooperation and Facilitation of Investments.

We think that dispute settlement should not be restricted to arbitration. As we understand it, it should also include consultations and conciliation. And that is what we do in our model, through the establishment of Ombudsmen and Joint Commission (much like UNCTAD Action Menu), which are instances where disputes can be prevented.

In this system, investors count on a single window for the resolution of questions and problems related to their investments in the host country (which is the so called Ombudsman or Focal Point).

If the problem cannot be solved in the Ombudsman, it shall be brought to the Joint Commission, where the parties can look for a friendly solution for the matter.

As a last resort, if the parties are not able to achieve a friendly solution, our model provides for the possibility of State-State Arbitration, which is based on the WTO system of dispute settlement.

Apart of this innovative dispute settlement system, the Brazilian model also includes other important provisions, such as Transparency and Corporate Social Responsibility clauses, as well as an Agenda for Further Investment Cooperation and Facilitation between the parties, where topics of interest of the parties can be points of cooperation and further understanding between them – such as working visas, logistics, professional and labor trainings and so on.

Finally, it's important to highlight that this new Brazilian model was created in consultations with the Brazilian private sector, and it's clear to us that an adversarial approach (such as that of traditional Bilateral Investment Treaties) is not the way to follow if we want long-term sustainable investment relations.

Thank you.