

UNCTAD Expert Meeting on Taking Stock of IIA Reform

Geneva, 16 March 2016

Poland

- Poland has concluded 60 bilateral investment treaties (BITs). Most of Poland's BITs were signed in the 1990s.
- Polish BITs follow the traditional investment treaty model of the 1980s and 1990s. They maximize investment protection, but lack some of the key emerging "new generation" provisions aimed at ensuring the right of the State to regulate investment for public objectives such as the protection of health, environment and labour standards and offering greater clarity of certain provisions such as the fair and equitable standards and indirect expropriation.

Poland is respondent in four treaty-based arbitration cases with claims totalling as much as 7.4 billion zloty (\$1.893 billion).

- The Polish BITs network needs to be reformed in light of recent developments in international investment law aimed at making BITs more conducive to sustainable development and economic growth. This reform can be guided by UNCTAD's Roadmap for IIA Reform and its Investment Policy Framework for Sustainable Development.
- This reform process is all the more important in light of recent investment policy developments at the EU level and the inclusion of investment protection chapters in EU FTAs (after the entry into force of the Lisbon Treaty in 2009, the matter of foreign investment has become an area of exclusive European competence).
- On 25th February 2016, the State Treasury of Poland announced its intention to terminate all of Poland's intra-EU BITs which would constitute a step towards consolidating and rationalizing our BITs network.
- Investment policy coherence is therefore a key concern for Poland. For example, there is increasing momentum for the conclusion of new generation FTAs at the EU level (Vietnam, Canada etc), but we should not forget about our BITs that need to be reformed to be aligned with these new trends.
- In this context, we have requested UNCTAD's assistance in providing a review of our large BITs network with a view to reforming the regime to align it with our national development strategies and priorities.

- We know this is a difficult challenging task. We appreciate getting inspiration from today's debate - from this rich sharing of experiences - and from the forthcoming IIA Conference at the July World Investment Forum.
- We congratulate UNCTAD for its rigorous and impactful work regarding IIAs and encourage it to continue this work.
 - draw attention to para 91 of the Addis Ababa Action Agenda, the Outcome Document of the Third UN Financing for Development Conference, which calls upon UNCTAD to continue its existing programme of meetings and consultations with Member States on investment agreements.
 - note that UNCTAD is an ideal platform to engage in comprehensive multilateral dialogue on issues related to IIA reform.