
STATEMENT

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The Government of Argentina has set as priorities for action the achievement of three objectives: zero poverty; the fight against drug trafficking and the union of all Argentines within democratic institutions.

In achieving these objectives, the economic-financial policies, foreign trade and investment policies are aimed to deepen and expand economic and trade integration of Argentina in the world and attract foreign direct investment.

The measures taken under these policies are intended to improve the business climate, increase confidence in the country and encourage productive investment and sustainable development, with the understanding that the State must deal, in a responsible and effective way, with its functions, while creating an enabling and predictable environment for the normal development of the private and socially responsible activity.

The measures adopted by the current government just after taking office at the end of 2015, to restore normal trade flows and to comply with WTO rules, together with the regulations on foreign exchange transactions, the achievement of a balanced agreement with the Vultures funds and the creation of a specific state agency for investment promotion (the Argentine Agency for Investment and International Trade), among others ongoing initiatives, are part of a set of rules, regulations and State policies that have as a principal objective the promotion of a favorable environment for business and foreign direct investment.

In that context, bilateral investment agreements are seen as a complementary tool that helps to create conditions of stability, transparency and predictability in order to strengthen foreign investor's confidence in Argentina.

We all know the work that UNCTAD and other international organizations have been carrying out in the last few years with the aim of promoting the reform of the international investment regime towards the establishment of a framework of new rules that sets the basis for the protection of foreign investment together with the promotion of sustainable development.

The central aspect of this trend towards reforming the investment regime is to balance the rules incorporated in bilateral investment agreements, between the promotion and protection of investments and investors on the one hand and the inherent right of the state to regulate in the public interest for public order purposes by means of public policies on health, education, environment, human rights and social protection, in order to contribute to their sustainable development goals, on the other.

In addition, the reform of the investor-State dispute settlement system through international arbitration is at the center of the debate: the increasing number of cases (608 by the end of 2014), together with the broad and often

contradictory interpretations of the courts has sparked a global debate on the need to revise the current system. In response to these challenges, several countries have reformulated their approach to the current system and adopted some measures oriented to prevent disputes, reestablishing, in some cases, the State-State dispute settlement system and incorporating a permanent appellate instance. Examples of this trend can be verified in the so-called third generation investment agreements as well as in investment chapters of XXI Century regional trade agreements, as the ones negotiated recently by the EU with Canada and Singapore, as well as the so-called “mega-regionals” such as the Trans-Pacific Partnership Agreement or the proposal texts on investments submitted in the framework of the Transatlantic Partnership Agreement negotiations, and initiatives such as those discussed in the context of the CELAC-EU strategic Partnership, among others.

In line with the new generation of investment agreements and in the context of the priority policy goals mentioned above, Argentina is working on the negotiation of future third generation bilateral investment agreements that establish a balance of commitments between protection and promotion of responsible foreign direct investment, on the one hand, and the inherent right of the state to regulate public policies, on the other.

Moreover, regarding the investment dispute settlement mechanisms it is also crucial to improve the selection of arbitrators; transparency, both regarding the arbitral proceedings and with respect to the parties' acts; the guarantee of due process, both in investor-State as well as in State-State disputes; and to specify the role and functioning of local courts vis a vis ad hoc international arbitral tribunals, among other aspects of the system.

The Argentine government is committed to create the necessary regulatory conditions to promote the establishment of foreign direct investment in the country that performs as a catalyst of its sustainable development objectives.