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Investing in Sustainable Development

STATEMENT

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ROLE OF CIVIL SOCIETY IN ACHIEVING INVESTMENT REFORMS AND PROMOTING SUSTAINABLE DEVELOPMENT

BACKGROUND

- UNCTAD Investment Policy Framework for Sustainable Development rightly identifies three core areas of reforms: i) national investment policy guidelines, ii) international investment treaties, and iii) mobilise funds to channel investments in sustainable development related sectors.
- Civil society has a critical role to facilitate such reform and handhold the transition.

NATIONAL INVESTMENT POLICY GUIDELINES

- UNCTAD has recognised that at a strategic level, policymakers should ground investment policy in broad road map for economic growth and sustainable development. At the normative level, regulatory framework in areas beyond the traditional coverage of investment policy (such as labour, environment, competition, intellectual property) needs to be reformed. At administrative level, appropriate institutional capacity, assessment and review mechanisms need to be put in place.
- It is increasingly being realised that while countries have been successful in placing the sustainable development agenda within the broad economic growth narrative, little success has been achieved at the normative and administrative levels.
- This is often on account of short term vision of achieving high paced growth, disregarding sustainable development objectives. Large scale poverty and underdevelopment, disenchantment of electorate and their desire for immediate change, contribute to such situation.
- Civil society will need to organise large scale public information and dissemination campaigns to make consumers and electorate aware of the benefits of sustainable development. Electorate will not believe that the costs of sustainable development are worth incurring, unless the message comes from trust worthy and reliable civil society representatives.
- Hitherto, the focus has been on providing incentives for investment by way of tax breaks and similar favourable policies. Limited progress has been made on ensuring transparency, predictability and certainty in investment policy regime and regulatory architecture.
- Civil society will need to showcase the costs of absence of predictability, transparency and certainty and potential benefits of improvement in these indicators.
- Without reliable case studies, it will be difficult to push for normative changes in regulatory architecture at a national and sub-national level.

- In addition, regulatory capacity will need to be built by periodic training on good regulatory practices such as regulatory impact assessment, licensing reforms, regulatory guillotine, inspection reforms, public administration reforms, et al.
- At administrative and institutional level, it seems there is a race to improve on the ease of doing business and similar rankings by ticking the box, but limited efforts are being put to comprehensively reform the interaction between government departments, investors and stakeholders, including citizens.
- Limited institutional capacity exists to undertake such comprehensive institutional reform by coordinating with concerned stakeholders, conduct periodic review, and undertake mid-course correction.
- Civil society will need to take up the mantle and work with regulators on stakeholder consultation and engagement, and monitoring and evaluation reforms. It will also need to independently review and monitor the implementation of reforms and point out any deficiencies.
- Investors based in developing countries and LDCs often operate on low margins. They often do not possess expertise or capacity to incur the cost of compliance with sustainable development related regulatory regime, such as expenditure towards corporate social responsibility.
- Civil society will need to work with industry to promote responsible business behaviour. The industry will need to realise that responsible business practices will benefit them, and it is worth the cost. Such realisation will cannot happen without civil society's contribution.

INTERNATIONAL INVESTMENT TREATIES

- Investment treaty negotiators in developing countries (DCs) and least developing countries (LDCs) suffer with several capacity constraints with respect to understanding the implications of investment treaties.
- Increasingly, the investors are invoking dispute resolution provisions of such treaties alleging violation of fair and equitable treatment and similar provisions.
- Having experience thus, countries might require amendments which may disincentivise investors. Negotiators need to understand the fine balance between protection of sovereign rights and investor promotion.
- In addition, there is a need to move towards alternative dispute resolution mechanisms like conciliation and mediation to expeditiously settle disputes between foreign investors and host states.
- Civil society will need to work with government agencies and negotiators and develop their capacity to enable negotiation of investment treaties depending on the counterparties, key investment sectors and other relevant considerations. It will also need to work towards developing mechanisms to resolve dispute amicably and expeditiously.

FINANCING FOR DEVELOPMENT

- Several models have been experimented thus for achieving financing for development, Public Private Partnership (PPPs) being the chief. PPPs have hitherto been considered a financial tool for transferring project and financial risk to private sector while the state retained the sovereign risk. They were not viewed as a "development model" but rather a value for money alternative to traditional public procurement.
- There is a need to put people first in the PPP models. People first PPPs need to be developed as an instrument of partnership in DCs and LDCs to be "fit for purpose" for the development of infrastructure assets and delivery of associate services that would result in "People first outcomes".

- Civil society will have to play its part in identifying, designing and implementation of People first PPPs. They will need to ensure that voice of marginalised and poor is being heard, and taken on board.
- It will also need to contribute to regular global interchange of experiences and knowledge between the developing countries to accelerate and facilitate development of new standards for People first PPPs.

CONCLUSION

- Civil society has a critical role to play in ensure IIA regime contributes to the sustainable development agenda. Civil society organisations (CSOs) will need to match their skills with the reforms required and will need to design their intervention strategy carefully.
- For doing this professionally, credible CSOs need to be adequately resourced by government and development partners.

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