



UNCTAD High-level International Investment Agreements (IIA) Conference 2018

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1. Mr Chair, on behalf of Australia I would like to thank UNCTAD for providing this opportunity to discuss reforms to International Investment Agreements (IIAs) and share with each other the progress that we have made this year. I would also like to thank the Investment and Enterprise Division for the World Investment Report 2018, an extremely comprehensive and valuable resource for all governments.
2. In the past year, Australia has commenced and also concluded negotiations for free trade agreements (FTAs) with a number of treaty partners. We have also continued to work with existing treaty partners to review the terms of our agreements, to ensure that they incorporate modern protections and best practice procedures into our FTAs. When negotiating FTAs, Australia's general policy has been to replace our first generation bilateral investment treaties (BITs) with comprehensive investment chapters in FTAs. We are doing this with Mexico, Vietnam and Peru, pending entry into force of relevant FTAs. We are also participating in discussions in the WTO on a possible multilateral framework on investment facilitation.
3. Australia is pleased to report that since last year, we have made considerable progress in Phase 2, the modernization of old-generation treaties, through our Bilateral Investment Treaty (BIT) Reform Project. Australia developed draft provisions to update our older-style BITs to be in line with our recent FTA practice. This initiative focuses on BITs with trading partners with whom we are not currently negotiating FTAs.
4. Australia's BIT reform project includes clarifications around the standard that applies to the minimum standard of treatment, clarification around the use of MFN provisions,

clarification around the standards to apply to indirect expropriation, and developing Codes of Conduct for Arbitrators.

5. Many of the approaches we have taken to reforming our network of investment agreements are reflected in UNCTAD's ten options for reform. We are also interested in exploring the potential for joint interpretive agreements of investment treaties. We recognise however that joint interpretive agreements have been rare and look forward to ongoing work in this area, as it will not necessarily be possible for countries to renegotiate all older-style IIAs.
6. Turning to Phase 3, Australia has taken steps to ensure coherence with national investment policies and increase awareness of international investment obligations. We hold regular interdepartmental committee meetings at the Federal level, and engage in regular dialogue with our State and Territory governments to advise and assist with their management of investment issues.
7. In conclusion, Mr Chair, Australia is committed to ongoing reform in relation to our international investment agreements, to ensure that they strike the right balance between protecting the rights of investors and ensuring States' right to regulate in the public interest and pursue legitimate welfare objectives. Once again we thank UNCTAD for its important work in this area.