



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

Ms. Nathalie Bernasconi

Group Director, Economic Law and Policy, International Institute for Sustainable Development (IISD) and Executive Director, IISD Europe

Two thousand years ago philosopher and statesman Seneca stated the much-cited quote: Every new beginning comes from some other beginning's end.

How does this relate to our discussion today? It relates to the road ahead of us on investment policy reform. It relates to the reform roadmap that UNCTAD developed based on your countries' experience and analysis of the current state of play. In the first phase, we discussed how to design sustainable development-oriented treaties and models. Although there might not be global consensus on what such a model should look like exactly, an increasing number of governments have a clear idea of what *they* see as a sustainable development-oriented model. They have developed their own models and have a better understanding of what they want from international investment law.

At the same time, there is increasing convergence and even consensus that the pre-dominant old-style treaties are no longer adequate or acceptable. This brings us to phase II of UNCTAD's road map: modernizing the existing stock of old treaties. This is where Seneca's wisdom comes to play. To effectively reform international investment governance, the old-style treaties need to come to an end. Every new beginning comes from some other beginning's end. The era of old-style treaties began around 60 years ago, in an era profoundly different from today's. Yet, we hesitate to tackle the 3000 investment treaties, most of which, we all agree, are no longer adequate and must be reformed. If steps are not taken to end and replace these legal instruments, there will be no new beginning. We need for capital exporting states to support this process. And we need bold action by capital importing states to avoid 10- and 15-year treaty renewal periods. These governments should not have to fear diplomatic shaming or other forms of retaliation. They are only doing what the international community has widely recognized as needed. The three phases of reform are interlinked and moving at different speeds. But if phase 2 is not resolved, there will be no new beginning. Let's not leave

work unfinished, and together work towards a framework of international investment governance for sustainable development.