



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

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Co-Chairs,

Excellencies,

Distinguished Participants,

At the outset, I would like to thank **UNCTAD** and **the Division on Investment and Enterprise** for the support kindly provided to Thailand in Phases 1 and 2 of the IIA reform. In particular, we appreciate **UNCTAD's Reform Package for the Investment Regime** which was made available at the end of last year. It provides a clear framework for policy tools and analysis, as well as developments in IIAs landscape. It also highlights concrete steps taken by the States to strike a greater **balance** between **the protection of investors and the right of the State to regulate in public interests**.

Like others, Thailand has been making progress along **UNCTAD's Road Map for IIA Reform**. First, we are working closely with our **FTA negotiating partners** to improve the quality of the IIAs both **substantively and procedurally**. **Specific safeguards** are put in place to reserve adequate policy space, clarify previously ambiguous obligations, and enhance the ability of the State to guide ISDS tribunals. Second, our **Bilateral Investment Treaties (BITs) Framework** is soon to be approved by the Cabinet. The Framework is the outcome of the consultations with stakeholders and is largely guided by **Investment Policy Framework for Sustainable Development (IPFSD)**. It underscores **the principle of responsible and sustainable investment** and seeks to address common concerns in various IIAs, including **the broad scope of fair and equitable treatment and forum shopping issue**. It also explicitly encourages **amicable resolution** as an alternative to ISDS.

We believe that **the three phases** of the UNCTAD Road Map are **mutually supportive and reinforcing**. Therefore, while our work in the first two phases is ongoing, we believe that the work on the third phase can already begin and build on the basis of the first two phases.

For Thailand, we understand that UNCTAD phase 3 reform goes far beyond the scope of IIAs. Rather, it looks at the holistic approach of **investment policy framework** to ensure greater **vertical and horizontal coherence**. This will enable the framework to deliver real results from both **economic** and **sustainability** perspectives.

Several of our initiatives will support the reform in phase 3. At the **domestic** level, a **national committee** will soon be established to oversee investment protection policy. This will enhance **vertical coherence** between domestic investment laws and policies and our BITs and FTAs as a whole.

In parallel, we are undertaking a **two-year strategic review** of our investment policy which will enhance **horizontal coherence** between our investment policy with other policy areas, including trade, competition, tax and environmental policy.

At the **international level**, we have been engaging actively in developing international norms and mechanisms that will promote transparency, efficiency and coherence of ISDS system under the purview of **the Working Group 3 of UNCITRAL**. I am pleased to note that several proposals that we made in the Working Group received great attention and careful consideration by other members and will soon be developed further.

Moving forward, we wish to seek UNCTAD's consideration in the following areas to support the reform in phase 3. First, promoting policy coherence requires thorough analysis of the interactions between different norms and actors, as well as policy considerations, which are often competing. We would, therefore, appreciate **UNCTAD's guidance and study of best practices** on this matter. This could focus on the ways in which such coherence can support the achievement of SDGs.

Second, UNCTAD can play a **greater role in synergising reform efforts** that are taking place at national, bilateral, regional, and multilateral levels to avoid duplication and promote coherence. We see, for example, that the work that UNCTAD is undertaking for phase 3 can enrich the ongoing discussions in the Working Group 3 of UNCITRAL and vice versa.

Third, asymmetry of knowledge and expertise remains important impediments for the reform in all the three phases. We would urge UNCTAD to continue to provide **technical supports and trainings** especially for developing and least developed countries. Thailand has worked closely with UNCTAD to promote knowledge and awareness of the reforms within the region and beyond through, among other things, **the International Institute for Trade and**

Development (ITD). We will continue to do so to ensure that no one is left behind in these reform efforts.

Thank you.