

Speech  
**The Implications of Disengaging**

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**UNCTAD High-level IIA Conference “Phase II of IIA Reform”**

Breakout Session 4

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Geneva, Switzerland

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Federation of German Industries (BDI)

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### **Relevance of IIAs for German Industry**

The BDI, the **Federation of German Industry**, represents **100,000 German industrial companies**. These companies are responsible for **8 million employees** in Germany.

Our companies are globalized and have FDI outward stocks of about **1.4 trillion U.S. dollars** in other countries. These investments have created **prosperity** and **jobs** in many parts of the world. Around **seven million employees outside** of Germany are employed in companies of German investors. As a result, the German industry has created almost **as many jobs abroad as in Germany**.

However, investment abroad is always a **risk** for companies. For German **small and medium-sized companies** the lack of legal certainty is the **biggest obstacle** when investing abroad. Nearly **half of the companies** have problems with this obstacle. Therefore, our **companies trust** in the **130 German IIAs**. Every single one of these 130 treaties is a strong, inviting **signal** of openness to our companies.

The **termination** of such a treaty could send **the opposing signal**. Investors **might begin to doubt** whether the government is **willing to grant** fundamental rights to foreign investors.

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At the same time, it is clear that **reforms** of old IIAs **are necessary**. States need their right to regulate. Legal definitions in IIAs must be precise. ISDS must be transparent.

The **termination** of old treaties may be a way to modernize the **IIA net** of a country. But, in order to **avoid the negative signals** to investors which I have mentioned, some **conditions** should be respected:

1. The treaties should be terminated by an **agreement** of **both** parties.

This could send the message that both countries are interested in the success of the companies even if they have to change some terms and conditions of investment protection.

2. A **future perspective** should be communicated.

It should be clear **why** the treaty was terminated and how the investments will be protected in the future.

3. The validity of **survival clauses** should be reaffirmed.

They should provide protection until a new contract is in force.

Thank you very much!

Speech  
**Towards a Global Reform Effort –  
Designing Principles**

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10 October 2017  
Geneva, Switzerland

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Federation of German Industries (BDI)

The BDI, the **Federation of German Industry**, represents **100,000 industrial companies**.

Our companies are responsible for **8 million employees** in Germany. And with their investments abroad, German industry have created another **7 million jobs in other countries**, almost as many as at home.

To protect their investments, our **companies trust in 130 German IIAs**. But the old **net of treaties** needs to be **reformed**. States need their right to regulate. Legal definitions in IIAs must be precise. ISDS must be transparent.

However, the modernization of the IIAs **should not lead to the existence of many different standards** of investment protection. An IIA regime which is like a **bowl of broken spaghetti** must be avoided. The international activity of investors could be best facilitated by **internationally comparable standards**.

In the area of **sustainability**, various standards are established internationally. For example, the SDGs, the UN GP, the ELO core labor standards etc. These standards are particularly important to strengthen the **sustainability** and public **acceptance** of IIAs.

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However, **not all** of these standards are **equally appropriate** to improve investment protection standards. For example, the **OECD Guidelines** for Multinational Enterprises are designed as **voluntary guidelines** for companies and could not easily serve as a basis for an IIA.

Moreover, it is **not only** important to establish global standards for **sustainability** in the IIA net. For investors, it will also be more important to deal with global standards in the field of **substantive rights** and in **ISDS procedures**.

The **UNCTAD Policy Framework**, for example, provides orientation in all important aspects of IIA design. Furthermore, in 2016 the **G20** provided a valuable guidance with its **Guiding Principles for Global Investment Policymaking**. This year, under the **German B20 Presidency** led by **the BDI, BDA, and DIHK**, the business organizations of the G20 countries have presented further proposals on how FDI could be facilitated on a global scale.

The **most powerful way** to a modern, effective, and sustainable investment protection would surely be a **multilateral approach**. However, this path certainly also offers the biggest **political challenges**. Especially, if such a solution should provide both a **high level of protection** for investors **and**, at the same time, meet the requirements for **sustainability**. For investors, such an approach could reduce complexity. The **spaghetti bowl** approach in the IIA regime could **find an end**.

Thank you very much!