STATEMENT OF BURKINA FASO

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Part 3. Afternoon break-out sessions: guidelines for speakers and rapporteurs

15:00 – 16:30 Afternoon break-out sessions: Regional investment policy processes and their contribution to Phases 1 and 2 of SD-oriented IIA reform "Developing countries:Africa"

To date, BURKINA FASO has concluded 17 bilateral investment treaties, 14 of which were in force until June 2018, when Burkina Faso unilaterally terminated its first bilateral agreement with the Kingdom. From the Netherlands.

Discussions have already begun in May 2019 between the two countries with a view to renegotiating a new 2nd generation agreement.

The evolution of BITs in BURKINA does not follow the general trend. Indeed, in most countries, the BIT regime has increased enormously in the 1990s. However, the majority of BITKINA FASO BITs dated back to the 2000s. Since then, the country has continued to negotiate. The most recent is the one signed with CANADA in 2015. BURKINA FASO is in negotiation with 20 other countries.

To date, we have no knowledge of a known dispute, no investor-state dispute on the basis of a treaty signed by the BF and none of its nationals has resorted to an international investment to initiate proceedings against a host State.

However, aware of the risks associated with these first generation agreements, we have undertaken since 2017, in collaboration with UNCTAD and the IISD project, to modernize the national framework for monitoring and negotiating BITs.

This leads to the preparation of an inventory of existing BITs in Burkina Faso prepared by UNCTAD in November 2017 and a road map for the implementation of the recommendations of the UNCTAD report. is ongoing thanks to the help of partners such as IISD and the TAF2 project.

The next step will be for us, once the national framework is defined, to renegotiate all first generation agreements.

In anticipation of these future negotiations, we plan to develop our own model investment treaty based on the ten options for modernizing the current stock of international investment agreements developed by UNCTAD.

We intend to focus particularly on the following points:

- better definition of the definition of investment to ensure that only investments contributing to Burkina Faso's sustainable development will be covered by the treaties;

- the introduction of additional safeguard measures to restrict the free movement of capital in the event of a major financial or macroeconomic crisis;

- possible consideration of ongoing multilateral negotiations on ISDS review; etc.

At the sub regional level, the ECOWAS Conference of Heads of State adopted in December 2018 in Abuja, Nigeria, the ECOWAS Community Investment Code.

West Africa should favor regional value chains to further integrate their economies.

In addition, in promoting FDI, countries should avoid unfair competition to attract FDI and promote greater integration of their economies through regional value chains.

The commercial integration of a region makes it more attractive to companies with global value chains. Intra-regional trade in products processed according to regional value chains is therefore the first opportunity for African companies to seize.