

Remarks at UNCTAD High Level IIA Conference
13 November 2019, Geneva
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**Breakout Session: Multilateral Processes and their contribution to Phases 1 and 2
of SD-oriented IIA reforms “Ensuring responsible investment”**

Thank you Chairs!

I would also like to thank UNCTAD for giving me the opportunity to share some thoughts in front of such a distinguished group. I will try to address five questions relating to our discussion today.

1. **Why** is it important to ensure responsible investment? Humankind is rapidly approaching what many call the “planetary boundaries and social threshold.” Within this context, people around the world are working together to ensure sustainable and equitable human well-being. There is no doubt that investment is an important pillar of this process, and it can actually be a make or break factor in achieving this objective. Only the right type of investment can achieve the Sustainable Development Goals and put us back on track.

2. The next question is **how**. How can we ensure responsible investment? Countries have adopted initiatives and laws at the national and sub-national level, for example the enactment of anti-corruption laws in many jurisdictions, the recent French Corporate Duty of Vigilance Law, etc. Regional efforts are also greatly contributing to the process. For example, Angela mentioned SADC Model, similarly the Pan African Investment Code provides guidance for investors’ behavior. The European Commission also recently developed the EU taxonomy for sustainable finance to help investors structure and carry out their business activities in a responsible and sustainable manner. At the global level, standards on responsible investment, such as the Global Compact and OECD Guidelines, have been developed. Organizations such as UNCTAD are helping countries in adopting and referring to these standards in their trade and investment agreements. Countries are also in the process of negotiating a binding treaty on business and human rights to prevent and address investment-related human rights violations and abuses. So we understand the why, and we have ongoing processes to address the issue, but apparently there are still unanswered questions and greater efforts are still needed to achieve the result we want.

3. That brings us to the question of **What**. What does responsible investment encompass? It has been almost 40 years since the work on corporate accountability was brought to the global level for debate, yet today people are still discussing what exactly those corporate responsibilities are. David noted, just very recently, there seems to be a convergence of views on some of the core responsibilities an investor should respect when making their investments:
 - Anti-corruption obligations: recent investment arbitral tribunals have identified this as a principle of customary international law
 - Good faith obligation when making investments
 - Obligation to respect human rights as illustrated by UNGP and ongoing binding treaty discussions
 - Obligations on due diligence, as the nature of today's global value chains requires investors not only to ensure their own compliance to certain obligations but also see that their suppliers and contractors do the same.
4. Then the question is **whether** we can leverage the synergies among these different processes to ensure a coherent and holistic outcome - or "break the silos" as the chair just said. It is important to share the information among different processes and communities so interlinkages can be found and concerted efforts can be made towards this objective. For example, a few weeks ago, at the Business and Human Rights binding treaty discussion, the relationship between investment treaties and the future legally binding instrument was discussed. But questions remain to what extent the future human rights instrument will affect existing investment treaties, to what extent these converging recognitions are to be explicitly incorporated into the investment treaties and to what extent investment tribunals will consider the developments emerging from the Human Rights sphere when interpreting treaties and rendering their decisions.
5. Lastly, **when** can this happen? This is actually happening now, as demonstrated by many of the interventions shared today. But we need to scale it up, and we need to scale it up fast. We are only 10 years away from the deadlines for achieving Agenda 2030 and the SDGs. We are only 1.5 degrees Celsius away from reaching the point of no return. We have successfully wiped out 87% of all wild mammals at a rate 1000 times higher than the natural rate, and the rate is continuing to accelerate as we speak. We need all the resources we can mobilize to act quickly to ensure quality investments are made for sustainable and equitable human well-being.

I thank you for your attention.