

This report represents the views of the rapporteurs on the discussions among the participants of the respective break-out session. It does not represent the views of the UNCTAD Secretariat or its member States.

## **UNCTAD High-level IIA Conference**

**13 November 2019**

### **Break-out sessions: Multilateral processes related to investment policymaking and their contribution to Phases 1 and 2 of SD-oriented IIA reform “Promoting and facilitating investment”**

#### **Co-rapporteurs:**

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There was a rich discussion with a diversity of views and issues addressed by speakers. The two main strands of the discussion focused on issues of 1) investment promotion and 2) investment facilitation.

There is consensus that the creation of an environment conducive to investment requires measures enhancing transparency, communication, removing unnecessary/inefficient administrative barriers. The emerging practice involves setting up of one-stop shops, coordination frameworks, focal points for investors. One country highlighted using the World Bank Doing Business indicators as one possible benchmark. Reference was also made to UNCTAD's work on IF, notably the Global Action Menu for IF.

Several speakers referred to WTO Structured discussions on IF. Some speakers emphasised the importance that the IF discussion within the WTO are expressly aimed at 'development'. For non-WTO members, but also for other interested stakeholders, there is a question of transparency regarding the WTO structured discussions.

While there is recognition/consensus that the current multilateral IF discussions do not include investment protection, ISDS, market access, some participants highlighted the difficulty/risk of drawing a clear line between IF and investment protection and market access.

Participants noted that lessons could be drawn from the trade facilitation agreement but some also highlighted that because of the differences between trading goods and foreign investment, the scope of IF is much broader and more sensitive/complex (unlike trade in goods, investment takes place over a longer period of time and involves layers of regulation).

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Some countries also raise the question whether, unlike trade facilitation, investment facilitation could be pursued through guidelines rather than a binding multilateral instrument.

The meeting also discussed the relationship between investment facilitation and IIAs. IF is currently not in IIAs and the question is what WTO IF rules would mean for IIA reform and the investment regime more broadly. Questions and views were expressed and more discussion is needed.

In order to ensure coherence and greater consistency, any discussion of IF should be done in close alignment with IIA reform, especially because investment treaties are currently seen as focusing more on dispute settlement rather than investment facilitation.

At a broader level, the concept of IF needs to be unpacked and there is a need for national surveys/empirical analysis of IF measures.

Importantly, the tools and design of IF policies should be geared to foster investment which is SDGs compliant. While recognising the diversity of views within the international community about how to proceed with the investment facilitation agenda, there seems to be consensus on the importance of providing a forum for sharing experiences/discussing best practices and providing developing countries the ability to share concerns. In fact today's meeting here at UNCTAD offered an opportunity to do exactly this.