

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  
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**Break-out sessions: Regional investment policy processes and their contribution to  
Phases 1 and 2 of SD-oriented IIA reform  
“Developed countries”**

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As an introduction, it was recalled that during decades, there were no investment agreements between OECD countries, and nowadays the need of investment agreements or the need of an investment chapter in free trade agreements concluded between developed countries is still an open question.

Regarding reform of the stock of investment agreements concluded by developed countries, it appears that developed countries are using all the tools that have been identified by UNCTAD and more specially:

- Joint interpretation of treaties;
- Modification/Updating of existing treaties;
- Replacing of outdated treaties;
- Consolidation of the stock of existing BITs by the conclusion of multilateral treaties and the termination of older treaties that would overlap the new ones;  
Managing relationships between coexisting treaties, especially multilateral treaties such as NAFTA and CPTPP and,
- Referencing global standards.

A number of speakers discussed reform of the stock of their IIAs through consolidation, whereby a single new generation treaty replaces several old generation treaties. Beyond reform of substantive standards, such as a novel provision on fair and equitable treatment, investor-state dispute settlement (ISDS) was a focal point of presentations. Speakers canvassed reform of ISDS both at the bilateral and at the multilateral level. At the

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At the bilateral level, a few provisions in specific treaties were discussed, providing for updated or institutionalised dispute settlement. At the multilateral level, the focus was on the commitment to reform through the work of Working Group III of UNCITRAL. Discussion of reform at the multilateral level was irrespective of whether the speakers' countries support incremental, structural or other reform options.

Adding one last observation which emerged from the interventions, developed countries are apparently able to approach the question of investment protection in a nuanced fashion in the sense that in certain comprehensive trade and investment agreements no need for investor-State dispute settlement was identified; an approach which used to be common among developed countries in the past.

To wrap up, all ten UNCTAD tools are intensively used in many different ways by developed countries also with a view to reforming existing IIAs. Again, the points highlighted in the discussion in many ways drew and benefited from UNCTAD's reform work on IIAs and which will surely provide valuable guidance in the future.