

**STATEMENT BY
HER EXCELLENCY DR ATHALIAH L. MOLOKOMME
AMBASSADOR AND PERMANENT REPRESENTATIVE
BOTSWANA MISSION TO THE UNITED NATIONS
OFFICE IN GENEVA**

**MULTI-YEAR EXPERT MEETING ON INVESTMENT,
INNOVATION AND ENTREPRENEURSHIP FOR
PRODUCTIVE CAPACITY-BUILDING AND SUSTAINABLE
DEVELOPMENT, FIFTH SESSION**

**9 OCTOBER 2017
GENEVA, SWITZERLAND**

**Chairperson, Excellencies,
Distinguished Delegates,
Ladies and Gentlemen,**

1. It is a great pleasure to make an intervention on behalf of the Botswana delegation, and share a brief overview of our experiences with international investment agreements.
2. Before I do so, allow me to congratulate you, **Chairperson**, on your election, and to sincerely thank the Secretary-General of UNCTAD and his staff for the hard work they have put into the preparations for this meeting.
3. Botswana has over the years signed both Bilateral Investment Agreements (BITs) and Economic Partnership Agreements. So far we have signed eight (8) BITs and only two (2) of these - with Switzerland and Germany - have entered into force. All of our signed BITs are old-generation International Investment Agreements, which adopted the traditional approach that mainly focussed on investor protection, with limited consideration for the right of the State to regulate.

Chairperson,

4. In 2008, Botswana started actively focusing on Investment issues and taking stock of the signed BITs. This led to the first capacity building programme that was conducted by UNCTAD in Botswana. Following the capacity building exercise, Botswana amended its BIT

Model in 2010 in an effort to close the loopholes that were identified at the time.

5. Furthermore, Botswana continued to monitor progress globally on investment issues, and noted increasing cases of investor/state disputes, especially in developing countries. Most of these favoured the investor at the expense of the host states, even in instances where the host state was pursuing legitimate policy objectives in the interest of the public.
6. In addition, we have determined that there is no direct linkage between the signed BITs and the FDI inflows. As a result, a moratorium was imposed in 2013 on the negotiation and conclusion of BITs, in order to allow for the development of the requisite institutional capacity and to review the BIT Model together with existing BITs.
7. We also took into consideration the regional commitments that have been agreed at SADC level, recognising the need to align with the SADC BIT Model Template that takes into account the sustainable development issues and the right of the State to regulate.
8. In the meantime, Botswana continues to receive requests to negotiate new BITs. **Chairperson**, it is in that context that Botswana has requested for assistance from UNCTAD to provide technical capacity and assistance in the review of the existing BITs, as well as the BIT Model. We have since received the report from UNCTAD, which we are currently reviewing.

9. We are confident that the report will be useful in the process of reforming International Investment Agreements in Botswana, and we expect that it will be used as a basis for the amendment of the BIT Model. This would in turn inform our re-negotiation process to ensure a win-win balance between the rights and obligations of the host state and the investor.
10. It is therefore fitting that I thank UNCTAD for their continued technical support, especially on investment issues. Let me end by assuring you of Botswana's cooperation and active participation in this meeting, to ensure a successful outcome, especially in charting a way forward in the reform of International Investment Agreements.

Ladies and gentlemen, thank you for your attention.