

UNCTAD High-level IIA Conference 2017: Moving to the Next Phase of IIA Reform¹

The annual conference took place between 9 and 11 October 2017 in Geneva, Switzerland and was organised by the United Nations Conference on Trade and Development (“UNCTAD”). This year conference’s purpose was to identify possible ways to modernise current stock of international investment treaties (“IIAs”) which is built on more than 3320 such treaties. In UNCTAD’s terms it is called “phase II” of the reform of the regime of international investment law while the previous “phase I” was focused on the substance of IIAs.

There was a broad consensus over the need of reform, although presented approaches varied considerably from extreme ones such withdrawal from the system to elaboration of new models of bilateral investment agreements. One of the options discussed was indeed the approach proposed by the European Union in current negotiations and recently concluded Comprehensive Economic and Trade Agreement (“CETA”) with Canada. On the fringes of the conference, the European Commission organised a side event regarding the multilateral investment court which the European Union is advocating. The second side event concerned the Pan African Investment Code and the investment chapter of the Continental Free Trade Area - interesting development which has been perhaps overlooked so far.

The main part of the event was divided into several break-out working sessions held in parallel. The topics of these were: Harnessing investment for the Sustainable development goals – the IIAs dimension; Clarifying and modifying treaty content; Consolidating the IIA network; The implications of disengaging; and finally Towards a global reform effort – designing principles/improving dispute settlement/referencing global standards. This selection of issues represents the UNCTAD Secretariat’s effort to focus on sharing experience and identifying best practice in international investment policymaking for the next phase of IIA reform.

With more than 300 experts attending, the conference attracted wide participation not only from state representatives, international governmental and non-governmental organizations but also from the academia. Among the presently well recognised scholars in the field of international investment law were prof. Giorgio Sacerdoti (Bocconi University in Milan), prof. Jansen Calamita (National University of Singapore), prof. Steffen Hindelang (Freie Universität Berlin), and dr. Mavluda Sattorova (University of Liverpool). The majority of the scholars played a significant role as rapporteurs who had summarised discussions in break-out sessions for the final plenary session. These reports can provide a useful source of opinions of key stakeholders in the system for future research into current development of international investment law. The summaries in writing will later be available at the UNCTAD’s website.

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