

INTERNATIONAL INVESTMENT AGREEMENTS

BENEFITING FROM INVESTMENT AGREEMENTS FOR DEVELOPMENT

GLOBAL CONTEXT

Countries' efforts to attract and benefit from foreign direct investment continue to proliferate at the bilateral, subregional, regional and interregional levels. The result has been a network of investment rules embodied in numerous bilateral investment treaties, free trade agreements with investment components, double taxation treaties, regional trade agreements and multilateral agreements. That network of investment rules is multilayered and multifaceted – partly overlapping and partly complementary – and has an international policy dimension. All parties to negotiations on international investment agreements should therefore be thoroughly familiar with key issues and concepts surrounding such agreements, including their development dimension and implementation.

UNCTAD helps developing countries to participate in the debate on international investment agreements, with a focus on their development dimension and effects. In addition to supporting the participation of Governments, and of relevant stakeholders, in the area of international investment policy, UNCTAD assists countries in mainstreaming sustainability into international investment agreements using the Investment Policy Framework for Sustainable Development. The Investment Policy Framework for Sustainable Development consists of a set of core principles for investment policymaking, guidelines for national investment policies and guidance for policymakers on the design and use of international investment agreements. The Investment Policy Framework anchors all UNCTAD training and capacity-building activities on such agreements.

WHAT SERVICES HELP TO MAKE INTERNATIONAL INVESTMENT AGREEMENTS WORK FOR COUNTRIES?

UNCTAD activities pursue the common objective of assisting countries in better responding to the growing complexity of the international investment agreement regime and strengthening the sustainable development dimension of those agreements.

Demand drives the services that UNCTAD tailors to the specificities of each country and/or region. Support through the international investment agreement programme covers several aspects:

- (a) Advisory services provide legal commentary, training and advice on international investment agreements and on managing investor–State dispute settlements, as well as other issues related to implementation.
- (b) Capacity-building workshops include intensive training courses and preparatory distance-learning courses on international investment agreements, drawing on UNCTAD's advisory and analytical work. Training activities are organized at the national, regional and interregional levels, often in cooperation with partner organizations.

PROGRAMME FACTS AND FIGURES

International Investment Agreements programme scope: all regions

Programme start date: 1997

Number of activities to date: 74 advisory services (28 for Africa, 15 for Asia, 27 for Latin America, 4 for transition economies) and 32 regional training courses (1998–2015)

Activities per year: 4 regional workshops organized, provision of 6 expert advice services, co-organization of 10 national, regional, international capacity-building events (average)

Programme website:
unctad.org/ia

- (c) Research-based policy advice provided through policy tools such as the *Issues Notes* on international investment agreements as well as reports to requesting countries and regional organizations.
- (d) Information on bilateral investment treaties, other international agreements with investment components and investor–State dispute settlement cases provided through databases. The web-based International Investment Agreements Navigator, for example, contains the texts of more than 2,250 bilateral investment treaties and 330 other international investment agreements dating from 1959 to the present. The database covers 82 per cent of all bilateral investment treaties and 97 per cent of all other international investment agreements currently in force – a “one-stop shop” for delivering information on the latest trends to users and investment stakeholders.
- (e) An international e-network and online discussion forum on international investment agreements is maintained and backstopped as a service for negotiators and practitioners.

RESULTS AND IMPACT AT A GLANCE

- Of 13 international investment agreements signed in 2014 for which text was available, all reflect the consolidation of a trend to increase the number of sustainable development-oriented provisions as outlined in the Investment Policy Framework for Sustainable Development (i.e. references to sustainable development and right to regulate in the preamble and preservation of regulatory space in the treaty text). These developments point towards the Investment Policy Framework’s effectiveness and impact. In addition, several emerging and large developing countries such as Brazil, India, Indonesia and South Africa, as well as transition economies, have begun revising their international investment policies to better align them with sustainable development objectives, frequently referring to UNCTAD work in this area.
- Feedback from participants in capacity-building workshops are generally very positive, with an average of 90 per cent stating that the courses had contributed substantially to improving their understanding of the key issues at stake. An average of over 80 per cent of respondents also indicated that they had reported on issues related to the Investment Policy Framework for Sustainable Development to colleagues in their department, while 44 per cent noted that the Investment Policy Framework had prompted their country to reconsider its investment policy strategy.

“Thanks for [providing] support. The [Asia–Pacific Economic Cooperation International Investment Agreement Negotiators] Handbook project became a reality.”

Director General, Negotiation Services and Investment,
Ministry of Economy, Mexico, 2014

“UNCTAD’s help and expertise has been very helpful to us in reformulating our model text to date.”

Joint Secretary (Currency and Investment),
Department of Economic Affairs,
Ministry of Finance, India, 2014

DONORS/ FUNDING SOURCE

Current: Multi-donor/Cross-cluster
Trust Fund on Capacity-building in
Investment for Development

Past: Canada, China, France, Germany,
the Netherlands, Norway, Portugal,
Spain, Sweden, Switzerland,
the United Kingdom,
European Commission