



# UNCTAD 14

## Nairobi, 17–22 July 2016

FOURTEENTH SESSION OF THE UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT



UNITED NATIONS  
UNCTAD

### General Debate

Statement by International Lawyers Organization

Thursday, 21 July 2016

Speaker: Ms. Haiye Wang

*Not checked against delivery\**

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\* This statement is made available in the language and form in which it was received. The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.



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STATEMENT BY INTERNATIONAL-LAWYERS.ORG  
TO THE 14TH MINISTERIAL CONFERENCE OF UNCTAD  
GENERAL DEBATE

International-Lawyers.Org expresses its appreciation for the effort that UNCTAD has made to provide a fairer playing field for equitable and sustainable development, especially for developing States. At the same time we are also concerned that UNCTAD has moved away from its focus on development defined broadly towards a more narrow understanding of development focused on economic growth through limited forms of transactions. We believe that the preparatory process for UNCTAD XIV and the conference itself provide an opportunity to re-evaluate the direction that UNCTAD should take.

As we all know UNCTAD was created by the efforts of the G77, now including China, to ensure that developing countries—all developing countries—could share the fruits of global development. Despite the efforts of UNCTAD, the world remains a very unequal and inequitable place. The current development paradigm based on sustainable debt solutions, conditional overseas development assistance, private investment and public-private partnerships, has not helped to remove these inequalities and inequities. Today, for example, some of the poorest African countries are poorer than they were seventy years ago when their human rights were being trampled by wealthy countries that ruled them as colonies to extract their resources under exploitative conditions. Today Africa continues to provide the world with abundant resources yet African countries continue to be exploited in so far as the more significant benefits of the international trade of these resources are destined for wealthy developed countries, not developing countries, in many cases.

We need a world based on a different development paradigm. One feature of this new paradigm—a feature that is consistent with the rules of international law that underlie the peaceful co-existence of States in the international community—is that of compensation. Developed countries have benefitted for long periods of time from the extra-ordinary exploitation



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of peoples of developing countries and these developed countries must compensate, without strings attached, the developing countries that have suffered great impediments to their development. This call for compensation is not intended as any manner of disrespect for the developed countries. Indeed, their development is an example in many ways for the rest of the world. Moreover, compensation for past harm constitutes an honorable manner of resolving the inequalities and inequities that plague the world which lead to extreme poverty, distrust, violence and human rights violations. International-Lawyers.Org, therefore, call upon UNCTAD to explore avenues by which developed countries could provide compensation to developing countries in the form of financial contribution, technology transfer or expertise sharing.

In addition, the ability of developing countries to generate resources internally must be significantly enhanced. This can be done in many ways, but International-Lawyers.Org views UNCTAD as having a distinct comparative advantage in three areas.

First, States must be empowered to regulate foreign investment. To date many developing countries are losing their wealth to foreign investment. Each year, as UNCTAD has indicated in its most recent study, billions of dollars of revenue generated by foreign investment and commodity trading leaves the states where the transaction happens. In fact, foreign investment has often been merely another form of exploitation for many developing countries. This is especially true of private foreign investors who are concerned more with short-term profit for their shareholders, rather than long-term sustainability. States still lack adequate means of regulating and directing the foreign investment towards local development. Many developing countries need significant capacity-building assistance to build their regulatory sectors. They also need the legal tools to ensure that the appropriate balance is maintained between an investor's thrust for profit and the fundamental rights of all the people living in the States concerned. Therefore, UNCTAD should enhance its efforts to strengthen States abilities in these regards.

Second, and related to the first, States must be empowered to set and collect adequate taxes, especially from foreign investors in developing countries. An essential condition for this is



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that the discussion on international tax cooperation takes place under an inclusive and democratic body such as the United Nations. Moreover, such discussions should be transparent and participative. A system in which a regional platform representing overwhelmingly the interests of developed countries is not an appropriate or efficient forum for global tax discussions. Until today, tax cooperation is ineffective in preventing the private corporations of developed countries from exploiting loopholes, even jurisdictional impediments or mere inefficiencies of developing countries in collection of taxes so as to avoid paying taxes all together or at a sufficient level. Recognizing the important role played by UNCTAD, we therefore recommend UNCTAD to take the opportunity of this 14<sup>th</sup> session to encourage the discussion and hopefully to finalize the tax cooperation within the UN system.

And finally, States must be empowered and must cooperate to ensure that the benefits of development are spread equally among all States and are sustainable for all. Because we live on a planet of finite resources, this requires the distribution of our planet's natural resources to be done equitably and responsibly. UNCTAD should play a leading role in ensuring that the principle of common but differentiated responsibilities in their historical context is applied to the efforts that are required to ensure the sustainability of the planet's natural resources.

These humble suggestions reflect selected, but important issues that we hope will be part of UNCTAD's mandate and plan of action for the next quadrennial. Thank you.