



First of all many thanks to the organizers of this great event and for the possibility to briefly share with you some of our concerns with the reform of the global regime for investment protection, also in the context of the work of UNCITRAL in this area. The investment regime has been suffering from a major legitimacy crisis and reform is indeed inevitable. We welcome and support therefore the efforts that various governments are currently undertaking, trying to address at least some of the existing problems and concerns that have crystallized over the past few years.

However, we are concerned that many of the reform proposals, including the ones being discussed at UNCITRAL, tend to overlook the elephant in the room, that is, the overriding need for not simply a procedural, but a substantial reform of the current system.

Particularly, European Union's proposal for the creation of a Multilateral Investment Court (MIC) threatens to further institutionalize a system that is very fundamentally flawed. With the MIC, the debate is shifting towards further streamlining arbitration in terms of efficiency, cost reduction, accessibility and predictability. Substantial reform of the underlying investment rules is not being discussed. In fact, the EU even states that through an institutionalized multilateral court for investment dispute settlement it hopes to calm public unrest so that the substantive changes demanded not only by civil society, but by a growing number of countries around the world can be avoided altogether.

We are at a crossroads where a fundamental reform is not only needed but also possible, and where governments bear the moral responsibility to play their part in designing a system that is consistent with combating social inequality, environmental degradation and climate change as the main challenges of our time. Therefore, we urgently need to look at:

1. restoring the balance between investor rights and the public interest;
2. bridging the governance gap for transnational investors; and
3. assuring access to remedy for victims of corporate abuses.

We cannot stress enough that we must not further institutionalize a system that provides foreign investors with a tool to exert significant political pressure on the sovereign policy space of states to regulate in the public interest.

The current system provides exclusive access to international arbitration for foreign investors only, and exclusively looks at their rights and privileges under investment treaties. On the other hand, there are no corresponding binding social and environmental obligations that investors must adhere to. And states as the guardians of the public interest, individuals and communities directly affected by corporate activities impacting on their human rights or the environment have no comparable access to remedy.

This is what must change, and hence, reform that limits itself to procedural aspects cannot suffice.

A substantial overhaul is required that firmly binds transnational investors to overriding human rights, environmental and climate objectives and holds them accountable if they fail to operate in accordance with their social, environmental and human rights responsibilities.

What we need is a system that guarantees justice and access to remedy for all affected stakeholders in relation to an investment. Where transnational investors cannot only claim their rights – which, should also be narrowed down considerably -, but where transnational corporations can also be held accountable when they act in breach of human rights obligations, social and environmental standards and climate objectives.

After 50 years of an investment regime enforceable through ISDS that has operated to promote international investment flows and solely protect the rights of foreign investors, now is the time to move towards a system that is aimed at regulating transnationally operating companies and their activities in the public interest, and at building a comprehensive and enforceable governance framework for transnational corporations in order to protect the world's peoples and the future of our planet.

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