

**Welcoming Remarks by Gabriela RAMOS**  
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**Conference on Investment Treaties: Policy Goals and Public Support,  
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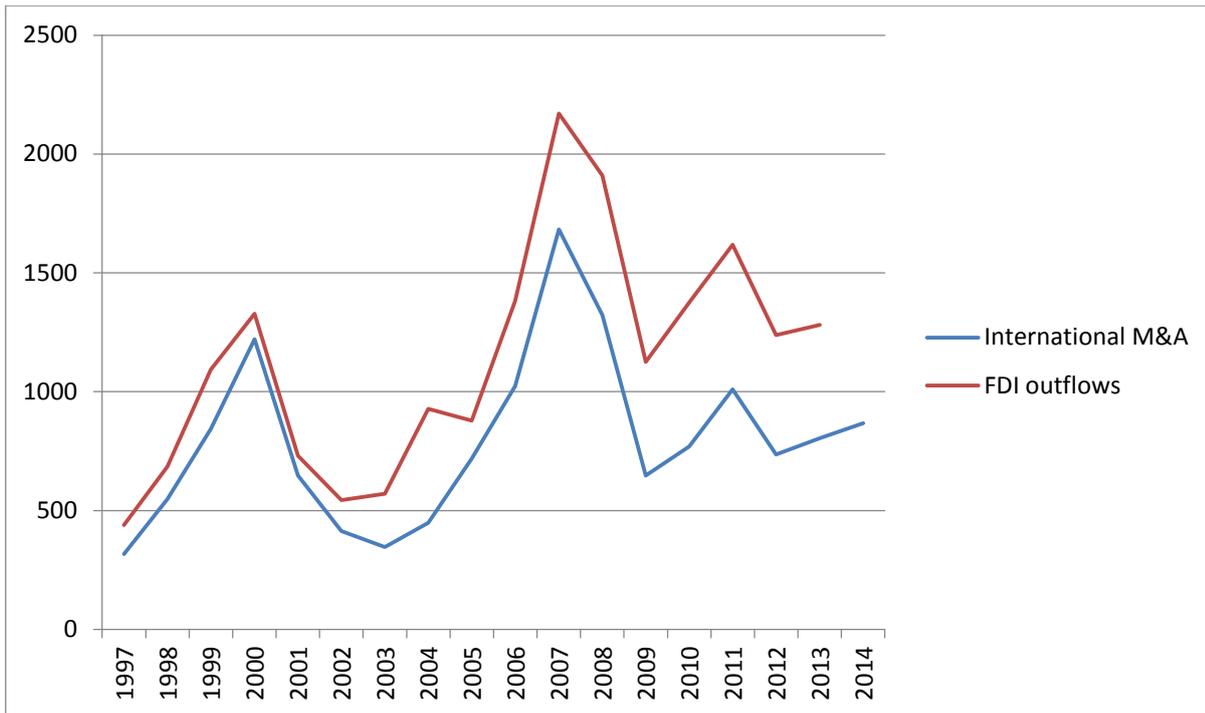
Ambassadors, Ladies and Gentlemen,

I am very pleased to welcome you to today's Conference. It will address Investment treaties – their Policy Goals and the importance of Public Support for them. This is an important discussion in itself, but it is all the more important as the Ministerial Meeting of the OECD this year, under the Chairmanship of the Netherlands will focus on how to boost investment and growth.

It is also important as investment, domestic or international are key engines for growth, and have been at half speed for many years now.

Our latest information shows that the state of international investment appears to be mixed. While FDI and M&A activity are reaching pre-financial crisis trends, weakness in the emerging market economies (EMEs) and a sharp rise in international divestment are factors pushing in the opposite direction.

In Europe, one of the key elements that explain its subpar economic performance is the decreased flows of international investment compared to previous years. So it is clear that FDI needs to speed up to boost growth and jobs.



Another important element has to do with the major BITs and FTAs currently under negotiation can play a major role by sending a renewed strong signal that FDI is welcome.

**On the substance of the conference:**

For many years, bilateral and regional investment agreements have been negotiated. This has contributed to increased global interconnectedness and to the emergence of global value chains, that have boosted growth and prosperity. However, an open, public debate on the policy goals that countries pursue with those negotiations is more the exception than the rule. Investment treaty negotiators are aware of the substance, but this is not shared widely. This topic will be discussed in the first panel of the conference.

In a change from the past, treaties have become the subject of intensive public debate, and it is important to know and exchange views with different stakeholders.

Both the need to publicly articulate policy goals and to garner public support have increased in importance, given the lack of confidence in the global economy due to the crisis and increased inequalities. Indeed, one of the legacies of the crisis is the loss of trust in market and government institutions.

Accidents such as Rana Plaza also deteriorated drastically the perception about international investment. So to regain such confidence, and to keep the support for market openness in trade and investment, it is necessary to have a transparent debate on this issues, to listen to the different stakeholders.

This is confirmed by recent events related to treaty negotiations. The recent EU consultation on investment provisions in the Transatlantic Trade and Investment Partnership with the United States generated a record 150,000 written comments. The B20 grouping of world business leaders recently called on the G20 to address investment treaties. Institutions from all parts of the political spectrum have spoken out about Investor-State Dispute Settlement provisions, some of them with critical views.

Parliaments in particular are becoming active centres of debate over investment treaties in a growing number of jurisdictions. There is both strong support for treaties and strong opposition in many countries.

The need for public and parliamentary support is now a key aspect of investment treaty policy in most jurisdictions. This is a healthy and welcome development. But it requires governments, international organisations and others to inform and educate the public. To help create a more informed and analytical debate. And of course to learn from the analysis and debate, and change their policies where appropriate.

The two sessions in the middle of the day will showcase another aspect of intergovernmental work on investment treaties at the OECD – detailed and specific attention to key treaty policy issues by a wide range of governments.

## **The need for balance**

Good analysis of investment treaty policy needs to be balanced. It should start by recognising that treaties are based on some key considerations -- such as the need for foster and protect investment including due to investors' concerns about political risk and instability of the rules. Providing investors with recourse against governments that expropriate or discriminate is valuable.

But treaties have become increasingly controversial. What has happened?

## **Legitimate concerns raised by investment treaties need to be addressed**

Several factors have contributed to the growing public debate over investment treaties. Investor claims under treaties have become more frequent. The amounts at stake can be staggering – hundreds of millions or billions. Treaty challenges about the regulation of tobacco marketing, nuclear power and health care have heightened concerns about restrictions on governments' ability to regulate in the public interest. There are complaints about an arbitration system that governments have borrowed from commercial arbitration. Many investment arbitration cases remain shrouded in secrecy. Case costs are high.

Many of the concerns expressed in the public debate may be overstated or ill-founded. But they need to be examined seriously. They need to be subjected to careful evidence-based analysis. Where they are well-founded, they should be addressed. Improvements to address weaknesses are key to avoid a backlash against basic principles such as non-discrimination against foreign investment. Governments need to ensure that investment treaties are for attracting quality investment and are not seen as instruments favouring companies at the expense of society.

The complexity of the current treaty system and the sheer number of treaties makes this a difficult task. Joint work and dialogue between involved countries and other stakeholders is a key element of success. We should not pre-judge these discussions, but we should not ignore or hide the fact that this important debate needs to happen.

## **Role of the OECD**

The OECD is an ideal forum for work on investment treaties including developing options for improvement.

- OECD has a well-established, inclusive and successful intergovernmental working method.
  - OECD has extensive experience in investment policy and analytical work.
  - OECD work on enhancing transparency and third party participation in ISDS paved the way for an important first reform at ICSID on those issues in 2006.
  - As the home of the MNE Guidelines, OECD is well positioned to link RBC with investment treaties.

The OECD has long insisted on the importance of designing policy in an open, transparent and inclusive manner. We have gathered in this spirit today to take stock of the policy goals of investment agreements, consider areas that might need improvement to strengthen public support and think about how the OECD can help.

The MCM will be a great opportunity for Ministers to call on the OECD to host and lead a global investment dialogue, building on the existing broad participation in the Freedom of Investment Roundtable and OECD work on treaties. The aim is to establish a platform to foster an exchange of knowledge, best practices and innovative ideas among investment treaty negotiators and policy makers, supported by OECD evidence-based analysis.