



**United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States
(UN-OHRLLS)**

Introductory Remarks by

Ms. Fekitamoeloa Katoa 'Utoikamanu, Under-Secretary-General and High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States

at the High Level Dialogue: on Legal and Expert Assistance to make foreign direct Investment work better for the Sustainable Development of the LDCs

22nd September 2017, 10:00am – 1:00pm

Conference room # 2

UN Headquarters, New York

Madame Co Chair, Irene Khan, Director General of IDLO,
Mr Ahmed Yusuf, Vice President of the International Court of Justice,
Hon Ministers,
Excellencies, Ladies and Gentlemen,

LDCs have great needs for rapid industrialisation, job creation, infrastructure development, energy generation, as well as technology and innovation advances. These are all priorities of the 2011 Istanbul Programme of Action for the LDCs and are crucial to realize the 2030 sustainable development agenda and the SDGs. And we all know these priorities do require more and better quality foreign direct investment in LDCs.

Over the last decade, inward FDI stock in LDCs has played a catalytic role in economic development, enhancing productive capacity and creating jobs and expertise. However, FDI flows to LDCs still only accounts for 2 per cent of world FDI and 5 per cent of total FDI to developing countries. FDI inflows to the LDCs remain concentrated in a few countries and in the mineral and oil sectors. Larger and more and diversified FDI flows need to go to all LDCs and steps need to be taken to ensure that the benefits deriving from FDI are maximised. These have been long-standing LDCs priorities.

One area of support that stands out in terms of promoting more and better quality FDI to the LDCs is advisory support for investment-related negotiation and dispute resolution. Investment contracts are becoming increasingly complex in the era of globalized production, with multinational companies engaging in a range of modes of entry, including joint ventures, strategic alliances, co-production and marketing, co-research and development, contract design and manufacturing, franchising, management contracts, contract farming and licensing and more. Such complexity also translates in capacity asymmetry, with LDCs often at a disadvantage across the negotiating table. And when contracts terms may not turn out to the advantage of the host country and its people, friction may emerge and sometimes costly international litigation ensues. Similarly investment-related international agreements are becoming intricate and far-reaching in their effects.

Against this background we are very grateful to the Government of Italy with a generous grant that allowed us to work on the preparation of the Investment Support Programme that we are presenting and discussing today. We are also particularly thankful to the International Development Law Organization that has partnered with us in the conceptual phase of the Programme design and is now taking on the responsibility of the Programme. As an intergovernmental organization IDLO counts many of the LDCs among its members as well as program countries; because of its mandate, experience in providing advisory and capacity building services in legal areas central to the key objectives of the programme, and its close relationship with the UN and commitment to UN sustainable development goals, IDLO is especially well placed to undertake this responsibility in an effective and responsive way. We are sure that with the strong leadership of Ms Khan and her dedicated staff the Programme will be a success. My Office will continue to support the Programme in any way we can, including by participating in its Steering Committee.

We started the conceptualization of the Programme at a side event during the 2016 Midterm Review of the Istanbul Programme of Action for the LDCs, which reaffirmed the global commitment to address the special needs of the LDCs. We have since been discussing the Programme with many experts from LDCs

and beyond. Some are with us today. But for those who are not familiar with the initiative let me briefly summarize it.

In a nutshell the programme aims to provide on-demand legal and professional assistance to governments of the LDCs and LDC firms with resource constraints to help them in investment-related negotiations and dispute settlement. The Programme's objective is to establish an international scheme for legal aid and expert assistance. It wants to harness the services of lawyers and other relevant experts are ready to provide support to the LDCs on a "pro-bono" basis, including in the context of social responsibility initiatives of the organizations to which they are affiliated, thus catalyzing the readiness of professionals worldwide to contribute their expertise to the sustainable development of the poorest members of the international community.

In this regard we are particularly gratified of the initial response of the legal profession, with many leading firms indicating to us their willingness to partner with the Programme. Among them I would like to recognise the contribution of Baker and Mackenzie, which has helped us very substantially in the design of the Programme and in outreach activities leading up to today's meeting.

It is now my district privilege to pass the floor to Judge Abdulqawi Ahmed Yusuf, Vice-President of the International Court of Justice, thanking him for making the time to come to address us today. There is no better jurist that can help us underscore the importance and the challenges that LDCs face in investment negotiations and dispute settlement. Judge Yusuf the floor is yours.