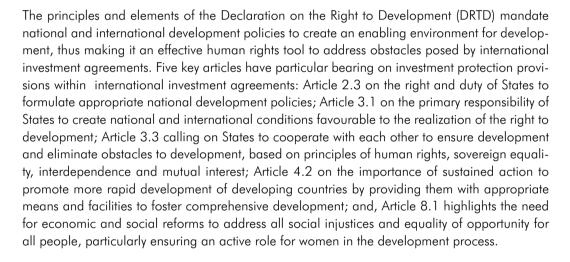


# POLICY BRIEF FOR PRIVATE SECTOR

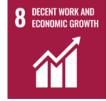


AND THE RIGHT TO DEVELOPMENT

Agenda 2030 also bears direct relevance to the challenges international investment agreements place on industrial development and economic growth. SDG 9 is focused on achieving inclusive and sustainable industrialization, in part by raising industry's share of employment and gross domestic product (GDP) by 2030 and to double their share in Least Developed Countries (LDCs). SDG 8 promotes sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. SDG 17 on the means of implementation underscores in target 17.15 the respect States should have for each other's national policy space and leadership to implement policies for poverty eradication and sustainable development. Industrial policy is a potent example of a means of implementation, in that it refers to state-led efforts to direct the economy's production structure towards sectors that are expected to offer growth, employment, productivity and development opportunities. The integral link between industrialisation and development is reaffirmed by various UN processes beyond the SDGs in the Post-2015 Development Agenda, such as the Fourth UN Conference on the LDCs in the 2011 Istanbul Programme of Action and the General Conference of the United Nations Industrial Development Organization (UNIDO) in the 2013 Lima Declaration.

Within the context of a State's right to development, in order to facilitate national industrial development with a view to achieving sustainable development under the 2030 Agenda, there are specific steps that can be considered and taken by four categories of key stakeholders - States, international organisations, the private sector and civil society. Reassessment and reformulation of investor protection measures are imperative to any effort to reform international investment agreements. Such initiatives are already taking place within UNCTAD as well as policy discussions at regional and national levels. A key priority in such a reassessment of investor protections is ensuring the State's ability to regulate in the interest of human rights, environmental regulations and legislation necessary for sustainable development.









## ENGAGE WITH STATES BEFORE STARTING AN INVESTOR-STATE DISPUTE SETTLEMENT

### **RECOMMENDATION 1**

Before submitting a dispute with a host State to binding private international arbitration in an investor-state dispute settlement process over perceived limitations to a private sector entity's investment, the private sector, or investor, may first engage in bilateral discussions with the State. The discussions can be carried out with an openness by the private sector entity to at least consider the host State's rationale and explanation for the issue in dispute. The eventual goal is for the investor to consider exemptions for a State's human rights, public interest and environmental legislation and regulations from being grounds for an investor-state dispute settlement process.

### INCLUDE HUMAN RIGHTS IMPACT ASSESSMENT AND WOMEN'S RIGHTS IN INTERNATIONAL INVESTMENT AGREEMENTS

### **RECOMMENDATION 2**

The private sector entity, or investor, should be willing to consider the inclusion of language that abides by women's rights legislation in the host State as well as ex-ante and ex-post human rights impact assessment in the international investment agreement. This includes women's rights language pertaining to women workers' rights in export processing zones and extractive sector labour, as well as impacts of the investment activities on women and girls in the host State. On human rights impact assessments, investors should cooperate in the assessment process by supplying information and data as needed.

## IDENTIFYING WHAT IS NOT WORKING IN INTERNATIONAL INVESTMENT AGREEMENTS

