

Statement by Mr. Toshiro SUZUKI,
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on the Occasion of the UNCTAD World Investment Forum
(High-level International Investment Agreement Conference)
Nairobi, Kenya on July 19, 2016

Opening

- It is my great honour for me to be given this precious opportunity to discuss investment issues with all of you. I would like to express my deep appreciation, in particular, for the hard work by the host country Kenya and UNCTAD Secretariat for holding this timely and important gathering.
- At the outset, I am extremely pleased to share with you the news that Japan and Kenya successfully concluded the negotiation on a bilateral Investment Agreement this year in March. We strongly hope that this agreement will expand further FDI between our two countries.

Importance of Improving the Business Environment

- I would like to share with you my three reflections regarding today's agenda.
- Firstly, in order to achieve sustainable development, FDI is essential. It expands capital inflow and employment, promotes transfer of management know-how and develops human resources such as engineers.
- For the growth of FDI, together with investment promotion

measures, investment facilitation policies are necessary. Investment facilitation is foremost to improve a business environment by ensuring a level playing field between foreign and local companies under the principle of non-discrimination through eliminating impediments to FDI. Other key elements of investment facilitation include transparency, efficiency of procedures, and predictability. An IIA would provide legal certainty in this regard.

- In this connection, Japan welcomes the G20 Guiding Principles for Global Investment Policymaking adopted earlier this month in Shanghai, which stressed the importance of an open, transparent and conducive global policy environment for investment.

IIAs' (International Investment Agreements) Reform

- Secondly, with regard to IIAs' reform, more than 3,000 IIAs existing all around the world at this moment are often derided as "Spaghetti Bowl of IIAs".
- However, we should note that Parties of each IIA tailor rights and obligations so as to make respective IIA reflect a specific investment climate and bilateral economic relations.
- In my view, the so called "fragmentation" of investment regime is, in a way, a necessary consequence of diversity of investment environment in each country. From this perspective an attempt to replace IIAs by one single and monolithic rule would

not only be unrealistic but also unhelpful for the growth of investment.

Balance Between Investors' Protection and Right to Regulate

- Thirdly, about balance between investors' protection and right to regulate, we also recognize the growing international criticism against the current ISDS. In Japan's perspective the basic guiding principle of our negotiation on ISDS is to preserve Parties' legitimate right to regulate, without compromising the high standard protection of investors by providing a neutral dispute settlement tools in the form of ISDS.
- In this regard, from Japan's perspective, the Investment Chapter of the Trans-Pacific Partnership, which was signed in February, is an excellent example of "a new type IIA". For example, in addition to maintaining Parties' policy discretion through allowing appropriate exceptions and reservations, useful clarifications were made in the language of some key substantive provisions to provide clear guidance to arbitral tribunals to ensure their balanced interpretation of the agreement.
- Discussions on ISDS reform requires identifying the real challenges. Arguing for the need for "fundamental reform of the regime" should come with concrete analysis of specific problems and possible solutions. Otherwise it would cause confusion and chilling effect on investors, and put an adverse impact on global investment.

- The core objective of investment rule-making is to consider how to promote investment by providing investors for appropriate protection, while reflecting the diversity of situations of each host country, which in our view, should be the starting point of the discussion about IIAs' Reform.

Contribution of UNCTAD

- Before concluding my remark, I would like to touch upon TICAD VI which is to be held at this venue next month. TICAD VI will highlight, as one of its priority areas, the need to promote structural economic diversification and industrialization. In a close touch with recent developments in international fora, including of course UNCTAD, a wide range of concrete measures for improving business environment and boosting direct investment will be discussed.
- Last but not least, I would like to express our appreciation once again to UNCTAD for its efforts to hold this conference, emphasizing our hope for UNCTAD continuing to play an important and constructive role in investment promotion and facilitation.