Trade, Investment & Sustainable Development

MIKTA Workshop on Trade and Investment
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Columbia Center on Sustainable Investment
A JOINT CENTER OF COLUMBIA LAW SCHOOL AND THE EARTH INSTITUTE, COLUMBIA UNIVERSITY
Connections/Tensions

- Much has been said about trade-sustainable development connections
- Investment treaties/deep free trade agreements raise new issues due to
  - Scope of issues covered (e.g., investment, SOEs, competition, labor, environment)
  - Depth of commitments (e.g., on establishment, IP)
  - Means of enforcement (e.g., private right of action, with private arguments about what the law is)
  - Nature of remedy (e.g., compensation for past harms)
What Should Be the Aim?

Basic Principle:
• Trade and Investment Agreements are a means to an end
• End: Advance inclusive, broad-based sustainable development

What Does This Mean?
What Should Be the Aim?

Do No Harm?

- Recognize that international trade and investment can contribute to sustainable development through achievements in efficiency, productivity, transfers of knowledge, etc., while,

  - Identifying and combatting those ways in which trade and investment frameworks can undermine sustainable development, and

  - Ensuring adequate policy space to take appropriate measures.

Or…
What Should Be the Aim?

Advance Progress – Use treaties as a tool?

- **Do no harm** approach +

- **Harness the power of international economic law** to advance progress on sustainable development, e.g.,
  - commitments (on a S&D treatment basis) to eliminate fossil fuel subsidies, to transfer green technologies, to adopt green procurement standards, to provide support for investment in renewable energy;
  - obligations and cooperative mechanisms to combat illegal, unregulated and unreported fishing and discipline subsidies on fisheries; and
  - Rules and mechanisms to prevent races to the bottom in terms of environmental/labor standards and promote effective, non-discriminatory enforcement.
Key Questions/Gaps

- Impact assessments – better understanding of impacts
- Linking with the SDGs – development of new methodologies
- Monitoring, enforcement and effects of trade/environment provisions – what do we know?
- Policy coherence
Ripe Issue Areas?

- Investment incentives
- Fossil fuel subsidies
- Fisheries
- Public engagement
Thank you!

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