



**MESSAGE FROM MS. JAN BEAGLE, DIRECTOR GENERAL OF IDLO, TO THE
AMBASSADORIAL RETREAT IN PREPARATION FOR LDC5**

21-22 October 2021

Under-Secretary General Rattray,
Excellencies
Colleagues

I was very much looking forward to joining, albeit virtually, this Retreat and to share IDLO's perspective on the all-important subject of enhancing support to LDC's in the trade and investment areas. Unfortunately, an institutional engagement connected with the forthcoming Assembly of Parties of IDLO that has had to be rescheduled in Rome for the same time as this session of the Retreat will prevent me from doing so. I would, however, wish to take this opportunity to reiterate my strong commitment and that of IDLO to the cause of the LDCs, particularly at this crucial time requiring a concerted drive to build a sustainable recovery from the pandemic, and to a successful LDC5 Conference.

I am most grateful to the Co-Chairs of the Preparatory Committee for the Conference, Ambassadors Rabat Fatima and Robert Rae and to UN-OHRLLS for the support that the revised version of the draft PoA for adoption by the LDC5 Conference expresses in para. 260-bis for IDLO's Investment Support Programme for Least Developed Countries (ISP/LDCs), the invitation to donors it contains to continue contributing to it, and the encouragement it gives to LDCs to make wide use of the Programme's facilities.

I have asked my Special Advisor, Patrizio Civili, who has been engaged with UN-OHRLLS in shaping ISP/LDC from its inception, to share with you on my behalf progress in expanding the Programme's outreach and in sharpening the distinctive contribution that it seeks to make to advancing the trade and investment objectives set out in the PoA and the overall goals of the Conference.

Let me add that I understand and share the concern implicit in the trade and investment provisions of the draft PoA that action and coordination in this broad area should be further strengthened. What is needed in my view is a significant expansion and intensification of support programs, not necessarily additional institutional actors, and greater policy coherence within and among existing institutions operating in this area. UN-OHRLLS, guided by a strong PoA, has an important leadership role to play in this regard. IDLO would be pleased to join any consultative arrangement that UN-OHRLLS may set in motion to serve as a shared clearing house of support needs and available responses, ensure that duplication is avoided, and see to it that activities in this area in support of the LDCs build on and reinforce each other.

Buon lavoro from Rome and best wishes for a most productive retreat.



PRESENTATION BY MR. PATRIZIO CIVILI, SPECIAL ADVISOR TO THE DIRECTOR-GENERAL OF IDLO, TO THE AMBASSADORIAL RETREAT IN PREPARATION FOR LDC5

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Building now on this message, I will try first to position ISP/LDCs in the context of the mandates from the Addis Action Agenda and the mid-term review of the Istanbul Plan of Action and will then speak briefly to the potential that ISP/LDCs carries in advancing some of the overall priorities and objectives highlighted in the draft Doha Program of Action.

At the heart of the conception of ISP/LDCs is the call of the Addis Conference, reiterated in subsequent discussions on the follow-up to the Istanbul Plan of Action, to significantly enhance support to the LDCs across different phases of investment contracts preparation, investment negotiation and dispute resolution, in order to address a situation where, in the words of the Addis Action Agenda “many LDCs continue to be largely side-lined by FDIs that could help to diversify their economies, despite improvements in their investment climates”.

And the core of the Program’s interventions along each of these phases is to help level the playing field—to address imbalances in negotiating capacities and, more generally, the inequalities which Agenda 2030 points to as crucial obstacles to sustaining global socio-economic progress.

There are many respects in which the Program is innovative:

- A mandate that uniquely encompasses capacity-building assistance but also direct legal and technical support to LDCs in investment negotiation and dispute resolution processes, and in the design and implementation of policy and legal frameworks conducive to investment.
- Second, the possibility, not yet fully explored, of extending investment support not only to governments but also to qualified private-sector entities in the LDCs, thus potentially affecting both the demand and the supply sides of investment and contributing to a better management of private sources of capital toward the achievement of national development objectives.
- And thirdly, a legal and technical support program that functions in many ways as a public/private partnership with IDLO, as a public intergovernmental institution, delivering its assistance by relying on the services of top experts from NGOs and academia and of major private legal firms committed to collaborate with the Program on a pro-bono basis or at greatly reduced fees.

And we like to think that it is IDLO’s capacity for innovation and flexibility in tackling some of these rather unique features of this Program that led OHRLLS to decide to work with us in designing the Program and to entrust us with its implementation; and that led the European Commission to provide the generous funding that has made it possible for the Program to become fully operational in 2019.

Despite several constraints to programming arising from the pandemic, the Program is already active in several LDCs, and the pipeline is growing.

1. In The Gambia, IDLO has been implementing an extensive program of support to the Ministries of Justice and of Trade that has contributed to a satisfactory conclusion for the government of a

long-standing investor-state arbitration and has included the design of a model bilateral investment treaty as well as complementary capacity-building assistance.

2. In Liberia, IDLO is providing assistance to the National Investment Commission in the management of two potential disputes with local subsidiaries of foreign investors in the infrastructure and the extractive sectors.
3. In Malawi, IDLO is assisting a state-owned enterprise of the government in preparing model joint-venture agreements with foreign investors in the agricultural area.
4. In Ethiopia, IDLO is implementing a series of capacity-building modules in support of the Ethiopian Investment Commission covering international investment law and arbitration, and international investment contract negotiation.
5. In Uganda, IDLO has partnered with the Uganda Law Society to build the capacity of private-sector actors, including law practitioners and members of the banking and insurance sectors as well as local entrepreneurs to implement and manage FDI transactions.
6. And discussions are on-going with government entities in Somalia, Rwanda, and Mozambique on possible support initiatives aimed at strengthening international investment law frameworks in these countries.

In terms of areas of intervention, the Program, as currently conceived, has the potential to make a distinctive contribution to LDCs' capacity to establish environments conducive to attracting increased and sustainable investment in a very broad spectrum of areas where the current draft of the Doha Program of Action highlights the special importance of expanding investment toward the LDCs. These areas range from infrastructure and digitalization and the strengthening of the domestic service sector to transport development, energy, and SMEs development. And it is important to note here that the capacity-building activities carried out under the Program complementing direct legal and technical assistance are consistently geared to strengthening and expanding local resources and empowering beneficiaries so that, in the long term, they will no longer need to rely on international support.

I should add that the strong emphasis that the draft of the Doha Program of Action rightly places on extending international support measures to graduating and graduated LDCs, so as to make, in the words of the draft, "graduation sustainable and irreversible", was from the inception reflected in the design of ISP/LDCs that provides for the eligibility of graduated countries to continue to benefit from the services of the Program for 5 years after graduation. And, if so desired, this timeline could certainly be further extended, at the request of the countries concerned and in consultation with the UN Inter-Agency Task Force on LDC Graduation.

A final point, relevant to the contribution of ISP/LDCs to furthering the objectives of the Doha Program of Action across several of the areas it covers: the Steering Committee charged with providing policy orientation to ISP/LDCs includes among its members, in addition to OHRLLS, the distinguished Chair of the LDC Group, and a number of ambassadors from LDCs and donor countries leading the consultations on the draft of the PoA, who will certainly ensure that the contribution that the Program will make to the implementation of the Doha Program of Action will be both significant and distinctive.



<https://www.idlo.int/Investment-Support-Programme-LDCs>

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