

# TENTH ANNUAL FORUM OF DEVELOPING COUNTRY INVESTMENT NEGOTIATORS



**SOUTH  
CENTRE**

**COLOMBO, SRI LANKA  
NOVEMBER 2016**

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## 10<sup>TH</sup> ANNUAL FORUM OF DEVELOPING COUNTRY INVESTMENT NEGOTIATORS

**7-10 NOVEMBER 2016  
COLOMBO, SRI LANKA**

### Reshaping Investment Law and Policy to Support the 2030 Development Agenda

#### AGENDA

<b>DAY 1 MONDAY 7 NOVEMBER 2016</b>	
<b>8:30</b>	<b>Registration</b>
<b>9:00</b>	<p><b>Opening Ceremony</b></p> <ul style="list-style-type: none"> <li>• 9:00 – 9:15 Welcoming remarks               <ul style="list-style-type: none"> <li>○ Hon. Malik Samarawickrema, Minister of Development Strategies and International Trade, Sri Lanka</li> <li>○ Mr. Manuel Montes, Senior Advisor, Finance and Development, South Centre</li> <li>○ Ms. Nathalie Bernasconi, Director, Economic Law &amp; Policy, IISD</li> </ul> </li> <li>• 9:15 – 9:45 Keynote Speech               <ul style="list-style-type: none"> <li>○ Balancing the Interests and Rights of States and Investors in International Investment Agreements <i>by Dr. Saurabh Garg, Joint Secretary, Department of Economic Affairs, Ministry of Finance, Government of India (via video conference)</i></li> </ul> </li> </ul>
<b>9:45</b>	<p><b>Session 1A: Recent developments in international investment policy-making</b></p> <p>This session will discuss the most recent developments in the area of international investment policy-making, reform and dispute settlement, based on the 2016 UNCTAD World Investment Report and other data collected. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• global efforts on reforming investment policy-making towards the Sustainable Development Goals (SDGs)</li> <li>• the emerging trend to integrate trade and investment policies in mega-trade deals</li> <li>• developments in dispute settlement as reflected in recent treaty practice and arbitral awards.</li> </ul>

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	<p><b>Moderator:</b> Dr. Chantal Ononaiwu, Trade Policy and Legal Specialist, CARICOM Secretariat</p> <p><b>Speaker:</b></p> <ul style="list-style-type: none"> <li>Ms. Elisabeth Tuerk, Chief, International Investment Agreements Section, Division on Investment and Enterprise, UNCTAD</li> </ul> <p><b>Discussants:</b></p> <ul style="list-style-type: none"> <li>Prof. Muthucumaraswamy Sornarajah, CJ Koh Professor of Law, National University of Singapore</li> <li>Prof. Makane Mbengue, Professor of Law, University of Geneva</li> </ul>
<p><b>10:45</b></p>	<p><b>BREAK</b></p>
<p><b>11:00</b></p>	<p><b>Session 1B: Recent developments in international investment policy-making: Sharing of experiences</b></p> <p>This session will discuss specific experiences of countries over the past year regarding new investment treaty claims or arbitral outcomes. Speakers will also provide insights into experiences when negotiating bilateral investment treaties or bilateral or regional trade agreements with investment chapters. Speakers will also share their efforts and experiences in developing new model investment treaty templates. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>innovative formulations of treaty texts relating to substantive rights and obligations</li> <li>recent developments in model investment treaty templates</li> <li>recent negotiating experiences.</li> </ul> <p><b>Moderator:</b> Ms. Roslyn Ng'eno, Policy Advocacy Manager, Kenya Investment Authority</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>Mr. Norberto Ariel Martins Mogo, Head, Investment Treaty Negotiation Unit, Secretariat of International Economic Relations, Ministry of Foreign Affairs, Argentina</li> <li>Mr. José Henrique Vieira Martins, General Coordinator for Trade Policy, Secretariat for International Affairs, Ministry of Finance, Brazil</li> <li>Mr. Daniel Felipe Garcia Clavijo, Ministry of Commerce, Industry and Tourism, Colombia</li> <li>Mr. Thierry Kalonji Mutombo, Director, Investment Promotion and Private Sector Development, COMESA Secretariat</li> <li>Mr. Gaurav Masaldan, Director, Department of Economic Affairs, Ministry of Finance, India</li> </ul>
<p><b>12:30</b></p>	<p><b>LUNCH</b></p>
<p><b>13:30</b></p>	<p><b>Session 2: New dynamics in global investment governance: Mega-regionals, plurilaterals, the WTO, and the emergence of principles</b></p> <p>This session will look at the development of mega-regional and plurilateral trade and investment deals, their state of play and their impacts on international and national investment rules and norms. This session will also discuss developments at the WTO with respect to investment issues and the future of global investment governance. It will also discuss and analyze the G20 Principles on Investment and ongoing related initiatives, including the discussion at the 9<sup>th</sup> Annual Forum in</p>

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	<p>Rio on the development of South–South Principles on Investment for Sustainable Development. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• challenges for negotiators in the era of mega-regional negotiations</li> <li>• withdrawal or partial withdrawal from a package deal</li> <li>• Most-Favoured-Nation (MFN) clause in the investment context</li> <li>• roles of principles, such as the G20 principles, and the development of South-South principles, and other soft law instruments in global investment governance.</li> </ul> <p><b>Moderator:</b> Mr. Howard Mann, Senior International Law Advisor, IISD</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>• Ms. Opeyemi Abebe, Trade Adviser, Trade Competitiveness Section, Commonwealth Secretariat</li> <li>• Mr. Nugrahadi Hendro Yuwono, Directorate for Treaties of Economic, Social and Cultural Affairs, Directorate General for Legal Affairs and Treaties, Ministry of Foreign Affairs, Indonesia</li> <li>• Mr. Steven Mathate, Deputy Director: Legal International Trade and Investment, Department of Trade and Industry, South Africa</li> <li>• Prof. Carlos Correa, Special Advisor on Trade and Intellectual Property, South Centre</li> </ul>
14.45	<b>Breakout Session 1</b>
15:45	<b>BREAK</b>
16:00	<p><b>Session 3: New dimensions in international investment negotiations: Investor obligations</b></p> <p>This session will elaborate on the new approaches taken in some recently negotiated investment treaties and treaty models on investor obligations and responsible business conduct, including the issue of bribery and corruption. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• importance of balancing investor rights and obligations in investment treaties</li> <li>• treaty practices and regional approaches on fighting against bribery and corruption</li> <li>• different approaches taken by recent treaty models on other investor obligations</li> <li>• developments in the Open-ended Intergovernmental Working Group (OEIGWG) for the Elaboration of an International Legally Binding Instrument on Transnational Corporations (TNCs) and Other Business Enterprises (OBEs).</li> </ul> <p><b>Moderator:</b> Nugrahadi Hendro Yuwono, Directorate for Treaties of Economic, Social and Cultural Affairs, Directorate General for Legal Affairs and Treaties, Ministry of Foreign Affairs, Indonesia</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>• Ms. Chantal Ononaiwu, Trade Policy and Legal Specialist, CARICOM Secretariat</li> <li>• Mr. Gaurav Masaldan, Director, Department of Economic Affairs, Ministry of Finance, India</li> <li>• Mr. Barrack R. Ndegwa, Regional Integration Secretary, State Department of East African Affairs, Kenya</li> <li>• Prof. Carlos Correa, Special Advisor on Trade and Intellectual Property, South Centre</li> <li>• Prof. Makane Mbengue, Professor of Law, University of Geneva</li> </ul>

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<b>17:30</b>	<b>End of DAY 1</b>
<b>19:00</b>	<p><b>Welcome Reception hosted by Sri Lanka Board of Investment</b></p> <p><b>Kingsbury Hotel</b>  <b>Janadhipathi Mawatha, Colombo, Sri Lanka (walking distance away from the Forum venue)</b>  <b>19:00-23:00</b></p> <p><b>All Participants Welcome!</b></p>

<b>DAY 2 TUESDAY 8 NOVEMBER 2016</b>	
<b>9:00</b>	<p><b>Session 4: An anatomy of investor obligations: Concepts, case law</b></p> <p>This session will discuss in more detail what investor obligations and investor responsibilities mean in the context of investment. It will look at case law and discuss different options as to how to incorporate them into a coherent legal and regulatory framework governing investment to ensure that investment can provide the greatest benefit for sustainable development. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• general concepts of investor obligations and how they are reflected in various sources of law</li> <li>• notion of investor and the role of state-owned enterprises and third-party investors</li> <li>• investor misconducts in international investment case law</li> <li>• relevant legal theories being discussed at the OEIGWG on TNCs and OBEs</li> </ul> <p><b>Moderator:</b> Prof. Makane Mbengue, Professor of Law, University of Geneva</p> <p><b>Speaker:</b></p> <ul style="list-style-type: none"> <li>• Howard Mann, Senior International Law Advisor, IISD</li> </ul> <p><b>Discussants:</b></p> <ul style="list-style-type: none"> <li>• Mr. Pablo Menacho Diederich, Director General, Legal Defense, Office of the Attorney General, Bolivia</li> <li>• Mr. Daniel Felipe Garcia Clavijo, Ministry of Commerce, Industry and Tourism, Colombia</li> <li>• Mr. Carlos Andrés Sevilla Albornoz, Senior Analyst of Regulations and Settlement of International Disputes of the Ministry of Trade, Ecuador</li> </ul>
<b>11:00</b>	<b>BREAK</b>
<b>11:30</b>	<b>Break-out Session 2</b>

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<b>13:00</b>	<b>LUNCH</b>
<b>14:00</b>	<p><b>Session 5: Re-designing investment-related dispute settlement – Possibility of a multilateral mechanism</b></p> <p>This session will discuss the developments around the existing investor–state-based investment dispute settlement mechanisms. It will focus on new models proposed by Brazil, the European Union and others, and expand to a discussion on alternative approaches for settling investment-related disputes which give more emphasis on cooperation and inclusiveness. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• changing international landscape regarding investment-related dispute settlement</li> <li>• options for more effective State–State dispute settlement mechanisms</li> <li>• opportunities and challenges in establishing a multilateral institution to settle investment-related disputes.</li> </ul> <p><b>Moderator:</b> Ms. Chantal Ononaiwu, Trade Policy and Legal Specialist, CARICOM Secretariat</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>• Mr. Thierry Kalonji Mutombo, Director, Investment Promotion and Private Sector Development, COMESA Secretariat</li> <li>• Ms. Nathalie Bernasconi, Director, Economic Law &amp; Policy Group, IISD</li> <li>• Prof. Muthucumaraswamy Sornarajah, CJ Koh Professor of Law, National University of Singapore</li> <li>• Ms. Tania Arias, Legal Director, UNASUR Secretariat</li> </ul>
<b>15:30</b>	<b>BREAK</b>
<b>16:00</b>	<b>Break-out Session 3</b>
<b>17:30</b>	<b>End of DAY 2</b>

<b>DAY 3 WEDNESDAY 9 NOVEMBER 2016</b>	
<b>9:00</b>	<p><b>Session 6: Promoting and facilitating investments for sustainable development</b></p> <p>This session will discuss how to maximize the positive contributions of private investments when promoting and facilitating investments. Speakers will introduce and explore key elements of effective investment promotion and facilitation mechanisms. Areas of concerns when making liberalization commitments will also be discussed. Issues to be discussed include:</p> <ul style="list-style-type: none"> <li>• effectively channelling private investment to implement the post-2015 development agenda</li> <li>• identifying the scope and content of a business-friendly approach that promotes and facilitates quality investment flows</li> <li>• implications of liberalization commitments and the need to preserve policy space for development.</li> </ul>

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	<p><b>Moderator:</b> Ms. Opeyemi Abebe, Trade Adviser, Trade Competitiveness Section, Commonwealth Secretariat</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>• Mr. José Henrique Vieira Martins, General Coordinator for Trade Policy, Secretariat for International Affairs, Ministry of Finance, Brazil</li> <li>• Mr. Manuel Montes, Senior Advisor, South Centre</li> <li>• Elisabeth Tuerk, Chief, International Investment Agreements Section, Division on Investment and Enterprise, UNCTAD</li> </ul>
<b>10:00</b>	<b>Break-out Session 4</b>
<b>10:45</b>	<b>BREAK</b>
<b>11:00</b>	<p><b>Session 7A: South–South cooperation on investment for sustainable development</b></p> <p>This session will focus on the need, possibility and modality of enhancing South–South cooperation for a comprehensive reform of the investment regime. It will also explore the role of different fora and platforms for South–South cooperation.</p> <p><b>Moderator:</b> Ms. Nathalie Bernasconi, Director, Economic Law &amp; Policy, IISD</p> <p><b>Panelists:</b></p> <ul style="list-style-type: none"> <li>• Mr. José Henrique Vieira Martins, General Coordinator for Trade Policy, Secretariat for International Affairs, Ministry of Finance, Brazil</li> <li>• Mr. Carlos Andrés Sevilla Alborno, Senior Analyst of Regulations and Settlement of International Disputes of the Ministry of Trade, Ecuador</li> <li>• Mr. Steven Mathate, Deputy Director: Legal International Trade and Investment, Department of Trade and Industry, South Africa</li> <li>• Ms. Anisong Soralump, Chief, International Investment Agreements Section, Department of International Economic Affairs, Ministry of Foreign Affairs of Thailand</li> </ul>
<b>12:30</b>	<b>LUNCH</b>
<b>13:30</b>	<b>Break-out Session 5</b>
<b>15:00</b>	<p><b>Session 7B: South–South cooperation and the role of the Negotiators’ Forum</b></p> <p>This session will continue to focus on the theme of enhancing South–South cooperation for a comprehensive reform of the investment regime. This session will also briefly review the achievement of this Forum for the past ten years and will discuss how it can continue contributing to the process in the next decade.</p> <p><b>Discussion leaders:</b></p> <p>Ms. Opeyemi Abebe, Trade Adviser, Trade Competitiveness Section, Commonwealth Secretariat Howard Mann, Senior International Law Advisor, IISD Mr. Manuel Montes, Senior Advisor, Finance and Development, South Centre</p>

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<b>16:45</b>	<b>Closing Ceremony</b> <ul style="list-style-type: none"> <li>• IISD</li> <li>• South Centre</li> <li>• Sri Lanka</li> </ul>
<b>17:00</b>	<b>End of DAY 3</b>

<b>Day 4 THURSDAY 10 NOVEMBER 2016</b>		
	<p align="center"><b>Foreign Investment Opportunities for Agriculture:</b></p> <p align="center"><b>IISD workshop on how to attract high quality and sustainable investment and the role of legal frameworks</b></p> <p align="center">(Workshop to be conducted in English only; detailed programme available upon request)</p>	<b>Networking and cultural activity*</b>
<b>8:30</b>	Registration	<p>You will be picked up at Ramada Hotel in Colombo at <b>7:30 AM</b> and start this half-day tour in Galle, an ancient fort with a tumultuous history dating back to several centuries. The city's strategic location made it a hub for trade by sea and subsequently a landing point for the island's colonial rulers. You will have time to enjoy a local lunch after a leisurely walk through the quaint colonial fort. Thereafter, transportation is arranged to drive you back to Ramada hotel.</p> <p><b>*expenses covered: transportation only</b></p>
<b>9:00</b>	<b>The gold standard for attracting investment in agriculture</b>	
<b>10:15</b>	<b>A new generation of laws and contracts to promote investment in agriculture</b>	
<b>11:15</b>	Coffee Break	
<b>11:30</b>	<b>Interactive Session: Identifying ways to improve the law to promote sustainable investment in agriculture</b>	
<b>12:30</b>	Lunch	
<b>13:30</b>	<b>Investment incentives: time for a change</b>	
<b>14:00</b>	<b>How to screen and select investors</b>	
<b>14:45</b>	Break	
<b>15:00</b>	<b>Interactive Session: Screening investors</b>	
<b>16:45</b>	<b>Next steps and concluding remarks</b>	
<b>17:30</b>	End of Workshop	