

**The Fifth Annual Forum of Developing Country Investment Negotiators
 17-19 October, Kampala, Uganda**

**Investment and Sustainable Development:
 Developing Country Choices for a Better Future**

DAY 1 – Monday, 17 October 2011	
8:30	Registration
9:00	<p>Opening Ceremony</p> <p>Nathalie Bernasconi, Program Leader and Senior International Lawyer, Investment and Sustainable Development Program, IISD</p> <p>Offah Obale, Program Officer, Trade in Services, South Centre</p> <p>Opening Address and Official Opening of the Forum:</p> <p>Hon. Maria Kiwanuka, Minister of Finance, Planning and Economic Development, Government of Uganda</p>
9:30	<p>Keynote Presentation: Rising or Uprising? Africa’s Inward Investment, Development and Sustainable Development</p> <p>Chair: Nathalie Bernasconi, Program Leader and Senior International Lawyer, Investment and Sustainable Development Program, IISD</p> <p>Keynote Speaker: Hon. Ciata Bishop, Executive Director, National Investment Commission, Liberia</p>
10:30	Break
11:00	<p>Session 1: The Role of FDI in Promoting Economic Growth and Sustainable Development Strategies</p> <p>This session will be a negotiator’s primer on the economic, social and environmental linkages between foreign investment and sustainable development. It will include post-Washington Consensus understandings of the links between FDI and sustainable development, and will focus on investments in two sectors: mining and agriculture.</p> <p>The session will look at how to maximize benefits and minimize the negative impacts for host states and communities in a world where capital is inherently mobile and subject to fewer constraints. This session will break down the barriers between a more traditional economist’s view of FDI and the broader considerations in relation to the other key determinants of sustainable development, such as environmental, social, human resource development, gender, human rights and others.</p>

	<p>Chair: Howard Mann, Associate & Senior International Law Advisor, Investment and Sustainable Development Program, IISD</p> <p>Speakers:</p> <p>Marit Kitaw, Governance and Public Administration Officer, Sub-regional Office for Eastern Africa (SRO-EA) of the United Nations Economic Commission for Africa (ECA)</p> <p>Hon. Jean-Marie Mokole, Member, Pan African Parliament, and Rapporteur, PAP Committee on agriculture, rural economy, environment and natural resources</p>
12:30	Lunch
14:00	<p>Session 2: Regional Developments on Investment Treaty Negotiations and Consultations</p> <p>This session will cast a wider net on recent developments in relation to investment treaties through multiple regional perspectives. Speakers will discuss:</p> <ul style="list-style-type: none"> ○ Recent regional developments, including critical perspectives on investment treaty issues, taking into consideration the linkages between development strategies and FDI goals; ○ Policy reforms of developed state negotiating partners, such as the European Union member states and the Commission; and ○ The growth in inter-regional negotiations among developing states. <p>Chair: Offah Obale, Program Officer, Trade in Services, South Centre</p> <p>Speakers:</p> <p>Okilangole Okware Patrick, Assistant Commissioner, Division of Regional and Bilateral Trade, as Assistant Commissioner, Ministry of Tourism, Trade and Industry, Uganda</p> <p>Thierry Mutombo Kalonji, Acting Director - Investment Promotion & Private Sector Development, COMESA Secretariat</p> <p>Lawan Thanadsillapakul, Professor of Law, Sukhothai Thammathirat Open University, Thailand</p> <p>Suzu H. Nikièma, Legal Advisor, Investment and Sustainable Development Program, IISD</p> <p>Chantal Ononaiwu, Trade Policy & Legal Specialist Office of Trade Negotiations, CARICOM Secretariat</p>
15:30	Break

16:00	<p>Session 3: Case Studies – Moving Investment Goals and Policies Beyond Freedom to Invest</p> <p>This session will feature individual participants in the Forum in a peer-to-peer discussion. The goal of this session is to look at how states have begun to incorporate sustainable development issues into their domestic investment laws and investment contracts. In other words, if we begin to look forward for an emerging practice of incorporating development policy into investment regimes, how are states beginning to pick this up? Some sample issues that could be addressed: What types of changes are being made in the law, in the contracts, and in the process for making contracts as well. Are governments moving towards more transparent decision making processes?</p> <p>Chair: Valentine Ogwang, Deputy Director, Investment Facilitation and Aftercare Division, Uganda</p> <p>Speakers:</p> <p>Indrasoma Nihal Samarappuli, Executive Director (Research and Policy Advocacy), Board of Investment of Sri Lanka</p> <p>Charles Afeku, Senior Legal Officer, Ghana Minerals Commission</p> <p>Gustavo Guerra, Negotiator, Investment and Services Trade, Ecuador</p>
18:00	End of day
18:00-20:00	Welcome Cocktail sponsored by the Government of Uganda

DAY 2 – Tuesday, 18 October 2011	
9:00	<p>Session 4: Investment Treaties and Linkages to Development Strategy: Some Specific Legal Issues</p> <p>While the first day focused on the economic linkages between FDI and sustainable development, this session will consider the related legal linkages. If we start from the identification of development goals related to FDI rather than the traditional provisions of investment treaties, do we find that investment agreements support or run counter to these development goals of developing countries? What conflicts, inconsistencies and gaps can be identified? How can these be remedied?</p> <p>Chair: Lawan Thanadsillapakul, Professor of Law, Sukhothai Thammathirat Open University, Thailand</p> <p>Speakers:</p> <p>Sanya Reid Smith, Affiliate, South Centre/TWN</p> <p>Suzy H. Nikièma, Legal Advisor, Investment and Sustainable Development Program, IISD</p>

	Offah Obale , Program Officer, Trade in Services, South Centre
10:30	Break
11:00	<p>Breakout Session1: Drafting Provisions on the Definition of Expropriation, Performance Requirements, and the Free Movement of Capital</p> <p>In preparation for this session, participants are requested to bring examples of how their own treaties and/or model texts have dealt with these provisions.</p> <p>The sessions will be led by participants and reported back to plenary with recommendations.</p>
12:30	Lunch
14:00	<p>Session 5: The Investment Law Construct: Domestic Law, Investment Contracts, Investment Treaties</p> <p>Investment treaties (if chosen as a policy tool by any given country) form one of the three components that regulate the legal aspects of foreign investment into and in developing countries. Investment-related domestic law and investment contracts form the other two components. Ensuring all these components fit with the development goals is critical. How to understand the linkages of these three areas of law in a sustainable development context is the subject of this session.</p> <p>Chair: Thierry Mutombo Kalonji, Acting Director - Investment Promotion & Private Sector Development, COMESA Secretariat</p> <p>Speakers:</p> <p>Mahnaz Malik, Associate and International Law Advisor, Investment and Sustainable Development Program, IISD</p> <p>Hon. Ciata Bishop, Executive Director, National Investment Commission, Liberia</p> <p>Angela Dau-Pretorius, Acting Deputy Director: Investor Services, Namibia Investment Centre</p> <p>Robert Kirunda, Law Academic, Makerere University Law Faculty, Uganda</p>
15:30	Break
16:00	<p>Session 6: Changing Claims in Investment Arbitration: Negotiators Beware!</p> <p>This session will examine how investor-state claims have changed in the past few years, and what this means for investment treaty negotiators. It is important for negotiators to understand fully where the treaties they negotiate can lead to in terms of claims against their states. These claims have migrated from simple claims for damages for lost investments costs, to claims now up to \$30 Billion for lost profits, demands for specific performance by governments, demands prohibiting certain conduct by governments, and</p>

	<p>even demands for international arbitration oversight and decision-making in relation to ongoing domestic judicial processes. What does this mean for dispute settlement provisions?</p> <p>Chair: Suon Sophal, Deputy Director, Department of Public Relations and Investment Promotion, Cambodian Investment Board</p> <p>Speaker: Gus Van Harten, Associate Professor, Osgoode Hall Law School, Toronto, Canada</p> <p>Commentator: Mahnaz Malik, Associate and International Law Advisor, Investment and Sustainable Development Program, IISD</p>
17:30	End of Day

DAY 3 – Wednesday, 19 October 2011	
9:00	<p>Session 7: Renegotiation, Termination and Interpretation of Investment Treaties: Opportunities and Challenges</p> <p>This session looks at the various options developing states have to improve their investment treaty frameworks. What types of renegotiations strategies can be considered? What types of changes can be made to benefit the developing country partner? Can treaty interpretations by tribunals that exceed those anticipated by the treaty parties be rolled back in a renegotiation or through interpretation, and can additional safeguards be put in place? This session discusses both initiatives launched by developing states as well as by their developed country partners. European states in particular are seeking to renegotiate existing treaties to come into compliance with the demands of the European Court of Justice and demands imposed by the European Commission. What types of challenges and opportunities arise in this context?</p> <p>Chair: Roslyn Ng'eno, Senior Policy Advisor, Kenyan Investment Authority, Kenya</p> <p>Speakers:</p> <p>Nathalie Bernasconi, Program Leader and Senior International Lawyer, Investment and Sustainable Development Program, IISD</p> <p>Ama Ayivor, Deputy Director, Department of Trade and Industry (Legal International Trade), South Africa</p> <p>Gustavo Guerra, Negotiator, Investment and Trade in Services, Ecuador</p>
10:30	Break
11:00	<p>Breakout Session 2: Capacity Building for Investment Negotiators in an Evolving Context</p> <p>This breakout session will ask the question, what will most benefit developing countries in terms of capacity building in this field? What do developing countries identify as their direct</p>

	<p>needs? What kinds of services would be most useful? Different types of issues may be directed to, for example, what is needed and most useful in practical terms to help support you in your negotiations. How does this vary for regional negotiations? What are the legal and economic needs? Is there a need for better support in integrating development objectives? Are courses on the arbitrations better than practical negotiation training? And others.</p> <p>One aspect of this capacity building session will look at whether and how participants have conducted studies or surveys on whether or not their BITs have been successful in attracting investment. If countries have conducted such studies or surveys, they are asked to share their experience and materials. The sessions will also discuss whether there might be a need for assistance in designing, implementing and evaluating such surveys.</p> <p>The sessions will be led by participants and reported back to plenary with recommendations.</p>
12:30	Lunch
14:00	<p>Session 8: The Development Country Investment Negotiators Forums from 6-10: Who, What, Where and How?</p> <p>The Forum has reached five years now. How do participants want to see the next five years develop? What role should governments begin to play in the process? How can financing be improved? Should a management process by states be developed? How can programs be made more effective? The session will seek to look at the organizational elements of seeing the Forum progress, and improving the capacity to implement substantive recommendations such as those made at last year’s Forum.</p> <p>Chair: Veniana Qalo, Economic Advisor, Economic Affairs Division, Commonwealth Secretariat</p> <p>Speaker: Howard Mann, Associate & Senior International Law Advisor, Investment and Sustainable Development Program, IISD</p>
16:00	<p>Closing Ceremony</p> <p>Chair: Nathalie Bernasconi, Program Leader and Senior International Lawyer, Investment and Sustainable Development Program, IISD</p>
17:00	Farewell Reception: Celebrating 5 Years of the Forum