

# TENTH ANNUAL FORUM OF DEVELOPING COUNTRY INVESTMENT NEGOTIATORS



**SOUTH  
CENTRE**

**COLOMBO, SRI LANKA  
NOVEMBER 2016**

## 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

#### BIOGRAPHICAL SUMMARIES OF THE SPEAKERS

**Ms. Opeyemi Abebe** is a Trade Adviser in the Trade Competitiveness Section (TCS) of the Commonwealth Secretariat where she provides technical assistance (TA) to member countries for improving their supply capacities to secure sustainable market access for priority exports and develop strategies for export expansion and diversification. Prior to this, she has worked as a Trade Commissioner with the Canadian Department of Foreign Affairs, Trade and International Development (DFATD) in Nigeria and before that, she managed a 2 year USAID funded project - Nigerian Export Expansion Program (NEEP) focused on building the export capacity of over 200 Nigerian SMEs. On the policy side, she has been a Member of the Nigerian Focal Point on Commerce developing the National Trade Policy and contributing to drafting the Country's negotiating positions in several Bilateral and multilateral trade agreements and Bilateral Investment Treaties (BIT). She also worked on the drafting of the National Trade Strategy and the AGOA strategy. Ms. Abebe has worked as a Consultant on Gender issues to the UNDP on the review of the Nigerian Constitution, and with DFID, the World Bank and USAID on several Economic development projects. She was part of the OXFAM GB team that led the 'STOP EPA' campaign in Nigerian and She has prepared various policy briefs and papers on trade agreements and global trade governance. She holds an LL.M in International Trade and Investment Law from the University of the Western Cape and an LL. B from the Lagos State University.



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**Ms. Tania Arias Manzano**, Juris Doctor, is a Lawyer of the Courts of the Republic of Ecuador and obtained her Law Degree from the Pontificia Universidad Católica del Ecuador - Quito; Higher Diploma of Specialization in Public Procurement and State Modernization for Simon Bolivar Andean University; she also holds International Certificate in Design, Evaluation and Project Management IDB, Higher Diploma in Local Development and Participation, graduated for Salesian Polytechnic University and University of Valencia.

Her past experience includes Legal Director General of the National Council of Science and Technology, Member of the legal team Country Project Plan on the Regional Institute for Human Rights, INREDH; Legal Consultant SENPLADES on Constitutional Reforms - Democratic Reform Program of the State; Judge President of Contentious Electoral Tribunal, Principal Member of the Judicial Council. Currently she serves at the Juridical Legal Department of the General Secretariat of the Union of South American Nations

She was Professor of Law at the National Polytechnic School and of Constitutional Procedural Law at the International University of Ecuador. Author of "The arbitration as a means of alternative dispute resolution in Procurement" National Publishing Corporation, 2002; "Social Control", coauthor, 2005; "Accountability Subsystem for the Municipality of Quito."



**Ms. Nathalie Bernasconi-Osterwalder** is a senior international lawyer and heads the Economic Law & Policy programme of the International Institute on Sustainable Development (IISD). In this role, she works with developing country governments across Africa, Asia and Latin America in relation to bilateral and regional investment treaty negotiations, investor-state contracts (with a particular focus on mining and agriculture), model investment treaties and foreign investment laws.

Nathalie has extensive legal, policy, and training experience in the area of international trade, investment, sustainable development, human rights, international environmental law and arbitration.

She previously worked as an attorney at the Center for International Environmental Law in Washington and Geneva, where she also managed the office. Earlier, she was a fellow at the International Institute of International Economic Law at Georgetown University Law Center and worked in Hanoi, Vietnam, for a legal reform project of the United Nations Development Programme (UNDP) and for the Australian law firm Phillips Fox. In Switzerland Nathalie is

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admitted to the Bar of Basel and has worked for the Justice Department, Berne, in the Section for International Law.



**Prof. Carlos Maria Correa** is Director of the Center for Interdisciplinary Studies on Industrial Property and Economics at the Law Faculty, University of Buenos Aires, and Special Advisor on Intellectual Property and Trade of the South Centre (Geneva). He has been visiting professor in post-graduate courses of several universities and consultant to various regional and international organizations. He has advised several governments on intellectual property, innovation policy and public health. He was a member of the UK Commission on Intellectual Property, of the Commission on Intellectual Property, Innovation and Public Health established by the World Health Assembly and of the FAO Panel of Eminent Experts on Ethics in Food and Agriculture. He is the author of several books and numerous articles.



**Mr. Daniel Felipe Cristóbal García Clavijo** is an attorney at the Directorate of Foreign Investment of Colombia, which is in charge of negotiating Colombia's investment agreements as well as heading Colombia's legal defence in investor-State arbitrations. As part of the Directorate of Foreign Investment team, Mr. García has taken part in the negotiations of various investment agreements on behalf of Colombia, headed the redesign of Colombia's new Model International Investment Agreement and is currently part of the legal team in charge of the investor-State cases against Colombia. He also teaches international investment arbitration at the Externado University of Colombia.



**Dr. Saurabh Garg** is presently Joint Secretary (Investment) in the Department of Economic Affairs, Ministry of Finance, Government of India, where he is responsible for facilitating foreign investment into India and negotiations of investment agreements. Dr. Garg has over 25 years of experience at different levels of Government – District, State and the Central Government as well as in the Private Sector. He has worked in the areas of developing urban and industrial among

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others. He has also worked as Adviser with the World Bank in the office of the Executive Director for India in Washington DC.

Dr. Garg holds a Ph.D in International Economics and Development from the Johns Hopkins University, USA. He has an MBA from the Indian Institute of Management, Ahmedabad, where he was awarded a Gold Medal, and a B.Tech. from the Indian Institute of Technology, New Delhi. He was a Gurukul Chevening Fellow at the London School of Economics & Political Science, London.

He has published articles and contributed to books in different areas including innovations in administration and corporate governance.



**Mr. Gaurav Masaldan** was graduated with Honors in History from the University of Delhi . He also holds a Bachelors Degree in Law from the University of Mumbai. He joined the Indian Revenue Service in the year 1998 and have served in various capacities as a tax administrator in the Indian Customs and Central Excise Department at various places in India including Raipur, Mumbai and Bhubaneswar. He has worked in the intelligence wing of the indirect tax administration called the Directorate General of Central Excise Intelligence, where he was responsible for detecting tax evasions. Later he was appointed Assistant Commissioner and later as Joint and then as Additional Commissioner of Customs and Central Excise.

Currently he works at the Department of Economic Affairs, in the Ministry of Finance and is heading the Secretariat of the Foreign Investment Promotion Board of India, the apex national agency of the Government of India with the remit for processing of FDI proposals that require government approval. His current work profile involves a close interaction with the team that deals with India's International Investment Agreements.



**Mr. Howard Mann** is the Senior International Law Advisor for IISD, where he specializes in international law relating to investment and sustainable development. From 1999-2009, Howard initiated and managed IISD's Investment and Sustainable Development program. During and since this period, he has worked with colleagues in advising government officials from over 80 developing countries and multiple regional organizations on international investment law issues,

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investment treaty negotiations, investment contract negotiations, and the development of sound domestic investment laws and policies from a sustainable development perspective.

Howard was the lead author of IISD's Model International Agreement on Investment for Sustainable Development, significant portions of which have been adopted in multiple international investment treaties since it was published in 2005. He represented IISD in its precedent-setting amicus curiae intervention in the NAFTA arbitration between Methanex Corp. v. the United States, the first international investment arbitration to allow interventions by civil society organizations. He was an active participant in promoting the development of the UNCITRAL Rules on transparency in treaty-based investment arbitration. Howard was a leading participant in the preparation and drafting of the first internationally recognized model contract on mining from a sustainable development perspective, the Model Mine Development Agreement of the International Bar Association. He has also served on Government of Canada advisory committees on international trade and investment law, a special expert panel for the International Commission of Jurists on corporate complicity in human rights violations, and advised on the development of the UN Principles on Business and Human Rights.



**Mr. Ariel Martins** is a career diplomat from Argentina. He is a lawyer specialized in the field of international investment law. He is currently the head of the Investment Treaty Negotiation Unit at the Ministry of Foreign Affairs of Argentina. From 2004 to 2011 he worked as counsel for Argentina in more than 19 investor-State arbitration cases before ICSID. In 2011 he joined the foreign service of Argentina. Since that year until april 2015, he served as legal officer at the Office of the Legal Adviser of the Ministry of Foreign Affairs of Argentina. Since May 2016, he is leading the argentine negotiations for the signature of new bilateral investment treaties.

Mr Martins is a lawyer with a degree obtained at Universidad Nacional de La Plata in Argentina. He also hold a Masters degree in International Law from the Graduate Institute of International Studies in Geneva, Switzerland and a Masters degree in International Economic Relations from University of Barcelona.

He teaches international law at the Universidad de Buenos Aires at the graduate as well as the postgraduate level. He has published several articles on international investment law and has participated as speaker in a considerable number of congress, seminars and workshops on the topic of international investment law.



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**Mr. José Henrique Martins** is General Coordinator for Trade Policy at the Ministry of Finance of Brazil. The General Coordination is responsible for foreign trade and investment policies, including trade related issues such as services, government procurement, intellectual property and trade remedies.

Mr. Martins has an academic background in International Relations, with a Bachelor's Degree from the University of Brasilia (UnB) and several courses on the international trade and business area, such as International Business Strategy and Negotiation courses from the London School of Economics and Political Science (LSE).

Mr. Martins is a civil servant from the Foreign Trade Analyst career of the Brazilian Federal Government. Before working at the Secretariat for International Affairs of the Ministry of Finance, he has worked at the International Advisory Offices of the Ministries of Culture and Development, Industry and Foreign Trade of Brazil.

He has been directly involved in the formulation and negotiation of the new IIA model that Brazil has recently negotiated and signed with several countries – Cooperation and Facilitation Investment Agreement (CFIA) –, representing the Ministry of Finance of Brazil.



**Mr. Steve Mathate** is the Deputy Director: Legal International Trade and Investments, International Trade and Economic Development, Department of Trade and Industry of South Africa. Upon joining the Department of Trade and Industry in 2008 Mr. Mathate became part of the task team that reviewed South Africa's Bilateral Investment Treaty policy. The policy was finalized in July 2010 and one of the significant outcomes of that process is the Protection of Investment Act (PIA). Mr. Mathate was intimately involved in the drafting of the PIA which was assented to by the South African President in November 2016. Mr. Mathate is also part of the team that is currently finalizing regulations for the PIA to come into effect. Mr. Mathate was also part of the legal team that successfully defended the Bilateral Investment Treaty (BIT) claim brought by Italian mining investors. The claim was brought in terms of the BIT signed between South Africa and Italy as well as the South Africa Belgo-Luxembourg BIT.



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**Prof. Makane Moïse Mbengue** is Professor of International Law at the Faculty of Law, the Institute of Environmental Sciences and the Global Studies Institute of the University of Geneva where he teaches International Environmental Law, International Investment Law, International Water Law and International Dispute Settlement. Prof. Mbengue is also an Affiliated Professor at Sciences Po Paris (School of Law) where he teaches General International Law and WTO law. He holds a Ph.D. in Public International Law from the University of Geneva. He is the Lead Expert of the African Union for the negotiations and drafting of the Pan-African Investment Code (PAIC). He has acted and acts as expert for the African Union, the United Nations Economic Commission for Africa, the United Nations Environment Programme (UNEP), the World Health Organization (WHO), the International Labour Organization (ILO) and the International Institute for Sustainable Development (IISD) among others. He also acts as a Professor for courses in International Law organized by the United Nations Office of Legal Affairs (OLA) and by the United Nations Institute for Training and Research (UNITAR). Prof. Mbengue acts as counsel in disputes before international courts and tribunals. He is the author of several publications in the field of international dispute settlement, general international law and the law of sustainable development.



**Mr. Pablo Menacho Diederich** studied Law at the Universidad Privada de Santa Cruz de la Sierra (UPSA), and obtained the Masters in International Relations and Diplomacy from the Bolivian Diplomatic Academy “Rafael Bustillo” (current Plurinational Diplomatic Academy), under the Ministry of Foreign Relations.

In 2007 he joined the Bolivian Ministry of Foreign Relations, where he was in charge of the Area of Legal Defense in Arbitrations. In 2008, he served as Director of Conciliation in the newly inaugurated Ministry without Portfolio Responsible for the Legal Defense of the State Recoveries. From there he was in charge of the amicable negotiations with Shell Gas (Latin America) B.V. and AEI Luxembourg Holdings S.Ã r.l., related to the nationalization of the company Transredes - Transporte de Hidrocarburos Sociedad Anónima.

After having briefly held the post of Minister of Legal Defense of the State, from 2010 to 2012 he served as Counselor at the Bolivian Embassy before the Government of the United States, in the city of Washington, D.C. From 2014 to date, he works at the Bolivian General Attorney’s Office, where he held the position of Deputy General Attorney for Legal Defense and Representation of the State and where he actually serves as General Director of Defense in the

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international investment arbitrations in the mining area, initiated by the Canadian company South American Silver Corp. and the Swiss company Glencore International Plc.

Finally, Pablo Menacho actively participated in the drafting of the current Bolivian Law of Conciliation and Arbitration, specifically, with respect to the Special Regime on State – investors disputes, as well as in the drafting of the New Model of Agreement on Protection and Promotion of Investments, which discussion is currently being held in Bolivia through the Vice Ministry of Foreign Trade and Integration – Ministry of Foreign Relations.



**Mr. Manuel F. Montes**, Senior Advisor on Finance and Development at the South Centre in Geneva, was previously Chief of Development Strategies, United Nations Department of Economic and Social Affairs (UNDESA) where he led the team that produced the World Economic and Social Survey (WESS). Before that, he was Chief of Policy Analysis and Development in the UN's Financing for Development Office; UNDP Regional Programme Coordinator, Asia Pacific Trade and Investment Initiative based at the Regional Centre in Colombo, Sri Lanka; Programme Officer for International Economic Policy at the Ford Foundation in New York, 1999-2005; Senior Fellow and Coordinator for economics studies at the East-West Centre in Honolulu, 1989-1999; and Associate Professor of Economics at the University of The Philippines, 1981-1989. He holds a PhD in Economics from Stanford University His recent publications have been in areas of macroeconomic policy, development strategy, income inequality, climate change financing and industrial policy. Two recent chapters in collected volumes are: “The MDGs versus an Enabling Global Environment for Development: Issues for the Post-2015 Development Agenda” (January 2016) and “Throwing Away Industrial Development Tools: Investment Protection Treaties and Performance Requirements” (November 2015, with KInda Mohamadieh).



**Mr. Thierry K. Mutombo** is Director of Investment Promotion & Private Sector Development, COMESA Secretariat. He worked as consultant with World Bank, OECD, ADB and SADC. He has been a Resource person of International Institute for Sustainable Development (IISD), panelist in many international fora on IIA regime reform and one of UNCTAD experts in international investment rules and FDI statistics. He has been associated as panelist during events on II regime

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organized by UNCTAD, University of Columbia, and ICSID; and collaborates with those institutions on sustainable Investment. He also works with UNIDO on sustainable an inclusive industrialization program. He facilitates trainings of investment experts in the area of international investment regime in the COMESA region. He works with law firms in investment arbitration matters and has been a team leader of African Union (AU) investment experts meetings on the Pan African Investment Code. He also works closely with the ACP-EU Business Climate Facility and the International Finance Corporation (IFC) on the ease of doing business program in Southern and Eastern Africa.



**Mr. Barrack Rongah Ndegwa** is currently the Secretary for Regional Integration in the State Department for East African Community Integration. He has a wide experience in the Kenyan Civil Service spanning 33 years where he has served in different capacities as Chief Economist/Statistician, Director-Intergovernmental Authority on Development (IGAD), Head of Regional and International Trade Unit & Export Promotion Programme Office, Secretary/Senior Assistant Commissioner of Monopolies & Prices, Deputy Head of Department of Regional and International Economic Cooperation, District Development Officer. He is the head of the technical wing of the State Department and the chief advisor on issues relating to the East African Community; coordinates policies to operationalize all aspects of the EAC Treaty. He is responsible for overall guidance, supervision and coordination of work related to the implementation of the EAC Customs Union, Common Market, Monetary Union and the East African Political Federation; He coordinates work related to bilateral, regional and EAC/COMESA/SADC tripartite issues, multilateral arrangements of the EAC, and coordinates overall integration programmes in economic, social, political, productive sectors.

He is currently pursuing a PHD in Economics Programme at the School of Economics of the University of Nairobi and has a Master in Economics majoring in International Economics, a Bachelor of Philosophy in Economics and Bachelor of Arts degrees in Economics. In 2003 He attended an Intensive Training Session for Negotiators of International Investment Agreements (IIA) at the Investment and Trade Policy Centre of the University of Pretoria in South Africa a programme sponsored by UNCTAD, WTO and the University of Pretoria.

He received a decoration known as the Head of State Commendation (HSC) award from His Excellency Mwai Kibaki, and the former President of the Republic of Kenya in recognition of His contribution towards the EAC integration process in 2008. In 2009 He also received a certificate of

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recognition from the Summit of EAC Heads of State in recognition of his contribution as the Chief Negotiator for Kenya negotiating the EAC Common Market Protocol.



**Ms. Roslyn Ng'eno**, a Kenyan national, is the Policy Advocacy Manager at the Kenya Investment Authority (KenInvest), with over ten (10) years of well-rounded experience in policy analysis and advocacy, investment promotion and facilitation, treaty negotiations and, stakeholder engagement. She is the lead investment expert for the preparation and drafting of the Kenyan Model of Bilateral Investment Treaty (BIT), and has been involved in the development and review of the East African Community Model Investment Treaty, Agreement on COMESA Common Investment Area, and the Pan African Investment Code. Ms. Ng'eno is a member of the Kenyan negotiating team. She is presently coordinating the development of the Kenya National Investment Policy, Green Investment Policy, and the International Investment Agreements policy. She has prepared country and regional position papers in investment collaboration and international investment agreements at the national, regional and international forums such as UNCTAD, AGOA. Ms. Ng'eno holds a Masters' Degree in International Studies from the University of Nairobi.



**Dr. Chantal Ononaiwu** is the Trade Policy and Legal Specialist at the Office of Trade Negotiations, Caribbean Community (CARICOM) Secretariat, where she develops and provides advice on CARICOM's proposals for external trade negotiations; advises on other international trade and investment issues; and represents CARICOM in cases before the Caribbean Court of Justice. She has served as CARICOM's Negotiator on Investment, Financial Services, and Labour in the Community's trade negotiations. Dr. Ononaiwu is a lecturer in Public International Trade Law on the MSc in International Trade Policy at the University of the West Indies, Cave Hill, and has lectured Public International Law at the University. Prior to joining the CARICOM Secretariat, she was the Director, Value Proposition Development at Invest Barbados and worked as counsel in the Attorney General's Chambers in Jamaica. She has published in the areas of international trade law, investment law and public international law. Dr. Ononaiwu is a Rhodes Scholar and holds a DPhil in Law from the University of Oxford, an LLM from the University of Cambridge and an LLB from the University of the West Indies, and is admitted to practise law in Jamaica and Barbados.



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**Mr. Carlos Sevilla Albornoz** is a lawyer graduated with cum laude honors at San Francisco University of Quito-Ecuador. As a student he also attended the Washington D.C. American University “Summer Program on International Commercial Arbitration”, and participated in various international Moot Court contest regarding Human Rights violations on cities like Washington D.C. and Lima.

As a lawyer he worked at the corporate division on Barrera, Andrade Cevallos & Abogados, one of the most prestigious law firms from Ecuador, where he managed various international clients from countries like South Korea, China, United States and Italy, regarding their investment contracts in Ecuador, and the develop of international companies operations in Ecuador.

He’s currently working as a Senior Analyst of Regulations and Settlement of International Disputes of the Ministry of Foreign Trade of Ecuador, where he gives his legal advice regarding international law, local law and public policies; he also participates on the dispute settlement processes where Ecuador takes part on as a Partie or as a Third Partie, on international instances like the Andean Community and on the World Trade Organization. He also participates as a negotiator on international commercial agreements negotiations of Ecuador, especially on the Strategic Economic Cooperation Agreement between the Republic of Ecuador and South Korea.

Mr. Sevilla has also participated on various courses sponsored by the World Trade Organization and the Interamerican Bank of Development, concerning themes of international trade, investment and dispute settlement. He’s also a candidate for Master on Business Law by the Simón Bolívar University of Ecuador and has made publications regarding economic, social and cultural rights violations by private companies and stock repurchase by anonymous companies in Ecuador.



**Ms. Anisong Soralump** is currently the Chief of International Investment Agreement Section, Department of International Economic Affairs, Ministry of Foreign Affairs of Thailand. She has been involved with the Bilateral Investment Treaties (BITs) negotiations between Thailand and other countries, including the Investment Chapter in the on-going FTA negotiations such as RCEP. Ms. Anisong has also taken part in the process of an IIA reform in Thailand.



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**Prof. M. Sornarajah** is CJ Koh Professor of Law at the National University of Singapore. He is the author of *The International Law on Foreign Investment* (Cambridge University Press, 4th Edition in 2017). He has been counsel or arbitrator in several investment arbitration disputes.



**Ms. Elisabeth Tuerk** is Chief of the Section on International Investment Agreements (IIAs) in UNCTAD's Division on Investment and Enterprise (DIAE). She leads the Section's work across the three pillars of UNCTAD activities: research and analysis, capacity-building and consensus-building.

The IIA Section seeks to help countries to participate as effectively as possible in international investment rulemaking, with a view to strengthening the sustainable development dimension of IIAs. In 2015, the Section was instrumental in developing UNCTAD's "Roadmap for IIA Reform", which identifies reform objectives, areas and solutions, outlines a common roadmap for the reform process, and invites countries to use an action menu to define their own, individual roadmaps for IIA reform. The Section also developed "UNCTAD's Investment Policy Framework for Sustainable Development", now available in its 2015 update, which helps policymakers design "new generation" investment policies that place inclusive growth and sustainable development at the heart of efforts to attract and benefit from investment.

Ms Tuerk conceptualizes the IIA Section's analytical and research work (including the Series on Issues in IIAs (Sequels) and the Series on International Investment Policies for Development, the databases on IIAs ("IIA Navigator" and investor-State dispute settlement cases) and coordinates the Section's contribution to other UNCTAD products, such as the joint UNCTAD/OECD monitoring of G20 countries' investment policy changes and the annual World Investment Report (WIR). Ms Tuerk also leads the Section's technical assistance and capacity-building work and the organization of IIA-related aspects of UNCTAD's intergovernmental events, in particular the biennial World Investment Forum (WIF).



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