



## SOUTH CENTRE

Side event  
At UNCTAD's World Investment Forum 2018

### REFORMS AND ALTERNATIVES FOR THE FUTURE OF THE INTERNATIONAL INVESTMENT TREATY REGIME; VIEWS FOR THE WAY FORWARD

Tuesday, 23<sup>rd</sup> October 2018  
12:30 – 14:30

Room XXII of the *Palais des Nations*

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The international investment treaty regime, both in terms of the substantive content of the treaties and the arbitration-focused dispute settlement regime have been under scrutiny for several years. Concerns emerge from experiences and challenges faced by both developing and developed countries. Today, while there is convergence on the need for reform, there is lack of clarity on the best way forward and there is a proliferation of fora where change is being tackled.

In terms of approaches to change, while some countries are electing to consensually terminate their bilateral investment treaties, withdraw unilaterally, or develop alternatives to international investment agreements (IIAs), others are taking a wait-and-see approach, or continue to expand their web of IIAs. In terms of investor-State dispute settlement (ISDS), some countries are moving away from ISDS and arbitration, while others are looking to introduce selected changes into the existing arbitration-based system of ISDS.

While often States consider IIAs and ISDS as part of their broader investment strategy and some consider it a prerequisite for attracting foreign direct investment (FDI), no conclusive evidence have been found in the empirical research regarding the correlation between IIAs, ISDS, and attraction of FDI. Investors, often in the form of multinational corporations, have come to take for granted the international protections and ISDS privileges they have access to under IIAs, which is often not linked to any requirements or responsibilities pertaining to the benefits and economic development of the host State or the rights of the communities impacted by the incoming investment.

Within this context, multiple questions emerge regarding the extent to which IIAs and ISDS facilitate or hinder successful linkage of FDI with national development objectives and long-term productive and sustainable growth capacities.

***The side event at the WIF 2018 will serve as an opportunity to hear views from representatives of developing countries, international organizations, academics and civil society organizations on the issues addressed above. The main aim of the event is to provide reflections on the way forward in rethinking the international investment treaty regime.***

**Issues and questions for the debate:**

1. What are the priority reforms needed in order to align international investment agreements with development objectives? What principles should guide this process of reform?
2. What challenges are countries facing given the proliferation of fora where reform of international investment agreements is being addressed (for example the multilateral discussions at UNCTAD, UNCITRAL, along with other multilateral regional and national processes)?
3. What impact do the new approaches adopted by countries such as South Africa, India and Brazil, have in reshaping the IIAs landscape?

**Panelists:**

- ❖ Kekeletso Mashigo- International Trade & Economic Development Division- South Africa's Department of Trade and Industry
- ❖ Lori Wallach - Director of Global Trade Watch, Public Citizen (via video connection)
- ❖ Mouhamadou Kane- Executive Director, African Center of International Law Practice

**Moderator:** Vicente Yu- coordinator of Global Governance for Development Programme at the South Centre