

Side event to HRC60

Sustainable Development with an Unsustainable Investor-State Dispute Settlement Mechanism?

Monday, 8 September 2025, 2-3pm

Concordia 1, Building A, Palais des Nations, Geneva

Investment, including by foreign investors, is critical to support sustainable development. The 2030 Agenda for Sustainable Development underscores the role of private sector in a revitalised Global Partnership for Sustainable Development. The recent Sevilla Commitment also reaffirms the role of private investment in financing sustainable development.

States take a variety of measures to create an enabling environment to attract foreign investment. International investment agreements (IIAs) have been one of such measures. An investor-State dispute settlement (ISDS) mechanism is a key component of the most IIAs. However, the ISDS mechanism is increasingly coming under attack for offering foreign investors a privileged pathway to resolve investment-related disputes, thus exacerbating power imbalances between States and foreign investors, and ignoring the interests of communities affected by investment projects. ISDS awards, or even the process of defending investors' arbitration claims, is draining limited resources of developing States. Moreover, foreign investors' abuse of ISDS is also contributing to a regulatory chill in States taking effective law and policy measures to protect people and the planet.

While the UN Commission on International Trade Law (UNCITRAL) has introduced some reforms, these do not fully address some of structural problems with ISDS. The human rights-based reforms to the ISDS mechanism are urgently required. The Inter-American Court of Human Rights in its advisory opinion on "climate emergency and human rights" specifically recommended States to "review their existing trade and investment agreements, and also settlement mechanisms for litigation between investors and States to ensure they do not limit or restrict efforts relating to climate change and human rights." Over the last decade, UN Trade and Development (UNCTAD) and other organisations have made concrete proposals to reform IIAs and/or ISDS. However, more decisive actions on the part of States are needed.

Against this backdrop, the side event seeks to highlight the negative impacts of the ISDS mechanism on States' ability to realise human rights, achieve sustainable development and take effective climate actions. It will also explore fairer alternative pathways to settle disputes between States and foreign investors.

The side event is co-organized by the UN Special Rapporteur on the right to development and the Permanent Mission of the Republic of Honduras to the United Nations in Geneva.

Objectives

This side event aims to:

- Raise awareness about the negative impacts of ISDS on States' ability to realise human rights, achieve the SDGs and take effective climate actions.
- Explore fairer alternative options to resolve disputes between States and foreign investors.
- Highlight the role of the Human Rights Council in engaging with the ISDS reforms.

Moderator

Mr Surya Deva, UN Special Rapporteur on the right to development

Opening remarks (*video message*)

H.E. Christian Duarte, Secretary of State in the Office of Finance, Honduras

Panellists

1. H.E. Ms Marcela Maria Arias Moncada, Ambassador and Permanent Representative, Permanent Mission of the Republic of Honduras to the UN in Geneva
2. Mr Daniel Uribe, Lead Programme Officer, Responsible Investment and Human Rights, South Centre; Visiting Professor, International Human Rights Law, Universidad de Especialidades Espíritu Santo de Ecuador
3. Ms Francesca Mingrone, Senior Attorney, Climate and Energy Program, Center for International Environmental Law (CIEL)
4. Mr Hamed El Kady, Chief Coordinator, International Investment Agreements, UN Trade and Development (UNCTAD)
5. Ms Nathalie Bernasconi-Osterwalder, Vice-President, Global Strategies and Managing Director, Europe, International Institute for Sustainable Development (IISD)