No. 4

20 July 2026

30TH ANNIVERSARY SERIES

# The South Centre: 30 Years Advancing towards a Fair and Responsible International Investment Regime

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**This paper examines the South Centre's 30-year effort to reform the international investment law (IIL) regime, advocating for a shift from a self-contained system to one integrated with human rights, environmental protection, and sustainable development. It analyses how the Investor-State Dispute Settlement (ISDS) mechanism has led to "regulatory chill" and legal fragmentation, disproportionately impacting developing nations. The South Centre promotes aligning investment with national development strategies through technical assistance, treaty renegotiation, and policy frameworks that emphasise investor obligations and State sovereignty. Ultimately, the paper calls for a paradigm shift in global governance to address emerging challenges such as climate change and the digital divide, thereby ensuring a more equitable and responsible investment landscape.**

***Cet article examine les efforts déployés depuis 30 ans par le South Centre pour réformer le régime du droit international des investissements (IIL), en plaidant pour le passage d'un système autonome à un système intégré aux droits de l'homme, à la protection de l'environnement et au développement durable. Il analyse comment le système de règlement des différends entre investisseurs et États (RDIE) a entraîné un « effet dissuasif sur la réglementation » et une fragmentation juridique, affectant de manière disproportionnée les pays en développement. Le South Centre encourage l'alignement des investissements sur les stratégies nationales de développement par le biais d'une assistance technique, de la renégociation des traités et de cadres politiques mettant l'accent sur les obligations des investisseurs et la souveraineté des États. En conclusion, l'article appelle à un changement de paradigme dans la gouvernance mondiale afin de relever les défis émergents tels que le changement climatique et la fracture numérique, garantissant ainsi un cadre d'investissement plus équitable et plus responsable.***

***Este documento analiza los 30 años de esfuerzo del South Centre por reformar el régimen del derecho internacional de las inversiones (DII), promoviendo la transición de un sistema autónomo a otro integrado con los derechos humanos, la protección del medio ambiente y el desarrollo sostenible. Asimismo, examina cómo el mecanismo de solución de controversias entre inversionistas y Estados (ISDS, en inglés) ha dado lugar a un «enfriamiento regulatorio» y a la fragmentación del derecho internacional, lo que afecta de manera desproporcionada a los países en desarrollo. South Centre promueve la alineación de las inversiones con las estrategias nacionales de desarrollo mediante la asistencia técnica, la renegociación de tratados y marcos de políticas que hagan hincapié en las obligaciones de los inversionistas y la soberanía de los Estados. En última instancia, el documento aboga por un cambio de paradigma en la gobernanza mundial para hacer frente a desafíos emergentes, como el cambio climático y la brecha digital, y garantizar así un panorama de inversión más equitativo y responsable.***

**本文探讨了南方中心30年来为改革国际投资法（IIL）体制所做的努力，主张将现行体系从一个自成体系的机制转变为与人权、环境保护及可持续发展相融合的机制。文章分析了投资者-国家争端解决（ISDS）机制如何导致“监管寒蝉效应”和法律碎片化，并对发展中国家造成了不成比例的影响。南方中心通过技术援助、条约重新谈判以及强调投资者义务和国家主权的政策框架，推动投资与国家发展战略相协调。最后，本文呼吁全球治理实现范式转变，以应对气候变化和数字鸿沟等新出现的挑战，从而确保建立一个更加公平和负责任的投资格局。**

The South Centre supports developing countries at the Working Group III - Investor-State Dispute Settlement Reform of the United Nations Commission on International Trade Law in Vienna, Austria.

## I. Introduction

This paper examines the South Centre's contributions in promoting a more equitable, just, and coherent international investment law regime. It explores how the South Centre has actively engaged with the complexities of international investment law by promoting reforms that address the interconnected challenges of economic development, human rights, environmental protection and climate change.

The paper highlights the South Centre's key achievements in this area over the past 30 years, emphasising its proactive approach to fostering coherence, and its commitment to building a robust framework for investment that supports sustainable and equitable development. By drawing on the foundational principles articulated in *The Challenge to the South,* the South Centre has consistently championed the interests of developing countries, ensuring their meaningful participation in shaping a more just and balanced investment landscape.[1]

## II. The Imperative of Coherence in International Investment Law

The International Investment Law (IIL) has been traditionally conceived as a self-contained regime in international law (Lindroos and Mehling, 2005). This conception has been developed through a series of restrictive interpretations by arbitral tribunals, determining the applicable law in each process and the methods and principles of interpretation[2]. For example, although dissenting opinions have endorsed an opposite view, recognising that bilateral investment treaties (BITs) must be interpreted in harmony with rules of international law,[3] a restrictive approach seems to continue rising tensions in particular between the human rights obligations of States and the protection of foreign investors (Coleman, Cordes and Johnson, 2019).

Recognising IIL as a self-contained regime has led to a fragmentation of international law, placing investment agreements, as interpreted by ad-hoc arbitration tribunals, *above* general international law. This circumstance presents a significant obstacle to achieving coherent global governance, particularly concerning the interconnected issues of investment, climate change, human rights, and sustainable development. Consequently, States face challenges in balancing their obligations to protect foreign investments with their duty to implement policies that address their commitments under other instruments of international law. This lack of a unified framework can lead to inconsistent outcomes and effectively undermine efforts to address global challenges (Koskenniemi, 2006).

The Investor-State Dispute Settlement (ISDS) mechanism, a cornerstone of many investment treaties, exacerbates this fragmentation. The ISDS system, which allows foreign investors to sue States before ad-hoc international arbitration tribunals, operates outside the domestic legal systems of host States. This results in conflicting interpretations of legal principles, lack of consistency in arbitral awards[4] and re-examination of issues decided by national courts in accordance with the prescribed legal procedures. For example, *Eli Lilly v. Canada* reveals how ISDS mechanisms allow corporations to challenge domestic court decisions, thereby eroding national judicial sovereignty and potentially creating a "chilling effect" on public interest regulations.[5] (Correa, 2013)

Moreover, the focus on investor rights within ISDS tribunals can overshadow considerations of human rights and environmental protection, as the pursuit of investor protection can come at the expense of broader societal goals, highlighting the urgent need for reforms that promote coherence and balance competing interests. Recognising the existence of this fragmentation allows the identifying of the legal conflict between competing interpretations and practice that create obstacles in developing countries to pursue public interests, particularly concerning environmental protection and public health.

### *The Complex Landscape of International Investment Law and Investor-State Dispute Settlement*

Since 1987, 1368 ISDS cases have been initiated worldwide. This implies that an average of 36 claims has been filed against States every year. Almost 50% of the total number of cases deal with the primary sector (agriculture, forestry, fishing, mining and quarrying) and tertiary sector (electricity, gas, steam, air conditioning, water supply, waste management and remediation activities) (UNCTAD, 2025a). Likewise, almost 34% of the cases initiated during this period were either decided in favour of the Investor (286 cases), or settled (179 cases) which will generally benefit the investor.

Given the success rate of these procedures for investors, largely due to the vagueness of the language used in BIT provisions and the broad interpretation made by ISDS tribunals, these procedures have become common as a mechanism for dispute settlement, reaching record numbers in the 2010s. Developing countries have been impacted the most, with 863 cases being initiated against countries from Africa, Asia, and Latin America; from these cases, 61 deal with over 100 million US Dollars in awards (UNCTAD, 2025a).

ISDS has particularly affected developing states dealing with severe economic crises or facing a political transition that required social and political measures that, according to investors, negatively impacted their investments.

The vast sums of money that the States must pay due to investment arbitral awards, and their potential impact on the implementation of public policies, create what is known as ‘regulatory chill’, where States hesitate or delay the adoption of public policies given the threat of investors’ complaints under ISDS. Decisions to suspend the adoption of measures to control and reduce tobacco consumption,[6] or the decision to continue the operation of coal plants after a notice of arbitration was notified to the country[7] are evidence that ‘regulatory chill’ is based on factual grounds.

In the face of these challenges, developing countries are confronted with the hard choice of paying voluminous awards, or using this capital to cover social investment schemes, such as education, public health, adequate housing, and others (UNCTAD, 2024). Similarly, the impact of ISDS procedures on the judicial and institutional system of States is high as investors circumvent domestic courts through ISDS, limiting the possibility of States to review their decisions at the domestic level through the established legal procedures.

This alarming trend of escalating ISDS cases, particularly those impacting developing nations and essential public policy areas, underscores the urgent need to address the systemic flaws within the current international investment regime. The significant financial burdens imposed by arbitral awards and the ‘chilling effect’ on the regulatory space for States highlight the real threat ISDS poses to supporting human rights, climate change and sustainable development. This reality shows an inherent fragmentation within the broader landscape of international law and a significant obstacle to the pursuit of the Sustainable Development Goals (SDGs).

### *The Fragmentation of International Law and International Investment Law*

The fragmentation of international law has impacted the regulatory space of States by creating a complex web of overlapping and potentially conflicting obligations.

The concept of international investment law as a self-contained regime is an expression of such a fragmentation, which contradicts the principle of systemic integration codified in the Vienna Convention on the Law of Treaties (VCLT).[8] The Convention establishes in articles 31 and 32 general and supplementary rules of interpretation of international treaties, and specifically recognises that “any relevant rules of international law applicable in the relations between the parties” should be considered when interpreting international treaties (article 31(c)).

The VCLT thus recognises the need to consider the entire set of States’ commitments under international law, and promotes a holistic approach of treaty interpretation. This should lead to reconciling obligations from investment treaties with broader international legal instruments, particularly those safeguarding human rights and environmental protection. This approach is crucial to prevent investment law from operating in a vacuum, eventually undermining other essential international legal norms.

The proliferation of BITs and conflicting ISDS awards has made States struggle to reconcile their international commitments, under the constant threat of costly ISDS claims. In many cases, as noted, States are discouraged from adopting necessary public interest policies in areas like taxation and environmental protection.[9] Consequently, States face the challenge of balancing competing international obligations, leading to uncertainty and potential erosion of their sovereign regulatory powers.

Furthermore, the inconsistent interpretation of international law and application by various tribunals and bodies exacerbate the problem. For example, the "fair and equitable treatment" (FET) standard, common in investment treaties, is applied inconsistently.[10] The diverse interpretations of FET highlight the lack of a uniform understanding of how BIT provisions are applied. This inconsistency makes it difficult for States to predict the legal consequences of their actions, thereby hindering effective policy action. Litigation from large multinational corporations is highly costly and also increases the potential for regulatory chill (Johnson and Sachs, 2016).

A paradigm shift towards a more coherent and integrated international legal framework is needed to overcome the fragmentation of international law. This requires a concerted effort to harmonise investment treaties with other international legal instruments, ensuring that investor protection does not come at the expense of human rights, environmental protection, and sustainable development.

### *The Power Dynamics in International Investment Law*

The power dynamics inherent in BITs negotiations significantly contribute to embedded biases and imbalances. Historically, the negotiation of international investment agreements (IIAs) has been significantly influenced by power imbalances, where capital-exporting states, wielding greater economic and political leverage, often secured agreements that prioritised investor protection over the regulatory autonomy of capital-importing host states (UNCTAD, 2015). This asymmetry stemmed from disparities in economic weight, legal expertise, and political influence, resulting in BITs that frequently featured expansive investor rights and limited host state regulatory space.

This power imbalance manifests itself in the prevalence of asymmetrical ISDS provisions, granting foreign investors the right to sue host states in international arbitration directly, but lacking equivalent rights for host states to pursue claims against investors. This creates a situation where investors possess enforcement mechanisms and the States no means to address investors’ misconduct or non-compliance.

## III. The South Centre's Contributions to International Investment Law Reform

The South Centre has been highly active in promoting coherence in international investment law, particularly to address developing countries’ challenges. Recognising the power imbalances and fragmented nature characterising IIL, the South Centre has actively engaged in forging a more equitable and responsible investment regime. The South Centre’s contributions included supporting developing countries in reviewing, renegotiating and promoting model investment treaty provisions to rebalance investor rights with the regulatory space necessary for host States to pursue their development objectives. It has emphasised integrating sustainable development, human rights, and environmental obligations into investment treaties, to ensure that investment flows contribute positively to the well-being of host country populations and do not undermine fundamental rights and sovereign policy space.

The South Centre has focused on providing technical assistance to developing countries during treaty negotiations at the national, regional and multilateral level. This support has focused on empowering them to negotiate agreements that align with their national development strategies and international commitments. Since its creation, the South Centre has emphasised on the need for developing countries to “get together and work among themselves” as “[o]nly by working together can they protect and promote their immediate and long-term interests while working towards equitable and development-oriented global investment practices.”[11]

In line with this vision, the South Centre has stressed the need to address in a comprehensive manner structural asymmetries and emerging challenges such as the digital divide and climate change. This comprehensive approach positions the South Centre as a pivotal actor in the ongoing effort to reform and harmonise international investment law.

### *Aligning International Investment Law with National Development*

Although BITs have long been posited as crucial instruments for attracting foreign direct investment (FDI) and fostering economic growth and development, no clear evidence exists that they drive increased FDI (Perrone, 2020). The South Centre has focused not only on the need to align BITs to national development strategies and needs, but also on the broad consideration of the potential adverse impacts of FDI in national development. These impacts include the crowding out of domestic firms, exacerbating inequality, and hindering sustainable development. For example, early research of the South Centre noted that FDI:

[...] could also discourage the development of technical know-how by and in local firms, and institutions, to the detriment of the growth of domestic procedures in the national economy. If it fails to generate adequate linkages with the local economy, FDI will have fewer beneficial spill-over effects and may, on balance, be harmful [...].[12]

This perspective underscores a critical shift in understanding the relationship between investment and development, moving away from a simplistic focus on attracting FDI to a more nuanced consideration of its quality and impact. In addition, the South Centre considered the impacts of FDI on the environment and developing countries' economic, social and cultural landscape.[13] It has noted that:

Although economists are prone to ignore such socio-cultural, political, geopolitical and strategic considerations, these clearly must comprise part of the overall net evaluation of the costs and benefits of FDI by developing countries.[14]

The South Centre has emphasized the importance of aligning investment with national development strategies from its early beginnings and the need for establishing a "development-sensitive policy framework for FDI"[15], including by promoting:

[...] the definition of a set of principles for a policy framework for FDI, corresponding to developing countries' interests in this matter and representing a shared view among them […] [16] From the South's perspective, however, what is needed is a set of ground rules which, while guaranteeing adequate basic protection for foreign investment, serves the South's development requirements [...] (See Box 1.)

**Box 1. The basic elements for a FDI Policy Framework**

i. Allowing countries to be ***selective with regard to the timing of FDI and to actual FDI projects***, according to their current development level and needs;

ii. legitimising ***qualified market access*** so that a potential host country could specify the degree to which it would give national access, in terms of the percentage limit on foreign shareholder, or the total value of individual or aggregate foreign investment;

iii. ***preventing the abuse of monopoly power*** by large multinationals, encouraging, as far as possible, level playing fields between foreign investors and smaller domestic companies so that the latter can continue to operate and flourish;

iv. permitting ***limitations to national treatment***, giving governments scope to stipulate performance requirements and similar measures, TRIMs notwithstanding, in order to encourage foreign enterprises to contribute to development objectives, including a healthy balance of payments,

v. establishing ***rules of conduct for foreign investors*** to prevent bribery and corruption, and tax avoidance through transfer pricing, among other things.

These elements have continued to be the compass of work of the South Centre, in particular aiming at ensuring that investment contributes to key sectors of the economy, promotes technology transfer, creates decent jobs and respects environmental and social standards. The South Centre's work has promoted the inclusion of specific provisions in IIAs that safeguard policy space for developing countries to pursue their development objectives, mainly through recognising investor obligations, technology transfer, and the right to regulate in the public interest.

Furthermore, the South Centre has highlighted the need for greater coherence between investment and other development-related policies, such as human rights, environmental protection and climate action. This integrated approach is essential for maximising the development benefits of investment and minimising its potential negative impacts. A holistic understanding of investment's role in development allows a paradigm shift prioritising national development over only attracting FDI.

***Reforming ISDS for Increasing Transparency, Accountability, and Strengthening International Law***

One of the key issues that have raised concerns about international investment law and its impact on developing countries is, as noted above, the ISDS mechanism. ISDS allows foreign investors to sue host states for alleged breaches of IIAs. The South Centre has been at the forefront of efforts to reform ISDS, advocating for greater transparency, accountability and the integration of the investment regime into international law.

Some key concerns the South Centre raised are the lack of transparency in ISDS proceedings, the lack of accountability of arbitrators, the need to harmonise international law in the context of ISDS, and the need to strengthen the exhaustion of local remedies, including alternative dispute resolution mechanisms. On transparency, there is a need for greater public access to ISDS documents and hearings and the publication of arbitral awards. Increased transparency is essential for ensuring accountability and could allow for the participation of affected communities in ISDS procedures.

Likewise, greater accountability of arbitrators could be achieved through adopting a code of conduct for arbitrators, as well as mechanisms for challenging their impartiality and independence (UN Information Service, 2023). Nevertheless, this code of conduct should be binding, rather than only serving as guidelines for arbitrators. Furthermore, provisions in BITs should be included to clarify the scope of investor rights and obligations. These provisions could include denial of benefits when investors do not comply with their obligations, thereby rebalancing the relationship between States and investors in the context of ISDS. This is essential for preventing frivolous claims and ensuring that ISDS is used only in cases where there has been a genuine breach of an IIA.

Several multilateral organisations have been central in addressing the reform of the current international investment regime. Forums like the United Nations Commission on International Trade Law (UNCITRAL), the Organisation for Economic Co-operation and Development (OECD), and the United Nations Trade and Development (UNCTAD) are all actively working to reform the international investment regime. UNCITRAL is focused on reforming the ISDS system by addressing issues such as establishing a multilateral court, transparency, arbitrator selection and conduct, and third-party funding (UNCITRAL, 2024). The OECD is updating its investment policy guidance to reflect the evolving investment landscape by promoting environmental and climate change carveouts in existing agreements (OECD, 2025). On its part, UNCTAD has continued with initiatives like the World Investment Forum, the High-level International Investment Agreements Conference and the Multi-Stakeholder Platform for IIA Reform, which foster dialogue and policy coherence in the global investment regime. It has also actively advocated the reform of IIAs to rebalance them and address development needs of the host countries. These processes signal the international investment regime's gradual but significant evolution towards a more balanced and development-oriented framework. However, significant concerns remain about how these processes would lead to a holistic reform of the international investment regime (Uribe, 2024).

The increasing number of countries embracing investment facilitation frameworks and the growing momentum for ISDS reform and alternative dispute resolution mechanisms indicate a shift in the global approach to investment governance. This transformation is evident in the increasing number of countries reforming or terminating outdated BITs, and the rising preference for investment facilitation agreements that prioritise cooperation and sustainable development. As of 2023, the total BIT terminations reached at least 585, reflecting a growing desire to replace these treaties with more balanced, development-oriented agreements (UNCTAD, 2024). In addition, there is a growing interest in investment facilitation agreements (IFAs) that emphasise on investment cooperation, transparency, and streamlining investment procedures to create a more predictable and conducive environment for sustainable investment.[17]

Furthermore, there is a growing movement towards rethinking ISDS, with proposals that include reforms aimed at enhancing transparency and procedural fairness to alternative dispute resolution mechanisms, and the outright elimination of ISDS in favour of State-to-State dispute settlement or domestic courts. For example, the Energy Charter Treaty (ECT), which includes expansive ISDS provisions, has faced significant pushback, with European Union Member States announcing their withdrawal, signalling a shift away from investor-centric dispute resolution systems (European Council, 2024).

***Responsible Investment, Human Rights and Climate Action***

In the contemporary global landscape, responsible investment and human rights intersection has become a critical point, particularly concerning multinational corporations' (MNCs) conduct. While States primarily uphold human rights, MNCs wield significant influence over their realisation, often operating across intricate global supply chains that render accountability challenging.

Corporate complicity in human rights violations has been evidenced in cases disproportionately affecting vulnerable communities, with limited avenues for victims to seek redress as companies effectively leverage liability gaps by strategically withdrawing from direct involvement yet maintaining profitable ties or shifting production to States with laxer rules, thereby insulating themselves from the social costs inherent in their business models (Kanellis, 2025). The current investment framework, as noted, prioritises investor rights, creating an accountability gap where victims of corporate misconduct struggle to obtain adequate remedies. This imbalance between investors' protection and human rights obligations[18] requires a robust multilateral framework to guide and regulate corporate behaviour, ensuring respect for human rights and access to justice.

The concept of responsible investment emphasises that economic development should not compromise fundamental human rights like health, food, and a clean environment. The South Centre has increased efforts to promote this concept and called for the inclusion of human rights obligations in IIAs, mandating human rights due diligence, remedies for violations, and greater coherence between investment and human rights law (Danish and Uribe, 2024). In addition, the necessity for policy space in developing countries is non-negotiable when addressing the complex interplay of responsible investment and human rights.

Developing countries face a unique set of challenges, including the imperative to eradicate poverty and improve living standards, while simultaneously addressing the disproportionate impacts of climate change. This requires the development of robust regulation and monitoring to ensure benefits of FDI outweigh costs and to mitigate potential harms for ISDS (Perrone, 2020). Furthermore, given that developing countries have limited resources and capacity for increasing climate action, environment protection and coping with these phenomena's social and economic effects, it is necessary to guarantee policy space to prioritise actions and mobilise resources effectively (UNCTAD, 2021). The vulnerability of developing countries to climate impacts requires novel mechanisms for implementing adaptation measures, including through social protection programs that are crucial for building resilience and yielding co-benefits across development goals (IPCC, 2022). A just transition in developing countries necessitates robust policy space to balance responsible investment, human rights and climate action (South Centre, 2024).

However, IIAs pose a significant obstacle to developing countries pursuing these objectives. Defending against costly ISDS claims and paying damages can deplete necessary public funds, diverting resources from crucial climate mitigation, social protection, and green job creation. The current ISDS system severely restricts developing countries' ability to enact robust just transition strategies. Therefore, the reform of the international investment regime should extend beyond procedural adjustments, encompassing investor obligations to uphold human rights and environmental standards, and preserving State regulatory autonomy. Moreover, developing nations should actively explore terminating or withdrawing from existing investment agreements as a strategic option (South Centre, 2023a).

## IV. Opportunities for Future Leadership: Navigating an Interconnected World

The South Centre's interventions to contribute in shaping the future of international investment law have taken the complex, interconnected challenges facing developing nations into account. This requires identifying and addressing the broader impact of investment on developing countries, including its influence on social equity, political stability, and strategic regulatory autonomy. This holistic approach aligns with the South Centre's mission to champion multilateral frameworks that genuinely serve the interests of developing countries.

Given the rapid technological advancement, the escalating climate crisis, and shifting geopolitical landscapes, the South Centre's role in supporting developing countries shaping the international investment law is more crucial than ever. The reform of investment frameworks should prioritise sustainable development goals, environmental protection, and human rights, which requires a proactive and adaptable approach.

***Investment Law and Emerging Challenges: Technology and Climate Change***

The rapid evolution of technology and the escalating climate crisis demand a fundamental rethinking of investment law, requiring a proactive and adaptable approach. The digital revolution, characterised by the rise of artificial intelligence, big data, and blockchain, presents opportunities and challenges for developing countries. Investment frameworks should promote responsible digital investment, safeguarding data sovereignty and ensuring equitable access to technological benefits, including through increasing investment in digital public infrastructure, facilitating technology transfer, capacity building, and designing rules on cross-border data flow and e-trade, enabling developing countries to participate in the global digital economy fully. The energy transition is also an imperative to achieve digital transformation, and demands investment frameworks that prioritise sustainable energy systems, climate-resilient infrastructure, and a just transition of fossil fuels (South Centre, 2023b).

Likewise, the convergence of climate change-induced extreme weather, deteriorating fiscal positions, and rising debt burdens underscores the urgent need for reformed global financial mechanisms, beyond focusing only on the global transition to a green economy which is threatened by geopolitical tensions and protectionist policies (Correa, 2023). Therefore, responsible investment frameworks must prioritise climate change adaptation and mitigation in developing countries, ensuring equitable access to green technologies and financing, and fostering a truly inclusive and sustainable global economic transformation.

***Promoting Equitable Governance: Business, Human Rights, and Global Frameworks***

Building coherence between IIAs and broader global governance frameworks, such as the SDGs[19] and the Paris Agreement,[20] is essential to achieve equitable governance of international investment law. Provisions explicitly referencing and supporting existing mandatory frameworks for States should be included within investment agreements, allowing States to find a balance between the protection offered to foreign investors, and the grounds and rationale necessary to adopt public policies to protect human rights, implement climate action and actively engage in development strategies.

Including investors' obligations in IIAs and designing mandatory human rights due diligence obligations for investors must become standard practice, ensuring accountability for social and environmental impacts. Effective mechanisms for remedy of affected communities and pursuing a Legally Binding Instrument (LBI) on business and human rights can support these efforts by making these obligations part of the core rules of international business practices (South Centre, 2023c).

In addition, equitable participation of developing countries in setting international investment rules should increase. This necessitates enhancing transparency and accountability in ISDS proceedings and promoting a holistic approach to IIA reform, that asserts State sovereignty, increases international cooperation and safeguards multilateralism. Developing countries should leverage international platforms like the Group of 77 and China, and the Group of 24 to amplify developing countries' voices. This engagement is vital for advancing the LBI and ensuring that investment serves sustainable development, respects human rights, and empowers developing countries.

## V. Conclusion

Over the past 30 years, the South Centre has advocated for a fair and responsible international investment regime, effectively challenging the traditional self-contained view of IIL. By emphasising coherence and systemic integration, the South Centre has worked to bridge the fragmentation between investment law and other critical domains like human rights and environmental protection. The escalating ISDS cases and the resulting "regulatory chill" highlight the urgent need for reforms prioritising sustainable development and State sovereignty.

The South Centre's contributions have empowered developing countries to navigate the complexities of investment law. They must continue championing responsible investment and holistic IIA reforms, which ensure that investment frameworks align with national development strategies and global challenges. By leveraging international platforms, undertaking analyses, highlighting the interphase between investment and other critical areas such as climate action, human rights, and public health, and providing advice for negotiations in UNCITRAL and other fora, the South Centre will continue contributing to shaping an equitable and sustainable investment landscape that serves the interests of developing nations and their peoples. This includes developing countries' efforts for reforming ISDS, promoting responsible investment policies (including through the principle of Environmental, Social and Governance and due diligence), advocating for policy space for sustainable development goals, and supporting developing countries in negotiating balanced international investment agreements and fostering South-South cooperation models like Cooperation and Facilitation Investment Agreements (CFIAs).

***Endnotes:***

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[9] *Occidental Petroleum Corporation and Occidental Exploration and Production Company v The Republic of Ecuador*(ICSID Case No ARB/06/11); *Vattenfall AB and others v Federal Republic of Germany* (ICSID Case No ARB/12/12).
[10] See: *CMS Gas Transmission Company v The Republic of Argentina* (ICSID Case No ARB/03/8); *LG&E Energy Corp v Argentine Republic* (ICSID Case No ARB/02/1); *S.D. Myers, Inc. v. Government of Canada* (Partial Award) (2000) 40 ILM 1408; *MTD Equity Sdn Bhd v Republic of Chile* (ICSID Case No ARB/01/7).
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[13] *Ibid.*, p. 38.
[14] *Ibid.*, p. 40.
[15] *Ibid.*, p. 74.
[16] *Ibid.*
[17] See e.g. African Continental Free Trade Area (AfCFTA) Protocol on Investment, India–European Free Trade Association (EFTA) Trade and Economic Partnership Agreement, Brazil's Cooperation and Facilitation Investment Agreement (CFIA); the World Trade Organization draft Agreement on Investment Facilitation for Development (IFD Agreement).
[18] See for example: *Vera Rojas v. Chile*, Inter-Am. Ct. H.R. (ser. C) No. 440, para. 86 (2021) and *Comunidades Indígenas Miskitas de la Región del Río Coco v. Honduras*, Inter-Am. Ct. H.R. (ser. C) No. 438, para. 49 (2021).
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The South Centre, the International Institute for Sustainable Development (IISD), the Columbia Centre on Sustainable Investment and the International Institute for Environment and Development (IIED) co-organized a side event at the 46th session of UNCITRAL WG-III held in Vienna in 2023.

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SOUTH CENTRE

*The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.*

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