

High-level Roundtable Discussion on the Development of South–South Principles on International Investment for Sustainable Development

Nairobi, Kenya, July 18, 2016

Meeting Report

1. On July 18, 2016, in conjunction with the 2016 World Investment Forum, the International Institute for Sustainable Development (IISD) and the Kenya Investment Authority (KenInvest) co-hosted a high-level roundtable in Nairobi, Kenya, to discuss the need, usefulness and possible modality of developing principles to enhance South–South cooperation on investment for sustainable development and reform of the investment regime. The meeting gathered over 30 diplomats and senior officials from developing and emerging economies as well as international and regional organizations.
2. Ms. Nathalie Bernasconi, Director of the Economic Law & Policy Group of IISD, and Mr. Moses Ikiara, Managing Director of KenInvest, welcomed the participants to the Roundtable. H.E. Mr. Githu Muigai, Attorney General of the Republic of Kenya, delivered the keynote speech, noting that the changing international economic landscape warrants the importance of enhancing South–South cooperation on international investment for sustainable development. This message was echoed throughout the entire meeting, at which the following points were made and issues discussed.
3. Investment policymaking has witnessed a paradigm shift from focusing on the freedom of investment to focusing on investment for sustainable development. Now that the global leaders have adopted the [2030 Agenda for Sustainable Development](#), there is a need to align national and international investment policies to the Sustainable Development Goals (SDGs). One of the actions to be taken is to review and reformulate the existing investment

policy framework to address current challenges, such as the absence of the sustainable development dimension, the lack of policy consistency and coherence and the systemic fragmentation of the regime. With a view to supporting these efforts, the United Nations Conference on Trade and Development (UNCTAD) has developed its [Investment Policy Framework for Sustainable Development \(IPFSD\)](#) providing a collection of flexible, action-oriented policy tools for reviewing existing frameworks. South–South principles could further support such efforts and serve as an important building block in the reform process. They are needed, useful and feasible.

4. In order to signal to the global community the standard on investment policy-making expected by the Global South, developing and emerging economies can and should work together on a common ground to formulate their collective wisdom on key investment issues in the form of a set of non-binding guiding principles on investment. This has also been confirmed by the [outcome of the G77 Meeting on Investment and Sustainable Development](#) recently held in Pattaya, Thailand, which concluded that concerted efforts are needed to develop international norms on maximizing the positive contributions investment can make to achieve the SDGs.

5. Further evidence demonstrating the possibility and likelihood of reaching a consensus on the development of a set of South–South principles can be found in the shared concerns and similar approaches adopted in many of the recently developed national or regional treaty models and investment laws. These treaty models and investment laws have demonstrated similar goals shared by developing and emerging economies in their investment policy-making, which include, for example, the need to integrate the sustainable development dimension of investment, to balance rights and obligations between investors and states, to safeguard governments’ rights to regulate in the public interest and to develop ways to promote responsible business practices to ensure quality investment.

6. There are several objectives for developing a set of South–South principles. Overall,

such principles can assist in increasingly moving away from begin rule takers to becoming rule makers. The principles can also help guide the harmonization of individual countries' investment policy-making, by setting universally accepted standards in investment policy-making and preventing a race to the bottom. They can also strengthen developing country positions and facilitate and support the negotiation of binding agreements at national, regional and international levels.

7. A starting point for developing a set of South–South principles could be the ten [Core Principles for Investment Policymaking](#) provided in the IPFSD (UNCTAD Principles). Building on the UNCTAD Principles, developing and emerging economies could further explore other terms from the perspective of South–South cooperation. For example, in November 2015, treaty negotiators from about 50 developing countries gathered in Rio de Janeiro, Brazil, at the [9th Annual Forum of Developing Country Investment Negotiators](#). Among other things, they discussed some principles that are essential for South–South cooperation and reforming the investment regime more generally. These include: acknowledging and reinforcing the linkage between investment and sustainable development; integrating foreign investment into national development strategies; placing investment treaties in a wider context of human rights and sustainable development; acknowledging the importance of a strong domestic legal framework to protect domestic and foreign investment; ensuring a balance of rights and obligations between investors and governments to regulate in the public interest; recognizing the shortcomings of the current dispute settlement system on investment; and finding alternative treaty constructions that put greater emphasis on defining responsible business practices and investment promotion and facilitation. In addition, other issues that are important to be covered in the South–South principles could include anticorruption, inclusiveness and the need for industrial development.

8. The recently adopted [G20 Guiding Principles for Global Investment Policymaking](#) (G20 Principles) may also have an impact on the future of investment policy-making at national and international levels. It is a positive sign to see that the major economies have included

in the G20 Principles language relating to promoting sustainable development, confirming governments' right to regulate and promoting responsible business conduct. These principles as a whole, however, are not adapted to the needs of developing and emerging economies to promote quality investment that can contribute to the SDGs as well as align their own national priorities. This once again confirms the importance of developing a more comprehensive set of South–South principles.

9. Notwithstanding the limitations, all the outputs and discussions that have taken place to date serve as important building blocks for the development of South–South principles on international investment for sustainable development. Like-minded countries are keen to continue the dialogue and to further the discussion at other international fora and platforms such as UNCTAD and G77, to design a process to develop a set of South–South Principles on Investment Policymaking.