



## MEETING OF NEGOTIATORS ON INVESTMENT AGREEMENTS AND DISPUTES

Buenos Aires, Argentina, September 14–15, 2017

### Agenda

*Day 1: Current state of affairs of the international investment regime;  
pre- and post-establishment protection of investors and investments*

09:00–09:15	<b>Welcome</b> Introduction of participants and experts Goals of the meeting	Horacio Reyser (Argentina)  Nathalie Bernasconi (IISD)
09:15–10:10	<b>International Investment Regime: Global, regional and national perspectives</b>  UNCTAD and the OECD will present their views on the changes introduced in the international investment regime and the various options for countries. They will present tools such as the Investment Policy Framework for Sustainable Development (UNCTAD) and the Policy Framework for Investment (OECD). IISD will introduce new models and experiences of emerging countries (such as India and South Africa) and developed countries (such as Australia, Canada and the European Union) that have modernized their investment frameworks.	Elisabeth Tuerk (UNCTAD)  Joachim Pohl (OECD)  Nathalie Bernasconi (IISD)
10:10–10:40	<i>Questions, comments and discussion among participants</i>	Moderator: Gabriel Bottini (Uría Menendez)
10:40–11:00	<i>Coffee Break</i>	
11:00–12:00	<b>Roundtable Discussion: Latin American Perspectives</b>	Moderator: Martin Brauch (IISD)



12:00–12:20	<b>Economic Liberalization Elements in Investment Agreements</b>	Elisabeth Tuerk (UNCTAD)
	Several investment agreements include trade elements, such as coverage of pre-establishment rights, non-conforming measures and performance requirement prohibitions. These elements modify the structure of agreements and require an analysis depending on whether they are negotiated as part of other trade instruments or independently.	
12:20–12:50	<i>Questions, comments and discussion among participants</i>	
12:50–14:20	<i>Lunch</i>	
14:20–14:40	<b>Scope of Application of Treaties and Definition of “Investor” and “Investment”</b>	Gabriel Bottini (Uría Menendez)
	The definitions of “investor” and “investment” establish the scope of application of investment agreements. The identification and interpretation of their effects are essential for both states and investors.	
14:40–15:10	<i>Questions, comments and discussion among participants</i>	
15:10–15:50	<i>Group Exercise: Definition of “investment”</i>	Gabriel Bottini (Uría Menendez)
15:50–16:10	<i>Coffee Break</i>	
16:10–16:30	<b>Pre-Establishment Non-Discrimination Obligations: National treatment and Most-Favoured-Nation (MFN) treatment</b>	Martin Brauch (IISD)
	This session will address the scope of pre-establishment non-discrimination clauses—national treatment and MFN treatment—included in several investment agreements, and the options implemented by various countries in their agreements and models to properly limit such scope.	
16:30–16:50	<i>Questions, comments and discussion among participants</i>	
16:50–18:00	<b>Roundtable Discussion: Challenges of Current Negotiations</b>	Nathalie Bernasconi (IISD)



## *Day 2: Right to regulate and dispute settlement*

09:00–09:20	<b>Balance between Investments and Investor Protection and the Right to Regulate</b>	Joachim Pohl (OECD)
	<p>In the context of the drafting and interpretation of clauses such as fair and equitable treatment (FET) and the protection of legitimate expectations in investment agreements, this session will address different ways of re-establishing a balance between investment and investor protection, on the one hand, and states' right to regulate, on the other.</p>	
09:20–09:50	<i>Questions, comments and discussion among participants</i>	
09:50–10:30	<i>Group Exercise: FET, Legitimate Expectations and the Right to Regulate</i>	
10:30–10:50	<b>Global, Regional and National Statistics on Investment Disputes</b>	Elisabeth Tuerk (UNCTAD)
	<p>To provide context for the debate on investment dispute settlement, a statistical overview of the current situation of international investment disputes will be provided, from global and Latin American perspectives, as well as from the perspective of the countries represented at the meeting. UNCTAD will also provide a demonstration of its publications and web tools.</p>	
10:50–11:10	<i>Coffee Break</i>	
11:10–11:30	<i>Questions, comments and discussion among participants</i>	
11:30–12:20	<b>Settlement of Investment Disputes</b>	Ariel Martins (Argentina) Norberto Moretti (Brazil) Juan José Ruda (Peru) Moderator: Nathalie Bernasconi (IISD)
	<p>The dispute settlement mechanism is the cornerstone of investment agreements. Speakers will address state–state dispute settlement, investor–state arbitration and current discussions on the reform of the dispute settlement regime.</p>	
12:20–12:50	<i>Questions, comments and discussion among participants</i>	
12:50–14:20	<i>Lunch</i>	



14:20–15:00	<i>Group Exercise: Analysis of Dispute Settlement Provisions of Different Models and Agreements</i>	Nathalie Bernasconi (IISD)
15:00–16:10	<b>National Experiences in the Settlement of Investment Disputes</b>  This session will address the experiences of governments in investment disputes. Based on cases and personal and institutional experiences, the session will present the challenges posed by different disputes, drawing lessons for investment negotiation in different contexts: bilateral or regional, South–South or South–North.	Alejandra Etchegorry (Argentina)  Marcelo Fernández (Bolivia)  Henry Rodríguez (Venezuela)  Moderator: Gabriel Bottini (Uría Menendez)
16:10–16:30	<i>Coffee Break</i>	
16:30–17:30	<b>Roundtable Discussion: Options for Investment Dispute Settlement in Latin America</b>	Moderator:  Ariel Martins (Argentina)
17:30–17:45	<b>Evaluation and Granting of Certificates</b>	Ariel Martins (Argentina)
17:45–18:00	<b>Closing of the Meeting</b>	Horacio Reyser (Argentina)