

1st Annual Forum of Developing Country Investment Negotiators

October 1-2, 2007, Singapore

September 30: Cocktail and finger food reception, 6:00 – 8:00 PM, Courtyard Level 1, Grand Plaza Park Hotel City Hall. Welcoming address.

Day 1: Monday, October 1

8:30 – 9:00 **Registration**

9:00 – 9:15 **Welcome:** Ann Florini, *Director, Centre on Asia and Globalisation, Lee Kuan Yew School of Public Policy, National University of Singapore*
Kishore Mahbubani, *Dean, Lee Kuan Yew School of Public Policy, National University of Singapore*
Howard Mann, *Senior International Law Advisor, International Institute for Sustainable Development, Canada*

9:15 – 9:45 **Keynote address: Prof. M Sornarajah: Investment and Sustainable Development**

9:45 – 11:15 **Session I: The impact of investment agreements on FDI**
Do international investment agreements (IIAs) attract FDI? Conversely, does a lack of strong IIAs deter investment? A survey of the debates.

Chair: Shreekant Gupta, *Visiting Senior Fellow, Department of Economics, Visiting Senior Research Fellow, Institute of South Asian Studies, National University of Singapore*

Presenter: Debapriya Bhattacharya, *Executive Director, Centre for Policy Dialogue, Bangladesh*

Discussant: Aaron Cosbey, *Associate and Senior Advisor, Trade and Investment, IISD*

Break

11:30 – 1:00 **Session II: The meaning and nature of commitments on fair and equitable treatment: How can they be made fair and equitable?**
What is the evolving legal interpretation in the arbitration decisions of the commitment to fair and equitable treatment? How are negotiators reacting to those decisions? Is a best practice in this area emerging?

Chair: John Savage, *Partner, Shearman & Sterling LLP*

Presenters: Stanimir Alexandrov, *Partner, Sidley Austin LLP*
Karen Mills, *KarimSyah, Indonesia*

Discussants: Howard Mann, *IISD*
Alejandro Faya Rodriguez, *Deputy Director-General for International Affairs, Directorate General of Foreign Investment, Ministry of Economy, Mexico*

Luncheon

2:30 – 4:00 **Session III: Indirect expropriation, regulation and “police powers” exceptions: Is there a safety zone for governments?**

To what extent can it be argued that a police powers exception exists in international law to shield normal regulatory measures from claims of expropriation? How has this question been handled in deliberations on indirect expropriation in investor-state arbitration? How have negotiators responded to developments in this area?

Chair: Darryl Jarvis, *Associate Professor, Lee Kwan Yew School of Public Policy, National University of Singapore*

Presenter: Howard Mann, *IISD*

Discussant: John Savage, *Shearman & Sterling LLP*

Break

4:15 – 5:45 **Session IV: Expanding the reach of arbitration: Choice of forum, umbrella clauses and more**

What have recent rulings held on the choice of forum clause, and on the so-called "umbrella clause"? What are the implications of these provisions in terms of expanding the coverage of international law?

Chair: Karen Mills, *KarimSyah*

Presenter: Mahnaz Malik, *Associate, IISD*

Discussant: Stanimir Alexandrov, *Sidley Austin*

7:30 PM *Dinner: Please meet at the hotel lobby at 7:15 for bus transport to restaurant*

Day 2: Tuesday October 2

8:30 – 8:45 – **Opening**

8:45 – 10:30 **Session V: Elements of investment liberalization**

What are the implications of some of the key elements on investment liberalization being proposed in modern international investment agreements? How does this relate to services negotiations? An examination of negotiating experience and outcomes with performance requirements, pre-establishment rights and other elements.

Chair: Aaron Cosbey, *IISD*

Presenter: Howard Mann, *IISD*

Discussants: Juan Falconi, *Services Coordinator, Andean Community*
(*discussing the Latin American experience*)

Dr. Vilawan Mangklatanakul, *Counsellor, Department of International Economic Affairs, Ministry of Foreign Affairs, Thailand*

Break

10:45 – 12:45 **Session VI: Strategic defences to arbitration**

What sorts of provisions are there in current international investment agreements that would allow states an appropriate defence? What non-treaty-based defences might be available?

Chair: John Savage, *Partner, Shearman & Sterling LLP*

Presenter: Stanimir Alexandrov, *Partner, Sidley Austin LLP*

Discussants: Pilar Victoria Cerón Zapata, *Foreign Investment Directorate, Ministry of Trade, Industry and Tourism, Colombia* (*presenting and discussing the Colombian Model BIT*)

Professor M. Sornarajah, *NUS* (*discussing the “economic necessity” defence*)

Luncheon address: Howard Mann – The IISD Model Agreement on International Investment for Sustainable Development

2:15 – 4:00 **Panel Roundtable: Toward a strategic agenda**

Are there elements of a “Southern Agenda” on investment? What might they be? What sorts of institutions are required to pursue that agenda, if it exists? Is this Forum, for example, a useful exercise?

Chair: Ann Florini, *CAG, NUS*

Panelists: Professor M. Sornarajah, *NUS*
Alejandro Faya Rodriguez, *Mexico*

4:00 **Closing remarks** (Howard Mann, *IISD*; Ann Florini, *CAG, NUS*)