



Session Title

Crowd-drafting: Designing a Human Rights-Compatible International Investment Agreement

Brief description

International investment and trade agreements (IIAs) can foster economic development. At the same time, IIAs could impact adversely the realisation of human rights in diverse ways: e.g., constraining the legal or policy space available to states to regulate the conduct of investors, divorcing rights of investors from their human rights responsibilities, and limiting affected communities' right to seek effective remedies against investors for project-related human rights abuses.

Principle 9 of the UNGPs therefore reminds States to “maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts.” But *how* could states maintain such domestic policy space? What provisions should be explicitly included in IIAs to make them compatible with international human rights law? How could such changes in IIAs contribute to developing an international investment governance framework conducive to achieving sustainable development goals (SDGs)?

Session objectives

This session aims to:

- Invite experts dealing with the intersection of investment law and human rights law to develop concrete proposals to inform the current IIAs regime's reform;
- Provide a platform to brainstorm collectively and critically the potential as well as limitations of developing human rights-compatible IIAs; and
- Inform the UN Working Group's work concerning guidance to states in implementing Principle 9 of the UNGPs.

Key considerations

While developing reform proposals, the following considerations should be kept in mind:

- One may work individually or in a team to develop a reform proposal;
- In terms of length, each proposal should not be more than 2-3 pages;
- Person(s) submitting a proposal are free to focus on any one or more relevant aspects of IIAs (e.g., rights of states, obligations of investors, exceptions to expropriation, impact assessment, dispute settlement);



- If the proposal is inspired by an existing model IIA or reform proposals mooted by an organisation/academic, this should be expressly acknowledged;
- In developing proposals, person(s) submitting proposals are strongly encouraged to consult and/or consider the views of communities affected by investment projects and
- Email the proposal to forumbhr@ohchr.org latest by 5 November 2018.

Speakers and moderators

- A. Introductory remarks: Prof Surya Deva, Vice-Chair, UN Working Group on Business and Human Rights [2 mins]
- B. Presentation of 3-4 selected reform proposals [28 mins]
- C. Expert comments: (i) Prof Markus Krajewski, University of Erlangen-Nürnberg and (ii) Ms Elisabeth Tuerk, Chief International Investment Agreements Section, UNCTAD [10 mins]
- D. Input from the floor and general discussion [40 mins]

Format of the session

The UN Working Group will issue an open call to invite reform proposals for this session. All received proposals will be posted on the [project webpage](#). However, due to time constraints, the proposers of only 3-4 proposals selected by the Working Group will be invited to introduce their ideas. This will be followed by brief comments by expert panellists on the viability of presented proposals and then an open discussion in view of comments or questions from the floor.

Background information

Outcome Document on the Roundtable on “[Impacts of the Investment Regime on Access to Justice](#)”

Investment Policy Blog: [Managing States’ “Fatal Attraction” to International Investment Agreements](#)

UNCTAD’s [Reform Package for the International Investment Regime](#)