

Georgetown University Law Center, Washington, D.C.

GEORGETOWN LAW



In recent years, **Investor-State Dispute Settlement (ISDS)** has been at the center of the debate over globalizations' effects and the entrenchment of corporate power worldwide. As the number of **ISDS** cases has grown, so too has skepticism over the investment regime's benefits. Concerns about investors' power and the reduction of governments' policy space have emerged, in tandem with incoherent, sometimes contradictory, decisions by investment tribunals. Latin American countries have taken different approaches.

For example, as a result of their experiences with ISDS, Argentina, Ecuador, and Uruguay are all currently debating revisions to their treaty models and investment policies to ensure that they pursue the public interest. Colombia's Constitutional Court recently issued two judgements conditioning the ratification of international investment agreements with France and Israel on the treaties not providing more favorable treatment to foreign investors over national ones. Brazil has so far rejected the ISDS model and instead proposed creating Cooperation and Facilitation Investment Agreements that prioritize inter-governmental cooperation and dispute prevention as a choice to attract and retain investment.

Meanwhile, in the United States, criticism of ISDS has come from both sides of the political spectrum, in voices as diverse as Public Citizen and Cato Institute, the U.S. Trade Representative Robert Lighthizer and Senator Elizabeth Warren, and Chief Justice John Roberts and economist Joseph Stiglitz. Opposition to TPP in the U.S., for instance, was largely fueled by the critiques of ISDS. Additionally, as emerging economies now account for more than half of global foreign direct investment (FDI) inflows and almost one third of outflows, rich countries are increasingly concerned about the system's restrictions on their own regulatory space.



Against the backdrop of the ISDS backlash, a number of proposals for reform have begun to surface. The European Union and international institutions such as UNCITRAL and UNCTAD are leading the agenda for reform. At CAROLA, we would like to explore how the international investment regime could be reshaped from the global south, reflecting the interests of developing countries, and in particular of Latin America. What has been the experience of Latin American countries with ISDS?. What version of international investment ordering are countries in Latin America interested in pursuing? Is there enough common ground between the nations of the region to follow a unified agenda for reform? Capitalizing on the momentum generated by UNCITRAL's Working Group III October 2019 meeting on Investor-State Dispute Settlement Reform, this workshop seeks to provide a forum for delegates of Latin American countries to discuss these questions.

WORKSHOPS OBJECTIVES

This workshop will bring together delegates from Latin American countries to share their experiences in the negotiation, administration, and litigation of investment treaties and to identify areas of concern and potential reform. Based on the workshop discussions, we will prepare a policy paper to support Latin American countries in their efforts to reform the investor-state dispute settlement system in the UNCITRAL process.

The workshop is part of a broader initiative to provide delegates from Latin American countries a permanent platform for deliberation and regional cooperation as they seek to reform the investment system.



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SCHEDULE

©	Gewirz Student Center, 12th Floor 120 F St NW, Washington, DC 20001
8:00 am 9:00 am	BREAKFAST
9:00 am 10:00 am	SESSION 1 - Setting the stage An overview of ISDS in the region Álvaro Santos, Faculty Director, CAROLA Mario R. Osorio, Fellow, CAROLA
10:00 am 10:15 am	COFFEE BREAK
10:15 am 11:45 pm	SESSION 2 - Avenues for reform Country positions in the UNCITRAL process Presentations by Brazil, Chile, Colombia, Costa Rica, and Ecuador
	Eric E. Hotung International Law Building, Hotung Faculty Dining Room (H 2001) 550 First St NW, Washington, DC 20001
12:00 pm 1:30 pm	Lunch & Keynote ISDS and Development: Lessons for a Reform Agenda Professor Jeffrey Sachs, University Professor and Director, Center for Sustainable Development, Columbia University
	THIS KEYNOTE LUNCH WILL BE OPEN TO THE PUBLIC
	Gewirz Student Center, 12th Floor 120 F St NW, Washington, DC 20001
1:45 pm 3:15pm	SESSION 3 – Scholars and NGOs Moderator: Matthew Porterfield, Deputy Director, Harrison Institute Alvaro Galindo, Georgetown Law, Dechert LLP Brooke Güven, Columbia Center on Sustainable Investment Fabio Costa Morosini, Universidade Federal do Rio Grande do Sul Nicolás Perrone, Universidad Andrés Bello Lori Wallach, Public Citizen's Global Trade Watch
3:15 pm 3:30 pm	COFFEE BREAK
3:30 pm 6:15 pm	SESSION 4 - Formulation of policies and conclusions Presentations of countries' experiences and positions
6:30 pm	Presentation of main themes to the public, followed by cocktail reception *THIS FINAL SESSION WILL BE OPEN TO THE PUBLIC*

COUNTRY DELEGATES



ARGENTINA | Silvina González Napolitano

Doctor in Law –International Law– (University of Buenos Aires). Chair Professor of Public International Law and Director of the Observatory on International Arbitration and Foreign Investment Law (Faculty of Law, University of Buenos Aires). She is currently working as an expert in the Ministry of Foreign Affairs and Worship of Argentina. She has participated in the negotiation of several bilateral investment treaties and investment chapters of trade agreements. Recently, she has been designated as arbitrator in an ICSID case. In the past, she worked in the Argentine Treasury Attorney General's Office (2005-2017), where she was National Director of International Affairs and Controversies (2016 to June 2017). She has acted as a lawyer in dozens of investment arbitrations.



BOLIVIA | Alejandro R. Bilbao La Vieja Ruiz

Born and raised in La Paz – Bolivia, Attorney at law studied at the Law School of the Bolivian Catholic University - "San Pablo" in La Paz and Cochabamba. Attended the Diplomatic Academy "Rafael Bustillo" at the Ministry of Foreign Affairs in La Paz, graduated as a Diplomat, and earned his Master's Degree in Foreign Affairs and International Law, he was general advisor with the then Ministry of Legal Defense of Bolivia now Attorney's General Office, for International Arbitrations.

He also studied his Master's in Business Administration (MBA), at the European Business School, and completed his Masters in International Negotiations at the University of Barcelona – Spain, former negotiator for the Bolivian team between the European Union and the Andean Community for the Agreement of Complementary Trade.

Studied his Philosophical Doctorate in Constitutional and Criminal Law, at the University of San Andres in La Paz. He is currently the DCM (Deputy Chief of Mission) at the Embassy of Bolivia in the United States of America in charge of the Legal and Political affairs with the US.



BRAZIL | Luiz Cesar Gasser

Luiz Cesar Gasser joined the Brazilian Foreign Service in 1989. He is the Director of the Department of Promotion of Services and Industry of the Ministry of Foreign Affairs and the Brazilian chief negotiator of Cooperation and Facilitation Investment Agreements (CFIAs). Mr Gasser has extensive experience in negotiations both at the multilateral (WTO and WIPO) and the bilateral (services and investment chapters in MERCOSUR-E.U. negotiations) levels. He holds a degree in Law.



CHILE | Mairée Uran Bidegain

Mairée Uran Bidegain is the Head of the Program for the Defense of the State in International Investment Arbitration of the Ministry of Foreign Affairs of Chile, where she leads the team in charge of the State's defense in investor-State arbitrations and dispute prevention, and coordinates the State's position on the reform of the investor-State dispute settlement system.

Ms. Uran Bidegain joined the Ministry of Foreign Affairs of Chile in 2018. Prior to this position, she was a Team Leader and Legal Counsel at the International Centre for Settlement of Investment Disputes, where she led one of the four ICSID teams in charge of the administration of proceedings (2011-2018) and worked as an associate in the international arbitration group of White & Case LLP, in Washington D.C. (2006 – 2011).

She holds a law degree from the Université Panthéon-Assas, Paris II, a master's degree from the Université Panthéon-Sorbonne, Paris I, and an LL.M from the University of Pennsylvania Law School She is admitted to practice in New York. She has been a guest speaker at numerous conferences and seminars and an adjunct professor at American University Washington College of Law and at Georgetown University Law Center.



COLOMBIA | María Catalina Gaviria Bravo

Mrs. Gaviria has been an advisor of the Ministry of Trade, Industry and Tourism of Colombia for more than 15 years, involved in the areas of Foreign Investment, Trade in Services and Intellectual Property Rights. Her main functions have been focused on the design of public policy in the three referred areas as well as the negotiation, implementation and administration of international related instruments. Between 2011 and 2016 she was posted to the Mission of Colombia to the World Trade Organization (WTO) in Geneva (Switzerland) as a trade counselor. Mrs. Gaviria is an economist from Universidad EAFIT (Medellín, Colombia) and holds a Master of Advanced Studies in International Law and Economics, magna cum laude, from the Faculty of Law and the Faculty of Business, Economic, and Social Sciences of the University of Bern, World Trade Institute (Bern, Switzerland).



COSTA RICA | María José Rojas Segura

Maria Jose Rojas is a Costa Rican lawyer that holds an LLM in International Economic Law by the Queen Mary University of London and with a background in international commercial law, trade, dispute settlement and investment. She has worked as an advisor for the Services and Investment Team of the Ministry of Foreign Trade of Costa Rica since 2018 and her duties include the negotiation of services and investment chapters of commercial agreements. Maria Jose has also contributed to Costa Rica's positions about the ISDS reform efforts discussed in different forums, including the UNCITRAL's Group III and the amendment process of ICSID's arbitration rules.



DOMINICAN REPUBLIC | Leidylin Contreras

Before joining the Directorate of Foreign Trade, Mrs. Contreras was the Secretary General of the Dispute Resolution Center of the Chamber of Commerce of Santo Domingo. She had previously worked as lawyer at the Office of the Legal Advisor to the President, and as the Coordinator for International Arbitration, Dispute Settlement and Trade Disciplines, at the Directorate of Foreign Trade of the Ministry of Industry and Commerce of the Dominican Republic. Her responsibilities included the legal implementation of the Free Trade Agreements of the Dominican Republic, the Coordination of Investment, State to State Arbitration and WTO Dispute Settlement Procedures. Mrs. Contreras graduated Magna Cum Laude from Universidad Iberoamericana (Dominican Republic); Comparative Law (Sorbonne University, Paris, France) (2004), International Law and International Relations (Complutense University of Madrid, Spain) (2005). In 2007 she attended the International Chamber of Commerce (ICC's) International Court of Arbitration Internship Program (Latin American/Iberian Peninsula Team).

Mrs. Contreras has been Speaker on the subject of International Arbitration at Complutense University of Madrid, University of Panama, Externado University (Colombia), University of la Habana, University of Miami, Mexican Academy on International, Private and Comparative Law; Mexican Bar, The Florida Bar, Ecuador's Attorney General's Office, Ministry of Finance of the Czech Republic, ICC's Young Arbitration Forum Global Conference (ICC YAF), ICC's Annual Conference on International Arbitration in the Americas, Columbia University, Fordham University, Latin America Arbitration Conference (CLA), Association of Southeast Asian Nations (ASEAN), US-Latin America Legal Summit, the Supreme Court of the Dominican Republic, ICC's Arbitration Forum, among others.

Mrs. Contreras is the coauthor of a book on International Trade Law. Professor for the Courses "Institutional Aspects of Trade and Investment Law" (Central Bank of the Dominican Republic), Dispute Resolution on International Trade and Foreign Investment, (Gaceta Judicial, Dominican Republic), and Lecturer on Investment Arbitration in the Dominican Republic (Pontificia Universidad Católica Madre y Maestra), among others.



ECUADOR | Claudia Salgado Levy

Claudia Salgado is National Director of International Affairs and Arbitration. She is responsible for exercising, coordinating, and supervising the defense of the Republic of Ecuador and its public institutions in international litigation and national arbitration. At the international level, Mrs. Salgado assists in the litigation cases that can be carried out at foreign jurisdiction and / or before international commercial arbitral tribunals and investment arbitral tribunals.



MEXICO | Cindy Rayo Zapata

Cindy Rayo Zapata is Deputy General Counsel for Foreign Trade at the Ministry of Economy in Mexico. Cindy focuses her practice on investor- State arbitration and international trade. She has acted as counsel and represented the Mexican government in numerous investment treaty arbitrations, including cases under the NAFTA, ICSID and UNCITRAL arbitration rules. She has acted as counsel of the Mexican government with respect to investment treaty matters and international trade policy issues. She has participated as a trade and investment negotiator of Mexico in numerous investment treaties and international trade agreements. Cindy Rayo has both Bachelor's Degrees in International Relations and Law by the Instituto Tecnológico Autónomo de México (ITAM) and a LLM in International Law by the Tec de Monterrey (ITESM).



PERU | Vanessa Rivas Plata Saldarriaga

Ms. Rivas Plata leads the portfolio of North America and Europe at the Ministry of Foreign Trade of Peru. In this capacity, she is responsible of monitoring the bilateral trade relationship with Peru's major trading partners, leading interagency and intra-agency teams in trade negotiations, and providing advice to senior officials and high-level authorities on various aspects related to trade policymaking, international commitments provided under the World Trade Organization (WTO) framework and the free trade agreements signed by Peru, and dispute resolution procedures.

She also serves as Investment Affairs Coordinator at the Vice Ministry of Foreign Trade, having participated as lead investment negotiator of multiple international investment agreements. She has acted as Peru's investment lead negotiator for the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Peru-Australia Free Trade Agreement, Pacific Alliance (trade bloc composed of Chile, Colombia, Mexico and Peru) Additional Protocol, Turkey-Peru Free Trade Agreement, India-Peru Trade Agreement, and the modernization of investment provisions under the China-Peru Free Trade Agreement.

Ms. Rivas Plata has represented Peru as investment expert in international forums such as the WTO, World Bank, Asia-Pacific Economic Cooperation (APEC), United Nations Conference on Trade and Development (UNCTAD), and the Organisation for Economic Cooperation and Development (OECD)

Ms. Rivas Plata holds a LL.M. in International Business and Economic Law from Georgetown University and received her Bachelor of Laws degree from the Catholic University of Peru.



URUGUAY | María Verónica Duarte García

María Verónica Duarte García is a Lawyer graduated in the Law School of the University of the Republic of Uruguay. Since 2015 she works as a Legal Advisor of the Presidency of the Republic of Uruguay. She has participated in the legal defense of the Uruguayan State in commercial and investment arbitration procedures (ICSID, ICC, ad-hoc procedures). She has been appointed Institutional Transparency Officer by the Presidency of the Republic. She is an ICC YAF Representative for Latin America (Uruguay - Paraguay)

SCHOLARS AND NGOS

Álvaro Galindo | GEORGETOWN LAW - DECHERT LLP

Alvaro Galindo is an International Counsel at Dechert LLP (Washington, D.C.) advising on complex international arbitration, particularly those involving Latin American jurisdictions. Mr. Galindo's practice focuses on the representation of sovereign states. He has been recognized as "outstandingly intelligent" and by his "incomparable capacity of coordination, planning, strategic evaluation and diplomatic approach" by The Legal 500 Latin America. He served as the Director of the International Affairs and Arbitration Unit for the Republic of Ecuador's Attorney General Office. He acted as a legal consultant for the World Bank Group's International Centre for Settlement of Investment Disputes (ICSID) in Washington, D.C. and the Latin American Development Corporation in Ecuador, where he coordinated the legal group in charge of drafting the Arbitration Law of Ecuador. He is currently a Law Professor at Georgetown University Law Center, with a course on Advanced Topics in International Arbitration. He is also Professor of International Commercial Arbitration (Spanish course) at American University, in Washington, D.C. Mr. Galindo is an arbitrator of the Permanent Court of Arbitration, with headquarters at The Hague, and member of the ICC International Court of Arbitration in Paris.



Brooke Güven | COLUMBIA CENTER ON SUSTAINABLE INVESTMENT

Brooke Guven is a legal researcher at the Columbia Center on Sustainable Investment. Her work focuses on analyzing the contracts, domestic frameworks and international legal arrangements governing cross-border investments and the impacts that these frameworks have on sustainable development objectives. Prior to joining CCSI, she was a finance lawyer specializing in cross-border transactions at an international law firm, and also worked as a legal advisor with the Liberian Ministry of Health and Social Welfare. She has an LLM from New York University School of Law, where she was a Human Rights Scholar, a JD and MA from the University of Wisconsin, and a BA from Northwestern University.



Fabio Costa Morosini | UNIVERSIDADE FEDERAL DO RIO GRANDE DO SUL

Fabio Morosini is an Associate Professor at the Federal University of Rio Grande do Sul School of Law and a research fellow at the National Council of Scientific and Technological Development (CNPq, Ministry of Science and Technology, Brazil). During the 2015-2016 academic year, he was a Global Hauser Research Fellow at NYU School of Law. Professor Morosini holds a Ph.D. and an LL.M. from the University of Texas at Austin; and a master, with honors, from the University of Paris 1/ Paris' Institute of Political Sciences. Upon completion of his Ph.D., he was a post-doctoral fellow at the World Trade Organization. Professor Morosini has taught at the UN's Regional Courses in International Law. His recent books include: Reconceptualizing International Investment Law from the Global South (coeditor) (CUP, 2018) and Regulacao do Comercio e Investimento Estrangeiro (editor) (Saraiva, 2017).



Mario R. Osorio | CAROLA - GEORGETOWN LAW

Mario Osorio is the Fellow of the Center for the Advancement of the Rule of Law in the Americas (CAROLA). He holds an LLM from Georgetown University Law Center where he was a Fulbright Scholar, a Salzburg Cutler Fellow, a Fellow at the Institute of International Economic Law, and is currently an SJD candidate. Mario received an AB in Economics and an LLB from Universidad de los Andes (Colombia). Prior to arriving at Georgetown, Mario was an advisor to the Director-General of the Tax and Customs Administration of Colombia and served as a delegate to the OECD, WTO, UN, and other international fora. He was also an adjunct professor at Universidad de los Andes.



Nicolás Perrone | UNIVERSIDAD ANDRÉS BELLO

Nicolás M Perrone is a Research Associate Professor of International Law at Universidad Andrés Bello, Chile. His main research interests are in international economic law, particularly in international investment law and policy. He has previously taught at Durham University, the Institute for Global Law and Policy (Harvard Law School) and Universidad Externado de Colombia. Nicolás has worked and consulted for the governments of Argentina, Ecuador and Colombia, the OECD, UNCTAD, the International Institute for Sustainable Development and the Friedrich Ebert Stiftung. He has also been a Visiting Professor at the Universidad Nacional de San Martín, the International University College of Turin and the University of Eastern Piedmont. Nicolás is a member of the Editorial Committee of the Yearbook on International Investment Law and Policy (Columbia University - OUP), and his first monograph will be coming out with Oxford University Press next year.



Matthew Porterfield | HARRISON INSTITUTE

Matt Porterfield is Deputy Director and Adjunct Professor at the Harrison Institute for Public Law, Georgetown University Law Center. Matt works on various aspects of international economic law, with a particular focus on the relationship between international trade and investment rules and environmental policy. His publications include Exhaustion of Local Remedies in Investor-State Dispute Settlement: An Idea Whose Time Has Come?, Yale Journal of International Law Online (2015); State Practice and the (Purported) Customary International Law Prohibition on Uncompensated Regulatory Expropriation, North Carolina Journal of International Law & Commercial Regulation (2011); An International Common Law of Investor Rights?, University of Pennsylvania Journal of International Economic Law (2006); and International Expropriation Rules and Federalism, Stanford Journal of Environmental Law (January 2004).



Jeffrey D. Sachs | CENTER FOR SUSTAINABLE DEVELOPMENT - COLUMBIA UNIVERSITY

Jeffrey D. Sachs is a University Professor and Director of the Center for Sustainable Development at Columbia University. Professor Sachs served as the Director of the Earth Institute at Columbia University from 2002 to 2016. During that time, he led a university-wide organization of more than 850 research scientists and policy experts in support of sustainable development, championed the Masters of Development Practice (MDP) program, which is now offered at 30 universities around the world, and helped to introduce the PhD in Sustainable Development at Columbia University. He was appointed University Professor at Columbia University in 2016 and also serves as Quetelet Professor of Sustainable Development and Professor of Health Policy and Management. He is Special Advisor to United Nations Secretary-General Ban Ki-moon on the Sustainable Development Goals, and previously advised both Secretary-General Ban Ki-moon and Secretary-General Kofi Annan on the Millennium Development Goals. He is a Distinguished Fellow of the International Institute of Applied Systems Analysis in Laxenburg, Austria. Professor Sachs is widely considered to be one of the world's leading experts on economic development, global macroeconomics, and the fight against poverty. His work on ending poverty, overcoming macroeconomic instability, promoting economic growth, fighting hunger and disease, and promoting sustainable environmental practices has taken him to more than 125 countries. Over the past thirty years, he has advised dozens of heads of state and governments on economic strategy in the Americas, Europe, Asia, Africa, and the Middle East. He was among the outside advisors to Pope John Paul II on the encyclical Centesimus Annus and currently works closely with the Pontifical Academy of Sciences and the Pontifical Academy of Sciences on issues of sustainable development. Prior to his arrival at Columbia University in July 2002, Professor Sachs spent over twenty years as a professor at Harvard University, where he served as the Director of the Center for International Development and the Galen L. Stone Professor of International Trade. Sachs was born in Detroit, Michigan, in 1954. He received his B.A., summa cum laude, from Harvard College in 1976, and his M.A. and Ph.D. from Harvard University in 1978 and 1980 respectively.





Alvaro Santos is Professor of Law and Faculty Director of the Center for the Advancement of the Rule of Law in the Americas (CAROLA) at Georgetown Law. He teaches and writes in the areas of international trade, economic development, transnational labor law, and drug policy. In 2018, he served as Deputy Chief Negotiator of the USMCA Agreement for the newly elected government of Mexico. He recently co-edited World Trade and Investment Law Reimagined: A Progressive Agenda for an Inclusive Globalization (2019) and is the author of numerous journal articles and book chapters. He serves on the editorial boards of the American Journal of Comparative Law, the Journal of International Economic Law and the Law and Development Review. He served as Co-Director of the Center for Transnational Legal Studies (CTLS) in London in 2014-15 and regularly teaches at Georgetown's Global Trade Academy and Harvard's Institute for Global Law and Policy (IGLP). He received an LL.B. with high honors from Universidad Nacional Autonóma de México (UNAM) and an LLM and SJD from Harvard Law School.



Robert Stumberg | HARRISON INSTITUTE

Robert Stumberg is a professor of law at Georgetown University, where he directs the Harrison Institute for Public Law. The Institute is a teaching and service program that works with public officials and nonprofits in the areas of climate change, democracy and trade, health justice, and human rights. His publications include Supply Chain Transparency in Public Procurement – Lessons from the Apparel Sector, in Public Procurement and Human Rights, in PUBLIC PROCUREMENT AND HUMAN RIGHTS: OPPORTUNITIES, RISKS AND DILEMMAS FOR THE STATE AS BUYER (Edward Elgar, 2019, with Nicole Vander Meulen), Safeguards for Tobacco Control: Options for the TPPA, 39 American J. of Law & Medicine 382 (2013), and Reform of Investor Protections, Testimony before U.S. House Com. on Ways & Means, Subcom. on Trade (2009).



Lori Wallach | GLOBAL TRADE WATCH

Lori Wallach is the director of Public Citizen's Global Trade Watch. A 25-year veteran of congressional trade battles starting with the 1990s fight over NAFTA, she was named to the "Politico's 50" list of thinkers, doers and visionaries transforming American politics in 2016 for her leadership in the Trans-Pacific Partnership debate. Wallach is an internationally recognized expert on trade with experience advocating in Congress and foreign parliaments, trade negotiations, courts, government agencies, the media and in the streets. Wallach has testified on NAFTA, WTO, and other globalization issues before 30 congressional committees and appeared as a trade commentator on MSNBC, Fox, CNN, ABC, Bloomberg, PBS, NPR and numerous foreign outlets. She has been published and quoted in The New York Times, The Economist, Forbes, The Washington Post, USA Today, the Financial Times, and more. A lawyer who has worked in television news and on political campaigns, Wallach is well-informed about the role trade issues played in the 2016 election and the implications for the Trump presidency and 2018 congressional elections as the voters demand action on trade. Wallach was a founder of the Citizens Trade Campaign, a U.S. national coalition of consumer, labor, environmental, family farm, religious, and civil rights groups representing over 11 million Americans, and serves on its board. Wallach is a graduate of Wellesley College and Harvard Law School.



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