CIVIL SOCIETY FORUM

THEME: "ALIGNING INVESTMENT POLICY FRAMEWORKS TO CLIMATE AND SUSTAINABLE DEVELOPMENT GOALS"

26TH-29TH NOVEMBER 2024

VENUE: LAKE VICTORIA GRANADA HOTEL, ENTEBBE, UGANDA

CONCEPT NOTE

Introduction

Investment plays a central role in economic transformation, growth, and the achievement of sustainable development goals (SDGs). Countries globally are increasingly focused on creating favorable policy and regulatory environments to attract both domestic and foreign investment, while ensuring that these investments align with national development priorities, including climate action and sustainable development. However, progress toward achieving these goals remains uneven, particularly in the face of challenges such as climate change, human rights violations, inadequate financing for sustainable projects, and competing economic interests. These obstacles have hindered the alignment of investments with climate and sustainability objectives.

In response to these pressing challenges, SEATINI, Both ENDS, SOMO, and TNI are organizing the Civil Society Forum on "Aligning Investment Policy Frameworks to Climate and Sustainable Development Goals", which will be held at Lake Victoria Granada Hotel in Entebbe, Uganda from November 26 to 29, 2024.

The Civil Society Forum seeks to bring together diverse stakeholders to critically examine current investment policies and treaties, assess their alignment with global climate and sustainable development objectives, and identify pathways for creating policies that uphold human rights, environmental integrity, and equitable economic growth.

Background

Investment has been highlighted as one of the key drivers for economic transformation, growth and sustainable development. Increasingly, countries worldwide have been prioritizing the creation of conducive policy and regulatory environments to attract both domestic and foreign investments, while ensuring that these investments align with national development goals. Among these development goals are climate and sustainable development goals (SDGs). However, progress towards achieving these goals continues to remain unequal especially in the face of challenges such as climate variability, human rights abuses, insufficient financing for sustainable projects and competing economic interests which have hindered full alignment of investments with climate and sustainability objectives.

Investment treaties and agreements have played a pivotal role in shaping the economic landscape of nations worldwide. In a bid to attract more foreign and domestic investments, countries have put in place several measures and policies that create a conducive environment for investors to thrive. These policy frameworks cut across several levels at the national, regional, continental, and global levels. However, as several countries sign these treaties and agreements, there is growing concern that they may not adequately address the long-term developmental goals of host countries.

At the East Africa Community level, the EAC Model Investment Treaty was designed to harmonize investment policies and create a standardized approach to foreign direct investment (FDI) within the EAC region and attract foreign capital which is seen as crucial for economic growth and development. While the treaty provides a framework for EAC member states to negotiate and enter into investment agreements, it is not a legally binding, mandatory instrument for all member countries. Instead, it serves as a voluntary framework that individual member states can choose to adopt when negotiating bilateral or multilateral investment treaties (BITs) with other countries. Several other challenges have hindered the effective implementation of the EAC model investment treaty such as inconsistent national policies and regulations, geopolitical and economic disparities, investor-state disputes among others.

As the African Continental Free Trade Area (AfCFTA) progresses, EAC member states are also grappling with how ISDS will function in the context of this broader continental trade agreement, which may introduce new challenges and opportunities for harmonizing investment dispute resolution mechanisms across Africa.

Bilateral Investment Treaties (BITs), which protect foreign investors' rights, are increasingly scrutinized for their tendency to prioritize investor interests at the expense of public goods such as environmental sustainability, labor rights, and the protection of local industries. A notable example is the recent termination of the Kenya-Netherlands BIT by the Kenyan government, which highlights growing concerns over the negative impact of such agreements on national sovereignty and development.

Increasingly, FDI has become synonymous with human and environmental rights violations. Therefore, this underscores the need to ensure that Bilateral Investment Treaties (BITs) are reviewed to strike a balance between protecting investors and safeguarding the public interest.

Investor-State Dispute Settlement (ISDS) provisions in many investment agreements have been widely criticized for undermining countries' sovereignty and ability of countries to regulate industries in the public interest. These provisions enable multinational corporations to challenge national policies designed to protect environmental standards, public health, and labor rights often through international arbitration mechanisms that prioritize investor protections over the well-being of local communities and ecosystems.

Moreover, African countries are increasingly subject to investor-state dispute settlement (ISDS) cases, including claims that challenge the regulatory actions of host countries in a wide range of areas, including public services and race relations. Out of all cases registered under the International Centre for Settlement of Investment Disputes (ICSID) Convention and Additional Facility Rules, Sub-Saharan Africa accounts for 16% of these cases. In 2014, cases against Sub-Saharan Africa amounted to 20% of the overall number of new cases brought under ICSID during that year.[1]

For example, in South Africa, the government faced an ISDS case under the Bilateral Investment Treaty (BIT) with the Netherlands after it introduced regulations to restrict tobacco advertising, which were in line with public health goals.

The fossil fuel sector is also already using ISDS to challenge state decisions aimed at implementing climate policies. For example, in Uganda, the government was challenged through ISDS in the case Tullow Uganda Operations PTY LTD v. Republic of Uganda (ICSID Case No. ARB/12/34 which was related to the oil and gas sector.[2] These cases underscore how ISDS provisions often allow foreign investors to override national policies that are aligned with sustainable development and public interest, highlighting the need for reform in investment treaties to ensure they support climate action, human rights, and social equity in Africa and beyond.

At the global level, the Investment Facilitation for Development (IFD) agreement within the World Trade Organization (WTO) seeks to facilitate investment and increase global flows for foreign direct investment. However, concerns persist that the IFD may disproportionately benefit multinational corporations (MNCs) and developed countries, potentially sidelining the interests of developing economies, especially in Africa. There are also questions about whether such agreements sufficiently align with sustainable development and climate goals.

The Sustainable Investment Facilitation Agreement (SIFA) between the European Union (EU) and Angola is another example of an investment agreement that includes commitments to environmental standards. However, as countries like Angola seek to attract investment in sectors such as green energy and agriculture, there is a critical need to evaluate whether these agreements strike the right balance between economic growth, environmental sustainability, and social equity.

Problem Statement

Investment treaties and agreements have been pivotal in shaping the global economic landscape and fostering cross-border investment. However, many of these treaties are outdated and prioritize investor protections over the long-term development goals of host countries, undermining the ability of governments to enact policies that promote sustainable development, environmental protection, and social equity.

In light of these challenges, there is an urgent need to review and reform these treaties to ensure they align with climate goals, human rights, and the broader objectives of sustainable

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[1] *chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.southcentre.int/wp-content/uploads/2016/02/RP65_Rise-of-investor-state-dispute-settlement-in-extrative-sectors_EN.pdf*

[2] *chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://unctad.org/system/files/official-document/webdiaepcb2013d3_en.pdf*

development. The Civil Society Forum on *"Aligning Investment Policy Frameworks to Climate and Sustainable Development Goals"* will provide a platform for dialogue and action to address these issues.

Overall Objective

The overall objective of the Civil Society Forum is to facilitate a comprehensive dialogue on aligning investment policy frameworks with climate goals and the Sustainable Development Goals (SDGs), with a focus on identifying strategies that ensure investments contribute to sustainable, equitable, and climate-resilient development.

Specific objectives of the forum are to;

- Enhance stakeholders' understanding of the investment policy landscape, particularly the challenges and opportunities related to sustainable development.
- Critically assess existing investment treaties and agreements in terms of their alignment with the SDGs and climate action targets and evaluate their effectiveness in addressing contemporary development challenges.
- Explore alternative investment frameworks and policies that better support sustainable development, human rights, climate action, and inclusive economic growth.
- Develop practical policy recommendations for reforming investment treaties and agreements to better align with global climate goals, human rights principles, and sustainable development objectives.

Expected outcomes

1. Increased awareness among stakeholders of the broader investment policy landscape, with a focus on sustainable development challenges and opportunities.
2. A comprehensive assessment of existing investment treaties and agreements, determining their alignment with the SDGs and climate action targets and their effectiveness in addressing modern development challenges.
3. Practical policy recommendations and strategies developed to guide advocacy towards reforming investment agreements

Participants:

This Forum will bring together national, global and regional actors including representatives from relevant civil society organizations working on trade, investment, human and labour rights, extractives and other development related issues, Academics, researchers and selected media practitioners will engage in a constructive dialogue aimed at reshaping investment policy frameworks to support climate and sustainability objectives.

About the Organizers

- **SEATINI** (Southern and Eastern Africa Trade Information and Negotiations Institute) is a Pan African research and advocacy-based NGO that works to promote pro development trade, fiscal and investment related policies and practices for sustained equitable development and improved livelihoods in Africa.

- **Both ENDS** is a Dutch-based organization that works globally towards a fair and sustainable world in which everyone has a voice. Both ENDS strengthens civil society globally to gain critical influence over decisions and activities that affect people's rights and the environment, thus guaranteeing that society fosters and protects ecosystems while ensuring respect for all human rights, including the right to water, food and a safe living environment.
- **SOMO** (Centre for Research on Multinational Corporations) is an international research organization that investigates the impact of multinational corporations on sustainable development and human rights.
- **TNI** (Transnational Institute) is an international research and advocacy institute committed to building a just, democratic and sustainable planet. For 50 years, TNI has served as a unique nexus between social movements, engaged scholars and policy makers.

TENTATIVE PROGRAM

DAY ONE: TUESDAY, 26TH NOVEMBER, 2024		
TIME	**ACTIVITY**	**RESPONSIBLE PERSON/S**
08:30-09:00AM	Arrival and Registration	SEATINI Uganda
Session One: Opening Remarks and Context Setting **UNPACKING OBJECTIVES AND SETTING THE SCENE**		
09.00-10:00AM	Introductions & sharing of Participants' Expectations Welcome, Opening Remarks and Unpacking the Objective of the Civil Society Forum	All Participants Ms. Jane Nalunga, Executive Director, SEATINI Uganda Mr. Fernando Hernandez Espino, Both ENDS
SESSION ONE: INTERROGATING THE CURRENT INVESTMENT POLICY LANDSCAPE AND IDENTIFYING KEY POLICY ISSUES *This session will set the scene for the discussions by providing key insights into the current investment policy landscape including ongoing investment policy processes and negotiations at various levels, their implications and the sustainable development challenges. This session will also provide some proposals on the way forward.*		
09:40 -10:10AM	**Keynote Address (20 min)**	Dr. Rob Davies, Academic Economist and Former Minister of Trade and Industry of South Africa & Negotiator
10:10 -10:30AM	**Q&A - Plenary Discussion**	All Participants
10:30-11:00AM	**Group Photo & Coffee/Tea Break**	All Participants
SESSION TWO: SCANNING THE INVESTMENT POLICY ENVIRONMENT: REIMAGINING INVESTMENT FOR SUSTAINABLE DEVELOPMENT		

This will be a panel discussion aimed at providing key insights into rethinking the approach to the current international investment regime and its alignment with the broader goals of sustainable development, climate action and aspirations for structural transformation.		
11:00AM – 1:00PM	**Rethinking International Investment Governance: Key Tenets for a Model Policy Framework in the Context of Agendas 2030 and 2063**	Prof. Olabisi D. Akinkugbe, Assistant Professor and the Viscount Bennett Professor of Law, Schulich School of Law, Dalhousie University
	Rethinking Investment Treaties: A Roadmap	Ms. Suzy Nikièma, Director of Investment for the Economic Law and Policy Program (ELP) IISD
	Investment Facilitation for Development, key policy Issues & Implications for African Countries	Ms. Vahini NAIDU, Programme Coordinator, Trade for Development Programme (TDP), South Centre
	Plenary Session (Q & A)	
LUNCH BREAK – 1:00PM – 2:00PM		
SESSION THREE: ANALYSING EMERGING INVESTMENT FRAMEWORKS AND SHARING EXPERIENCES ON INVESTMENT POLICIES IN AFRICA *This session will provide key updates on what is happening in different regions/RECs clearly highlighting key investment related issues, challenges and opportunities for CSO engagement*		
2:00PM – 2:30PM	**Perspectives on Investment and Industrial Policy in Africa**	Mr. Rangarirai Machemedze, Coordinator SEATINI Southern Africa
2:30PM – 4:00PM	Exploring model investment contracts to advance sustainable development	Ms. Nyaguthii Maina, Associate and International Law Advisor, IISD
	EU-Angola Sustainable Investment Facilitation Agreement (SIFA)	Ms. Vahini NAIDU, Programme Coordinator, Trade for Development Programme (TDP), South

	Is the AfCFTA Investment Protocol Fit for Purpose? **US-Kenya STIP: Current State of Play, Key Issues and Contestations**	Centre Ms. Jane Nalunga, Executive Director, SEATINI Uganda Mr. Edgar Odari, Executive Director, Eco News Africa
	Plenary Session (Q & A)	
5:00 -5:30PM	**Evening Coffee and Social Networking**	
DAY TWO: WEDNESDAY, 27TH NOVEMBER, 2024		
Session One: ***INTERROGATING SPECIFIC POLICY ISSUES IN THE CURRENT GLOBAL TRADE AND INVESTMENT POLICY ARCHITECTURE***		
8:30AM – 9:30AM	**Understanding Trade and Investment Policies, Objectives, Drivers and the Structures for Civil Society Engagement and opportunities** **10 minutes Video - "We ran there to defend our lives"** **Presentation:** **Contentious Issues in the Investment**	Mr. Eric Kivuva, Partner & Head of Litigation & Alternative Dispute Resolution, McKay Advocates Mr. Bart-Jaap Verbeek, Senior Researcher, SOMO

	Policy Architecture	
	TEA BREAK	HOTEL
10:30AM – 12:30PM	• 5 min video from Ecuador on ISDS out by constitutional referendum • **Terminating IIAs: Experiences from Africa and Europe**	• Olivia Costa, Executive Director, TATIC • Mr. Tijah Bolton-Akpan, Executive Director, Policy Alert, Nigeria • Fernando - DUTCH BITS termination and current strategy • Swaleh Kitasi and James Ketta – ActionAid Kenya • Rob Davies - South Africa • Peninnah Mbabazi, Program Officer, Trade Justice, SEATINI – update on the ECT campaign in Uganda
12:30PM – 1:00PM	**Plenary Discussion**	All

LUNCH BREAK		
BREAK OUT GROUP WORK		
2:00PM – 3:30PM	**Nexus between Investment and key Development Dimensions** **Format:** **Pitch presentations and Group Discussions** ● Climate Change and Gender ● Agriculture ● Human and Labour Rights ● Land Rights ● Extractives	**CSO Representatives** Ms. Faith Lumonya, Economic Justice and Climate Action Programme Lead, Akina Mama wa Afrika Ms. Nyaguthii Maina, Associate and International Law Advisor, IISD Ms. Christina Arrumm, Senior Human Rights Officer, ECOSOC, Research, Advocacy and Outreach Directorate, Kenya National Commission on Human Rights Action Aid Kenya/Uganda Celestine Odo, Head of Programmes, ActionAid Nigeria

COFFEE BREAK		
4:00pm – 5:00pm	**Reporting Back and Presentations**	**All Participants**
	END OF DAY TWO	
Day Three: Thursday 28th November 2024 ***Specific pathways for solutions/alternatives***		
09:00-11:00AM	**Exploring reform processes in the investment treaty regime** **Strengthening Human Rights due diligence frameworks / Binding Treaty or Similar binding instruments** **Tanzania Mining Regulations** **Trade and development: Concrete ideas on What should be done?**	Mr. Bart-Jaap Verbeek - Senior Researcher - SOMO Esther Kisembo, FGG Project Manager, ActionAid Uganda & Justin Bayor, ActionAid Ghana Ms. Olivia Costa, Executive Director, TATIC Ms. Vahini NAIDU, Programme Coordinator, Trade for Development Programme (TDP), South Centre
11:30-11:30AM	***Coffee/tea break***	**HOTEL**
12:00-1:00PM	Plenary Discussion	All
LUNCH BREAK		
"SEQUEEZING THE JUICE: SYNTHESIZING KEY TAKEAWAYS AND CRAFTING ACTIONABLE STRATEGIES" *This session, titled "The Juice: Synthesizing Key Takeaways and Crafting Actionable Strategies", will bring together the insights and discussions from the previous days to synthesize key takeaways, identify gaps, and formulate actionable strategies. Participants will*		

collectively determine how best to leverage the gathered knowledge for advocacy, policy reform, and long-term systemic change.		
2:00PM – 5:00PM	**Setting the tone for synthesizing key insights and discussing next steps.** **Key Takeaways from the Forum (45 mins)** ***Format: Breakout Groups*** *Participants will break into thematic working groups based on their areas of expertise or interest (e.g., climate change, trade policy, investment treaties, human and labour rights, advocacy and policy influencing).* **Each group will answer the following questions:** **1.** What were the big takeaways from the discussions so far on aligning investment policies with climate goals and SDGs? **2.** Which insights resonate the most with your work and experience? **3.** What new ideas or perspectives emerged that could be instrumental for change? **4.** What specific actions can be taken at the national, regional, or international levels to advance the alignment of investment policies with climate and SDG goals? ***Each group will develop actionable strategies to address the challenges/issues identified with a***	Moderators

	focus on how the key takeaways can be turned into practical advocacy tools or policy recommendations **Report Back and Synthesis (30 mins)** • Groups will then present their findings to the broader plenary.	
END OF DAY THREE		
Day Four: Thursday, 29th November 2024		
COLLECTIVE STRATEGIZING AND DEVELOPING ADVOCACY ROADMAP *This session will provide a platform for civil society organizations (CSOs) and key stakeholders to collaborate on creating a collective strategy for aligning investment policies with climate action and the United Nations Sustainable Development Goals (SDGs). It will focus on building advocacy capacity, enhancing cross-sectoral collaboration, and designing a roadmap for influencing national and global investment frameworks to ensure they promote sustainable development, equity, and resilience in line with climate and SDGs commitments.*		
9:00AM – 1:00PM	"Building a Collective Strategy for Policy Advocacy" (90 minutes) **Thematic groups will co-create an advocacy roadmap that outlines:** • **Priority Areas for Policy Reform:** Identifying the most pressing investment policy gaps • **Key Actors:** Mapping out key stakeholders (government agencies, international organizations, private sector, CSOs) for collaborative efforts. • **Advocacy Actions:** Defining strategic advocacy activities • **Milestones and Timelines:** Setting clear, measurable targets	Fernando & SEATINI

	for achieving policy change within specific timelines. ● **Monitoring and Evaluation:** Determining how to track progress and measure the impact of advocacy efforts.	
1:00PM	Closure	SEATINI, Both ENDS, TNI, SOMO