

Harnessing Investment for Sustainable Development Through Public–Private Partnerships (PPPs) in Infrastructure and Public Services: The legal dimension

Joint IISD–UNCTAD workshop

InterContinental Nairobi – Nairobi, Kenya – February 6, 2018

TRAINING MATERIAL

THE CONTRACTUAL DIMENSION

- Exercise in break-out groups: Participants received sample contract language contained in the World Bank Group’s *Guidance on PPP Contractual Provisions* (World Bank Group, 2017):
 - Pages 40–41: excerpt of article on *Material Adverse Government Action*
 - Pages 54–56: excerpt of article on *Protection Against All Changes in Law*

Participants were asked to assume that each table was a negotiating team of government officials and that the investor submitted a draft contract including those two clauses. Participants were then asked to take position vis-à-vis the investor and explain what was acceptable to the government and what was not. In a second phase, they were asked to outline counterproposals.

- Presentation slides “PPP Contractual Provisions: The 2017 World Bank guidance document,” by Nathalie Bernasconi (IISD)
- Presentation slides “Contracts for Sustainable Infrastructure: Ensuring the economic, social and environmental co-benefits of infrastructure investment projects,” by Martin Dietrich Brauch (IISD)

THE INTERNATIONAL INVESTMENT LAW DIMENSION

- Presentation slides “Relevance of IIA clauses for Public Private Partnerships (PPPs),” by Elisabeth Tuerk (UNCTAD)
- Presentation slides “Customizing UNCTAD IIA and ISDS Navigators,” by Elisabeth Tuerk (UNCTAD)
- Presentation slides “Sustainable Development in Infrastructure and Investment Treaties,” by Jonathan Bonnitcha (IISD)