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VALE COLUMBIA CENTER
ON SUSTAINABLE INTERNATIONAL INVESTMENT

OPEN SOCIETY
JUSTICE INITIATIVE

INTERNATIONAL INVESTMENT LAW & THE FIGHT AGAINST CORRUPTION

WORKSHOP

June 17, 2009

Participants List & Biographies

Open Society Justice Initiative, 400 West 59th Street, New York, NY 10019

Participant List

Open Society Justice Initiative

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Vale Columbia Center on Sustainable International Investment

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Invited Experts

José Alvarez	Hamilton Fish of International Law and Diplomacy, Columbia University	jalvar@law.columbia.edu
Kevin Davis	Beller Family Professor of Business Law, NYU	davisk@exchange.law.nyu.edu
Mark Kantor	Arbitrator, Adjunct Professor at the Georgetown University Law Center	mkantor@mark-kantor.com
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Participant Biographies

James Goldston

James A. Goldston is the founding executive director of the Open Society Justice Initiative, an operational arm of the Soros foundation network that promotes rights-based law reform worldwide. In 2007-08, Mr. Goldston served as coordinator of prosecutions and senior trial attorney at the Office of the Prosecutor of the International Criminal Court in The Hague, where he oversaw litigation in all cases involving the Office of the Prosecutor, and helped prepare the arrest warrant application for President Omar Al Bashir of Sudan.

Previously, as legal director of the Budapest-based European Roma Rights Center, Mr. Goldston spearheaded the development of ground-breaking civil rights cases before the European Court of Human Rights, United Nations treaty bodies, and domestic courts in 15 European countries. He was lead counsel in the decade-long litigation culminating in the landmark 2007 judgment of the Grand Chamber of the European Court of Human Rights in *DH v. Czech Republic*, which for the first time found a nationwide systemic practice of discrimination in breach of the European Convention.

Mr. Goldston has also served as assistant United States attorney in the Southern District of New York, director general for human rights of the Mission to Bosnia-Herzegovina by the Organization for Security and Cooperation in Europe, researcher for Human Rights Watch, and lecturer in law at Columbia Law School.

Robert Varenik

Robert O. Varenik serves as the director of programs for the Justice Initiative. Mr. Varenik was previously based in Mexico City with the law faculty of Mexico City's Center for Investigation and Economic Research (CIDE), where he coordinated work on criminal justice and public security reform and directed the student clinic on juvenile sexual abuse and trafficking. In Mexico he also designed and directed projects for the Institute for Security and Democracy (*Instituto Para la Seguridad y la Democracia – Insyde*) which he helped found in 2003. Since the late 1980s, Mr. Varenik's work as a human rights lawyer has focused principally on criminal justice and judicial reform issues in Latin America and the Caribbean, Northern Ireland, Turkey and Cambodia. For more than a decade, he served the Lawyers Committee for Human Rights (now Human Rights First) in a variety of positions, including coordinator for Latin America and director of the protection program, aimed at assisting human rights activists and lawyers at risk.

Kenneth Hurwitz

Kenneth Hurwitz is the anticorruption senior legal officer at the Justice Initiative. He was previously a senior associate at Human Rights First (formerly, Lawyers Committee for Human Rights), where he worked to help ensure legal accountability for serious human rights violations in international and national fora, including support of the International Criminal Court and human rights litigations in U.S. courts. At Human Rights First, Mr. Hurwitz also worked on rights issues arising out of U.S. anti-terrorism policies, focusing on the detention and treatment of alleged terrorists at Guantanamo Bay, in Iraq and Afghanistan, and within the United States, and on military commissions. Having begun his career as a corporate and commercial attorney at the New York law firm Proskauer Rose LLP, he later served as associate general counsel for a New York-based international banking and shipping group.

Karl Sauvant

Karl Sauvant is the founding executive director of the Vale Columbia Center on Sustainable International Investment, research scholar and lecturer in law at Columbia Law School, co-director of the Millennium Cities Initiative, and guest professor at Nankai University, China. Before that, he was director of United Nations Conference on Trade and Development's (UNCTAD) Division on Investment, Technology and Enterprise Development (DITE), the focal point in the UN system for matters related to foreign direct investment (FDI) and technology, as well as a major interface with the private sector. While at the UN, he created, in 1991, the prestigious annual World Investment Report, of which he was the lead author until 2004. In 1992, Dr. Sauvant founded the journal *Transnational Corporations*, serving as its editor until 2005.

Dr. Sauvant joined the United Nations in 1973 and, as of 1975, has focused his work on matters related to FDI. Since 1988, he was responsible for the Organization's policy analysis work on FDI. In 2001, he became Director of DITE.

He is the author of, or responsible for, a substantial number of publications. In 2006, he was elected an Honorary Fellow of the European International Business Academy. He received his Ph.D. from the University of Pennsylvania in 1975.

Lisa Sachs

Mrs. Sachs is the assistant director of the Vale Columbia Center on Sustainable International Investment. She received a J.D. and a Masters of International Affairs from Columbia University in May 2008, and her B.A. from Harvard University in 2004. Her academic research has focused on foreign investment, corporate responsibility, human rights, and economic development.

Mrs. Sachs is the co-author of "Integrating Environmental, Social and Governance Issues into Institutional Investment - A Handbook for Colleges and Universities," produced by the Business & Human Rights Program of Amnesty International and the Responsible Endowments Coalition. The book is a fresh tool for students, higher education trustees and administrators who want to advocate responsible investing at their universities.

Vishwas P. Govitrikar

Dr. Govitrikar joined the Vale Columbia Center in February 2009 as its research director.

Between 1998 and 2005, Dr. Govitrikar worked for the Investment Division of UNCTAD, mainly on a joint project between UNCTAD and the International Chamber of Commerce (ICC). The project was meant to help selected developing countries in Africa and Asia attract more foreign direct investment and resulted in the production of a series of substantial investment guides, which provided a balanced overview of the investment climate for potential investors abroad.

Before UNCTAD, Dr. Govitrikar served as the executive director of the Shastri Institute, an association of some twenty Canadian universities with offices in both Canada and India, that developed and managed a variety of bi-national projects. Before this, he was the executive director of the Atwater Institute in Montreal, a mainly privately-funded organization founded in the mid-1980s to provide an international forum for the discussion of policy issues raised by the merger of computing and communication technologies.

Dr. Govitrikar is a Canadian citizen and holds a Ph.D. in English from the University of Pennsylvania and a Ph.D. in philosophy from McGill University.

Andrea Saldarriaga

Andrea Saldarriaga graduated magna cum laude from the University of Los Andes (Colombia) and has postgraduate studies in Spain and France. Her professional experience in arbitration began as an associate at Zuleta & Partners in 2000 and continued with the international arbitration group of Freshfields Bruckhaus Deringer (Paris) where she worked during for four years. She is currently an independent international advisor in arbitration and foreign investment law in New York.

She has represented private and sovereign clients in arbitration proceedings under different arbitration rules including ICSID, UNCITRAL, ICC and AAA. She has also collaborated with prominent arbitrators in administering arbitral proceedings and the preparation of awards in commercial and investment cases based on international investment agreements, including various BITs, NAFTA and the Energy Charter. She has been invited by the United Nations Conference on Trade and Development (UNCTAD) to be part of its network of experts in international investment law and to participate in its expert meetings on "Investment for Development".

Mrs. Saldarriaga is the international editorial coordinator for *Revista Internacional de Arbitraje*, and has authored a number of publications in international arbitration. She has taken part in various seminars and conferences in Europe, the United States and Latin America and is a visiting professor in international arbitration at University Paris X Nanterre, ESSEC Business School (Paris) and the *Instituto de Empresa* (Madrid).

José Alvarez

José Alvarez is currently the Hamilton Fish professor of international law and diplomacy at Columbia Law School as well as director of the Center on Global Legal Problems at Columbia University.

He obtained a B.A. from Harvard (1977), a B.A. from Magdalen College, Oxford University (1979) and a J.D. from Harvard (1981).

Professor Alvarez was law clerk to Judge Thomas Gibbs Gee, U.S. Court of Appeals for the Fifth Circuit from 1981 to 1982. He worked in private practice at Shea & Gardner from 1982 to 1983 and as attorney-adviser at the U.S. Department of State, Office of the Legal Adviser, from 1983 to 1988. Adjunct professor at Georgetown Law Center from 1983 to 1988, he was assistant professor at George Washington University, National Law Center, from 1989 to 1993 and professor at University of Michigan Law School from 1994 to 1999. In addition, he held the title of international affairs fellow at the Council on Foreign Relations from 1989 to 1990. He has served on the Board of Editors of the American Journal of International Law and the Journal of International Criminal Justice and as member of the Council on Foreign Relations and the Department of State Advisory Committee on International Law. His principal areas of publishing and teaching include international law, especially international organizations; international tribunals; war crimes; international legal theory; and foreign investment.

Kevin Davis

Kevin Davis joined the NYU School of Law as professor of law in 2004. He was formerly a tenured member of the University of Toronto's Faculty of Law. He teaches courses on contracts, law and development and secured transactions, as well as seminars on financing development and contract theory. His current research is focused on contract law, the governance of financial transactions involving developing countries, and the general relationship between law and economic

development.

Professor Davis received his B.A. in Economics from McGill University in 1990. After graduating with an LL.B. from the University of Toronto in 1993, he served as Law Clerk to Justice John Sopinka of the Supreme Court of Canada and later as an associate in the Toronto office of Torys, a Canadian law firm. After receiving an LL.M. from Columbia University in 1996, he was appointed assistant professor at the University of Toronto and was promoted to associate professor in 2001. He has also been a visiting assistant professor at the University of Southern California, a visiting fellow at Cambridge University's Clare Hall, and a visiting lecturer at the University of the West Indies in Barbados. He came to the NYU School of Law as a visiting professor in 2003.

Mark Kantor

Mark Kantor was a partner in the Corporate and Project Finance Groups of Milbank, Tweed, Hadley & McCloy until he retired from the firm. He currently serves as an arbitrator and mediator, and teaches courses in International Business Transactions and in International Arbitration as an adjunct professor at the Georgetown University Law Center. Mr. Kantor is a qualified arbitrator and a member of numerous arbitration panels. He is a senior research fellow at the Vale Columbia Center, a fellow of the Chartered Institute of Arbitrators and is listed in Who's Who Commercial Arbitration, Chambers USA (International Arbitration), and The Best Lawyers in America (International Arbitration; Washington, D.C.).

Mr. Kantor is the editor in chief of Transnational Dispute Management, an on-line global portal focusing on transnational disputes. He is also a member of the ADR Advisory Board of the International Law Institute, the Editorial Board of Global Arbitration Review, the Board of Editors of the Journal of World Energy Law and Business and the Board of Editors of the Banking Law Journal. He is vice-chair of the DC Bar International Dispute Resolution Committee, having served as chair from 2004 until 2007. He serves as the chair of the Washington, D.C. chapter of the Chartered Institute of Arbitrators. Among other publications, Mr. Kantor is the author of "*Valuation for Arbitration: Compensation Standards, Valuation Methods and Expert Evidence*" (Kluwer Law International 2008), named Best Book of 2008 in the OGEMID Awards.

Richard Kreindler

Mr. Kreindler is a partner of Shearman & Sterling LLP, in its Frankfurt office. He practices in the areas of international arbitration and litigation. Mr. Kreindler has handled approximately 150 commercial, construction, infrastructure and investment arbitrations before and under the rules of the leading US, European and other institutional and ad hoc arbitration regimes, including AAA, DIS, ICC, ICSID, LCIA, SIAC, SCC, Swiss Rules, UNCITRAL, Vienna Rules, WIPO and ZCC. His experience as arbitrator includes 30 arbitrations, of which 5 as chairman (ICC and DIS), 3 as sole arbitrator (WIPO) and 22 as party arbitrator (including 14 ICC). He has also represented private and sovereign entities in some 45 commercial, construction and natural resource damage claims under public international law before the Iran-United States Claims Tribunal and the United Nations Compensation Commission.

Mr. Kreindler has advised on cross-border enforcement of foreign arbitral awards and vacatur/set aside proceedings respecting domestic and international arbitral awards, particularly in relation to Austria, China, France, Germany, India, Korea, the Netherlands, Switzerland, the United Kingdom and the United States. He also routinely advises on multijurisdictional aspects of US, German, European, Asian and Middle Eastern civil litigations, including cross-border taking of evidence and recognition and enforcement of judgments. He provides regular advice to leading international

companies on compliance and anti-corruption programs and policies, including in the context of government investigations of foreign corrupt practices, especially in and related to France, Germany, Eastern and Central Europe, Southeast Asia and the United States.

Devashish Krishan

Devashish Krishan has wide experience before a variety of international tribunals representing public and private clients. He is qualified in two jurisdictions and has lived and worked in four.

Mr. Krishan has a broad range of experience in international law, particularly investment and commercial arbitration and litigation proceedings. He has authored a number of research papers published in leading international journals and has advised governmental bodies on the implementation of international treaties.

In addition to representing clients in international arbitration, Mr. Krishan provides predictive advice on a variety of international law matters. He has particular expertise in the area of international economic law.

Mitesh Kotecha

Mr. Kotecha read law to postgraduate level at the University of London, and was called to the Bar of England and Wales in 1996. He subsequently practiced from the Chambers of Baroness Scotland QC, the UK Attorney-General, and the Paris and London offices of the law firm Freshfields Bruckhaus Deringer. In 2006, he began working independently, consulting for various clients including the Republic of Kenya and the Kingdom of Bahrain.

Mr. Kotecha has advised and acted as counsel to corporate and state parties in *ad hoc* and institutional arbitrations under the ICSID, ICC, LCIA and UNCITRAL Rules. He also drafts and advises state clients on international agreements. His "corruption experience" includes defending the Kenyan government in the *World Duty Free* case and more recently representing a company under investigation by a European government for alleged breaches of the OECD Guidelines for Multinational Enterprises.

Mr. Kotecha grew up in Africa and has since lived in England, France, United States and India. He is now resident in Bahrain.

Howard Mann

Howard Mann is the senior international law advisor for the International Institute for Sustainable Development (IISD). He received his law degree from McGill University, and his LL.M. and Ph.D. in international law from the London School of Economics. He began his career as an international environmental lawyer with the Government of Canada, where he specialized in the negotiation of international environmental and trade agreements, as well as Canadian constitutional law relating to environmental protection. He participated in the negotiation of several international agreements, including the environmental and labor agreements accompanying the North American Free Trade Agreement.

Mr. Mann has been actively engaged in analyzing and writing on international trade and investment treaty issues from a sustainable development perspective since 1993. He began the IISD program on international investment and sustainable development in 1998. He is the lead author of IISD's Model International Agreement on Investment for Sustainable Development completed in 2005, which includes human rights issues, and led IISD's precedent-setting work in the *Methanex v. United*

States investment arbitration that resulted in the establishment of the *amicus curiae* process for international investment arbitrations.

Mr. Mann was also co-lead counsel in the precedent-setting civil society submissions in the *Biwater v. Tanzania* water arbitration before the World Bank's international investment arbitration body, the first case that recognized the importance of human rights in an investment arbitration. As part of his current work, he advises developing countries and international organizations on the negotiation of free trade and investment treaties as well as host government agreements between foreign investors and developing country governments.

Among his most recent advisory projects, Mr. Mann was a member of the International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes; and prepared a briefing paper for the UN Special Representative of the Secretary General on business and human rights, Prof. John Ruggie, on the linkages between international investment law and human rights. Mr. Mann has also served on two special advisory committees to the Government of Canada on trade and investment law. .

Andrew Newcombe

Professor Newcombe joined the Faculty of Law of the University of Victoria as assistant professor in 2002. Prior to that, he articulated and practised as an associate with Swinton & Co. (now Miller Thomson) in Vancouver. After pursuing his LL.M., he worked with the International Arbitration and Public International Law groups at Freshfields Bruckhaus Deringer in Paris. Professor Newcombe teaches international trade and investment law, international commercial law and arbitration, contract law, and commercial and consumer law. His research currently focuses on international arbitration and international investment and trade law. Professor Newcombe created and maintains ita (<http://ita.law.uvic.ca>), a leading international research website focused on international investment treaty law, practice and dispute resolution. His book, "*Law and Practice of Investment Treaties: Standards of Treatment*" (co-authored with Lluís Paradell), was published in February 2009 by Kluwer Law International.

Professor Newcomb holds a B.A. Honours from King's College (1992), an LL.B. from the University of Victoria (1995) and an LL.M. from the University of Toronto, (1999).

Ucheora Onwuamaegbu

Ucheora Onwuamaegbu is senior counsel at the World Bank's International Centre for Settlement of Investment Disputes (ICSID), where he heads a team administering numerous arbitral proceedings. He sits on the editorial board of the ICSID Review – Foreign Investment Law Journal and coordinates various institutional initiatives at the Centre. He is a senior research fellow at the Vale Columbia Center.

Before joining ICSID in 2001, Mr. Onwuamaegbu was senior legal officer at the United Nations Compensation Commission, Geneva. A graduate of the University of Nigeria, Mr. Onwuamaegbu is a barrister of the Supreme Court of Nigeria and a solicitor of the Supreme Court of England and Wales. He has served on various International Committees of the American Bar Association's International Law Section, and of the International Bar Association. He is an associate member of the Institute of World Business Law at the International Chamber of Commerce (ICC) and has written and spoken extensively on different aspects of investor-state dispute resolution.

Luke Peterson

Luke Peterson is the editor of "InvestmentArbitrationReporter.com" a popular electronic briefing service. He has worked as a consultant and journalist for the last decade on issues related to the international investment protection regime. As a consultant he has worked for various institutions including UNCTAD, UNDP, Chatham House, the South African Institute for International Affairs, and the International Centre for Human Rights & Democratic Development. As a journalist, he writes for the Financial Times group, including as a columnist for FDI Magazine.

Mr. Peterson obtained graduate degrees in legal & political theory and history while studying as a Rhodes Scholar at Oxford University and a Commonwealth Scholar at University College London.

Andrea Shemberg

Andrea Shemberg is legal adviser to Professor John Ruggie, the UN Special Representative of the Secretary General for Business and Human Rights (SRSG). Her area of focus is investment and human rights. Mrs. Shemberg holds a J.D. with honours from the Ohio State University and an M.Sc. in Human Rights with Distinction from the London School of Economics. She began her legal career with Squire, Sanders & Dempsey LLP as a management-side attorney in labor and employment law advising companies on issues of health and safety, workplace discrimination and other labor rights issues.

Mrs. Shemberg's work in human rights began in 2002 as legal advisor to Amnesty International UK, working mainly on issues of foreign direct investment and human rights. In such role, she was involved in analyzing host government agreements underpinning major pipeline projects regarding their potential human rights implications and lobbying companies, government officials and institutions regarding such issues. Before joining the SRSG in 2007, she was the legal officer at the International Commission of Jurists (ICJ) in Geneva, charged with establishing the ICJ's first program on international economic relations.

Ignacio Torterola

Ignacio Torterola is *Procuración del Tesoro Nacional* (PTN) – ICSID Liaison Officer at the Argentine Embassy in Washington, DC. In such a capacity he has represented the Argentine Government in numerous arbitrations before international tribunals, in particular ICSID, ICC and UNCITRAL. He is currently acting as Argentine delegate before the OECD Committee on Foreign Investments, the UNCTAD Meeting on Investment Intergovernmental Experts and the UNCITRAL Arbitration Group.

Before being appointed in Washington DC, by the PTN and the Argentine Ministry of Foreign Relations, Mr. Torterola represented Argentina at the WTO and negotiated the WTO Dispute Settlement Understanding. He has also acted as deputy coordinator of the International Defense of Argentina before international tribunals. He has taught public international and arbitration law in Argentine and foreign universities, seminars and professional organizations. He is widely-published in law reviews, especially on the topics of international commercial and investor-state arbitration, commercial and public international law.

Mr. Torterola graduated from the *Universidad Católica de Santa Fe* (Argentina) and was awarded a magna cum laude by the Santa Fe-Argentina Supreme Court of Justice. He has an LL.M in International Legal Studies from Cornell University as well as an LL.M in Commercial and Trade Law from the *Università degli Studi di Pisa*, Italy.