Questions to think about…

• Does ISDS hamper the power of government to regulate for environmental protection?

• Can ISDS be used to support environmental protection?
Putting numbers into perspectives

- By the end of 2014: 356 decided ISDS cases (UNCTAD)

- 21 decided cases related to protection of the environment and public health (see www.italaw.com)
Research findings

- Types of challenged measures: restrictions on dangerous chemicals, imposition of environmental requirements, rejection of permits etc.

- Types of industries: eco-tourism, manufacturing etc.

- Tribunals did not question the power of governments to regulate for environmental protection.

- In cases where States were found liable, it was because States had done wrong under terms of the treaty.
Example Cases

- *S.D Myers v. Canada*
- *Methanex v. USA*
Recent claimants in ISDS

- Solar panel investors
- Wind power investors
- Owner of natural sanctuary
Looking forward: ISDS for sustainable development

- More investment in is needed to combat climate change (renewable energy, energy efficiency, sustainable agriculture).

- International environmental law is not enough.

- IIAs can be turned into a proactive tool in support of sustainable development, ISDS as effective enforcement mechanism.