Sustainable investment treaties: A comparative perspective on balancing investor rights and sustainable development

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A. Introduction

At first glance, international investment agreements (IIAs) would appear to inherently promote sustainable development. Investment law is traditionally rooted in a development nexus, as reflected in the opening recital of the Preamble to the Convention on the Settlement of Investment Disputes between States and Nationals of other States (ICSID Convention). Admittedly, foreign investment can contribute to macroeconomic growth, provide a means for financing targeted development projects, and enable the transfer of knowledge and technology.[1] Sustainable development, alongside environmental protection and social progress, fundamentally encompasses economic growth.[2] While IIAs appear to align with the goal of economic development, they often fall short of supporting, or may even hinder, the environmental and social dimensions of sustainability. In particular, certain investment protections may constrain states' regulatory space for imple-

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1 Stephan W. Schrill/Christian J. Tams/Rainer Hofmann, ‚International investment law and development: Friends or foes?' in: Stephan W. Schrill/Christian J. Tams/Rainer Hofmann (eds.), International Investment Law and Development: Bridging the Gap, Frankfurt Investment and Economic Law Series (2015).

2 Schrill/Tams/Hofmann (2015), p. 18.

menting measures aimed at safeguarding the environment or promoting social welfare. Nevertheless, the architecture of IIAs has gradually evolved to incorporate elements more conducive to sustainable development. New-generation treaties increasingly include sustainability-oriented provisions, reflecting a shift towards a more balanced approach that seeks to align investor protection with broader public policy objectives.

This article provides a comparative analysis of investment treaties through the lens of sustainability. It examines legal mechanisms designed to reconcile investor protection with environmental and social objectives and explores the challenges and prospects for harmonisation across jurisdictions and treaty frameworks.

The first section explores the evolution of IIAs from traditional instruments of investment attraction and protection to frameworks that increasingly embed sustainability provisions and assesses the degree to which these developments resolve the normative tensions between investor rights and public interest regulation. Bearing in mind the evolving balance between international investor rights and sustainable development, the second section identifies legal mechanisms and approaches that may facilitate this balance. Finally, the third section briefly outlines the challenges and prospects of achieving a balance between international investment law and sustainable development.

B. Evolution of investment treaties in terms of sustainability

Primarily designed to encourage foreign investment by mitigating the typical risks associated with long-term investment projects, IIAs create a stable and predictable legal environment that benefits both host states and investors.[3] Accordingly, IIAs are treaties concluded between two or more states with the aim of mutually promoting and safeguarding investments made by investors from one state in the territory of the other.[4]

3 Rudolf Dolzer/Christoph Schreuer, Principles of International Investment Law, 2nd ed. (2012), p. 22; Berfu Beysulen Angin, 'The Right to Regulate vs Investment Protection: Unveiling the Causes of Imbalance and the Limits of Current Reform Efforts in International Investment Law' (2025), ICSID Review – Foreign Investment Law Journal, pp. 16–7.

4 Marius Dotzauer/Lisa Biber-Freudenberger/Thomas Dietz, 'The Rise of Sustainability Provisions in International Investment Agreements' (2024), Global Environmental Politics 24 (4), p. 10, 12.

In parallel, sustainable development can be defined as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'[5] and covers nearly all aspects of life, including economic growth, environmental protection, and social advancement.[6] Committed to addressing urgent global challenges, the 193 United Nations member states unanimously adopted the 2030 Agenda for Sustainable Development in 2015. The Agenda outlines 17 ambitious Sustainable Development Goals (SDGs) aimed at promoting equitable and environmentally sustainable progress through unprecedented international cooperation by 2030.[7]

Today, there are over 3,000 IIAs, ranging from bilateral to multilateral treaties, as well as free trade agreements with investment provisions. Nonetheless, it remains contested whether these instruments contribute to the advancement of sustainable development or, conversely, impede its realisation.

I. Traditional IIAs and their sustainability gaps

Traditional IIAs have historically aimed to shield foreign investors from political and regulatory risks by providing a range of substantive protections such as national treatment, most-favoured-nation treatment, protection against unlawful expropriation, guarantees of fair and equitable treatment (FET), and full protection and security, alongside procedural guarantees including access to binding investor–state dispute settlement (ISDS), thereby fostering a favourable climate for foreign direct investment.[8] At the same time, traditional IIAs rarely provided explicit recognition of the contracting states' inherent right to regulate or to introduce new investment-related measures in pursuit of domestic policy objectives, thereby significantly constraining their regulatory autonomy, particularly in areas of public interest such as environmental protection and social policy.

5 United Nations, Report of the World Commission on Environment and Development: Our Common Future, (1987), part 1, chapter 2, para. 1.
6 Schrill/Tams/Hofmann (2015), p. 18.
7 United Nations, General Assembly Resolution 70/1 (21 October 2015) UN Doc A/RES/70/1; Johnson/Sachs/Lobel (2019), p. 60.
8 Dotzauer/Biber-Freudenberger/Dietz (2024), pp. 12; Angin (2025), p. 8.

The constrained regulatory autonomy, coupled with the lack of emphasis on environmental protection in earlier IIAs, has led to investment disputes in which arbitral tribunals were required to determine whether state regulatory measures constituted breaches of the obligations set out in the applicable IIA.[9] In Philip Morris v. Uruguay, a tobacco company challenged Uruguay's anti-smoking regulations, including requirements for graphic health warnings and restrictions on the use of company trademarks, alleging violations of FET and indirect expropriation[10]. Although Uruguay ultimately prevailed,[11] the case exemplified how the exercise of a state's right to regulate in the public interest, particularly in the area of public health, can be challenged by a foreign investor within the framework of ISDS. Similarly, in Vattenfall v. Germany, an energy company commenced arbitration against Germany, arguing that the country's enforcement of more stringent environmental regulations on a coal-fired power plant undermined its investment expectations.[12]

This highlights the fundamental challenge arising from the mismatch between the static, stringent protections in IIAs and the adaptive, forward-looking nature of sustainable development. Whereas sustainable development demands flexible regulatory mechanisms to tackle issues like environmental harm, social disparities, and economic shifts, IIAs frequently constrain states with rigid legal obligations. As Johnson, Sachs and Lobel highlight, numerous IIAs fail to align with the SDGs: these goals call for holistic governance strategies that support, rather than hinder, public interest regulation.[13]

Earlier investment treaties seldom mention sustainable development and even more rarely include provisions to support it, which has, in some cases, discouraged states from adopting new sustainability measures due to the risk of triggering costly ISDS claims – a phenomenon known as 'regulatory

9 Angin (2025), p. 8.

10 Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay, ICSID Case No. ARB/10/7, Award, paras. 9–14.

11 Ibid., para. 590.

12 Vattenfall AB, Vattenfall Europe AG, Vattenfall Europe Generation AG v. Federal Republic of Germany, ICSID Case No. ARB/09/6, Request for Arbitration, paras. 8–12.

13 Lise Johnson/Lisa Sachs/Nathan Lobel, 'Aligning International Investment Agreements with the Sustainable Development Goals' (2019), Columbia Journal of Transnational Law 58, p. 58, 64.

chill'.[14] Moreover, Dotzauer, Biber-Freudenberger, and Dietz empirically show that treaties signed before the early 2000s generally lacked any sustainability provisions, contributing to an overall investment regime that privileged investor rights over environmental and social considerations.[15]

II. Modernisation of investment treaties in pursuit of sustainable development

Notwithstanding, in recent years a growing number of states and international organisations have recognised the need to reform the existing regime and remedy the aforementioned misalignment. Firstly, they do so by revising their existing investment treaties to incorporate sustainability clauses, and by including such clauses in their newly concluded IIAs.[16] A range of sustainability-related provisions can be found in contemporary IIAs, including preambles that link investment to sustainable development, substantive commitments to uphold environmental and labour standards, clauses affirming the state's right to regulate, provisions placing obligations on investors to comply with host state environmental and labour laws, mechanisms that promote sustainable investment, etc.[17] Research has been conducted examining IIAs with the most references to sustainability, identifying the Morocco–Nigeria Bilateral Investment Treaty (BIT) of 2016 as the one containing the highest number with 60 references in total.[18] The Chile–Hong Kong SAR (Hong Kong Special Administrative Region of the People's Republic of China) BIT and the Burkina Faso–Canada BIT, stand out for their frequent references to sustainability.[19] Similarly, the

14 Dotzauer/Biber-Freudenberger/Dietz (2024), p. 13; Vera Korzun, 'The Right to Regulate in Investor-State Arbitration: Slicing and Dicing Regulatory Carve-Outs' (2021), Vanderbilt Journal of Transnational Law 50 (2), p. 355, 360; Angin (2025), p. 24; Kyla Tienhaara, 'Regulatory Chill and the Threat of Arbitration: A View from Political Science' in: Chester Brown/Kate Miles (eds.), EVOLUTION IN INVESTMENT TREATY LAW AND ARBITRATION (2011), p. 606; Bart-Jaap Verbeek, 'The Modernization of the Energy Charter Treaty: Fulfilled or Broken Promises?' (2023), Business and Human Rights Journal 8 (1), p. 97, 99.

15 Dotzauer/Biber-Freudenberger/Dietz (2024), pp. 22–23.

16 Dotzauer/Biber-Freudenberger/Dietz (2024), p. 14; Schrill/Tams/Hofmann (2015), p. 6.

17 Dotzauer/Biber-Freudenberger/Dietz (2024), pp. 23–25.

18 Ibid, pp. 23–24.

19 Ibid.

Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (EU) stands out among treaties with investment provisions, with an impressive 950 references and a dedicated chapter to sustainability.[20] These examples reflect a clear shift in the normative framework of international investment law.

This positive trend is visible not only in the treaty texts themselves but also in the drafting recommendations provided by international organisations such as the United Nations Conference on Trade and Development (UNCTAD).[21] UNCTAD's Investment Policy Framework for Sustainable Development (IPFSD) advises treaty negotiators to include provisions that affirm the right to regulate, reference international environmental commitments, and align with sustainable development principles.[22]

Importantly, these clauses go beyond symbolic gestures and establish enforceable standards. As a result, they have the potential to influence treaty interpretation and reduce the risk of arbitral tribunals striking down public interest measures. Moreover, they help reposition investment law as a tool for advancing, rather than obstructing, sustainability objectives.

Eventually, these developments reflect a normative shift, in which sustainability is gradually being repositioned not as an external policy consideration, but as a core element of international investment law itself. This shift is part of a broader trend where investment law is becoming increasingly responsive to public concerns and more closely integrated with global governance norms.

Nevertheless, the degree of innovation varies across regions. While the EU and Canada have been leaders in treaty reform, many agreements signed by or among developing countries continue to focus narrowly on investment protection.[23] Additionally, numerous existing treaties remain unreformed, and the divergent approaches across jurisdictions contribute to fragmentation that may limit the overall systemic impact of these reforms.

Taking these factors into account, the second section analyses the legal mechanisms for balancing investor protection and sustainability, which may further support and positively influence these recent changes.

20 Ibid.
21 Schrill/Tams/Hofmann (2015), p. 6.
22 UNCTAD, Investment Policy Framework for Sustainable Development, https://investmentpolicy.unctad.org/investment-policy-framework (last accessed: 29 June 2025).
23 Dotzauer/Biber-Freudenberger/Dietz (2024), p. 12.

C. Legal mechanisms for balancing investor protection and sustainability

Amidst the shifting priorities and the progressive transformation of treaty practice, the identification of legal mechanisms that can concretely advance the alignment between investor protection and sustainable development becomes increasingly important.

I. Classic treaty-based mechanisms

As already indicated in the preceding section, a key legal mechanism is the explicit recognition in IIAs of a state's right to regulate within its territory and its flexibility to pursue legitimate public policy objectives, such as the protection of public health or the environment, without infringing investors' rights, as exemplified by the CETA.[24] This recognition establishes balance between investor protection and states' regulatory autonomy, providing legal certainty for governments to implement public interest measures without the constant risk of investor-state disputes. In addition to recognising the state's right to regulate, further improvements could be made by incorporating explicit references to sustainable development in the preambles of IIAs.[25]

Additionally, the inclusion of direct investor obligations within investment treaties, as seen in the Netherlands Model BIT (2019), represents another legal mechanism aimed at enhancing the compatibility of IIAs with SDGs and mitigating the inherent tension between international investment law and sustainable development.[26] According to Article 7 (1) of the Netherlands Model BIT (2019) investors and their investments shall comply with domestic laws and regulations of the host state, including laws and regulations on human rights, environmental protection and labour laws. This approach reinforces the accountability of investors, ensuring that their activities align with the host state's development priorities and legal framework, and thus contributes to more responsible and sustainable investment practices. Notably, this mechanism marks a significant departure from traditional IIAs, which largely imposed obligations on states while granting broad rights to investors.

24 Shunta Yamaguchi, 'Greening regional trade agreements on investment', OECD Trade and Environment Working Papers 2020/03, (2020), p. 31.
25 Schrill/Tams/Hofmann (2015), p. 29.
26 Yamaguchi (2020), p. 47.

II. Complementary and emerging mechanisms

While the legal mechanisms already embedded in some new-generation IIAs, such as the right to regulate and direct investor obligations, represent the most evident steps towards reconciling investment protection with sustainable development, the question remains whether further mechanisms could help strengthen this balance. In this context, it becomes important to distinguish between more far-reaching mechanisms and softer, complementary approaches that can be implemented without fundamentally altering the existing legal framework.

Among the softer approaches suggested by Schill, Tams, and Hofmann, treaty interpretation represents an important mechanism for integrating sustainable development considerations into international investment law. Arbitral tribunals, even under traditional BITs, increasingly apply interpretative techniques such as proportionality analysis and deferential review,[27] allowing states greater policy space to pursue development objectives and comply with international commitments in areas such as human rights and environmental protection.[28] Ultimately, while traditional treaties may appear rigid, their flexible interpretation by tribunals can support sustainable development, depending largely on the readiness of the arbitrators to adopt such an approach.[29]

Another soft mechanism suggested by the same scholars involves interpreting investment treaty provisions as tools for promoting good governance. This approach views such provisions as requiring states to uphold legal standards that support economic growth, a core component of sustainable development.[30] In particular, arbitral tribunals have concretised the FET standard by aligning it with key principles of the rule of law, including principles such as legal certainty, the protection of legitimate expec-

27 Tecmed v. Mexico (ICSID Case No. ARB(AF)/00/2, 2003), Award (29 May 2003) para. 122; Saluka Investments BV v Czech Republic, UNCITRAL, Partial Award (17 March 2006), para. 306; Total S.A. v. The Argentine Republic, ICSID Case No. ARB/04/01, Decision on Liability (27 December 2010) paras. 123, 197; El Paso Energy International Company v. The Argentine Republic, ICSID Case No. ARB/03/15, Award (31 October 2011) paras. 241–243, 373; Occidental Petroleum Corporation and Occidental Exploration and Production Company v. The Republic of Ecuador, ICSID Case No. ARB/06/11, Award (5 October 2012) paras. 384 ff.

28 Schrill/Tams/Hofmann (2015), p. 30.

29 Ibid.

30 Ibid, p. 31.

tations, due process, and proportionality.[31] When interpreted in this manner, IIAs serve not only to protect investor interests but also to strengthen rule-of-law-based governance frameworks, which contribute to sustainable development in host states.[32]

Among the more far-reaching mechanisms, a noteworthy approach is the strategic encouragement of investments that actively contribute to sustainable development. As Johnson, Sachs and Lobel propose, instead of focusing solely on imposing obligations on host states regarding the treatment of foreign investors, IIAs could adopt a more comprehensive approach to investment governance, one that involves addressing concrete barriers to sustainable investment and incorporating commitments from home states to actively support and encourage investments that align with SDG.[33] Several recent treaties illustrate this shift. The Japan–Mexico Economic Partnership Agreement explicitly commits parties to foster investment in sectors that advance sustainable development and climate action through institutional cooperation, information exchange, and capacity building.[34] Similarly, the Cotonou Agreement between the EU and African, Caribbean and Pacific Group of States includes measures such as capacity building for investment promotion agencies, risk capital provision, and dissemination of business opportunities to encourage investment in underrepresented regions.[35] This mechanism marks an important evolution in treaty practice by aiming not only to protect investments but also to guide them towards outcomes that align with sustainable development objectives.

The second far-reaching mechanism for aligning IIAs with sustainable development, supported by Johnson, Sachs and Lobel, is ensuring that IIAs do not protect harmful investments.[36] Rather than offering broad protections regardless of impact, IIAs should exclude or limit protections for investments that clearly undermine the SDGs, such as those contribut-

31 Saluka Investments BV v Czech Republic, UNCITRAL, Partial Award (17 March 2006), para. 302; Waste Management v. Mexico (ICSID Case No. ARB(AF)/00/3, 2004), Award (30 April 2004), para. 98; Tecmed v. Mexico (ICSID Case No. ARB(AF)/00/2, 2003) Award (29 May 2003), para. 154, CMS Gas Transmission Company v. Argentina (ICSID Case No. ARB/01/8, 2005) Award (12 May 2015), para. 274, Bayindir v. Pakistan (ICSID Case No. ARB/03/29, 2009), Award (27 August 2009), para. 178.

32 Schrill/Tams/Hofmann (2015), p. 32.

33 Johnson/Sachs/Lobel (2019), p. 69.

34 Ibid.

35 Ibid.

36 Ibid, p. 71.

ing to fossil fuel expansion, violating international labour standards, or resulting from corruption. Given that current IIAs often grant foreign investors stronger procedural and substantive rights than those available in domestic legal systems, effectively subsidising harmful activities through ISDS privileges and broad protections, governments should critically assess which types of investments genuinely warrant such regulatory support.[37] IIAs could introduce ex ante and ex post mechanisms to screen, exclude, or condition protection based on environmental, social, and governance criteria.[38] This may include categorical exclusions (e.g. fossil fuel extraction) or requirements that investments meet standards of responsible conduct and legality. Moreover, limiting access to ISDS for investors engaged in harmful or unlawful practices, even if some protections remain, could serve as a disincentive to high-risk, unsustainable activities.[39] Through such tools, IIAs could avoid undermining global sustainability efforts and better align with broader international obligations and policy coherence goals.

In addition to these far-reaching mechanisms, another important mechanism lies in the reform efforts led by international policy-making bodies, particularly the UNCTAD. UNCTAD plays a central role in aligning investment law with sustainable development by addressing key concerns such as the imbalance in treaty focus, lack of transparency and public participation, vague treaty language, and the absence of investor obligations.[40] These challenges have shaped UNCTAD's reform agenda, including the development of the IPFSD, and continue to inform its broader efforts to promote investment that genuinely supports sustainable development.[41]

In conclusion, aligning IIAs with sustainable development requires a multifaceted approach that combines both soft and far-reaching legal mechanisms. Enhancing states' right to regulate, incorporating investor obligations, and leveraging treaty interpretation can create more policy space within existing frameworks. Simultaneously, proactive treaty design, exclusion of harmful investments, and global reform initiatives are essential to promote responsible and development-oriented investment. Notably, the mechanism of not subsidising harmful investments could represent a transformative and potentially radical shift in international investment law, challenging long-standing standards and pushing the regime towards

37 Ibid, p. 72.
38 Ibid, p. 76.
39 Ibid, p. 80.
40 Schrill/Tams/Hofmann (2015), p. 34.
41 Ibid.

greater alignment with global sustainability goals. Together, these strategies contribute to a more balanced and sustainable international investment regime.

D. Challenges and prospects

Despite the growing trend of IIAs and investment law becoming more attuned to public concerns and sustainable development, and the clear identification of legal mechanisms capable of promoting positive change, challenges remain.

As Schrill, Tams, and Hofmann observe, 'international investment law has been gradually built, treaty by treaty (or 'BIT by BIT', as is often said),' resulting in a regime composed of thousands of overlapping and often inconsistent IIAs, each negotiated in distinct contexts and guided by differing objectives.[42] This fragmented structure creates significant challenges, as it undermines the development of common standards and precludes the possibility of reforming the system through a single, comprehensive initiative. The lack of coherence is further exacerbated by the absence of systemic guidance, which has made it difficult to integrate cross-cutting objectives such as the SDGs into the legal framework.

Moreover, the degree of state commitment to integrating sustainability into investment law varies considerably across jurisdictions. While a number of states, most notably EU member states and Canada,[43] have taken proactive steps to incorporate sustainable development clauses into their IIAs, others have remained wedded to a more traditional model. This conventional approach tends to prioritise investor protection, often at the expense of broader public interest considerations such as environmental preservation, human rights, or social welfare. According to research by Dotzauer, Biber-Freudenberger and Dietz, states with higher levels of domestic environmental protection tend to include more and stricter sustainability provisions in international treaties, partly due to lower adaptation costs.[44] Accordingly, developed countries are more likely to incorporate sustainability references in IIAs than developing states, which often priori-

42 Ibid, p. 11.
43 Dotzauer/Biber-Freudenberger/Dietz (2024), pp. 11–12.
44 Ibid, pp. 18–19.

tise economic growth over ambitious sustainability commitments.[45] As a result, the investment regime continues to reflect and perpetuate significant asymmetries between states.

Additionally, the risk of "regulatory chill" poses a barrier to progressive regulation. In particular, states may refrain from adopting stricter environmental or social regulations due to fears that such measures could be challenged under existing treaty obligations and give rise to costly ISDS claims.[46] This chilling effect can undermine governmental willingness to pursue progressive public interest policies, especially in sensitive sectors such as environmental protection, public health, and labour rights. Notably, the governments of Denmark and New Zealand have acknowledged that the mere threat of investor claims has deterred them from implementing more ambitious climate policies.[47] Such instances highlight the broader systemic tension between investment protection and the policy space states require to achieve their sustainable development objectives.

Another key challenge is the inconsistency in arbitral awards, stemming from the decentralised structure of the ISDS system. In the absence of a centralised adjudicatory body or appellate mechanism, different tribunals often interpret similar treaty provisions in divergent ways. Dotzauer, Biber-Freudenberger and Dietz illustrate this with the example of Eco Oro v. Colombia, where the arbitral tribunal held that the general exception clause in the relevant investment treaty did not exempt the state from the obligation to pay compensation.[48] This contributes to fragmented jurisprudence and undermines the legal predictability necessary for both states and investors. Institutional reforms, such as the establishment of a multilateral investment court or appellate body, have been proposed to address this gap, though progress has been slow and politically contested.[49]

While the road ahead is complex, the growing inclusion of sustainability provisions in IIAs offers a foundation upon which a more balanced and coherent investment regime can be built. Provided there is interna-

45 Ibid.

46 Kyla Tienhaara, 'Regulatory Chill in a Warming World: The Threat to Climate Policy Posed by Investor–State Dispute Settlement' (2018), Transnational Environmental Law 7 (2), pp. 229–250, p. 233; Verbeek (2023), p. 99; Angin (2025), p. 24.

47 Dotzauer/Biber-Freudenberger/Dietz (2024), p. 12.

48 Dotzauer/Biber-Freudenberger/Dietz (2024), p. 29; Eco Oro Minerals Corp. v. Republic of Colombia, ICSID Case No. ARB/16/41, Award on Damages (15 July 2024), para. 358.

49 Schrill/Tams/Hofmann (2015), p. 29, Gus Van Harten, Investment Treaty Arbitration and Public Law, Oxford University Press (2007), p. 180 ff.

tional commitment, states can ensure that economic growth aligns with environmental and social objectives, while strengthening international cooperation, enhancing treaty clarity, and aligning with global sustainability commitments will be key to achieving a more balanced investment regime.

Notably, achieving the desired balance between IIAs and sustainable development does not require a radical dismantling of investment law. By recognising specific characteristics of investment law, this balance can still be attained, provided there is genuine political will and commitment from the relevant stakeholders. Moreover, fostering greater cooperation and coordination among investment treaty parties and arbitral institutions is essential to effectively align investment governance with sustainable development objectives.

E. Conclusion

As mentioned in the introduction, IIAs were initially conceived to attract foreign capital and promote development by providing legal certainty and protection for investors. This development-centric rationale aligned, at least in theory, with the economic pillar of sustainable development. However, as the first section demonstrated, traditional IIAs often failed to support the environmental and social dimensions of sustainability and, in many cases, constrained states' regulatory autonomy, contributing to a "regulatory chill."

Today, more IIAs reflect an evolving understanding of investment's role in sustainable development. The inclusion of sustainability clauses in new-generation IIAs signals a normative shift, transforming investment law from a rigid system of investor protection into a more balanced framework that acknowledges states' rights to regulate and promotes sustainable investment. This evolution seeks to bridge the gap between the static nature of traditional IIAs and the dynamic requirements of sustainable development.

Importantly, achieving this balance does not require dismantling investment law. Rather, meaningful reform is possible from within the system, by recognising its structural features, addressing fragmentation, and rethinking how its mechanisms are designed and interpreted. As examined in the second section, legal mechanisms such as the recognition of states' right to regulate, the imposition of direct investor obligations, and provisions encouraging sustainable investment all represent concrete steps towards this goal.

Nonetheless, the challenges discussed in the third section, from fragmented treaty practice to inconsistent arbitral jurisprudence and persistent asymmetries between states, highlight that progress will depend on more than just legal drafting. Political will, institutional coordination, and genuine cooperation will be essential.

Ultimately, the future of international investment law lies not in a binary choice between investor rights and sustainable development, but in integrating the latter into the very fabric of the former. Through legal innovation, thoughtful reform, and political courage, international investment law can be reshaped into a more coherent and sustainability-friendly framework that balances investor protection with the broader public policy objectives.