

# The Evolving International Investment Law and Policy Regime:

## Ways Forward

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### Abstract

International investment needs are tremendous. This requires that the international investment regime constitutes a framework for increased flows of sustainable foreign direct investment for sustainable development. The international investment regime covers what has become the single most important form of international economic transactions and the most powerful vector of integration among economies: foreign direct investment and non-equity forms of control by multinational enterprises over foreign production facilities.

Among the most striking features of the global investment landscape over the past decade has been the rise of developing economies as outward investors. Yet despite the economic importance of international investment, there is no overarching set of rules governing this subject matter. Instead, the regime consists of over 3,000 international investment agreements, the great majority of them bilateral investment treaties.

The present paper examines the state of the international investment law and policy regime and how its governance might be enhanced. Following a thorough analysis of the background to rule-making in international investment, the paper puts forward a set of policy options with the overall objective of increasing sustainable investment flows, particularly to developing and least developed countries, within the framework of a widely accepted international investment law and policy regime.

The interrelated policy recommendations fall under five main categories:

1. expanding the purpose and updating the *substantive and procedural provisions of international investment agreements;*
2. developing an international support programme for sustainable investment facilitation;
3. addressing the challenge of *managing and resolving disputes, especially by further institutionalizing the investor-state dispute-mechanism which lies at the heart of the regime;*

4. complementing this effort by establishing an Advisory Centre on International Investment Law;
5. initiating a process towards the negotiation of a comprehensive international framework on investment that would establish basic rules of engagement among principal stakeholders.

The paper ends with a recommendation on procedural issues, namely the launch of an informal and inclusive consensus-building process to accompany and help efforts geared at reforming the international investment regime for increased flows of sustainable foreign direct investment.