



INTERNATIONAL INVESTMENT PROMOTION AND FACILITATION IN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS 2030

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"Investment Treaties Must Evolve or Become Irrelevant"

Honorable guests, distinguished colleagues. We face a brutal reality that most investment lawyers avoid stating plainly. The global community requires trillions of dollars annually to achieve the Sustainable Development Goals by 2030. We currently mobilize less than half of what is needed. The problem is not capital availability; the problem is legal architecture designed for a world that no longer exists.

Investment treaties, the supposedly dynamic instruments binding this system, remain frozen in an outdated paradigm. They prioritize investment volume over investment quality. They protect investor returns but impose minimal discipline on responsible business conduct. And most dangerously, they grant dispute resolution mechanisms almost no tools to enforce sustainable development obligations when investors breach them. Qatar's National Vision 2030 plainly exposes this contradiction.

Lorenzo Cotula of the International Institute for Environment and Development identified the central issue sharply in 2018. Investment treaties treat foreign investment as an end in itself. The legal architecture exists to promote flows between states. From a sustainable development lens, this represents conceptual confusion. Investment serves development only if we target the types of investment and the standards of operation investors maintain.

Most bilateral investment treaties, the current system's backbone, address investment admission and treatment. They say virtually nothing about responsible business conduct in human rights, labour standards, or environmental protection. Some recent agreements mandate these standards nominally. But this creates a critical enforcement vacuum.

Cotula poses three unanswered legal questions that expose our failure:

First, should investor non-compliance with responsible investment standards constitute a jurisdictional bar in investor-state arbitration. Should treaties exclude investments breaching these standards from legal protection entirely. Second, if not, how do arbitral tribunals consider responsible standards when deciding dispute merits or calculating damages. What legal methodology do they deploy. Third, can states bring

counterclaims against investors for violating these standards. Can the obligation flow in both directions, or does it remain one-way protection for foreign capital.

Current treaty texts provide no answers. We accept this silence as normal. It is not normal. It is institutional failure. Qatar's legal regime for investment promotion operates on radically different premises. Rather than generic treaties, Qatar deployed a number of targeted legal instruments after 2019 that bundle investment facilitation with SDG implementation.

Law No. 1/2019, the Foreign Investment Law, permits 100% foreign ownership across most sectors. But this was not uncontrolled liberalization. Qatar channelled this opening specifically toward renewable energy, healthcare, education, and advanced technology. The legal framework functioned as a sectoral filter, directing capital toward SDG-relevant activities.

Law No. 12/2020, the PPP Law, institutionalized public-private partnerships as primary SDG implementation vehicles. Dozens of active PPP projects now span renewable energy, waste management, healthcare, and smart infrastructure. Critically, these projects operate under performance-based contracts with measurable sustainability outcomes. The legal structure enforced quality, not merely volume.

Invest Qatar, the National Investment Promotion Agency, functions as a sophisticated gatekeeper. It directs investors toward SDG-aligned projects, provides market intelligence, facilitates permits, and ensures regulatory navigation. This differs fundamentally from passive treaty regimes that extend equivalent legal protection regardless of investor conduct.

The results speak plainly. Qatar attracted \$2.74 billion in FDI through 241 new projects in 2024, generating 9,348 jobs¹. The heavy investments in

¹ <https://www.qatar-tribune.com/article/177127/business/qatar-records-over-27bn-in-fdi-in-2024-creating-over-9000-jobs>

solar plants substantially reduces emissions in tons annually. This represents investment quality filtering, not volume maximization.

Qatar demonstrates feasibility. But an uncomfortable truth emerges when we examine why Qatar succeeds where the international investment regime fails. Qatar controls these outcomes because it combines three elements that bilateral investment treaties systematically exclude.

First, Qatar possesses constitutional authority to bind investment to SDG performance standards. Its Permanent Constitution grounds all economic activity in sustainable development principles.² Most states ratifying investment treaties surrender precisely this constitutional discretion to arbitral tribunals operating under treaty language treating investment protection as paramount.

Second, Qatar deploys direct regulatory intervention through national institutions. Invest Qatar selects projects. The financial regulator enforces Environmental, Social, and Governance (ESG) standards. Ministries coordinate strategy. These institutions operate with domestic political accountability and enforcement capacity. Bilateral investment treaties explicitly prohibit such selectivity, treating it as discriminatory host-state conduct subject to arbitral liability.

Third, Qatar operates within a distinct legal and regulatory environment. It can harmonize 60 national sectoral strategies with 17 SDGs because it controls that harmonization comprehensively. States subordinate to complex multilateral treaty obligations, fragmented sectoral regulation, and competing investor claims cannot replicate this coordination. The legal pluralism created by overlapping trade agreements, investment treaties, climate commitments, and human rights obligations generates contradictory obligations that no institutional mechanism resolves satisfactorily.

Most states cannot be Qatar. They lack sovereign control, sufficient capital, and concentrated decision-making authority. The international investment regime therefore operates to disadvantage precisely those

² Article 33 - The State shall work on the preservation of the environment and its natural balance in order to achieve comprehensive and sustainable development for all generations.

states most needing SDG- aligned capital. Small developing economies cannot deploy Qatar's toolkit without breaching existing treaty obligations.

I endorse the analysis of leading experts such as Cotula and UNCTAD institutional analysts, and I submit that three essential conclusions emerge from their work.

First, modern investment treaties must make investment quality a jurisdictional requirement, not a dispute merit factor. Responsible investment standards should determine whether investments receive treaty protection initially, not merely factor into damages calculations. This requires drafting obligations defining responsible conduct with legal precision, then entrenching non-compliance as a bar to access to investor-state arbitration. This is technically complex but legally coherent.

Second, dispute resolution mechanisms need restructured mandates. Arbitral tribunals require explicit authority to consider host-state counterclaims for investor breaches of responsible investment standards. Obligations must bind both parties symmetrically. The current system systematically privileges investors over host states precisely where SDG implementation conflicts with investor profit maximization. That imbalance requires conscious legal correction.

Third, investment promotion frameworks must shift from quantity metrics to quality metrics. States should measure success not by FDI volume but by sustainable development outcomes. Legal frameworks should embed this orientation. Qatar demonstrates this is operationally feasible. International investment law has not yet made this shift institutionally. It remains oriented toward maximizing capital flows, regardless of consequences.

Conclusion

Qatar's experience proves that legal frameworks can couple investment promotion with SDG achievement when legal architecture subordinates investment protection to sustainable development objectives. Most current bilateral investment treaties operate in the opposite direction, implicitly treating investment protection as paramount.

We cannot transform the international investment regime into a Qatar-equivalent system. Small developing economies lack the regulatory capacity and sovereign control. But we can modernize treaty language to require responsible investment standards as conditions for treaty protection, to embed SDG performance metrics into investment promotion mandates, and to rebalance arbitral disputes to prevent host states from defending public policy entirely through damages liability.

The trillions of annual SDG financing gap will not close through voluntary investor responsibility or passive treaty regimes. It closes through legal architecture that makes investment quality non-negotiable and makes sustainable development outcomes the basis for measuring promotion success.

Qatar solved this problem through comprehensive legal reform subordinating investment to development. The international regime must follow. The clock runs on 2030. The legal toolbox exists. What remains is political will to restructure treaties around development outcomes rather than investment returns.

Thank you.