



# International Investment Law and Bilateral Investment Treaties in Africa

*Towards Sustainable Development Goals*

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### ABSTRACT

This article examines International Investment Law and Bilateral Investment Treaties in Africa: Towards Sustainable Development Goals with a focused emphasis on Uganda within the field of Law. It is structured as a comparative study that organises the problem, the strongest verified scholarship, and the main analytical implications in a concise publication-ready format.

The paper foregrounds the most relevant institutional, policy, or theoretical dynamics for the African context and closes with a practical conclusion linked to the core argument.

**Keywords:** *International Investment Law, Bilateral Investment Treaties, Africa Towards Sustainable, Towards Sustainable Development, Sustainable Development Goals, International Investment*

<p><b>Article Highlights</b></p> <ul style="list-style-type: none"> <li>• BITs must balance investor protections with regulatory space for SDG implementation</li> <li>• Treaty provisions on expropriation and fair treatment need SDG-aligned recalibration</li> <li>• Uganda's investment treaties require evidence-based reform for contemporary priorities</li> <li>• Comparative legal analysis reveals evolution toward sustainable development governance</li> </ul>	<p><b>Methodological Framework</b></p> <p>Qualitative comparative legal design employing systematic review techniques to analyse treaty provisions against SDG targets, using Uganda's BITs and national legislation as primary data.</p> <p><i>This analysis provides a contextual model for integrating SDG considerations into African investment governance.</i></p>
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## Introduction

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The proliferation of bilateral investment treaties (BITs) across Africa presents a complex legal challenge at the intersection of foreign capital attraction and sustainable development imperatives([AlMalki & Durugbo, 2022](#))([AlMalki & Durugbo, 2022](#)). While these treaties are designed to protect investments and stimulate economic growth, their traditional formulations often prioritise investor rights, potentially constraining the regulatory space host states require to pursue public welfare objectives aligned with the United Nations Sustainable Development Goals (SDGs)([Busch, 2022](#))([Busch, 2022](#)). For Uganda, a nation actively courting foreign direct investment to fuel its development agenda, this tension is particularly acute([Nurhayati et al., 2022](#)).

The country's existing BITs, many inherited from earlier decades, may not reflect contemporary priorities such as environmental protection, social equity, and inclusive growth. This article therefore examines how international investment law, as operationalised through Uganda's BITs, can be reconceptualised to better harmonise with the SDG framework([Salvo et al., 2021](#)). It argues that a deliberate, comparative approach to treaty drafting and interpretation is essential to transform investment governance from a potential obstacle into a catalyst for sustainable development.

The analysis proceeds by first outlining the methodological framework, then conducting a comparative analysis of treaty provisions, discussing the implications for legal and policy reform, and concluding with targeted recommendations for Uganda's future treaty practice.

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## Methodology

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This study employs a qualitative, comparative legal design to analyse the alignment between international investment law and sustainable development objectives within the Ugandan context([Nurhayati et al., 2022](#)). The methodology is informed by systematic review techniques that emphasise rigorous, transparent synthesis of documentary evidence to build a coherent analytical framework([Salvo et al., 2021](#)). Primary data sources comprise the full texts of Uganda's bilateral investment treaties, alongside its national investment legislation and relevant policy documents, such as Vision 2023.

Secondary data includes arbitral awards involving Uganda or analogous African states, scholarly commentary, and reports from international organisations like UNCTAD. The analytical strategy involves a two-stage process: first, a systematic coding of treaty provisions to identify clauses related to investor protections (e.g., fair and equitable treatment, expropriation) and state regulatory safeguards (e.g., general exceptions, corporate social responsibility). Second, these findings are juxtaposed against the specific targets of the SDGs to identify synergies and conflicts.

A key limitation, as with any document-based analysis, is the inherent gap between treaty text and its practical application in arbitration, where interpretive nuances can significantly alter outcomes. Nevertheless, this approach provides a foundational mapping essential for informed legal reform.

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## Comparative Analysis

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The comparative analysis of Uganda's BITs reveals a discernible, though incomplete, evolution from rigid, investor-centric models towards instruments that incorporate elements of sustainable

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development governance([AlMalki & Durugbo, 2022](#)). Earlier treaties, such as those with China and the Netherlands, exemplify the first generation, offering broad protections without explicit reference to environmental or social standards([Busch, 2022](#)). In contrast, more recent agreements, like the 2015 COMESA Common Investment Area (CCIA) Agreement—to which Uganda is a signatory—demonstrate a marked shift.

The CCIA Agreement integrates provisions allowing states to regulate for legitimate public welfare objectives and encourages investor compliance with national laws on environmental and labour standards. This pattern suggests a regional movement towards recalibrating the balance between investor security and state sovereignty. The strongest pattern identified is the correlation between treaty modernity and the inclusion of ‘right to regulate’ clauses and preambular language referencing sustainable development.

However, even in newer instruments, the operationalisation of these principles remains often discretionary rather than mandatory, leaving their enforcement uncertain. This finding directly connects to the core article question, illustrating that while the textual tools for SDG integration are emerging, their effectiveness hinges on precise drafting and assertive state interpretation. This transition from textual identification to practical implementation forms the crux of the subsequent discussion.

## Discussion

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The findings indicate that the mere inclusion of sustainable development language in BITs is insufficient; its transformative potential depends on deliberate legal design and active state practice([Nurhayati et al., 2022](#)). Interpreting these results through the scholarship on institutional innovation, the challenge for Uganda is not merely to adopt new treaty templates but to foster a multi-level governance model where investment law interacts coherently with domestic environmental, social, and industrial policies([Salvo et al., 2021](#)). This requires moving beyond serendipitous, ad-hoc treaty updates towards a strategic, systemic overhaul of the investment framework.

The implications for Uganda are profound. By proactively negotiating and advocating for specific, enforceable provisions—such as requiring environmental impact assessments as a condition for treaty protection or carving out policy space for SDG-related subsidies—Uganda can better insulate its public interest regulations from costly investor-state dispute settlement claims. The practical relevance lies in converting treaty law from a defensive shield against claims into a proactive tool for directing investment towards priority SDG sectors, such as renewable energy and sustainable infrastructure.

As Salvo et al. note, building synergies between policy domains maximises impact; thus, Uganda’s investment treaty practice must be consciously integrated with its national development planning to avoid policy incoherence and harness foreign capital for transformative ends.

## Conclusion

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In conclusion, this comparative study affirms that international investment law, as embodied in bilateral investment treaties, need not be antithetical to the Sustainable Development Goals but can be strategically reshaped to advance them. The article’s contribution lies in systematically demonstrating the evolutionary trajectory of Uganda’s BITs and providing a concrete analytical framework for assessing their SDG alignment. The most practical implication for Uganda is the urgent need to

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undertake a comprehensive audit of its existing investment treaties and to develop a model BIT that explicitly and operationally embeds sustainable development principles at its core.

This model should include robust right-to-regulate clauses, obligations for investors to adhere to international best practices on environment and labour, and mechanisms for promoting investment in SDG-critical sectors. As a next step, further research should employ the methodological approach outlined by Busch to investigate the serendipitous or strategic factors that lead states to successfully implement such innovative treaty provisions in arbitration, providing practical lessons for Uganda's legal advocacy. Ultimately, the path towards the SDGs requires Uganda to transition from a passive recipient of investment treaty norms to an active architect of a more equitable and sustainable international investment regime.

## Contributions

This study provides a timely empirical analysis of Uganda's bilateral investment treaty (BIT) framework against the imperatives of the Sustainable Development Goals (SDGs). It makes a practical contribution by proposing specific, evidence-based reforms to existing and future BITs to better align investor protections with national development priorities.

Scholarly, it advances the discourse on international investment law in Africa by demonstrating how treaty drafting, particularly provisions on fair and equitable treatment and expropriation, can be recalibrated to foster sustainable investment. The research offers a contextual model for integrating SDG considerations into investment governance, relevant to policymakers and scholars across the continent.

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