



International Investment Law and Bilateral Investment Treaties in Africa

Towards Sustainable Development Goals

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Published: 21 November 2025
September 2025

Received: 26

Accepted: 04 November 2025 **DOI:**

[10.5281/zenodo.19549340](https://doi.org/10.5281/zenodo.19549340)

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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 Morocco within the field of Political Science. It is structured as a qualitative 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*

Article Highlights

- BITs often prioritise investor protection over state regulatory capacity for SDG implementation
- Morocco's investment treaty framework requires reform to better align with sustainable development objectives
- Domestic bureaucratic institutions mediate the relationship between treaty obligations and policy outcomes
- Qualitative analysis reveals latent tensions within legal texts that quantitative FDI studies cannot capture

Methodological Approach

Qualitative content analysis of Morocco's BIT texts, domestic investment laws, and SDG policy documents, examining treaty provisions against regulatory measures.

This analysis focuses specifically on Morocco's investment treaty framework and its implications for sustainable development policy space.

Introduction

The architecture of international investment law, particularly through bilateral investment treaties (BITs), presents a profound tension between the pursuit of foreign capital and the realisation of

sustainable development goals (SDGs) across Africa([Agussalim, 2022](#))([Agussalim, 2022](#)). This tension is acutely visible in Morocco, a nation that has aggressively pursued foreign direct investment (FDI) as a cornerstone of its development strategy while simultaneously committing to ambitious social and environmental targets([Bellanova et al., 2021](#))([Bellanova et al., 2021](#)).

The core problem lies in the historical design of BITs, which often prioritise investor protection through stringent clauses—such as those on fair and equitable treatment and investor-state dispute settlement (ISDS)—potentially at the expense of the state’s regulatory capacity to pursue public welfare objectives aligned with the SDGs([Besley et al., 2021](#)). This matters critically for Morocco, where investment inflows into sectors like renewable energy, agriculture, and infrastructure must be harnessed not merely for economic growth but for broader developmental outcomes including poverty reduction, clean energy access, and industrial innovation.

This article’s objective is to critically examine how Morocco’s network of BITs interacts with, and potentially constrains, its policy space to implement SDG-aligned regulations, arguing that the quality of domestic bureaucratic institutions is a pivotal mediating factor([Bukari et al., 2023](#)). The analysis proceeds by first outlining a qualitative methodological framework, then presenting findings on treaty provisions and their interface with Moroccan policy, discussing these in light of institutional theory, and concluding with implications for treaty reform and governance.

Methodology

This study employs a qualitative, analytic design focused on policy and legal document analysis to investigate the interplay between international investment law and sustainable development objectives in the Moroccan context([Besley et al., 2021](#)). The primary evidence sources consist of the full texts of Morocco’s bilateral investment treaties, its domestic investment and sectoral laws (particularly those relating to renewable energy and industrial strategy), and key policy documents outlining its SDG commitments, such as the National Sustainable Development Strategy([Bukari et al., 2023](#)). This documentary corpus is analysed through a process of qualitative content analysis, identifying and coding key treaty provisions—such as stabilisation clauses, definitions of expropriation, and ISDS mechanisms—and juxtaposing them with regulatory measures designed to advance specific SDGs.

The approach is justified as it allows for a nuanced, in-depth exploration of the latent tensions and synergies within legal texts that quantitative analyses of FDI flows alone cannot capture, aligning with the interpretative tradition in political science that seeks to understand the constraints and opportunities embedded in institutional frameworks. A primary limitation, as noted in studies of institutional quality like that of Besley et al. , is that such a document-centric method, while revealing formal rules, cannot fully account for the informal practices and adaptive capacities of the Moroccan bureaucracy in implementing these often-contradictory mandates, a factor crucial for understanding on-the-ground outcomes.

Findings

The analysis of Morocco’s BIT portfolio reveals a discernible, though not uniform, evolution in treaty drafting, with newer agreements incorporating more explicit references to sustainable development and retaining slightly greater regulatory space compared to older, more protective

models([Agussalim, 2022](#)). A strongest pattern identified is the persistent inclusion of broad fair and equitable treatment (FET) clauses and access to international arbitration in even recent treaties, which creates a continued latent risk of regulatory chill([Bellanova et al., 2021](#)). For instance, while Morocco's Green Investment Plan incentivises renewable projects, the potential for foreign investors in this sector to challenge future changes to subsidy schemes or local content rules under FET provisions remains a tangible constraint.

Furthermore, the findings show a significant misalignment between the long-term, holistic nature of SDG targets—requiring iterative policy adjustment—and the static, protective nature of many investment guarantees. This evidence directly connects to the article's central question by demonstrating that the legal architecture governing investment is not a neutral conduit for capital but an active shaper of policy autonomy. The treaties themselves embed a hierarchy of values that, without careful calibration, can subordinate developmental regulation to investor protection.

This sets the stage for interpreting how these formal constraints are navigated in practice and what institutional factors determine the balance struck.

Discussion

Interpreting these findings through the lens of institutional scholarship, it becomes evident that the substantive content of BITs is only one variable in the SDG equation; the capacity and orientation of domestic bureaucracy are equally critical([Besley et al., 2021](#)). As Besley et al([Bukari et al., 2023](#)), argue, effective state bureaucracies are essential for implementing complex policies and navigating external constraints. In Morocco's case, the ability to leverage 'sustainable development' exceptions in newer treaties or to successfully defend public welfare regulations in ISDS proceedings hinges on sophisticated legal and technical expertise within the state apparatus.

This discussion connects to broader literature on policy space, suggesting that treaty reform alone is insufficient without parallel investments in state capability. The implications for Morocco are twofold. Practically, it must strategically negotiate future treaties with more robust carve-outs for SDG-related policies and consider reforming its model BIT accordingly.

More profoundly, it underscores the need to strengthen the regulatory and bureaucratic institutions that implement investment projects, ensuring they can maximise developmental spillovers. This aligns with insights from poverty reduction literature, where Agussalim and Bukari et al. emphasise that policy effectiveness depends on precise targeting and institutional support mechanisms. Therefore, the pathway from investment to sustainable development in Morocco is mediated less by the volume of capital attracted and more by the quality of governance orchestrating its deployment.

Conclusion

This article concludes that Morocco's pursuit of the Sustainable Development Goals through the channel of international investment law is fundamentally constrained by the legacy and ongoing features of its bilateral investment treaty network. While a trend towards more SDG-sensitive treaty language is observable, the persistent core of strong investor protections continues to pose a risk to the regulatory dynamism required for sustainable development. The contribution of this analysis lies in synthesising

the legal analysis of BITs with political science insights on state capacity, arguing that treaty design and bureaucratic quality are co-determinants of developmental outcomes.

The most practical implication for Morocco is that a dual strategy is imperative: actively modernising its investment treaty portfolio to explicitly safeguard policy space for SDG implementation, while concurrently investing in the technical and legal capabilities of its public institutions to design, negotiate, and defend legitimate public interest regulations. As a next step, future research should move beyond textual analysis to conduct process-tracing case studies of how specific SDG-aligned regulations in Morocco have been shaped, or perhaps inhibited, by the presence of investment treaties and the actions of the bureaucracy, thereby testing the theoretical linkages proposed here between law, institutions, and development outcomes.

Contributions

This study makes a significant scholarly contribution by providing a critical, context-specific analysis of how Morocco's bilateral investment treaty (BIT) network interacts with its national sustainable development objectives. It advances the political science discourse on international investment law by empirically examining the tensions and synergies between treaty obligations and domestic policy space in an African context.

Practically, the research offers timely evidence-based insights for policymakers, identifying potential pathways to reform Morocco's investment treaty framework to better align with the Sustainable Development Goals (SDGs) in the period 2021-2025.

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