Toni Deskoski[*]
Vangel Dokovski[**]

INTEGRATING SUSTAINABLE DEVELOPMENT GOALS INTO MODEL BILATERAL INVESTMENT TREATIES

-Abstract-

In today's globalized economy, foreign direct investment (FDI) is a key component of national development strategies. The proliferation of multinational enterprises has led to an increase in foreign-controlled or influenced trading firms, often causing FDI to be overshadowed by portfolio investments. Nevertheless, FDIs contribute far more than financial resources, they often introduce cutting-edge technology, advanced management skills, innovation, and integration into international markets, which together drive more inclusive and sustainable economic growth in the host country. Three primary factors determine a country's attractiveness to foreign investors. First, favorable macroeconomic conditions, such as robust economic performance naturally draw investor interest. Second, a stable political landscape reassures investors, encouraging long-term commitments. Third, legal predictability and a transparent regulatory framework are critical to building investor trust and ensuring consistency. In this regard, FDI becomes a fundamental engine of progress, delivering not just capital, but also vital knowledge, infrastructure, and employment opportunities. Techlogy transfer, within this setting, involves the sharing or adoption of scientific knowledge and production methods across organizations, sectors, or nations. This transfer occurs through channels such as foreign investments, international trade, patent agreements, technical training, and advisory services. This paper examines the role of sustainable development as facilitated by the latest generation of Bilateral Investment Treaties (BITs), and their potential to advance sustainable development in an increasingly interconnected global market. These modern BITs are crafted to encourage FDI from capital-abundant, high-tech economies, often OECD countries, into developing regions. By offering legal guarantees and reducing investment risks, these treaties aim to stimulate the movement of funds, technologies, and know-how from advanced economies to those still on the path of development.

Keywords: *BITs, foreign investments, investors, sustainable development goals, OECD.*

I. Introduction

In an increasingly interconnected global economy, foreign direct investments (FDIs) have become a cornerstone of economic development strategies worldwide. The liberalization of trade and investment regimes, coupled with the accelerated pace of globalization, has encouraged nations to compete for FDIs to enhance their economic potential. Historically, the proliferation of multinational corporations has facilitated the rapid expansion of cross-border

---

[*] Toni Deskoski, PhD., Full Professor, Ss. Cyril and Methodius University in Skopje, Iustinianus Primus Faculty of Law, North Macedonia, e-mail: t.deskoski@pf.ukim.edu.mk; ORCID iD: 0009-0000-3481-5951
[**] Vangel Dokovski, PhD., Associate Professor, Ss. Cyril and Methodius University in Skopje, Iustinianus Primus Faculty of Law, North Macedonia, e-mail: v.dokovski@pf.ukim.edu.mk; ORCID iD: 0009-0007-6808-6532

investment flows.[1] FDIs distinguish themselves by providing capital and many auxiliary benefits for host countries —technological innovation, managerial expertise, and access to global supply chains—that can have transformative effects on host economies.[2] These attributes make FDIs a critical driver of sustainable and inclusive growth.

For developing nations, in particular, FDIs represent an opportunity to bridge gaps in domestic savings, enhance industrialization efforts, and accelerate knowledge transfer.[3] The cumulative impact of these benefits is the promotion of more sustainable growth trajectories that align with long-term economic development objectives. Global trade liberalization and regional integration have enabled multinational corporations to establish international production networks, allowing even small countries to attract investments by serving broader regional or global markets from a single location.[4]

FDIs thus stand at the intersection of economic growth, technological progress, and global integration. For host countries, especially in the developing world, FDIs offer a pathway to accelerate industrialization, build infrastructure, and create jobs. For investors, FDIs provide access to untapped markets, cost advantages, and opportunities for global diversification. The dynamic interplay between these motivations underscores the importance of creating an enabling environment that aligns the interests of investors with the developmental priorities of host nations. According to Borensztein et al., FDIs are contributing more to growth than domestic investment.[5] Similarly, Campos and Kinoshita have found that the effect of FDI on economic growth in transition economies is positive and statistically significant.[6]

One of the most critical mechanisms through which FDI impacts host economies is technology transfer. In the broadest sense, technology transfer is defined as the process of sharing and disseminating knowledge, skills, scientific discoveries, production methods, and other innovations among universities, government agencies, private firms, and other institutions.[7] In terms of investment, technology transfer refers to the movement of knowledge, technical skills, and innovative practices from the investing entity to the host nation. Technology transfer occurs through various channels, such as joint ventures, licensing agreements, and the establishment of research and development (R&D) facilities.[8] In the context of developing economies, the transfer of advanced technologies and managerial expertise can significantly enhance productivity, stimulate industrialization, and elevate the global competitiveness of domestic industries. However, the extent to which these benefits materialize depends on the absorptive capacity of the host economy, including the availability of skilled labor, the quality of education systems, and the presence of complementary infrastructure.[9]

---

[1] *See* Dunning J.H., Multinational Enterprises and the Global Economy, 2nd Edition, Edward Elgar Publishing, 2008, pp. 295-338.

[2] OECD, *Foreign Direct Investment for Development: Maximising benefits, minimizing costs*, OECD Publishing, 2002, DOI: https://doi.org/10.1787/9789264199286-en; *see also* UNCTAD, *World Investment Report 2013: Global Value Chains: Investment and Trade for Development,* United Nations, 2013.

[3] Borensztein, E., De Gregorio, J., & Lee, J.W., *How Does Foreign Direct Investment Affect Economic Growth?*, Journal of International Economics, Vol. 45, 1998, pp. 115–135.

[4] Blomström, M. & Kokko, A., *The Economics of Foreign Direct Investment Incentives*, Discussion Paper No. 3775, February 2003, Centre for Economic Policy Research, 2003, p.6.

[5] Borensztein, et. al. *Op. Cit*. 3, p. 115.

[6] Campos, N.F. & Kinoshita, Y., *Foreign Direct Investment as Technology Transferred: Some Panel Evidence from the Transition Economies*, The Manchester School, 70, 2002, p. 417.

[7] Audretsch D.B. et al. (eds.), *Technology Transfer in a Global Economy*, International Studies in Entrepreneurship 28, Springer Publishing, 2012, p.1.

[8] *See* Audretsch, D.B., Lehmann, E.E. & Wright, M., *Technology transfer in a global economy*, Journal of Technological Transfer, Volume 39, 2014, pp. 301–312 (2014). DOI: https://doi.org/10.1007/s10961-012-9283-6.

[9] Borensztein, et. al. *Op. Cit*.3, p. 115.

It is worth noting that the benefits of FDIs have been challenged, with increasing concerns over the past decade about their potential negative impact on the environment. However, several studies have found that no direct correlation exists between FDI and environmental degradation.[10] Nevertheless, countries are strongly encouraged to pursue strong environmental policies to ensure that potential investors act responsibly toward the environment.

While many aspects factor into the decision-making of investors, in essence, the attractiveness of a country to foreign investors is a function of three interrelated factors: economic conditions, political stability, and legal certainty.

- First, robust economic fundamentals are indispensable. Countries with sustained economic growth, macroeconomic stability, and growing consumer markets naturally attract investors seeking profitable opportunities. The availability of skilled labor and the presence of critical infrastructure further amplify the appeal of these destinations.
- Second, political stability is a critical determinant of investor confidence. Volatile political environments and frequent changes in government policies deter investors by increasing the unpredictability of the investment climate. Conversely, a stable and transparent governance structure sends a strong signal to foreign investors about the safety and security of their investments.
- Third, legal certainty emerges as a key driver of FDI flows. Transparent regulatory frameworks, enforceable property rights, and adherence to international standards ensure that investors can navigate the host country's legal environment with confidence. The predictability of these frameworks reduces the perceived risks of expropriation, arbitrary regulatory changes, or discriminatory practices, making the host country a more attractive destination for FDI.

In recent years, international frameworks such as Bilateral Investment Treaties (BITs) have played a pivotal role in shaping the legal and institutional environment for FDIs. The new generation of BITs goes beyond traditional investment protections to incorporate provisions aimed at promoting sustainable development. These include clauses on environmental standards, labor rights, and technology-sharing obligations. By addressing both investor concerns and host country priorities, modern BITs represent a shift towards more balanced and equitable investment arrangements.

This paper aims to explore the role of FDIs in economic development, with a particular focus on the interplay between FDI and technology transfer, demonstrated through the evolution of modern BITs. The next chapter offers an overview of the current state of Investor-State Dispute Settlement (ISDS), followed by a discussion of the challenges in existing regulations. The paper then explores issues related to sustainable development in BITs before analyzing the most recent draft model BIT from North Macedonia.

II. Sustainable development issues in BITs

Bilateral Investment Treaties (BITs) reflect the common practice of States. However, the significant variation in the standards set forth in these treaties makes it challenging to assert

[10] *See* Christoforidis T. & Katrakilidis C., *Does Foreign Direct Investment Matter for Environmental Degradation? Empirical Evidence from Central–Eastern European Countries*, Journal of the Knowledge Economy, Vol. 13(4), 2022, p. 2665; *see also* Tsoy, L., Heshmati, A., *Is FDI inflow bad for environmental sustainability?*. Environment, Development and Sustainability Vol. 26, 2024, pp. 28843–28858. DOI: https://doi.org/10.1007/s10668-023-03844-3.

that they establish a consistent rule of customary international law. At first glance, bilateral investment treaties may appear uniform, prompting some scholars to argue that they contribute to customary international law. But, upon closer scrutiny, it becomes evident that their provisions differ widely, with each treaty representing a carefully negotiated compromise between the contracting parties. For example, an analysis of a State like China reveals that its treaties have varied over time, shaped by changing circumstances and differing motivations. Consequently, these treaties are more appropriately viewed as creating *lex specialis* agreements between the parties rather than forming a general principle of customary international law. Nonetheless, the widespread recognition of their significance among international lawyers, coupled with their potential to influence the development of customary international law, underscores the importance of these treaties.[11]

BITs are often concluded between unequal parties, reflecting an inherent asymmetry that has always characterized this area of international law. Typically, these treaties involve a developed capital-exporting country and a developing capital-importing country in race to attract foreign direct investment. BITs commonly include provisions specifying their entry into force, duration, and the legal status of investments after their termination or expiration. They often provide in deep protection for investments over extended periods, sometimes up to thirty years, and may continue to protect investments for an additional 10–20 years after termination (sunset clauses). Most agreements extend this protection to investments made both before and after the treaty's entry into force.

This temporal aspect is crucial when determining whether environmental standards introduced in a BIT apply to investments made before the treaty's effective date. For example, if a new standard is introduced, foreign direct investments may face compliance challenges, particularly when States, in exercising their regulatory powers, impose these standards retroactively. Similarly, questions arise about whether changes in national legislation that heighten environmental protection can impact foreign investments protected under a BIT signed years earlier.

Historically, BITs have granted protection primarily to investments made after their entry into force, reflecting their primary purpose of encouraging new investments. However, more recent agreements, such as the Argentina–US BIT, have broadened their scope to include investments existing at the time of entry into force as well as those made subsequently. Case law also support this point of view. For instance, in *Tecnicas Medioambientales Tecmed SA v. Mexico*, the tribunal distinguished between the application of a BIT to investments made before its entry into force and its applicability to violations occurring before that date. While the tribunal acknowledged that the investment qualified for protection under the BIT, it ruled out retroactive application to actions taken by the host State prior to the treaty's effective date.[12]

In general, BITs are understood to protect investments only from measures enacted by the host State after the treaty's entry into force. This principle underscores the forward-looking nature of BITs, which primarily aim to promote and safeguard new investments while accommodating evolving standards and legal frameworks.[13]

In earlier generations of Model BITs, national treatment and most-favored-nation treatment were relative standards. Alongside these relative standards, BITs also imposed absolute standards of treatment, such as fair and equitable treatment and full

[11] *See:* M. Sornarajah, *The international law on foreign investment*, Third edition, 2010, Cambridge University Press, p. 175

[12] *See:* Blackaby Nigel, Redfern Alan, Hunter Martin, *Redfern and Hunter on international arbitration*, Oxford University press, 2018, p. 470.

[13] *See:* Schill W. Stephan, *The Multilateralization of Internatnational Investment Law*, Cambridge University Press, 2009, p. 73.

protection and security. These guarantees ensure the protection of foreign investors regardless of how the host State treats its own nationals or investors from third countries.

In contrast, new generations of BITs increasingly integrate broader objectives, incorporating provisions that promote sustainable economic development, respect for human rights, and environmental protection. A defining feature of BITs remains the typical dynamic of their conclusion: most are agreements between a developed country and a developing country. Among the thousands of BITs signed to date, only a small number of BITs are concluded between two developed countries. This reflects the reduced need for BITs in developed countries, where stable democratic institutions, robust legal systems, independent judiciaries, and minimal political or non-commercial risks already provide a secure environment for foreign investments.

Despite their variations, the essential structure of BITs has remained consistent. They are designed around five fundamental components:

1. Definition of investment and investor
2. Admission of foreign investors
3. Fair and equitable treatment of investors
4. Compensation in cases of expropriation
5. Dispute resolution mechanisms[14]

While the specific terms of a BIT may vary depending on the negotiating States, most treaties follow similar templates derived from established models. Their key objectives are to:

- Provide fair and equitable treatment, full protection and security, most-favored-nation treatment, and national treatment to foreign investors.
- Safeguard investments from expropriation without compensation.
- Protect against adverse or discriminatory treatment.
- Ensure effective remedies through international arbitration, whether between States or directly between investors and host States, for breaches of the treaty's provisions.

Ultimately, BITs aim to create a stable and predictable legal framework for foreign investments, ensuring both their protection and the opportunity for equitable resolution of disputes.[15]

The older generation of BITs largely omitted provisions or standards addressing environmental protection. In international investment law, prior to the emergence of the new generation of model BITs, environmental protection, tehnology transfer and sustainable development standards were primarily addressed through multilateral agreements, rather than bilateral ones. States that concluded BITs typically excluded environmental considerations, leaving such issues outside the scope of substantive protections or dispute resolution mechanisms.

The content of traditional BITs reflected this approach, as they did not accommodate environmental law in investment arbitration. Indeed, international investment agreements often failed to address environmental issues or, in some cases, explicitly excluded them. This created a significant tension: legislative measures necessary to fulfill environmental obligations could potentially expose States to liability under investment treaties, particularly if those measures were perceived as violating investors' rights.

---

[14] *Ibid* p. 84

[15] *See:* Subedi P. Surya, *International Investment Law, Reconciling Policy and Principle*, 2008, p. 1

Historically, the absence of environmental provisions in model BITs discouraged States from including such standards in their agreements. However, growing global awareness of environmental challenges, particularly the urgent need to address climate change and reduce greenhouse gas emissions, has shifted the landscape. The increasing adoption of international multilateral environmental agreements has highlighted the limitations of the older BIT models and prompted a reevaluation of treaty priorities.[16]

As a result, the new generation of BITs places greater emphasis on sustainable development, explicitly incorporating environmental protection standards alongside traditional investment protections. This evolution reflects a broader recognition of the importance of balancing economic development with environmental stewardship, ensuring that investment treaties align with contemporary global priorities.

The 2015 Paris Agreement represents a global change international commitment to enhancing environmental protection and addressing climate change.[17] Adopted by 196 parties at the UN Climate Change Conference (COP21) on December 12, 2015, and entering into force on November 4, 2016, it is a legally binding treaty with a clear objective: to limit the global average temperature increase to “well below 2°C above pre-industrial levels” while pursuing efforts to cap the rise at 1.5°C.[18] For the first time, this agreement unified nations in a legally binding framework to combat climate change and adapt to its effects, marking a milestone in multilateral climate governance.

The relevance of the Paris Agreement to the incorporation of environmental standards into modern bilateral investment treaties (BITs) lies in its transformative demands on States. The Agreement necessitates a global economic and social transformation rooted in the best available science and operates on a five-year cycle of progressively ambitious climate actions. This "scaling up" of commitments influences domestic legislation, as countries strive to meet their international obligations.

To fulfill the objectives of the Paris Agreement, States have enacted a range of legislative measures that often intersect with foreign investment frameworks. These actions typically address critical environmental and climate-related concerns, including:

- Bans on chemicals and mining techniques to mitigate environmental harm.
- Revocation or suspension of mining permits and projects situated in culturally or environmentally significant sites.
- Addressing oil contamination through stricter regulations.
- Expropriation of reserves to preserve natural resources.
- Increased costs resulting from environmental impact assessments.
- Elimination or modification of incentives for renewable energy sources to optimize policy alignment.
- Phasing out coal and nuclear power plants to transition toward cleaner energy sources.
- Bans on oil, gas, and shale gas projects in line with decarbonization goals.[19]

III. The language of the New Model BITs

The new generation of Model BITs emerging after 2010, reflects a shift towards sustainable development. These modern agreements go beyond traditional investment

[16] See: *Climate Law in Investment Arbitration – Two Sides of the Same Coin*, https://www.acerislaw.com/climate-law-in-investment-arbitration-two-sides-of-the-same-coin/

[17] The full text is available on the following link: https://www.acerislaw.com/wp-content/uploads/2022/08/english_paris_agreement.pdf

[18] https://unfccc.int/process-and-meetings/the-paris-agreement

[19] https://www.acerislaw.com/climate-law-in-investment-arbitration-two-sides-of-the-same-coin/

protection to place significant emphasis on environmental protection, labor standards, and socially responsible business practices. The language used in these modern BITs reveals diverse approaches to enhance environmental protection obligations, serving various policy objectives. Analyzing the content of environmental provisions in these treaties provides insight into the specific purposes they are designed to achieve. These can be classified into the following seven categories:[20]

1. General language in preambles: Preambles often include references to environmental issues, underscoring the parties' commitment to environmental protection as a shared concern.
2. Reservation of policy space for environmental regulation (broad scope): Clauses that preserve the host State's sovereign right to regulate environmental matters across the entire treaty.
3. Reservation of policy space for specific issues: Provisions reserving regulatory authority for targeted matters, such as performance requirements or exceptions to national treatment obligations.
4. Indirect expropriation: Language clarifying the distinction between legitimate regulatory actions for environmental protection and measures constituting indirect expropriation.
5. Non-lowering of environmental standards: Commitments by States to avoid weakening environmental standards to attract or retain investments.
6. Environmental issues in investor-state dispute settlement (ISDS): Provisions addressing how environmental considerations are handled in ISDS, ensuring that environmental protections are not undermined by investor claims.
7. General promotion of environmental progress and cooperation: Clauses encouraging collaborative efforts to advance environmental protection and sustainable development practices.

Foreign direct investment (FDI) can significantly contribute to sustainable development, providing host states with numerous benefits. These include increased tax revenues, technology transfer, specialized training of local human resources, the creation of supportive satellite activities, enhanced availability of high-quality goods and services, and broader downstream effects that stimulate economic growth and social inclusion. This relationship between FDI and sustainable development, particularly the environmental protection component, has gained increasing attention in recent years. A growing number of investment arbitration cases highlight tensions between states' obligations to their citizens—such as safeguarding the environment, public health, and overall well-being—and their commitments to protect foreign investments. These conflicts often stem from the exercise of a state's regulatory powers, underscoring the delicate balance between fostering investment and maintaining environmental integrity.

The concept of a "green economy" has evolved beyond the traditional notion of sustainability. Today, being "green" is no longer just a matter of corporate or state responsibility but a driver of future profitability. Investors are increasingly interested in profitable ventures related to recycling, decarbonization, and renewable energy. However, while such projects attract considerable interest, investors are often less willing to address the environmental concerns associated with these activities. For these reasons, crafting BITs that integrate robust

[20] See: Gordon, K. and J. Pohl (2011), *Environmental Concerns in International Investment Agreements: A Survey*, OECD Working Papers on International Investment, 2011/01, OECD Publishing. http://dx.doi.org/10.1787/5kg9mq7scrjh-en

environmental provisions and align FDI with sustainable development is critical. This ensures that investments contribute to economic and social progress without undermining the environmental foundation necessary for long-term prosperity.[21]

Current International Investment Agreements (IIA) and the Investor-to-State Dispute Settlement (ISDS) mechanism represent a major obstacle to climate mitigation and adaptation as well as to the adoption of ambitious social and environmental policies. In this regard, the EU's withdrawal from the Energy Charter Treaty (ECT), announced on 26 June 2024 and due to take effect on 26 June 2025, certainly represents a major step forward (but investments made before the effective exit will remain protected for 20 years, due to a sunset clause).[22]

IV. Draft Model BIT of North Macedonia

Sustainable Development Investing (SDI) is a concept that involves directing capital in a way that not only seeks financial returns but also makes a positive contribution to sustainable development. This approach uses the Sustainable Development Goals (SDGs) as a guiding framework to assess and measure the outcomes of such investments. By aligning investment strategies with these global goals, SDI aims to address pressing global challenges, such as environmental degradation, social inequality, and economic disparity, while still generating financial returns for investors. The introduction of the new Draft-Model BIT marks a notable development, as it includes, for the first time, a dedicated chapter focused on investments that promote sustainable development. The new Draft-Model BIT is based on the EU Model Clauses for BITs (2023).[23]

a. Corporate Social Responsibility (CSR)

In the new Draft-Model BIT (2024), the Parties recognize the critical role of corporate social responsibility (CSR) in fostering sustainable development. The Parties emphasize the importance of investors conducting comprehensive due diligence to identify and address negative impacts on various fronts, including environmental and labor conditions. This due diligence is expected to cover not just the operations of investors but also their supply chains and other business relationships. The Parties commit to promoting responsible business practices and encouraging enterprises to adopt CSR strategies that contribute to sustainable development. Furthermore, the treaty encourages the adoption of relevant international instruments that guide responsible business conduct, such as:

- The UN Global Compact, which sets out principles related to human rights, labor, environment, and anti-corruption.
- The UN Guiding Principles on Business and Human Rights, which provide a framework for businesses to avoid infringing on the rights of individuals.
- The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, which provides guidance on how businesses should respect workers' rights.

---

[21] *Ibid*

[22] Mathilde Dupré Stéphanie Kpenou, Aligning Investment Protection Policy with the Paris Agreement: What Are the Next Steps After the Current Wave of ECT Withdrawals?, available on the following link: https://www.veblen-institute.org/IMG/pdf/nov_2024_aligning_investment_protection_policy_with_the_paris_agreement-_what_are_the_next_steps_after_the_current_wave_of_ect_withdrawals_-2.pdf

[23] The full text of the EU Model clause is available on the following link: https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/8390/download

- The OECD Guidelines for Multinational Enterprises, which offer recommendations for responsible business behavior in the areas of human rights, employment, and environmental protection.

Moreover, the Parties agree to facilitate the exchange of information and best practices, fostering an environment where investors and enterprises are better equipped to implement CSR and responsible business practices effectively. By sharing knowledge and practical solutions, the Parties aim to create a more sustainable and responsible investment landscape.

b. Health, Safety, and Environmental Measures

Article 14 of the new Draft-Model BIT introduces a crucial provision that prohibits the Contracting Parties from relaxing domestic health, safety, or environmental regulations in order to attract foreign investment. In other words, a Contracting Party should not offer to waive or relax these regulations to encourage the establishment, expansion, or retention of an investment within its territory. The intent behind this provision is to ensure that investment activities do not undermine or compromise essential public regulations designed to protect human health, safety, and the environment. This reflects a growing awareness that sustainable economic development cannot be achieved at the expense of public welfare or environmental protection.

c. Labour Standards

The Draft-Model BIT places significant emphasis on labor standards, recognizing that the violation of fundamental labor rights cannot be used as a means to attract or retain investments. According to the treaty, the Contracting Parties reaffirm their commitment to respecting, promoting, and implementing core labor standards as embodied in the International Labour Organization (ILO) Conventions that each Party has ratified. These standards include important principles such as the elimination of child labor, forced labor, and discrimination, as well as the right to freely chosen employment and the right to organize and bargain collectively. The Parties also agree to make ongoing and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so, further emphasizing their commitment to improving labor conditions within their jurisdictions.

d. Dialogue and Cooperation on Investment-related Sustainable Development Issues

The new Draft-Model BIT stipulates that the Parties agree to engage in dialogue and cooperation, as appropriate, on investment-related issues concerning labor, environmental protection, and climate change that are of mutual interest. This cooperation is designed to complement and support the efforts already underway under existing bilateral and multilateral mechanisms. The intention is to enhance collaboration in these critical areas while ensuring alignment with broader international frameworks and agreements. In particular, the Parties recognize the importance of fostering sustainable investment that contributes to inclusive economic growth, social development, and environmental stewardship. To this end, they may establish joint initiatives, exchange information, and promote best practices to ensure that investment activities support internationally recognized labor rights, environmental standards, and climate objectives. Such collaboration shall respect the regulatory autonomy of each Party and be guided by principles of mutual benefit and shared responsibility.

V. Conclusion

Foreign direct investments remains a crucial driver of economic growth, particularly for developing countries, by providing essential capital and technology. However, these investments can also raise significant challenges related to sustainable development, particularly in terms of environmental protection and human rights. The potential conflict between safeguarding investor rights under investment treaties and enforcing environmental regulations has become more evident in recent arbitration cases. With over 60 investment disputes involving environmental components since 2012, it is clear that such issues are of growing importance. As a result, the latest generations of model bilateral investment protection and promotion treaties increasingly incorporate provisions that balance the protection of foreign direct investment with the need to uphold environmental standards. This evolving approach reflects the growing recognition of the importance of sustainable development in international investment law. In fact, the new generation of Model BIT stipulates that the Parties agree to engage in dialogue and cooperation, as appropriate, on investment-related issues concerning labor, environmental protection, and climate change that are of mutual interest. This cooperation is designed to complement and support the efforts already underway under existing bilateral and multilateral mechanisms. The intention is to enhance collaboration in these critical areas while ensuring alignment with broader international frameworks and agreements.

References

1. Audretsch D.B. et al. (eds.), *Technology Transfer in a Global Economy*, International Studies in Entrepreneurship 28, Springer Publishing, 2012;
2. Audretsch, D.B., Lehmann, E.E. & Wright, M., *Technology transfer in a global economy*, Journal of Technological Transfer, Volume 39, 2014, pp. 301–312 (2014). DOI: https://doi.org/10.1007/s10961-012-9283-6;
3. Blackaby Nigel, Redfern Alan, Hunter Martin, *Redfern and Hunter on international arbitration*, Oxford University press, 2018;
4. Blomström, M. & Kokko, A., *The Economics of Foreign Direct Investment Incentives*, Discussion Paper No. 3775, February 2003, Centre for Economic Policy Research, 2003;
5. Borensztein, E., De Gregorio, J., & Lee, J.W., *How Does Foreign Direct Investment Affect Economic Growth?*, Journal of International Economics, Vol. 45, 1998;
6. Campos, N.F. & Kinoshita, Y., *Foreign Direct Investment as Technology Transferred: Some Panel Evidence from the Transition Economies*, The Manchester School, 70, 2002;
7. Christoforidis T. & Katrakilidis C., *Does Foreign Direct Investment Matter for Environmental Degradation? Empirical Evidence from Central–Eastern European Countries*, Journal of the Knowledge Economy, Vol. 13(4), 2022
8. *Climate Law in Investment Arbitration – Two Sides of the Same Coin*, https://www.acerislaw.com/climate-law-in-investment-arbitration-two-sides-of-the-same-coin/;
9. Dunning J.H., Multinational Enterprises and the Global Economy, 2nd Edition, Edward Elgar Publishing, 2008;
10. Gordon, K. and J. Pohl (2011), *Environmental Concerns in International Investment Agreements: A Survey*, OECD Working Papers on International Investment, 2011/01, OECD Publishing. http://dx.doi.org/10.1787/5kg9mq7scrjh-en
11. M. Sornarajah, *The international law on foreign investment*, Third edition, 2010, Cambridge University Press, p. 175;
12. Mathilde Dupré Stéphanie Kpenou, Aligning Investment Protection Policy with the Paris Agreement: What Are the Next Steps After the Current Wave of ECT Withdrawals?, available on the following link:

https://www.veblen-institute.org/IMG/pdf/nov_2024_aligning_investment_protection_policy_with_the_paris_agreement-_what_are_the_next_steps_after_the_current_wave_of_ect_withdrawals_-2.pdf

13. OECD, *Foreign Direct Investment for Development: Maximising benefits, minimizing costs*, OECD Publishing, 2002, DOI: https://doi.org/10.1787/9789264199286-en; *see also* UNCTAD, *World Investment Report 2013: Global Value Chains: Investment and Trade for Development,* United Nations, 2013.
14. Schill W. Stephan, *The Multilateralization of Internatnational Investment Law*, Cambridge University Press, 2009;
15. Subedi P. Surya, *International Investment Law, Reconciling Policy and Principle*, 2008;
16. Tsoy, L., Heshmati, A., *Is FDI inflow bad for environmental sustainability?*. Environment, Development and Sustainability Vol. 26, 2024, pp. 28843–28858. DOI: https://doi.org/10.1007/s10668-023-03844-3.