

Table of Contents

Acknowledgements	xxxi
List of Contributors	xxxiii
Table of Abbreviations	lxiii
Foreword	lxvii
Part I	
The Foundations	1
Chapter 1	
An Introduction to Sustainable Development in World Investment Law	3
<i>Markus Gehring & Andrew Newcombe</i>	
1. Sustainable Development as a Global Objective	3
2. The Concept of Sustainable Development and Its Meaning in International Law	6
3. International Investment Law as An Instrument for Sustainable Development	9
Chapter 2	
International Investment Law and Development	13
<i>Anna Joubin-Bret, Marie-Estelle Rey and Jörg Weber</i>	
Preface by James Zhan	13
1. Introduction	15
2. Trends	17

Table of Contents

2.1. Numerical Trends	17
2.2. Trends in Complexity	17
3. Salient Features	19
4. Key Emerging Issues	20
4.1. Protection of Strategic Industries	20
4.2. Economic Crisis	21
4.3. Emerging Economies as Outward Investors	21
5. Benefits and Challenges of International Investment Rulemaking	22
5.1. Benefits	22
5.2. Challenges	24
6. UNCTAD's Work Programme on IIAs	25
6.1. Intergovernmental Consensus Building	26
6.2. Research and Policy Analysis	26
6.3. Technical Cooperation and Capacity Building	28
6.3.1. Regional Training Activities	29
6.3.2. Ad Hoc Technical Assistance	29
6.3.3. Co-organization and Participation in Specific Conferences and Seminars	30
7. Conclusion	31

Chapter 3

International Investment Law and the Environment 33

Åsa Romson

Preface by Ole Kristian Fauchald 33

1. Introduction	37
2. Environmental Standards	38
2.1. Dealing with Change	39
2.2. 'Who Should Pay'	42
2.3. Dealing with Risks	42
3. Environmental Policy Mix	43
3.1. Least Harmful Measure?	44
3.2. Can Origin-Neutral Measures to Investments Discriminate?	45
4. Decentralized Environmental Procedures	46
5. International Rules on Eco-friendly Investments	48
5.1. Multilateral Environmental Agreements Supporting Investments	48
5.2. International Financial Rules Setting a Bottom Line	50
6. Concluding Remarks	51

Chapter 4	
International Investment Law and Human Rights	53
<i>Jorge Daniel Taillant & Jonathan Bonnitcha</i>	
Preface by Ashfaq Khalfan	53
1. Introduction	57
2. The Legal Framework Governing Foreign Investment	61
2.1. Investment Contracts	62
2.2. Bilateral Investment Treaties and Stakeholder Rights	65
2.3. Compulsory Investor–State Arbitration	68
3. The Legal Frameworks that Protect Human Rights	70
3.1. The Relationship between the State and the Individual	70
3.2. The Relationship between the State and the Foreign Investor	72
3.3. The Relationship between the Individual and the Foreign Investor	73
3.4. Human Rights Protection in Voluntary Codes, International Finance Institution Social Safeguards, and Other Soft Law Instruments	74
4. The Tension between International Investment Law and Human Rights	75
5. Conclusions	79
 Chapter 5	
The Theory of Norm Conflict Solutions in International Investment Law	81
<i>Jörg Kammerhofer</i>	
Preface by Martti Koskenniemi	81
1. Introduction	83
2. The Possibilities of Norm Conflict in Investment Law	84
3. Norm-Conflict Solutions in Theory and Practice	87
3.1. Pragmatic Solutions Offered in International Investment Practice	87
3.2. Theoretical Solutions Offered by Generalist Scholarship	91
3.2.1. The <i>Lex Specialis</i> Maxim	91
3.2.2. The <i>Lex Posterior</i> Maxim	93
3.2.3. References in International Investment Agreements	97
4. Conclusion	98

Table of Contents

Chapter 6

An Integrated Agenda for Sustainable Development in International Investment Law 99

Marie-Claire Cordonier Segger & Andrew Newcombe

Preface by Vaughan Lowe, QC 99

1. Introduction	101
2. Sustainable Development in International Policy and Law	104
3. The Investment Treaty Landscape	111
4. Investment Treaties and the New Delhi Principles	114
4.1. The Duty of States to Ensure Sustainable Use of Natural Resources	115
4.2. The Principle of Equity and the Eradication of Poverty	116
4.3. The Principle of Common but Differentiated Responsibilities	118
4.4. The Principle of the Precautionary Approach to Human Health, Natural Resources and Ecosystems	120
4.5. The Principle of Public Participation and Access to Information and Justice	121
4.6. The Principle of Good Governance	122
4.7. The Principle of Integration and Interrelationship, in Particular in Relation to Human Rights and Social, Economic and Environmental Objectives	124
5. Sustainable Development-Related Provisions in IIAs	125
5.1. Exceptions, Reservations and Rules of Relationship	126
5.2. Provisions to Establish Complementary Social or Environmental Cooperation	132
5.3. Stimulating More Sustainable Investment through IIAs Themselves	139
6. Sustainability Changes in the Process of IIA Rule-Making and Arbitration	141
7. Future Directions for the Sustainable Investment Law Agenda	142

Part II

Sustainable Development in International Investment Law 143

Section 1

Procedural Innovations for Sustainable Development in International Investment Law 143

Chapter 7

Impact Assessments of Investment Treaties 145

Markus W. Gehring

Preface by Karl P. Sauvant 145

1. Introduction	149
2. The Growing Role of Impact Assessment Globally	150

3. Impact Assessments of Trade Agreements	153
3.1. Impact Assessment of Investment Chapters of FTAs	156
3.1.1. Canada	156
3.1.2. The United States	159
3.1.3. The European Union	164
3.2. Impact Assessment of Investment Treaties	167
3.2.1. Canada's Environmental Assessments of FIPAs	167
3.2.2. The EU's Future Approaches to SIAs of International Investment Agreements	167
4. Practical Challenges and Opportunities for Innovation	168

Chapter 8

Bringing Sustainable Development Issues before Investment Treaty Tribunals **171**

Chester Brown

Preface by Campbell McLachlan, QC **171**

1. Introduction	175
2. Placing Sustainable Development Issues on the Record	178
2.1. Invoking Express Provisions in the Treaty	178
2.2. Invoking Express Provisions in the Applicable Procedural Rules	180
2.3. Exercising Inherent Powers	181
2.4. Raising Sustainable Development Issues <i>Proprio Motu</i>	184
3. Methods of Treaty Interpretation	185
3.1. The Evolutive Approach	185
3.2. Article 31(3)(c) of the Vienna Convention on the Law of Treaties	187
4. Conclusion	188

Chapter 9

Transparency and Amicus Curiae in ICSID Arbitrations **189**

Nathalie Bernasconi-Osterwalder

Preface by Antonio R. Parra **189**

1. Introduction	191
2. Access to Information and Participation in Decision-Making	192
3. The New ICSID Rules on Transparency and Public Participation	195
4. New ICSID Rules in Practice: <i>Biwater Gauff v. Tanzania</i>	199
4.1. Tension between Transparency and Confidentiality in the New ICSID Rules Highlighted in Procedural Order No. 3	199
4.2. The First Amicus Curiae Submission under the New ICSID Rules: <i>Biwater v. Tanzania</i>	201
4.2.1. The Petition for Amicus Curiae Status	201

Table of Contents

4.2.2. The Tribunal's Response: Procedural Order No. 5	203
4.2.2.1. Request for Leave to File a Written Submission	203
4.2.2.2. Request to Access Key Arbitral Documents	204
4.2.2.3. Request to Attend Oral Hearings	205
4.3. The Final Award	206
5. Conclusion	206

Section 2

Emerging Elements of International Investment Law That Affect Sustainable Development	209
--	------------

Chapter 10

Development Considerations in Defining Investment	211
<i>Marek Jeżewski</i>	

Preface by Andrés Rigo Sureda	211
--------------------------------------	------------

1. Introduction	215
2. Definition of Investment in International Treaties	217
3. Limiting the Protection? ICSID Case Law on the Definition of Investment	219
3.1. General Discussion by the Tribunals on the Notion of Investment	219
3.2. <i>MHS v. Malaysia</i>	225
3.2.1. The Award	225
3.2.2. The Annulment Decision	230
3.2.3. The Reconstruction	231
4. The IISD Model Agreement on Investment	232
5. Conclusions	234

Chapter 11

'Fair and Equitable Treatment' and Sustainable Development	237
<i>Roland Kläger</i>	

Preface by Francisco Orrego-Vicuña	237
---	------------

1. Introduction	241
2. The Emergence of a Standard	242
2.1. The Phrasing of Fair and Equitable Treatment	242
2.2. The Interpretation of Fair and Equitable Treatment	244
2.3. Sub-elements of Fair and Equitable Treatment	246
3. Correlation to Sustainable Development	249
3.1. Conceptual Parallels	249
3.2. Threats to Sustainable Development	251
3.3. Impetus Toward Sustainable Development	254
4. Conclusion	259

Chapter 12	
Sustainable Development, National Treatment and Like Circumstances in Investment Law	261
<i>Kate Miles</i>	
Preface by Armand de Mestral	261
1. Introduction	265
2. Standards of Protection in International Investment Law	267
2.1. National Treatment	268
2.1.1. Like Circumstances	268
2.1.2. Fact of Differentiation and Justification	270
2.2. Fair and Equitable Treatment	272
2.2.1. Legitimate Expectations and a Stable Legal and Business Framework	273
3. Sustainable Development as Investment Treaty Violation	274
3.1. Climate Change Mitigation Measures	274
3.1.1. Carbon Emissions Trading: Europe	275
3.1.2. Promotion of Renewable Energy	278
3.1.2.1. Discrimination and Like Circumstances in Renewable Energy Incentives	279
3.1.2.2. Trade: Interaction with National Treatment in Investment	279
3.1.2.3. National Treatment, Pre-establishment Phase, and Climate Adaptation	281
3.2. Biosafety and Host State Regulation of GMOs	282
3.2.1. National Treatment and Labelling of GMOs	284
3.2.2. New Regulation for the Development and Management of Biotechnology	287
3.2.3. Water Resources	288
3.2.3.1. Corporations Engaged in Water-Intensive Operations	289
3.2.3.2. Corporations Engaged in Water Extraction and Export	290
3.2.3.3. Water Use Efficiency and Process-Related Distinctions	292
4. Conclusion: Ways Forward?	293
Chapter 13	
Regulatory Expropriation and Sustainable Development	295
<i>Martins Paparinskis</i>	
Preface by Jan Paulsson	295
1. Introduction	299
2. Regulatory Expropriation, Sustainable Development, and International Law	301

Table of Contents

3. Regulatory Expropriation and the 'Sole Effect' Perspective	305
4. Regulatory Expropriation and the 'Purpose' Approach	312
5. Regulatory Expropriation and Sustainable Development in Contemporary Lawmaking	320
6. Conclusion	326

Chapter 14

Are Stabilization Clauses a Threat to Sustainable Development?	329
---	------------

Audley Sheppard & Antony Crockett

Preface by Kamal Hossain	329
---------------------------------	------------

1. Introduction	333
2. Taxonomy of Stabilization Clauses	336
2.1. Freezing Clauses	336
2.2. Compensation Clauses	337
2.3. Economic Equilibrium Clauses	337
2.4. Renegotiation Clauses	338
3. Criticism of Stabilization Clauses	338
4. The UN-IFC REPORT	340
5. Current Drafting Trends	341
5.1. Fair and Equitable Treatment and Legitimate Expectations	343
5.1.1. Legitimate Expectations	343
5.1.2. Compliance with Contractual Obligations	345
5.1.3. Procedural Propriety and Due Process	345
5.1.4. Good Faith	345
6. Arbitral Awards on Stabilization Clauses and Fair and Equitable Treatment	346
7. Conclusion and Recommendations	348

Chapter 15

General Exceptions in International Investment Agreements	351
--	------------

Andrew Newcombe

Preface by Peter Muchlinski	351
------------------------------------	------------

1. Introduction	355
2. IIA Treaty Practice Relating to General Exceptions	358
3. The Interpretation of Exceptions to IIA Obligations in IIA Jurisprudence	361
4. Approaches to the Interpretation of General Exceptions in IIAs	365
5. Conclusion	369

Chapter 16	
The Necessity of Sustainable Development?	371
<i>Andrea K. Bjorklund</i>	
Preface by Christoph Schreuer	371
1. Introduction	373
2. The History of the Necessity Doctrine	378
3. Necessity and the Environment	383
3.1. The Affirmative Requirements	383
3.1.1. Safeguarding an Essential Interest against a Grave and Imminent Peril	383
3.1.2. The 'Only Means'	387
3.1.3. Impairment of Essential Interests of Other States	389
3.2. The Exceptions	391
3.2.1. The International Obligation in Question Precludes the Use of the Defence	392
3.2.2. The State Has Contributed to the Situation of Necessity	394
3.2.3. <i>Jus Cogens</i>	396
4. Consequences of Establishing a State of Necessity	396
4.1. Temporality	396
4.2. Compensation	398
5. Conclusion	400
 Section 3	
Sustainable Development Implications of Bilateral and Regional Investment Treaties	403
 Chapter 17	
Investment and Water Resources: Limits to NAFTA	405
<i>Céline Lévesque</i>	
Preface by Meg Kinnear	405
1. Introduction	409
2. <i>Bayview Irrigation v. Mexico</i> : The Case	412
2.1. The Background	412
2.2. Reasoning of the Tribunal	413
3. Water Rights: The Reach of NAFTA Chapter 11	415
3.1. Water as a Good in Commerce	415
3.2. Water as an Investment	417
4. Potential Limits to the Reach of NAFTA Chapter 11	418
4.1. Territoriality	418
4.2. Interaction of Treaty Regimes	420
4.3. Interaction of International Law and Domestic Law	423
5. Conclusion	426

Table of Contents

Chapter 18

**Liberalizing Investment in the CARIFORUM–EU
Economic Partnership Agreement: EU Priorities, Regional
Agendas and Developmental Hegemony** 429
Paul James Cardwell & Duncan French

Preface by Nico Schrijver 429

1. Introduction 433
2. EU–ACP Relations: The Context 435
3. The Cotonou Agreement: ‘Trade or Development’,
‘Trade and Development’ or ‘Development through Trade’? 438
4. The CARIFORUM–EU EPA: A Meeting of Minds? 444
5. Conclusion 450

Chapter 19

**The Asymmetrical Legalization of Investment Regimes
in Africa: Lessons from Water Privatization** 453
Emma Saunders-Hastings

Preface by Don McRae 453

1. Introduction 457
2. Conditioning and Regulating Water Privatization 459
3. BITs and Freshwater Management 467
4. Legalization and Sustainable Development 475
5. Conclusion: What’s Coming Down the Pipe 479

Chapter 20

**Globalization and Inclusive Governance in China and
India: Foreign Investment, Land Rights and Legal
Empowerment of the Poor** 481
Kishan Khoday & Jonathan Bonnitcha

Preface by M. Sornarajah 481

1. Introduction 483
2. The Rise of China and India 485
3. China, India and the Post-Crisis World: Beyond the
Washington Consensus 488
4. ‘China Shining’: Emerging Challenges of Social Equity
and Land Rights 493
 - 4.1. The Role of Special Economic Zones 494
 - 4.2. The Process of Land Acquisition 496
 - 4.3. Legal Reforms 498

5. Emerging India: The World's Largest Democratic Market Economy	501
6. Towards a New Deal: Social Equity and Legal Empowerment of the Poor	510

Chapter 21

The Energy Charter Treaty's Investor Protection Provisions: Potential to Foster Solutions to Global Warming and Promote Sustainable Development	513
--	------------

Edna Sussman

Preface by Graham Coop	513
-------------------------------	------------

1. Introduction	515
2. Energy Charter Treaty Background	516
3. ECT Investment Protections	517
4. Dispute Resolution Provisions	518
5. Applications of the ECT	519
6. ECT Potential to Foster International Investment in Emerging Economies to Address Global Warming and Foster Sustainable Development	523
7. United States Accession to the Energy Charter Treaty	530
8. Conclusion	531

Part III

Future Directions	533
--------------------------	------------

Section 1

New Proposals for More Sustainable Investment Law	533
--	------------

Chapter 22

Sustainable International Investment Agreements: Challenges and Solutions for Developing Countries	535
---	------------

Graham Mayeda

Preface by Susan Rose-Ackerman	535
---------------------------------------	------------

1. Introduction	539
2. Designing More Sustainable Investment Agreements	544
2.1. Modifying Provisions Commonly Found in IIAs	545
2.2. Innovations in IIA Design	552
3. International Law as a Tool for Interpreting IIAs	557
4. Conclusion	559

Table of Contents

Chapter 23

The IISD Model International Agreement on Investment for Sustainable Development

561

Mahnaz Malik

Preface by David Runnalls

561

1. Background	565
2. Unique Features of the IISD Model	566
2.1. Overview	566
2.2. Features	567
2.2.1. Articulating the Link between Investment and Sustainable Development	568
2.3. Creating Rights and Obligations for Investors, Host States and Home States	569
2.3.1. A Clear Articulation of Investor Rights	569
2.3.2. The Introduction of Investor Obligations and Duties	570
2.3.3. The Provision of Host State Obligations and Rights	572
2.3.4. The Introduction of Home State Rights and Obligations	572
2.4. The Development of an Institutional Framework	573
2.5. Increasing the Accountability, Transparency, and Legitimacy of the Investor–State Dispute Resolution Mechanism	574
3. Response to the IISD Model	577
4. Conclusion	582

Chapter 24

Corporate Social Responsibility and Investment Treaties

585

Jarrold Hepburn & Vuyelwa Kuuya

Preface by Christopher McCrudden

585

1. Introduction	589
2. Definition of CSR	591
3. Characteristics of CSR	592
3.1. Soft Law and the Voluntary Approach to CSR	592
3.2. Legal Approach to CSR	594
4. CSR and Foreign Investment	596
5. Recent Developments in Investment Treaties	599
6. Conclusion	609

Chapter 25	
The Institutionalization of Investment Arbitration and Sustainable Development	611
<i>Jan Wouters & Nicolas Hachez</i>	
Preface by Gavan Griffith, QC	611
1. Introduction	615
2. Characteristics of Investor–State Arbitration	617
2.1. Procedural Characteristics of Investment Regimes	618
2.2. Organizational Characteristics of International Investment Regimes	623
2.3. The True Nature of Investment–State Arbitration	624
3. Impact of Investor–State Arbitration on Sustainable Development	625
3.1. Investment and Sustainable Development	625
3.2. Is Investor–State Arbitration Promoting Sustainable Development?	627
3.2.1. The Private Nature of Investor–State Arbitration and the Public Interest	627
3.2.1.1. Is Investor–State Arbitration Biased toward Investor Protection?	627
3.2.1.2. The Transparent, Democratic, and Legitimate Character of Arbitral Proceedings	630
3.2.1.3. State Liability and the Granting of Damages	631
3.2.1.4. Intermediate Conclusion	632
3.2.2. The Promotion of the Rule of Law by Investor–State Arbitration	633
3.3. How to Gear Investor–State Arbitration toward the Promotion of Sustainable Development?	635
4. Conclusions	637
Section 2	
Investment Provisions in Other Sustainable Development Treaty Regimes	641
Chapter 26	
Governing Investment in Sustainable Development: Investment Mechanisms in Sustainable Development Treaties and Voluntary Instruments	643
<i>Marie-Claire Cordonier Segger & Duncan French</i>	
Preface by Christopher Greenwood, CMG, QC	643
1. Introduction	645
2. Innovative International Law and Policy Mechanisms That Shape Public and Private Investment Flows	647
	xxv

Table of Contents

2.1.	International Mechanisms to Finance Sustainable Development	647
2.1.1.	The Global Environment Facility	647
2.1.2.	The World Bank Prototype Carbon Fund	652
2.1.3.	The Montreal Protocol Fund, and Its Investments into ODS-Free Projects	654
2.2.	Treaty Rules to Encourage More Sustainable Investment	656
2.2.1.	The Kyoto Protocol's Clean Development Mechanism	656
2.2.2.	The FAO Seed Treaty's Material Transfer Agreements	658
2.2.3.	The Desertification Convention's National Action Plans	660
2.2.4.	The UNCLOS and Its Protocol on Straddling Stocks	663
2.2.5.	The UN Convention Against Corruption	666
2.3.	Regional Regimes and Their Role in Promoting Investments in Sustainable Development	668
2.3.1.	The North American Agreement on Environmental Cooperation (NAAEC)	668
2.3.2.	The Mercosur	669
2.3.3.	The South African Development Community	670
2.3.4.	The ASEAN	671
2.3.5.	The Cotonou Agreement	672
2.4.	International Policy Instruments for Socially Responsible Investment	673
2.4.1.	The OECD's MNE Guidelines, and the Way That These Rules Influence International Investments	673
2.4.2.	The Extractive Industries Transparency Initiative	674
2.4.3.	The Equator Principles for Banks	675
3.	Sustainable Development Treaty Rules: Conflicts or Coherence with IIAs?	676
4.	Conclusions and Future Directions for Research	679

Chapter 27

The Kyoto Protocol in Investor–State Arbitration: Reconciling Climate Change and Investment Protection Objectives	681
--	------------

Freya Baetens

Preface by James Crawford	681
----------------------------------	------------

1.	Introduction	683
2.	Overview of the Current Climate Change Regime	685
2.1.	The United Nations Framework Convention on Climate Change	685
2.2.	The Kyoto Protocol	686
2.2.1.	Establishing an Emission Reduction Regime	686
2.2.2.	Implementation through the 'Kyoto Flexibility Mechanisms'	687
2.2.3.	Interaction with International Investor–State Arbitration	690

3.	Standards of Investment Protection versus Kyoto Objectives	693
3.1.	The Prohibition on Expropriation without Compensation	694
3.1.1.	Direct Expropriation	694
3.1.2.	Indirect Expropriation	694
3.1.3.	Potential Conflicts with Kyoto Objectives	696
3.2.	Substantive Standards of Treatment	698
3.2.1.	National Treatment, Most-Favoured-Nation Treatment, and Fair and Equitable Treatment	698
3.2.2.	Potential Conflicts with Kyoto Objectives	699
3.3.	The Prohibition on Performance Requirements	702
3.3.1.	Investment Clauses Regulating Performance Requirements	702
3.3.2.	Potential Conflicts with Kyoto Objectives	703
4.	Reconciling and Reinforcing Kyoto and Investment Objectives	704
4.1.	Reconciling Objectives: How Not to Do It	705
4.2.	Suggestions for Future Treaties and Contracts	706
4.3.	Public International Rules on Treaty Interpretation	709
4.3.1.	The Limits of the 1969 Vienna Convention on the Law of Treaties	709
4.3.2.	Re-interpretation of Existing Standards	711
4.3.3.	MFN and National Treatment: Narrow Application of the <i>Ejusdem Generis</i> Principle	712
5.	Conclusion	714

Chapter 28

Investment Promotion and Protection in the UNCBD: An Emerging Access and Benefit Sharing Regime

Olivier Rukundo & Jorge Cabrera

717

Preface by Charles Gbedemah

717

1.	Introduction	721
2.	Measures to Encourage Investments within the UNCBD	722
2.1.	Encouraging Public Investment	722
2.2.	Encouraging Private Investment	724
2.2.1.	Transfer of Technology	725
2.2.2.	Intellectual Property Rights	726
3.	Linking Access and Benefit Sharing and Investment	727
3.1.	Access and Benefit Sharing: Background and Recent Developments	727
3.1.1.	The CBD	728
3.1.2.	The Bonn Guidelines	729
3.1.3.	The International Regime on Access and Benefit Sharing	730

Table of Contents

3.2. Access and Benefit Sharing and Investment: Compatibility or Conflict?	730
3.2.1. Non-discrimination	731
3.2.2. Dispute Settlement	734
3.2.3. Trade Concerns: The Limitations	735
4. Other Relevant Issues linked to the IR Negotiations	737
4.1. Disclosure of Origins Requirements	737
4.1.1. Discussions on Disclosure Requirements in the Negotiations of the IR	738
4.1.2. Disclosure of Origin/Source at the WTO	740
4.2. Internationally Recognized Certificate	740
4.3. Technology Transfer Provisions Developed in the IR	742
5. Conclusion	742

Chapter 29

Two Rivers Meet: At the Confluence of Cross-Border Water Law and Foreign Investment Law	745
--	------------

Paul Stanton Kibel & Jon Schutz

Preface by Hans Christian Bugge	745
--	------------

1. Streams of Public International Law	749
2. Rio Grande Case in North America	752
2.1. Rio Grande Allocation Regime under the 1944 Rivers Treaty	752
2.2. Foreign Investment Terms under the 1994 NAFTA	756
2.2.1. 1993 NAFTA Statement on Water	756
2.2.2. NAFTA Chapter 11 Definitions of Investment and Investor	757
2.2.3. Dispute Settlement Mechanisms	758
2.3. Texans' NAFTA Claim for Undelivered Rio Grande Water	758
2.4. Government of Mexico's Response to Texans' Claims	762
2.5. June 2007 Tribunal Decision	763
3. Principles for Reconciling Potentially Conflicting International Treaties	765
4. Conclusion	767

Part IV

Conclusion	769
-------------------	------------

Chapter 30

Promoting Sustainable Investment through International Law	771
---	------------

Marie-Claire Cordonier Segger & Avidan Kent

1. Introduction	771
2. The Challenge	772
2.1. The Role of Procedures	774

2.1.1.	SIA Mechanisms	774
2.1.2.	Open Dispute Resolution and Public Participation	775
2.2.	Substantive Investment Treaty Obligations and Sustainable Development Goals	777
2.2.1.	National Treatment	778
2.2.2.	Fair and Equitable Treatment	779
2.2.3.	Expropriation	781
2.2.4.	Investment	782
2.2.5.	Interim Conclusion	783
3.	A Shift towards Integration in International Law	784
3.1.	A New Generation of Sustainable Development-Oriented IIAs	784
3.2.	The Role of Non-investment Treaties in International Investment Law	788
3.3.	The Interpretation of Investment Treaty Provisions in Accordance with 'Non-investment' International Treaties	789
4.	Toward a Future Integrated Approach	790
	Table of Treaties	793
	Table of Cases	799
	Table of Other International Instruments	811
	About the CISDL	815
	Bibliography	817
	Index	859