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DOCTORAL (PhD) DISSERTATION

**THE IMPACT OF THE INTERNATIONAL INVESTMENT REGIME ON
SUSTAINABLE DEVELOPMENT IN DEVELOPING COUNTRIES:
A CASE STUDY OF CENTRAL ASIA**

Candidate:

Aida Bektasheva

Supervisor:

Dr. Imre Mátyás PhD, Associate Professor of Law

Doctoral Program: Ferenc Deák Doctoral School of Law

Head of the Doctoral School: Professor Dr. Erika Róth

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SUMMARY

Attracting foreign direct investment (FDI) has become a central component of state strategies to promote economic growth and development worldwide. International Investment Law is one of the most rapidly evolving fields of international law, as evidenced by the increasing number of Bilateral Investment Treaties (BITs) and the inclusion of investment chapters in regional and megaregional trade agreements.

In the Central Asian context, the investment regime underwent a dramatic transformation following the collapse of the Soviet Union. The region was perceived as a key destination for foreign direct investment, leading to a significant increase in FDI inflows. Central Asia, with its abundant natural resources and relatively low labor costs, continues to be viewed as an attractive investment hub. It is widely acknowledged that FDI plays a crucial role in fostering economic growth and sustainable development. The link between investment regimes and the concept of Sustainable Development is grounded in the way investment policies and practices can either support or hinder the achievement of long-term social, economic, and environmental goals.

Sustainable Development aims to meet the needs of the present without compromising the ability of future generations to meet their own needs. The concept of sustainable development, as established in the UN 2030 Agenda, represents a broadly accepted political commitment among states. However, there remains debate over whether and to what extent sustainable development constitutes a binding international legal obligation. Investment can yield both positive and negative consequences for local communities. In developing countries, FDI is particularly important, as it helps compensate for a shortage of domestic capital, increases tax revenues, enhances employment opportunities, and contributes to economic development. However, foreign investors may also engage in activities that result in adverse social, environmental, or economic impacts.

Despite the significance of sustainable development, traditional investment agreements in Central Asia have primarily focused on promoting foreign investment and economic growth. They typically do not incorporate explicit commitments to sustainable development or related priorities, such as environmental protection, public health, or social welfare. This gap raises important questions about the future alignment of investment policies with broader sustainability objectives.

Given the significant role of foreign investment in driving economic growth, particularly in developing countries such as those in Central Asia, this research aims to examine international standards, national legal frameworks governing investment, international arbitration procedures, and investment treaties. These instruments have been instrumental in reducing investment barriers, as well as in protecting and attracting foreign investors to host states in alignment with sustainable development principles.

This thesis provides a comprehensive analysis of the investment regimes in Central Asia, evaluating the extent to which these frameworks may constrain legitimate policymaking. The research also investigates how national legal structures in countries like Kazakhstan, Kyrgyzstan, Uzbekistan, Turkmenistan, and Tajikistan interact with international norms, focusing on how they integrate or conflict with the principles of sustainable development. Through case studies, the thesis explores the challenges these nations face in reconciling the need for foreign direct investment (FDI) with broader environmental, social, and governance objectives.

In addition to the assessment of legal frameworks, this research examines the evolving role of international arbitration in investment disputes. It discusses how the dispute resolution mechanisms, such as Investor-State Dispute Settlement (ISDS), influence state sovereignty and policymaking, and their potential implications for achieving sustainable development goals (SDGs). This analysis highlights the tensions between the protection of investor rights and the ability of host states to regulate in the public interest, particularly in sectors critical for sustainable development, such as natural resources, energy, and agriculture.

By exploring the intersection of international investment law and sustainable development, the study identifies gaps in existing legal frameworks that may hinder the effective promotion of sustainable investment. Furthermore, the research proposes recommendations on how states can contribute to the evolution of international investment law, suggesting reforms that would encourage greater alignment between foreign investment and sustainable development principles. These recommendations focus on the development of more flexible, context-specific legal provisions that allow states to meet both their economic and environmental goals, while ensuring investor protection.

This work also underscores the importance of strengthening regional cooperation among Central Asian countries to create a more cohesive investment framework that fosters sustainable development. It calls for a balanced approach, where the benefits of foreign investment are maximized while minimizing negative externalities through stronger regulatory frameworks and sustainable development clauses in international investment agreements (IIAs).

Research Hypothesis

It is hypothesized that strengthening international investment regulations in Central Asia through the modernization of bilateral investment treaties (BITs), the incorporation of sustainable development provisions, and the adoption of transparent and inclusive legal frameworks will foster the emergence of a new investment regime more closely aligned with the principles of sustainable development.

This hypothesis is based on the assumption that current investment frameworks in Central Asian countries prioritize investor protection while insufficiently addressing environmental, social, and governance (ESG) considerations. By integrating sustainability-related obligations such as environmental impact assessments, corporate social responsibility (CSR) standards, and labor rights protections into investment regulations, these countries can create a more balanced and resilient investment climate. Such a reformed regime is expected to drive not only economic growth but also long-term social equity, environmental protection, and institutional accountability. Moreover, alignment with international standards including the United Nations Sustainable Development Goals (SDGs), the OECD Guidelines for Multinational Enterprises, and the principles of responsible business conduct is anticipated to enhance investor confidence and attract high-quality, sustainable foreign direct investment (FDI). This, in turn, would strengthen the capacity of Central Asian states to achieve their national development priorities while preserving greater policy space for host governments.

Aim of the Research

The primary aim of this research is to analyze the international investment regime of Central Asian countries including Kazakhstan, Kyrgyzstan, Uzbekistan, Tajikistan, and Turkmenistan — with particular emphasis on the integration of sustainable development principles into their legal and policy frameworks.

This study seeks to identify and evaluate how international investment agreements (IIAs), bilateral investment treaties (BITs), domestic investment laws, and regional cooperation mechanisms either support or hinder the achievement of Sustainable Development Goals (SDGs) in the region. It examines the extent to which current investment regimes incorporate environmental, social, and governance (ESG) considerations and how closely they align with emerging international legal trends, such as responsible investment, corporate accountability, and policy space for host states.

Major Objectives of the Research

1. *Examine International Investment Law and Treaties.*

Conduct a comprehensive analysis of international investment laws and treaties in Central Asia, comparing them with global standards and assessing how effectively they integrate sustainable development concepts.

2. *Identify Structural and Legal Drivers.*

Investigate the structural and legal factors influencing international investment relations in Central Asia, including gaps, barriers, conflicts, challenges, emerging trends, and the region's investment potential.

3. *Propose Policy Recommendations.*

Develop evidence-based policy recommendations aimed at strengthening the international investment regime in Central Asia, ensuring greater alignment with sustainable development goals.

Research Questions

- *What is the concept of investment and the role of investors in the context of Central Asia?*
- *What are the current trends, legal gaps, and challenges facing the investment regime in the region?*
- *How does the concept of sustainable development influence the international investment regime in Central Asia?*
- *How does international investment law align with the Sustainable Development Goals (SDGs) in Central Asia, and how does this alignment compare across the region?*

Research Methodology

This research adopts an interdisciplinary and qualitative approach, allowing for a comprehensive analysis of international investment law from political, economic, legal, international relations, and sustainable development perspectives.

Methodological approaches include:

- Problem-theoretical, chronological, and systemic analyses.
- Literature review and historical-comparative methods.
- Comparative and critical assessments.
- Formal-legal (normative-dogmatic) and economic approaches (including analysis of FDI, trade statistics, and international production in each country).

Primary research methods:

- Review of academic literature and policy documents
- Analysis of national and international legislation, trade and investment treaties, and dispute settlement mechanisms
- Fieldwork with conceptual modeling

The research uses a legal-normative-dogmatic and comparative lens to analyze core legal texts, focusing on:

- Objectives of international and domestic legal instruments
- Investment protection standards
- Provisions for investor-state dispute settlement (ISDS)

Data sources include:

- Legal databases of Central Asian countries
- International documentation and soft law instruments from organizations such as the UN, WTO, OECD, ILO, and World Bank
- Databases including ICSID, UNCTAD, WTO, UNCITRAL, IA Reporter, itaLAW, and other official platforms
- Secondary data analysis integrates peer-reviewed academic literature, working papers, reports from international organizations, and archival documents. Materials have been analyzed in English, Russian, and regional languages (Kazakh, Uzbek, Kyrgyz), with translations prepared as needed. Russian, as the primary language of legal documentation in the region, serves as the main source for legislative and academic analysis.

Significance of the Research

This research fosters a constructive and informed dialogue on the role of sustainable development in shaping the future of international investment law in Central Asia. Despite

numerous provisions aimed at protecting foreign investors, current legal and political mechanisms often lack effective implementation, limiting the region's ability to attract and retain quality foreign direct investment (FDI). The practical significance of this study lies in its potential to inform legal and economic policymaking, offering actionable proposals and recommendations to strengthen investment governance and promote sustainable, inclusive growth in Central Asia.

Structure of the Research

In terms of format this dissertation consists of the following five chapters.

- **Chapter 1** describes more background, problem statement, research hypothesis, research questions, research methodology.

- **Chapter 2** provides theoretical foundations for the remainder of the thesis. Dissertation begins with reviewing basic concepts, evolution of the investment system as a whole including its origin, sources and definition of core elements, key theories like Calvo doctrine, Hull formula, classical and dependence theories, “Soft law” rules. Discussion of investment and investment-related issues without understanding its concept would not be effective. Among jurists there is no consensus on the definition of foreign investment, and they have provided various definitions of investment despite numerous bilateral and multilateral treaties concerning foreign investment.

- **Chapter 3** examines whether the international investment framework has been including sustainable development principles into investment treaties. This chapter investigates whether the expanding presence of sustainable development on the agenda of major global political initiatives has been reflected in the international investment law by including sustainable development.

- **Chapter 4** reviews international investment law of Central Asian countries and to what extent sustainable development is present in investment regime. Discussion of investment and investment-related issues without understanding its concept would not be effective and this chapter describes investment regime provided Central Asian countries such as fair and equitable treatment, full protection and security, national treatment and most-favored-nations treatment have arisen in order to encourage investment in safe and stable situation for investor in the territory of the host State. These standards are found in most regional investment protection treaties. Sustainable development mostly represents public interests and merges social and environmental interests, current issues and concerns for the future generations.

• *Chapter 5* summarizes all analytics, theory and opportunities and offers recommendations for the investment regime of Central Asian countries by taking into account sustainable development. Despite the positive role of foreign investment in promoting economic development, some foreign investment activities still do not lead to sustainable development in Central Asian countries. Even some investment activities cause serious damages to the Central Asian environment and the local communities.

Summary of the research

Most laws of Central Asia include a definition of "investor" or "foreign investor", which, in general, includes both natural and legal people. In the great majority of laws, natural persons include both domestic citizens and foreigners and may also cover those with permanent residence outside the host country. Legal people are qualified as investors if they are registered

or incorporated in the host country. Legal entities registered in the home country, but with a certain level of foreign participation, are sometimes qualified as foreign investors.

- For example, in Kazakhstan, investments are all types of property (except goods intended for personal consumption), including financial leasing items from the moment of conclusion of the leasing agreement, as well as the rights to them invested by the investor in the authorized capital of a legal entity. An investor means individuals and legal entities that invest in the Republic of Kazakhstan.
- In the Kyrgyz Republic, investments mean tangible and intangible assets, in particular: money; movable and immovable property; property rights (mortgages, lines, pledges and others); stock and other forms of participation in a legal entity. Foreign investor means any natural person or legal entity which is not a domestic investor making contributions to the economy of the Kyrgyz Republic, including: Natural person who is a foreign citizen and legal entity
- In Uzbekistan by law investments means tangible and intangible benefits and rights to them invested in objects of economic and other activity. Investor - a subject of investment activity that invests its own, borrowed and borrowed funds, property assets and rights to them, as well as intellectual property rights in objects of investment activity.
- In Tajikistan investment means investment of capital by an investor in the form of material and intangible assets on the territory of the Republic of Tajikistan to making a

profit. Investor - an individual or legal entity, as well as an organization without formation of a legal entity carrying out.

- In Turkmenistan, Investments are all types of property and intellectual values invested in objects of entrepreneurial and other types of activity, because of which profit (income) is generated or a social effect is achieved. Investors are subjects of investment activity who make decisions on investing their own borrowed and attracted property and intellectual values.

Conclusion of hypotheses

This dissertation set out to explore the hypothesis that strengthening international investment regulations in Central Asia could facilitate the development of a new investment regime better aligned with the principles of sustainable development. Through a multidisciplinary analysis that examined legal frameworks, policy instruments, investment treaties, and regional dynamics, it becomes evident that the hypothesis holds strong merit. The current investment regimes across Central Asian countries while evolving still exhibit significant legal gaps, fragmented policy approaches, and inconsistencies with sustainable development objectives. Challenges such as weak institutional capacity, limited transparency, and insufficient environmental and social safeguards hinder the ability of states to attract and manage foreign direct investment in a way that promotes long-term development and resilience. In this dissertation, I set out to examine the hypothesis that strengthening international investment regulations in Central Asia is both necessary and feasible for building a new investment regime aligned with sustainable development. The research addressed four central questions:

What is the concept of investment and the role of investors within the context of Central Asia?

In the Central Asian context, investment primarily refers to the allocation of capital, technology, and expertise often foreign into key sectors such as energy, infrastructure, agriculture, and extractives. While all five Central Asian countries have adopted legal definitions of investment through domestic legislation and bilateral/multilateral treaties, there is inconsistency in terms of scope, protection standards, and investor rights. Investors, particularly foreign direct investors, are often perceived not only as economic actors but also as strategic partners contributing to development goals, job creation, and technology transfer. However,

their role remains vulnerable to political instability, weak contract enforcement, and opaque regulatory environments, particularly in dealings with state-owned enterprises.

What are the current trends, legal gaps, and challenges facing the investment regime in Central Asia?

While the region has made efforts to modernize investment legislation and attract foreign capital, legal fragmentation, inconsistent enforcement, weak dispute resolution mechanisms, and limited transparency have remained key challenges. Most BITs and domestic laws focus on investor protection with little emphasis on sustainability or public interest regulation.

Trends:

- Increasing attention to diversifying investment sources beyond traditional partners (e.g., Russia and China), with growing interest from the EU, Gulf countries, and South Korea.
- Expansion of public-private partnerships (PPPs) in infrastructure.
- Emerging interest in green and digital investments, though still nascent.

Legal Gaps and Challenges:

- Inconsistent or outdated investment protection laws.
- Weak dispute resolution frameworks; domestic arbitration systems are underdeveloped or lack credibility.
- Overlapping and fragmented bilateral treaties, leading to uncertainty.
- Opaque regulatory procedures and persistent corruption.
- Limited regional coordination on investment standards or shared dispute settlement mechanisms.

How does the concept of Sustainable Development impact the International Investment regime in the Central Asian context?

Sustainable Development is increasingly shaping the discourse around investment regulation in Central Asia, although its integration into legal frameworks remains limited. Most states have national development strategies referencing the Sustainable Development Goals (SDGs), but few have translated these into enforceable legal obligations for investors. Key areas of impact include: • Environmental safeguards in extractive and energy projects. • Social impact assessments, particularly for large-scale infrastructure. • Calls for inclusive growth, requiring investment to consider local employment, gender equality, and community development.

Nevertheless, balancing investor protection with host state rights to regulate in the public interest especially for environmental and social concerns has remained a legal and policy challenge.

How does international investment law align with Sustainable Development Goals (SDGs) in Central Asia, and how can this be compared at the regional level?

There is limited alignment between existing investment treaties and the SDGs. Compared to emerging global trends such as ESG clauses, right-to-regulate provisions, and responsible business conduct Central Asian states are still in the early stages of adapting. Alignment with SDGs varies across the region:

- Kazakhstan and Uzbekistan have made the most progress in integrating sustainability into national investment promotion strategies and PPP frameworks.
- Kyrgyzstan and Tajikistan have focused on environmental and social safeguards in specific sectors, often supported by international donors.
- Turkmenistan, while engaged in large-scale infrastructure development, shows limited legal incorporation of SDG principles.

At the regional level, there is no harmonized framework linking international investment law and the SDGs, despite shared development goals. However, regional economic initiatives (e.g., CAREC, EAEU, Belt and Road-related cooperation) could serve as platforms for promoting sustainable investment standards. A coordinated regional approach could significantly enhance alignment with the SDGs. However, this research also demonstrates that Central Asia holds unique potential. The region's geopolitical relevance, youthful and educated population, and growing interest in sustainable growth models can create an opportunity for transforming the investment landscape. International investment law, if thoughtfully adapted, can serve as a catalyst for this transformation. Aligning investment regulations with global sustainable development standards such as those outlined in the SDGs requires the adoption of coherent legal instruments, the incorporation of responsible business conduct, and the reform of investor- state dispute settlement mechanisms. By embedding sustainable development into the core of investment agreements, Central Asian countries can move toward a more balanced investment regime that safeguards national interests, promotes inclusive growth, and ensures environmental and social protections. This shift not only enhances the region's attractiveness to responsible investors but also strengthens its integration into the global investment system on more equitable and future-oriented terms.

The findings confirm the initial hypothesis: there is a strong case for reforming the investment regimes in Central Asia to support both economic growth and sustainable development. Legal innovation, alignment with international sustainability standards (e.g., the IISD Model), and regional cooperation can collectively pave the way toward a fairer, greener, and more resilient investment environment in the region.

In conclusion, the hypothesis is supported: strengthening international investment regulations in Central Asia is both necessary and feasible for the emergence of a new investment regime one that harmonizes economic growth with sustainable development imperatives. Achieving this will require harmonizing national laws with international best practices, enhancing dispute resolution systems, and fostering regional cooperation for sustainable, inclusive, and transparent investment governance. Future legal reforms and regional cooperation will be critical in turning this vision into a functional reality.

Recommendations

Integrating Sustainable Development into the investment law of Central Asian countries is essential to achieving long-term economic prosperity while safeguarding the environment and promoting social inclusion. By aligning national investment laws with SDGs, strengthening environmental protections, encouraging corporate social responsibility, and fostering regional cooperation, Central Asian countries can create a more attractive, sustainable, and resilient investment climate. This integration will not only attract responsible investment but will also help meet the region's broader developmental goals, addressing issues like climate change, inequality, and resource depletion.

Central Asian countries can integrate SD concepts into their investment laws:

- **Sustainability as a Core Principle:** The first step is incorporating sustainability as a central pillar of national investment policies. This can be achieved by explicitly aligning
- the investment laws with the SDGs, particularly those related to clean energy, responsible production and consumption, decent work, and climate action.
- **Clear Policy Guidelines:** Investment laws should clearly state that all FDI must meet certain sustainability criteria, ensuring that investments do not undermine environmental, social, and governance (ESG) standards. This can include provisions

related to resource use, carbon emissions, water management, and waste disposal.

- **SDG Targets in treaties and agreements:** Investment treaties and agreements can incorporate specific SDG targets. For instance, a mining or energy project can include commitments to reduce environmental impact, promote fair labor practices, or enhance local communities' resilience.

Kazakhstan

Kazakhstan can revise its investment law to explicitly align with the SDGs, incorporating sustainability as a core principle. The country's investment law should encourage investments that contribute to SDG targets such as affordable clean energy (SDG 7), decent work and economic growth (SDG 8), responsible consumption and production (SDG 12), and climate action (SDG 13). Investment contracts could include clauses that require companies to demonstrate how their projects align with SDG-related targets. For example, mining projects can be required to include measures for reducing environmental degradation, or industrial projects could be asked to adopt energy-efficient technologies. The following reform priorities for improving the legal environment for business could support the government in its efforts to attain higher levels of investment and more sustainable growth: 1) consistent and thorough implementation of the new code for entrepreneurs to improve the operational environment for small firms; 2) improvements in access and functioning of dispute settlement mechanisms for all businesses to guarantee effective contract enforcement; and 3) better trade facilitation and improved cooperation among agencies involved in export procedures.

Kyrgyzstan

Integrating Sustainable Development concepts into Kyrgyzstan's investment law is critical to fostering responsible, inclusive, and long-term economic growth. By aligning its legal framework with the SDGs, promoting environmental sustainability, ensuring social inclusivity, and encouraging responsible corporate behavior, Kyrgyzstan can attract investments that not only contribute to economic development but also support social resilience, environmental protection, and sustainable livelihoods. This approach will ultimately strengthen the country's competitiveness in the global investment landscape while contributing to the broader goals of sustainable development. Kyrgyzstan could simplify the regulatory process for investments that align with sustainable development. This includes creating clear legal guidelines, reducing bureaucratic hurdles for green projects, and offering fast-track processes for projects that

support SDG-related goals. Ensuring transparency and accountability in the investment process is essential for attracting responsible investments. Kyrgyzstan could strengthen its legal framework to prevent corruption, promote judicial independence, and create a more predictable investment environment for foreign investors committed to sustainable practices.

Uzbekistan

As one of Central Asia's largest and most strategically important economies, Uzbekistan has the potential to integrate Sustainable Development (SD) concepts into its investment legal framework to foster responsible and long-term economic development. The Law on Investments and Investment Activities (2019) and Uzbekistan's New Development Strategy 2022-2026 provide a foundation for investment governance. However, integrating Sustainable Development Goals (SDGs) into investment law will require legal reforms, economic incentives, and stronger regulatory enforcement. Uzbekistan can align its investment regulations with OECD guidelines, the Equator Principles, and UN Sustainable Investment frameworks. A dedicated Sustainable Investment Authority could monitor and enforce SDG commitments in FDI projects. Investors should undergo regular audits to ensure compliance with sustainability criteria. The government could make significant improvements to the legal environment for business, and further advance the framework conditions for sustained long-term growth, by prioritizing the following reforms:

- 1) predictable enforcement of the new investment law and rationalizing the remaining sectoral restrictions, while improving the capabilities of the administration and the consistency of implementation across government agencies; 2) consolidating all business-related legislation for domestic businesses and entrepreneurs, ensuring harmonization, avoiding duplication and contradictions, whilst guaranteeing equal and predictable implementation across the country; and
- 3) introducing a policy of remediation into tax administration, ensuring that small firms are not excessively penalized for failing to stay abreast of a rapidly changing legal landscape.

Tajikistan

Tajikistan, as one of the fastest-growing economies in Central Asia, has been making significant efforts to attract foreign direct investment (FDI) while ensuring sustainable economic development. Given the country's dependence on hydropower, agriculture, and

mining, integrating Sustainable Development (SD) concepts into its investment legal framework is crucial for long-term economic stability, environmental protection, and social equity. The Law on Investments (2016) and the National Development Strategy (2016-2030) provide the foundation for investment governance in Tajikistan. However, these laws need to be updated and aligned with Sustainable Development Goals (SDGs) to ensure that foreign and domestic investments contribute to environmental conservation, social well-being, and economic diversification. In addition to improving the implementation of its laws, the government should improve access to business and investment-related legislation. Whilst the government has undertaken measures to place many of the key pieces of legislation relevant to the private sector online, it has done so in an unsystematic manner. At present, multiple online portals exist at varying stages of implementation and with different focusses, some being more relevant to domestic firms while others to international firms. Across these online platforms, the location of key documents, their consistency, and the ease with which they can be accessed is often unclear and therefore insufficient to guarantee that businesses have the information they need to make informed decisions.

Turkmenistan

Turkmenistan, known for its rich natural gas reserves, is increasingly seeking to diversify its economy while maintaining socio-economic stability and environmental sustainability. However, its investment climate remains state-controlled, with limited foreign direct investment (FDI) outside the energy sector. Given the country's long-term development goals and commitment to international environmental agreements, integrating Sustainable Development (SD) concepts into its investment law is crucial for fostering a resilient, green, and inclusive economy. The Law on Foreign Investments (2008, amended 2012) and the National Climate Change Strategy (2012) set the legal framework for investments in Turkmenistan. However, these laws require updates to align with Sustainable Development Goals (SDGs) and global Environmental, Social, and Governance (ESG) standards. Investors believe the government uses various legal means to discriminate against them during the screening process, including excessive and arbitrary tax examinations, denial of license extensions, visa issuance troubles, and customs clearance complications. Due to the opacity of many of these processes, it is impossible for investors to enter Turkmenistan without establishing a direct contact in the government, something usually initiated through the Turkmen embassy in the investor's home country. In addition, foreign investors are often

required to take on management staff from the government, regardless of their professional suitability.

Conclusions

The term "investment regime" refers to the set of laws, policies, treaties, and institutions that govern and regulate foreign direct investment and other types of investments within a specific country or region. It encompasses legal frameworks, procedures, protections, incentives, and dispute resolution mechanisms designed to encourage, manage, and regulate the flow of investment capital into a country's economy.

An investment regime typically includes the following key elements:

1. **Legal Framework:** National laws and regulations that set the rules for foreign investments. These can cover areas such as the rights of foreign investors, requirements for repatriating profits, ownership restrictions, and any industry-specific regulations (e.g., natural resources, agriculture, or technology).
2. **Bilateral and Multilateral Treaties:** Agreements between countries to protect and promote foreign investment. These treaties may include provisions on the fair treatment of investors, protection from expropriation, dispute resolution mechanisms, and guarantees of market access. In Central Asia, such treaties often include Bilateral Investment Treaties (BITs) or Free Trade Agreements (FTAs).
3. **Investment Promotion Agencies:** Institutions that work to attract, support, and regulate foreign investment. They may provide incentives, assist investors with navigating legal and bureaucratic hurdles, and ensure that investments contribute to the country's economic development goals.
4. **Dispute Resolution Mechanisms:** Systems set up to resolve conflicts between investors and the host government, including arbitration or mediation through international bodies like the International Centre for Settlement of Investment Disputes (ICSID).
5. **Sustainable Development and Social Impact Considerations:** Increasingly, investment regimes are being designed with an eye toward promoting sustainable development and social responsibility, ensuring that foreign investments contribute to long-term economic stability, environmental protection, and social equity.
6. **Incentives and Support for Investment:** Countries often offer incentives such as

tax breaks, grants, or special economic zones to attract foreign investors, particularly in key industries or regions where development is prioritized.

Historically, the substantive elements of modern investment law developed from a loose network of customary international law protections that existed before the advent of the treaties that now dominate the international investment regime. However, attracting foreign investment in any country requires creating the right conditions. To encourage investment in a secure and stable environment for investors within the host state, a set of standards has emerged. These protection standards typically include

- 1) Fair and Equitable Treatment (FET): Ensures that investors are treated with fairness and transparency by the host state, offering protection against arbitrary actions.
- 2) Full Protection and Security: Guarantees the safety of foreign investments, requiring host states to take necessary measures to protect investments from harm or loss.
- 3) National Treatment: Mandating that foreign investors are treated no less favorably than domestic investors in similar situations.
- 4) Most-Favored-Nation (MFN) Treatment: Requires that foreign investors are granted treatment equal to the best treatment extended to investors from any third country, ensuring non-discriminatory practices. These standards aim to provide a secure and predictable environment for foreign investors, which, in turn, foster international investment flows.

An investment regime's success in a region like Central Asia is contingent upon balancing the protection of investors' rights with the development needs of the region, promoting sustainable growth, and maintaining social and political stability. Given the region's unique dynamics, characterized by natural resource wealth, a young population, and its geostrategic position, the investment regime must carefully balance attracting foreign investment while addressing sustainable development goals and ensuring that investments contribute positively to long-term prosperity. Central Asian countries have made significant progress in reforming their legal frameworks to attract FDI. Many countries in the region have adopted investment laws, special economic zones (SEZs), and bilateral investment treaties (BITs) to provide legal protection to investors. Examples of "investment" mentioned in the laws generally include property rights, shares of companies or other kinds of interest in companies, claims of money, intellectual property rights, business concessions under public law (including natural resources exploration and exploitation), and all other income out of investment (profit, interest, capital gains, dividends, royalties). Several investment laws explicitly specify that investment also includes portfolio investment. Most laws of Central Asia include a definition of "investor" or "foreign investor", which, in general, includes both natural and legal people. In the great majority of laws, natural persons include both domestic citizens and foreigners and may also cover those

with permanent residence outside the host country. Legal people are qualified as investors if they are registered or incorporated in the host country. Legal entities registered in the home country, but with a certain level of foreign participation, are sometimes qualified as foreign investors. Three key rights and guarantees are covered by most of the investment laws surveyed. These are (i) the guarantee of national treatment or non-discrimination, (ii) protection in case of expropriation, and (iii) the right of cross-border capital transfer. Investment laws also include a provision on non-discriminatory treatment between domestic and foreign investors. All Central Asian states' foreign investment laws guarantee non-discrimination between foreign investment and domestic investors. However, the scope of these national treatment clauses is subject to limitation through exceptions which stipulate that certain economic sectors are not open to foreign investment under natural monopoly. It is interesting to point out that the legal framework for domestic and foreign investment is no different in Kazakhstan, Kyrgyzstan, and Tajikistan. In the case of Kazakhstan, the New Law on Investment repealed the usage of the terms "foreign investment" and "foreign investor" and established a common term ("investor") for all affected parties.⁵¹² Such countries' laws relating to investment include domestic as well as foreign investors, and the legal framework for foreign investment is regulated through "investment law." The guarantee of national treatment is, however, rarely full and unqualified. In some cases, national treatment is granted to investors in like circumstances. Most investment laws of Central Asia include sector- specific entry restrictions, relating to strategic industries, such as defense, extractive industries and energy. Several laws also include references to one or more general safeguards, such as the protection of "national security", "public order", "environmental protection", or "public health".

Integrating of Sustainable Development concepts into investment law of Central Asian countries.

The New Delhi Declaration may offer some help in identifying elements of sustainable development concept, it also identifies seven principles of international law, which would be instrumental in pursuing the objective of sustainable development. These principles include:

- (i) the duty of states to ensure sustainable use of natural resources;
- (ii) equity and eradication of poverty;
- (iii) common but differentiated responsibilities;
- (iv) precautionary approach to human health, natural resources and ecosystems;
- (v) participation and access to information and justice;
- (vi) good governance;

(vii) integration and interrelationship, in particular, in relation to human rights and social, economic and environmental objective. This list presents a very wide formulation of sustainable development, beyond classic proposition of three pillars of sustainable development: social development, economic development and environmental protection. Sustainable development in the formulation proposed in the New Delhi Declaration could be categorized as “balanced development”, the development that considers several interests concerning not only environment, but also fairer wealth distribution, access to justice and wider social participation. Sustainable development could potentially influence international investment law through this principle by providing impact assessment conditions or leaving sufficient policy space for the host state to regulate on the matter of safe and rational use of resources. Integrating Sustainable Development concepts into the investment law of Central Asian countries is a critical step toward ensuring that FDI contributes to long-term economic, social, and environmental well-being. Sustainable development, as enshrined in the United Nations' SDGs, emphasizes economic growth, social inclusion, and environmental protection. As Central Asian countries work to attract foreign investment, they must also ensure that such investments align with these broader development goals, addressing both regional and global sustainability challenges. In comparison to the majority of European Model BIT and USA Model BIT have sought to achieve a balance by incorporating social and economic aspects in the treaties, Central Asian countries also practice quite actively BITs regime in order to intensively attract FDI thus, to guarantee investors about the reliability of the investment and its protection and which protect covered investors against expropriation without compensation and against discrimination, and grant access to investor-state dispute settlement mechanisms (ISDS). Unfortunately, most of the BITs in the region limit the regulatory flexibility within which contracting parties can pursue mostly their economic development policies.

In addition, Central Asian countries face a dilemma because, on the one hand, they have to comply with the international obligations under human rights or environmental treaties, and on the other, they must fulfill their economic obligations under BITs. At the same time, however, there are also cases that include elements of sustainable development in BITs in Central Asia have started raising human rights concerns, environmental measures as well as labor rights in BITs for example, Austria- Kazakhstan BIT⁵¹⁶, Hungary - Kyrgyzstan BIT, Korea - Uzbekistan BIT⁵¹⁸ and others only in the preambles. Since Central Asian States have not historically drawn on their own model BITs during treaty negotiations, the concluded treaties often were influenced by the model BITs of respective capital-exporting nations. Consequently, many BITs involving the region, particularly those with the same capital-

exporting countries, shared similar provisions and observing regional response to the backlash against investment treaty arbitration and the involvement of Central Asian states in ISDS reform processes. For example, despite losses in investment cases, Kyrgyzstan's ratification of the ICSID Convention indicated its ongoing commitment to arbitration. But however, Kazakhstan's submission to UNCITRAL Working Group III supported the disclosure and regulation of third-party funding, addressing specific concerns in cases against Kazakhstan and other Central Asian states.

Despite the positive role of foreign investment in promoting economic development, some foreign investment activities still do not lead to sustainable development in Central Asian countries. Even some investment activities cause serious damages to the Central Asian' environment and the local communities, and give rise to international disputes and political conflicts, for example Kyrgyzstan and Canada's Centerra and Kumtor gold mine dispute⁵²¹. In this regard, BITs depend on the demand of their counterpart countries of Central Asia and are determined on a case-by-case basis. Furthermore, Central Asian states' BITs provide more favorable conditions for foreign investment compared to the Eurasian Investment Agreement and the CIS Investor Right Convention. It should be kept in mind that foreign investors desire to have their investments protected in the context of international standards because national investment legislation usually provides less protection for foreign investors than international standards in the region. Besides that, some fragmentation of international law adds further difficulty for Central Asian BITs to be more responsive to sustainable development needs. At the Central Asian level, for the most part, BITs mostly do not contain references to either sustainable development in general or environmental, health or labour standards. Historically, it is common tendency in Central Asian states' BITs to restrict the scope of BITs with domestic laws. That is especially true in the case of Turkmenistan, Tajikistan, and Uzbekistan.

This phenomenon may reduce the impact of BITs and advancing sustainable development investment activities in Central Asia. At the same time, much of the current criticism of BITs in the Central Asian on their alleged impact on the right to regulate. Compliance is also complicated by the fragmented and incoherent nature of international investment law, but it should be noted about the universal opportunity provided by Vienna Convention on the Law of Treaties (VCLT) sheds light on emerging situation by providing general rules for the interpretation of treaties (Article 31, VCLT). Despite their myriad number, investment treaties follow a sufficiently uniform structure, lay down relatively uniform principles for the treatment of foreign investors, and build on a common dispute settlement

mechanism, which arguably results in a regime that is largely comparable to a multilateral system. Investment treaties typically grant investors the right not to be expropriated without compensation, to be treated fairly and equitably, to enjoy full protection and security, and to be treated no less favorably than national investors or investors from any third state. In addition, investment treaties typically offer foreign investors access to arbitration against the host state to bring claims, usually for damages, for breach of the obligations laid down in the treaty. It has been demonstrated that adapting sustainable development concept to economic rationality model of neoliberalism that drives international investment law is ideologically contradictory and could transform sustainable development principles to embody dominating economic fundamentals of neoliberalism and to perpetuate unlimited economic growth, which would serve to strengthen international investment law. Despite increasing exposure of investment tribunals to sustainable development issues, lack of consistency, which characterizes investment arbitration in general, appears to extend onto matters involving sustainable development issues. The question is whether, Central Asian countries, considering that they are the beneficiaries of the insertion of such sustainable development provisions, attempt to include labor, human rights and environmental standards in BITs and applying in practice, without obstacles, barriers. Regarding that investment arbitration tribunal, which is a private forum available to individual investors to protect their commercial interests, it is a controversial background for such public interest driven sustainable development issues still to be debated at the Central Asia level. The Central Asian States could also seek to meet the objective of this principle by drafting definitions clauses in the treaties to include or exclude certain categories of investments or investors from the protection regime. Tracing sustainable development provisions in international investment treaties through New Delhi principles alone could be conceptually and methodologically problematic. The declaration has been created with general international law as its background reference. It is being claimed that “one of the most important challenges facing the international investment law regime today is how to strike a balance between principles regarding the protection and promotion of foreign investment on the one hand and principles regarding the protection of society and the environment on the other”.

Moreover, Central Asian States, like many others, tend to favor well-known arbitrators who were popular choices globally. This preference for well-known arbitrators is not unique to the region. However, it is disappointing to note that very few arbitrators from the Central Asian region itself have been appointed, unlike in other regions like South America and the Middle East. Encouraging a more diverse pool of arbitrators, including those with a Central Asian background or connection, will be highly beneficial.⁵²⁶ Central Asian States try to balance their promotion and protection obligations under the treaties with their regulatory powers and

concerns by exempting from the treaties areas of key policy objectives. The investment regime in Central Asia is in transition, moving towards a more diversified, sustainable, and regionally integrated model. However, challenges such as legal uncertainty, corruption, and political instability persist. To enhance the attractiveness of the region for foreign investors, there needs to be further progress in improving the rule of law, transparency, and the alignment of investment policies with sustainable development goals. Strengthening international investment law in the context of the region's economic and political realities will be essential for unlocking the full potential of foreign direct investment in Central Asia.