

RETHINKING INVESTMENT TREATIES FOR SUSTAINABLE DEVELOPMENT: FROM THE “NEW DELHI DECLARATION” PRINCIPLES TO MODERN INVESTMENT LAW & POLICY

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ABSTRACT

Sustainable development in the fields of human rights and environment has been in the works for decades since its introduction by the Brundtland Commission Report in 1987. While the World Trade Organization has taken to incentivizing sustainable development, international investment law and arbitration are only catching up. Given the international efforts in recognizing sustainable development as an important national and international goal, it is important to propose legal solutions to incentivize sustainable development for foreign investors. At an international level, technical assistance for host states, and benefit schemes for investors who contribute to sustainable development through the adoption of internationally accepted principles and corporate social responsibility (CSR) have gained ground. However, sustainable development rarely finds its place in the current design of most international investment agreements (IIAs). This Article revisits the International Law Association “New Delhi Declaration of Principles of International Law Relating to Sustainable Development” to formulate concrete legal solutions for introducing sustainable development not only as a binding obligation for

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investors but also as an incentive to improve sustainability through self-monitoring rather than national or international enforcement.

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