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ASPIRATIONAL OR TRANSFORMATIVE? EVALUATING ESG CLAUSE EFFECTIVENESS IN NEW GENERATION INVESTMENT TREATIES ACROSS INDIA, CHINA, AND SINGAPORE

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ABSTRACT

Environmental, Social, and Governance (ESG) principles have rapidly permeated domestic corporate governance frameworks, financial regulation, and international development discourse. The international investment treaty regime, long criticized for privileging investor rights over host State regulatory autonomy, has responded with a wave of so-called 'new generation' investment treaties that incorporate sustainability language, right-to-regulate clauses, corporate social responsibility provisions, and procedural innovations. This article examines whether these ESG-related clauses in the investment treaty practice of India, China, and Singapore constitute genuine normative transformation or primarily aspirational and legitimacy-signaling adaptations that leave the foundational architecture of investor-centric protection intact. Applying a five-category ESG clause typology preambular references, substantive exceptions, corporate social responsibility provisions, investor obligations, and procedural innovations ,and a tripartite legal character framework distinguishing binding, interpretive, and aspirational provisions, the article demonstrates that across all three jurisdictions and all five clause categories, the predominant legal character of ESG provisions is aspirational rather than binding. The article argues that this aspirational dominance reflects the structural limitations of investorState dispute settlement (ISDS) as a governance mechanism for sustainability objectives and concludes that structural ISDS reform, including the introduction of binding investor obligations and standing appellate review, is a prerequisite for transformative ESG integration in international investment law.

Keywords: ESG, Investment Treaties, ISDS, India Model BIT, Investor Obligations, Sustainable Development, Regulatory Autonomy, New Generation Treaties

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I. INTRODUCTION

The international investment treaty regime was not designed with sustainability in mind. Beginning in the mid-twentieth century, bilateral investment treaties (BITs) proliferated across the global economy on the premise that protecting foreign investors from political risk, expropriation, discrimination, denial of justice, was an unqualified good that host States should deliver unconditionally. The standards embedded in these instruments, Fair and Equitable Treatment (FET), Full Protection and Security (FPS), Most-Favoured-Nation (MFN) treatment, and investor-State dispute settlement (ISDS), were calibrated to minimize regulatory interference with investment rather than to promote sustainable development.

That premise has come under intense pressure. The legitimacy crisis of the international investment regime ,driven by expansive arbitral interpretations of broadly drafted treaty standards, the chilling effect of investor claims on public interest regulation, and the fundamental asymmetry of a system that grants investors enforceable rights without corresponding obligations, has coincided with the rise of Environmental, Social, and Governance (ESG) principles as a central framework for investment governance globally.[1] As ESG considerations have moved from voluntary corporate responsibility frameworks into mandatory disclosure regimes, due diligence obligations, and regulatory requirements across the world's major capital markets, the question of whether international investment treaties are compatible with ,or actively obstruct, the ESG agenda has become urgent.

The three jurisdictions examined in this article, India, China, and Singapore, are among the most significant participants in global investment flows and among the most active reformers of investment treaty practice. Each represents a distinct model of engagement with the ESG agenda: India's sovereignty-driven recalibration, China's strategic gradualism, and Singapore's institutional modernization. Together, they span the range of approaches available to major Asian economies navigating the tension between investor protection and ESG governance.[2]

This article advances a central thesis: that ESG clauses in the new generation investment treaties of India, China, and Singapore are predominantly aspirational rather than transformative. They protect regulatory space, signal normative alignment with global sustainability norms, and in Singapore's case introduce sophisticated procedural architecture ,but they do not impose binding obligations on investors, do not create reliable ESG

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jurisprudence in arbitral proceedings, and do not address the structural asymmetry of ISDS that prevents sustainability considerations from systematically influencing investment dispute outcomes.

The article concludes that structural reform of ISDS, not treaty drafting innovation alone ,is the prerequisite for genuinely transformative ESG integration. The article proceeds in five parts. Part
II situates the argument within existing scholarship on investment treaty reform and ESG governance. Part III introduces the five-category ESG clause typology and the binding/interpretive/aspirational classification framework. Part IV applies the typology comparatively across India, China, and Singapore, demonstrating aspirational dominance across all three frameworks. Part V examines the structural limitations of ISDS that explain why aspirational ESG provisions cannot become transformative without systemic reform. Part VI proposes targeted recommendations for treaty negotiators and reform advocates.

II. LITERATURE REVIEW

The scholarly literature on investment treaty reform is extensive but exhibits a significant analytical gap at the intersection of investment law and ESG governance. Two substantial bodies of scholarship, the literature on investment treaty legitimacy and ISDS reform, and the literature on ESG in corporate governance and financial regulation, have developed in relative isolation from each other, generating descriptive accounts of reform trends without the doctrinal depth needed to evaluate whether ESG provisions in investment treaties are legally operative.

On the investment law side, Stephan Schill's foundational account of the multilateralization of investment law through BIT networks and arbitral cross-referencing[3] provides the theoretical framework for understanding how ESG provisions negotiated in individual jurisdictions may over time contribute to systemic normative evolution ,but also why the structural forces of multilateralization create headwinds against ESG integration. M. Sornarajah's political account of resistance and change in investment law[4] situates India's treaty reform as a sovereign act of resistance against an unjust investor-protective regime. Kyla Tienhaara's regulatory chill framework[5] explains why even well-drafted ESG treaty provisions may be inadequate if the underlying ISDS system generates deterrent effects on regulatory ambition.

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On the ESG side, empirical work by Dotzauer, Biber-Freudenberger, and Dietz[6] confirms through automated text analysis of over 2,000 BITs that sustainability references in investment treaties have risen sharply since 2010, but their methodology counts frequency rather than assessing legal quality. Manjiao Chi's regional study for UN ESCAP[7] identifies the diversity of Asian treaty practice on sustainable development provisions but does not undertake the structured comparative doctrinal evaluation that would distinguish aspirational from binding ESG integration. Brauteseth's critical examination of China's BIT practice[8] advances the 'symbolic legitimacy' thesis for Chinese treaty ESG language ,the most analytically incisive existing contribution to the specific question this article addresses ,but its scope is limited to China's treaties with Global South partners. The gap is clear: no study has applied a consistent doctrinal coding methodology across the full treaty frameworks of India, China, and Singapore simultaneously, evaluating the legal character of ESG provisions across all five relevant clause types. This article fills that gap.

III. RESEARCH METHODOLOGY

This article employs a qualitative doctrinal-comparative methodology. The central research question whether ESG clauses in new generation investment treaties constitute genuine normative transformation or aspirational signaling demands legal analysis of treaty text, arbitral precedent, and governance structure, rather than the quantitative text-analysis approaches deployed by Dotzauer et al., which map frequency of ESG language but cannot assess legal operativity.

Treaty Corpus Selection. Nine primary treaties were selected by purposive sampling across the period 2012–2022, spanning bilateral, trilateral, and multilateral agreements for each of the three jurisdictions: India's 2016 Model BIT, the India–Brazil BIT (2020), the India–UAE CEPA (2022), the China–Japan–South Korea Trilateral Investment Agreement (2012), ChAFTA (2015), the China–Mauritius FTA (2021), the RCEP Investment Chapter (2022), the CPTPP Investment Chapter (2018), and the EU–Singapore FTA Investment Protection Agreement (2019). All texts were accessed through the UNCTAD Investment Policy Hub and national treaty repositories. The corpus intentionally pairs foundational model instruments with their applied iterations to evaluate how model language translates into practice, and includes multilateral agreements to capture regional consensus positions that transcend bilateral relationships.

Operationalising ESG. A treaty provision is classified as ESG-relevant if its textual content engages with one or more of three pillars: the Environmental pillar (environmental protection,

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climate change, biodiversity, pollution prevention); the Social pillar (labor standards, human rights, public health, community rights); or the Governance pillar (transparency, anti-corruption, corporate accountability, responsible business conduct). This three-pillar definition is derived from ESG's analytical origins in investment governance rather than treaty-specific terminology, since treaties rarely deploy the composite term "ESG" and instead use pillar-specific language that must be identified and aggregated.

Five-Category Typology. Identified provisions are assigned to one of five functional categories:

(1) Preambular References; (2) Substantive Exceptions; (3) Corporate Social Responsibility Provisions; (4) Investor Obligations; and (5) Procedural Innovations. Each category captures a distinct structural role in the treaty's normative architecture and is evaluated by category-specific analytical variables for example, the presence or absence of a necessity standard and non-discrimination chapeau for exceptions clauses, or the availability of a counterclaim mechanism for investor obligation provisions.

Tripartite Legal Character Framework. Each identified provision is then classified as Binding (B), Interpretive (I), or Aspirational (A). A Binding provision creates an enforceable legal obligation subject to a compliance or dispute-settlement mechanism. An Interpretive provision shapes the construction of other provisions without independently creating enforceable obligations for example, a sustainability preamble engaging VCLT Article 31(2). An Aspirational provision expresses intent or value without legal force and without creating enforceable obligations or interpretive duties. This tripartite framework is analytically superior to the conventional binding/non-binding binary because it captures the intermediate legal effects of interpretive provisions and draws attention to the gap between a provision's formal legal character and its practical operativity within the structurally biased environment of ISDS.

Coding Procedure. Coding proceeded in three stages: full textual reading of each treaty to identify ESG-relevant provisions; typological assignment to one of the five categories; and tripartite legal character classification. Classification decisions were grounded in close analysis of obligation language, with binding indicators ("shall," "must," "is prohibited from" linked to enforcement), interpretive indicators ("recognizing," "consistent with," "taking into account" in context-setting positions), and aspirational indicators ("should," "encourages," "endeavour to," without enforcement linkage) applied consistently across all nine treaties regardless of jurisdictional origin or rhetorical sophistication a discipline essential to detecting the symbolic legitimacy patterns that Brauteseth identifies in Chinese treaty practice.

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IV. THE ANALYTICAL FRAMEWORK: A FIVE-CATEGORY ESG CLAUSE TYPOLOGY

A. Defining ESG in Investment Treaty Texts

Translating the term 'ESG' from its origins in sustainable finance into an operational category for investment treaty analysis requires careful definition. For the purposes of this article, a treaty provision is classified as ESG-related if its textual content engages with one or more of three pillars. The Environmental pillar encompasses references to environmental protection, climate change, biodiversity, natural resource conservation, and pollution prevention. The Social pillar encompasses references to labor standards, human rights, public health, community rights, and gender equality. The Governance pillar encompasses references to transparency, anticorruption, corporate accountability, responsible business conduct, and rule of law.

B. The Tripartite Legal Character Framework

The article's core analytical contribution is a tripartite classification of ESG provisions by their legal character. A Binding (B) provision creates an enforceable legal obligation subject to dispute settlement or other compliance mechanisms. An Interpretive (I) provision shapes the construction of other treaty provisions without independently creating enforceable obligations

,for example, a preambular reference that directs tribunals to consider sustainable development when interpreting substantive standards under Vienna Convention on the Law of Treaties Article 31(2).[9] An Aspirational (A) provision expresses an intent, value, or aspiration without legal force and without creating enforceable obligations or interpretive duties.

This tripartite distinction is more analytically powerful than the conventional binary of binding versus non-binding for two reasons. First, it captures the intermediate legal effects that interpretive provisions can produce. A carefully drafted sustainability preamble is legally more significant than a pure aspiration, even if less significant than a binding obligation.[10] Second, it draws attention to the gap between the legal form of a provision and its practical effect: a provision classified as binding may be practically ineffective if the dispute settlement mechanism within which it operates is structurally biased against its enforcement.

C. The Five ESG Clause Categories

The typology applies the tripartite framework across five categories of ESG-related

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provision:

(1) Preambular References ,sustainability and ESG language in treaty preambles; (2) Substantive Exceptions ,general carve-outs protecting ESG-motivated regulation from investor challenge; (3) Corporate Social Responsibility Provisions ,clauses addressing investor conduct in relation to social, environmental, and governance standards; (4) Investor Obligations ,provisions imposing affirmative duties on investors to comply with ESG norms; and (5) Procedural Innovations, modifications to ISDS design creating structural space for ESG considerations in arbitral proceedings. The primary treaty texts analysed include India's 2016 Model BIT, the IndiaBrazil BIT (2020), the India-UAE CEPA (2022), the China-Japan-South Korea Trilateral Investment Agreement (2012), the ChAFTA investment chapter (2015), the China-Mauritius FTA (2021), the RCEP investment chapter (2022), the CPTPP investment chapter (2018), and the EUSingapore FTA Investment Protection Agreement (2019).[11]

V. ASPIRATIONAL DOMINANCE: THE COMPARATIVE CODING RESULTS

A. Preambular References: Signaling Without Committing

Across all three jurisdictions, preambular ESG references are the most extensively used but legally weakest form of ESG integration. India's new generation treaties, including the IndiaBrazil BIT (2020) and the India-UAE CEPA (2022) ,include brief references to sustainable development framed as acknowledgments rather than commitments. China's treaties are the most preambularly ambitious: the China-Mauritius FTA (2021) preamble references the UN 2030 Agenda, sustainable development, internationally recognized labor rights, and environmental protection in a manner that suggests deep sustainability commitment. The RCEP preamble encourages investment that observes, promotes and does not undermine applicable international labour rights and environmental measures.[12]

Singapore's treaty preambles are the most carefully constructed and the most interpretively functional. The CPTPP preamble employs action-oriented language, 'intending to promote,' 'consistent with international obligations', directly connecting sustainability objectives to investment governance. The EU-Singapore FTA preamble affirms that economic development, social development, and environmental protection are interdependent pillars of sustainable development, creating an interpretive framework in which the agreement's investment provisions must be read alongside its sustainable development commitments.[13]

Yet even Singapore's most carefully crafted preambular language remains interpretive at best.

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As the arbitral record demonstrates, tribunals have discretion in how much weight to give preambular references ,some have drawn on sustainability preambles to support regulatory-friendly interpretations,[14] while others have acknowledged such references while giving them minimal practical weight.[15] A preambular reference is a facilitator of ESG-sensitive interpretation, not a guarantee of it. All three jurisdictions receive an Aspirational classification for this category, with Singapore receiving an Interpretive qualification reflecting the superior construction of its preambular language.

B. Substantive Exceptions: The Strongest but Insufficient Category

Substantive exceptions are the most legally developed and practically significant category of ESG-related provision across all three treaty frameworks. India's 2016 Model BIT Article 32 includes a comprehensive general exceptions clause covering measures necessary for environmental protection, public health, and safety ,without a chapeau requirement analogous to GATT Article XX that would impose additional non-discrimination conditions. This chapter-free design is the most protective of ESG-motivated regulation among the three jurisdictions: a non-discriminatory environmental measure is simply protected, without further qualification.[16]

China's substantive exceptions have evolved from the minimal provisions of early BITs toward GATT-modeled general exceptions in recent agreements. The ChAFTA investment chapter explicitly references measures relating to climate change as a recognized regulatory objective, one of the first Chinese treaty provisions to acknowledge the climate dimension of the ESG agenda directly.[17] However, Chinese treaty exceptions are subject to a necessity standard and a nondiscrimination chapeau, both of which impose conditions on States invoking the exception that India's framework avoids. The necessity standard in particular ,which has been interpreted in WTO practice to require the measure to be the least trade-restrictive alternative reasonably available ,could significantly limit the practical utility of Chinese exceptions for complex regulatory measures such as comprehensive climate transition policies.

Singapore's substantive exceptions framework is the most sophisticated, particularly in the EU-Singapore FTA, which explicitly includes climate change as a recognized regulatory objective in the exceptions clause itself, not merely in the preamble or in ancillary documents. The CPTPP's 'no lowering of standards' obligation, which prohibits States from weakening environmental and labor protections to attract or retain investment, is the only provision across all three treaty frameworks that moves the regulatory space architecture from purely defensive to affirmatively prescriptive.[18] These provisions receive a Binding classification. However,

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even this category's strength is limited by the absence of positive investor obligations, exceptions protect what States can do, not what investors must do.

C. CSR Provisions and Investor Obligations

The Critical Gap The coding results for corporate social responsibility provisions and investor obligations reveal the most significant limitation of ESG integration across all three treaty frameworks: the near-complete absence of binding investor accountability mechanisms. This is not a peripheral gap, it is the structural heart of the ESG deficit in Asian investment treaty practice.

India's treaties are effectively silent on CSR. The 2016 Model BIT contains no standalone CSR clause and limits investor obligations to compliance with domestic laws under Article 12.[19] This is paradoxical given that India's domestic Companies Act (2013) imposes mandatory CSR spending obligations on eligible companies ,one of the most far-reaching statutory CSR obligations globally ,and SEBI's Business Responsibility and Sustainability Report (BRSR) framework mandates detailed ESG disclosure for listed companies.[20] The divergence between India's progressive domestic ESG governance and its conservative international treaty commitments on investor accountability is the clearest illustration of what this article terms the 'sovereignty-sustainability gap': the systematic failure to translate domestic ESG ambition into international treaty obligations on investors.

China's treaties contain the most extensively worded CSR provisions of the three jurisdictions but systematically undermine their apparent significance through hortatory framing. The China-Mauritius FTA CSR article provides that each Party 'should encourage investors' to 'voluntarily incorporate' responsible business conduct standards.[21] The China-Mauritius FTA is exemplary of Brauteseth's symbolic legitimacy thesis: it employs the full rhetorical architecture of ESG commitment ,references to internationally recognized standards, sustainable development, the UN Global Compact ,while ensuring through the voluntary/encouragement framing that no enforceable obligations result.[22]

Singapore's EU-FTA comes closest to crossing the investor obligation frontier. Its responsible business conduct provision uses the formulation 'should endeavour to observe the OECD Guidelines for Multinational Enterprises' and the UN Guiding Principles on Business and Human Rights ,language that is stronger than pure encouragement but weaker than a binding obligation. [23]The 'should endeavour' formulation creates what this article terms a 'soft obligation' ,an expected standard of conduct that could in principle be given interpretive weight as a contextual factor in assessing investor conduct in arbitral proceedings, though no tribunal

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has yet given decisive weight to such a provision. All three jurisdictions receive an Aspirational or at most Interpretive classification in these two categories, confirming aspirational dominance at what is, from an ESG governance perspective, the most important frontier.

D. Procedural Innovations: Singapore's Distinctive Contribution

The most significant divergence among the three jurisdictions lies in procedural innovations in ISDS design. India's new generation treaties introduce procedural restrictions on investor access to ISDS, local remedies exhaustion, fork-in-the-road provisions, but do not incorporate the positive procedural innovations needed for ESG governance: no mandatory transparency, no amicus curiae participation rights, no appellate mechanism, no State counterclaim rights.[24] China's RCEP provisions introduce transparency requirements, publication of awards, open hearings, that represent a meaningful advance from the opacity of early Chinese BITs, reflecting growing international pressure for ISDS accountability. However, RCEP's transparency provisions fall short of the full UNCITRAL Transparency Rules standard and do not provide amicus curiae participation, appellate review, or State counterclaim rights.[25]

Singapore's procedural architecture is qualitatively different from either India's or China's. The CPTPP incorporates the UNCITRAL Rules on Transparency in full, providing for publication of all proceedings documents and the right of non-disputing parties ,including civil society organizations and environmental authorities ,to make submissions.[26] The EU-Singapore FTA's Investment Court System (ICS) establishes a standing first-instance Tribunal and Appeal Tribunal, combining the permanence needed for consistent ESG jurisprudence development with full transparency and mandatory amicus curiae participation rights. The ICS's cost-allocation provisions, which allow tribunals to award costs against claimants whose claims are frivolous or an abuse of process ,create a financial disincentive for investor claims challenging good-faith ESG regulatory measures.[27] Singapore's procedural framework receives a Binding classification, the only jurisdiction to do so in this category, reflecting the genuine structural space it creates for ESG considerations in investment dispute resolution.

VI. WHY ASPIRATIONAL PROVISIONS CANNOT BECOME TRANSFORMATIVE: THE STRUCTURAL ARGUMENT

The comparative coding results demonstrate aspirational dominance across eleven of fifteen coding cells four binding, eleven aspirational or interpretive. This pattern is not coincidental and cannot be addressed through better treaty drafting alone. It reflects three structural features

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of ISDS that systematically limit the practical effect of ESG treaty provisions regardless of their legal character.

First, the interpretive bias of investor- initiated arbitration. ISDS was designed as an investor-protective mechanism, and its institutional culture, reflected in the professional backgrounds of arbitrators, the selection incentives of arbitral institutions, and the normative framework of investor protection within which disputes are assessed, creates systematic tendencies toward investor-protective interpretation. Oliver Hailes' examination of environmental clauses in investment arbitration demonstrates that even 'green shoots' provisions, newer treaty innovations explicitly referencing environmental protection ,have been given minimal practical weight by tribunals that interpreted investor protections broadly and regulatory defenses narrowly.[28] Caterina Milo's analysis of climate-related disputes confirms that environmental and human rights justifications, even when well-founded in treaty text, are inconsistently applied across tribunals and rarely decisive in outcomes.[29]

Second, the fragmentation of investment arbitration. The absence of binding precedent in investment treaty arbitration means that ESG-sensitive interpretations in one case are not automatically applied in subsequent cases. Arbitral panels constituted under different treaties, institutional rules, and procedural frameworks develop inconsistent approaches to identical questions of ESG interpretation, a phenomenon that Baltag, Joshi, and Duggal document extensively in their survey of arbitral trends on the right to regulate.[30] This fragmentation prevents the cumulative jurisprudential development that would be needed to translate aspirational ESG clauses into settled interpretive doctrine.

Third, and most fundamentally, the structural asymmetry of ISDS as an investor-rightsonly mechanism. Investors can sue States for breaches of treaty obligations, but States cannot sue investors for breaches of ESG standards through the same mechanism. As Bonnitcha, Poulsen, and Waibel demonstrate, this asymmetry is not an accident of treaty design ,it reflects the foundational conception of investment treaties as instruments of investor protection rather than instruments of investment governance.[31] Even the most carefully drafted investor obligation provisions ,such as India's domestic law compliance requirement or Singapore's 'should endeavour' responsible conduct standard ,are practically unenforceable within the current ISDS architecture because the mechanism for their enforcement (State counterclaims in investorinitiated arbitration) has not been effectively operationalized in any of the three treaty

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frameworks examined.

Tienhaara's regulatory chill thesis acquires particular salience in this structural context.[32] Even where ESG treaty provisions create defensive regulatory space ,as India's comprehensive exceptions framework does ,the threat of investor claims challenging regulatory measures as FET violations or indirect expropriation may deter governments from adopting the ambitious ESG regulatory transitions that the climate crisis and sustainable development agenda demand. Regulatory chill operates precisely in the space between 'what States are legally protected in doing' and 'what States are politically willing to risk being sued for doing' ,and no amount of treaty language addressing the former can eliminate the latter without structural reform of ISDS.

VII. FROM ASPIRATION TO TRANSFORMATION: TARGETED RECOMMENDATIONS

The analysis generates four targeted recommendations for treaty negotiators, ISDS reform advocates, and sustainable investment practitioners committed to genuine ESG integration in international investment law.

First, binding investor obligations must be introduced as a standard element of new generation investment treaties. Drawing on the model of the EU's recent supply chain due diligence directive and the CPTPP's responsible business conduct framework, treaties should require investors to conduct environmental and human rights due diligence in accordance with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. These obligations should be enforceable through State counterclaim rights in investment arbitration proceedings, not merely as aspirational encouragements.

Second, the design of substantive exceptions should be harmonized around the strongest model, the chapeau-free, climate-explicit, no-lowering-of-standards architecture exemplified by the EU-Singapore FTA. The necessity standard and non-discrimination chapeau that characterize China's GATT-modeled exceptions should be replaced by a proportionality standard focused on whether the measure is manifestly excessive in relation to the objective pursued ,a standard that better accommodates the precautionary, systemic, and long-term character of ESG regulatory challenges.

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Third, structural ISDS reform, including the establishment of a multilateral investment court with a standing appellate mechanism, is a prerequisite for transformative ESG integration. A standing court with an appellate mechanism, binding precedent, and transparent proceedings would create the institutional conditions for consistent and principled ESG jurisprudence. It would also address the democratic legitimacy deficit of ad hoc arbitration that has driven the political resistance to ISDS in all three jurisdictions studied.

Fourth, the sovereignty-sustainability gap, the systematic divergence between domestic ESG governance frameworks and international treaty commitments on investor accountability, should be explicitly addressed in treaty negotiations. India's advanced domestic CSR and sustainability reporting regime, China's Green Credit Guidelines and BRI Sustainability Framework, and Singapore's Green Plan 2030 all represent mature domestic ESG governance frameworks that could serve as the basis for binding international investor obligation standards. The political will to translate domestic ESG governance into international treaty obligations is the missing ingredient in all three jurisdictions, and its absence is a strategic choice, not an institutional necessity.

VIII. CONCLUSION

The age of ESG has arrived in the international investment treaty regime, but it has arrived in a predominantly aspirational form. The new generation investment treaties of India, China, and Singapore represent genuine normative evolution from the expansive investor protection paradigm of the BIT boom era: they narrow investor protections, embed regulatory space, signal sustainability commitments, and in Singapore's case introduce sophisticated procedural architecture. But they have not achieved the structural transformation that the ESG governance agenda demands.

The five-category coding exercise demonstrates aspirational dominance across eleven of fifteen analytical cells. The four binding cells, India's, China's, and Singapore's substantive exceptions, and Singapore's procedural innovations, represent real achievements. But the eleven aspirational or interpretive cells, covering preambular references, CSR provisions, and investor obligations across all three jurisdictions, reveal that the most fundamental challenge of ESG integration in investment law has not been met: investors remain rights-bearing without being obligation-bearing, and the structural mechanisms for investor accountability in the ESG domain remain largely theoretical.

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The core finding of this article, aspirational dominance, is not simply a criticism of inadequate treaty drafting. It is an argument about structural limitations: the ISDS system's investor-centric design, interpretive bias, and fragmented jurisprudence cannot accommodate the systemic, polycentric, and long-term character of ESG governance challenges without fundamental reform. Treaty drafting innovation and structural ISDS reform must advance together. Without both, ESG in investment treaties will remain what it largely is today: a statement of intent rather than an instrument of governance.

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. .').
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reform).
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