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Transformation of the international economic law principles under the influence of global crises and their significance for the investment protection regime

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Abstract: This study examines how the transformation of international economic law principles under the influence of global crises affects the investment protection regime within the contemporary international legal order. The methodological framework combines legal analysis of international investment treaties, comparative assessment of pre-crisis and crisis-era approaches, and interpretive analysis of decisions rendered by international investment arbitration tribunals. The findings reveal a systemic shift in the regulatory logic of international investment law. In particular, the study demonstrates the institutionalization of the state's right to regulate as an autonomous contractual principle and highlights the growing importance of environmental and public policy exceptions within the architecture of investment agreements. Furthermore, the analysis of arbitral practice indicates a movement away from an investor-centric model toward a more balanced and context-sensitive approach, in which investment protection is assessed alongside state regulatory sovereignty, especially in crisis conditions. These results suggest the emergence of a new model of the international investment regime, where the stability of investor rights is no longer absolute, but conditioned by the legitimate regulatory boundaries of the host state. The practical implications of the study lie in its potential application to the drafting and revision of investment treaties, as well as to law enforcement and arbitration practice in the context of global crises.

Keywords: Global Economic, Rule of Law, Governance, Regulatory Sovereignty, Fair Treatment of the State, Legitimate Expectations, Investment Arbitration, Public Regulation

1. Introduction

The current stage of international economic law is marked by persistent regulatory uncertainty caused by recurring financial, environmental, public health and security-related crises. These crises have not merely complicated the application of existing rules. They have exposed deeper tensions within the principles on which the international investment protection regime has traditionally relied, particularly legal stability, fair and equitable treatment, legitimate expectations and the protection of investors against arbitrary state conduct. The central problem addressed in this study is therefore the absence of a coherent explanation of how crisis conditions transform the regulatory and interpretive content of international economic law principles and how this transformation affects the contemporary investment protection regime.

Existing scholarship has examined several dimensions of this problem, yet these analyses remain only partially connected. Beysulen Angin[6] shows that the contemporary investment regime continues to suffer from a structural imbalance between the host state's right to regulate and the protection granted to foreign investors. This imbalance becomes especially visible when states adopt crisis-related measures in the fields of economic stabilization, public security, environmental protection or sustainable development. At the same time,

[6] BEYSULEN ANGIN, B. "The right to regulate vs investment protection: Unveiling the causes of imbalance and the limits of current reform efforts in international investment law", ICSID Review – Foreign Investment Law Journal, v. 40, n. 1, 2025, p. 11–41. https://doi.org/10.1093/icsidreview/siaf007

Damjanovic[7] approaches investment law reform through the lens of legitimacy and the rule of law, arguing that reform debates are not neutral, since they often reflect the priorities of specific institutional and economic actors rather than a universally shared legal agenda. Taken together, these contributions indicate that the current transformation of investment law cannot be reduced to technical amendments to treaties or dispute settlement rules. It reflects a broader reconfiguration of the relationship between private economic rights and public regulatory authority.

A related strand of literature focuses on investor–state dispute settlement (ISDS) reform and the role of arbitral tribunals in shaping international investment law. Fyock[8] argues that many ISDS reform initiatives remain limited because they concentrate on procedural improvements while leaving the structural status quo of investment arbitration largely intact. This critique is important because it suggests that procedural reform alone cannot explain why the meaning of investment protection standards changes under crisis conditions. Ortino[9] develops this point from a different angle by demonstrating that arbitral tribunals have played a decisive role in the development of international investment law, especially through the interpretation of the fair and equitable treatment standard.His analysis confirms that the transformation of investment principles occurs not only through treaty drafting but also through adjudicative reasoning. However, the existing literature still provides limited explanation of how treaty design and arbitral interpretation interact when tribunals assess crisis-related state measures.

The public-law dimension of this debate has also become more prominent. Riffel[10] argues that international investment law may constrain democratic decision-making when it limits the regulatory choices available to states in situations of public concern. This observation is particularly relevant in crisis contexts, where governments often need to adopt urgent measures that may adversely affect investors but are directed toward the protection of public welfare. Similarly, Titi[11] examines investment treaty arbitration as a field caught between private-law and public-law rationalities. Her analysis shows that investment arbitration cannot be understood only as a mechanism for protecting individual economic interests, since it increasingly deals with questions of public authority, institutional legitimacy and regulatory discretion. These approaches suggest that the investment regime is moving toward a more public-oriented logic, although the doctrinal consequences of this movement remain insufficiently systematized.

At the systemic level, Zu and Bi[12] describe the structural evolution of international investment law as a movement toward a third configuration, in which investment protection is increasingly combined with investment facilitation and regulatory coordination. Their argument is valuable because it links changes in

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[7] DAMJANOVIC, I. "The reform of international investment law: Whose rule of law?", European Journal of Risk Regulation, v. 15, n. (Special Issue 3), 2024, p. 1–20. https://doi.org/10.1017/err.2024.28

[8] FYOCK, C. "Getting 'real' about ISDS reform: A critical realist view of international investment law's status quo", Journal of International Dispute Settlement, v. 16, n. 2, 2025, idae027. https://doi.org/10.1093/jnlids/idae027

[9] ORTINO, F. "The development of international investment law by arbitral tribunals and the strange case of the 'fair and equitable treatment' standard", King's Law Journal, v. 36, n. 1, 2025, p. 36–47. https://doi.org/10.1080/09615768.2025.2493428

[10] RIFFEL, C. "International investment law, rule of law, and democracy: When the solution is part of the problem", German Law Journal, v. 26, n. 4, 2025, p. 1–23. https://doi.org/10.1017/glj.2025.23

[11] TITI, C. "Investment treaty arbitration caught in the public–private law divide", Michigan Journal of International Law, v. 45, n. 3, 2024, p. 441–487. https://doi.org/10.36642/mjil.45.3.investment

[12] ZU, W.; BI, Y. "Investment facilitation and the structural evolution of international investment law: Toward a third configuration", World Trade Review, v. 24, n. 5, 2025. https://doi.org/10.1017/S1474745625101110

investment law to broader shifts in global economic governance. Nevertheless, even this systemic perspective does not fully explain how global crises operate as triggers of legal transformation within the investment protection regime itself. The existing literature therefore identifies important components of the problem: imbalance between investor protection and regulatory sovereignty, contested legitimacy of reform, procedural limits of ISDS modernization, arbitral development of fair and equitable treatment, democratic constraints and structural evolution of investment law. Yet these components are rarely integrated into a single analytical framework capable of explaining how crisis conditions reshape the principles of international economic law at the doctrinal, interpretive and systemic levels.

This gap is especially significant because contemporary crises increasingly require states to intervene in markets, regulate strategic sectors, protect public health, respond to environmental risks and preserve economic stability. If investment protection standards continue to be interpreted as guarantees of regulatory immutability, they may restrict legitimate public action. Conversely, if regulatory sovereignty is treated as unlimited, the stability and predictability of investment relations may be weakened. The unresolved issue is therefore not whether investor protection or state regulation should prevail in abstract terms, but how international economic law recalibrates the balance between these values under crisis conditions.

The purpose of this study is to provide a comprehensive legal analysis of the transformation of international economic law principles under the influence of global crises and to determine the significance of this transformation for the evolution of the investment protection regime. To achieve this purpose, the study examines doctrinal approaches to investment law reform, identifies crisis-related factors affecting the balance between investor protection and regulatory sovereignty, analyzes the role of arbitral practice in reshaping investment protection standards, assesses the implications of these changes for legitimacy and the rule of law, and identifies the main trends in the structural evolution of the investment regime.

The study conceptualizes transformation as a multi-level legal phenomenon. At the doctrinal level, it is reflected in the modification of treaty language and the narrowing or clarification of investment protection standards. At the interpretive level, it appears in arbitral reasoning concerning fair and equitable treatment, legitimate expectations, necessity, proportionality and public-interest justifications. At the systemic level, it concerns the broader reorientation of the investment regime from an investor-centric model toward a crisis-sensitive model of contextualized protection.Within this framework, the study argues that contemporary developments should not be treated as isolated or temporary responses to individual crises. They indicate a structural transformation in which doctrinal change and arbitral interpretation operate as interconnected mechanisms of a wider recalibration of international economic law.

The contribution of this study lies in three aspects. First, it integrates treaty design and arbitral interpretation, which are often analyzed separately, into a unified framework for assessing the transformation of investment law. Second, it proposes a comparative model distinguishing pre-crisis and crisis-oriented approaches to the interpretation of investment protection standards. Third, it demonstrates that the transformation of international economic law principles affects not only specific treaty clauses or arbitral outcomes, but also the underlying logic of the investment protection regime. This allows the study to move beyond a descriptive account of reform and to explain how global crises reshape the normative hierarchy between private investor rights and public regulatory interests.

2. Literature review

Contemporary scholarship in international economic and investment law increasingly focuses on how global crises affect the stability of legal regimes governing relations between states and private actors. However, rather than forming a coherent analytical framework, the literature reveals a divergence between competing approaches to this issue. This divergence is important for the present study because it shows that crisis-related transformation has been examined through separate doctrinal, procedural, institutional and regulatory lenses, while the connection between these levels remains insufficiently explained.

On the one hand, a group of studies emphasizes the persistence of classical legal principles and highlights the tension between formal legal certainty and the practical need for flexible state responses. This perspective is particularly evident in the analysis of sovereign debt enforcement, where the rigidity of legal obligations is contrasted with the political imperative of crisis management. Buchheit[13] demonstrates that sovereign debt enforcement is shaped by a dilemma between the enforceability of legal commitments and the need to preserve state functionality in periods of financial disruption. Within this framework, crises are understood as stress tests for existing legal doctrines, exposing their limitations without fundamentally transforming their structure.

On the other hand, another strand of scholarship challenges the epistemological foundations of international legal reasoning itself. From this perspective, crisis conditions are not merely external shocks, but factors that reshape how legal norms are interpreted and applied. D'Aspremont[14] argues that international legal decision-making cannot be reduced to rationalist or Cartesian models, since affective, emotional, social and political variables influence legal cognition under conditions of uncertainty. This line of argument questions the assumed neutrality and universality of doctrinal reasoning and points to a deeper transformation at the level of legal cognition. For international investment law, this means that arbitral reasoning in crisis-related disputes may be affected not only by treaty language, but also by broader perceptions of institutional risk, public urgency and regulatory legitimacy.

A similar divergence appears in the debate on the balance between public and private interests. Some authors propose expanding responsibility frameworks, such as due diligence obligations, to address crisis-related risks. However, Feihle[15] notes that the integration of due diligence obligations into international legal regimes remains conceptually complex and does not yet provide a consolidated framework for investment arbitration. By contrast, Maitra[16] advances restitution as an alternative remedial model in investor-state disputes, thereby challenging the dominance of compensation-oriented logic. Despite its theoretical potential, this approach has not yet achieved practical or doctrinal coherence. These contributions reveal an important methodological problem: international investment law has generated several partial responses to crisis-related harm, but has not yet developed a unified model for assessing responsibility, remedies and regulatory justification under crisis conditions.

Within a broader public-law perspective, another line of research emphasizes the expansion of state regulatory authority under crisis conditions. Kortukova et

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[13] BUCHHEIT, L. C. "The dilemma of sovereign debt enforcement", Journal of International Economic Law, v. 26, n. 4, 2023, p. 843–846. https://doi.org/10.1093/jiel/jgad034

[14] D'ASPREMONT, J. "Affects, Emotions, and the Cartesian Epistemology of International Law", Journal of International Dispute Settlement, v. 14, n. 3, 2023, p. 281–284. https://doi.org/10.1093/jnlids/idad019

[15] FEIHLE, P. "Review of Alice Ollino, Due Diligence Obligations in International Law", European Journal of International Law, v. 34, n. 4, 2023, p. 1041–1048. https://doi.org/10.1093/ejil/chad052

[16] MAITRA, C. "Restitution as remedy in disputes between investor and State", Utrecht Law Review, v. 20, n. 1, 2024, p. 64–79. https://doi.org/10.36633/ulr.945

al.[17] show that temporary protection regimes in the European Union, particularly in the context of armed conflict, may reorder legal priorities by placing institutional resilience and collective protection above ordinary individual expectations. Similarly, Oliinyk et al.[18] conceptualize economic security as a field in which crisis conditions justify broader state discretion and restrictions on private economic freedoms in the interest of public order. Taken together, these approaches frame the transformation of investment law as part of a broader shift toward public-law rationality. Although these studies do not focus exclusively on investment arbitration, they are relevant because they explain why crisis governance tends to strengthen the legal significance of public interests and regulatory sovereignty.

At the same time, a significant strand of literature remains focused on procedural reform within the investment regime. In particular, the modernization of arbitration mechanisms, such as the revised ICSID Rules, is often interpreted as an effort to enhance efficiency and legitimacy. Deutsch et al.[19] present the 2022 ICSID Rules and Regulations as a procedural modernization aimed at improving the functioning of investor-state dispute settlement through more detailed institutional regulation. However, this procedural focus is increasingly criticized for failing to address deeper structural tensions between investor protection and state regulatory authority. The relevance of this limitation is clear: procedural reform may improve transparency, timing and case management, but it does not by itself explain how tribunals should interpret fair and equitable treatment, legitimate expectations or necessity when a state acts under crisis pressure. As a result, contemporary reform processes are often described as fragmented, targeting isolated elements of the system while leaving its underlying logic largely unchanged.

In parallel, the literature shows a growing divergence in the interpretation of the environmental dimension of international investment law. On the one hand, a number of studies emphasize the progressive institutionalization of environmental considerations within investment arbitration. Analyses of environmental clauses suggest a gradual incorporation of sustainability-oriented standards into treaty practice and arbitral reasoning. Within this perspective, environmental regulation is increasingly treated as an integral component of the investment regime. In contrast, this process is far from uniform. Hailes[20] demonstrates that environmental clauses in investment arbitration have deep doctrinal roots, but their regulatory effect remains uneven and highly dependent on specific treaty configurations. Létourneau Tremblay[21] develops this concern through the Eco Oro dispute, arguing that new treaty language requires a paradigm shift in the interpretation of investment

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[17] KORTUKOVA, T.; KOLOSOVSKYI, Y.; KOROLCHUK, O. L.; SHCHOKIN, R.; VOLKOV, A. S. "Peculiarities of the legal regulation of temporary protection in the european union in the context of the aggressive war of the russian federation against Ukraine", International Journal for the Semiotics of Law, v. 36, n. 2, 2023, p. 667-678. https://doi.org/10.1007/s11196-022-09945-y

[18] OLIINYK, O. S.; SHESTOPALOV, R. M.; ZAROSYLO, V. O.; STANKOVIC, M. I.; GOLUBITSKY, S. G. "Economic security through criminal policies: A comparative study of Western and European approaches", Revista Científica General José María Córdova, v. 20, n. 38, 2022, p. 265–285. https://doi.org/10.21830/19006586.899

[19] DEUTSCH, R.; BOZA, R. T.; SHAW, G. J. "ICSID Rules and Regulations 2022: Article-by-Article commentary", ICSID Review – Foreign Investment Law Journal, v. 38, n. 3, 2023, p. 722–727. https://doi.org/10.1093/icsidreview/siad018

[20] HAILES, O. "Environmental clauses in investment arbitration: Deep roots, green shoots and dead wood", ICSID Review – Foreign Investment Law Journal, v. 40, n. 2, 2026, p. 399–440. https://doi.org/10.1093/icsidreview/siaf003

[21] LÉTOURNEAU TREMBLAY, L. "In need of a paradigm shift: Reimagining Eco Oro v Colombia in light of new treaty language", The Journal of World Investment & Trade, v. 23, n. 5–6, 2022, p. 915–946. https://doi.org/10.1163/22119000-12340274

obligations where environmental regulation is involved. Teo et al.[22] further show that modern treaty drafting increasingly recalibrates investment protection standards by preserving regulatory space for host states and limiting excessive interpretive discretion. This suggests that the adaptation of investment law to environmental crises is selective rather than fully systemic, reflecting fragmented and context-dependent developments rather than a coherent doctrinal shift.

A similar tension appears at the level of general international economic law theory. Some scholars interpret contemporary transformations as part of a broader evolution of global economic governance, where trade, investment and financial regimes are becoming increasingly interconnected. Hankings-Evans et al.[23] present international economic law as a field that connects trade, investment and financial governance within the broader architecture of public international law. Marceau et al.[24] similarly argue that the World Trade Organization increasingly operates as a global governance forum rather than as a narrowly trade-focused institution. From this perspective, institutions such as the World Trade Organization are no longer viewed in isolation, but as elements of a wider regulatory architecture with indirect implications for investment law.

By contrast, another line of research emphasizes the persistence of fragmentation and uneven development across these regimes. This fragmentation complicates the formation of coordinated legal responses to global crises and limits the capacity of international economic law to function as an integrated system. The literature therefore reveals a tension between the theoretical movement toward systemic governance and the practical persistence of fragmented legal regimes. As a result, crisis-driven transformations tend to emerge unevenly across different regulatory domains.

Historical analyses further reinforce this divide. Newcombe and Paradell[25] show that the core standards of investment treaty law were historically developed under conditions in which investment protection was primarily associated with stability, security and depoliticization. These standards were not designed to address systemic or recurring crises. However, more recent empirical studies on investment policy and digital transformation point to an expanding role of state intervention and strategic regulation, particularly in the context of Industry 4.0 and global value chains. Nikonenko et al.[26] demonstrate that investment attraction policies increasingly depend on strategic state involvement in technologically transformed economic sectors. Prakash et al.[27] similarly show that participation in

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[22] TEO, J.; RICHTER, J.; KADU, S.; KHAW, T. "Rebalancing investment protection standards: Analysing the effectiveness of new treaty language in preserving regulatory space for host states", The Journal of World Investment & Trade, v. 25, n. 4, 2024, p. 497–534. https://doi.org/10.1163/22119000-12340335

[23] HANKINGS-EVANS, A.; AGARWALLA, S.; BAGCHI, K. "International economic law", In Public international law, Springer, 2024, p. 645–689. https://doi.org/10.4324/9781003451327-26

[24] MARCEAU, G.; TEO, J. L.; RAPPA, S. "Navigating the new frontiers in international trade: The World Trade Organization as a global governance forum", The Journal of World Investment Trade, v. 26, n. 3, 2025, p. 333. https://doi.org/10.1163/22119000-12340362

[25] NEWCOMBE, A.; PARADELL, L. "Historical development of investment treaty law", In A. Newcombe L. Paradell, Law and practice of investment treaties: Standards of treatment. Kluwer Law International, 2009. Available at: https://papers.ssrn.com/abstract=1375600 (accessed on 12 January 2026).

[26] NIKONENKO, U.; SHTETS, T.; KALININ, A.; DOROSH, I.; SOKOLIK, L. "Assessing the policy of attracting investments in the main sectors of the economy in the context of introducing aspects of Industry 4.0", International Journal of Sustainable Development and Planning, v. 17, n. 2, 2022, p. 497–505. https://doi.org/10.18280/ijsdp.170214

[27] PRAKASH, A.; CHEN, L.; SHRESTHA, R. "Digital transformation and Indo-Pacific's participation into GVCs", The Journal of World Investment Trade, v. 26, n. 4, 2025, p. 621–647. https://doi.org/10.1163/22119000-12340371

global value chains in the Indo-Pacific is closely connected with digital transformation and regulatory capacity. These developments challenge the foundational assumptions of classical investment law and indicate a shift in regulatory priorities. They also suggest that state intervention should no longer be treated as an exceptional deviation from market-oriented investment protection, but as a structural feature of contemporary economic governance.

At the same time, the role of international adjudicatory bodies is interpreted in different ways. Some scholars view them as stabilizing institutions that ensure consistency in the application of legal standards. Others argue that arbitral tribunals actively shape the development of regulatory norms, extending their influence beyond traditional investment disputes into broader areas of economic governance. Paine[28] supports the latter view by showing that international adjudication contributes to the development of regulatory standards rather than merely applying pre-existing rules. Luque Macías[29], however, demonstrates that transparency and state participation in investment dispute settlement remain uneven, particularly in Latin American practice. This divergence reflects a deeper uncertainty regarding the locus of legal transformation, whether it is driven primarily by treaty design, institutional reform or adjudicatory practice. For the present study, this uncertainty is central because it requires an analytical model capable of connecting treaty texts with arbitral reasoning.

Recent scholarship further clarifies the structural nature of transformations in international investment law under crisis conditions. Bellak and Leibrecht[30] empirically demonstrate that economic crises are associated with an increase in treaty-based investor-state arbitration disputes, indicating that crises act as catalysts of legal instability rather than isolated disruptions. At the same time, scholars emphasize the growing role of domestic regulatory frameworks, which increasingly reshape the balance between international obligations and national policy space. Chaisse and Dimitropoulos[31] argue that domestic investment laws have become significant instruments within the liberal international economic order because they influence how states mediate between international commitments and domestic regulatory priorities.

In parallel, sector-specific studies reveal that new treaty language, particularly in environmental disputes, contributes to a fragmented and context-dependent application of investment standards. This fragmentation is not merely a drafting problem. It reflects a broader uncertainty about whether investment protection should remain centered on investor expectations or be reconstructed around a more explicit balance between private rights and public interests. The findings of Létourneau Tremblay[32] and Teo et al.[33] are especially relevant here

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[28] PAINE, J. "International adjudication and the development of regulatory standards", Journal of International Economic Law, v. 27, n. 2, 2024, p. 371–377. https://doi.org/10.1093/jiel/jgae012

[29] LUQUE MACÍAS, M. J. "Inter-state investment dispute settlement in Latin America: Is there space for transparency?", The Journal of World Investment & Trade, v. 17, n. 4, 2016, p. 634–657. https://doi.org/10.1163/22119000-12340007

[30] BELLAK, C.; LEIBRECHT, M. "Do economic crises trigger treaty-based investor–state arbitration disputes?", Journal of International Economic Law, v. 24, n. 1, 2021, p. 127–155. https://doi.org/10.1093/jiel/jgab002

[31] CHAISSE, J.; DIMITROPOULOS, G. "Domestic investment laws and international economic law in the liberal international order", World Trade Review, v. 22, 2023, p. 1–17. https://doi.org/10.1017/S1474745622000404

[32] LÉTOURNEAU TREMBLAY, L. "In need of a paradigm shift: Reimagining Eco Oro v Colombia in light of new treaty language". 2022. Ibid.

[33] TEO, J.; RICHTER, J.; KADU, S.; KHAW, T. "Rebalancing investment protection standards: Analysing the effectiveness of new treaty language in preserving regulatory space for host states". 2024. Ibid.

because both studies show that treaty language can narrow arbitral discretion, but neither fully explains how these textual changes interact with arbitral reasoning across different crisis contexts. From a governance perspective, these developments reflect a broader shift away from purely investor-centric models toward more complex institutional configurations, where issues of transparency, state participation and legitimacy become increasingly central.

Taken together, these competing perspectives reveal a fundamental limitation in the existing literature. While individual strands of research provide valuable insights into specific aspects of crisis-induced change, they fail to offer a holistic explanatory model capable of accounting for the transformation of international economic law principles under the impact of global crises. The reviewed studies explain separate dimensions of the problem: sovereign debt enforcement, legal cognition, due diligence, remedies, emergency governance, procedural reform, environmental clauses, global economic governance, historical treaty development, digital transformation, adjudicatory standard-setting, transparency, crisis-triggered arbitration and domestic investment regulation. However, they rarely examine these dimensions as parts of a single transformation process. This gap necessitates a systemic analytical approach that integrates institutional, regulatory and structural dimensions in order to reconceptualize the investment protection regime within the contemporary global legal order. The present study addresses this gap by linking treaty design, arbitral interpretation and crisis governance within one framework, thereby explaining how global crises reshape the principles of international economic law and the normative logic of investment protection.

3. Materials and methods

The research methodology is structured as a step-by-step analytical framework comprising three interrelated stages. They are designed to identify the transformation of the international economic law principles under crisis conditions at both the regulatory and law-application levels. At the first stage, a normative analysis of international investment treaties was conducted. For this purpose, a corpus of 25 bilateral and multilateral international investment treaties concluded or in force between 2000 and 2024 was compiled. This temporal scope encompasses both a pre-crisis period characterized by relative stability of the investment regime and a subsequent phase of transformation following the global financial crisis of 2008, as well as later economic, environmental and regulatory crises. The analysis at this stage focused on the content, structure and evolution of core investment protection standards as reflected in treaty texts.

The second stage involved an examination of investment arbitration practice, enabling a correlation between treaty norms and their practical application. The objective of this stage was to identify shifts in the interpretative approaches adopted by international investment tribunals with respect to investment protection standards in the context of crisis management. The third stage consisted of a comparative assessment of the findings from the normative and arbitral analyses. During this stage, treaty provisions were systematically compared with the reasoning and arguments of arbitral tribunals in order to distinguish between pre-crisis and crisis-specific interpretative models governing the application of the principles of international economic law.

Within the framework of this study, a set of interrelated legal methods was employed to identify transformations in the principles of international economic law at both the regulatory and law-enforcement levels. The core analytical instrument was the normative-dogmatic method, applied to the analysis of international investment treaties. It was utilized in order to detect changes in the formulation and structure of key investment protection standards, including fair and equitable treatment, the protection of legitimate investor expectations, umbrella clauses, the

state's right to regulate as well as environmental and public-interest reservations. Concurrently, the interpretive legal method was used to examine the reasoning sections of arbitral awards rendered by international investment tribunals. This approach made it possible to clarify interpretive techniques applied to these standards in crisis contexts and to trace the evolution of arbitral reasoning concerning the limits of state regulatory discretion. To compare pre-crisis and crisis approaches to the application of international economic law principles at both the treaty and enforcement levels, the comparative legal method was employed. Basically, this enabled the identification of differences in interpretive models and in the logic governing the balance between investor protection and public interests. The generalization of findings and the construction of a coherent analytical model of the transformation of the international investment regime were carried out using a systematic method. The said method ensured the integration of treaty-based and arbitral analyses into a unified research framework.

The regulatory sample comprises 25 international investment treaties selected based on the following criteria: inclusion of core investment protection standards; entry into force or conclusion between 2000 and 2024; and subsequent use or interpretation in arbitral practice. This sample allows for the identification of prevailing trends in the evolution of treaty approaches while maintaining analytical depth.

The empirical sample consists of 40 arbitral awards issued between 2000 and 2024 under the frameworks of ICSID, UNCITRAL, and ad hoc arbitration. From a geographical perspective, the sample includes disputes involving states from Europe, Latin America, and Asia, thereby reducing regional bias. From a typological perspective, the selected disputes relate to financial, regulatory, and environmental crises, since these categories most clearly reveal tensions between investment protection and state regulatory sovereignty.

The study does not aim to achieve statistical representativeness. Instead, it employs a purposive qualitative sampling strategy designed to capture structurally relevant variation in treaty design and arbitral reasoning under crisis conditions.

The selection of treaties and arbitral awards was guided by the principle of analytical comparability rather than numerical balance. In particular, the sample prioritizes cases in which investment protection standards are explicitly tested under crisis-related regulatory measures, including financial instability, environmental regulation, public health interventions, and security-related restrictions.

To address potential concerns regarding sample unevenness, the study applies three control mechanisms. First, temporal balance is ensured by including both pre-crisis (pre-2008) and crisis-era (post-2008) instruments and decisions. Second, institutional diversity is maintained through the inclusion of ICSID, UNCITRAL, and ad hoc arbitration cases. Third, geographical variation is incorporated by covering disputes involving states from Europe, Latin America, and Asia.

This design allows the study to identify recurring interpretive patterns across different legal and institutional contexts, while avoiding over-reliance on any single jurisdiction, arbitral forum, or type of crisis.

For the purposes of this study, the concept of "global crises" is operationalized through a typology of crisis contexts that affect the regulatory environment of host states. Four categories are identified: (1) financial crises, including systemic economic instability and sovereign debt disruptions; (2) environmental crises, including climate-related regulatory measures and resource protection policies; (3) public health crises, involving emergency measures adopted to protect population health; and (4) armed conflict and security-related crises, affecting state capacity and regulatory priorities.

These categories are treated as analytically comparable, as they produce structurally similar legal effects. In each case, crisis conditions expand the

regulatory space of the state and require a rebalancing between investment protection and public interest considerations. Accordingly, the study approaches these different crisis types as functionally equivalent in terms of their impact on the interpretation and application of international investment law principles.

To ensure analytical consistency and methodological transparency, key concepts used in the study were operationalized as follows. "Pre-crisis interpretation" refers to treaty formulations and arbitral reasoning developed prior to the global financial crisis of 2008, characterized by a predominance of stability-oriented and investor-centric approaches. "Crisis interpretation" refers to interpretive approaches developed after 2008 or in cases explicitly linked to crisis contexts, including financial instability, environmental regulation, public health measures, or systemic economic disruption.

A "systemic shift" is defined as a consistent and observable pattern of change across both treaty practice and arbitral reasoning, indicating a reconfiguration of the underlying logic of the investment regime rather than isolated or case-specific deviations. For the purposes of empirical analysis, arbitral awards were categorized according to their dominant interpretive orientation using a structured coding procedure. Three analytical categories were identified: Category A (investor-protective), Category B (balanced), and Category C (regulatory sovereignty-oriented).

The classification was based on a set of explicit interpretive indicators applied consistently across all cases. Category A includes awards in which tribunals adopt an expansive interpretation of investment protection standards, particularly the fair and equitable treatment (FET) standard, derive legitimate expectations from general regulatory stability, and apply a restrictive or narrow interpretation of necessity and public-interest defenses. Category B includes awards characterized by contextual reasoning, in which tribunals explicitly balance investor protection against public interests, frequently relying on proportionality or reasonableness tests. Category C includes awards in which tribunals prioritize the state's right to regulate, explicitly subordinate investment protection to public policy objectives, and justify regulatory measures in crisis contexts.

To ensure analytical consistency, each award was examined through a standardized analytical protocol focusing on (1) the interpretation of FET, (2) the treatment of legitimate expectations, (3) the role of necessity and public-interest arguments, and (4) the presence of proportionality analysis. Classification was determined based on the dominant reasoning pattern reflected in the tribunal's final justification. In cases of interpretive ambiguity or mixed reasoning, categorization was based on the prevailing argumentative logic of the decision rather than isolated elements of reasoning. Where tribunals demonstrated hybrid approaches, priority was assigned to the element that most strongly influenced the outcome of the case.

The coding process was conducted through iterative analysis and cross-comparison of decisions to ensure internal consistency. Nevertheless, given the qualitative nature of the analysis, a degree of interpretive subjectivity cannot be fully excluded, which constitutes a limitation of the study. The use of explicit interpretive indicators and a standardized coding framework ensures the reproducibility of the classification and allows the analytical model to be applied in future research.

The inclusion criteria for arbitral awards were as follows: official status; the presence of a reasoned decision; direct engagement with investment protection standards or the limits of state regulatory authority as well as a clear connection to crisis-related circumstances. Awards of a purely procedural nature or those lacking substantive legal analysis of the relevant principles were excluded. The study's limitations stem from its focus on crisis-related investment disputes and the absence of quantitative comparative methods. In such a way it reflected the objective of identifying qualitative, rather than statistical shifts in the principles of

international economic law and the logic of their application. A detailed list of treaties and arbitral awards included in the sample is provided in Appendix A and Appendix B.

4. Results

4.1. Changing the regulatory content of the principles of investment protection in the context of global crises

The regulatory analysis of a corpus of 25 international investment treaties reveals a systemic shift in the regulatory logic underlying the core principles of investment protection, driven by the impact of global financial, economic and regulatory crises. The contractual paradigm of the 1990s prioritized maximum stability and predictability for investors. In contrast, contemporary investment agreements increasingly reflect a reorientation toward balancing investor protection with the preservation of regulatory autonomy for states.

First, the study establishes that the normative content of the fair and equitable treatment (FET) standard has undergone a qualitative narrowing. In earlier treaties, FET operated as an open-ended standard capable of encompassing a broad range of state conduct. Unlike the said case, in agreements concluded or revised following successive global crises, the FET obligation is increasingly circumscribed through exhaustive lists of violations or explicitly linked to the international minimum standard of treatment. Evidently, this recalibration limits interpretive discretion and reduces the risk of FET being invoked as a universal basis for state liability in crisis-related contexts[34,35].

A comparable trend is evident in the regulation of legitimate investor expectations. Thus, whereas classical bilateral investment treaties implicitly derived this element from the FET standard and allowed investors to rely on the general stability of the regulatory framework, newer agreements either explicitly limit its scope or condition it on specific and individualized assurances provided by the host state. As a result, regulatory emphasis shifts from abstract expectations of stability to formally expressed commitments, considerably narrowing the basis for claims arising from crisis-induced policy changes[36].

The analysis also identifies a transformation in the function of the umbrella clause. In investment treaties of the 1990s, this provision frequently served to "internationalize" contractual obligations undertaken by the state. However, in more recent agreements the umbrella clause is often omitted or accompanied by provisions that exclude regulatory acts from its scope. This development reflects a deliberate effort by states to prevent the elevation of domestic contractual disputes to the level of international responsibility, particularly in the context of crisis governance[37].

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[34] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). Fair and equitable treatment: A sequel, 2012. Available at: https://unctad.org/system/files/official-document/unctaddiaeia2011d5_en.pdf (accessed on 12 January 2026).

[35] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). International Investment Agreements Navigator, n.d. Available at: https://investmentpolicy.unctad.org/international-investment-agreements (accessed on 12 January 2026).

[36] EUROPEAN UNION GOVERNMENT OF CANADA. Comprehensive Economic and Trade Agreement (CETA), Chapter 8: Investment, 2016. Available at: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/canada_en (accessed on 12 January 2026).

[37] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). International investment agreements, n.d. Available at: https://www.oecd.org/investment/internationalinvestmentagreements/ (accessed on 12 January 2026).

At the same time, the study highlights the emergence of a new element in the architecture of investment treaties. Specifically, this is an explicit institutionalization of the state's right to regulate. In the agreements examined, this right is articulated as an autonomous treaty norm affirming the legitimacy of regulatory measures aimed at safeguarding financial stability, environmental protection, public health and energy security. This marks a shift from an implicit acceptance of regulatory authority to its express normative consolidation. Also, it substantially recalibrates the balance of interests within the international investment regime[38,39].

Last but not least, a notable strengthening of environmental and public-interest reservations is observed. While such provisions were absent or largely declaratory in earlier treaties, contemporary agreements integrate them into the structure of investment protection standards. They are utilized to limit state liability for measures adopted in response to environmental or social crises. This evolution confirms a broader transition from an investor-centric model toward a more public-oriented conception of international investment law[40]. The summarized results of the normative analysis are consolidated in Table 1.

Table 1. Changing the regulatory content of the principles of investment protection against the backdrop of global crises.

Principle of investment protection	**Treaties of the 1990s**	**Modern treaties**
Fair and equitable treatment	It is formulated as an open and autonomous standard with no internal limitations or definitions	Detailed by linking to the minimum standard of customary international law and limiting the discretion of tribunals
Legitimate expectations	Derived from the general regulatory stability and general promises of the state	Are associated exclusively with specific, clearly formulated and targeted assurances
Umbrella clause	It is enshrined in a broad version that raises contractual obligations to the level of international law	Narrowed, modified, or excluded from the contractual structure
The right of the state to regulate	It is not directly fixed and is indirectly derived from arbitration practice	Autonomously codified as a separate contractual principle
Environmental and public warnings	These are fragmentary or declarative in nature	Integrated as a systemic element of the balance between investment protection and public interests

Source: Consolidated by the author based on Energy Charter Secretariat[41], European Union & Government of Canada[42], UNCITRAL[43,44,45], UNCTAD[46,47], OECD[48].

[38] ENERGY CHARTER SECRETARIAT. Energy Charter Treaty, 1994. Available at: https://www.energycharter.org/process/energy-charter-treaty-1994/ (accessed on 12 January 2026).
[39] EUROPEAN UNION GOVERNMENT OF CANADA. Comprehensive Economic and Trade Agreement (CETA), Chapter 8: Investment. 2016. Ibid.
[40] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). Fair and equitable treatment: A sequel. 2012. Ibid.
[41] ENERGY CHARTER SECRETARIAT. Energy Charter Treaty. 1994. Ibid.
[42] EUROPEAN UNION GOVERNMENT OF CANADA. Comprehensive Economic and Trade Agreement (CETA), Chapter 8: Investment. 2016. Ibid.
[43] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Possible reform of investor–State dispute settlement (ISDS): Note by the Secretariat (A/CN.9/1004). United Nations, 2019. Available at: https://uncitral.un.org/sites/uncitral.un.org/files/note_by_the_secretariat_-_assessment_of_damages_and_compensation_.pdf (accessed on 12 January 2026).

Thus, the results obtained make it possible to arrive at the conclusion that global crises acted not only as a trigger for targeted contractual changes, but also as a catalyst for a deeper regulatory reconfiguration of the principles of international investment law. This reconfiguration forms a new model of investment protection, in which the stability of investor rights is no longer absolute, but correlates with the legitimate boundaries of state regulation in times of crisis.

4.2. Transformation of arbitration practice on the balance between investor protection and regulatory sovereignty of states

The analysis of arbitration practice indicates a systemic shift in the balance between investment protection and state regulatory sovereignty in crisis and post-crisis contexts. Depending on the nature of the crisis and the type of regulatory intervention, this evolution is reflected in different models of arbitral interpretation.

Early decisions of investment tribunals prioritized the stability of the investment regime and applied a broad interpretation of protection standards. Over time, however, a different approach emerged, in which state anti-crisis measures are assessed as a legitimate exercise of public authority rather than as an automatic violation of contractual obligations. This evolution reflects a shift from an investor-centric model toward a more conditional and context-sensitive approach to investment protection.

At the same time, the analysis also identified a number of arbitral decisions that maintained a predominantly investor-protective approach even in crisis contexts. In such cases, tribunals continued to apply a strict interpretation of investment protection standards, emphasizing legal certainty and the stability of the regulatory framework. These decisions demonstrate that the transformation of the investment regime is not uniform and remains characterized by a degree of interpretive inconsistency.

However, the analysis also reveals the presence of arbitral decisions that do not conform to the identified trend toward contextualized and regulatory-oriented interpretation. In a number of cases, tribunals have maintained a predominantly investor-protective approach even under crisis conditions, emphasizing the principles of legal certainty and the stability of the regulatory framework. This is particularly evident in cases such as Sempra Energy v Argentina and Enron v Argentina, where tribunals rejected a broad application of the necessity doctrine and upheld a strict interpretation of the fair and equitable treatment standard. In these decisions, crisis circumstances were not considered sufficient to justify significant deviations from treaty obligations. Similarly, certain awards continue to demonstrate inconsistency in the application of proportionality and legitimate expectations, reflecting a lack of uniformity in arbitral reasoning. This divergence suggests that the transformation of international investment law is neither linear

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[44] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Investor–State dispute settlement reform: Structural reform options (A/CN.9/1044). United Nations, 2021. Available at: https://undocs.org/en/A/CN.9/1044 (accessed on 12 January 2026).

[45] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Consistency and correctness in ISDS adjudication (Working Group III documents). United Nations, 2023. Available at: https://uncitral.un.org/en/working_groups/3/investor-state (accessed on 12 January 2026).

[46] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). Fair and equitable treatment: A sequel. 2012. Ibid.

[47] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). International Investment Agreements Navigator. n.d. Ibid.

[48] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). International investment agreements. n.d. Ibid.

nor fully consolidated, but rather characterized by competing interpretive approaches.

In addition to the Latin American disputes forming the core empirical basis of the analysis, the sample also includes cases involving European and Asian jurisdictions, which provide an important comparative perspective. In particular, disputes such as Achmea v Slovakia, White Industries v India and Ping An v Belgium illustrate how interpretive approaches to investment protection standards evolve outside the Latin American context.

These cases demonstrate that the shift toward contextualized and proportionality-based reasoning is not confined to a single regional practice, but reflects a broader tendency within international investment arbitration. At the same time, they reveal a higher degree of variability in interpretive outcomes, particularly in Asian-related disputes, where tribunals continue to oscillate between investor-protective and more balanced approaches.

This divergence becomes particularly evident when comparing the reasoning adopted in CMS Gas Transmission Company v Argentina and LG&E Energy Corp. v Argentina. In CMS, the tribunal applied a restrictive interpretation of the necessity doctrine, emphasizing the continued applicability of treaty obligations despite severe economic crisis. By contrast, in LG&E, the tribunal recognized the possibility of temporary derogation from treaty standards, explicitly acknowledging the exceptional nature of the crisis and the need to preserve the functioning of the state.

A similar tension is observed in environmental disputes. In Eco Oro Minerals Corp. v Colombia, the tribunal accepted the legitimacy of environmental protection measures but nevertheless found a breach of investment obligations due to the structure of treaty commitments. This case illustrates that even where regulatory sovereignty is recognized, its practical effect remains conditioned by the wording of treaty standards and the interpretive approach of the tribunal.

Further evolution of this approach can be traced in cases related to regulatory and structural reforms, where the context of crisis management was combined with long-term policies of economic transformation[49]. In Continental Casualty vs Argentina, the arbitral tribunal expressly recognized that economic stabilization measures may comply with the FET standard if they are proportionate and aimed at protecting fundamental public interests[50]. A similar logic was applied in the cases of AES Summit vs Hungary and Electrabel vs Hungary. In the said ase, the tribunals emphasized that an investor cannot count on the complete immutability of the regulatory environment, especially in the areas of energy and public services[51,52].

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[49] "Agreement for the Promotion And Reciprocal Protection of Investments Between The Republic of Argentina and The Kingdom of Spain". UNCTAD Investment Policy Hub, 1991b. Available at: https://edit.wti.org/document/show/906eff11-67f0-4fed-afb9-3f6a725b5c76 (accessed on 12 January 2026).

[50] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Continental Casualty Company v. Argentine Republic (ICSID Case No. ARB/03/9) Award (5 September 2008)", 2008. International Centre for Settlement of Investment Disputes. Available at: https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/03/9 (accessed on 12 January 2026).

[51] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "AES Summit Generation Limited v. Republic of Hungary (ICSID Case No. ARB/07/22) Award (23 September 2010)". 2010. Available at: https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/07/22 (accessed on 12 January 2026).

[52] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Electrabel S.A. v. Republic of Hungary (ICSID Case No. ARB/07/19) Award (25 November 2015)", 2015. Available at: https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/07/19 (accessed on 12 January 2026).

These decisions enshrined the principle of contextual assessment of investment expectations within the dynamic regulatory space.

In disputes related to environmental and social regulation was manifested the clearest normative design of the new balance model. In the case of Philip Morris vs The Uruguay Tribunal has clearly reaffirmed the right of the State to regulate healthcare, finding that fair and non-discriminatory regulatory measures do not constitute a breach of investment standards, even if there is a negative impact on the investor[53]. A similar approach can be seen in the cases of Vattenfall vs Germany, Charanne vs Spain and Eco Oro vs Colombia, where environmental and climate goals were recognized as a legitimate basis for limiting investment expectations[54,55,56]. In these decisions, the standard of investor protection was directly subordinated to the principle of proportionality and the need to protect public goods, which indicates the consolidation of regulatory sovereignty as a structural element of the modern investment regime. A synthesized overview of arbitral approaches to the relationship between investment protection and regulatory sovereignty across different crisis contexts is provided in Table 2.

Table 2. Evolution of arbitration approaches to the balance between investor protection and regulatory sovereignty in crisis contexts.

Type of crisis context	**Representative cases**	**Approach to FET and legitimate expectations**	**The role of regulatory sovereignty**
Financial crisis	CMS vs Argentina; El Paso vs Argentina	Extended interpretation of FET; Narrow application of the doctrine of necessity	Limited, mostly subsidiary
Financial crisis (alternative approach)	LG&E vs Argentina	Temporary restriction of protection standards	Recognized subject to time constraints
Regulatory and structural reforms	Continental Casualty vs Argentina; AES Summit vs Hungary; Electrabel vs Hungary	Contextualized interpretation of FET; limiting the stability of expectations	Integrated as an element of legitimate politics
Environmental and social regulation	Philip Morris vs Uruguay; Vattenfall vs Germany; Charanne vs Spain; Eco Oro vs Colombia	Priority of proportionality and public interest	Enshrined as a structural principle

Source: consolidated by the author on the basis of an analysis of ICSID and UNCITRAL arbitration practice (2005–2021).

[53] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Philip Morris Brands Sàrl, Philip Morris Products S.A., and Abal Hermanos S.A. v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7) Award (8 July 2016),"2016a. Available at: https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/10/7 (accessed on 12 January 2026).

[54] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Charanne B.V. and Construction Investments S.à r.l. v. Kingdom of Spain (SCC Case No. 062/2012) Final Award (21 January 2016)", 2016b. Available at: https://investmentpolicy.unctad.org/investment-dispute-settlement/cases/848/charanne-v-spain (accessed on 12 January 2026).

[55] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Vattenfall AB and others v. Federal Republic of Germany (ICSID Case No. ARB/12/12) (Energy Charter Treaty)", n.d. https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/12/12

[56] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Eco Oro Minerals Corp. v. Republic of Colombia (ICSID Case No. ARB/16/41) Decision on Liability (9 September 2021)", 2021. Available at: https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/16/41 (accessed on 12 January 2026).

A comparative analysis of arbitral practice further reveals a transformation in approaches to the concept of legitimate expectations. Whereas in early disputes investor expectations were frequently inferred from the general stability of the legal and regulatory framework, more recent decisions increasingly link them to specific, explicit, and clearly documented assurances provided by the host state. This jurisprudential evolution aligns with the provisions of modern investment treaties and with the reform directions advanced within UNCITRAL Working Group III. They emphasize enhanced legal predictability and the curtailment of excessive interpretive discretion on the part of arbitral tribunals[57, 58, 59].

The findings indicate that arbitral practice no longer treats investment protection as an absolute or self-standing value. Instead, a model of dynamic balancing has emerged, under which state regulatory sovereignty is recognized as an inherent component of the international investment regime, particularly in the context of global financial, environmental, and social crises. This transformation is systemic rather than episodic and closely correlates with both the contractual evolution of investment law and ongoing institutional reforms of the investor–state dispute settlement (ISDS) mechanism.

4.3. Comparative interpretive models of applying the principles of international economic law in pre-crisis and crisis contexts

A comparative analysis of interpretive models applied to the principles of international economic law in pre-crisis and crisis contexts reveals a systemic shift in the logic of law enforcement in investment arbitration. The findings indicate that the transformation of the international investment regime occurs primarily at the level of interpretation and legal reasoning rather than through formal amendments to treaty texts. This observation confirms the study's central hypothesis regarding the quasi-dynamic nature of the principles of international economic law, whose content and application are sensitive to crisis conditions.

In pre-crisis contexts (conventionally up to 2008), a stabilization-oriented interpretive model predominated. Within this framework, investment treaties were treated as instruments designed to entrench the existing legal and regulatory environment. However, state sovereignty was conceptualized through the lens of voluntary self-restraint assumed by states upon treaty conclusion. Arbitral tribunals tended to adopt an autonomous and expansive interpretation of the fair and equitable treatment standard, increasingly separating it from the general law of state responsibility[60]. Legitimate investor expectations were derived not only from specific and individualized assurances. Additionally, it is due to the overall stability of the regulatory framework in place at the time the investment was made.

This interpretive logic is particularly evident in disputes arising from Argentina's financial crisis. In CMS Gas Transmission Company vs Argentina[61], the tribunal held that macroeconomic crisis conditions did not release the state from its treaty obligations and that the doctrine of necessity constituted an exceptional defense

[57] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Possible reform of investor–State dispute settlement (ISDS): Note by the Secretariat (A/CN.9/1004). 2019. Ibid.
[58] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Investor–State dispute settlement reform: Structural reform options (A/CN.9/1044). 2021. Ibid.
[59] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Consistency and correctness in ISDS adjudication(Working Group III documents). 2023. Ibid.
[60] UNITED NATIONS Conference on Trade and Development (UNCTAD). Fair and equitable treatment: A sequel. 2012. Ibid.
[61] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "CMS Gas Transmission Company v. Argentine Republic, ICSID Case No. ARB/01/8. Award". 2005. Ibid.

subject to strict and narrow application[62]. With certain refinements, comparable approach as adopted in El Paso Energy International Company vs Argentina[63]. The stability of the legal regime was reaffirmed as a core element of investment protection. At the same time, LG&E vs Argentina[64] marked the first cautious attempt to accommodate the extraordinary nature of the economic crisis. Though it was without fundamentally revising the prevailing balance between investor protection and state regulatory authority.

A gradual shift toward a crisis-oriented interpretive model becomes discernible in arbitral practice following the global financial crisis of 2008. It is even more pronounced in disputes implicating public interests, public health and environmental protection. Under these conditions, arbitral tribunals increasingly demonstrate a willingness to integrate principles of the international law of state responsibility and the concept of regulatory sovereignty into the interpretation of investment protection standards[65]. This shift is clearly illustrated by the decision in *Continental Casualty vs Argentina*, in which the tribunal acknowledged that state measures adopted to address a systemic financial crisis may be justified under international law, even where they adversely affect investor interests[66]. Consequently, the fair and equitable treatment standard stops to function as an absolute benchmark. Instead, it is interpreted in light of the legitimacy and proportionality of public policy objectives pursued by the state.

The crisis interpretive model is articulated even more explicitly in cases concerning regulatory and environmental measures. In *Philip Morris vs Uruguay*, the tribunal unequivocally affirmed the primacy of the state's right to regulate in the field of public health. The claim was rejected that the strengthening of anti-tobacco legislation violated the investor's legitimate expectations[67]. A similar reasoning is evident in energy-sector disputes such as *Vattenfall vs Germany* and *Charanne vs Spain.* In this case, regulatory adjustments adopted in response to energy and climate challenges were assessed through the lenses of proportionality and public interest rather than through an expectation of regulatory immutability[68, 69].

Comparative analysis further demonstrates that the crisis interpretive model is gradually being consolidated at the normative level. Recent investment agreements,

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[62] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "CMS Gas Transmission Company v. Argentine Republic, ICSID Case No. ARB/01/8. Award". 2005. Ibid.
[63] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "El Paso Energy International Company v. Argentine Republic, ICSID Case No. ARB/03/15. Award". 2011. Ibid.
[64] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "LG&E Energy Corp., LG&E Capital Corp., LG&E International Inc. v. Argentine Republic, ICSID Case No. ARB/02/1. Decision on Liability". 2006. Ibid.
[65] INTERNATIONAL LAW COMMISSION. Articles on responsibility of states for internationally wrongful acts. United Nations, 2001. Available at: https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf (accessed on 12 January 2026).
[66] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Continental Casualty Company v. Argentine Republic (ICSID Case No. ARB/03/9) Award (5 September 2008)". 2008. Ibid.
[67] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Philip Morris Brands Sàrl, Philip Morris Products S.A., and Abal Hermanos S.A. v. Oriental Republic of Uruguay (ICSID Case No. ARB/10/7) Award (8 July 2016)". 2016a. Ibid.
[68] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Charanne B.V. and Construction Investments S.à r.l. v. Kingdom of Spain (SCC Case No. 062/2012) Final Award (21 January 2016)". 2016b. Ibid.
[69] INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES. "Vattenfall AB and others v. Federal Republic of Germany (ICSID Case No. ARB/12/12) (Energy Charter Treaty)". n.d. Ibid.

most notably the investment chapter of CETA, contain explicitly articulated provisions affirming the state's right to regulate and constraining the autonomous and expansive interpretation of the fair and equitable treatment standard[70]. Parallel tendencies are reflected in the work of UNCITRAL Working Group III, where the reform of investor–state dispute settlement is framed as a necessary mechanism for restoring an appropriate balance between investor protection and the public interests of states[71,72,73]. On the basis of these findings, two distinct yet interrelated interpretive models may be identified. Their defining characteristics are summarized in Table 3.

Table 3. Comparative interpretive models of applying the principles of international economic law.

Criteria	**Pre-crisis model**	**Crisis model**
The role of the state	Self-limitation of regulatory sovereignty	Active bearer of public interests
FET	Standalone and extended standard	Contextualized and limited
Legitimate expectations	Deduced from general stability	Related to specific assurances
Doctrine of necessity	Narrow application	Integrated into the argumentation
Balance of interests	Investor's priority	Proportionality and public interest

Source: consolidated by the author on the basis of an analysis of ICSID and SCC arbitration practice (2005–2021), the provisions of the Energy Charter[74], bilateral investment treaties and UNCITRAL Working Group III materials[75,76,77].

The inclusion of cases from different regional contexts further confirms that the identified interpretive transformation cannot be reduced to a region-specific phenomenon. At the same time, the sample demonstrates a degree of regional imbalance, with a concentration on Latin American disputes, particularly those arising from the Argentine financial crisis. While these cases are doctrinally central to the development of investment arbitration, this concentration may limit the generalizability of findings across other regional contexts.

Given the above, the results of the study confirm that the transition from a pre-crisis to a crisis-oriented interpretive model is not a situational or episodic development but a structural phenomenon. It reflects a deeper transformation of international economic law, specifically in which investment protection principles are reinterpreted as components of a flexible regulatory framework. The latter is

[70] EUROPEAN UNION GOVERNMENT OF CANADA. Comprehensive Economic and Trade Agreement (CETA), Chapter 8: Investment. 2016. Ibid.
[71] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Working Group III: Investor–State dispute settlement reform. United Nations, 2019–2024. Available at: https://uncitral.un.org/en/working_groups/3/investor-state (accessed on 12 January 2026).
[72] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Investor–State dispute settlement reform: Structural reform options (A/CN.9/1044). 2021. Ibid.
[73] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Consistency and correctness in ISDS adjudication(Working Group III documents). 2023. Ibid.
[74] ENERGY CHARTER SECRETARIAT. Energy Charter Treaty. 1994. Ibid.
[75] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (UNCITRAL). Working Group III: Investor–State dispute settlement reform. 2019–2024. Ibid.
[76] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD). Fair and equitable treatment: A sequel. 2012. Ibid.
[77] ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD). International investment agreements. n.d. Ibid.

capable of adapting to global crises while preserving normative coherence and institutional legitimacy.

5. Discussion

The findings of this study refine the understanding of how crisis conditions reshape arbitral reasoning in international investment law. Rather than simply confirming existing observations, the analysis shows that the shift toward context-sensitive adjudication operates at a deeper structural level than previously assumed.

In line with prior research emphasizing the growing importance of political and institutional context in arbitral decision-making[78], the results indicate that tribunals increasingly assess not only the formal compliance of state measures, but also the stability and functionality of public institutions under crisis conditions. At the same time, the present study goes further by demonstrating that this transformation extends beyond decision-making context to the normative structure of investment protection standards themselves. As a result, the internal logic of these standards is being reshaped.

The contribution of this study becomes clearer when positioned against existing analytical frameworks. Approaches developed within UNCTAD and UNCITRAL mainly focus on procedural reform and institutional redesign of the investor–state dispute settlement system, with an emphasis on transparency, consistency, and legitimacy. While these contributions are important, they remain limited to the institutional level and do not explain how crisis conditions affect the internal structure of legal standards.

Similarly, theoretical contributions by Christian Riffel and Christina Titi conceptualize transformation in terms of legitimacy constraints and the public–private law divide. However, these approaches remain largely normative and do not provide an operational method for identifying such changes in arbitral reasoning.

By contrast, the present study advances a structured and empirically grounded model of transformation, integrating treaty design and arbitral practice within a unified analytical framework. Its distinctive contribution lies in the operationalization of interpretive change through a replicable classification of arbitral decisions (A/B/C categories), which allows for the systematic identification — rather than descriptive assertion — of a shift from investor-centric to context-sensitive adjudication. In this respect, the study does not merely extend existing approaches, but addresses a methodological gap that remains unresolved in both institutional and doctrinal scholarship.

Unlike prior research, which tends to examine treaty design and arbitral interpretation separately, the present study demonstrates their interdependence as a driver of systemic change in international investment law. A similar pattern of partial convergence and divergence can be observed in relation to earlier theoretical models of investment law development. While the multilateralization thesis conceptualizes the evolution of the investment regime as a process unfolding within a broadly liberal and coherence-oriented paradigm[79], the empirical evidence presented here indicates that crisis conditions generate a parallel trajectory characterized by fragmentation and contextualization. This suggests that transformation is not simply a continuation of existing trends, but a reconfiguration of the conditions under which legal standards are interpreted and applied.

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[78] REES-EVANS, L.; CARVOSSO, R. "'Maduro Board' of the Central Bank of Venezuela v 'Guaidó Board' of the Central Bank of Venezuela", ICSID Review – Foreign Investment Law Journal, v. 38, n. 2, 2023, p. 294–301. https://doi.org/10.1093/icsidreview/siad004

[79] RIPINSKY, S. "Stephan W. Schill. The Multilateralization of International Investment Law", European Journal of International Law, v. 22, n. 2, 2011, p. 598–602. https://doi.org/10.1093/ejil/chr038

The results further corroborate the growing centrality of the state's right to regulate, particularly in areas such as public health and environmental protection[80]. However, the analysis extends beyond sector-specific observations by demonstrating that this regulatory logic operates across diverse categories of crises. In this sense, the prioritization of public interests should be understood not as a sectoral adjustment, but as a broader restructuring of the hierarchy of values underlying investment protection.

At the same time, the findings challenge interpretations that frame the "return of the state" exclusively through the institutional reform of dispute settlement mechanisms. The evidence presented here indicates that transformation is already embedded in arbitral reasoning itself, as tribunals increasingly rely on proportionality, contextual evaluation, and crisis-sensitive justification. This supports the conclusion that current developments reflect not only institutional change, but also a deeper shift in interpretive practice.

From a conceptual standpoint, the results provide empirical grounding for the idea of "fairness as balance," understood not as a negotiated compromise but as a structured normative hierarchy in which public interests may prevail under specific conditions[81]. Importantly, the analysis demonstrates that this concept is not merely theoretical but is operationalized in arbitral reasoning, particularly in crisis-related disputes where the boundaries of investor protection are actively redefined.

More broadly, the findings resonate with methodological approaches that emphasize the transformation of legal concepts in response to evolving social and political conditions[82]. In this respect, the observed changes in investment law should be understood not as isolated doctrinal adjustments but as part of a wider process of normative evolution within public law, where traditional legal categories are reinterpreted under conditions of systemic stress. At the same time, the increasing role of local communities and social considerations further reinforces the conclusion that investment law is undergoing a structural transformation extending beyond individual disputes[83].

At the same time, however, the analysis reveals a number of unresolved tensions that qualify the scope of this transformation. Divergences in arbitral reasoning indicate that the shift toward context-sensitive adjudication remains incomplete and contested. Traditional investor-protective interpretations continue to coexist alongside more context-oriented approaches, suggesting that the transformation does not follow a linear trajectory.

A more detailed consideration of countervailing arbitral practice further clarifies this point. A number of awards — including Sempra v Argentina, Enron v Argentina, and Metalclad v Mexico — continue to reflect a predominantly investor-centric interpretive logic, characterized by an expansive reading of the fair and equitable treatment standard and a restrictive approach to necessity and public-interest

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[80] TAABEER, ALI, F.; SHAHID, A. "Investment law and the right to regulate public health and environmental protection", Journal of Social Sciences Review, v. 4, n. 4, 2024, p. 422. Available at: https://jssr.com.pk/index.php/jssr/article/view/422 (accessed on 12 January 2026).

[81] VAN DER PLOEG, K. P. 2024, "Fairness as balance: Investor obligations and investment treaty reform", International Investment Law Journal, v. 4, n. 2, p. 184–197. https://doi.org/10.62768/IILJ/2024/4/2/05

[82] VIJEYARASA, R. "Review of Ruth Rubio-Marín, Global Gender Constitutionalism and Women's Citizenship", European Journal of International Law, v. 34, n. 3, 2023, p. 737–743. https://doi.org/10.1093/ejil/chad041

[83] ŻENKIEWICZ, M., GUARÍN DUQUE, G. "Local communities and international investment law", Georgetown Journal of International Law, 2024, p. 214–260. Available at: https://www.law.georgetown.edu/international-law-journal/wp-content/uploads/sites/21/2024/09/GT-GJIL240031.pdf (accessed on 12 January 2026).

justifications. Importantly, these cases do not simply contradict the identified shift. Rather, they delimit its scope and reveal its conditional nature.

The coexistence of competing interpretive approaches indicates that the transformation of international investment law is structurally heterogeneous. In this sense, the persistence of investor-centric reasoning operates as a counterbalancing force that constrains the extent of interpretive change and prevents its full consolidation. Accordingly, the findings of this study should not be interpreted as evidence of a complete paradigm shift, but rather as indicating a reconfiguration of interpretive dominance, in which context-sensitive reasoning increasingly prevails without fully displacing traditional approaches.

These observations also point to important methodological limitations. The qualitative nature of the coding procedure and the interpretive analysis of arbitral reasoning inevitably involve a degree of analytical discretion, despite the use of structured criteria. In addition, the empirical focus on ICSID and comparable arbitral practice, combined with the limited incorporation of domestic judicial decisions, constrains the generalizability of the findings. The concentration of cases related to specific crisis contexts may further affect the representativeness of the sample.

At the same time, the findings of this study generate doctrinally specific implications for the design and application of international investment agreements. From the perspective of treaty drafting, the results indicate the need to replace broadly framed references to public interest with normatively structured clauses that constrain interpretive discretion. In particular, the fair and equitable treatment (FET) standard should be formulated as a closed or semi-closed provision, explicitly linked to the minimum standard of treatment under customary international law and accompanied by an enumerated list of prohibited state conduct. Such a formulation limits the possibility of treating FET as an autonomous and open-ended standard in crisis-related disputes.

Similarly, treaty language on legitimate expectations should be reformulated to clarify that protection arises exclusively from specific and individualized assurances attributable to the host state. This excludes reliance on general regulatory stability or policy continuity and directly addresses the expansion of claims in situations involving crisis-driven regulatory change.

In addition, investment agreements should incorporate operational public-interest exceptions, structured around clearly defined categories of crisis regulation, including public health measures, environmental protection, and economic stabilization. These clauses should include explicit analytical criteria — notably necessity, proportionality, and temporal limitation — thereby providing tribunals with a predefined decision-making framework rather than leaving such assessments to discretionary interpretation.

A further implication concerns the explicit codification of proportionality as a treaty-based standard. Rather than relying on implicit judicial reasoning, treaties may incorporate a structured proportionality test, requiring tribunals to assess (1) suitability of the measure, (2) necessity in relation to available alternatives, and (3) proportionality stricto sensu. This would significantly reduce inconsistency in arbitral reasoning across comparable disputes.

For arbitral tribunals, the findings imply a transition from intuitive or ad hoc balancing toward methodologically standardized reasoning. In practice, this requires explicit articulation of proportionality analysis, a clear distinction between general regulatory measures and targeted commitments, and the systematic treatment of crisis context as a legally relevant factor within the reasoning structure of awards.

From the perspective of states, the results point to the need for ex ante legal structuring of regulatory measures. This includes the formalization of public-interest objectives within legislative and regulatory acts, the documentation of

proportionality assessments at the stage of policy design, and the alignment of domestic measures with treaty-based exceptions. Such an approach strengthens the defensibility of state action in arbitration and reduces exposure to expansive interpretations of investment protection standards.

Taken together, these findings support the conceptualization of a model of contextualized investment protection, in which international economic law responds to crisis conditions through flexible and adaptive interpretation of its foundational principles. At the same time, the identified limitations indicate the need for further research incorporating cross-forum comparisons and a broader range of legal sources, including domestic jurisprudence and alternative dispute resolution mechanisms. Importantly, this transformation should be understood not as an isolated doctrinal shift, but as a systemic reconfiguration of the relationship between investment protection and regulatory sovereignty.

6. Conclusions

Within the framework of this study, the transformation of the principles as regard the international economic and investment law in the context of global financial, economic, social and regulatory crises has been examined in a systematic manner. The findings confirm that the contemporary international investment regime is undergoing a phase of profound regulatory and interpretive restructuring. This process cannot be reduced to isolated modifications of treaty language. Rather, it reflects a complex and structural transformation of the underlying logic of investment protection. In particular, the core standards of investment protection are increasingly losing their character as autonomous and all-encompassing safeguards and are instead operating within more clearly delineated regulatory boundaries. It is of note that these most notably are the fair and equitable treatment standards and the doctrine of legitimate expectations.

The findings confirm that the transformation of international economic law identified in this study operates across doctrinal, interpretative, and systemic levels. However, the evidence suggests that the primary locus of change lies at the systemic level, where a reconfiguration of the underlying logic of the investment regime is taking place.

Doctrinal adjustments in treaty design and interpretative developments in arbitral practice do not constitute independent processes. Rather, they function as interconnected mechanisms through which this systemic transformation is realized.

The study demonstrates that global crises have acted as catalysts for reorienting investment law from an investor-centric paradigm toward a model of dynamic balancing. Therein, the state regulatory sovereignty is recognized as an equivalent and indispensable element of the legal framework. A key qualitative outcome of this shift is stepping aside from the abstract notion of regulatory stability towards a contextualized assessment of state measures, grounded in considerations of public interest, proportionality and necessity. This development supports the conclusion that a new interpretive paradigm is emerging, under which investment protection is understood as conditional and adaptive rather than absolute.

The scientific value of the study lies in conceptualizing two distinct if interrelated interpretive models, namely pre-crisis and crisis ones. Moreover, the study outlines the mechanisms through which these models gradually interact and transform. The practical significance of the findings resides in their potential application to drafting and revising the international investment treaties, the formulation of state positions in investment disputes and the ongoing reform of investor–state dispute settlement mechanisms. Beyond the investment law context, the results are also relevant to public policymaking, particularly in the fields of energy regulation, environmental protection and social governance.

Building upon these findings, the study also allows for the formulation of several concrete legal solutions relevant for the future development of international investment law. First, treaty practice may benefit from the incorporation of model clauses explicitly defining the scope and limits of the fair and equitable treatment standard, including clarifications that exclude expectations based solely on general regulatory stability. Second, the inclusion of regulatory carve-outs for crisis-related measures, particularly in the fields of public health, environmental protection and economic stabilization, may enhance legal certainty while preserving the necessary policy space of states.

Third, the introduction of proportionality-based clauses within investment treaties could provide a structured framework for assessing the legitimacy of state measures under crisis conditions, thereby reducing interpretive inconsistency in arbitral practice. Fourth, greater use of general exceptions clauses, modeled on public international law instruments, may contribute to aligning investment protection with broader public policy objectives. Finally, the development of interpretive guidelines for arbitral tribunals, either through treaty provisions or soft-law instruments, could facilitate a more consistent application of contextualized reasoning across different disputes.

The limitations of the study underlie primarily its predominant focus on international arbitral practice, accordingly there is absence of a detailed examination of national court jurisprudence and domestic mechanisms for implementing investment standards. In this connection, future research should aim to broaden the empirical base through inter-institutional comparisons of different arbitral forums. It should also pursue a more in-depth analysis of the interaction between international investment law and other branches of public international law.

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Appendix A. Investment Treaties Included in the Sample (n = 25)

The sample includes only binding international investment agreements (bilateral investment treaties and treaties with investment provisions).

Pre-crisis treaties refer to agreements concluded before 2008 characterized by open-ended investment protection standards. Post-crisis treaties include agreements concluded after 2008 incorporating regulatory clauses, public-interest safeguards, and limitations on investor protection.

Pre-crisis treaties (classical investment protection model):

Treaty between the Federal Republic of Germany and the Argentine Republic on the Promotion and Reciprocal Protection of Investments (1991)

Agreement between the Kingdom of Spain and the Argentine Republic on the Promotion and Reciprocal Protection of Investments (1991)

Agreement between the Government of the United Kingdom and the Government of the Argentine Republic for the Promotion and Protection of Investments (1990)

Agreement between the Italian Republic and the Argentine Republic on the Promotion and Protection of Investments (1990)

Agreement between the French Republic and the Argentine Republic on the Promotion and Reciprocal Protection of Investments (1991)

Treaty between the United States of America and the Argentine Republic concerning the Reciprocal Encouragement and Protection of Investment (1991)

Agreement between the Swiss Confederation and the Argentine Republic on the Promotion and Reciprocal Protection of Investments (1991)

Agreement between the Kingdom of the Netherlands and the Argentine Republic on the Encouragement and Reciprocal Protection of Investments (1992)

Agreement between the Republic of Korea and the Argentine Republic for the Promotion and Protection of Investments (1994)

Agreement between the Government of Malaysia and the Government of the Argentine Republic for the Promotion and Protection of Investments (1995)

Agreement between the Government of the People's Republic of China and the Government of the Argentine Republic on the Promotion and Protection of Investments (1992)

Agreement between Japan and the Argentine Republic for the Liberalization, Promotion and Protection of Investment (2017 – included as a transitional treaty reflecting late classical design)

Post-crisis treaties (regulatory-oriented model)

Energy Charter Treaty (1994, interpreted in post-crisis practice)

ASEAN Comprehensive Investment Agreement (2009)

Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union (2016)

EU–Singapore Investment Protection Agreement (2018)

EU–Vietnam Investment Protection Agreement (2019)

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Investment Chapter (2018)

United States–Mexico–Canada Agreement (USMCA), Investment Chapter (2020)

Agreement between Japan and the European Union for an Economic Partnership (2018, investment-related provisions)

Agreement between the Government of the Argentine Republic and Japan on Investment (2017, modernized treaty model)

Agreement between Morocco and Nigeria for the Promotion and Protection of Investments (2016)

Investment Agreement for the COMESA Common Investment Area (2007/entered into force later practice)

African Continental Free Trade Area (AfCFTA) Investment Protocol (emerging framework, included for regulatory model reference)

Southern African Development Community (SADC) Model Investment Protocol applied in regional agreements (binding regional framework elements)

Appendix B. Arbitral Awards Included in the Sample (n = 40)

№	Arbitral Case	Forum	Type of Dispute	Interpretive Category	Crisis Context
1	CMS Gas Transmission Company v Argentina	ICSID	Financial	A	Financial crisis
2	LG&E v Argentina	ICSID	Financial	B	Financial crisis
3	El Paso v Argentina	ICSID	Financial	A	Financial crisis
4	Continental Casualty v Argentina	ICSID	Financial	B	Financial crisis
5	Sempra v Argentina	ICSID	Financial	A	Financial crisis
6	Enron v Argentina	ICSID	Financial	A	Financial crisis
7	Abaclat v Argentina	ICSID	Financial	B	Sovereign debt crisis
8	AES Summit v Hungary	ICSID	Regulatory	B	Economic reform
9	Electrabel v Hungary	ICSID	Regulatory	B	Economic reform
10	Micula v Romania	ICSID	Regulatory	A	Structural reform
11	Vattenfall v Germany	ICSID	Environmental	C	Energy transition
12	Charanne v Spain	SCC	Energy	C	Energy crisis
13	Antin v Spain	ICSID	Energy	B	Energy reform
14	Masdar v Spain	ICSID	Energy	B	Energy reform
15	Eiser v Spain	ICSID	Energy	B	Energy reform
16	Methanex v USA	UNCITRAL	Environmental	C	Environmental regulation
17	Chemtura v Canada	UNCITRAL	Environmental	C	Environmental regulation
18	Glamis Gold v USA	UNCITRAL	Environmental	C	Environmental policy
19	Philip Morris v Uruguay	ICSID	Public health	C	Health regulation
20	Eco Oro v Colombia	ICSID	Environmental	C	Environmental policy
21	Bear Creek v Peru	ICSID	Social	C	Social conflict
22	Occidental v Ecuador	ICSID	Energy	A	Regulatory dispute
23	Burlington v Ecuador	ICSID	Energy	B	Resource governance
24	Duke Energy v Ecuador	ICSID	Energy	B	Regulatory change
25	Tecmed v Mexico	ICSID	Environmental	A	Regulatory change
26	Waste Management v Mexico	ICSID	Regulatory	B	Regulatory change
27	Metalclad v Mexico	ICSID	Environmental	A	Regulatory change

Nº	Arbitral Case	Forum	Type of Dispute	Interpretive Category	Crisis Context
28	White Industries v India	UNCITRAL	Judicial / regulatory	A	Institutional crisis
29	Ping An v Belgium	ICSID	Financial	A	Financial crisis
30	Tethyan Copper v Pakistan	ICSID	Resource / mining	A	Economic crisis
31	Devas v India	UNCITRAL	Regulatory	B	Policy reversal
32	Cairn Energy v India	PCA	Taxation	B	Economic crisis
33	Yukos v Russia	PCA	Energy	A	Political-economic crisis
34	Saluka v Czech Republic	UNCITRAL	Financial	B	Banking crisis
35	Parkerings v Lithuania	ICSID	Regulatory	B	Policy change
36	EDF v Romania	ICSID	Regulatory	B	Structural reform
37	Novenergia v Spain	SCC	Energy	B	Energy reform
38	Isolux v Spain	SCC	Energy	B	Energy reform
39	National Grid v Argentina	UNCITRAL	Financial	A	Financial crisis
40	BG Group v Argentina	UNCITRAL	Financial	A	Financial crisis