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Jorge E. Viñuales

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## Foreign Investment and the Environment in International Law

Conflicts between foreign investment law and environmental law are becoming increasingly frequent. On the one hand, the rise of environmental regulation poses significant challenges to foreign investors in several industries. On the other, the surge in investment arbitration proceedings is making States aware of the important litigation risks that may result from the adoption of environmental regulation.

This study of the relationship between these two areas of law adopts both a policy and a practical perspective. It identifies the major challenges facing States, foreign investors and their legal advisers as a result of the potential friction between investment law and environmental law, and provides a detailed analysis of all the major legal issues on the basis of a comprehensive study of the jurisprudence from investment tribunals, human rights courts and bodies, the ICJ, the WTO, the ITLOS, the CJEU and other adjudication mechanisms.

JORGE E. VIÑUALES is the Pictet Chair of International Environmental Law and Assistant Professor of Public International Law at the Graduate Institute of International and Development Studies, Geneva. He is also the Director of the Programme on Institutions for Sustainable Development at the Centre for International Environmental Studies.

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## Abbreviations

<b>Abbreviation</b>	<b>Full reference</b>
AAU	assigned amount unit
ABS	access and benefit sharing
ALI	American Law Institute
BEE	black economic empowerment
BIT	Bilateral Investment Treaty
CAO	Compliance Advisor/Ombudsman
CCS	carbon capture and storage
CDM	clean development mechanism
CER	Certified Emission Reductions
CFC	chlorofluorocarbon
CFR	United States Code of Federal Regulations
CMLR	Common Market Law Reports
CSS	Commission on Sustainable Development
CWA	Clean Water Act (US)
ECJ	European Court of Justice
ECtHR	European Court of Human Rights
EEZ	exclusive economic zone
EIA	environmental impact assessment
EPA	Environmental Protection Agency (US)
EPL	Environmental Policy and Law
ERU	emission reduction units
FET	fair and equitable treatment
FIC	Foreign Investment Commission (Chile)
FTA	free trade agreement
GEF	Global Environmental Facility
GIS	green investment scheme
GMO	genetically modified organism

HBFC	hydrobromofluorocarbon
HCFC	hydrochlorofluorocarbon
HRC	UN Human Rights Committee
IBRD	International Bank for Reconstruction and Development
ICC	International Chamber of Commerce
ICJ	International Court of Justice
IComm HR	Inter-American Commission on Human Rights
ICSID	International Centre for Settlement of Investment Disputes
ICtHR	Inter-American Court of Human Rights
IFC	International Finance Corporation
IIA	international investment and free trade agreement
ILM	International Legal Materials
ITLOS	International Tribunal for the Law of the Sea
JI	joint implementation
LCIA	London Court of International Arbitration
MDG	Millennium Development Goals
MEA	multilateral environmental agreements
MFN	most-favoured nation
MII	Multilateral Investment Treaty
NAP	national allocation plan
NCP	National Contact Points
OAS	Organisation of American States
OECD	Organisation for Economic Co-operation and Development
OJ	Official Journal of the European Union
PCA	Permanent Court of Arbitration
PCF	Prototype Carbon Fund
PES	payments-for-ecosystem-services
PIC	prior informed consent
PPM	production processes and methods
PPP	public private partnerships
RIAA	Reports of International Arbitral Awards
RMU	removal unit
SCC	Stockholm Chamber of Commerce
SGRP	System-wide Genetic Resources Programme of the Treaty on Plant Genetic Resources
SRI	sustainable and responsible investment

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TAC	total allowable catch
TFDD	<a href="http://www.transboundarywaters.orst.edu">www.transboundarywaters.orst.edu</a>
TREM	trade-related environmental measure
TURF	territorial use right in fisheries
UNCITRAL	United Nations Commission on International Trade Law
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNTS	United Nations Treaty Series
WB	World Bank
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization



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