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Between Efficiency and Sustainability: Debottle-necking, FDI Screening, and ESG Integration in Indonesia, the European Union, and the AfCFTA

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Abstracts: Sustainable investment governance has emerged as a critical imperative in contemporary international economic law, addressing regulatory fragmentation, legal uncertainty, and the integration of environmental, social, and governance (ESG) principles into investment regimes. This study examines the harmonisation of sustainable investment legal frameworks through debottlenecking mechanisms from a three-continent comparative perspective: Asia (Indonesia), Europe (the European Union), and Africa (the AfCFTA framework). Using a normative legal research methodology that draws on statutory, conceptual, and comparative approaches, the analysis evaluates primary legal instruments and secondary doctrines to assess legal coherence, regulatory efficiency, and institutional coordination. The findings reveal distinct yet convergent regional trajectories: Indonesia advances investment facilitation by streamlining regulations and strengthening institutional coordination; the European Union reinforces its framework via foreign direct investment (FDI) screening and green transition policies prioritising economic security; and Africa, under the AfCFTA, fosters a sustainability-oriented regime incorporating ESG obligations with developmental priorities. Despite normative and institutional variations, all three regions exhibit a gradual convergence toward harmonised governance. The study concludes that effective harmonisation necessitates regulatory coherence, cross-jurisdictional policy alignment, and responsive mechanisms to resolve investment bottlenecks within a sustainability-oriented legal framework.

Keywords: legal harmonisation; sustainable investment; debottlenecking mechanism; comparative investment law; transcontinental legal governance

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1. Introduction

Sustainable investment governance has emerged as a central concern in contemporary international economic law, particularly in response to rising regulatory fragmentation, institutional inefficiencies, and the growing demand to integrate environmental, social, and governance (ESG) principles into investment regimes. Developing countries currently face a dual imperative: attracting foreign direct investment (FDI) to sustain economic growth while ensuring investment activities comply with sustainability standards and legal certainty. However, existing legal frameworks often exhibit structural weaknesses, including regulatory overlap, institutional fragmentation, and inconsistent enforcement mechanisms, which collectively undermine the effectiveness of investment governance systems.[1]

Globally, investment law shows a clear trend toward regulatory convergence, particularly through regionally coordinated legal frameworks. The European Union has strengthened its investment governance architecture through the Foreign Direct Investment (FDI) Screening Regulation, which aims to safeguard economic security while harmonising member states' approaches to strategic sectors and technological investments.[2] In parallel, Africa, through the African Continental Free Trade Area (AfCFTA), has advanced a continental investment protocol that integrates investor protection with sustainable development obligations, including environmental and social governance standards.[3] Meanwhile, Indonesia and other Asian developing economies have introduced regulatory innovation mechanisms, such as debottlenecking systems, designed to eliminate administrative and regulatory

[1] Piyush Choudhary and Pratyush Yadav, "Policy Governance Failures and Institutional Asymmetries Shaping Global North-South Energy Transitions," *Energy Strategy Reviews* 66 (July 2026): 102294, https://doi.org/10.1016/j.esr.2026.102294.

[2] Yang Liu and WenLong Song, "Navigating Digital Colonialism: Sovereignty Models and Development Paths in the Global South," *Social Sciences & Humanities Open* 13 (June 2026): 102546, https://doi.org/10.1016/j.ssaho.2026.102546.

[3] Md. Riaduzzaman et al., "Governing Chemical Recycling for the Circular Economy in Asia: Legal Clarity, Economic Governance, and Global South Implications," *Asia and the Global Economy* 6, no. 1 (June 2026): 100135, https://doi.org/10.1016/j.aglobe.2026.100135.

barriers that hinder investment realisation and economic efficiency.[4] These developments indicate an emerging global shift toward hybrid investment governance models that combine liberalisation with regulatory control and sustainability objectives.

Empirical studies in regulatory governance suggest that inefficiencies in investment law are not merely normative but deeply rooted in institutional and structural deficiencies. Governance failures, regulatory asymmetries, and bureaucratic complexity remain persistent challenges in many developing jurisdictions, reducing investor confidence and leading to suboptimal economic outcomes.[5] Furthermore, the literature on energy transition and sustainable development emphasises that achieving green growth requires robust legal frameworks that are not only stable but also adaptive to technological change and global market dynamics.[6] Similarly, studies on global governance highlight that transnational regulatory challenges, including digital colonialism and unequal economic structures, further complicate the development of equitable investment regimes in the Global South.

In the Indonesian context, the introduction of the debottlenecking mechanism represents a significant policy innovation aimed at accelerating investment realisation by addressing regulatory bottlenecks across sectors such as licensing, taxation, logistics, infrastructure, and inter-agency coordination. This mechanism reflects a pragmatic approach to investment law reform, emphasising efficiency, regulatory simplification, and enhanced coordination among governmental institutions. However, despite its potential benefits, debottlenecking effectiveness depends on consistent implementation, the degree of regulatory harmonisation, and the integration of sustainability

[4] Abdurrahman Abdurrahman, "Extending the IBCDE Framework to Explore Barriers and Drivers in Indonesia's Digital Economy," *Journal of Digital Economy* 4 (January 2025): 123–43, https://doi.org/10.1016/j.jdec.2025.08.003.

[5] Amitabh Anand et al., "A Multilevel Framework for Analysing Organisational Misconduct in Emerging Economies," *International Business Review* 35, no. 2 (April 2026): 102563, https://doi.org/10.1016/j.ibusrev.2026.102563.

[6] John Bain, Emmanuella Akosua Appiah, and Flavio Odoi-Yorke, "Advancing Solar Energy Financing in Sub-Saharan Africa: A Systematic Review of Trends, Progress, and Pathways to Sustainable Development," *Solar Energy Advances* 6 (January 2026): 100136, https://doi.org/10.1016/j.seja.2026.100136.

principles into investment governance. By contrast, the European Union adopts a more institutionalised regulatory model through binding screening mechanisms, while African states collectively advance sustainability-oriented investment governance through AfCFTA's legal framework.[7]

Against this background, a significant research gap remains in the comparative legal literature on integrating debottlenecking mechanisms with broader investment governance frameworks across continents. Existing scholarship tends to focus on isolated regional developments or sector-specific analyses, without sufficiently developing a transcontinental legal perspective that connects Asia, Europe, and Africa within a unified analytical framework. Moreover, scholars have paid limited attention to how these diverse regulatory approaches may contribute to a harmonised model of sustainable investment governance. Accordingly, this article addresses this gap by developing a comparative legal analysis of investment governance frameworks across three continents, with particular emphasis on Indonesia, the European Union, and Africa. It argues that harmonising sustainable investment law requires not only regulatory convergence but also adaptive mechanisms, such as debottlenecking, to bridge institutional and normative disparities in global investment governance.

2. Methods

This study employs a normative legal research method (*doctrinal legal research*) that analyses legal norms, principles, and doctrines governing sustainable investment across jurisdictions. The normative approach is considered appropriate because the primary objective of this research is to examine the harmonisation of legal frameworks rather than empirical behaviour or statistical relationships. The study analyses how investment laws are structured, interpreted, and implemented within the context of regulatory convergence and sustainability-oriented governance.

[7] Seunghyun Lee, Inseok Seo, and Youhyun Lee, "Where We Stand on Energy Justice: Typologies from Fuzzy Ideal Type Analysis and Interpretations from the Global South," *Energy Research & Social Science* 129 (November 2025): 104339, https://doi.org/10.1016/j.erss.2025.104339.

The research adopts three main approaches, namely the statutory approach (*statute approach*), conceptual approach (*conceptual approach*), and comparative approach (*comparative legal approach*). The statutory approach examines relevant legal instruments governing investment regimes in Indonesia, the European Union, and Africa, including regulations on investment facilitation, foreign direct investment screening, and regional investment protocols. The conceptual approach is applied to analyse key legal concepts such as sustainable investment, regulatory harmonisation, legal certainty, and debottlenecking mechanisms within investment governance. Meanwhile, the comparative approach is utilised to identify similarities, differences, and potential convergence among the three jurisdictions in developing sustainable investment legal frameworks.[8]

This study draws on international, regional, and national legal instruments relevant to investment governance. These include investment regulations, policy frameworks, and institutional mechanisms in Indonesia; European Union regulatory instruments on foreign direct investment screening and green transition policies; and the African Continental Free Trade Area (AfCFTA) investment protocol. Secondary legal materials include academic literature, scholarly articles, and doctrinal writings that offer analytical perspectives on investment law, regulatory governance, and sustainability principles. Tertiary legal materials, such as legal dictionaries and encyclopedic references, support conceptual clarification where necessary.

This study uses qualitative doctrinal analysis, which emphasises the systematic interpretation of legal norms and their coherence within and across legal systems. The analysis focuses on identifying patterns of regulatory harmonisation, institutional coordination, and legal fragmentation in investment governance. It pays particular attention to debottlenecking mechanisms as a regulatory innovation aimed at reducing administrative barriers and enhancing investment efficiency. The comparative analysis further evaluates

[8] Jafar Ahmad and Nisaul Fadillah, "Presidential Decree as the Norm in Legal Politics (A Comparative of the Presidential Decree in Tunisia and Indonesia During Soekarno and Abdurrahman Wahid)," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 2 (December 2021): 163–81, https://doi.org/10.30631/alrisalah.v21i2.897.

how each jurisdiction integrates environmental, social, and governance (ESG) principles into its investment legal framework.

By employing this methodological framework, the study aims to construct a comprehensive understanding of how sustainable investment legal regimes operate across different continents and how regulatory convergence may be achieved through harmonised legal mechanisms. This approach enables a structured, systematic examination of investment law as a dynamic field of international economic regulation increasingly shaped by sustainability imperatives and transnational governance trends.

3. Results and Discussion

3.1. Regulatory Fragmentation and Legal Challenges in Sustainable Investment Governance

The development of sustainable investment law in the contemporary global order is characterised by persistent regulatory fragmentation across jurisdictions, reflecting the absence of a unified normative structure in international investment governance. Although many states have formally embraced sustainability principles in their investment policies, legal implementation remains highly uneven because of divergent regulatory philosophies, institutional capacities, and sectoral priorities. In both developed and developing jurisdictions, investment governance is frequently structured through overlapping legal regimes that include investment law, environmental law, taxation law, and administrative regulation, often without adequate harmonisation mechanisms. This situation produces normative inconsistencies that weaken legal certainty and reduce predictability for investors operating across borders. In the Global South, limited institutional coordination between central and subnational authorities further intensifies this fragmentation, creating regulatory inefficiencies and enforcement gaps that hinder sustainable investment flows.[9]

[9] Anand et al., "A Multilevel Framework for Analysing Organisational Misconduct in Emerging Economies."

Beyond structural fragmentation, empirical legal scholarship shows that governance asymmetries and institutional weaknesses significantly contribute to instability in investment legal regimes. Bureaucratic inefficiency, regulatory duplication, and weak enforcement mechanisms remain persistent obstacles in many jurisdictions, particularly in emerging economies where administrative capacity is unevenly distributed. These conditions delay investment approvals and increase transaction costs for investors, reducing the attractiveness of legal systems despite formal liberalisation policies.[10] Moreover, fragmented governance structures often lead to conflicting interpretations of investment regulations among regulatory agencies, further undermining coherence in legal implementation. Consequently, sustainable investment governance cannot be reduced to regulatory quantity; it reflects a structural deficit in legal integration and institutional coordination.

To illustrate the comparative dimension of regulatory fragmentation, the following table summarises key governance characteristics across Indonesia, the European Union, and Africa:

Table 1. Comparative Regulatory Structures in Sustainable Investment Governance

Jurisdiction	**Main Legal Instrument**	**Governance Model**	**Key Challenge**
Indonesia	Debottlenecking Mechanism & Investment Law Reform	Administrative coordination model	Regulatory overlap and implementation inconsistency
European Union	FDI Screening Regulation & Green Deal Framework	Supranational harmonisation model	Regulatory complexity and procedural burden
Africa (**AfCFTA**)	AfCFTA Investment Protocol	Developmental integration model	Institutional capacity and enforcement limitations

Table 1 above shows that while each jurisdiction has developed distinct regulatory architectures, all still face structural limitations in achieving full legal coherence. Indonesia relies on procedural acceleration through

[10] Choudhary and Yadav, "Policy Governance Failures and Institutional Asymmetries Shaping Global North-South Energy Transitions."

debottlenecking to overcome regulatory bottlenecks; however, the absence of codified integration across legal sectors limits its long-term normative stability. The European Union, by contrast, has a highly institutionalised governance structure that emphasises legal harmonisation and risk-based investment screening. Yet, this system often creates procedural complexity that can slow investment processes. Meanwhile, Africa's AfCFTA framework reflects a developmental approach that prioritises economic transformation and ESG integration, though uneven institutional capacity across member states constrains its effectiveness.[11]

Furthermore, comparative analysis indicates that the core issue underlying regulatory fragmentation is not merely legal diversity, but the absence of interoperable governance mechanisms that can bridge institutional and normative divides. The lack of synchronisation between investment law and related legal domains such as environmental regulation and administrative governance results in fragmented decision-making structures. This fragmentation is particularly problematic in sustainable investment, where legal coherence is essential to ensure that economic development objectives do not conflict with environmental and social protections. Empirical studies in regulatory governance further confirm that fragmented legal systems tend to produce inconsistent policy outcomes, reduced investor confidence, and diminished effectiveness of sustainability-oriented reforms.[12]

In response, the concept of harmonised investment governance emerges as a necessary normative framework for addressing fragmentation across jurisdictions. Harmonisation in this context does not imply legal uniformity, but rather functional convergence through shared principles, interoperable regulatory mechanisms, and coordinated institutional practices. Indonesia's debottlenecking mechanism, the European Union's FDI screening system, and the AfCFTA investment protocol in Africa can be

[11] Olasunkanmi Habeeb Okunola, "Governance, Patronage, and Collapse: The Tangled Politics of Building Development in Lagos, Nigeria," *Cities* 176 (September 2026): 107244, https://doi.org/10.1016/j.cities.2026.107244.

[12] Lee, Seo, and Lee, "Where We Stand on Energy Justice: Typologies from Fuzzy Ideal Type Analysis and Interpretations from the Global South."

conceptualised as complementary instruments within a broader transnational governance architecture. When integrated effectively, these mechanisms may help form a more coherent global investment regime that balances regulatory efficiency with sustainability objectives.

3.2. Indonesia's Debottlenecking Mechanism as a Legal Instrument for Investment Acceleration

Indonesia has introduced a distinctive regulatory innovation in the form of the debottlenecking mechanism, a pragmatic legal instrument designed to address persistent administrative and regulatory barriers in investment governance. This mechanism reflects the recognition that investment obstacles stem not only from normative deficiencies but also from procedural inefficiencies and inter-agency coordination failures. In practice, debottlenecking operates through structured coordination among ministries, agencies, and regional governments to identify, manage, and resolve bottlenecks in licensing, taxation, logistics, infrastructure provision, and regulatory approvals. The establishment of inter-institutional task forces reflects a shift toward adaptive governance, where legal and administrative constraints are treated as operational problems requiring direct and expedited intervention rather than solely legislative reform.[13]

From a legal-institutional perspective, debottlenecking is a hybrid governance model that integrates administrative law flexibility with investment law efficiency. It reflects a shift from traditional rule-bound bureaucratic systems to a more responsive, results-oriented regulatory approach. This model enhances legal certainty by reducing procedural ambiguity, minimising overlapping authority, and accelerating decision-making processes in investment facilitation. However, its effectiveness depends heavily on discretionary coordination mechanisms rather than a fully codified legal structure. As a result, debottlenecking remains partially outside the formal statutory architecture of investment law, raising

[13] Abdurrahman, "Extending the IBCDE Framework to Explore Barriers and Drivers in Indonesia's Digital Economy."

questions regarding its normative consistency and long-term institutional sustainability within Indonesia's legal system.[14]

To better illustrate the structural position of debottlenecking within Indonesia's investment governance framework, the following table provides a simplified mapping of its institutional components and legal functions:

Table 2. Structure and Function of Indonesia's Debottlenecking Mechanism

Component	Institutional Actor	Legal Function	Governance Objective
Policy Coordination	Coordinating Ministries	Regulatory alignment	Reduce policy overlap
Licensing Reform	Investment and OSS Authorities	Permit acceleration	Simplify approval process
Fiscal Governance	Ministry of Finance	Tax and incentive adjustment	Improve investment attractiveness
Infrastructure Facilitation	Line Ministries & Local Governments	Project execution support	Remove physical/logistical barriers
Dispute Resolution Support	Inter-agency Task Forces	Administrative settlement	Prevent investment delay

Table 2 shows that debottlenecking is not a single legal instrument but a composite governance system that integrates multiple institutional layers. Each component plays a distinct role in addressing structural inefficiencies that traditionally hinder investment realisation. The model's strength lies in its flexibility and responsiveness, particularly in resolving case-specific regulatory barriers that conventional legislative reform cannot efficiently address. Nevertheless, this multi-actor structure also introduces

[14] Ali Muhammad et al., "Multilevel Governance and Indonesia's Strategy for Climate Change Mitigation and Adaptation," *Jurnal Hubungan Internasional* 13, no. 2 (March 2025): 14–27, https://doi.org/10.18196/jhi.v13i2.20999; Anand et al., "A Multilevel Framework for Analysing Organisational Misconduct in Emerging Economies"; Mengli Zhao et al., "Who Goes Informal and When? A Multilevel Analysis of Entrepreneurial Entry in Emerging and Developing Economies," *Journal of Business Research* 210 (May 2026): 116136, https://doi.org/10.1016/j.jbusres.2026.116136; Mengli Zhao et al., "Who Goes Informal and When? A Multilevel Analysis of Entrepreneurial Entry in Emerging and Developing Economies," *Journal of Business Research* 210 (May 2026): 116136, https://doi.org/10.1016/j.jbusres.2026.116136.

coordination risks, including overlapping mandates and potential implementation inconsistencies across different levels of government.

In doctrinal terms, debottlenecking may be conceptualised as a form of "soft legalisation" within investment governance, where regulatory effectiveness is achieved through administrative coordination rather than strict legislative codification. This approach aligns with global trends in regulatory governance that emphasise agility, responsiveness, and problem-solving capacity in legal systems. However, such flexibility also raises normative concerns regarding accountability, transparency, and legal certainty, particularly when decisions are made through ad hoc institutional arrangements without clear statutory grounding.[15] Furthermore, the absence of a unified legal framework governing debottlenecking limits its integration with broader principles of sustainable investment law, especially regarding environmental protection and social safeguards.

Another critical issue concerns the integration of environmental, social, and governance (ESG) principles within the debottlenecking framework. While the mechanism accelerates investment processes, its primary focus remains procedural efficiency rather than compliance with sustainability standards. This creates a potential normative gap between investment acceleration and sustainable development objectives. Empirical governance studies suggest that without explicit ESG integration, rapid investment facilitation mechanisms may prioritise economic efficiency over environmental and social considerations.[16] Therefore, strengthening the legal foundation of debottlenecking requires not only institutional consolidation but also normative embedding within Indonesia's sustainable investment regulatory architecture.

[15] Liu and Song, "Navigating Digital Colonialism: Sovereignty Models and Development Paths in the Global South."

[16] Mahadih Kyambade et al., "Drivers of Sustainability Performance in Health and Sanitation Projects: A Systematic Literature Review," *Social Sciences & Humanities Open* 12 (January 2025): 102046, https://doi.org/10.1016/j.ssaho.2025.102046.

3.3. European Union Investment Governance: FDI Screening and Legal Harmonisation

The European Union (EU) represents one of the most advanced and institutionalised models of investment governance in the contemporary global legal order. Its regulatory architecture features a supranational legal framework that balances the openness of foreign direct investment (FDI) with the protection of strategic economic interests, public order, and security considerations. The adoption of the EU FDI Screening Regulation marks a significant development in international investment law, introducing a coordinated mechanism among Member States to evaluate foreign investments that may pose risks to critical infrastructure, technology, and economic sovereignty. This framework reflects a sophisticated form of legal harmonisation, where supranational coordination ensures a baseline of regulatory consistency while preserving some national discretion in implementation.[17]

From a doctrinal perspective, the EU investment governance model demonstrates a high level of legal integration, where investment regulation is no longer treated as an isolated economic instrument but as part of a broader system of multi-level governance. The FDI screening mechanism operates through structured information exchange between Member States and the European Commission, enabling collective assessment of foreign investment risks. This approach reduces regulatory fragmentation within the internal market and strengthens legal predictability for cross-border investors. Moreover, the EU framework reflects the principle of proportionality in regulatory governance, ensuring that investment restrictions are justified,

[17] Amri Amri et al., "Representation of Family Law in the Digital Space: A Study of Discourse Analysis on Instagram Accounts," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 November (November 2023): 2 November, https://doi.org/10.29240/jhi.v8i2.6578; Zainab Akmal and Sheikh Adnan Ahmed Usmani, "Digital Rights and Women's Empowerment in Pakistan: An Analysis of Contemporary Islamic Legal Perspectives in the Age of Social Media," *MILRev: Metro Islamic Law Review* 3, no. 1 (April 2024): 1, https://doi.org/10.32332/milrev.v3i1.8642; Hisam Ahyani et al., "Fraud in the Digital Space: A Comparative Study of Jinayah Fiqh and Indonesian Criminal Law," *Jurnal Hukum Islam* 23, no. 1 (June 2025): 1, https://doi.org/10.28918/jhi.v23i1.02; Liu and Song, "Navigating Digital Colonialism: Sovereignty Models and Development Paths in the Global South."

transparent, and aligned with legitimate public interest objectives.[18] To better illustrate the structure of EU investment governance, the following table summarises its core legal and institutional components:

Table 3. Structure of European Union Investment Governance Framework

Component	Legal Instrument	Institutional Actor	Governance Function
FDI Screening	EU Regulation 2019/452	Member States & European Commission	Risk assessment of foreign investments
Policy Coordination	Internal Market Governance	EU Institutions	Regulatory harmonization
Strategic Investment Control	National Security Frameworks	Member States	Protection of critical sectors
Green Investment Policy	European Green Deal	European Commission	Sustainability-oriented investment direction
Information Sharing Mechanism	EU Cooperation System	EU Network of Authorities	Cross-border regulatory coordination

Table 3 demonstrates that the EU investment governance system is highly institutionalised and relies on a complex network of supranational and national actors. This multi-layered structure enables both regulatory harmonisation and policy coordination, thereby reducing legal uncertainty within the internal market. However, it also adds procedural complexity that may slow investment decision-making, particularly in cases involving multiple jurisdictions and overlapping regulatory assessments.

[18] Awaludin Marwan, Diana Odier-Contreras Garduño, and Fiammetta Bonfigli, "Detection of Digital Law Issues and Implication for Good Governance Policy in Indonesia," *BESTUUR* 10, no. 1 (August 2022): 1, https://doi.org/10.20961/bestuur.v10i1.59143; Chiara De Bernardi and Nora Annesi, "On the Role of Water Utility Governance for Climate Resilience: A Corporate Social Responsibility Directive Approach," *Utilities Policy* 95 (August 2025): 101931, https://doi.org/10.1016/j.jup.2025.101931; Tia Abdulai Robert Aziz et al., "Building Stakeholder Trust in Regulatory Governance: Evidence from Ghana's Public Utilities Regulatory Commission," *Utilities Policy* 98 (February 2026): 102082, https://doi.org/10.1016/j.jup.2025.102082; Choudhary and Yadav, "Policy Governance Failures and Institutional Asymmetries Shaping Global North-South Energy Transitions."

Beyond security-oriented investment screening, the EU integrates sustainability considerations through the European Green Deal, a transformative policy framework that aligns investment flows with climate neutrality objectives. This initiative reorients capital allocation toward renewable energy, green infrastructure, and climate-resilient economic sectors, thereby embedding environmental governance directly into investment law. The convergence between investment regulation and environmental law represents a significant normative development in international economic law, as it expands the traditional scope of investment protection to include sustainability obligations.[19]

Furthermore, the EU model reflects an advanced stage of regulatory convergence, where legal harmonisation is achieved not only through binding legislation but also through soft-law instruments, policy coordination, and institutional dialogue. This hybrid regulatory approach enables flexibility while maintaining coherence across Member States. Nevertheless, empirical studies indicate that the increasing complexity of EU investment governance may create administrative burdens for investors, particularly in sectors requiring multi-level approvals. This complexity may affect the speed and efficiency of investment flows, despite the high level of legal certainty the system provides. Therefore, while the EU model is often regarded as a global benchmark for investment governance, it also illustrates the inherent tension between regulatory rigor and administrative efficiency.

3.4. African Investment Governance under AfCFTA: ESG Integration and Developmental Priorities

The African Continental Free Trade Area (AfCFTA) represents one of the most ambitious regional legal frameworks in contemporary international economic law, aiming to establish a unified continental market for goods, services, and investment across African states. Within this framework, investment governance is increasingly positioned as a strategic instrument

[19] Lee, Seo, and Lee, "Where We Stand on Energy Justice: Typologies from Fuzzy Ideal Type Analysis and Interpretations from the Global South."

for advancing sustainable development objectives, particularly through integrating environmental, social, and governance (ESG) principles. The AfCFTA Investment Protocol seeks to reconcile two fundamental objectives: protecting foreign and intra-African investment and preserving host states' regulatory autonomy in pursuing national development agendas. This dual structure reflects a distinctive developmental approach to investment law that prioritises sovereignty-sensitive integration over strict regulatory uniformity.[20]

From a normative legal perspective, the African model of investment governance emphasises developmentalism, explicitly linking investment law to industrial policy, poverty reduction, and structural economic transformation. Unlike more liberal investment regimes, AfCFTA gives member states policy flexibility to implement local content requirements, industrial beneficiation strategies, and socio-economic development obligations. These mechanisms are particularly significant in resource-rich sectors such as mining, oil, and gas, where foreign investment is expected to contribute not only capital inflows but also domestic value creation and technology transfer. This reflects a broader shift in African investment law from passive investment attraction toward active developmental governance.[21] To provide a structured overview of the African investment governance framework under AfCFTA, the following table outlines its core legal and institutional components:

Table 4. African Investment Governance under AfCFTA Framework

Component	**Legal Instrument**	**Governance Function**	**Development Objective**
AfCFTA Investment Protocol	Continental legal framework	Investment regulation harmonisation	Regional economic integration
ESG Integration Mechanism	Sustainability obligations	Environmental and social compliance	Sustainable development enforcement

[20] Riaduzzaman et al., "Governing Chemical Recycling for the Circular Economy in Asia: Legal Clarity, Economic Governance, and Global South Implications."

[21] Okunola, "Governance, Patronage, and Collapse."

Local Beneficiation Policy	National investment laws	Domestic value addition	Industrialization and job creation
Dispute Resolution Framework	Regional arbitration mechanisms	Investment dispute settlement	Legal certainty and investor protection
Trade-Investment Linkage	AfCFTA economic architecture	Cross-border investment facilitation	Market expansion and integration

Table 4 shows that AfCFTA investment governance operates through a hybrid legal structure that combines regional harmonisation with significant national policy discretion. This duality enables African states to pursue development-oriented regulatory strategies while participating in a broader continental investment framework. However, the system's effectiveness depends on coherence between regional legal instruments and domestic implementation capacity. In many cases, disparities in institutional strength across member states create uneven enforcement of investment regulations, thereby affecting the overall predictability of the legal environment for investors.

A defining characteristic of African investment governance is the increasing incorporation of ESG principles into legal frameworks governing investment activities. These principles require investors to comply with environmental protection standards, social responsibility obligations, and governance transparency requirements. Integrating ESG standards into AfCFTA reflects a normative shift toward sustainable investment governance aligned with global environmental and development agendas. Nevertheless, implementation of ESG obligations remains uneven across jurisdictions because regulatory capacity and institutional maturity vary.[22]

Furthermore, African investment governance continues to face significant structural challenges, particularly in relation to institutional capacity, regulatory enforcement, and dispute resolution mechanisms. Many investment disputes are still resolved through external arbitration systems,

[22] Bain, Appiah, and Odoi-Yorke, "Advancing Solar Energy Financing in Sub-Saharan Africa: A Systematic Review of Trends, Progress, and Pathways to Sustainable Development."

raising concerns about legal dependency and limited regional judicial autonomy. This reliance on external mechanisms highlights the need for stronger regional legal institutions that can provide effective, accessible, and context-sensitive dispute resolution. Strengthening these institutions is essential to enhancing legal certainty and investor confidence within the AfCFTA framework, while simultaneously preserving the developmental objectives of African states.[23]

3.5. Toward a Transcontinental Harmonisation Model of Sustainable Investment Law

A comparative analysis of Indonesia, the European Union, and Africa reveals an emerging trajectory toward partial convergence in sustainable investment governance, despite significant differences in legal traditions, institutional maturity, and regulatory philosophies. Across the three regions, there is a growing recognition that contemporary investment law can no longer be confined to traditional objectives of investor protection and capital attraction, but must also incorporate broader imperatives of regulatory efficiency, legal certainty, and sustainability integration. Indonesia advances a pragmatic governance approach through debottlenecking mechanisms aimed at accelerating investment realisation; the European Union adopts a highly institutionalised model emphasising legal harmonisation and security-based investment screening; while Africa, through the AfCFTA framework, prioritises developmental integration and ESG-oriented investment governance. These differences, however, increasingly converge in their underlying normative orientation toward sustainable and efficient investment governance.[24]

The observed convergence suggests that global investment governance is gradually shifting from fragmented regulatory regimes toward a more interconnected and functionally aligned system. This transformation does not eliminate legal diversity; rather, it encourages interoperability between

[23] Kyambade et al., "Drivers of Sustainability Performance in Health and Sanitation Projects: A Systematic Literature Review."

[24] Liu and Song, "Navigating Digital Colonialism: Sovereignty Models and Development Paths in the Global South."

different regulatory models. In this context, regulatory convergence is better understood as functional alignment rather than formal uniformity. Each jurisdiction contributes distinct normative instruments that collectively shape a broader transnational governance architecture. Indonesia's debottlenecking system introduces procedural efficiency; the EU contributes legal harmonization and risk-based regulatory screening; and Africa introduces developmental and ESG-centered investment obligations. These elements, when analysed collectively, form the basis for a multi-layered governance model that reflects both global interdependence and regional legal autonomy.[25]

To conceptualise this emerging convergence, the following table presents a comparative synthesis of the three regional governance models:

Table 5. Comparative Synthesis of Transcontinental Investment Governance Models

Region	Core Mechanism	Legal Orientation	Primary Objective	Governance Character
Indonesia	Debottlenecking Mechanism	Administrative efficiency	Investment acceleration	Pragmatic & adaptive
European Union	FDI Screening & Green Deal	Legal harmonization & risk control	Security and sustainability	Institutionalized & supranational
Africa (AfCFTA)	Investment Protocol & ESG Framework	Developmental sovereignty	Inclusive growth & industrialization	Development-oriented

Table 5 illustrates that while each region employs distinct legal mechanisms, all three share a common objective of improving investment governance through enhanced regulatory coordination and sustainability integration. The Indonesian model prioritises procedural acceleration, the

[25] Godwin O. Aigbe, Matthew Cotton, and Lindsay C. Stringer, "Global Gas Flaring and Energy Justice: An Empirical Ethics Analysis of Stakeholder Perspectives," *Energy Research & Social Science* 99 (May 2023): 103064, https://doi.org/10.1016/j.erss.2023.103064; Saul Ngarava, "Impact of Land Restitution Benefits on Water, Energy and Food (WEF) Misgovernance and Social Injustice," *Environmental and Sustainability Indicators* 22 (June 2024): 100386, https://doi.org/10.1016/j.indic.2024.100386; Lee, Seo, and Lee, "Where We Stand on Energy Justice: Typologies from Fuzzy Ideal Type Analysis and Interpretations from the Global South"; Wenqi Zhao and Mengfan He, "Impact of Energy Transition Policy on Energy Justice: An Effectiveness Evaluation and Policy Learning Forecast," *Environmental Impact Assessment Review* 116 (January 2026): 108132, https://doi.org/10.1016/j.eiar.2025.108132.

EU emphasises normative harmonisation and risk governance, while Africa focuses on developmental transformation and socio-economic equity. These differences highlight the absence of a single dominant model, while simultaneously revealing a functional convergence toward sustainable investment governance principles.

Building upon this comparative foundation, this study proposes a Transcontinental Harmonisation Model of Sustainable Investment Law characterised by three interrelated pillars: regulatory coherence, institutional coordination, and sustainability integration. Regulatory coherence refers to the alignment of legal norms and policy objectives across jurisdictions to reduce fragmentation and enhance predictability for investors. Institutional coordination emphasizes the need for structured collaboration among regulatory agencies, both within and across jurisdictions, to ensure consistent implementation of investment policies. Sustainability integration, meanwhile, requires the systematic incorporation of ESG principles into investment governance frameworks to ensure that economic growth is balanced with environmental protection and social welfare considerations.[26]

Within this proposed model, the debottlenecking mechanism assumes a particularly significant role as a procedural innovation that enhances regulatory responsiveness and operational efficiency. Rather than being viewed solely as a domestic administrative reform, debottlenecking can be reconceptualised as a transferable governance instrument capable of addressing structural inefficiencies in fragmented investment systems. When combined with the EU's harmonisation framework and Africa's developmental governance model, debottlenecking contributes to a broader conceptual architecture of investment law that emphasises flexibility, adaptability, and sustainability-oriented convergence. However, the effectiveness of such a model depends on the extent to which robust legal institutions, enforceable norms, and sustained political commitment across jurisdictions support it.

[26] Riaduzzaman et al., "Governing Chemical Recycling for the Circular Economy in Asia: Legal Clarity, Economic Governance, and Global South Implications."

4. Conclusion

This study demonstrates that sustainable investment governance is increasingly shaped by a global tendency toward regulatory convergence, despite the persistence of structural and institutional fragmentation across jurisdictions. The comparative analysis of Indonesia, the European Union, and Africa reveals that each region has developed distinct legal responses to the challenges of investment governance, yet all are directed toward a shared objective of enhancing legal certainty, regulatory efficiency, and sustainability integration. Indonesia advances a debottlenecking-based approach aimed at accelerating investment realization through regulatory simplification and inter-agency coordination. The European Union adopts a more institutionalized framework through Foreign Direct Investment (FDI) screening mechanisms and green transition policies that emphasize economic security and environmental sustainability. Meanwhile, Africa, through the AfCFTA Investment Protocol, prioritizes developmental sovereignty and ESG-based investment governance to ensure that foreign investment contributes to inclusive and sustainable economic growth.

The findings further indicate that although these three models differ in legal structure and institutional maturity, they collectively reflect an emerging paradigm shift in international investment law toward sustainability-oriented governance. However, the study also identifies persistent challenges, including regulatory fragmentation, inconsistent implementation of legal norms, and limited institutional capacity in certain jurisdictions. These challenges suggest that legal harmonization remains incomplete and requires more than formal convergence of regulations; it necessitates functional integration of governance mechanisms that can effectively address cross-border investment barriers.

In this context, the debottlenecking mechanism offers a significant contribution as a procedural innovation that enhances regulatory responsiveness and reduces administrative inefficiencies. Within a broader comparative framework, debottlenecking may be reconceptualised as a complementary instrument for global investment governance, capable of bridging gaps

between divergent legal systems. Nevertheless, its effectiveness depends on how well it is embedded in a coherent legal framework that ensures accountability, transparency, and sustainability compliance.

This article concludes that the harmonization of sustainable investment legal frameworks across Asia, Europe, and Africa requires a multidimensional approach combining regulatory coherence, institutional coordination, and normative integration of ESG principles. Such harmonisation does not imply legal uniformity, but rather the development of interoperable legal mechanisms that can support cross-jurisdictional investment flows while safeguarding public interest objectives. Strengthening these dimensions is essential for constructing a resilient and adaptive global investment governance system that responds effectively to contemporary economic, environmental, and institutional challenges.

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