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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
INVESTMENT COMMITTEE****‘National treatment’ provisions in investment treaties: preliminary examination
of recent treaty language****Note by the Secretariat**

This note provides a preliminary examination of recent textual specifications that have emerged in investment treaties with respect to ‘national treatment’ (NT) obligations. It focuses specifically on the inclusion of guidance on the methodology to assess treatment ‘in like circumstances’. Discussions on this matter were held during the meeting of 17 June 2025.

This note is made public to ensure transparency of government conversations under the work programme on *Modernising investment treaties* (formerly, “Track 2” of the *Future of investment treaties*). Delegates had an opportunity to comment on this note before its public release. The note does not prejudge the outcomes of discussion under the work programme.

The work on *Modernising investment treaties* is documented at <https://oe.cd/foit2>.

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Context and purpose of this note

1. Track 2 participants¹ are currently considering the opportunities and implications of joint interpretations to clarify obligations in their older investment treaties. They have noted that a joint interpretation would require broad agreement on a consistent textual framing to express their understanding of substantive treaty obligations. They have begun assessing the breadth of their agreement on the scope and content of substantive investment treaty obligations to find agreeable language to express their understanding.
2. So far, discussions have focused on the breadth of common understanding and textual framings with respect to ‘fair and equitable treatment’ (FET),² ‘full protection and security’ (FPS),³ ‘most-favoured-nation’ (MFN) treatment with respect to dispute settlement arrangements,⁴ and ‘indirect expropriation’ (IE) obligations.⁵
3. Participants have requested to broaden their reflections to additional substantive treaty obligations to inform their reflections on which other provisions in their older treaties could likely benefit from clarifications. ‘National treatment’ (NT) provisions emerged as a topic for this exercise.
4. This note provides a preliminary overview of recent clarifications of NT obligations in investment treaties. It is currently based on a limited treaty sample and focuses specifically on the use of guidance on the methodology and assessment of treatment ‘in like circumstances’, to inform Track 2 participants’ reflections on the opportunities to clarify obligations in their older investment treaties in this respect. Future work could expand the treaty sample and assess additional NT clarifications in recent treaties.

¹ Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Congo (Democratic Republic), Costa Rica, Cote d’Ivoire, Croatia, Czechia, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Guinea, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Korea, Kosovo*, Kuwait, Latvia, Lithuania, Luxembourg, Malaysia, Mali, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Oman, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Viet Nam, European Union.

* This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo’s declaration of independence.

² “Fair and equitable treatment: establishing the breadth of agreement on its contours and contents” [DAF/INV/TR2/WD(2024)6/REV1], and “State of agreement on the contours and contents of the notion of ‘fair and equitable treatment’” [DAF/INV/TR2/WD(2024)7].

³ “Clarifying ‘full protection and security’ obligations in investment treaties: opportunities for a Joint Interpretation”, Secretariat research note [DAF/INV/TR2/WD(2025)1/ADD/REV1].

⁴ “Clarifying the scope of MFN clauses with respect to dispute settlement arrangements: opportunities for a Joint Interpretation” [DAF/INV/TR2/WD(2025)2/REV1].

⁵ “Scope of likely agreement on ‘indirect expropriation’: opportunities to clarify earlier treaties using a joint interpretation” [DAF/INV/TR2/WD(2025)3].

Key issues and findings

5. ‘National treatment’ (NT) provisions are a relative standard of treatment commonly found in investment treaties. They address **nationality-based discrimination** and require parties to accord to covered foreign investors and investments treatment **no less favourable** than the treatment they accord, **in like circumstances**, to domestic investors and investments. Most investment treaties accord these protections at the post-establishment phase of investments only.

6. An assessment of NT provisions in over 330 investment treaties concluded by Track 2 participants between 1960 and 2024 yields the following results:

- The **designs** of NT provisions have evolved in investment treaties. The lack of specifications in earlier treaties on the methodology to assess whether a party breached its NT obligations and divergent practices by tribunals in this respect have led treaty negotiators to include clarifications in recent treaties. Treaties concluded since the mid-2010s increasingly feature guidance addressing two aspects:
 - Most treaties concluded recently set out an **overall methodology** for the assessment of whether a party accorded treatment in like circumstances, that calls for a holistic approach considering all relevant circumstances;
 - Many treaties provide **additional indications** as to the circumstances relevant to this assessment, most prominently whether the treatment distinguishes investors and investments based on legitimate public welfare objectives.
- Many Track 2 participants that have concluded at least one investment treaty since the mid-2010s have included these clarifications of NT obligations in their recent treaty practice. This could suggest a sizeable scope of **likely agreement** on this component of NT obligations. Track 2 jurisdictions could reflect on the opportunities arising from their increasing use of NT clarifications in their recent treaties, to interpret their earlier treaties in that respect.

Issues for consideration

- What has been your jurisdiction's experience with NT clauses in investment treaties?
- What factors have contributed to your jurisdiction's current policy on the framing of NT provisions in your treaty practice?
- Has your jurisdiction included – or considered including – guidance on the methodology and assessment of treatment 'in like circumstances' under NT in your recent investment treaty practice (in the context of negotiations or broader internal discussions)?
- What is the rationale for and benefit of the inclusion of such guidance with respect to NT obligations?
- Would NT obligations in older investment treaties likely benefit from clarifying language? Could such clarification be achieved by a joint interpretation?

1. Characteristics and features of NT provisions in investment treaties

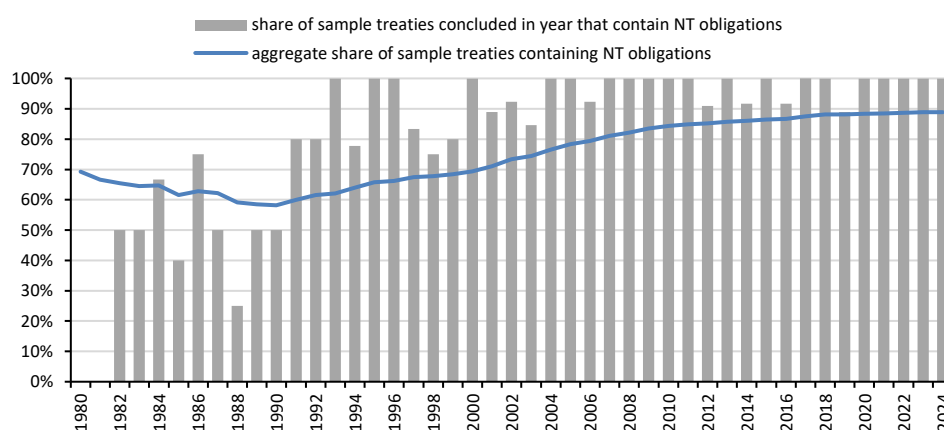
7. Early economic agreements contained obligations related to the equal treatment of aliens and of their activities in relation to nationals. NT obligations in investment treaties stem from this root (section 1.1). The scope of NT obligations in investment treaties can extend to the establishment, acquisition or expansion of investments (thereby providing market access commitments) or only to post-establishment protection (section 1.2). As a *relative* standard of treatment, NT requires parties to accord to foreign covered investors and investments treatment no less favourable than that accorded in like circumstances to domestic investors and investments (section 1.3).

1.1. Emergence of NT provisions and inclusion in investment treaties

8. Early bilateral agreements – Consular agreements as well as Friendship, Commerce and Navigation (FCN) treaties – concluded in the late 19th and 20th centuries have included commitments for the freedom of establishment of aliens and their economic activities. They also required that aliens and their activities be treated no less favourably than nationals and their activities.⁶ References to the ‘equitable treatment’ of foreign investments also featured in early plurilateral agreements, such as the [Bogota Economic Agreement](#) (1948).⁷

9. NT provisions are also found in investment treaties. Their inclusion has not always been systematic. Only some earlier treaties contain NT provisions, but since the early 2000s, NT provisions are quasi-ubiquitous (Figure 1).

Figure 1. Presence of NT obligations in investment treaties (1980-2024)



Note: Percentages are calculated on sample treaties (not treaty-covered relationships), irrespective of in-force status. Plurilateral treaties are hence counted once each, rather than for the number of relationships that they cover. Due to sample bias – earlier treaties which tend to not contain NT provisions are underrepresented in the sample – the share of Track 2 participants’ treaties containing NT obligations is likely smaller than shown. Source: OECD Investment Treaty database.

⁶ E.g., [France-Spain Consular Agreement](#) (1862); the [US-Japan FCN](#) (1953); the [UK-Japan FCN](#) (1984).

⁷ Article 22 (“Los capitales extranjeros recibirán *tratamiento equitativo*”).

1.2. Scope of NT: pre-establishment and/or post-establishment

10. NT obligations address nationality-based discrimination.⁸ Similar to MFN clauses, treaties typically list investment-related activities to which parties accord NT.⁹

11. Treaties grant national treatment to different extent. Most sample treaties' NT obligations apply exclusively **post establishment**. To indicate this scope, these treaties typically grant NT with respect to the *conduct, operation, management, maintenance, use, enjoyment, sale or disposal* of investments, or limit the beneficiaries of NT exclusively to *established* investors or investments.¹⁰

12. About a third of the NT provisions in the sample treaties include **pre-establishment** activities within the scope of obligations, in addition to post-establishment matters. These treaties typically refer to the *establishment, acquisition*¹¹ and *expansion*¹² of investments within the scope of NT obligations.

13. Initially, only a few jurisdictions notably from North America¹³ included such market access guarantees in investment treaties, but this practice has spread recently.

⁸ Some recent treaties explicitly mention this and provide clarifications on the extent to which differential treatment based on nationality constitutes a breach of NT (e.g., Canada's [Model FIPA \(2021\)](#), Art. 5. This aspect distinguishes NT from other provisions commonly found in investment treaties that address discrimination *in general* and not necessarily linked to nationality. NT is thus conceptually similar to 'most-favoured-nation' (MFN) treatment, and most treaties use broadly similar language and textual framings to describe obligations under both standards although their respective scopes may be different within the same treaty. Some (rare) treaties combine the effects of MFN and NT in a composite provision (e.g., [Morocco-United States FTA \(2004\)](#)). These treaties organise the interactions between MFN treatment and NT by requiring parties to accord *the most favourable treatment* between NT or MFN treatment, whichever is more favourable.

⁹ Most NT obligations include foreign *investors* and *investments* within their scope. Some treaties additionally include *returns of investments* or *of investors*. Similar descriptions of scopes are observed in other treaty clauses such as 'fair and equitable treatment'. These textual differences were considered less relevant for the purposes of this note; and are not dealt with in detail here.

¹⁰ Some NT provisions refer to investments '*made*' (e.g., [Spain-Nigeria BIT \(2002\)](#), [Korea-Kenya BIT \(2014\)](#)) '*established*' or '*admitted*' ([Denmark-Indonesia BIT \(2007\)](#)). These specifications may be featured in the NT provision itself, in the definition of 'investment' or 'investment activities' to which the NT provision refers, or in a separate provision on the scope of application of the treaty.

¹¹ While establishment and acquisition generally appear together, some treaties only mention one of these two elements, see e.g., the [Paraguay-United Arab Emirates BIT \(2017\)](#) which only mentions the acquisition of investments, and the [EU-Japan Economic Partnership Agreement \(2019\)](#) which only refers to the establishment of investments.

¹² The inclusion of 'expansion' within the scope of NT obligations has raised some questions as to its characterisation as 'pre-establishment'. Most treaties include 'expansion' exclusively in combination with 'establishment' and 'acquisition' – suggesting that the inclusion of 'expansion' within the scope of NT is generally considered as a part of 'pre-establishment'. However, it is occasionally included in the scope of NT provisions that are explicitly limited to post-establishment (e.g., [Estonia-Georgia BIT \(2009\) - Protocol \(2015\)](#); [Australia-China FTA \(2015\)](#) which contains asymmetric NT commitments).

¹³ See, for instance, the [Canada-United States FTA \(1988\)](#).

14. NT commitments are generally delineated by **negative lists**¹⁴ which exclude existing ‘non-conforming measures’ from the scope of obligations,¹⁵ or sectors in which parties reserve their right to adopt future measures¹⁶. The use of positive lists to identify the sectors for which parties agree to accord NT is rare.¹⁷

1.3. Content of NT obligations: relative treatment standard

15. NT is a *relative* treatment standard. There appears to be a longstanding understanding that NT does not require a *strictly equal* treatment, but an *equivalent treatment*. Government discussions from the late 1970s and 1980s testify of this understanding.¹⁸ NT obligations require that covered foreign investors and investments are accorded treatment that is *no less favourable* (section 1.3.1) than the treatment accorded *in like circumstances* (section 1.3.2) to domestic investors and investments.

1.3.1. Treatment ‘no less favourable’...

16. NT obligations require that treaty parties accord treatment *no less favourable*. NT provisions usually set the treatment of domestic investors and investments as a *minimum* standard in reference to which the treatment of foreign covered investors and investments is determined.¹⁹

17. Treaties rarely contain indications on measures that do or do not constitute ‘less favourable treatment’ under NT (barely 5% of sample treaties). Some earlier treaties

¹⁴ These lists either specify their application only to pre-establishment obligations or do not specify to which extent they apply to pre- and/or post-establishment. However, except in rare cases, negative lists are mainly featured in treaties that grant pre-establishment NT protection.

¹⁵ Treaties generally limit the possibility for countries to make changes and additions to the measures identified (e.g. the [Argentina-Chile FTA \(2017\)](#); [Colombia-Japan BIT \(2011\)](#); [Brazil-Guyana CIFA \(2018\)](#)).

¹⁶ The [Treaty of Amity and Economic Relations between Thailand and the United States \(1966\)](#) provides pre-establishment NT combined with a negative list of sectors excluded from this obligation. Most sample treaties concluded from the 2000s onwards exclude measures “that a Party adopts or maintains with respect to sectors, subsectors or activities” as set out in a negative list (e.g. the [Chile-Hong Kong \(China\) BIT \(2016\)](#)).

¹⁷ Only five sample treaties use a positive list to identify sectors covered by NT obligations, e.g., the [MERCOSUR-Singapore FTA](#), the [New Zealand-Thailand CEPA \(2005\)](#). Half of these treaties specify that the positive list only applies to pre-establishment obligations.

¹⁸ Government discussions dating back to the late 1970s and early 1980s – specifically with respect to the scope of the OECD National Treatment Instrument – show that governments agreed that foreign investors and investments may legitimately be subject to differential treatment, but that they had to benefit from broadly *equivalent treatment*, i.e., treatment that was no less favourable, considering legitimate differences and circumstances. See OECD (2005), [National Treatment for Foreign-Controlled Enterprises](#) (Annex C), OECD Publishing, p. 106.

¹⁹ E.g., [Chile-Mexico FTA \(1998\)](#). As one of the few linguistic exceptions, the [Belgium/Luxembourg-Thailand BIT \(2002\)](#) frames the obligation as treatment and protection “*at least the same* as those accorded by each Contracting Party to its own investors”. Few treaties rather frame textually the NT obligations as requiring parties to accord the same treatment (e.g., [Costa Rica-France BIT \(1984\)](#)).

contain an indicative list of measures that may constitute ‘less favourable treatment’.²⁰ Only one recent treaty in the sample indicates general criteria to assess less favourable treatment.²¹ Such design does not appear broadly in recent investment treaties.

1.3.2. ...‘*in like circumstances*’

18. NT provisions require parties to accord this treatment *in like circumstances*. Recent treaties explicitly emphasise the relative nature of the required treatment under NT.²² Even in the absence of such textual indicators, the comparator is considered inherent to the nature of NT obligations.²³

19. Tribunals have by and large approached NT claims using a comparative fact-based inquiry and have used a combination of criteria to assess whether foreign investors were accorded less favourable treatment compared to domestic investors in like circumstances. They have considered the economic or business sector of the investments as a potentially relevant criterion in this assessment.²⁴ Some tribunals have also considered the extent of

²⁰ E.g. [Egypt-Germany BIT \(2005\)](#): “unequal treatment in the case of restrictions on the purchase of raw or auxiliary materials, of energy or fuel or of means of production or operation of any kind as well as any other measures having similar effects”.

²¹ E.g. [MERCOSUR Protocol on Investment Cooperation and Facilitation \(2017\)](#): a treatment *shall be regarded as less favourable* if it “alters the conditions of competition in favour of its own investors and their investments” in comparison with the investors of other State Parties and their investments.

²² Some earlier treaties rather referred to ‘similar’ investments or enterprises to indicate the comparator (see, e.g., the [Denmark-Indonesia BIT \(1968\)](#), Art. III; the [Belgium-Indonesia BIT \(1970\)](#), Art. 2, para. 3).

²³ *Total S.A. v. The Argentine Republic*, ICSID Case No. ARB/04/01, [Decision on Liability](#), 27 December 2010, para. 213: “the absence of the term “like” in Article 4 of the BIT is not decisive since this element is inherent in an evaluation of discrimination.” Such comparator likely stems from the *ejusdem generis* principle (see ILC, *Final Report of the Study Group on the Most-Favoured-Nation clause*, Yearbook ILC 2015, Vol. II(2), para. 76 and *Draft Articles on Most-Favoured-Nation Clauses with Commentaries*, Yearbook ILC 1978, Vol. II(2)).

²⁴ E.g., *Marvin Roy Feldman Karpa v. United Mexican States*, ICSID Case No. ARB(AF)/99/1, [Award](#), 16 December 2002, para. 171: “In the Tribunal’s view, the “universe” of firms in like circumstances are those foreign-owned and domestic-owned firms that are in the business of reselling/exporting cigarettes. Other Mexican firms that may also export cigarettes, such as Mexican cigarette producers, are not in like circumstances”. See also *Champion Trading Company, Ameritrade International, Inc. v. Arab Republic of Egypt*, ICSID Case No. ARB/02/9, [Award](#), 27 October 2006, para. 130; *Total S.A. v. Argentine Republic*, ICSID Case No. ARB/04/1, [Decision on Liability](#), 27 December 2010, para. 344; *Olin Holdings v. Libya*, ICC Case No. 20355/MCP, [Final Award](#), 25 May 2018, paras. 205-207.

competition between the foreign and domestic investors,²⁵ or the public policy objectives that underpin their respective treatments.²⁶

20. The lack of specifications on how the relative treatment assessment shall be carried out – in particular with respect to the circumstances relevant to the assessment or the relative weight that shall be given to each of them – and divergent practices by tribunals in this respect²⁷ have led treaty negotiators to include guidance on the methodology and assessment of treatment ‘in like circumstances’ under NT. An increasing number of treaties contain this clarifying language (section 2 below).

²⁵ E.g., *S.D. Myers, Inc. v. Government of Canada*, UNCITRAL, [Partial Award](#), 13 November 2000, para. 251; *Sergei Paushok, CJSC Golden East Company and CJSC Vostokneftegaz Company v. The Government of Mongolia*, UNCITRAL, [Award on Jurisdiction and Liability](#), 28 April 2001, para. 315; *Archer Daniels Midland Company and Tate & Lyle Ingredients Americas, Inc. v. The United Mexican States*, ICSID Case No. ARD(AF)/04/4, [Award](#), 21 November 2007, paras. 201-204; *Corn Products International Inc. v. United Mexican States*, ICSID Case No. ARB(AF)04/1, [Decision on Responsibility](#), 15 January 2008, paras. 120 and 126. Some of these criteria appear to be inspired by the WTO Dispute Settlement Body (DSB)’s caselaw with respect to NT claims in trade disputes.

²⁶ *S.D. Myers, Inc. v. Government of Canada*, UNCITRAL, [Partial Award](#), 13 November 2000, para. 150: “The assessment of “like circumstances” must also take into account circumstances that would justify governmental regulations that treat them differently in order to protect the public interest”. See also *United Parcel Service of America v. Canada*, [Award on the Merits](#), 24 May 2007, paras. 173-178; *Parkerings-Compagniet AS v. Republic of Lithuania*, ICSID Case No. ARB/05/8, [Award](#), 11 September 2007, para. 392.

²⁷ One tribunal for instance considered that ‘all exporters’ were ‘in like circumstances’, regardless of their business sector or the existence of a competitive relation among them. See *Occidental Exploration and Production Company v. The Republic of Ecuador*, LCIA Case No. UN3467, [Final Award](#), 1 July 2004, paras. 168-177.

2. Recent treaties clarify the scope and content of NT obligations

21. Textual clarifications have emerged in recent treaties to specify the scope and content of NT obligations. Most prominently, treaties concluded since the mid-2010s contain guidance on the methodology to assess whether treatment ‘in like circumstances’ was accorded (section 2.1). Additional clarifications of NT obligations are also frequently included in recent treaties (section 2.2).

2.1. Main clarifications: guidance on the methodology and assessment of treatment ‘in like circumstances’

22. Guidance on the methodology and assessment of whether treatment ‘in like circumstances’ was accorded under NT first emerged in treaty language in the mid-2000s. Traces of similar language can be found in government discussions dating back to the mid-1970s.²⁸ Treaties concluded since the mid-2010s increasingly feature such guidance.

23. The guidance addresses two aspects:

- An overall methodology for the assessment of treatment ‘in like circumstances’, based on a holistic approach considering all relevant circumstances (section 2.1.1).
- Additional indications as to the circumstances relevant for the assessment, most prominently whether the treatment distinguishes investors and investments based on legitimate public welfare objectives (section 2.1.2).

2.1.1. General methodological guidance for the assessment

24. Recent investment treaties provide general methodological guidance on the assessment of whether treatment ‘in like circumstances’ was accorded, calling for a holistic approach considering all relevant circumstances. This guidance is generally formulated as a clarification ‘for greater certainty’ that **“whether treatment is accorded in ‘like circumstances’ depends on the totality of the circumstances”**.²⁹

25. Few treaties contain additional methodological guidance, specifying that such assessment shall follow an *objective*,³⁰ *case-by-case*, *fact-specific* inquiry.³¹ Even fewer

²⁸ The OECD National Treatment Instrument, initially adopted in 1976 and counting 52 adherents in 2025, is one of the first plurilateral instrument to provide guidance on the methodology and assessment of treatment *in like situations*. In the 1980s a clarification to the scope of the instrument was added that called for a holistic approach for the assessment of ‘like situations’ and provided an indicative list of elements to be considered, including the sector in which the investors and investments operate, the policy objectives of these measures and whether the measure is motivated – at least in part – by the fact that the investors and investments concerned are under foreign control. See OECD (2005), [National Treatment for Foreign-Controlled Enterprises](#) (Annex C), OECD Publishing, p. 106.

²⁹ [USMCA \(2020\)](#), Article 14.4, para. 4.

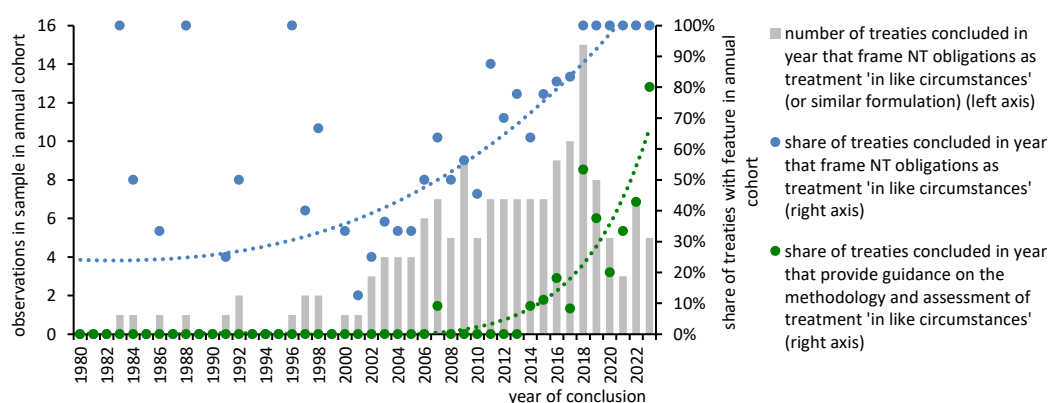
³⁰ E.g., [Agreement on Investment under the ASEAN-India CECA \(2016\)](#).

³¹ E.g., [EU-Chile Advanced Framework Agreement](#).

treaties specify the extent of consideration to be given to the circumstances considered relevant for the assessment.³²

26. The [COMESA Investment Agreement \(2007\)](#) appears to be the first agreement in the sample to feature general methodological guidance on the assessment of treatment ‘in like circumstances’ under NT.³³ Only a decade later did the use of clarifying language spread through the treaty sample, after the [Brazil-Chile CIFA \(2015\)](#) first contained the clarifications and textual framings that now are commonly used in recent treaties (Figure 2).

Figure 2. Recent NT designs: guidance on the methodology to assess treatment ‘in like circumstances’



Note: Shares provided for sample treaties that contain NT obligations. Dotted blue and green lines represent polynomial trendlines of the share of treaties and related documents that contain the respective features in annual cohorts (represented by the scattered plots of the same colour).

Source: OECD Investment Treaty database.

27. Methodological guidance on the assessment of treatment ‘in like circumstances’ under NT is featured in 30 sample treaties. About 75% of Track 2 participants that have concluded at least one investment treaty or related document in the last decade have featured such guidance in their recent investment treaty practice.

³² Treaties generally specify in this respect that “the examination shall not be limited to or be biased towards any one factor” (e.g., [Agreement on Investment under the ASEAN-India CECA \(2016\)](#)).

³³ The [SADC Model BIT \(2012\)](#) – broadly inspired by the COMESA Investment Agreement (2007) design – explained that such clarifications aim to ensure that “a broad view is taken, rather than simply a narrow question of whether the investors are in the same or a related or competitive sector” and that “reasons for any measures can be fully considered, and not just their financial impacts”. Governments have put forward similar views in the context of ISDS cases involving NT claims (e.g., *Pope & Talbot v. The Government of Canada*, UNCITRAL, [Second Submission of the United States of America](#), paras. 4-5: “The phrase “in like circumstances” ensures that comparisons are made with respect to investors and investments on the basis of characteristics that are relevant for the purpose of the comparison. The objective is to permit the consideration of all relevant circumstances, including those relating to a foreign investor and its investment, in deciding to which domestic investors and investments they should appropriately be compared, while excluding from consideration those characteristics that are not relevant to such a comparison. [...] The circumstances relevant to the comparison will vary by case”).

2.1.2. Indications on the circumstances relevant to the assessment

28. Treaties that contain methodological guidance on treatment in ‘like circumstances’ usually provide additional indications as to the circumstances relevant in the assessment.³⁴ These descriptions are mostly formulated as illustrations of circumstances that may be relevant in the assessment.

29. The most frequently mentioned circumstance refers to **whether the relevant treatment distinguishes between investors or investments on the basis of ‘legitimate public welfare objectives’**.³⁵ Other formulations include legitimate ‘*public policy objectives*’³⁶ or ‘*regulatory objectives*’.³⁷ In aggregate, 26 treaties in the sample feature legitimate policy objectives – in any of their formulations – as circumstances that may be relevant to the assessment of treatment ‘in like circumstances’.

30. Other descriptions of circumstances that also occasionally appear – alternatively or cumulatively – in recent treaties include:

- The business or economic sector of the investments (4 occurrences);³⁸
- The aim of the measure concerned (2 occurrences);³⁹
- The ‘regulatory process generally applied in relation to the measure concerned’ (2 occurrences);⁴⁰
- The location of investments (1 occurrence);⁴¹ or
- The applicable legal and regulatory frameworks (1 occurrence),⁴² among others.

³⁴ For an exception to this design, see [EU-Chile Advanced Framework Agreement \(2023\)](#).

³⁵ Some treaties will add that where treatment distinguishes between investors or investments on the basis of legitimate public welfare objectives, that treatment is not inconsistent with NT (*e.g.*, the [Australia-Indonesia CEPA](#)).

A small number of treaties (7 treaties in the treaty sample) refer to the exclusion of measures pursuing public policy objectives (such as the environment or public order) from the scope of NT outside of the guidance on ‘like circumstances’, see *e.g.* [EU-Singapore Investment Protection Agreement \(2019\)](#) and [Morocco-Dominican Republic BIT \(2002\)](#). Treaties that feature this specification appear to not contain a clarification on ‘like circumstances’.

³⁶ *E.g.*, the [New Zealand-UAE BIT \(2025\)](#), Art. 3; Canada’s [Model FIPA \(2021\)](#), Art. 5.

³⁷ *E.g.*, the [India-UAE BIT \(2024\)](#), Art. 5.

³⁸ *E.g.* the [Indonesia-Switzerland BIT \(2022\)](#).

³⁹ *E.g.* the [COMESA Investment Agreement \(2007\)](#).

⁴⁰ *E.g.* the [Agreement on Investment under the ASEAN-India CECA \(2016\)](#).

⁴¹ *E.g.* the [Agreement on Investment under the ASEAN-India CECA \(2016\)](#).

⁴² [Drafters’ Note on the Interpretation of “In Like Circumstances” Under Article 9.4 \(National Treatment\) and Article 9.5 \(Most-Favoured-Nation Treatment\) to the CPTPP \(2018\)](#).

2.2. Additional specifications of NT in recent investment treaties: an overview

31. Aside from language that clarifies the methodology for the assessment of treatment ‘in like circumstances’, additional clarifications of NT obligations also appear in recent treaties at various frequencies, including:

- **Specification regarding measures relating to intellectual property.** Many sample treaties (68 occurrences) specify that parties may derogate from the NT obligation in consistency with the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) or the treaties of the World Intellectual Property Organisation.⁴³
- **Formalities and informational requests.** 66 treaties in the sample specify that the NT obligation is without prejudice to the right of parties to adopt or maintain measures prescribing *special formalities* related to the investment, provided that these formalities do not impair the investment protections. Many of these treaties (about 75%) additionally allow for the contracting parties to request information for statistical purposes.⁴⁴
- **NT obligations with respect to territorial subdivisions.** 45 treaties in the sample specify that the treatment accorded at a sub-national level to foreign covered investors and investments shall be no less favourable than *the most favourable treatment* accorded, in like circumstances, by that territorial subdivision to domestic investors.⁴⁵

⁴³ E.g. for a measure falling within an exception to, or derogation from the obligations under Article 3 of the TRIPS Agreement (see, e.g. the [Canada-Colombia FTA \(2008\)](#), and the [Argentina-Japan BIT \(2018\)](#)). Other treaty designs refer more generally to all World Intellectual Property Organization (WIPO) treaties (e.g. the [United States-Viet Nam FTA \(2000\)](#), referring to “procedures provided in multilateral agreements concluded under the auspices of the World Intellectual Property Organization relating to the acquisition or maintenance of intellectual property rights”).

⁴⁴ See, for both specifications, [New Zealand-United Kingdom FTA \(2022\)](#) and, for a specification solely on legal formalities, [Argentina-Japan BIT \(2018\)](#).

⁴⁵ E.g. the [Japan-Mexico EPA \(2004\)](#). An idiosyncratic design featured in earlier treaties concluded in the 1980s and 1990s required for the treatment accorded in any subdivision to be the treatment accorded to investors and investments in other subdivisions. E.g. the [Egypt-United States BIT \(1986\)](#).

Annex A. Survey sample and methodology

Sample composition

32. The sample for this survey consists of 334 investment treaties and related documents that the 101 jurisdictions that are invited to participate in the Track 2 project⁴⁶ have concluded with any other jurisdiction between 1959 and 2024.⁴⁷

33. The concept of “investment treaty” is increasingly fluid as traditionally assumed defining features – foremost the presence of post-establishment protection content – are no longer present in some treaties. For the purpose of this survey, “investment treaties” are nonetheless understood as treaties that contain post-establishment protection content, given that rules on ‘national treatment’ are also part of that subset of rules (even though many treaties’ NT provisions also provide market access rights to covered foreign investors and investments). Treaties with investment content that do not include any post-establishment protection provisions are not included in the sample.

34. The vast majority of the documents in the sample are bilateral investment treaties. Investment chapters in bilateral preferential trade agreements with investment provisions as well as 29 plurilateral agreements with investment provisions – signed by at least one jurisdiction that participates in the Track 2 project – are also included in the sample. For plurilateral arrangements, only relationships that involve at least one participant in the Track 2 project are considered.

35. Three plurilateral treaties are excluded from the statistical assessment in this study: the Energy Charter Treaty, the Agreement for Promotion, Protection and Guarantee of Investments among Member States of the Organisation of the Islamic Conference, and the Unified Agreement for the Investment of Arab Capital in the Arab States. Several different reasons motivate this choice: The signature and in-force status of the Unified Agreement for the Investment of Arab Capital in the Arab States for individual economies cannot be determined with any degree of certainty from authoritative, publicly accessible sources. All three agreements cover a very significant number of relationships that would make remaining data unreadable: the Energy Charter Treaty and the Agreement for Promotion,

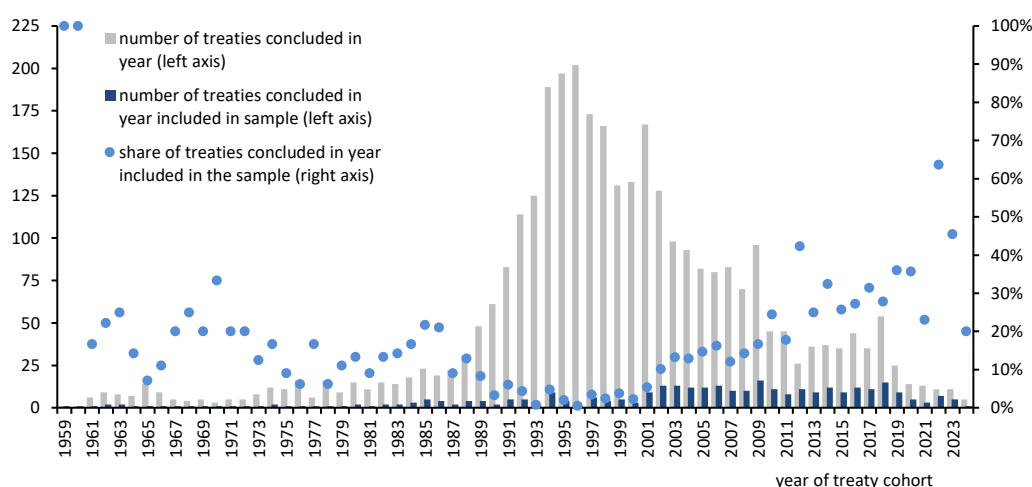
⁴⁶ Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Congo (Democratic Republic), Costa Rica, Cote d’Ivoire, Croatia, Czechia, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Guinea, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Korea, Kosovo, Kuwait, Latvia, Lithuania, Luxembourg, Malaysia, Mali, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Oman, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Viet Nam, European Union.

⁴⁷ Where the term “jurisdiction” is used in this report, it does not imply any judgement by the OECD as to the legal or other status of any territorial entity. Belgium and Luxembourg have concluded many treaties jointly as the “Belgium-Luxembourg Economic Union”; while they constitute a joint treaty partner, this report counts the Belgium-Luxembourg Economic Union as two jurisdictions and produces data separately for the two jurisdictions, but counts treaties concluded by the Belgium Luxembourg Economic Union only once.

Protection and Guarantee of Investments among Member States of the Organisation of the Islamic Conference cover potentially over 3,300 relationships and would eclipse data documenting developments by their sheer number. Treaty relationships established by the three treaties also coexist in many relationships with other investment treaty arrangements with uncertain results for the obligations with respect to NT in relationships that are covered by several treaties with often diverging framings of obligations.

36. Overall, the treaties or related texts in the sample cover over 400 bilateral relationships. Figure A A.1 shows the distribution of new treaties and treaty relationships included in the sample in annual cohorts.

Figure A A.1. Treaty sample composition (1960-2024)



Source: OECD Investment Treaty Database.

37. The primary considerations for the inclusion of a document into the treaty sample were reliability and authenticity of the document texts. The sample includes thus only documents that were available from government websites of jurisdictions that participate in the Track 2 project or, rarely, websites of the governments of their treaty partners, as well as websites maintained by international or regional organisations.⁴⁸ Agreements were only included if an authentic text was available in a language accessible to the Secretariat (English, French, German, Italian, Spanish, Portuguese, Arabic). The assessment of the treaty content was made from one authentic language only, which may not have been the language in which the treaty has been negotiated or which is the determining language in cases of deviations. Translations towards the authentic language that has been used for the assessment of a given treaty may have contributed to linguistic variance.

38. Given the limitations to availability of treaty texts, the sample may not in all cases be representative and may be biased for a number of reasons. Some treaties, especially those signed just before the finalisation of the survey may not be accessible on publicly

⁴⁸ These include the [United Nations Treaties series](#), the [website of the Organisation of American States](#) and the [EFTA website](#). UNCTAD's treaty collection was not used for concerns about unsigned or invalid versions, other than to fill gaps and only if the document file made available on the database showed a scan of a signed and dated original text.

available databases used for this survey. The full list of treaties and related arrangements included in the sample is available in Annex B.

39. Treaties and amendments have been included in the sample regardless of whether they are in force. Treaties that are not known to be in force or that are known to no longer be in force are shown in *italics* in this document.⁴⁹ For certain assessments as indicated in the text or notes to figures, only future-oriented treaties were considered; future-oriented treaties are those arrangements that were known to be in force in May 2025 or were expected to enter into force in the future. Treaties that are “expected to come into force” are those that have been signed but have not yet entered into effect. Some treaties that have been signed but for which at least one signatory has declared it will not bring into effect, are not counted in this group. Treaties that have been superseded or terminated are also excluded from the group of future-oriented treaties; treaties that are suspended are likewise treated as belonging to this group even though they may theoretically return to force in the future.

Treatment of amendments and side-agreements

40. Many treaties in the sample have been amended after their initial conclusion or complemented by side agreements such as joint interpretations. These documents were likewise assessed for this study. For purposes of the presentation, in particular for the description of developments over time, such joint interpretations and amendments are treated as if a new treaty with the features had replaced an existing treaty. The signature date of the amendment or side agreement determines the inclusion of the arrangement in a cohort.

Treatment of coexisting treaty arrangements in a given bilateral relationship

41. In many instances, bilateral relationships are simultaneously covered by more than one treaty. In individual cases, up to five investment treaties exist simultaneously in a bilateral relationship. The interaction of the provisions of these arrangements with each other is rarely clarified in treaties themselves and is uncertain overall. Simultaneous coexistence is not to be confounded with treaty replacements, where only one of the treaties – the old *or* the new treaty – is in force at a given point in time.

42. For the purpose of this study, simultaneous co-existence is not resolved. Rather, treaty relationships established by a given bilateral relationship are accounted for independently as if they were established in different bilateral relationships.

43. “Suspended” treaties are treated, for the purpose of this study, as if there were no longer in force. Suspension of a treaty is used by some jurisdictions in cases of replacements, often of a BIT that is being replaced by a PTA, where the termination of the newer treaty would lead to a revival of the suspended earlier treaty.⁵⁰ No practical occurrences of such revival are known.

⁴⁹ This does not apply systematically to plurilateral arrangements that can be in force for some of its signatories but not for others. Only when the agreement is not in force for any of its signatories is the treaty name shown in *italics*.

⁵⁰ See Pohl, J. (2013), “[Temporal Validity of International Investment Agreements: A Large Sample Survey of Treaty Provisions](#)”, *OECD Working Papers on International Investment*, No. 2013/04, OECD Publishing, Paris, p. 15.

Annex B. List of treaties and related documents in the sample

44. This Annex contains the list of treaties and related documents that are included in the sample of this study. Treaties and documents in italics were, according to publicly available information accessed by the Secretariat, not yet or no longer in force at the time the survey was concluded on 20 May 2025. The treaties are listed in alphabetical order for each country, resulting in a double listing of individual treaties concluded between participants in the Track 2 project, under both economies. Plurilateral agreements included in the sample are shown at the end of the list. The electronic version of the present document provides – some rare exceptions aside – access to the full text of the treaty through a hyperlink under the treaty name; some documents may no longer be available at the electronic address as time passes.

- | | |
|---|--|
| Albania-Austria BIT (1993) | <i>Bangladesh-Cambodia BIT (2014)</i> |
| Albania-Finland BIT (1997) | <i>Bangladesh-Kuwait BIT (2016)</i> |
| Algeria-Ethiopia BIT (2002) | <i>Bangladesh-Türkiye BIT (2012)</i> |
| <i>Algeria-Libya BIT (2001)</i> | <i>Belgium/Luxembourg-Bahrain BIT (2006)</i> |
| Algeria-Serbia BIT (2012) | Belgium/Luxembourg-Bangladesh BIT (1981) |
| <i>Angola-Brazil CIFA (2015)</i> | Belgium/Luxembourg-Bolivia BIT (1990) |
| Angola-Japan BIT (2023) | <i>Belgium/Luxembourg-Botswana BIT (2006)</i> |
| Argentina-Australia BIT (1995) | <i>Belgium/Luxembourg-Egypt BIT (1977)</i> |
| Argentina-Canada BIT (1991) | Belgium/Luxembourg-Egypt BIT (1999) |
| Argentina-Chile FTA (2017) | <i>Belgium/Luxembourg-Korea BIT (1974)</i> |
| <i>Argentina-Ecuador BIT (1994)</i> | Belgium/Luxembourg-Malaysia BIT (1979) |
| Argentina-France BIT (1991) | Belgium/Luxembourg-Mauritius BIT (2005) |
| <i>Argentina-Japan BIT (2018)</i> | <i>Belgium/Luxembourg-Morocco BIT (1965)</i> |
| Argentina-Korea BIT (1994) | Belgium/Luxembourg-Paraguay BIT (1992) |
| <i>Argentina-Qatar BIT (2016)</i> | <i>Belgium/Luxembourg-Romania BIT (1978)</i> |
| Argentina-United Arab Emirates BIT (2018) | Belgium/Luxembourg-Russian Federation BIT (1989) |
| Argentina-United States BIT (1991) | Belgium/Luxembourg-Saudi Arabia BIT (2001) |
| Armenia-Canada BIT (1997) | Belgium/Luxembourg-Thailand BIT (2002) |
| Armenia-United States BIT (1992) | <i>Belgium/Luxembourg-Togo BIT (2009)</i> |
| Australia-Argentina BIT (1995) | <i>Belgium/Luxembourg-Tunisia BIT (1964)</i> |
| Australia-Chile FTA (2008) | <i>Belgium-Indonesia BIT (1970)</i> |
| Australia-China BIT (1988) | Benin-Canada BIT (2013) |
| Australia-China FTA (2015) | Bosnia and Herzegovina-Belarus BIT (2004) |
| Australia-Egypt BIT (2001) | <i>Brazil-Angola CIFA (2015)</i> |
| Australia-Indonesia CEPA (2019) | <i>Brazil-Chile CIFA (2015)</i> |
| Australia-Lithuania BIT (1998) | <i>Brazil-Ecuador CIFA (2019)</i> |
| Australia-Malaysia FTA (2012) | <i>Brazil-Ethiopia CIFA (2018)</i> |
| Australia-New Zealand ANZCERTA Investment Protocol (2011) | <i>Brazil-Guyana CIFA (2018)</i> |
| Australia-Peru FTA (2018) | <i>Brazil-Korea BIT (1995)</i> |
| Australia-Poland BIT (1991) | <i>Brazil-Morocco CIFA (2019)</i> |
| Australia-Singapore Amendment (2016) | <i>Brazil-Portugal BIT (1994)</i> |
| <i>Australia-Singapore FTA (2003)</i> | <i>Bulgaria-France BIT (1989)</i> |
| Australia-Türkiye BIT (2005) | <i>Bulgaria-Germany BIT (1986)</i> |
| Australia-United Kingdom FTA (2021) | <i>Bulgaria-Hungary BIT (1994)</i> |
| Australia-Uruguay BIT (2019) | <i>Bulgaria-Indonesia BIT (2003)</i> |
| Austria-Albania BIT (1993) | Bulgaria-Korea BIT (2006) |
| Austria-Chile BIT (1997) | <i>Bulgaria-Netherlands BIT (1999)</i> |
| Austria-Kazakhstan BIT (2010) | Burkina Faso-Canada BIT (2015) |
| Austria-Kyrgyzstan BIT (2016) | Burkina Faso-Korea BIT (2004) |
| Austria-Malaysia BIT (1985) | Cameroon-Germany BIT (1962) |
| <i>Austria-Nigeria BIT (2013)</i> | Cameroon-United Kingdom BIT (1982) |
| Azerbaijan-Israel BIT (2007) | Canada-Argentina BIT (1991) |
| Azerbaijan-Latvia BIT (2005) | Canada-Armenia BIT (1997) |
| Azerbaijan-San Marino BIT (2015) | Canada-Benin BIT (2013) |
| <i>Bahrain-Belgium/Luxembourg BIT (2006)</i> | Canada-Burkina Faso BIT (2015) |
| <i>Bahrain-Japan BIT (2022)</i> | Canada-China BIT (2012) |
| Bahrain-Mexico BIT (2005) | Canada-Colombia FTA (2008) |
| <i>Bahrain-Spain BIT (2008)</i> | Canada-Costa Rica BIT (1998) |
| Bangladesh-Belgium/Luxembourg BIT (1981) | Canada-Egypt BIT (1996) |
| | Canada-Jordan BIT (2009) |

Canada-Kosovo BIT (2018)
 Canada-Kuwait BIT (2011)
 Canada-Mongolia BIT (2016)
Canada-Nigeria BIT (2014)
 Canada-Panama FTA (2010)
Canada-Peru BIT (2006)
 Canada-Peru FTA (2008)
Canada-Slovakia BIT (1990)
 Canada-Ukraine FTA (2023)
 Canada-United States FTA (1988)
 Chile-Argentina FTA (2017)
 Chile-Australia FTA (2008)
 Chile-Austria BIT (1997)
Chile-Brazil CIFA (2015)
 Chile-Colombia FTA (2006)
Chile-Egypt BIT (1999)
Chile-Hong Kong (China) BIT (2016)
 Chile-Japan EPA (2007)
 Chile-Korea FTA (2003)
 Chile-Mexico FTA (1998)
 Chile-Spain BIT (1991)
 Chile-United States FTA (2003)
 China-Australia BIT (1988)
 China-Australia FTA (2015)
 China-Canada BIT (2012)
 China-Denmark BIT (1985)
 China-Finland BIT (2004)
 China-Germany BIT (2003)
 China-Greece BIT (1992)
China-Korea FTA (2015)
 China-Latvia BIT (2004)
 China-Mauritius FTA (2019)
 China-Mexico BIT (2008)
 China-Netherlands BIT (2001)
 China-New Zealand BIT (1988)
 China-Nicaragua FTA (2023)
 China-United Kingdom BIT (1986)
 Colombia-Canada FTA (2008)
 Colombia-Chile FTA (2006)
 Colombia-Costa Rica FTA (2013)
 Colombia-France BIT (2014)
Colombia-Japan BIT (2011)
Colombia-Korea BIT (2010)
Colombia-Panama FTA (2013)
Colombia-Peru BIT (1994)
 Colombia-Spain BIT (2005)
Colombia-Venezuela BIT (2023)
 Congo (Democratic Republic)-Germany BIT (1969)
 Congo (Democratic Republic)-Switzerland BIT (1972)
 Congo (Democratic Republic)-United States BIT (1984)
 Costa Rica-Canada BIT (1998)
 Costa Rica-Colombia FTA (2013)
 Costa Rica-France BIT (1984)
Costa Rica-Qatar BIT (2012)
 Costa Rica-United Arab Emirates BIT (2017)
Cote d'Ivoire-Japan BIT (2020)
 Cote d'Ivoire-Switzerland BIT (1962)
Cote d'Ivoire-Türkiye BIT (2016)
 Croatia-Israel BIT (2000)
 Croatia-Korea BIT (2005)
Czechia-Iran BIT (2017)
 Czechia-Mexico BIT (2002)
 Czechia-Sri Lanka BIT (2011)
 Denmark-China BIT (1985)
Denmark-Indonesia BIT (1968)
 Denmark-Indonesia BIT (2007)
 Denmark-Sri Lanka BIT (1985)
Ecuador-Argentina BIT (1994)
Ecuador-Brazil CIFA (2019)
Ecuador-Sweden BIT (2001)
 Egypt-Australia BIT (2001)
Egypt-Belgium/Luxembourg BIT (1977)
 Egypt-Belgium/Luxembourg BIT (1999)
 Egypt-Canada BIT (1996)
Egypt-Chile BIT (1999)
Egypt-Finland BIT (1980)
 Egypt-Finland BIT (2004)
 Egypt-France BIT (1974)
 Egypt-Germany BIT (2005)
Egypt-Romania BIT (1976)
Egypt-Switzerland BIT (1973)
 Egypt-Switzerland BIT (2010)
 Egypt-United Kingdom BIT (1975)
 Egypt-United States BIT (1986)
Estonia-Georgia BIT (2009)
 Estonia-Moldova BIT (2010)
 Ethiopia-Algeria BIT (2002)
Ethiopia-Brazil CIFA (2018)
 Ethiopia-Israel BIT (2003)
 Finland-Albania BIT (1997)
 Finland-China BIT (2004)
Finland-Egypt BIT (1980)
 Finland-Egypt BIT (2004)
Finland-Kenya BIT (2008)
 Finland-Malaysia BIT (1985)
 France-Argentina BIT (1991)
France-Bulgaria BIT (1989)
 France-Colombia BIT (2014)
 France-Costa Rica BIT (1984)
 France-Egypt BIT (1974)
 France-Madagascar BIT (2003)
France-Mauritius BIT (2010)
 France-Mexico BIT (1998)
 France-Pakistan BIT (1983)
 France-Türkiye BIT (2006)
 France-Venezuela BIT (2001)
Georgia-Estonia BIT (2009)
Georgia-Japan BIT (2021)
 Georgia-Switzerland BIT (2014)
Germany-Bolivia BIT (1987)
Germany-Bulgaria BIT (1986)
 Germany-Cameroon BIT (1962)
 Germany-China BIT (2003)
 Germany-Congo (Democratic Republic) BIT (1969)
 Germany-Egypt BIT (2005)
 Germany-Guatemala BIT (2003)
Germany-India BIT (1995)
 Germany-Malaysia BIT (1960)
 Germany-Mauritania BIT (1982)
 Germany-Mauritius BIT (1971)
 Germany-Pakistan BIT (1959)
Germany-Pakistan BIT (2009)
 Germany-South Sudan BIT (1963)
 Ghana-Netherlands BIT (1989)
 Greece-China BIT (1992)
 Greece-Jordan BIT (2005)
Greece-Kazakhstan BIT (2002)
 Greece-Korea BIT (1995)
 Greece-United Arab Emirates BIT (2014)
 Greece-Viet Nam BIT (2008)
Guinea-Türkiye BIT (2013)
Hungary-Bulgaria BIT (1994)
Hungary-Oman BIT (2022)
Hungary-Tajikistan BIT (2017)
India-Germany BIT (1995)
 India-Japan EPA (2011)
India-Kuwait BIT (2001)
India-Mexico BIT (2007)
India-Switzerland BIT (1997)
 India-United Arab Emirates BIT (2024)
 Indonesia-Australia CEPA (2019)
Indonesia-Belgium BIT (1970)
Indonesia-Bulgaria BIT (2003)
Indonesia-Denmark BIT (1968)

Indonesia-Denmark BIT (2007)
 Indonesia-Japan EPA (2007)
 Indonesia-Korea CEPA (2020)
Indonesia-Netherlands BIT (1994)
Indonesia-Singapore BIT (2005)
Indonesia-Switzerland BIT (2022)
 Israel-Azerbaijan BIT (2007)
 Israel-Croatia BIT (2000)
 Israel-Ethiopia BIT (2003)
Israel-Korea FTA (2021)
 Israel-Mongolia BIT (2003)
 Israel-Myanmar BIT (2014)
Israel-Panama FTA (2018)
Israel-Philippines BIT (2022)
 Israel-Ukraine BIT (2010)
 Israel-United Arab Emirates BIT (2020)
Italy-Nicaragua BIT (2004)
 Japan-Angola BIT (2023)
Japan-Argentina BIT (2018)
Japan-Bahrain BIT (2022)
 Japan-Chile EPA (2007)
Japan-Colombia BIT (2011)
Japan-Cote d'Ivoire BIT (2020)
Japan-Georgia BIT (2021)
 Japan-India EPA (2011)
 Japan-Indonesia EPA (2007)
Japan-Iran BIT (2016)
Japan-Iraq BIT (2012)
Japan-Jordan BIT (2018)
 Japan-Korea BIT (2002)
 Japan-Mexico EPA (2004)
 Japan-Morocco BIT (2020)
Japan-Mozambique BIT (2013)
Japan-Oman BIT (2015)
 Japan-Switzerland EPA (2009)
 Japan-Türkiye BIT (1992)
 Japan-Ukraine BIT (2015)
 Jordan-Canada BIT (2009)
 Jordan-Greece BIT (2005)
Jordan-Japan BIT (2018)
 Jordan-Lithuania BIT (2002)
 Jordan-Malaysia BIT (1994)
 Kazakhstan-Austria BIT (2010)
Kazakhstan-Greece BIT (2002)
 Kazakhstan-Switzerland BIT (1994)
 Kenya-Burundi BIT (2009)
Kenya-Finland BIT (2008)
Kenya-Iran BIT (2009)
 Kenya-Korea BIT (2014)
 Kenya-Kuwait BIT (2013)
 Korea-Argentina BIT (1994)
Korea-Belgium/Luxembourg BIT (1974)
Korea-Brazil BIT (1995)
 Korea-Bulgaria BIT (2006)
 Korea-Burkina Faso BIT (2004)
 Korea-Cambodia BIT (1997)
 Korea-Chile FTA (2003)
Korea-China FTA (2015)
Korea-Colombia BIT (2010)
 Korea-Croatia BIT (2005)
 Korea-Greece BIT (1995)
 Korea-Indonesia CEPA (2020)
Korea-Israel FTA (2021)
 Korea-Japan BIT (2002)
 Korea-Kenya BIT (2014)
 Korea-Morocco BIT (1999)
 Korea-United States FTA (2007)
 Kosovo-Canada BIT (2018)
Kuwait-Bangladesh BIT (2016)
 Kuwait-Canada BIT (2011)
Kuwait-India BIT (2001)
 Kuwait-Kenya BIT (2013)
 Kuwait-Türkiye BIT (2010)
 Latvia-Azerbaijan BIT (2005)
 Latvia-China BIT (2004)
 Lithuania-Australia BIT (1998)
 Lithuania-Jordan BIT (2002)
 Lithuania-Kyrgyzstan BIT (2008)
 Malaysia-Australia FTA (2012)
 Malaysia-Austria BIT (1985)
 Malaysia-Belgium/Luxembourg BIT (1979)
 Malaysia-Finland BIT (1985)
 Malaysia-Germany BIT (1960)
 Malaysia-Iran BIT (2002)
 Malaysia-Jordan BIT (1994)
 Malaysia-New Zealand FTA (2009)
 Malaysia-San Marino BIT (2012)
 Mauritius-Belgium/Luxembourg BIT (2005)
 Mauritius-China FTA (2019)
 Mauritius-Congo (Republic of) BIT (2010)
Mauritius-France BIT (2010)
 Mauritius-Germany BIT (1971)
 Mauritius-Sweden BIT (2004)
 Mexico-Bahrain BIT (2012)
 Mexico-Chile FTA (1998)
 Mexico-China BIT (2008)
 Mexico-Czechia BIT (2002)
 Mexico-France BIT (1998)
Mexico-India BIT (2007)
 Mexico-Japan EPA (2004)
 Mexico-Portugal BIT (1999)
 Mexico-Singapore BIT (2009)
 Mexico-Slovakia BIT (2007)
 Mexico-Spain BIT (2006)
 Mexico-Türkiye BIT (2013)
 Mexico-United Arab Emirates BIT (2016)
 Mexico-United Kingdom BIT (2006)
 Moldova-Estonia BIT (2010)
 Moldova-United Arab Emirates BIT (2017)
 Mongolia-Canada BIT (2016)
 Mongolia-Israel BIT (2003)
Morocco-Belgium/Luxembourg BIT (1965)
Morocco-Brazil CIFA (2019)
 Morocco-Dominican Republic BIT (2002)
 Morocco-Japan BIT (2020)
 Morocco-Korea BIT (1999)
 Morocco-Portugal BIT (1988)
 Morocco-Switzerland BIT (1985)
 Morocco-United States FTA (2004)
Mozambique-Japan BIT (2013)
 Namibia-Netherlands BIT (2002)
Netherlands-Bulgaria BIT (1999)
 Netherlands-Cambodia BIT (2003)
 Netherlands-China BIT (2001)
 Netherlands-Dominican Republic BIT (2006)
 Netherlands-Ghana BIT (1989)
Netherlands-Indonesia BIT (1994)
 Netherlands-Namibia BIT (2002)
Netherlands-Tunisia BIT (1963)
Netherlands-United Arab Emirates BIT (2013)
 New Zealand-Australia ANZCERTA Investment Protocol (2011)
 New Zealand-China BIT (1988)
 New Zealand-Malaysia FTA (2009)
 New Zealand-Singapore CEPA Protocol (2019)
 New Zealand-Thailand CEPA (2005)
 New Zealand-United Kingdom FTA (2022)
Nigeria-Austria BIT (2013)
Nigeria-Canada BIT (2014)
 Nigeria-Spain BIT (2002)
 Nigeria-Switzerland BIT (2000)
 North Macedonia-Viet Nam BIT (2014)
 Norway-Madagascar BIT (1966)
Oman-Hungary BIT (2022)

Oman-Japan BIT (2015)
Oman-Tanzania BIT (2012)
Oman-United States FTA (2006)
Oman-Uzbekistan BIT (2009)
Oman-Viet Nam BIT (2011)
Pakistan-France BIT (1983)
Pakistan-Germany BIT (1959)
Pakistan-Germany BIT (2009)
Pakistan-Lao PDR BIT (2004)
Paraguay-Belgium/Luxembourg BIT (1992)
Paraguay-Bolivia BIT (2001)
Paraguay-Sweden BIT (2009)
Paraguay-United Arab Emirates BIT (2017)
Peru-Australia FTA (2018)
Peru-Canada BIT (2006)
Peru-Canada FTA (2008)
Peru-Colombia BIT (1994)
Peru-Panama FTA (2011)
Peru-Singapore BIT (2003)
Peru-United States FTA (2006)
Philippines-Chinese Taipei BIT (2017)
Philippines-Israel BIT (2022)
Philippines-United Arab Emirates BIT (2022)
Poland-Australia BIT (1991)
Portugal-Brazil BIT (1994)
Portugal-Congo (Republic of) BIT (2010)
Portugal-Mexico BIT (1999)
Portugal-Morocco BIT (1988)
Qatar-Argentina BIT (2016)
Qatar-Costa Rica BIT (2012)
Qatar-Singapore BIT (2017)
Qatar-Switzerland BIT (2001)
Romania-Belgium/Luxembourg BIT (1978)
Romania-Egypt BIT (1976)
Saudi Arabia-Belgium/Luxembourg BIT (2001)
Saudi Arabia-Singapore BIT (2006)
Senegal-Sweden BIT (1967)
Senegal-Türkiye BIT (2010)
Serbia-Algeria BIT (2012)
Singapore-Australia Amendment (2016)
Singapore-Australia FTA (2003)
Singapore-Indonesia BIT (2005)
Singapore-Iran BIT (2016)
Singapore-Lao PDR BIT (1997)
Singapore-Libya BIT (2009)
Singapore-Mexico BIT (2009)
Singapore-New Zealand CEPA Protocol (2019)
Singapore-Peru BIT (2003)
Singapore-Qatar BIT (2017)
Singapore-Saudi Arabia BIT (2006)
Singapore-Sri Lanka BIT (1980)
Singapore-Türkiye BIT (2008)
Singapore-Türkiye FTA (2015)
Singapore-United States FTA (2003)
Slovakia-Canada BIT (1990)
Slovakia-Mexico BIT (2007)
South Africa-United Kingdom BIT (1994)
South Africa-Zimbabwe BIT (2009)
Spain-Bahrain BIT (2008)
Spain-Chile BIT (1991)
Spain-Colombia BIT (2005)
Spain-Jamaica BIT (2002)
Spain-Libya BIT (2007)
Spain-Mexico BIT (2006)
Spain-Nigeria BIT (2002)
Sweden-Ecuador BIT (2001)
Sweden-Mauritius BIT (2004)
Sweden-Paraguay BIT (2009)
Sweden-Senegal BIT (1967)
Sweden-Tunisia BIT (1984)
Switzerland-Congo (Democratic Republic) BIT (1972)
Switzerland-Cote d'Ivoire BIT (1962)
Switzerland-Egypt BIT (1973)
Switzerland-Egypt BIT (2010)
Switzerland-Georgia BIT (2014)
Switzerland-Guyana BIT (2005)
Switzerland-India BIT (1997)
Switzerland-Indonesia BIT (2022)
Switzerland-Japan EPA (2009)
Switzerland-Kazakhstan BIT (1994)
Switzerland-Madagascar BIT (2008)
Switzerland-Morocco BIT (1985)
Switzerland-Nigeria BIT (2000)
Switzerland-Qatar BIT (2001)
Switzerland-Syria BIT (2007)
Switzerland-Tunisia BIT (1961)
Switzerland-Tunisia BIT (2012)
Thailand-Belgium/Luxembourg BIT (2002)
Thailand-New Zealand CEPA (2005)
Tunisia-Belgium/Luxembourg BIT (1964)
Tunisia-Netherlands BIT (1963)
Tunisia-Sweden BIT (1984)
Tunisia-Switzerland BIT (1961)
Tunisia-Switzerland BIT (2012)
Türkiye-Australia BIT (2005)
Türkiye-Bangladesh BIT (2012)
Türkiye-Cote d'Ivoire BIT (2016)
Türkiye-France BIT (2006)
Türkiye-Guinea BIT (2013)
Türkiye-Japan BIT (1992)
Türkiye-Kuwait BIT (2010)
Türkiye-Mexico BIT (2013)
Türkiye-Rwanda BIT (2016)
Türkiye-Senegal BIT (2010)
Türkiye-Singapore BIT (2008)
Türkiye-Singapore FTA (2015)
Türkiye-Sudan BIT (2014)
Türkiye-Syria BIT (2004)
Türkiye-Uruguay BIT (2022)
Türkiye-Uzbekistan BIT (2017)
Ukraine-Canada FTA (2023)
Ukraine-Israel BIT (2010)
Ukraine-Japan BIT (2015)
Ukraine-United Arab Emirates BIT (2003)
United Arab Emirates-Argentina BIT (2018)
United Arab Emirates-Costa Rica BIT (2017)
United Arab Emirates-Greece BIT (2014)
United Arab Emirates-India BIT (2024)
United Arab Emirates-Israel BIT (2020)
United Arab Emirates-Mexico BIT (2016)
United Arab Emirates-Moldova BIT (2017)
United Arab Emirates-Netherlands BIT (2013)
United Arab Emirates-Paraguay BIT (2017)
United Arab Emirates-Philippines BIT (2022)
United Arab Emirates-Ukraine BIT (2003)
United Arab Emirates-Uruguay BIT (2018)
United Kingdom-Australia FTA (2021)
United Kingdom-Cameroon BIT (1982)
United Kingdom-China BIT (1986)
United Kingdom-Congo (Republic of) BIT (1989)
United Kingdom-Egypt BIT (1975)
United Kingdom-Mexico BIT (2006)
United Kingdom-New Zealand FTA (2022)
United Kingdom-South Africa BIT (1994)
United Kingdom-Viet Nam BIT (2002)
United States-Argentina BIT (1991)
United States-Armenia BIT (1992)
United States-Canada FTA (1988)
United States-Chile FTA (2003)
United States-Congo (Democratic Republic) BIT (1984)
United States-Egypt BIT (1986)
United States-Grenada BIT (1986)
United States-Haiti BIT (1983)
United States-Korea FTA (2007)

United States-Morocco FTA (2004)
 United States-Oman FTA (2006)
 United States-Peru FTA (2006)
 United States-Singapore FTA (2003)
 United States-Uruguay BIT (2005)
 United States-Viet Nam FTA (2000)
 Uruguay-Australia BIT (2019)
Uruguay-Türkiye BIT (2022)
 Uruguay-United Arab Emirates BIT (2018)
 Uruguay-United States BIT (2005)
 Uzbekistan-Oman BIT (2009)
 Uzbekistan-Türkiye BIT (2017)
Viet Nam-Chinese Taipei BIT (2019)
 Viet Nam-Greece BIT (2008)
 Viet Nam-North Macedonia BIT (2014)
Viet Nam-Oman BIT (2011)
 Viet Nam-United Kingdom BIT (2002)
 Viet Nam-United States FTA (2000)

AANZFTA (2009)
 Agreement on Investment under the ASEAN-India CECA (2014)
ASEAN Agreement for the Promotion and Protection of Investment (1987)
 ASEAN-China Investment Agreement (2009)

ASEAN-Korea FTA (2009)
 CAFTA-DR (2004)
CETA (2016)
China-Japan-Korea trilateral investment agreement (2012)
 Colombia-Northern Triangle FTA (2007)
 CPTPP (2018)
EFTA-Indonesia CETA (2018)
 EFTA-Korea Investment Agreement (2005)
 EFTA-Singapore FTA (2002)
 EU-Japan Economic Partnership Agreement (2018)
EU-Singapore Investment Protection Agreement (2018)
EU-Viet Nam Investment Protection Agreement (2019)
 First Protocol to amend the ASEAN-Japan CEPA (2019)
Investment Agreement for the COMESA Common Investment Area (2007)
Korea-Central America FTA (2018)
MERCOSUR Protocol on Investment Cooperation and Facilitation (2017)
MERCOSUR-Singapore FTA (2023)
 Mexico-Central America FTA (2011)
NAFTA (1992)
 PACER plus (2017)
 Pacific Alliance FTA (2014)
 RCEP (2020)
 SADC Protocol on Finance and Investment (2006)
Treaty of the Eurasian Economic Union (2014)
 USMCA (2018)

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