Have International Investment Agreements had an impact on Science, Technology, and Innovation in the Asia-Pacific region? Preliminary Analysis

The Role of Foreign Direct Investment in Economic Development
The University of Hong Kong
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Overview of the Paper

Set the Scene
  o Role of IIAs in the region
  o Types of IIAs examined
  o Why STI?

STI Provisions
  o Defining STI Provisions
  o Approaches to including STI in BITs.
  o Some descriptive Statistics

Discerning Patterns
  o Is the inclusion of STI related to income level?
  o Is the Provision of STI related to economic output?

Preliminary Conclusions and Next Steps
Role of IIAs in the Region

- Most common form of IIA is bilateral investment treaty (BITs).
- Of the more than 2,400 BITs currently in force, more than half (1,480) involve a country from the Asia-Pacific region.
- The majority of BITs focus on investor protection:
  - Fair and equitable treatment of foreign investors
  - Compensation in the case of expropriation
  - Right to move investment-related capital freely
- More and more investment provisions included in RTAs
Types of IIAs examined

Selection based on:

- One or more parties from Asia Pacific
- Currently in-force
- Full text available in English
- Taken from UNCTAD IIA Navigator
- Focused on BITs
## Summary of Agreements Examined

<table>
<thead>
<tr>
<th>Year grouping</th>
<th>Number in sample</th>
<th>Category compared to total sample</th>
<th>Number in total population</th>
<th>Category compared to total population</th>
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<td>-75</td>
<td>17</td>
<td>3%</td>
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<td>76-85</td>
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<td>4%</td>
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<td>06-10</td>
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<tr>
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<td>46</td>
<td>5%</td>
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<tr>
<td>North-South</td>
<td>338</td>
<td>51%</td>
<td>497</td>
<td>49%</td>
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<tr>
<td>South-South</td>
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<td>44%</td>
<td>476</td>
<td>47%</td>
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<td>Income classification</td>
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<tr>
<td>Has HIC</td>
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<td>56%</td>
<td>543</td>
<td>53%</td>
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<tr>
<td>Has LIC</td>
<td>287</td>
<td>44%</td>
<td>449</td>
<td>44%</td>
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<tr>
<td>Has LMIC</td>
<td>332</td>
<td>51%</td>
<td>533</td>
<td>52%</td>
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<tr>
<td>Has UMIC</td>
<td>206</td>
<td>31%</td>
<td>315</td>
<td>31%</td>
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<tr>
<td>Grand Total</td>
<td>657</td>
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<td>1019</td>
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Evolution of Agreements

- Bilateral Investment Treaties
- Other Investment Agreements
- BITs share of total
Why Science, Technology and Innovation?

While technology, and technology transfer, have always been a large part of FDI, STI in general is gaining in importance in agreements.

- STI’s role in the SDGs
- STI’s role in economic transformation and structural adjustment
- Importance of technology and innovation in value added trade
High-tech products traded

Source: Comtrade

<table>
<thead>
<tr>
<th>Region</th>
<th>2008</th>
<th>2013</th>
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<tr>
<td>USA</td>
<td>237,265</td>
<td>164,033</td>
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<td>ESCAP-Asia</td>
<td>894,905</td>
<td>1,202,910</td>
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<tr>
<td>Rest of the world</td>
<td>804,592</td>
<td>747,190</td>
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</table>

2008-2013
Patents in the Region

[Graph showing patent applications from various countries (Japan, China, People's Republic of, Australia, India, Singapore, Thailand, Malaysia, Indonesia, Vietnam) over the years 2000 to 2014.]
Examined agreements to see if reference is made to science, technology or innovation:

- Preamble
- Scope and definition of the agreement
- Admission and establishment
- Treatment
- Transfer
- Other
Share of STI Provisions

- Preamble
- Scope and definition
- Admission and establishment
- Treatment
- Transfer
- Other

- Science (preamble)
- Technology (Preamble)
- Tech related definition of Returns
- Performance requirements on R&D
- Tech related Permits, licenses
- Free use of technical personnel
- Repatriation of tech related profits
- Science (other)
- Technology (Other)
- Military technology
- IPR (more)
BITS with or without STI provisions (by year entered into force)
We examined the agreements to see if there are any specific pattern relating to income level or economic structure.

- Across each part of the agreement
- Across time
- Across income
- Across export sophistication
Share of BITs with STI by income level

- Share of agreements
  - Preamble
  - Standards of treatment
  - Sum STI-related provisions
  - Scope and definition
  - Transfers
  - Admission and establishment
  - Other

Has LIC
- 0% to 70%
- 10% to 60%
- 20% to 50%
- 30% to 40%
- 40% to 30%
- 50% to 20%
- 60% to 10%
- 70%

Has LMIC
- 0% to 70%
- 10% to 60%
- 20% to 50%
- 30% to 40%
- 40% to 30%
- 50% to 20%
- 60% to 10%
- 70%

Has UMIC
- 0% to 70%
- 10% to 60%
- 20% to 50%
- 30% to 40%
- 40% to 30%
- 50% to 20%
- 60% to 10%
- 70%

Has HIC
- 0% to 70%
- 10% to 60%
- 20% to 50%
- 30% to 40%
- 40% to 30%
- 50% to 20%
- 60% to 10%
- 70%
BITs with STI over time
Export Sophistication Gap

With any STI-related provisions
Without any STI-related provisions
Share with provisions

0-10%
10-20%
20-30%
30-40%
40-50%
50-60%
60%+

0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%

Economic and Social Commission for Asia and the Pacific (ESCAP)
Select Economies

- CHINA Export sophistication
- KOREA Export sophistication
- INDIA Export sophistication
- CHINA Number of BITs with STI-related provisions
- KOREA Number of BITs with STI-related provisions
- INDIA Number of BITs with STI-related provisions
Preliminary Conclusions and Next Steps

Preliminary Conclusions:

- A greater variety of STI provisions are increasingly included in BITs.
- Upper Middle Income economies seem especially active.
- Level of export sophistication appears to be negatively associated with the inclusion of STI provisions.

Next Steps:

- Examine correlation (not causation!) across various measures, including domestic policy space will be undertaken.
- Examine in the context of investment provisions in RTAs.
Thank you

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