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Increasing FDI Inflows into Saudi Arabia through Bilateral Investment Treaties

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Key words:

USMCA, Bilateral investment treaties, Foreign direct investments, Saudi Arabia, MENA

Abstract

The implementation of Vision 2030 in Saudi Arabia has facilitated the process of economic diversification inside the kingdom. As a result, several sectors such as technology, logistics, tourism, renewable energy, finance, professional services, and non-oil industries have witnessed the initiation and progression of projects. Despite the existence of numerous bilateral investment treaties (BITs) within the MENA region and with other foreign nations, Saudi Arabia has encountered challenges in attracting foreign direct investments (FDIs). This can be primarily attributed to legislative restrictions, adherence to Islamic laws, inflexible tariff regulations, and trade policies. This research employed a qualitative methodology to undertake an appreciative inquiry into the aforementioned matters, specifically examining the influence of Saudi Arabian Bilateral Investment Treaties (BITs) on the movement of Foreign Direct Investments (FDIs). The study additionally conducted a comparative analysis of the bilateral investment treaties (BITs) of Saudi Arabia and established treaties such as the North American Free Trade Agreement (NAFTA) and the United States-Mexico-Canada Agreement (USMCA). The study's findings indicate that the bilateral treaties established with Saudi Arabia did not yield a significant rise in foreign direct investment (FDI) or commerce between the involved nations. Recommendations are put up to enhance the legal framework in Saudi Arabia with the aim of bolstering foreign direct investment (FDI) and commerce. This can be achieved by formulating more comprehensive and precise regulations under bilateral trade agreements established with other nations.

Introduction

Saudi Arabia, in accordance with its Vision 2030, is implementing diversification plans to decrease its reliance on oil by transitioning towards emerging trade sectors, including energy, mining, and agricultural initiatives. The previously mentioned occurrence is experienced not solely within the borders of Saudi Arabia, but across the entirety of the Middle East and North Africa (MENA) region. This region has implemented ambitious initiatives in various sectors such as technology, logistics, tourism, renewable energy, finance, professional services, and non-oil industries, with the aim of augmenting the demand for their oil and gas products (Bergougui & Murshed, 2023). Nevertheless, despite the implementation of such initiatives, numerous nations in the Middle East and North Africa (MENA) area have struggled to attract foreign direct investment (FDI) due to factors such as the volatile global economy, terrorism and insecurity concerns, political instability, and challenging business environments (AlShammari et al., 2023; Dimitrova et al., 2022; Triki et al., 2022). The inflow of foreign direct investments (FDIs) is additionally hindered by the presence of corrupt bureaucrats and intricate regulatory frameworks within the region.

In recent times, there has been a growing inclination within the Gulf Cooperation Council (GCC) states, with a particular focus on Saudi Arabia, to engage in the endorsement and implementation of bilateral investment treaties (BITs) with both Middle East and North African (MENA) nations, as well as with global counterparts (Al-Matari et al., 2022; El Fakiri & Cherkaoui, 2022). This phenomenon has demonstrated a favourable environment for the influx of foreign direct investment (FDI) as a result of macroeconomic determinants, such as projected economic growth rates surpassing 3% in the years 2022 and 2023, comparatively modest levels of inflation, and the presence of stable exchange rates. The aforementioned trends have established a favourable investment climate (Kouaib, 2022; Kouaib & Amara, 2022). In February 2023, Saudi Arabia and Hong Kong entered into six bilateral agreements. Both countries expressed optimism that these bilateral agreements would enhance investor trust and foster increased bilateral investments. In the same year, Saudi Arabia entered into several bilateral agreements with Thailand in several industries, including energy and tourism (Al Tamimi, 2023; Oxford Analytica, 2022). In December 2022, a series of 15 strategic investment agreements were signed between Saudi Arabia and Japan, encompassing diverse sectors such as metals, maritime, petrochemicals, and automotive. Approximately 100 Japanese firms have reached an agreement to contribute investments valued at $3.3 trillion to the Kingdom by the year 2030. This development signifies the establishment of a new phase in the economic relations between Japan and the Kingdom (Yamada, 2023; Yokota, 2023).

Saudi Arabia has made considerable strides under the Vision 2030 initiative to improve the investment environment within the nation. These efforts have involved the diversification of the economy, lowering reliance on oil-generated income, and setting a target to amplify foreign direct investment (FDI) by a factor of twenty by the year 2030. Several transformative projects are expected to play a significant part in shaping a sustainable future. One such project is the construction of Neom, a futuristic megacity that aims to integrate advanced technologies and stimulate innovation. Saudi Arabia has successfully established four special economic zones (SEZs) in Riyadh, King Abdullah Economic City, Jazan, and Ras Al-Khair, with the assistance of international collaboration (Alreshaid, 2022; Zhou, 2023). As a result of these initiatives and Special Economic Zones (SEZs), there exists a notable imperative to augment foreign direct investment (FDI) in the industrial sector of Saudi Arabia. Over the course of the previous decade, spanning from 2011 to 2021, Saudi Arabia had a notable ascent in its position among emerging economies, reaching the sixth rank in the FDI confidence index by 2023. Additionally, the country achieved a substantial growth in its foreign direct investment (FDI) from $5 billion to $19.3 billion, as depicted in Figure 1.

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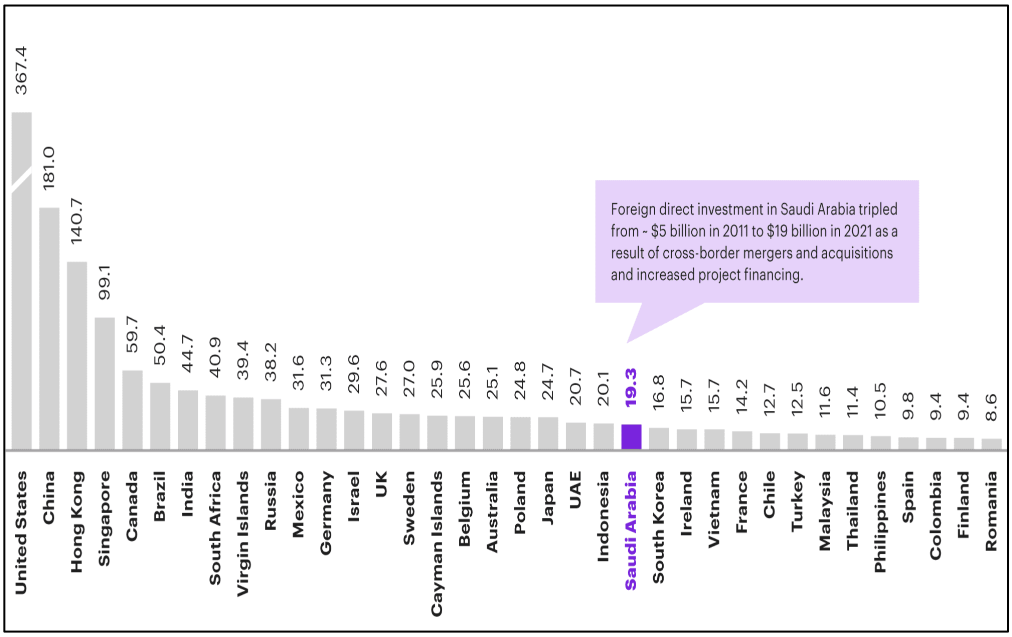

Figure 1. Top countries by FDIs in 2021(in $billion)
Source: UNCTAD FDI inflow database, Kearney analysis

Problem Statement

According to Grove et al. (2014), the goal of research is typically determined after formulating a problem statement, which is based on identifying gaps in the existing literature. A research problem pertains to an area of concern that lacks sufficient coverage in scholarly works. Additionally, it is imperative for researchers to articulate the objectives and the potential practical implications of addressing the research issue at hand (Ary et al., 2018). The aim of this qualitative analysis of Bilateral Investment Treaties (BITs) was to assess the impact of Saudi Arabia's domestic legislation on Foreign Direct Investment (FDI) through means of bilateral agreements. Furthermore, the primary objective of the study was to assess and contrast the legal requirements formulated with the aim of enhancing foreign direct investment (FDI) inflows, specifically within the context of Bilateral Investment Treaties (BITs). The rise in the prevalence of Bilateral Investment Treaties (BITs) has resulted in discernible alterations in the bestowal of benefits to international investors in compliance with the legal framework of Saudi Arabia.

Several scholarly studies have brought attention to the prominent issue of legislative disparities between Saudi Arabia and highly regarded nations with respect to foreign investment (Aldosari, 2022; Nawaf Jaber Alhomoud, 2022; Nurunnabi et al., 2022). These studies have brought attention to the legal and theological issues that impact the flow of foreign direct investment (FDI) in Saudi Arabia, either by facilitating or impeding international ventures. One significant challenge pertains to the establishment of criteria for investment incentives. These criteria encompass various aspects, including investment promotion and protection, compensation for damages arising from war and similar occurrences, unrestricted money transfers, adherence to nationalisation regulations, as well as compliance with expropriation and indirect confiscation rules. Additionally, the matter of how domestic laws address these requirements is also of concern. To date, there has been a dearth of research addressing these concerns or examining strategies to enhance the influx of foreign direct investment (FDI) in the Kingdom of Saudi Arabia.

Despite facing regional and interregional legislative constraints, Saudi Arabia has effectively implemented alternative measures to ensure the success of its bilateral treaties. However, it is crucial to conduct a comprehensive study on Saudi Arabia's adoption of a successful bilateral approach in safeguarding its investment treaties, insurance or guarantee agreements, and double taxation treaties. There exists a limited body of research that has critically examined the efficacy of bilateral treaties as a predominant mechanism for governing the interactions between foreign investors and host nations. Conducting a comprehensive examination of the legislative strategies that have the potential to foster foreign investment in Saudi Arabia, while utilising internationally recognised benchmarks, is of utmost importance.

The present study thus investigates the intersections between the legal frameworks of nations that are renowned for their ability to attract investment and the rules established by Bilateral Investment Treaties (BITs). Furthermore, it has also brought attention to the inherent disparities between the legal systems of Saudi Arabia and other nations, particularly in terms of their ability to attract foreign investment. This study investigates the contemporary developments in Saudi Arabia pertaining to the implementation of economic reforms and enhancements, as outlined in the Saudi Vision 2030. It explores the substantial measures undertaken to ameliorate the business climate and foster economic diversification inside the country. This study also analysed the legal investment strategy of Saudi Arabia in relation to other nations where foreign investment is part of the global legal system. In order to facilitate a comparative analysis, this research has selected the United States-Mexico-Canada Agreement (USMCA), a multilateral free trade agreement involving the United States, Canada, and Mexico. This agreement was formerly known as the North America Free Trade Agreement (NAFTA). These agreements serve as widely recognised benchmarks for Bilateral Investment Treaties (BITs) worldwide and have provided guidance for numerous bilateral and multilateral agreements aimed at regulating the legal interactions between host nations and foreign investors.

Literature Review

According to Curzon and Richards (2007), the term "investment" as defined by The Longman Dictionary of Law refers to the allocation of cash towards the acquisition of assets that have the potential to generate interest or profit. This allocation can take the form of either a direct investment made by an individual investor or a business into production activities. In terms of legal requirements, investment laws are enacted to provide investors with assurances such as compensation, fair treatment, and safeguards against domestic legislation that may lead to expropriation or seizure (Salacuse, 2007). In the realm of Bilateral Investment Treaties (BITs), the term "investment" pertains to an international accord established between two nations (bilateral) or many nations (multilateral). This agreement encompasses a broad range of assets, referred to as "coated investments," which grant investors in partner countries both direct and indirect ownership (Xiong, 2022). A bilateral treaty is commonly understood as an agreement between two regions that aims to provide protection for investments made within the respective territories of the countries involved.

In its essence, Bilateral Investment Treaties (BITs) primarily serve to govern investment interactions between two states that have entered into a formal agreement, as implied by their nomenclature. According to Elkins et al. (2006), a Bilateral Investment Treaty (BIT) is a written agreement between two parties that aims to govern their investments. Analysts generally express a high level of confidence in the objectives pursued by Bilateral Investment Treaties (BITs). These treaties are specifically designed to attract international investments and offer protection to developing nations against potential risks such as expropriation or declining investment conditions. Currently, Bilateral Investment Treaties (BITs) consist of a combination of developing and established countries, illustrating the significance of BITs in assessing the foundational essential elements of modern investment law (Dolzer et al., 2022). In a similar vein, Kerner (2022) has elucidated the manner in which Bilateral Investment Treaties (BITs) serve as the primary legal framework for safeguarding global foreign direct investment (FDI). According to Amundsen (2023), it is said that bilateral investment treaties (BITs) have the potential to enhance foreign direct investments (FDIs) by incorporating clauses that safeguard a wide range of rights for investors inside these agreements.

According to the norms outlined in bilateral investment treaties (BITs), every host state is obligated to grant certain legal privileges to its foreign investors. This entails ensuring access to legal mechanisms and allowing investors to invoke international judicial bodies such as the International Centre for Settlement of Investment Disputes (ICSID), the International Institute for Conflict Prevention and Resolution (IICPR), and the Institute for Transnational Arbitration (ITA) when a member state violates the terms of the BIT agreements. These organizations emphasize the adherence to BIT norms, which encompass the Encouragement and Promotion of Investments Norm. This norm necessitates that the host state create and uphold a favorable investment climate for foreign investors (Aberham, 2022), encompassing the establishment of a conducive environment for investments while applying its own laws, regulations, administrative practices, and procedures (Badu & Saxena, 2022). Furthermore, it is imperative for the host nation to actively oversee investment activities, including the initiation, supervision, and upkeep of branches, agencies, offices, factories, or any other facilities utilised for company operations. The methods employed encompass obtaining loans from local financial institutions at prevailing market rates and conditions, acquiring and issuing equity shares in the domestic financial markets, procuring foreign currency for business operations, and ensuring adequate safeguards against domestic regulations and practises (Beveridge, 2022; Vicente, 2022).

The World Trade Organisation has asserted that Saudi Arabia holds a prominent position among the Middle Eastern countries in terms of investment desirability (Bhala, 2004). Nevertheless, there is a perception that Western countries engaged in capital exportation desire to secure distinct legal privileges in order to exert control over their investments and economic operations within Saudi Arabia. It should be noted that Saudi Arabia has indeed granted appropriate privileges to all foreign investors in accordance with its domestic laws and the norms outlined in Bilateral Investment Treaties (BITs). However, certain limitations based on Islamic law and Sharia principles exist in specific areas of trade, such as the sale of wines and monetary interests (Al-Samaan, 1994). The study conducted by Bakhashab (2000) and published in the journal of King Abdulaziz University examined the disparities in regulatory limitations placed on foreign investors as opposed to Gulf investors within specific economic sectors.

To be direct, it is evident that there are notable disparities in legislation between the laws of Saudi Arabia and those applicable to foreign investors. Ocran (1980) provided an analysis of the variations in legal frameworks and their impact on foreign investments in developing countries. The author stated that foreign investment serves as a means to enhance domestic resources. In his seminal work, Gallins (1984) conducted an examination of the protective measures established within Bilateral Investment Treaties (BITs). The author elucidated that both developing and developed nations have encountered challenges in formulating policies and mechanisms to facilitate the advancement and safeguarding of foreign investment. These efforts have involved the implementation of various commercial and monetary incentives, as well as the establishment of a robust legal framework to ensure adequate protection for investments. According to Ocran (1980), it has been contended that several of these protective arrangements are characterised by their unilateral nature, as they solely involve the legislative or administrative apparatus of a single state. This approach examines the national investment codes present in host states, as well as the provisions related to step down and tax deferral within the tax codes of home states.

The enactment of Vision 2030 has prompted a series of legislative revisions aimed at enhancing foreign investment opportunities in Saudi Arabia, particularly through the loosening of restrictions pertaining to bilateral investment treaties (Al-Qahtani & Albakjaji, 2023; Alshamsi, 2022; Tabbara, 2022). These studies shed information on the limitations and legal advantages afforded to foreign investors under the Saadi framework, which aligns with the principles established by Bilateral Investment Treaties (BITs). According to Alfalih and Hadj (2020), countries with abundant natural resources encounter distinct obstacles in their efforts to attract foreign direct investment (FDI) in comparison to developed nations. The current body of scholarly work has not yet examined the legislative factors that are associated with the augmentation of foreign direct investment (FDI) in these particular nations. There exists a dearth of research that examines and juxtaposes the legal investment strategies employed by resource-rich nations and industrialised countries, with a particular focus on the standards outlined in Bilateral Investment Treaties (BITs). Additional investigation is required to ascertain the correlation between the legislative framework and foreign direct investment (FDI) prospects in nations abundant in natural resources, such as Saudi Arabia (Aldosari, 2022).

Methodology

The present study employed a qualitative methodology to conduct an appreciative inquiry in order to analyse a subject matter with the objective of enhancing existing procedures and offering suggestions for improvement for policymakers (Cooperrider & Srivastva, 1987). Boyd and Bright (2007) assert that the appreciative inquiry approach emphasises the identification of potential areas for enhancement, as opposed to a problem-centric perspective. Furthermore, the research employed the critical realism methodology in order to facilitate the exploration and prediction of social phenomena by uncovering the fundamental causal mechanisms (Choo, 2022). The ontological underpinnings of critical realism have facilitated the comprehension of external reality, namely in relation to foreign investors, and the establishment of connections with internal reality (Saudi Arabia's legislative framework). The selection of the qualitative technique was deemed appropriate for this study due to its utilisation of inductive reasoning, which involves the construction of generalisations based on specific knowledge (Babbie, 2020). The use of this methodology facilitated the researcher in drawing deductions pertaining to Bilateral Investment Treaties (BITs) and the inflow of Foreign Direct Investment (FDI), while also offering an elucidation of the challenges and repercussions that impeded the effective execution of BITs. The aforementioned methodology also facilitated the examination and comparison of the legal impact on the augmentation of foreign direct investment (FDI) inflows in Saudi Arabia, namely through the analysis of bilateral treaties and investment rules.

Results

Saudi Arabia has entered into numerous international agreements with more than 20 nations, both bilaterally and multilaterally, in order to promote foreign direct investment (FDI) across diverse sectors. According to recent data from Deutsche Bank (2020), the implemented policies have resulted in a rise in foreign direct investment (FDI) inflows within the country. In 2020, these inflows reached a total of $5.5 billion, representing a notable increase of 20 percent compared to the previous year. According

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to a study conducted by Deutsche Bank in 2020, the primary origins of foreign direct investment (FDI) in Saudi Arabia encompass countries such as the United States, the United Arab Emirates, Kuwait, Malaysia, Singapore, Japan, and France. According to research published by Deutsche Bank (2020), the country has embraced certain key concepts in order to enhance investment. These principles encompass sustainability, transparency, investor protection, ease of entry, technology and knowledge transfer, as well as safeguarding against adverse public policy.

Foreign Direct Investment	2018	2019	2020
FDI Inward Flow *(million USD)*	4,247	4,563	5,486
FDI Stock *(million USD)*	231,814	236,376	241,862
Number of Greenfield Investments*	105	134	87
Value of Greenfield Investments (million USD)	15,549	12,526	10,673

Figure 1: FDI in Saudi Arabia between 2018-2020
Source: Deutsche Bank, UNCTAD, 2016

In 2003, Saudi Arabia and the United States entered into a Bilateral Investment Treaty (BIT) referred to as the Trade and Investment Framework Agreement (TIFA). The primary objective of this agreement was to enhance economic relations between the two nations. The objective of this Bilateral Investment Treaty (BIT) was to facilitate a constructive conversation on matters pertaining to trade and investment, with the goal of fostering stronger economic connections between the two nations. Article 1 of the Bilateral Investment Treaty (BIT) pertains to the promotion of trade expansion within the BIT's established framework. It aims to establish advantageous conditions that foster the movement of products and services, as well as facilitate enhanced interactions between the private sectors of both countries. The ministries that were named in the Bilateral Investment Treaty (BIT) consisted of the Ministry of Commerce and Industry (MCI) representing Saudi Arabia, and the US Trade Representative (USTR) representing the United States. The TIFA agreement stipulates that both parties shall duly evaluate the necessity of entering into supplementary agreements pertaining to intellectual property, trade and investment, environmental concerns, vocational training, and labour matters. Negotiations on these subjects have taken place between the two nations at regular intervals of approximately one to two years since the establishment of the Bilateral Investment Treaty (BIT), with the most recent meeting being convened in 2018.

Furthermore, Saudi Arabia has entered into bilateral agreements with Italy, Germany, Malaysia, Belgium, Luxembourg, Austria, the Republic of Korea, France, Indonesia, Azerbaijan, Spain, Turkey, Sweden, Ukraine, Belarus, the Czech Republic, Uzbekistan, and Japan. In addition to its membership in the Gulf Cooperation Council (GCC), which comprises Kuwait, Bahrain, Qatar, Oman, and the United Arab Emirates (UAE), Saudi Arabia has engaged in negotiations to establish bilateral investment

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treaties (BITs) both within the GCC and with various other nations such as Switzerland, Norway, Iceland, Liechtenstein, Singapore, Lebanon, New Zealand, and the European Union (EU). While the member states of the Gulf Cooperation Council (GCC) engage in collaborative efforts to establish regional, bilateral, and multilateral agreements, it is important to note that each member state operates within its own legislative framework that regulates commercial relations with other countries. Saudi Arabia, as an independent entity, has also entered into a Bilateral Investment Treaty (BIT) with China. The Bilateral Investment Treaty (BIT) between China and Saudi Arabia was officially ratified in 1996. The primary objective of this treaty was to establish, safeguard, and enhance favourable circumstances for investment, hence facilitating mutual advantages for both nations (WTI, 1996). The primary objective of the trade agreement was to facilitate and encourage investment activities among the parties involved.

In October 1997, Saudi Arabia entered into an initial bilateral agreement with the Philippines. The Bilateral Investment Treaty (BIT) of 1994 fostered enhanced economic activity such as trade and technological cooperation between the two nations (WTI, 1994). The objective behind the decision to engage into the pact was to acknowledge the potential advantages that may be derived from engaging in cooperative efforts. Article II of the pact promotes bilateral collaboration in a range of sectors encompassing agriculture, livestock, health, petrochemicals, minerals, industry, and petroleum endeavours. Furthermore, the Bilateral Investment Treaty (BIT) aimed to facilitate the transfer of technology, information, and scientific research, along with the exchange of professionals and training employees, between the two nations. An important aspect of this bilateral treaty was the inclusion of a clause outlined in Article II, which pertained to the expansion of the principle of most favoured country (MFN) treatment in the context of international commerce.

The provisions of the treaty bore resemblance to the United States-Mexico-Canada Agreement (USMCA), an intergovernmental trade agreement between the United States, Canada, and Mexico. The USMCA, formerly known as the North America Free Trade Agreement (NAFTA), was implemented in July 1993 with the objective of establishing a mutually advantageous accord among farmers, entrepreneurs, researchers, and workers in North America. The North American Free Trade Agreement (NAFTA) was originally implemented with the objective of enhancing trade among Canada, the United States, and Mexico. Additionally, it sought to eliminate trade obstacles and streamline taxes and duties on imported and exported commodities among the three member countries. The success of NAFTA in effectively reducing a significant portion of trade barriers among the United States, Canada, and Mexico is apparent. Consequently, it has emerged as a notable model for other nations to emulate in the realm of bilateral investment treaties (BITs).

The 1994 bilateral investment treaty (BIT) between the Philippines and Saudi Arabia exhibited similarities to the North American Free Trade

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Agreement (NAFTA) in terms of its emphasis on fostering the advancement of shared interests and investment among the participating parties of the trade accord. In contrast to the North American Free Commerce Agreement (NAFTA), which fostered heightened commerce and cross-border investment among the involved nations, the bilateral trade agreement established with the Philippines did not yield substantial reciprocal advantages. The bilateral trade between the two states was of minimal significance, and neither country possessed the capacity to emerge as a prominent foreign investor or trading ally (Chatzky et al., 2020). There are other factors that can be attributed to this failure. For instance, Article 1 of the Philippines - Saudi Arabia BIT, 1994 stated, 'The contracting parties shall endeavour to enhance cooperation between their two countries in the spirit of mutual understanding.' Additionally, Article 2 and Article 3 of the bilateral treaty stated, 'The contracting parties shall encourage economic, trade, investment and technical cooperation between their two countries and their citizens, both legal and natural entities. The parties involved in the contract are obligated to actively encourage the growth and broadening of their trade connections. In pursuit of this objective, and in accordance with the parameters of the global trade framework, the parties involved shall reciprocally broaden the application of the most favoured nation (MFN) treatment. The pact does not include any provisions pertaining to the reduction of tariffs, ease of trade, or the establishment of measures to ensure equitable conditions for both nations. Furthermore, the Bilateral Investment Treaty (BIT) was characterised by its brevity and conciseness, lacking any explicit reference to specific strategies aimed at enhancing trade and foreign commerce between the two nations, a notable contrast to the comprehensive approach adopted by the North American Free Trade Agreement (NAFTA).

An additional illustration may be derived from the China-Saudi Arabia Bilateral Investment Treaty (BIT) of 1995, wherein a greater level of specificity was observed in the delineation of terms such as investment and investor. An example of this can be observed in the China-Saudi Arabia Bilateral Investment Treaty (BIT), where investment is explicitly described as "any form of asset that is owned or controlled by investors from one contracting party and is invested within the jurisdiction of the other contracting party, in accordance with the respective laws and regulations." Furthermore, it is worth noting that divergent interpretations of the term "investors" were presented by Saudi Arabia and China. Additionally, it is noteworthy that there was a lack of acknowledgment about trade concessions, tariff reductions, or any other strategies aimed at fostering bilateral trade and enhancing the influx of foreign investment.

Drawing upon the case of USMCA/NAFTA, it is evident that the trade agreements established among the participating nations exhibited a greater degree of specificity and comprehensiveness in comparison to the bilateral investment treaties (BITs) of Saudi Arabia. The statement provided placed greater emphasis on the trade-related objectives of establishing equitable, mutually advantageous, and reciprocal trade agreements. The agreements encompassed specific information regarding tariff schedules, restrictions pertaining to agricultural and industrial items, as well as measures to address and eliminate trade obstacles. Additionally, regulations were in place pertaining to investments, cross-border commerce in services, financial services, telecommunications, and digital trade. Furthermore, the United States-Mexico-Canada Agreement (USMCA), previously known as the North American Free Trade Agreement (NAFTA), included provisions pertaining to trade remedies, technical barriers, as well as phytosanitary and sanitary measures (See https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement)

The influence of the USMCA and NAFTA on trade among their respective nations is notably more substantial when compared to the bilateral trade pacts involving Saudi Arabia and other nations. The USMCA/NAFTA accord facilitated the economic integration of the participating countries, leading to heightened trade activities and an overall increase in trade volumes among the signatory nations. For instance, regional trade surged by $810 billion from 1993 to 2016. Over the same period, US foreign direct investment (FDI) in Mexico experienced an $85 billion uptick. This multi-party agreement also yielded positive effects on the gross domestic product (GDP). According to estimates, the implementation of this comprehensive agreement bolstered the US GDP by $80 billion, equivalent to 0.5 percent (Villarreal & Fergusson, 2017).

Conversely, the impact of Saudi Arabian bilateral treaties has not displayed a significant influence. In some instances, these bilateral pacts led to one-sided benefits rather than fostering mutual gains between the trading partners. This stands in contrast to NAFTA/USMCA, where Saudi Arabian exports to China decreased, while Saudi Arabian imports from China registered larger proportional increases.

Discussion

Saudi Arabia stands as a prominent country in the field of oil production and export. A prevalent misconception regarding countries reliant on oil is that their oil exports significantly impact foreign direct investment (FDI). This notion aligns with the discoveries made by Alfalih and Hadj (2020), who determined that oil exports do not serve as a driving force for FDI inflows. Instead, a discernible cause-and-effect connection exists between economic growth and FDI, which operates in conjunction with factors such as the legal framework and other considerations. This perspective was underscored when the period from 2013 to 2017 witnessed a nearly 50 percent drop in oil prices, prompting Saudi Arabia to launch the Vision 2030 economic diversification initiative to foster FDI attraction. In addressing this, Chowdhury and Mavrotas (2006) concluded that the legal framework indirectly contributes to heightened FDI inflows. The Ministry of Investment of Saudi Arabia (MISA) functions as an entity vested with augmented jurisdiction to foster and promote foreign direct investment (FDI) opportunities spanning diverse sectors within the nation. MISA plays

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a pivotal role in overseeing and regulating FDIs in Saudi Arabia. Notably, MISA has spearheaded a series of reforms aimed at streamlining and enhancing the appeal of foreign investment for international enterprises.

These reforms encompass a spectrum of initiatives, including the implementation of electronic licenses, provision of incentives by relaxing requirements for foreign investors listed on international stock markets to seek licenses, simplification of customs documentation, streamlining of customs clearance procedures, facilitation of 100 percent ownership by foreign companies in specific sectors, extension of the duration of investor licenses, and the establishment of the Saudi Centre for Commercial Arbitration. These measures collectively contribute to creating a more conducive environment for foreign firms to engage in investment activities in Saudi Arabia.

Crown Prince Mohammad bin Salman's introduction of Vision 2030 in 2016 laid out a strategic plan aimed at diminishing Saudi Arabia's economic reliance on oil by fostering diversification and cultivating new economic sectors. This initiative prompted Saudi Arabia to embark on legislative reforms with the objective of enhancing the investment environment and stimulating higher levels of local and international involvement in the endeavor to diversify the nation's economy. A notable stipulation for foreign companies seeking contracts in 2024 entails the establishment of regional headquarters within Saudi Arabia. According to Martin et al. (2021), the Saudi government has stipulated that foreign companies must not maintain their Middle East headquarters in other regional locations. This policy serves as an incentive for foreign enterprises to boost investments within the region and commit to a long-term investment strategy.

The Saudi Foreign Capital Investment Law (SFCIL), initially enacted in 1979 and subsequently revised in 2010, also underscores the Saudi government's stance on foreign direct investment (FDI). This legislation emphasizes the imperative of economic diversification to decrease reliance on oil-generated revenues and strives to expedite FDI inflows by eliminating impediments. As a consequential outcome of these reform measures, the Saudi Arabian General Investment Authority (Sagia, 2010) was established in 2010 to furnish valuable services to foreign investors. This initiative culminated in the forging of several bilateral and multilateral agreements and the active promotion of foreign investment opportunities within Saudi Arabia.

Conclusion

The study conducted a comprehensive examination of Saudi Arabian bilateral treaties and juxtaposed them against the US's multilateral agreements such as the USMCA and NAFTA. Through this comparative analysis, the research shed light on the reasons behind the limited impact of bilateral treaties between Saudi Arabia and other nations on the augmentation of foreign investment and trade flows. The findings highlighted that while these bilateral treaties encompassed provisions aimed at fostering heightened trade between the respective nations, Saudi Arabia faced challenges in implementing concrete strategies to enhance bilateral economic relationships until the emergence of Vision 2030. A discernible outcome was that, in contrast to the multilateral NAFTA/USMCA treaty, the Saudi Arabian multilateral treaties did not facilitate a framework that incentivized trading nations to elevate economic ties via mechanisms such as reduced tariffs or other analogous measures. This distinction underscores the pivotal role played by the specific terms and provisions within these treaties in shaping their impact on the dynamics of foreign investment and trade. Given the ongoing reform trajectory in Saudi Arabia, it is advisable for the country to proactively enhance its legal framework to foster a more conducive environment for foreign investments. In this endeavour, it is recommended that Saudi Arabia adopt comprehensive measures to fortify the bilateral treaties it enters into. These treaties should be designed not only with specificity but also with a thorough and comprehensive approach. Incorporating provisions that offer trade concessions to partnering countries could serve as a compelling incentive for attracting foreign investment. Furthermore, the overarching objective of these bilateral agreements should centre on establishing reciprocal and mutually advantageous trading relationships with the respective partner countries. In essence, the Saudi Arabian government should strive to align its bilateral treaties more closely with international norms observed in both bilateral and multilateral agreements, specifically aimed at promoting foreign direct investment (FDI) and facilitating robust trade interactions.

In summary, by augmenting the legal framework and broadening the scope of bilateral treaties, Saudi Arabia can align its practices more harmoniously with established international standards, thereby fostering an environment that is conducive to increased FDI and trade activities.

References

Aberham, F. (2022). Most Favored Nation Clauses and their Potential Effect on Ethiopia's Bilateral Investment Treaties: Substantive Protections, Perspectives and Stepping the Reconsiderations. *Hawassa University Journal of Law, 6*, 34-74. Retrieved from https://journals.hu.edu.et/hu-journals/index.php/hujl/article/view/677

Al-Matari, E. M., Mgammal, M. H., Alosaimi, M. H., Alruwaili, T. F., & Al-Bogami, S. (2022). Fintech, board of directors and corporate performance in Saudi Arabia financial sector: Empirical study. *Sustainability, 14*(17), 10750. doi: https://doi.org/10.3390/su141710750

Al-Qahtani, S., & Albakjaji, M. (2023). The Role of the Legal Frameworks in Attracting Foreign Investments: the Case of Saudi Arabia. *Access to Justice in Eastern Europe, 6*(5), 1-17. doi: http://dx.doi.org/10.33327/AJEE-18-6S001

Al-Samaan, Y. (1994). The settlement of foreign investment disputes by means of domestic arbitration in saudi arabia. *Arab Law Quarterly, 9*(3), 217-237. doi: https://doi.org/10.2307/3381567

Croatian International Relations Review

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CIRR

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XXIX (93) 2023, 73-90

Al Tamimi, L. (2023). *Lifting the Curse of the Blue Diamond: Explaining the Normalization of Relations Between Saudi Arabia and Thailand* (Doctoral Dissertation, Boston University). Retrieved from https://hdl.handle.net/2144/46040

Aldosari, B. (2022). Dissolution of companies and partnerships: causes and effects in accordance with the legal environment in Kingdom of Saudi Arabia. *Management Science Letters, 12*(4), 283-290. doi: http://dx.doi.org/10.5267/j.msl.2022.4.005

Alfalih, A. A., & Hadj, T. B. (2020). Foreign direct investment determinants in an oil abundant host country: Short and long-run approach for Saudi Arabia. *Resources Policy, 66*, 101616. doi: https://doi.org/10.1016/j.resourpol.2020.101616

Alreshaid, N. (2022). Special Economic Zones to Facilitate Trade and Investment Opportunities: MENA Regional Applications amidst a Global Race to the Bottom. *Indonesian Journal of International & Comparative Law, 9*(1), 43-97.

AlShammari, N., Willoughby, J., & Behbehani, M. S. (2023). Political unrest, the Arab Spring, and FDI flows: A quantitative investigation. *Cogent Economics & Finance, 11*(2), 2228092. doi: https://doi.org/10.1080/23322039.2023.2228092

Alshamsi, M. R. M. A. (2022). Foreign Judgments and Foreign Arbitral Awards Enforceability as a Factor and a Guarantee for Foreign Investments: the Case of Saudi Arabia. *Maurer Theses and Dissertations*, 117. Retrieved from https://www.repository.law.indiana.edu/etd/117

Amundsen, M. (2023). *Does Foreign Direct Investment by Multinational Corporations Increase Interpersonal Violence in Host Countries? A Cross-National Analysis of 170 Countries, 1990-2019* (Master's Thesis, NTNU). Retrieved from https://hdl.handle.net/11250/3081824

Ary, D., Jacobs, L. C., Irvine, C. K. S., & Walker, D. (2018). *Introduction to research in education*. Cengage Learning. Retrieved from https://www.cengage.com/c/introduction-to-research-in-education-10e-ary-jacobs-sorensen-walker/9781337566001

Babbie, E. R. (2020). *The practice of social research*. Cengage AU. Retrieved from https://www.cengage.com/c/the-practice-of-social-research-15e-babbie/9780357360767

Badu, S., & Saxena, S. (2022). Most Favoured Nation (MFN) treatment in international law. *International Journal of Mechanical Engineering, 7*(4), 51-58. Retrieved from https://pure.jgu.edu.in/id/eprint/3357

Bakhashab, O. A. (2000). Legal? Concepts of Saudi? Law of? Arbitration for Settling? Commercial? Disputes within National & International? Spheres. *Journal of King Abdulaziz University-Science*. Retrieved from https://www.researchgate.net/publication/41137439

Bergougui, B., & Murshed, S. M. (2023). Spillover effects of FDI inflows on output growth: An analysis of aggregate and disaggregated FDI inflows of 13 MENA economies. *Australian Economic Papers*, 1-25. doi: https://doi.org/10.1111/1467-8454.12320

Beveridge, F. (2022). Setting standards for the treatment of foreign investment. In *The treatment and taxation of foreign investment under international law* (pp. 35-47). Manchester University Press. Retrieved from https://www.manchesterhive.com/view/9781526171245/9781526171245.00011.xml

Bhala, R. (2004). Saudi Arabia, the WTO, and American Trade Law and Policy. *International Legal Developments in Review, 38*(3), 741-812. Retrieved from https://www.jstor.org/stable/40708224

Boyd, N. M., & Bright, D. S. (2007). Appreciative inquiry as a mode of action research for community psychology. *Journal of Community Psychology, 35*(8), 1019-1036. doi: https://doi.org/10.1002/jcop.20208

Chatzky, A., McBride, J., & Sergie, M. A. (2020). NAFTA and the USMCA: Weighing the impact of North American Trade. *Council on Foreign Relations*. Retrieved from https://www.cfr.org/backgrounder/naftas-economic-impact

Choo, L. W. (2022). Critical realism in comparative and international education. *Annual Review of Comparative and International Education 2021, 42*, 43-58. doi: https://doi.org/10.1108/S1479-367920220000042B003

Chowdhury, A., & Mavrotas, G. (2006). FDI and growth: what causes what? *World economy, 29*(1), 9-19. doi: https://doi.org/10.1111/j.1467-9701.2006.00755.x

Cooperrider, D. L., & Srivastva, S. (1987). Appreciative inquiry in organizational life. In *Research in organizational change and development* (pp. 129–169). Stamford, CT: JAI Press.

Curzon, L. B., & Richards, P. (2007). *The Longman dictionary of law*. Pearson Education.

Deutsche Bank. (2020). *Saudi Arabia: Investing in Saudi Arabia*. Retrieved from http://exportenterprises.dbunternehmerportal.com/en/market-knowledge/saudi-arabia/investment

Dimitrova, A., Triki, D., & Valentino, A. (2022). The effects of business-and non-business-targeting terrorism on FDI to the MENA region: The moderating role of political regime. *International Business Review, 31*(6), 101976. doi: https://doi.org/10.1016/j.ibusrev.2022.101976

Dolzer, R., Kriebaum, U., & Schreuer, C. (2022). *Principles of international investment law*. Oxford University Press. Retrieved from https://global.oup.com/academic/product/principles-of-international-investment-law-9780192857811

El Fakiri, A., & Cherkaoui, K. (2022). Foreign Direct Investment and Financial Development in Selected MENA Region Countries: Panel ARDL Approach. *Global Journal of Emerging Market Economies*. doi: https://doi.org/10.1177/09749101221129387

Elkins, Z., Guzman, A. T., & Simmons, B. A. (2006). Competing for capital: The diffusion of bilateral investment treaties, 1960–2000. *International organization, 60*(4), 811-846. doi: https://doi.org/10.1017/S0020818306060279

Gallins, G. (1984). Bilateral investment protection treaties. *Journal of Energy & Natural Resources Law, 2*(2), 77-97. doi: https://doi.org/10.1080/02646811.1984.11433482

Grove, S., Gray, J., & Burns, N. (2014). *Understanding Nursing Research*. Philadelphia, PA: Saunders.

Kerner, R. (2022). Japanese trade in services and FDI in Europe: Evidence from Estonia. In *Asian trade and investment in Europe* (pp. 17-33). Routledge. doi: https://doi.org/10.4324/9781003274933-3

Kouaib, A. (2022). Corporate sustainability disclosure and investment efficiency: The Saudi Arabian context. *Sustainability, 14*(21), 13984. doi: https://doi.org/10.3390/su142113984

Kouaib, A., & Amara, I. (2022). Corporate social responsibility disclosure and investment decisions: Evidence from Saudi indexed companies. *Journal of Risk and Financial Management, 15*(11), 495. doi: https://doi.org/10.3390/jrfm15110495

Martin, M., Nereim, V., & Fattah, Z. (2021, February 15). *Saudi Arabia adds pressure on global firms to move to Riyadh*. Bloomberg. Retrieved from https://www.bloomberg.com/news/articles/2021-02-15/saudi-arabia-aims-to-sideline-firms-without-base-in-the-kingdom

Nawaf Jaber Alhomoud, G. (2022). On Translating and Drafting Sharia Legal Terms and Expressions in Saudi Contracts. *Education Research International, 2022*, 7167970. doi: https://doi.org/10.1155/2022/7167970

Nurunnabi, M., Donker, H., & Jermakowicz, E. K. (2022). The impact of mandatory adoption of IFRS in Saudi Arabia. *Journal of International Accounting, Auditing and Taxation, 49*, 100509. doi: https://doi.org/10.1016/j.intaccaudtax.2022.100509

Ocran, T. M. (1980). The Legal Framework of Foreign Investment in Africa. *Zambia Law Journal, 12*, 1-22. Retrieved from https://www.africabib.org/rec.php?RID=190732903

Oxford Analytica. (2022). *Better Thai-Saudi relations will help Bangkok greatly*. Emerald Expert Briefings. doi: https://doi.org/10.1108/OXAN-ES266948

Sagia. (2010). *Answering your investment needs: A detailed guide to investing in Saudi Arabia*. Sagia. Retrieved from http://www.sagia.gov.sa/Documents/Wizard/Investmentguide.pdf

Salacuse, J. W. (2007). The treatification of international investment law. *Law and Business Review of the Americas, 13*(1), 155-166. Retrieved from https://scholar.smu.edu/lbra/vol13/iss1/7

Tabbara, A. (2022). Preserving the Local Culture While Modernising Arbitration in Saudi Arabia: A Blessing or a Curse? *Journal of Law in the Middle East,* (2), 26-26. Retrieved from https://journal.lexismiddleeast.info/index.php/jlme/article/view/2196

Triki, D., Dimitrova, A., & Valentino, A. (2022). The impact of state fragility on FDI inflows: The moderating role of natural resources and democratic governance in the MENA region. *Canadian Journal of Administrative Sciences/Revue Canadienne des Sciences de l'Administration, 39*(2), 184-198. doi: https://doi.org/10.1002/cjas.1666

Vicente, M. (2022). What Is the Fair and Equitable Treatment Standard?–Content, Sources and Recent Developments. *Available at SSRN*. doi: https://dx.doi.org/10.2139/ssrn.4192849

Villarreal, M. A., & Fergusson, I. F. (2017). *The North American Free Trade Agreement (NAFTA)*. Congressional Research Service. Retrieved from https://sgp.fas.org/crs/row/R42965.pdf

WTI. (1994). *Saudi Arabia BIT (1994)*. World Trade Institute. Retrieved from https://edit.wti.org/document/show/921f570b-768e-4d7f-88a7-588a67e974a4

WTI. (1996). *Agreement between the People's Republic of China and the Kingdom of Saudi Arabia on the Reciprocal Promotion and Protection of Investments*. Peking University Legal English Website. Retrieved from https://edit.wti.org/document/show/791fc2ec-6404-40a9-a299-1affdd180284?textBlockId=7e61d845-db60-4a68-9b50-405b54f57da8&page=

Xiong, T. (2022). The Effect of Bilateral Investment Treaties (BITs) on the extensive and intensive margins of exports. *The Quarterly Review of Economics and Finance, 84*, 68-79. doi: https://doi.org/10.1016/j.qref.2022.01.003

Yamada, M. (2023). Japan's Relations with Saudi Arabia: The Evolution of Energy Diplomacy in Response to the Developmental Shift in the Rentier State. In *Japan and the Middle East: Foreign Policies and Interdependence* (pp. 27-55). Springer. doi: https://doi.org/10.1007/978-981-19-3459-9_2

Yokota, T. (2023). Japan–Egypt Bilateral Relations: A Main Pillar of Japanese Middle Eastern Policy. In *Japan and the Middle East: Foreign Policies and Interdependence* (pp. 139-161). Springer. doi: https://doi.org/10.1007/978-981-19-3459-9_6

Zhou, L. (2023). Chinese Investments in the Special Economic Zones in the Gulf Region: New Structural Economics Perspective. In *Social Change in the Gulf Region: Multidisciplinary Perspectives* (pp. 531-546). Springer Nature Singapore Singapore. doi: https://doi.org/10.1007/978-981-19-7796-1_31