

**LINKAGES BETWEEN
DOUBLE TAXATION
TREATIES AND BILATERAL
INVESTMENT TREATIES**



United Nations
Economic Commission for Africa

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To order copies of *Linkages between double taxation treaties and bilateral investment treaties*, please contact:

Publications Section
Economic Commission for Africa
P.O. Box 3001
Addis Ababa, Ethiopia
Tel: +251 11 544-9900
Fax: +251 11 551-4416
E-mail: ecainfo@uneca.org
Web: www.uneca.org

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Contents

Acknowledgements.....	vi
Foreword.....	vii
Executive summary	viii
1. Introduction	1
2. Bilateral investment treaties and double taxation treaties	5
2.1. Objectives and main features of bilateral investment treaties	5
2.2. Objectives and main features of double taxation treaties	10
2.3. Trends in bilateral investment treaties and double taxation treaties	13
3. Problematic themes in bilateral investment treaties and double taxation treaties....	18
3.1. Heterogeneous empirical evidence calls for scrutiny of both bilateral investment treaties and double taxation treaties.....	18
3.2. Developing countries bear the brunt of tax and investment treaties	19
3.3. Bilateral investment treaties and double taxation treaties can pose challenges to development-oriented policies.....	21
3.3.1 Bilateral investment treaties limit a Government's policy space	21
3.3.2 Investor-State dispute settlement may be vulnerable to bias.....	22
3.3.3 Investor-State dispute settlement system still exhibits systemic flaws.....	24
3.3.4 Double taxation treaties place considerable limits on taxing rights of countries	25
3.3.5 Double taxation treaties may facilitate tax avoidance of multinational corporations	25
3.3.6 Fiscal impact of double taxation treaties on African countries	26
3.4. Investment treaties can hinder crisis management.....	27
4. Clauses in bilateral investment treaties that may interact with double taxation treaties and tax-related measures.....	29
4.1. Preamble.....	33
4.2. Definitions of investor and investment.....	33
4.3. National treatment	33
4.4. Most-favoured-nation treatment	34
4.5. Fair and equitable treatment	35
4.6. Expropriation	36
4.7. Umbrella clause	37
4.8. Transfer of funds.....	38
4.9. Performance requirements	38
4.10. Dispute settlement.....	38
5. Investors are incentivized to structure their investment so as to enjoy maximum benefits accrued by bilateral investment treaties and double taxation treaties	40
5.1. Forum-shopping (bilateral investment treaties)	40
5.2. Cherry-picking (bilateral investment treaties)	42
5.3. Treaty-chaining (double taxation treaties)	42

6. Conclusion and policy recommendations	44
7. Options for reform of the African investment and tax regimes.....	45
References.....	55

Tables

Table 1: Mutual agreement procedure cases in African countries and selected comparators in 2016.....	13
Table 2: Potential tax-related sources of problems in international investment agreements	30
Table 3: Selected examples of language in international investment agreements intended to safeguard policy space in the area of taxation.....	48

Figures

Figure I: Top five African countries with active bilateral investment treaties.....	13
Figure II: Top countries with active bilateral investment treaties with Africa	14
Figure III: Top five African countries with active double taxation treaties.....	16
Figure IV: Top five countries with active double taxation treaties with Africa	16

Boxes

Box I: Occidental v. the Republic of Ecuador (2002) and EnCana v. the Republic of Ecuador (2003).....	36
Box II: Antoine Goetz and others v. Republic of Burundi (1995).....	37
Box III: Vodafone v. India (2014, 2017)	39
Box IV: Treaty optimization through the Netherlands.....	41

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Foreword

Africa is at an important crossroads of investment regulation. The global investment landscape is changing at a fast pace, with first movers setting the tone and influencing the content of international rules affecting investment. To date, the continent has been rather reactive in this field, with little participation in forums in which investment and related taxation matters are discussed.

The international investment agreements dialogue taking place globally has evolved considerably in recent years. Efforts to reform the existing Agreements system, in particular the investor-State dispute settlement, have shifted from the stage of initiating to consolidating reforms, targeting instruments such as bilateral investment treaties that are not consonant with today's development policy needs and that have not been conducive to attracting investment. Although an increasing number of African countries have become active in undertaking such reforms, others have yet to embrace this challenge.

There is also a growing realization that investment has become a leading source of external development finance for many developing countries, including those in Africa. As resource mobilization becomes more critical for African countries amid the ambitious goals set out in the 2030 Agenda for Sustainable Development and Agenda 2063: The Africa We Want, and given the commitment

investment agreements that have not delivered in terms of attracting greater investment, but also in the context of the continental dialogue on investment that they have been driving. Indeed, since 2013, member States have been promoting a dialogue on investment issues in the context of the Conference of African Ministers of Trade.

In the spirit of advancing this continuing dialogue, the Economic Commission for Africa was recently mandated by the African Union ministers of trade to conduct a study on the linkages between double taxation treaties and bilateral investment treaties. This study, a direct response to this call, provides analytical elements of how the relationship between these two regulatory instruments can affect investment and what impact this may have on the continent's ability to harness and retain investment and, at the same time, avoid illicit financial flows that derive from the investment activities of multinationals through double taxation treaties.

It is my sincere hope that the dissemination of this study will contribute to a better understanding of what African countries need to do to review and develop their bilateral investment treaties and double taxation treaties to support the mobilization of investment that is transformative and developmental for the African people.

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