Are Bilateral Investment Treaties Really Bilateral?

Yonatan Lupu 1  Paul Poast 2

1George Washington University
2Rutgers University
Motivation

Argument

Empirical Analysis

Conclusion

Question:
Are Bilateral Investment Treaties (BITs) truly 'bilateral'?

Our Argument:
Not always. Many BITs result from a multilateral process.

Why it Matters:
BITs are important. Explains "puzzling" previous BIT findings regarding legal systems, regime type, income, and FDI flow.
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Helsinki Investment Seminar, April 2013

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Lupu and Poast
PRESS RELEASE
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UNCTAD HOSTS BILATERAL INVESTMENT TREATY NEGOTIATIONS BY GROUP OF FIFTEEN COUNTRIES

Issues new study on bilateral investment treaties

TAD/INF/PR/99001
07 January 1999
BIT formation is often multilateral

- Theory suggests multilateral competition for capital → BITs.

- Some BIT formations are explicitly not bilateral in practice:
  - Multilateral conferences to negotiate BITs.
  - BITs complement/substitute multilateral agreements.
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Punch Line:
Fail to account for **multilateral process** $\rightarrow$
flawed inferences.
What is a $k$-ad? Group of $k$ number of states.

**Dyad:** Is when $k = 2$

**Triad:** Is when $k = 3$

**Quad-ad:** Is when $k = 4$

etc.
Directed $K$-adic Data set of BIT Formation

Dyadic Data set: Source-Target-Year

$K$-adic Data set: Source-Target 1-...-Target K-Year
Data set

**Unit of Observation:** Directed $k$-ad Year

**DV:** Did all $k$ targets of $k$-ad $i$ form BIT with the source in year $t$?

**Sample Size:**
- 263 $k$-ads formed BITs = 8,122 “event” $k$-ad years
- Generated a random sample of 518 $k$-ads that did not form BITS = 11,123 “non-event” $k$-ad years
Replication of Neumayer and Plümper (2010)

- Consider 5 possible competitive diffusion mechanisms.
- Cox proportional hazard model.
- Other variables: Common Law, income, FDI flows, regime type, etc.
## Summary of Findings (Key Variables)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Exp. Effect</th>
<th>Prior Results (EGS)</th>
<th>Our Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democracy</td>
<td>-</td>
<td>No sig effect.</td>
<td>- in all 10 models; sig in 7 models.</td>
</tr>
<tr>
<td>Law and Order</td>
<td>-</td>
<td>+ and sig effect.</td>
<td>- in 9 models; sig in 4 models.</td>
</tr>
<tr>
<td>Per Capita GDP</td>
<td>-</td>
<td>No sig effect.</td>
<td>- in all 10 models; si. in 8 models.</td>
</tr>
<tr>
<td>GDP Growth</td>
<td>+</td>
<td>- and sig effect.</td>
<td>+ and sig coef in all 10 models.</td>
</tr>
<tr>
<td>Colonial Ties</td>
<td>+</td>
<td>- and sig effect.</td>
<td>+ and sig coef in all 10 models.</td>
</tr>
</tbody>
</table>

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Robustness Checks

1. Limit potential targets to same region.

2. Consider alternative draws of “non-event” $k$-ads.
<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
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<tbody>
<tr>
<td></td>
<td>K-adic</td>
<td>Dyadic</td>
<td>K-adic</td>
<td>Dyadic</td>
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<tr>
<td>AUC</td>
<td>0.9586</td>
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<td>97.30</td>
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<td>N</td>
<td>35,379</td>
<td>30,300</td>
<td>38,185</td>
<td>30,300</td>
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THANK YOU!