Investments

Note: The coding of this section draws on the one developed by Lesher and Miroudot (2006) and Houde, Kolse-Patil, and Miroudot (2007). Moreover, the coding has been designed to be as similar as possible to the section on services, given how closely related investment and services are.

[**inv_sect_cov**] Does this agreement include an investment chapter?

0	no mention
1	endeavors without specific scope
2	based on bilateral investment treaty
3	services only (included in service chapter)
4	beyond services (separate chapter)

Explanation: We coded 1 if the aim of protecting investment is mentioned in the agreement's preamble; 2 if it relies on an existing BIT; 3 if only investment in the services sector is protected; 4 if investment protection goes beyond services. Note (from Kotschwar, page12): in GATS-type agreements, investment disciplines are contained in the services chapter as well as a limited investment chapter and interactions between these chapters are governed as stated in one of these chapters. In the NAFTA-type agreements, investment disciplines are contained in the investment chapter and there is limited interaction with the services chapter.

[**inv_trim**] Does the agreement contain a reference to the Agreement on Trade Related Investment Measures (TRIMs)?: 1 if yes, 0, otherwise

Scope of Non-Discrimination Provisions

[**inv_pre_est_oper**] Pre-establishment operation: 1 if yes, 0, otherwise

[**inv_est_oper**] Establishment (i.e. greenfield): 1 if yes, 0, otherwise

[**inv_post_est_oper**] Post-establishment operation (i.e. free movement of capital and resale): 1 if yes, 0, otherwise

[**inv_merger**] Acquisition (i.e. merger): if yes, 0, otherwise

Explanation: We coded 1 if non-discriminatory provisions are granted to foreign investors in each phase of the investment procedure in a given country.

[**inv_mfn**] Most Favored Nation

0	MFN not granted
1	MFN granted

Explanation: we coded 0 if there is no MFN; 1 if MFN is granted.

[**inv_nt**] National Treatment

0	NT not granted
1	NT granted

Explanation: We coded 0 if there is no NT; 1 if NT is granted.

[**inv_stand_treat**] Standards of Treatment

0	no treatment
1	minimum standard of treatment
2	treatment in case of strife
3	expropriation and compensation

Explanation: we coded 0 if no standard of treatment is granted to investors; 1 if a minimum standard of treatment is granted. Note: in contrast to national treatment and most-favored nation treatment, which are contingent standards based on the treatment afforded to other groups of investors, the standard treatment is an absolute standard drawn from customary international law. Moreover, we code 2 and 3 if compensation is granted to investors respectively in case of strife and expropriation.

[**inv_transf_pay**] Transfers and Payments

0	restrictions
1	no restrictions specifically mentioned

Explanation: We coded 1 if there are no restrictions on transfers or payments except to safeguard balance of payments.

Investor Dispute Settlement Mechanism

[**inv_scope_viol**] Scope Violation and damage complaints: 1 if yes, 0, otherwise

[**inv_ctry_dsm**] Investor-state dispute settlement: 1 if yes, 0, otherwise

[**inv_ctry_ctry_dsm**] State-state dispute settlement : 1 if yes, 0, otherwise

Explanation: We distinguish between investor-state DSM and state-state DSM, since the latter is more likely to be effective than the former. Indeed a state sanctioned by a state-state

DSM violates an international law principle (the *pacta sunt servanda* principle.

[inv_mov_bus_per] Temporary Movement of Business or Natural People

0	restrictions
1	no restrictions specifically mentioned

Explanation: This provision is important because any investment generally implies the movement of key personnel and business. However, especially the removal of barriers on the temporary entry and stay of key personnel can be controversial because it touches upon sensitivities in migration law. In most cases, this provision is specific to investment-related temporary migrations.