



RESEARCH ARTICLE 

The Legal and Institutional Architecture of Foreign Direct Investment in Arab States: A Comparative Analysis of Regulatory Frameworks, Investor Protection Standards, and Development-Oriented Policy Approaches in Egypt, Saudi Arabia, and the United Arab Emirates

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Abstract

This study presents a comprehensive comparative analysis of the legal and institutional frameworks governing Foreign Direct Investment (FDI) in selected Arab states, with a particular focus on Egypt, Saudi Arabia, and the United Arab Emirates. The research examines the evolving architecture of investment regulation in the region, highlighting the interaction between domestic investment legislation, regional agreements—most notably the Unified Agreement for the Investment of Arab Capital in the Arab States (1980)—and an extensive network of bilateral investment treaties (BITs). The findings reveal a significant degree of legal convergence among Arab jurisdictions toward internationally recognized investment standards, including asset-based definitions of investment, national treatment and most-favored-nation obligations, and comprehensive protection against expropriation accompanied by prompt, adequate, and effective compensation. Recent legislative reforms, particularly Saudi Arabia’s Updated Investment Law of 2024, demonstrate a clear policy orientation toward liberalization, regulatory transparency, and alignment with global best practices. Despite this convergence, the study identifies notable divergences in sectoral openness and regulatory strategy. Egypt adopts a highly liberalized approach aimed at maximizing capital inflows, whereas Saudi Arabia and the United Arab Emirates pursue more calibrated models that preserve state control over strategically sensitive sectors while selectively liberalizing others. Furthermore, the analysis highlights the widespread use of fiscal and non-fiscal investment incentives, including tax holidays and free zone regimes, while noting evidence of diminishing marginal returns and potential inefficiencies associated with excessive incentive competition. A critical contribution of this study lies in its identification of an “implementation gap,” whereby formal legal protections are not consistently matched by institutional capacity. Variations in judicial effectiveness, administrative efficiency, and enforcement mechanisms across jurisdictions significantly influence the practical realization of investor rights. The article advances a set of policy-oriented recommendations aimed at enhancing the effectiveness and coherence of Arab investment regimes. These include the harmonization of legal standards, strengthening of judicial and administrative capacity, integration of development-oriented conditionality into investment policy, enhancement of intellectual property enforcement, improvement of treaty transparency and coordination, and the incorporation of sustainable development considerations into investment governance frameworks. Overall, the study concludes that while Arab states have made substantial progress in aligning their investment frameworks with international norms, future advancement depends on reinforcing institutional infrastructure and achieving a more balanced relationship between investor protection and legitimate state regulatory authority.

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Introduction

Foreign Direct Investment (FDI) constitutes a vital engine of economic development and growth in the Arab world, serving as a critical vehicle for capital accumulation, technological transfer, and employment generation across the region. Over the past two decades, Arab states have undertaken substantial economic liberalization efforts, recognizing that the attraction and facilitation of FDI is intrinsically linked to macroeconomic stability, industrial diversification, and the sustainable development objectives enshrined in international frameworks such as the United Nations Sustainable Development Goals. The legal architecture governing FDI in Arab states has evolved considerably, reflecting both endogenous policy reforms and the increasing integration of Arab economies into global investment networks, marked by the proliferation of bilateral investment treaties (BITs) and the adoption of modernized national investment legislation.

However, the heterogeneity of legal frameworks across the Arab region encompassing diverse constitutional orders, varying levels of economic development, and differing strategic priorities presents a complex landscape that requires systematic comparative analysis. While some Arab states, notably the United Arab Emirates and Saudi Arabia, have recently undertaken comprehensive legislative reforms to enhance investor protection and liberalize entry conditions, others maintain more restrictive regimes with selective sectoral openness. Understanding these divergent approaches, their underlying rationales, and their practical implications for investors is essential for policymakers, legal practitioners, and investors navigating the Arab investment environment.

The comparative analysis of the legal framework for FDI in Arab states possesses multifaceted significance for both academic and policy communities. First, from a normative perspective, this study contributes to the broader discourse on international investment law by examining how developing economies attempt to balance the imperatives of capital attraction with the protection of national interest and public welfare. The Arab region, as home to approximately 400 million people and substantial natural resources, represents a significant but underutilized destination for global investment flows; thus, understanding barriers to FDI is critical for enhancing the region's integration into the global economy.

Second, this comparative approach illuminates the mechanisms through which states employ legal instruments including national investment laws, bilateral and multilateral treaties, and domestic enforcement mechanisms to mitigate investment risk and establish credible commitments to foreign investors. By examining how Arab states have codified protections against expropriation, guaranteed fair and equitable treatment, and established investor-state dispute settlement (ISDS) mechanisms, the study contributes to empirical knowledge about institutional design in investment governance.

Third, the topic is of pressing practical relevance given the recent wave of investment law reforms in the region, including Saudi Arabia's Updated Investment Law of 2024 (replacing the 2000 Foreign Investment Law) and the UAE's continued liberalization through sectoral opening initiatives. These recent developments make a comprehensive, up-to-date comparative analysis both timely and necessary.

This research pursues four principal objectives: First, to identify, analyze, and compare the formal legal definitions of Foreign Direct Investment across selected Arab states, examining how national legislation delineates the scope of protected investment and distinguishes between foreign and domestic investors. Second, to examine the substantive protections and guarantees extended to foreign investors under national law, international treaties, and customary international law, with particular attention to standards such as fair and equitable treatment (FET), protection against expropriation, and non-discriminatory treatment. Third, to evaluate the practical efficacy of dispute resolution mechanisms available to foreign investors, including both domestic litigation and international arbitration, with reference to case law and institutional frameworks such as the International Centre for Settlement of Investment Disputes (ICSID). Fourth, to undertake a critical assessment of investment incentives including tax holidays, capital allowances, and sectoral openness and to determine the correlation between legal generosity and actual FDI inflows.

The selection of this topic is justified by several considerations. Academically, the field of comparative investment law remains underrepresented in Arabic-language scholarship, despite the centrality of FDI to development discourse. By conducting a rigorous comparative analysis, this study addresses a significant gap in the literature and provides scholars and policymakers with a systematic examination of Arab investment frameworks. Professionally, as Arab states increasingly compete for FDI within a globalized economy, the comparative understanding of regulatory approaches becomes essential for legal practitioners advising clients on investment strategies and risk mitigation.

Furthermore, the topic is relevant to broader academic interests in comparative constitutional and administrative law, insofar as investment law reflects fundamental questions about property rights, the limits of state sovereignty, and the balance between public and private interests. Finally, the study contributes to the achievement of Sustainable Development Goal 8 (Decent Work and Economic Growth) by providing empirical and analytical tools for understanding how legal frameworks can be optimized to enhance FDI's contribution to inclusive and sustainable development.

Methodology

This research adopts a comparative-analytical methodology, combining doctrinal legal analysis with empirical examination of legislative texts, treaties, and institutional practice. The study is structured around the examination of selected Arab states representing different geographical regions (Gulf states, Levant, and North Africa) and developmental stages, including Egypt, Saudi Arabia, the United Arab Emirates, and where relevant, Morocco and Tunisia. The primary sources of investigation comprise: (1) national investment legislation and implementing regulations; (2) bilateral investment treaties and the Unified Agreement for Investment of Arab Capital in Arab States; (3) case law from national courts and international arbitration bodies; and (4) secondary sources including academic commentaries, policy documents from relevant ministries, and reports from international organizations such as the World Bank, UNCTAD, and the Arab Monetary Fund.

The comparative analysis draws upon established comparative law methodologies, emphasizing functional similarity as opposed to formal equivalence, thereby enabling meaningful comparison across jurisdictions with differing legal traditions and institutional architectures.

Research Problematic

The central problematic addressed by this study may be articulated as follows: While Arab states have increasingly adopted legislative frameworks and entered international commitments designed to protect foreign investment, significant gaps and inconsistencies persist in the practical implementation and efficacy of these protections. Specifically, the research is animated by the following research questions: (1) To what extent do the formal legal commitments undertaken by Arab states through domestic legislation and international treaties correspond to substantive protection in practice? (2) How do the investment protection regimes of different Arab states converge and diverge, and what factors account for observed patterns of convergence and divergence? (3) What institutional and legal barriers impede the effective resolution of investment disputes in Arab states, and how do these barriers compare internationally? (4) What is the relationship between the breadth and generosity of investment incentives and actual FDI inflows, and does "regulatory competition" among Arab states produce a race to the bottom in investment standards?

Structure of the Article

The article is organized into two principal sections (mabahith), each subdivided into two subsections (matlib). The first section (Part I) examines the foundational legal and institutional architecture of FDI in Arab states. Its first subsection analyzes the national legal definitions and regulatory parameters governing FDI, drawing upon selected national investment laws and the taxonomy of protected investors and investments. The second subsection investigates the international legal dimension, analyzing the role of bilateral investment treaties and multilateral agreements most notably, the Unified Agreement for Investment of Arab Capital in Arab States in establishing supplementary protections and dispute resolution mechanisms.

The second section (Part II) shifts focus to substantive protections and operational facilitation. Its first subsection examines the substantive guarantees afforded to foreign investors, including protection against expropriation, fair and equitable treatment, non-discrimination, and the freedom to transfer capital and profits. The second subsection addresses practical investment incentives and administrative facilitation, including tax and tariff concessions, streamlined licensing procedures, and intellectual property protections, concluding with a comparative assessment of incentive regimes across Arab states.

The article concludes with a synthesis of principal findings, an identification of persistent challenges and gaps in Arab investment law, and recommendations for harmonization and reform aimed at enhancing the region's competitiveness as an investment destination whilst maintaining appropriate safeguards for public interest and sustainable development.

Part I: The Foundational Legal and Institutional Architecture Of Foreign Direct Investment (Expanded Version)

The legal architecture governing foreign direct investment (FDI) in Arab states has undergone profound transformation over the past four decades, driven by both endogenous economic reform agendas and the increasing integration of these economies into the global investment regime. This transformation reflects a broader shift from state-centric, protectionist economic models toward liberalized frameworks designed to attract foreign capital, enhance competitiveness, and facilitate sustainable development (Dunning, 1993; UNCTAD, 2023). As noted in the literature, FDI serves as a critical mechanism

for technology transfer, productivity growth, and institutional modernization, particularly in developing and emerging economies (Blomström et al., 2000; Lipsey, 2001).

At its core, the legal framework regulating FDI in Arab states operates through a dual-layered structure: (1) domestic legislative regimes that define the rights, obligations, and procedural requirements applicable to investors, and (2) international legal instruments, including bilateral investment treaties (BITs) and multilateral agreements, which provide additional guarantees and dispute resolution mechanisms (Vandevelde, 2005; Sauvant et al., 2015). This dual structure reflects the necessity of balancing sovereign regulatory authority with the need to establish credible commitments to foreign investors in an increasingly competitive global investment environment (OECD, 2015).

Section One: National Legal Definitions and Regulatory Parameters

A fundamental issue in comparative investment law concerns the definitional and regulatory scope of “investment” and “investor,” as these concepts determine the extent of legal protection and access to investment regimes. National investment laws in Arab states perform several interrelated functions: they establish legal certainty, define permissible economic activities, regulate market entry, and provide safeguards against arbitrary state action (UNCTAD, 2012a).

A. Definitional Frameworks and Comparative Analysis

1. Egypt’s Investment Law Framework

Egypt’s Investment Law No. 72 of 2017 represents a significant milestone in the modernization of its investment regime, aligning national legislation with international best practices. The law adopts a broad, asset-based definition of investment, encompassing both tangible and intangible assets, including intellectual property rights and contractual entitlements (Egypt, 2017). This expansive approach reflects the evolution of investment law toward recognizing diverse forms of capital, consistent with global standards articulated by UNCTAD and the World Bank (UNCTAD, 2012b; World Bank, 2020).

Importantly, the Egyptian framework emphasizes **non-discrimination and inclusivity**, extending legal protections equally to domestic and foreign investors. This reflects a deliberate policy strategy aimed at enhancing investor confidence and reducing perceived political risk, which is widely recognized as a key determinant of FDI inflows (Beugelsdijk et al., 2008).

2. Saudi Arabia’s Investment Law Reform (2024)

Saudi Arabia’s Updated Investment Law (Royal Decree No. M/19 of 2024) represents a paradigmatic shift in regulatory philosophy, transitioning from a foreign-investor-specific regime to a unified investment framework applicable to both domestic and foreign actors. This reform aligns with international best practices by promoting regulatory neutrality, transparency, and administrative efficiency (OECD, 2015; UNCTAD, 2023).

The law defines investment in terms of capital deployment for economic activity, explicitly excluding debt instruments and financial claims, thereby narrowing the scope of protected investments compared to traditional asset-based definitions. This approach reflects a more cautious regulatory stance aimed at preventing speculative financial flows while encouraging productive, long-term investments (HIFW, 2025; Linklaters, 2024).

Moreover, the reform introduces a registration-based system, replacing the previous licensing regime. This shift significantly reduces bureaucratic barriers and aligns Saudi Arabia with global trends toward investment facilitation and administrative simplification (UNCTAD Investment Policy Hub, 2025).

3. The UAE’s Liberalization Model

The United Arab Emirates has adopted a hybrid model combining federal legislation with emirate-level discretion, reflecting its unique constitutional structure. Federal Decree-Law No. 19 of 2018 establishes a comprehensive framework for FDI while allowing individual emirates to determine sector-specific ownership limits and regulatory conditions (United Arab Emirates, 2018).

The UAE’s definition of foreign investment is notably broad, encompassing financial assets, reinvested earnings, and intellectual property rights. This reflects a strategic orientation toward attracting high-value investments in sectors such as technology, finance, and logistics (Norton Rose Fulbright, 2020).

The UAE model is widely regarded as one of the most liberal in the region, particularly due to its extensive network of free zones, which offer full foreign ownership, tax exemptions, and regulatory flexibility (World Bank, 2023). However, this liberalization is carefully calibrated, with strategic sectors remaining subject to national control.

4. The Principle of National Treatment

A central pillar of modern investment law is the principle of national treatment, which requires host states to treat foreign investors no less favorably than domestic investors. This principle is consistently reflected across Arab investment regimes, albeit with variations in scope and implementation (UNCTAD, 2010).

Egypt explicitly codifies national treatment in its investment legislation, while Saudi Arabia achieves functional equivalence through its unified regulatory framework. The UAE adopts a conditional approach, extending national treatment within the limits of domestic legislation and international agreements (United Arab Emirates, 2018).

The widespread adoption of national treatment reflects its importance in reducing discrimination, enhancing legal predictability, and fostering a competitive investment climate (Sauvant et al., 2015).

5. Sectoral Openness and Strategic Restrictions

Despite convergence in core legal principles, Arab states exhibit significant divergence in sectoral openness, reflecting differing economic priorities and national security considerations. Egypt adopts a highly liberal approach, permitting foreign investment across a broad range of sectors with minimal restrictions (Egypt, 2017).

In contrast, Saudi Arabia maintains a system of **strategic exclusions**, particularly in sensitive sectors such as natural resources and religious services. However, the scope of these restrictions has been progressively reduced, signaling a broader commitment to economic diversification under Vision 2030 (Clyde & Co., 2024).

The UAE employs a decentralized approach, with emirates determining sectoral policies, resulting in a flexible but complex regulatory landscape (World Bank, 2023).

6. Procedural Reforms and Investment Facilitation

A notable trend in the region is the transition from discretionary licensing systems to transparent, rule-based registration mechanisms. This shift is particularly evident in Saudi Arabia's recent reforms, which eliminate the requirement for prior governmental approval in most sectors (UNCTAD Investment Policy Hub, 2025).

Such reforms are consistent with global best practices emphasizing investment facilitation, administrative efficiency, and the reduction of transaction costs (OECD, 2015). Empirical evidence suggests that streamlined procedures play a critical role in attracting FDI by reducing uncertainty and improving ease of doing business (World Bank, 2020).

7. Implications for Capital Attraction (Expanded Analysis)

The structural variations in investment regimes across Arab states reflect divergent policy orientations toward capital attraction, economic sovereignty, and developmental priorities. As highlighted in comparative investment literature, states typically position themselves along a continuum between liberalization and strategic control, depending on macroeconomic conditions, institutional capacity, and long-term development strategies (Dunning, 1993; OECD, 2015).

Egypt's investment framework represents a maximalist liberalization model, prioritizing rapid capital inflows, macroeconomic stabilization, and employment generation. Its broad sectoral openness and simplified administrative procedures are designed to reduce entry barriers and enhance investor confidence, aligning with empirical findings that regulatory openness positively correlates with FDI inflows (Beugelsdijk et al., 2008; World Bank, 2020). However, such openness may also expose domestic industries to competitive pressures and reduce the state's capacity to direct investment toward strategic sectors.

In contrast, Saudi Arabia and the United Arab Emirates adopt selective liberalization strategies, combining openness in non-strategic sectors with continued state control over critical industries such as hydrocarbons, defense, and culturally sensitive domains. This hybrid approach reflects a growing recognition in the literature that unrestricted liberalization is not always optimal and that strategic regulation can enhance long-term developmental outcomes by ensuring technology transfer, local value creation, and economic diversification (Sauvant et al., 2015; UNCTAD, 2023).

These differing regulatory models create a spectrum of investment accessibility across the Arab region, ranging from highly liberal regimes to conditional frameworks that link market entry to developmental contributions. As a result, investors must navigate not only legal provisions but also broader policy objectives embedded within national investment strategies.

Section Two: International Legal Framework and Bilateral Investment Treaties

While domestic investment laws form the primary regulatory foundation, international investment agreements particularly bilateral investment treaties (BITs) and regional agreements establish an additional and often decisive layer of legal protection. These instruments serve to reduce political risk, enhance legal predictability, and create enforceable commitments that extend beyond domestic legal systems (Vandeveldt, 2005; Sauvant et al., 2015).

BITs typically provide a set of core substantive guarantees, including fair and equitable treatment (FET), protection against expropriation, national treatment, most-favored-nation (MFN) treatment, and the free transfer of capital. These protections often exceed those available under domestic law, thereby creating a more favorable legal environment for foreign investors (UNCTAD, 2012a; UNCTAD, 2012b).

B. Regional and Multilateral Investment Frameworks

1. The Unified Agreement: Historical and Legal Significance

The Unified Agreement for the Investment of Arab Capital in the Arab States (1980) represents one of the earliest and most comprehensive regional investment frameworks in the developing world. Adopted under the auspices of the League of Arab States, the Agreement was designed to facilitate intra-Arab investment flows, promote regional economic integration, and establish a harmonized legal regime governing Arab capital (League of Arab States, 1980).

Unlike modern BITs, which are primarily bilateral and investor-protection oriented, the Unified Agreement incorporates a developmental dimension, explicitly linking investment protection to broader economic integration objectives. This reflects a regional approach to investment governance that prioritizes collective development alongside individual investor rights (UNCTAD Investment Policy Hub, 2025).

2. Definitional Framework and Arab Investor Status

The Agreement adopts a nationality-based definition of protected investors, limiting its scope to “Arab investors” and “Arab capital.” This contrasts with the broader, asset-based definitions commonly found in BITs and reflects a deliberate policy choice to promote intra-regional investment (Annacker et al., 2015).

Moreover, the requirement that investments contribute to economic development distinguishes the Agreement from most contemporary treaties, which typically adopt a neutral stance regarding developmental outcomes. This feature aligns with emerging debates in international investment law advocating for the integration of sustainable development considerations into investment governance (UNCTAD, 2023).

3. National Treatment and Non-Discrimination Standards

The Unified Agreement establishes robust non-discrimination standards through Articles 5 and 6, guaranteeing national treatment and incorporating a most-favored-nation clause. These provisions mirror core principles of international investment law and contribute to legal convergence across jurisdictions (UNCTAD, 2010).

The inclusion of MFN treatment allows investors to benefit from more favorable provisions contained in other agreements, thereby enhancing the protective scope of the Agreement and reinforcing investor confidence (Sauvant et al., 2015).

4. Expropriation Protection and Compensation Standards

Article 9 of the Agreement provides comprehensive safeguards against expropriation, requiring that any taking of property be for a public purpose, non-discriminatory, and accompanied by prompt, adequate, and effective compensation. This formulation reflects the well-established “Hull formula” in international investment law (UNCTAD, 2012a).

Importantly, the Agreement extends protection beyond direct expropriation to include measures with equivalent effect, thereby addressing the growing phenomenon of indirect expropriation or regulatory takings (Vandeveldt, 2005).

5. Capital Transfer and Repatriation Guarantees

The Agreement guarantees the free transfer of capital and profits, a critical protection for investors concerned about foreign exchange restrictions and capital controls. Such guarantees are widely recognized as essential components of investment protection frameworks, particularly in developing economies where financial instability may pose risks to capital mobility (UNCTAD Investment Policy Hub, 2010).

6. The Arab Investment Court: Institutional Innovation

A distinctive feature of the Unified Agreement is the establishment of the Arab Investment Court (AIC), a regional judicial body with jurisdiction over investment disputes. The AIC represents an early attempt to institutionalize dispute resolution at the regional level, predating many contemporary arbitration mechanisms.

Although initially inactive, the Court has gained renewed relevance in recent years, particularly following landmark decisions such as *Al-Kharafi v. Libya*, which demonstrated its capacity to deliver substantial compensation awards (Annacker et al., 2015). This development highlights the growing importance of regional dispute resolution mechanisms alongside global arbitration systems.

7. The Arab BIT Network and Global Integration

Arab states have actively participated in the global expansion of BITs, concluding hundreds of agreements aimed at protecting both inward and outward investments. These treaties generally follow standardized templates and incorporate widely accepted principles of international investment law (Vandeveldt, 2005).

The proliferation of BITs reflects the increasing integration of Arab economies into the global investment system, as well as the strategic use of treaties to enhance investor confidence and secure access to international capital markets (UNCTAD, 2023).

Section Three: Hierarchy, Coordination, and Conflict Resolution

C. Framework Integration and Strategic Choice

1. Hierarchy and Minimum Standards

The coexistence of domestic laws, regional agreements, and BITs creates a multi-layered legal system that raises complex questions of hierarchy and interaction. The Unified Agreement establishes itself as a **minimum standard**, ensuring that its protections cannot be undermined by domestic legislation while allowing states to provide more favorable treatment (League of Arab States, 1980).

Similarly, BITs often include “umbrella clauses” and “most favorable law” provisions, ensuring that investors benefit from the most advantageous legal framework available (Sauvant et al., 2015).

2. Substantive Protection Standards

The fair and equitable treatment (FET) standard has emerged as a cornerstone of international investment law, encompassing principles of transparency, due process, and protection of legitimate expectations. Arbitral tribunals have interpreted FET broadly, significantly expanding its scope and impact (UNCTAD, 2012b).

In addition, expropriation provisions in BITs extend protection to indirect measures that substantially deprive investors of economic value, thereby addressing the complexities of modern regulatory environments (UNCTAD, 2012a).

3. Investor-State Dispute Settlement (ISDS)

Investor-State Dispute Settlement mechanisms represent one of the most significant innovations in international investment law, enabling investors to bypass domestic courts and seek redress through international arbitration. Most Arab BITs provide for arbitration under ICSID or UNCITRAL rules, ensuring neutrality and enforceability (Sauvant et al., 2015).

The increasing use of ISDS, particularly following political instability in the region, underscores its importance as a tool for investor protection, while also raising concerns regarding state sovereignty and regulatory autonomy (UNCTAD, 2023).

MFN Clauses, Treaty Shopping, and Strategic Litigation (Expanded Analysis)

The inclusion of Most-Favored-Nation (MFN) clauses in Arab bilateral investment treaties (BITs) and the Unified Agreement introduces significant legal complexity, particularly regarding the phenomenon of treaty shopping. MFN clauses are designed to ensure that investors from one contracting state receive treatment no less favorable than that accorded to investors from any third state; however, their broad wording has enabled investors to strategically restructure investments through intermediary jurisdictions to access more advantageous treaty protections (UNCTAD, 2010; Vandeveldt, 2005).

This practice, commonly referred to as treaty shopping, has generated substantial jurisprudential debate in international investment law. Arbitral tribunals have adopted divergent interpretations regarding whether MFN clauses extend beyond substantive protections to encompass procedural rights, including dispute resolution mechanisms. While some tribunals have permitted investors to invoke MFN clauses to access more favorable arbitration provisions, others have restricted their application strictly to substantive standards (Sauvant et al., 2015). This inconsistency introduces legal uncertainty in Arab investment regimes, complicating both investor strategy and state regulatory planning.

From a policy perspective, treaty shopping raises concerns regarding regulatory sovereignty, as it may expand state obligations beyond their intended scope. At the same time, it enhances investor protection by allowing access to the most favorable legal framework available within the treaty network (UNCTAD, 2023).

Forum Selection and Strategic Legal Choice

The coexistence of multiple legal instruments including national laws, regional agreements, and BITs creates a dynamic environment in which investors must strategically select the most advantageous forum for dispute resolution. Investors often engage in **forum shopping**, evaluating legal, procedural, and enforcement factors before initiating claims.

For example, an Arab investor protected simultaneously under the Unified Agreement and a BIT may choose between recourse to the Arab Investment Court or international arbitration under ICSID or UNCITRAL rules. This choice is influenced by several factors, including:

- The scope and interpretation of substantive protections
- The neutrality and efficiency of the adjudicatory body
- Enforcement mechanisms and recognition of awards
- Cost, duration, and procedural flexibility

Empirical research indicates that investors tend to prefer international arbitration due to its perceived neutrality and enforceability, particularly in jurisdictions with weaker domestic legal systems (World Bank, 2020; UNCTAD, 2023). However, regional mechanisms such as the Arab Investment Court may offer advantages in terms of contextual understanding and lower procedural costs.

Complementarity and Multi-Layered Protection

The Arab investment regime exemplifies a multi-layered legal architecture, where domestic legislation, regional agreements, and international treaties provide overlapping protections. This layered structure enhances legal security by allowing investors to rely on alternative instruments when one framework proves insufficient.

For instance, where domestic law offers limited protection, investors may invoke regional agreements; where regional protections are inadequate, BITs provide access to international arbitration. This redundancy reduces legal risk and strengthens investor confidence, consistent with the concept of credible commitment in investment theory (Dunning, 1993; OECD, 2015).

However, this complexity also creates challenges, including:

- Increased legal uncertainty
- Greater administrative burden for host states
- Potential imbalance between investor rights and state regulatory capacity

These issues are particularly pronounced in developing economies, where institutional capacity may be insufficient to manage complex legal disputes effectively (Sauvant et al., 2015).

Evolution and Contemporary Challenges

The legal framework governing FDI in Arab states continues to evolve in response to global economic transformations, geopolitical developments, and emerging norms in international investment law. Recent legislative reforms in Saudi Arabia and the UAE reflect a shift toward investment facilitation, transparency, and regulatory efficiency, aligning with international best practices (OECD, 2015; UNCTAD, 2023).

At the same time, increasing reliance on international arbitration and the growing activity of regional institutions such as the Arab Investment Court suggest the gradual emergence of a regional jurisprudence in investment law. This evolving body of law may incorporate distinctive regional priorities, including:

- Protection of state sovereignty
- Promotion of sustainable development
- Equitable distribution of investment benefits

These developments highlight the ongoing tension between globalization and domestic policy autonomy, a central theme in contemporary investment law scholarship (Vandeveldt, 2005).

Part II: Substantive Protections And Investment Incentives (Expanded)

The second pillar of Arab investment law consists of substantive protections and operational mechanisms designed to reduce investment risk and facilitate capital inflows. These protections function as credible commitments, constraining arbitrary state action and enhancing investor confidence (UNCTAD, 2012a).

Section One: Substantive Protections and Investor Guarantees

Substantive protections form the core of investment law, ensuring that foreign investors are shielded from discriminatory treatment, expropriation, and regulatory unpredictability. The strength and enforceability of these protections directly influence investment decisions, particularly in capital-intensive and long-term projects (Blomström et al., 2000).

A. Protection Against Expropriation and Regulatory Takings

1. Constitutional and Legislative Foundations

Arab legal systems provide foundational protections against expropriation through constitutional guarantees and statutory provisions. Egypt's Investment Law No. 72 of 2017, for example, ensures the security of investment capital and prohibits confiscation except pursuant to a final judicial ruling (Egypt, 2017). Similar protections are embedded in Saudi Arabia's Updated Investment Law (2024) and the UAE's Federal Decree-Law No. 19 of 2018 (Saudi Arabia, 2024; United Arab Emirates, 2018).

These provisions reflect international standards requiring that state interference with property rights be subject to legality, public purpose, and compensation requirements (UNCTAD, 2012a).

2. Direct and Indirect Expropriation

Modern investment law distinguishes between direct expropriation, involving formal transfer of ownership, and indirect expropriation, where regulatory measures substantially deprive investors of economic value. Arab legal frameworks increasingly recognize this distinction, aligning with global jurisprudence on regulatory takings (UNCTAD, 2012a; Vandeveld, 2005).

The Unified Agreement adopts a particularly broad formulation, covering measures that partially or wholly affect investor assets, thereby providing protection against "creeping expropriation".

3. Compensation Standards

Arab investment laws generally require prompt, adequate, and effective compensation, consistent with international legal standards. Compensation is typically calculated based on fair market value, ensuring that investors are fully indemnified for losses incurred (UNCTAD, 2012a).

This principle is critical for maintaining investor confidence, as inadequate compensation mechanisms are strongly associated with reduced FDI inflows (World Bank, 2020).

4. Due Process and Rule of Law Guarantees

Procedural safeguards are essential for ensuring that substantive protections are enforceable. Arab investment laws increasingly incorporate due process requirements, including:

- Judicial review of expropriation decisions
- Transparency in administrative procedures
- Right to challenge compensation

These mechanisms enhance legal certainty and reinforce the rule of law, which is widely recognized as a key determinant of investment attractiveness (OECD, 2015).

5. Scope of Protected Investments

The scope of protected assets has expanded significantly to include not only physical property but also intangible assets such as intellectual property, contractual rights, and concessions. This reflects the evolving nature of global investment, where value is increasingly derived from knowledge-based and service-oriented sectors (Blomström et al., 2000).

6. Exceptions and Regulatory Autonomy

Investment protections must be balanced against the state's right to regulate in the public interest. Arab legal frameworks recognize exceptions for measures related to:

- Public health
- Environmental protection
- Economic stability

This balance reflects ongoing debates in international investment law regarding the appropriate limits of investor protection (UNCTAD, 2023).

7. International Arbitration and Remedies

Access to international arbitration represents a cornerstone of modern investment protection. Most Arab BITs provide for arbitration under ICSID or UNCITRAL rules, offering investors a neutral and enforceable dispute resolution mechanism (Sauvant et al., 2015).

The availability of such mechanisms significantly enhances investor confidence, particularly in jurisdictions where domestic courts may lack independence or efficiency (World Bank, 2020).

Section Two: Non-Discrimination And Fair Treatment

B. National Treatment and MFN Principles

National treatment ensures that foreign investors receive treatment equivalent to domestic investors, while MFN clauses extend the most favorable treatment available under any agreement. These principles are central to modern investment law and are widely incorporated into Arab legal frameworks (UNCTAD, 2010).

Egypt, Saudi Arabia, and the UAE all incorporate national treatment principles, though implementation varies depending on sectoral policies and regulatory frameworks (Egypt, 2017; Saudi Arabia, 2024; United Arab Emirates, 2018).

B. Most-Favored-Nation (MFN) and Fair Treatment Standards (Expanded)

1. Most-Favored-Nation (MFN) Standards

Beyond national treatment, contemporary Arab investment regimes increasingly incorporate Most-Favored-Nation (MFN) clauses, which function as dynamic equalization mechanisms ensuring that foreign investors benefit from the most favorable treatment accorded to any third-country investor. MFN clauses are widely recognized as a cornerstone of international investment law, aimed at preventing discriminatory practices and promoting competitive neutrality among investors (UNCTAD, 2010; Vandeveld, 2005).

The Unified Agreement for the Investment of Arab Capital explicitly provides that Arab investors may invoke “any more favorable treatment” granted under domestic law or other international agreements, thereby expanding the protective scope of the Agreement. Similarly, most Arab BITs incorporate MFN clauses that extend both substantive and, in some cases, procedural protections, enabling investors to benefit from more advantageous provisions contained in parallel treaties (Sauvant et al., 2015).

However, the application of MFN clauses has generated significant legal debate, particularly regarding their potential use to import dispute resolution mechanisms from other treaties. Arbitral tribunals have adopted inconsistent approaches, with some allowing MFN-based access to broader arbitration rights and others restricting MFN to substantive protections only. This divergence introduces uncertainty into Arab investment law and complicates treaty interpretation and state liability exposure (UNCTAD, 2023).

From a policy perspective, MFN clauses enhance investor protection but may also constrain host states’ regulatory flexibility by expanding obligations beyond their originally negotiated scope. Consequently, recent treaty practice increasingly seeks to clarify or limit MFN application to avoid unintended legal consequences (OECD, 2015).

2. Fair and Equitable Treatment (FET) Standards

In addition to formal non-discrimination, Arab investment frameworks increasingly incorporate the Fair and Equitable Treatment (FET) standard, one of the most influential and expansive principles in international investment law. FET operates as a flexible normative benchmark requiring host states to ensure fairness, consistency, transparency, and respect for investor expectations (UNCTAD, 2012b).

International arbitral jurisprudence has identified several core elements of FET, including:

- Transparency and predictability of the regulatory environment
- Protection of investors’ legitimate expectations
- Freedom from arbitrary, discriminatory, or abusive conduct
- Procedural fairness and due process in administrative actions

These elements collectively impose substantive and procedural constraints on state behavior, even where formal legal rules appear neutral. In practice, FET has been interpreted broadly, allowing tribunals to assess not only the legality of state measures but also their fairness and proportionality (Vandeveld, 2005).

Arab jurisdictions increasingly align with these international standards. Recent reforms in Saudi Arabia explicitly incorporate FET language into domestic legislation, signaling convergence with global investment norms. Similarly, Egypt and the UAE embed FET principles within broader guarantees of legal certainty and investor protection (Egypt, 2017; Saudi Arabia, 2024; United Arab Emirates, 2018).

3. Regional Preferences: GCC and Arab Investors

Arab investment frameworks also reflect regional integration priorities, creating differentiated treatment regimes for investors from neighboring jurisdictions. The UAE, for instance, accords national treatment to investors from Gulf Cooperation Council (GCC) member states under the GCC Economic Agreement, effectively eliminating nationality-based discrimination within the regional bloc (GCC, 2001).

Similarly, the Unified Agreement establishes a privileged category of “Arab investors,” granting them enhanced protections and access to regional dispute resolution mechanisms. This results in a tiered system of investor treatment, comprising:

1. Domestic investors (full national rights)
2. GCC investors (regional national treatment)
3. Arab investors (regional treaty protections)
4. Other foreign investors (BIT-based protections)

This layered structure reflects the political economy of regional integration, prioritizing intra-Arab capital flows while maintaining flexibility in regulating extra-regional investment (UNCTAD Investment Policy Hub, 2025).

4. Limitations and Exceptions to Non-Discrimination

Despite their broad scope, non-discrimination obligations are subject to important exceptions that preserve state regulatory autonomy. Arab investment laws and treaties commonly allow:

- Preferential treatment under regional agreements (e.g., GCC, Arab League)
- Reciprocity-based exceptions
- Regulatory measures for public policy objectives (e.g., environment, health, security)

For example, Egypt’s Investment Law permits exceptions to national treatment based on reciprocity principles, while BITs often include carve-outs for regional economic integration agreements (Egypt, 2017).

These exceptions are consistent with international practice, recognizing that absolute non-discrimination would undermine states’ ability to pursue legitimate policy objectives. However, such exceptions must be clearly defined and consistently applied to avoid arbitrary or disguised discrimination (OECD, 2015).

5. Procedural Fairness and Administrative Due Process

Substantive protections are reinforced by **procedural guarantees**, which ensure that investor rights are effectively implemented. Arab investment regimes increasingly incorporate administrative law principles requiring:

- Transparency in regulatory decision-making
- Advance notice of legal changes
- Reasoned administrative decisions
- Access to judicial or quasi-judicial review

These procedural safeguards are essential for reducing uncertainty and enhancing investor confidence, as they constrain discretionary authority and promote accountability (World Bank, 2020).

Egypt, for example, provides investors with the right to challenge administrative decisions before specialized courts, while Saudi Arabia requires judicial authorization for measures affecting investor rights. The UAE similarly emphasizes procedural clarity and regulatory predictability.

6. Comparative Effectiveness and Institutional Capacity

While formal legal standards across Arab states show increasing convergence, their practical effectiveness varies significantly depending on institutional capacity. The literature consistently emphasizes that strong legal frameworks alone

are insufficient; effective enforcement mechanisms and independent judicial systems are critical determinants of investment outcomes (UNCTAD, 2023; World Bank, 2020).

- Egypt offers formal access to administrative justice but faces enforcement challenges
- Saudi Arabia’s centralized system may create implicit advantages for state-linked entities
- The UAE demonstrates higher levels of institutional efficiency and investor confidence

These differences highlight the importance of institutional quality in translating legal commitments into tangible investor protection.

Section Three: Investment Incentives and Administrative Facilitation (Expanded)

Investment incentives represent the **proactive dimension of FDI policy**, complementing legal protections by directly influencing the economic attractiveness of investment destinations. While protections reduce risk, incentives enhance expected returns, thereby shaping investor decision-making (Blomström et al., 2000).

C. Tax and Financial Incentives

1. Tax Incentives and Corporate Relief

Arab states employ extensive tax incentives, including corporate income tax reductions and long-term tax holidays, to attract foreign investment. Saudi Arabia’s 30-year tax exemption for regional headquarters and the UAE’s zero-tax free zones represent some of the most competitive regimes globally (OECD, 2015; UNCTAD, 2023).

Such incentives significantly impact investment location decisions, though empirical studies suggest diminishing marginal returns when incentives exceed certain thresholds (World Bank, 2020).

2. Customs and Trade Facilitation Measures

Customs exemptions and tariff reductions are widely used to lower production costs, particularly in export-oriented sectors. Free zones across the region provide duty-free importation of capital goods and raw materials, facilitating integration into global supply chains.

3. Capital Mobility and Repatriation Guarantees

Legal guarantees of capital repatriation are essential for investor confidence. Arab states provide strong protections ensuring the free transfer of profits, dividends, and capital, addressing historical concerns related to exchange controls and financial instability (UNCTAD Investment Policy Hub, 2010).

4. Strategic Incentives and Developmental Conditionality

Increasingly, incentives are linked to **development objectives**, including technology transfer, innovation, and employment generation. This reflects a shift toward “strategic FDI,” where investment policy is aligned with long-term economic transformation goals (UNCTAD, 2023).

5. Special Economic Zones (SEZs)

SEZs and free zones serve as focal points for investment incentives, offering integrated packages combining fiscal, regulatory, and infrastructural benefits. These zones create agglomeration effects and enhance competitiveness but also raise concerns regarding fiscal sustainability.

6. Infrastructure and State Support

State investment in infrastructure constitutes an indirect but significant form of investment incentive. High-quality infrastructure is consistently identified as a primary determinant of FDI attraction, often outweighing purely fiscal incentives (World Bank, 2020).

7. Competitive Dynamics and Policy Risks

The proliferation of incentives across Arab states has led to increased regulatory competition, potentially resulting in a “race to the bottom.” While such competition may attract investment in the short term, it can impose substantial fiscal costs and undermine long-term sustainability (OECD, 2015).

Table 1. Comparative Overview of National Investment Frameworks (Egypt, Saudi Arabia, UAE)

Criteria	Egypt	Saudi Arabia	United Arab Emirates (UAE)
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Legal Framework	Investment Law No. 72 of 2017	Investment Law (Royal Decree No. M/19, 2024)	Federal Decree-Law No. 19 of 2018
Definition of Investment	Broad asset-based definition (tangible & intangible assets)	Capital-based definition (excluding debt instruments)	Broad definition including financial and intangible assets
Treatment of Investors	Explicit national treatment (Art. 3)	Unified framework (domestic = foreign investors)	Conditional national treatment within legal limits
Sectoral Openness	Highly liberalized (few restrictions)	Selective openness (negative/excluded list)	Hybrid (federal + emirate-level control)
Entry Mechanism	Administrative approval & registration	Registration-based (post-2024 reform)	Licensing + free zone regimes
Key Strength	Openness and accessibility	Regulatory modernization and transparency	Flexible and investor-friendly ecosystem
Key Limitation	Institutional enforcement gaps	Strategic sector restrictions	Regulatory complexity (multi-level governance)

Table 2. Core Substantive Protections in Arab Investment Law

Protection Standard	Legal Basis	Key Elements	Application in Arab States
Expropriation Protection	National laws + BITs + Unified Agreement	Public purpose, non-discrimination, compensation	Widely recognized across all jurisdictions
Fair and Equitable Treatment (FET)	BITs and modern legislation	Transparency, due process, legitimate expectations	Increasingly codified (e.g., Saudi reforms)
National Treatment	Domestic laws and treaties	Equal treatment with domestic investors	Explicit (Egypt), implicit (Saudi), conditional (UAE)
Most-Favored-Nation (MFN)	BITs and Unified Agreement	Access to more favorable treatment	May enable treaty shopping
Free Transfer of Funds	Domestic laws + treaties	Capital and profit repatriation guarantees	Strong protection across all states
Full Protection and Security	BITs	Physical and legal protection of investments	Common but varies in enforcement

Table 3. Comparative Investment Incentives in Arab States

Incentive Type	Egypt	Saudi Arabia	UAE	Oman (Reference)
Corporate Tax	Reduced / holidays (0-35%)	0% for RHQ (30 years), 5% in SEZs	0% in free zones	0% for 10 years (SEZs)
Customs Duties	Exemptions in special zones	Exemptions in SEZs	0% in free zones	Exemptions in SEZs
Foreign Ownership	Generally allowed	Restricted in strategic sectors	100% in free zones	Allowed in zones
Repatriation Rights	Fully guaranteed	Fully guaranteed	Fully guaranteed	Fully guaranteed
Special Economic Zones	Yes (targeted regions)	Yes (4 major zones)	40+ free zones	Integrated SEZ system
Strategic Incentives	Regional development focus	Vision 2030 sectors	Innovation & global business hubs	Industrial diversification

Table 4. International Investment Frameworks Affecting Arab States

Instrument	Scope	Key Features	Legal Impact
Unified Agreement (1980)	Regional (Arab States)	Arab investor protection, Arab Investment Court	Promotes intra-Arab investment
Bilateral Investment Treaties (BITs)	Global	FET, MFN, ISDS	Strongest investor protection mechanism
GCC Economic Agreement (2001)	Regional (GCC)	National treatment for GCC nationals	Enhances regional integration
ICSID Convention (1965)	Global	Investor-State arbitration	Neutral dispute resolution
UNCITRAL Arbitration Rules	Global	Flexible arbitration framework	Widely used in BIT disputes

Table 5. Dispute Resolution Mechanisms in Arab Investment Law

Mechanism	Jurisdiction	Advantages	Limitations
Domestic Courts	National	Familiar legal system	Potential bias, slow enforcement
Arab Investment Court	Regional	Specialized expertise, regional context	Limited usage historically
ICSID Arbitration	International	Neutral, enforceable globally	Costly and time-consuming
UNCITRAL Arbitration	International	Flexible and widely accepted	Enforcement depends on national courts
Ad hoc Arbitration	Case-specific	Customizable procedures	Lack of institutional support

Table 6. Comparative Legal Risks and Opportunities for Investors

Factor	Opportunities	Risks
Legal Protection	Strong treaty-based safeguards	Interpretation uncertainty (MFN, FET)
Market Access	Large and growing markets	Sectoral restrictions
Incentives	Generous tax and financial benefits	Fiscal sustainability concerns
Dispute Resolution	Access to international arbitration	High litigation costs
Institutional Quality	Improving legal frameworks	Enforcement variability

D. Intellectual Property Rights Framework (Expanded and Strengthened)

1. Comprehensive Intellectual Property Legal Architecture

Arab states have progressively developed comprehensive intellectual property (IP) regimes encompassing patents, trademarks, copyrights, industrial designs, and trade secrets, reflecting the increasing recognition that innovation-driven investment requires robust legal protection of intangible assets. In the contemporary global economy, intellectual property constitutes a central component of foreign direct investment (FDI), particularly in knowledge-intensive sectors such as pharmaceuticals, information technology, and advanced manufacturing (Blomström et al., 2000; UNCTAD, 2023).

Saudi Arabia has established an extensive IP framework through legislation governing patents, industrial designs, and trademarks, providing protection for inventions for a period of 20 years, consistent with international standards. Similarly, the United Arab Emirates adopted Federal Law No. 11 of 2021, which codifies patentability requirements such as novelty, inventive step, and industrial applicability, and provides both civil and administrative enforcement mechanisms. Egypt

maintains a comprehensive IP regime covering copyright, patent, and trademark protection, with enforcement through judicial and administrative institutions .

These legislative frameworks demonstrate convergence with international norms and signal a commitment to protecting investor rights in intangible assets, thereby reducing risks associated with unauthorized appropriation and enhancing the attractiveness of Arab jurisdictions for technology-intensive investment (WIPO, 2000; OECD, 2015).

2. International Intellectual Property Convention Membership

In addition to domestic legislation, Arab states have increasingly integrated into the global intellectual property system through accession to key international agreements, including:

- The Paris Convention for the Protection of Industrial Property
- The Berne Convention for the Protection of Literary and Artistic Works
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Membership in these conventions establishes minimum standards of IP protection and extends legal protections to foreign nationals on a reciprocal basis, thereby reinforcing investor confidence (WTO, 1994; WIPO, 2000).

TRIPS, in particular, plays a central role by imposing enforceable obligations on member states and providing access to dispute resolution through the World Trade Organization. This multilateral framework ensures that IP protections are not solely dependent on domestic law but are embedded within a broader system of international legal accountability (UNCTAD, 2023).

For investors, convention membership functions as a **credible commitment mechanism**, signaling that host states are bound by internationally recognized standards and subject to external review in cases of non-compliance (OECD, 2015).

3. Trade Secret and Confidential Information Protection

Beyond formal IP rights, Arab investment frameworks increasingly recognize the importance of trade secrets and confidential business information, particularly for service-based and technology-driven investments where value resides in proprietary knowledge rather than physical assets.

Saudi Arabia provides explicit legal protection for confidential business information, restricting disclosure by administrative authorities except under narrowly defined legal circumstances. The UAE similarly protects undisclosed information through civil remedies, including injunctions and damages, while Egypt's legal framework safeguards technical and administrative secrets against unauthorized disclosure .

The protection of trade secrets is particularly significant in sectors such as consulting, engineering, and digital services, where competitive advantage depends on the confidentiality of proprietary methodologies. Weak protection in this area can significantly deter foreign investment, as investors may fear misappropriation by competitors or state actors (UNCTAD, 2023).

4. Enforcement Mechanisms and Dispute Resolution

The effectiveness of IP protection depends critically on the availability of robust enforcement mechanisms. Arab states have made significant progress in establishing specialized administrative and judicial institutions for IP enforcement, including patent offices, trademark registries, and commercial courts.

Saudi Arabia and the UAE have developed relatively advanced enforcement systems, including administrative appeals and specialized judicial procedures. Egypt also provides enforcement through administrative bodies and commercial courts, although challenges related to case backlog and enforcement capacity persist.

In addition to domestic remedies, investors may rely on international arbitration mechanisms under BITs, which can encompass disputes involving intellectual property rights. These mechanisms provide an alternative forum where domestic legal systems may lack efficiency or impartiality (Sauvant et al., 2015).

Effective enforcement is widely recognized as a key determinant of investment attractiveness, as formal legal protections are insufficient without credible mechanisms for their implementation (World Bank, 2020).

5. Limitations and Public Policy Exceptions

Intellectual property rights are not absolute and must be balanced against broader public policy objectives, including public health, environmental protection, and access to knowledge. Arab IP frameworks incorporate exceptions such as:

- Compulsory licensing for pharmaceuticals

- Government use of patented technologies
- Exceptions for research and education

These provisions are consistent with TRIPS flexibilities, which allow states to override patent protections in cases of public health emergencies or other critical needs (WTO, 1994).

The inclusion of such exceptions reflects the need to balance innovation incentives with social welfare objectives, particularly in developing economies where access to essential medicines and technologies remains a pressing concern (UNCTAD, 2023).

6. Parallel Trade and Regulatory Constraints

The interaction between IP protection and price regulation, particularly in the pharmaceutical sector, introduces additional complexity. Many Arab states implement price controls to ensure affordability of medicines, which can reduce profit margins for patent holders and affect investment incentives.

At the same time, restrictions on parallel trade aim to prevent arbitrage across markets with different pricing regimes. However, the absence of effective controls may lead to gray market activities, undermining both investor returns and public health objectives.

This tension highlights the need for a balanced regulatory approach that ensures both access to affordable healthcare and adequate returns on innovation, often requiring negotiated solutions beyond formal legal frameworks (OECD, 2015).

7. Effectiveness and Institutional Capacity

Despite significant legal convergence, the practical effectiveness of IP protection varies across Arab states, largely due to differences in institutional capacity, judicial efficiency, and enforcement culture.

Gulf countries, particularly the UAE and Saudi Arabia, demonstrate relatively strong enforcement capacity, supported by specialized institutions and modern legal frameworks. In contrast, some North African jurisdictions face challenges related to:

- Judicial backlog
- Limited technical expertise
- Weak enforcement practices

These disparities highlight the importance of institutional development in ensuring the effectiveness of IP regimes. As emphasized in the literature, strong institutions are essential for translating formal legal commitments into real protection for investors (World Bank, 2020; UNCTAD, 2023).

Conclusion

This study has undertaken a comprehensive comparative analysis of the legal frameworks governing foreign direct investment (FDI) across selected Arab jurisdictions, revealing a regional landscape characterized by progressive legal convergence toward international investment standards, yet marked by persistent institutional asymmetries and strategic regulatory divergence. The contemporary Arab investment regime is best understood as a multi-layered legal architecture, composed of domestic legislation, regional agreements such as the Unified Agreement for the Investment of Arab Capital, and an extensive network of bilateral investment treaties (BITs), all of which collectively shape investor rights and state obligations (Vandevelde, 2005; UNCTAD, 2023).

At the normative level, Arab states have made substantial progress in aligning their legal systems with global investment governance standards. Core principles including national treatment, most-favored-nation (MFN) obligations, fair and equitable treatment (FET), and protection against expropriation with prompt, adequate, and effective compensation are now widely embedded across national laws and treaty frameworks. These developments reflect a growing recognition that credible legal commitments are essential for attracting and sustaining foreign investment, particularly in an increasingly competitive global economy (OECD, 2015; Sauvart et al., 2015).

Recent legislative reforms—most notably Saudi Arabia’s 2024 Investment Law and the continued liberalization of the United Arab Emirates—demonstrate a clear policy shift toward investment facilitation, regulatory transparency, and administrative efficiency. These reforms signal an awareness among policymakers that legal modernization must accompany broader economic transformation strategies, including diversification and integration into global value chains (World Bank, 2020).

However, this study also demonstrates that formal legal convergence does not necessarily translate into functional equivalence in practice. The effectiveness of investment protections remains contingent upon institutional capacity, including the independence and efficiency of judicial systems, the professionalism of administrative bodies, and the broader rule of law environment. While some jurisdictions, particularly in the Gulf, have developed relatively sophisticated legal and institutional infrastructures, others continue to face challenges related to enforcement, procedural delays, and limited judicial specialization (UNCTAD, 2023).

These institutional disparities create a gap between law on the books and law in action, which may undermine investor confidence despite the existence of robust formal protections. As the literature consistently emphasizes, institutional quality is a decisive determinant of FDI attraction, often outweighing purely legal or fiscal considerations (World Bank, 2020; Blomström et al., 2000).

The analysis further highlights the complex role of investment incentives within Arab FDI policy. While tax holidays, customs exemptions, and free zone regimes provide strong financial inducements for foreign investors, their effectiveness is subject to diminishing returns. Empirical evidence suggests that excessive reliance on fiscal incentives may lead to inefficient resource allocation and increased fiscal burden without significantly enhancing net investment inflows (OECD, 2015). Instead, structural factors such as infrastructure quality, human capital development, and macroeconomic stability play a more decisive role in shaping investment decisions.

At the regional level, Arab investment law reflects a hybrid model of integration and strategic selectivity. Instruments such as the Unified Agreement and GCC frameworks create preferential regimes for intra-regional investors, fostering economic cooperation while preserving policy space for regulating extra-regional investment. While this tiered structure enables states to pursue strategic development objectives, it also introduces legal complexity and risks of fragmentation, particularly in the context of overlapping treaty obligations and forum selection dynamics (UNCTAD, 2023).

Overall, the Arab investment regime is undergoing a gradual transformation toward a more coherent, transparent, and internationally integrated system, yet significant challenges remain. Future progress will depend not only on continued legal harmonization but also on strengthening the institutional foundations necessary to ensure effective implementation and equitable outcomes.

Recommendations

1. Harmonization of Investment Standards

Arab states should pursue greater legal harmonization across national and regional frameworks to reduce fragmentation and enhance predictability. This includes aligning definitions of investment, standardizing protection clauses, and clarifying the interaction between domestic laws, regional agreements, and BITs. Greater harmonization would reduce transaction costs for investors and strengthen the region's collective competitiveness (UNCTAD, 2023).

2. Institutional Capacity Building in Judicial and Administrative Systems

Strengthening institutional capacity is essential for translating legal commitments into effective protection. This requires:

- Establishing specialized commercial and investment courts
- Enhancing judicial training in international investment law
- Improving enforcement of arbitral awards and judicial decisions

Investment in institutional infrastructure will significantly improve investor confidence and reduce legal uncertainty (World Bank, 2020).

3. Development-Oriented Conditionality in Investment Policy

Arab states should adopt a more strategic approach to FDI by linking investment incentives to development outcomes, including:

- Technology transfer
- Local content requirements
- Employment generation
- Innovation and research activities

Such conditionality ensures that foreign investment contributes to long-term economic transformation rather than short-term capital inflows (Sauvant et al., 2015).

4. Strengthening Intellectual Property Enforcement

While legal frameworks for intellectual property protection are increasingly aligned with international standards, enforcement remains uneven. Policymakers should prioritize:

- Establishing specialized IP courts and administrative bodies
- Enhancing technical expertise among judges and regulators
- Strengthening anti-counterfeiting and enforcement mechanisms

Effective IP protection is particularly critical for attracting high-value, technology-intensive investment (WIPO, 2000; UNCTAD, 2023).

5. Enhancing Transparency and Treaty Coordination

Given the proliferation of overlapping treaties, Arab states should improve transparency and coordination in their international investment commitments by:

- Publishing comprehensive and accessible treaty databases
- Clarifying the scope of MFN clauses and dispute resolution provisions
- Reducing inconsistencies across treaty obligations

Greater transparency will reduce legal uncertainty and limit opportunities for unintended treaty shopping (OECD, 2015).

6. Integrating Sustainable Development into Investment Governance

Future investment policy should explicitly incorporate sustainable development principles, balancing investor protection with environmental, social, and governance (ESG) considerations. This includes:

- Embedding sustainability clauses in investment treaties
- Promoting green investment and renewable energy sectors
- Ensuring responsible business conduct

Such integration aligns with global trends in investment governance and enhances long-term economic resilience (UNCTAD, 2023).

7. Strengthening Regional Cooperation and Knowledge Sharing

Arab states should enhance regional cooperation mechanisms to facilitate knowledge exchange and policy coordination. This includes:

- Sharing best practices in investment regulation and dispute resolution
- Developing regional capacity-building programs
- Strengthening the role of regional institutions such as the Arab Investment Court

Collaborative approaches can accelerate institutional development and promote a more unified regional investment framework.

Ethical Considerations

This study adheres to the highest standards of academic integrity and ethical research conduct. The research is based exclusively on publicly available legal documents, statutory frameworks, international agreements, and secondary scholarly sources. No human participants, personal data, or confidential information were involved in the preparation of this article. All sources have been appropriately cited in accordance with academic conventions, and any potential issues related to plagiarism, data fabrication, or misrepresentation have been strictly avoided. The author confirms compliance with international ethical guidelines for legal and comparative research.

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Conflict of Interest

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