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Bilateral Treaties and International Regulations: A Systematic Literature Review

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ABSTRACT

This qualitative systematic literature review aimed to explore the factors that may oblige the formulation of the international regulatory framework for countries in bilateral treaties. It can be concluded from this study that bilateral treaties do not alleviate all the problems that are associated with international engagement. Despite having bilateral treaties, nations still struggle with major issues that lead to disputes. This has been evidenced by the scholarly evidence indicating the need.



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1. Introduction

Bilateral treaties have become integral to international trade, yet they have caused mixed reactions. In the last decades after the Second World War, there has been an increase in the volume of international trade, characterized by many bilateral treaties and preferential trade agreements (Frenkel & Walter, 2019). The rise in the number of preferential trade agreements and bilateral treaties has been occasioned by the need to increase business relations movement of goods, services, and labour between countries for mutual benefits. Scholars have noted that the increase in bilateral trade has led to mixed results.

Bilateral treaties have been associated with positive and negative outcomes. From a positive dimension, the increase in bilateral trade has led to economic growth by promoting investment, innovation among entrepreneurs, and the creation of job opportunities. Due to the increased movement of products between the two countries, consumers are provided with greater choices of products leading to lower commodity prices (Heid & Vozzo, 2020). Bilateral treaties and trade agreements also cause increased competitiveness, enabling greater exposure to foreign competition and promoting the improvement of products and services (Heid & Vozzo, 2020). Furthermore, bilateral trade agreements enable cultural exchange between countries, further promoting understanding and cooperation (Li et al., 2021).

Bilateral treaties are also associated with negative impacts. Bilateral treaties promoting trade between nations are associated with job displacement in some industries, especially less competitive industries (Ye, 2020). Bilateral treaties could negatively impact on the environment, particularly when there is an increase in industries that emit carbon or through increased transportation of goods. In some instances, countries engaged in bilateral treaties complain of trade imbalances, where one country imports more than the exports, negatively affecting the domestic economy (Islam et al., 2019). Bilateral treaties could make one nation dependent on its partner, making it vulnerable to policy changes (Beri & Nubong, 2021). The vulnerability problem is common for developing countries that engage with other developed nations.

Ye (2020) documented an evolution in the number of preferential trade agreements, leading to mixed results. Despite the high number of bilateral trade

agreements, only a small proportion of the trade agreements have been notified with the WTO. Despite vast evidence exploring the effect of the bilateral treaties, there is a lack of focus on the factors that would occasion regulation using international laws. Scholars have demonstrated that there is a need to have international treaties be regulated based on existing or new international laws. As bilateral trade continues to grow, there is a need to establish a comprehensive system for regulation. A regulatory framework will ensure fairness and transparency in the bilateral treaties between countries. A regulatory framework for bilateral treaties is essential in helping to help in resolving disputes between countries, thereby maintaining stable, predictable trading relations. Langhammer (2022) noted a gap in the literature on the determinants of bilateral treaty regulations. Similarly, Li et al. (2021) argued that the existing literature has focused on the outcome of bilateral treaties with limited focus on factors that can influence the regulatory framework. This systematic literature review aims to investigate the factors that necessitate the development of a regulatory framework in bilateral treaties.

Research Question

What is known in the literature about causative factors for international regulations of bilateral treaties?

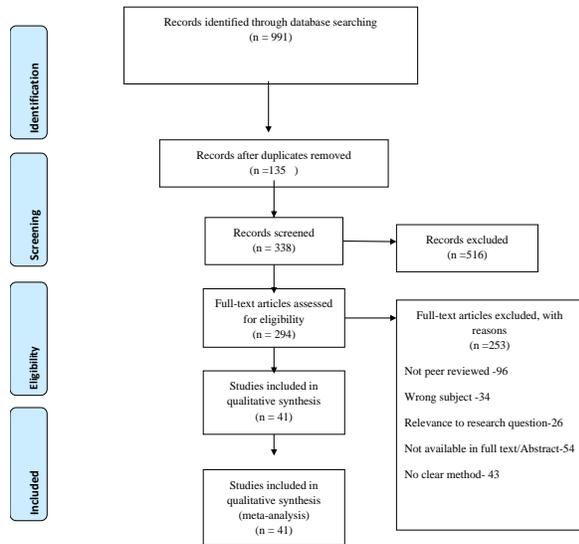
1. Research Method

To conduct this systematic literature review, the researcher searched for articles that focused on the factors that influence the international regulation of bilateral treaties.

1.1. Search Strategy

The researcher used the following search terms: "bilateral treaties regulation", "international trade agreements", "trade policy", "trade negotiations", "trade barriers", "trade disputes", "free trade agreements", "WTO rules and regulations", "multilateral trade agreements", and "regional trade agreements". These terms were combined using Boolean operators (AND/OR) to develop the search string for the database used in the search. The researcher searched Sage, Emerald, and Science Direct Journal Databases, which are recommended databases for a wide range of disciplines, including

sciences, social sciences, economics, political science, and international relations. From the three databases, a total of 989 articles were identified and screening and evaluation followed as indicated in PRISMA flow:



PRISMA 2009 Flow

1.2. Inclusion and Exclusion

Articles were screened based on the year of publication (between 2013 and 2023) and whether they were on the right subject (economics, international business, and/or policies and regulation). Articles were also screened to ensure that they were published in English language. Articles of interest were those published in the last five years. After the screening process, 561 articles were eliminated as they did not meet the screening criteria. Articles that covered bilateral treaties between countries and regions were included. The articles must be based on a clear methodology and research design. Only articles that were available in the full text were included in the review.

After the screening, articles were reviewed for eligibility. From the evaluation of the eligibility, 96 articles were removed since they were not peer-reviewed, 34 of them were not in the right subject, 26 of them were not relevant to the research question, 54 of them were not available in full text or full Abstract to be able to assess the method or findings, and 43 of them had no elaborate methodology applied. A total of 253 articles were removed, leaving 41 articles to be

included in the Systematic literature review. It was possible to identify sources that are relevant in providing evidence on the factors that can influence the international regulation of bilateral trade, using this search strategy and the inclusion and exclusion criteria.

2. RESULTS

The extraction of the relevant information and integration of the findings through a synthesis process followed the evaluation of the publications. The final list of articles included 41 publications published between 2013 and 2023 and focused on the international regulation of bilateral treaties. The researcher focused on the articles that would respond to the research question on the commonly cited factors that oblige international regulation of bilateral treaties. The researcher reviewed quantitative and qualitative studies and adopted an integrative approach to aggregate the results in a manner that identifies the common themes. The aggregation approach was chosen as it imitated the approach adopted by Yin (1989). This approach helped aggregate findings that address the problem that the literature does not document factors associated with the regulation of bilateral trades. By conducting this study, the researcher provides information that helps understand the topic and identify the patterns concerning bilateral trade regulation, which may not be apparent in individual studies.

After the analysis, different themes relating to factors that drive the establishment of international regulation emerged: dispute resolution, balancing foreign investors' rights with local interest, addressing economic crimes, incorporating technological route/digitalization, addressing regulatory defragmentation, promoting cooperation, fairness, accountability, and transparency, inclusivity and participation of the citizen. Furthermore, there was evidence of an interaction between the themes, and some publications showed more than one theme.

Factor	Description
Dispute resolution	This entails resolving any form of conflicts and disagreements between members of nations in a bilateral treaty.
Balance Investors' rights and local interest	This entails the regulation to ensure that foreign investment is not hindered while also preventing negative impacts on the locals, such as loss of control of strategic assets, erosion of job opportunities, suppression of innovation, and economic growth by locals.
Address economic crimes	Economic crimes encompass criminal acts that have a negative impact on the economy and financial systems, such as fraud, corruption, and money laundering, among others. Addressing economic crimes entails setting up and implementing policies to detect, prevent, and investigate such activities.
To incorporate technological route/digitalization	In modern times, digitalization has affected bilateral treaties, and regulations need to incorporate policies that govern engagement through such technological advancements.
Address regulatory defragmentation	Defragmented rules govern some bilateral treaties that lack consistency, and some are not well aligned. This factor entails streamlining regulations to create policies and laws that are coherent, and consistent with the national and international framework.
Promote cooperation, fairness, accountability, and transparency	This entails promoting a culture of openness and collaboration that fosters trust and accountability between nations involved in the bilateral treaties.
Inclusivity and participation of the citizen	This entails the need to involve citizens of a certain country in the bilateral treaty to ensure equity, participation, and opportunities for the marginalised groups.

Table 1: Description of the Identified Factors

2.1. Dispute Resolution

The theme of dispute resolution is demonstrated by the following articles: Idrees et al. (2019), Sielker (2018), Choi (2015), Kim et al. (2018), Cuervo-Cazurra and Li (2021). The articles show the need to have a regulatory framework that addresses disputes between nations in bilateral treaties. Idrees et al. (2019) provide a case study of the disputes between China and Pakistan, evidenced by the engagement in the China-Pakistan economic corridor (CPEC) projects leading to a commercial dispute. There is a need to have a mechanism that regulates the legal and administrative challenges and disputes among the EU member countries (Sielker, 2018). The regulation of the bilateral treaty is important for dispute settlement in composing the investment chapter between Korea-China in the Free Trade Agreement (FTA). Dispute settlement is essential for the ideal international investment governance (Choi, 2015). Based on

internal decision-making processes, the renegotiation of the Korea-US FTA during the Trump Administration demonstrates the need for international regulation of bilateral treaties (Kim et al., 2018). The need for international regulation to help resolve disputes related to multinationals has also been documented (Cuervo-Cazurra & Li, 2021). From the articles reviewed, the five articles demonstrated the need to have international regulation to solve economic, administrative governance, and investment disputes.

2.2. Balance foreign investors' rights with local interest

This theme was vastly covered in different studies, which showed imbalances in foreign investment and local interests exist. Scholars published information regarding the need for a regulatory framework to ensure that foreign investors and locals are protected

concerning their investments. Some of the articles that focused on balancing the economic state (investors and locals) included: Dostál (2021), Adhikary (2017), Hamm (2015), Hagiwara (2022), Chen et al. (2016), Mugarura (2016), and Heidari (2022). With the proper legal framework, it becomes possible to balance the relationship between two countries in a treaty and ensure that the host country does not compromise its economy and national security (Chemmanur et al., 2016; Hagiwara, 2022; Heidari, 2022). Such findings were also published by Mugarura (2016), in a case study to review the need for international regulation policies to address issues that arose with Brexit after there were numerous hurdles in the national legal system, which could have compromised Britain's economy. International regulation helps to evaluate the effect of outward foreign investments on the host country (Adhikary, 2017; Chen et al., 2016). The international regulatory framework could be used to prevent alteration of national policies to install friendly bilateral treaties that could adversely affect a nation's economy (Hamm, 2015). The role of international regulation of the bilateral treaties is also demonstrated by the need to ensure that the treaty does not enable tax evasion (Kudrle, 2021; Obadina, 2016).

International regulations on bilateral treaties could be improved based on the need to ensure that the two countries enjoy mutual benefits regarding the labor market. Dostál (2021) found that a lack of proper policies would be detrimental to either of the two countries as they differ in the labor cultures such as the number of working hours. Ayentimi, Burgess, and Brown (2018) examined the cultural differences in the labour market for companies operating as MNEs in a survey study and concluded on the need to have interests of the host and foreign catered for in bilateral treaties. International policies should be affected due to the immigration enhanced by the bilateral treaties, and there could arise negative effects such as alteration of the income level, expenses, and earnings of the domestic workers (Phuong & Venkatesh, 2015; Varshney & Lata, 2014). Roehling (2017) also indicates that it is imperative to regulate the virtual labor to ensure that it works within the appropriate labor framework, locally and internationally. Finally, Danzer and Yaman (2016) delved on the need for policies to streamline bilateral treaties due to language, recommending that such should improve integration.

2.3. Reduce fraud/economic crimes

There is a need for international regulation of bilateral treaties to prevent economic crimes. For the reviewed studies, the following articles published information relating to various economic crimes that may need to be addressed through international regulation: Ahtik et al. (2019), Al-Tawil et al. (2021), Gibbs (2018), Olujobi (2021), and Wang (2021). Ahtik et al. (2019) analyzed the threats of money laundering and prevention and recommended developing international policies to prevent money laundering. Similarly, Al-Tawil et al. (2021) explored the challenges that Bitcoin and other Cryptocurrencies following the Brexit pose. Ahtik et al. (2019) concluded that there is a need for AML to exert effort to combat money laundering and misuse of cryptocurrencies.

Four articles focused on the issue of corruption as an economic crime that could be hindered with the enactment of appropriate international regulations. Gibbs (2018) discussed the need to tackle corruption in Dubai by creating an Economic Security centre to help prevent money laundering, corruption, and terrorist financing. When dealing with international investments and trades, there is a need for greater transparency and enactment of policies that help tackle suspect wealth to combat financial crimes well (Wang, 2021). Similarly, Olujobi (2021) emphasized the need for the law on civil forfeiture as part of the bilateral treaties to help trace, confiscate, and return proceeds of corruption.

2.4. To incorporate technological route/digitalization

From the analysis, a theme emerged regarding the need for new policies incorporating technological and digitalization advances. This theme was evident from the following sources: Andrés and Asongu (2016), Aguerre (2019), Bhardwaj and Margam (2017), Kudrle (2021), Okah-Avae and Mukoro (2020), and Roehling (2017). There is neglect of international policies and a lack of prevention of the legal context to govern virtual teams and online engagement (Roehling, 2017). Due to the lack of international regulations, even among countries with bilateral treaties, software piracy is highly prevalent across the globe (Andrés & Asongu, 2016). Bhardwaj and Margam (2017) recommended developing a metadata framework for the effective management and dissemination of legal information across the globe. By setting appropriate international framework for

nations in tandem with the digital era, it will be possible to fight tax evasion (Okah-Avae & Mukoro, 2020; Kudrle, 2021).

2.5. Defragment of the rules and policies, and laws

From the scholarly evidence, the international regulatory framework is essential in bilateral treaties to address the problem of defragmentation of policies and laws. Three articles: Bandelj & Tester (2020), Hagiwara (2022), and Sharmin & Laryea (2021), portrayed this theme. Currently, policies are fragmented as some nations have different legal frameworks for bilateral treaties as shown in the application of the Most-Favoured-Nation (MFN) principle (Sharmin & Laryea, 2021). To demonstrate the challenge of fragmented international policies, Hagiwara (2022), demonstrates the case of Hong Kong and China. Hong Kong is facing challenges due to the growing influence of the China Central Government a problem characterised by legal fragmentation. The problem of legal fragmentation in bilateral treaties is exemplified by decoupling in the global economy, especially for the Bilateral Investment Treaties (BITs) (Bandelj & Tester, 2020).

2.6. Ensure Cooperation, Fairness, Accountability, and Transparency

The international framework for bilateral treaties can help streamline the relationship and engagement between nations to ensure cooperation, fairness, accountability, and transparency. This theme was evident from many scholarly sources that were reviewed. From the cooperation perspective, three sources (Hur, 2015; Monticelli et al., 2022; and Sakal, 2021) exhibited this aspect. Nations can strategically set up policies to ensure that they engage in cooperative investment-promoting efforts on mutual basis (Hur, 2015). In addition, whether competing for the same market, two countries can cooperate through formal institutions and enhance cooperation (Monticelli et al., 2022). Institutional frameworks play a huge role in shaping the cooperation relationship between Turkey and Europe (Sakal, 2021).

From a transparency perspective, Sharmin and Laryea (2021) found that applying the Most-Favoured-Nation (MFN) principle may affect international dispute policy as it depicts a lack of transparency in bilateral trade. Similarly, Lee et al. (2021) examined the relationship between economic freedom in bilateral treaties and development and

found that such could be attained by enacting proper transparent measures. The need to have fair treatment between nations in bilateral trade necessitates an international regulatory framework and format of appropriate institutions to reconcile tensions (Obadina, 2016; Schittenhelm, 2022; Suttle, 2022). Fairness is also deemed in bilateral treaties when policies available allow inclusivity and participation on a mutual basis (Ahlers et al., 2014; Li et al., 2022; Schittenhelm, 2022).

3. Discussion

The reviewed literature delved need for an international regulatory framework for bilateral treaties 41 articles were included in the study, and different themes emerged. The main arguments from the articles revolved around the need for international regulation to address the major drawbacks that arise despite having bilateral treaties. The research demonstrated some case studies of conflicts that have arisen between nations despite having bilateral treaties, such as the conflict between China and Pakistan (Idrees et al., 2019) and Britain Brexit issue (Mugarura (2016)). In the two cases that are highlighted here, it required the use of the international framework to resolve the matter.

The study has also widely covered the theme of dispute resolution, depicting that bilateral treaties do not alleviate the chances of having disputes. The findings show a need for legal international legal framework to resolve such disputes as those witnessed in Pakistan and China, as well as those between China and India (Kaura, 2020; Sharmin & Laryea, 2021). Due to the increased economic and political engagement of the two nations that are in bilateral treaties, there are more chances of conflicts (Ferreira, 2020). This review has shown the need for international dispute resolution to address the conflicts.

The need to protect the local interest while encouraging foreign investment was also evident. While most developing nations are seeking foreign investors, there also arise issues that may adversely affect the locals. This could be complicated if one of the countries is vulnerable, necessitating a legal framework to ensure that the host country's economy is not compromised. This theme was related to the need to streamline nations' relationships to ensure

cooperation, fairness, transparency, inclusion, and participation. Problems that arise with the oppression of one nation in a bilateral treaty are commonly associated with low economic and military power.

The literature review also demonstrated the need for an international legal framework to address emergent issues that bilateral treaties may not capture. For instance, due to increased economic engagement between people of two nations in the treaty, there may arise a problem with economic crimes. As demonstrated from the literature review, some of the common economic crimes that arise are corruption, money laundering, and tax evasion. In addition, technological advancement and digitization have affected some of the bilateral treaties. Scholars have recommended reviewing some of the bilateral treaties to modern times. Finally, it is imperative to address the issue of fragmentation of the policies. Indeed, some of the clauses in the bilateral treaties could be convoluted and overlap, necessitating alignment.

4. Conclusions

This qualitative systematic literature review aimed to explore the factors that may oblige the formulation of the international regulatory framework for countries in bilateral treaties. It can be concluded from this study that bilateral treaties do not alleviate all the problems that are associated with international engagement. Despite having bilateral treaties, nations still struggle with major issues that lead to disputes. This has been evidenced by the scholarly evidence indicating the need for a legal framework to solve disputes.

From the analysis, it is evident that the increased disputes between nations necessitate having an international regulatory framework to address the matters impartially. Second, there is a need to have a regulatory framework that balances the investor's rights and that of the local citizens in the host country. It is evidenced from the systematic literature review that some bilateral treaties have led to the oppression of the host country, especially the vulnerable and less empowered nations. Setting up such policies will also help resolve issues that will promote cooperation, fairness, accountability, and transparency between nations in bilateral treaties.

An international regulatory framework is also needed to address the many emerging issues. The

review has led to the conclusion that in modern times, some of the issues that arise include economic crimes, digitalisation challenges, and fragmentation of the laws. The review of modern studies on international regulation of bilateral treaties has revealed the most relevant factors that oblige nations and international bodies to act accordingly by forming appropriate policies.

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