Amplified Decoupling in the Global Economy: The Case of Bilateral Investment Treaties

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Abstract
Developing countries adopt global policies in their quest for economic development. Studies show that such policies are decoupled from their intended effects, or that over time, they become more effective. But what if the opposite happens and policies, which were initially efficacious, become increasingly decoupled with time? We recognize this phenomenon as amplified decoupling. Combining historical and quantitative analysis, we examine a case of bilateral investment treaties (BITs), established to protect and promote foreign direct investment (FDI). The influence of BITs on FDI is significant in the early periods but becomes weaker over time. Historical analysis reveals the unexpected role of (post)communist countries in using BITs for geopolitical purposes and highlight the impact of international organizations which broker treaty signing among pairs of developing countries engaged in economic diplomacy. We suggest that amplified decoupling can result because of institutional multivalence, whereby practical actors reframe and repurpose policies toward uses that were originally unintended.

Keywords
decoupling, economic globalization, postcommunism, development

Introduction
Developing countries adopt global policies in their quest for economic development. But such policies often do not yield intended effects. In a classic statement, Meyer and colleagues (1997) argued that countries adopt institutional models to be seen as legitimate actors in the global system, making policy adoption a ceremonial process that is decoupled from actual practice (Meyer and Rowan 1977). Recent scholarship, however, finds that global instruments in domains such as the environment and human rights stipulate new channels for social action by nation-states and civil society that, over time, form durable and efficacious organizational routines (Cole and Ramirez 2013; Hironaka 2014). This means that, with time, global policies likely become more closely coupled with their intended effects. Indeed, scholarship on the adoption of policies in the world polity has explored how the efficacy of transnational instruments varies relative to the depth and durability of institutionalization (Schofer and Hironaka 2005), heightened demands from global civil society (Hafner-Burton and Tsutsui 2005; Hironaka 2014), and disparate state capacities (Cole 2012; Shorette 2012). This research puts forth strong reasons to expect that global policies and their intended effects will, in fact, become increasingly aligned, or coupled, over time.

However, in some cases the opposite occurs. That is, policies that initially are efficacious and yield intended effects become increasingly decoupled over time. We call this amplified decoupling and examine one policy that exhibits it: bilateral investment treaties (BITs), or policies signed for the promotion and protection of foreign direct investment (FDI) between nation-states (United Nations Conference on Trade and Development [UNCTAD] 2011). We begin by first providing historical- and document-based evidence on the evolution of BITs, from 1958, when they were first established, to 2007, before the world financial crisis. This historical analysis suggests that BITs have become repurposed over time toward uses that were originally unintended and away from attracting and protecting FDI. We reveal evidence that communist

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countries, without private property FDI, signed BITs in the mid-1970s to create geopolitical alliances. We also find that many postcommunist countries signed BITs right after the Cold War to pursue global reintegration. Moreover, with the help of UNCTAD, many postcommunist and other developing countries signed BITs in the new millennium not only with FDI-rich partners but also with each other, following the “globalization as development” paradigm (McMichael 2000), and/or engaging in practical considerations of economic diplomacy (Poulsen 2015).

As FDI has surged across the globe and BITs have proliferated, the effect of BITs on FDI has weakened. In the second part of this article, we put this amplified decoupling hypothesis to a quantitative test using fixed-effects regressions across three time periods from 1970 to 2007, which demonstrates that the influence of BITs on FDI diminishes over time. We also run analyses for different samples of developing and postcommunist countries and find that the results are consistent with our historical account.

To understand the empirical trend of the relationship between BITs and FDI weakening after a period of coupling, we propose a concept of institutional multivalence. This is intended to capture how global policies can be reframed and repurposed by practical actors who attribute novel meanings to, and find new uses for, existing institutions. When global instruments can be ascribed variegated meanings and purposes, much like cultural schemas in repertoires or tool kits (Swidler 1986), practical actors can use the same instrument for new or additional economic, legal, political, cultural, personal, or other purposes. This means that the policy will be used for purposes that are not strictly linked to those for which the policy was originally designed. Therefore, greater institutional multivalence will lead to amplified decoupling between a policy and its originally intended effects. Multivalence differs from classic statements on institutional coupling in domains that lack rigorous scrutiny and enforcement. This contrasts with areas such as the environment and human rights, where monitoring and enforcement procedures are deeply institutionalized across civil society and state administrations (Cole 2012, 2015; Hironaka 2014). We propose that in the absence of such scrutiny, multivalence can flourish, and so can decoupling.

On the whole, our article makes three central contributions. First, we trace the little-known history of BIT adoption by communist and postcommunist countries, showing how existing institutions are reframed and repurposed for new uses. Second, we illustrate how actions by non-core/hegemonic actors—in this case, Central and East European states—create ripple effects at the global level, advancing our understanding of bottom-up globalization. Third, we propose the concepts of amplified decoupling and institutional multivalence first to recognize situations where, after initial coupling of global policies and their intended effects, decoupling between them increases, and second to identify potential mechanisms that undergird such amplified decoupling.

**The Case of BITs**

UNCTAD is the principle organization collecting BIT data and offers the following definition:

Bilateral investment treaties (BITs) are agreements between two countries for the reciprocal encouragement, promotion and protection of investments in each other’s territories by companies based in either country. Treaties typically cover the following areas: scope and definition of investment, admission and establishment, national treatment, most-favoured-nation treatment, fair and equitable treatment, compensation in the event of expropriation or damage to the investment, guarantees of free transfers of funds, and dispute settlement mechanisms, both state-state and investor-state. (UNCTAD 2020, online database http://investmentpolicyhub.unctad.org/IIA)

This means that BITs are designed not only to establish the legal treaty terms under which FDI takes place and define the rights and responsibilities of both host governments and private investors but also to encourage and promote flows of investment between signatory countries. Scholars have proclaimed BITs “the most important international legal mechanism for the encouragement and governance of FDI” and have called the proliferation of BITs “phenomenal” (Elkins, Guzman, and Simmons 2006:811). UNCTAD (1996, 2013) has pronounced FDI one of the central mechanisms of economic globalization. The first BIT was signed in 1959 between Germany and Pakistan. By the 1990s, there was a rapid increase in BITs, rising from 386 in 1989 to 1,813 in 1999, and reaching 2,756 by 2013, marking a more than 600 percent growth since the late 1980s, consistent with a global surge in FDI (see Figure 1). The number of countries involved in BITs also has increased to near universal inclusion: by 2013, 178 of the 193 states recognized by the United Nations, including small island states and the most impoverished nations, as well as the Palestine Authority, had signed at least one BIT.

The contents of BIT agreements among states have remained remarkably consistent over time (Bandelj, Mahutga, and Shorette 2015). However, we can conceptualize BITs as a potentially multivalent institution because these treaties can be variously adopted by practical actors for legal, economic, political, and cultural purposes either as (1) a legal treaty for property rights protection after World War II to guard against nationalization during the decolonization period, (2) an economic instrument to compete for FDI, (3) a
political instrument for outward-looking communist countries to forge geopolitical alliances outside of the Soviet Union during the Cold War, or (4) a cultural policy script of neoliberal globalization promoted by UNCTAD and adopted by developing countries to perform a legitimate “globalization as development” (McMichael 2000) strategy. Moreover, some qualitative evidence suggests that reasons for signing treaties may have to do with practical economic diplomacy considerations whereby “BITs were pushed by embassies and foreign affairs officials as photo-ops for state visits . . . [or] ambassadors initiated the treaties at the end of their posting to ‘finish with a bang’” (Poulsen 2015:121).

We use historical and comparative data to identify multivalent uses of BITs in three time periods: (1) the early protection and promotion of FDI (1970–1989); (2) the middle period spearheaded by wide adoption of BITs, especially by postcommunist countries (1990–1999); and (3) a later period of increasing signing of BITs among developing countries supported by UNCTAD (2000). Before we turn to our historical analysis, we locate the study in the world society literature, specifically in its connection to economic globalization.

The World Polity and Decoupling of Global Market Policies

The world society approach focuses on how, during the past century, a single world polity has developed with a corresponding world culture, revealed in surprisingly similar national organizational structures such as school curriculum, development strategies, and state bureaucracies despite huge differences in location, national histories, and resources across countries (Meyer et al. 1997; Schofer et al. 2011). World society scholars highlight international nongovernmental organizations as carriers of world culture that promote universalism, individualism, voluntaristic authority, rational progress, and world citizenship (Boli and Thomas 1997). This perspective has generally focused on environmental (Frank, Hironaka, and Schofer 2000; Hironaka 2014; Longhofer and Schofer 2010; Shorette 2012), educational (Frank and Gabler 2006; Ramirez and Wotipka 2001; Schofer and Meyer 2005), and political (Boyle, Kim, and Longhofer 2015; Ramirez, Soysal, and Shanahan 1997; Taniguchi and Babb 2009) institutions. In recent years, researchers began focusing on two additional dimensions of globalization: development and decoupling.

While the world society literature is expansive, we found only a handful of studies that apply this perspective to issues of economic development. For example, Henisz, Zelner, and Guillén (2005) examine the adoption of market-oriented reforms across countries to show that international pressures of coercion, normative emulation, and competitive mimicry strongly influence domestic economic policy adoption. Similarly, Polillo and Guillén (2005) find that integration into the world society through exposure to the global economy influences the development of independent financial institutions, specifically central banks. Further, Lim and Tsutsui (2012) demonstrate that ties to world culture predict whether corporations adopt corporate social responsibility initiatives differently for developing countries, which often pursue ceremonial commitment, compared to developed countries, which engage in substantive commitment to these policies. Additional studies discuss global development but focus primarily on its relationship to and effects on environmental change (Longhofer and Jorgenson 2017; Schofer and Granados 2006). We build on this emerging literature by focusing squarely on BITs and FDI, which are considered key levers for economic development.

From the world polity perspective, neoliberal developmental goals that countries adopt are viewed as policy scripts (Kentikelenis and Seabrooke 2017). In this vein, countries culturally adopt the “globalization as development” (McMichael 2000) strategy by signing appropriate scripts such as BITs and do so largely following the logic of appropriateness rather than instrumentality. Moreover, if developing countries adopt these scripts to conform with legitimized models of action, then we expect to see significant decoupling (Meyer et al. 1997; cf. Meyer and Rowan 1977) between policy and practice—that is, between BITs and FDI. Not only are world cultural models highly idealized (Strang and Meyer 1993), but resource-poor societies are especially constrained when trying to implement global instruments (Shorette 2012). In sum, many policies adopted by nation-states are presumably decoupled from actual outcomes due to weak regulatory structures, limited institutional capacities, and a routine lack of oversight (Hafner-Burton and Tsutsui 2005; Meyer and Rowan 1977; Meyer et al. 1997).

In recent years, however, scholars have challenged the premise that global institutions are primarily ceremonial...
the relationship between economic development and CO₂ emissions, decreasing chemical-pesticide use, and declining rates of deforestation across countries (Henderson and Shorette 2017; Schofer and Hironaka 2005; Shandra, Esparza, and London 2012; Shorette 2012). Integration in world society also moderates the relationship between economic development and CO₂ emissions, leading to more ecologically sustainable growth (Longhofer and Jørgenson 2017). Similar improvements are well documented for human rights abuses (Cole 2015; Cole and Ramirez 2013; Hafner-Burton and Tsutsui 2005). What drives these substantive improvements? Scholars argue that policies and practice tend to align in contexts where issues, such as environmentalism and human rights, are anchored by procedural scrutiny in state administration and global civil society. More concretely, bureaucratic efficiency (Cole 2015), persistent attention by civil society organizations (Hafner-Burton and Tsutsui 2005; Shorette et al. 2017), and synergistic pressures across these domains (Hironaka 2014) reduce decoupling. The ameliorative effects of state institutions and global civil society are, in large part, due to the sustained monitoring and enforcement procedures of these organizational structures.

Based on this discussion, we might expect BITs to follow a similar trajectory. However, unlike environmental protections and human rights, BITs do not face analogous pressures for substantive outcomes. Indeed, these instruments lack the pervasive scrutiny and evaluation that characterize these other domains. Yet it is not simply a lack of monitoring and enforcement procedures, nor simply weak resources and capacities, that propels decoupling between policies and their intended effects. Expanding on classical statements on decoupling, we argue that it is the multivalent process of policy adoption—which takes variegated forms and can change over time—that underpins the disconnect between policies and practice. We propose that decoupling also results when new policy purposes and new motives of policy adoption emerge, outside of the originally intended ones, or because reasons to adopt are multiple or muddled. Using the case of BITs, we show how BITs are repurposed for uses beyond promoting FDI, such as forging geopolitical alliances, or engaging in economic diplomacy, or even personally benefiting some state officials. These processes exacerbate decoupling between BITs and their originally intended effect on FDI. In the next section, we elaborate on these ideas about multivalent institutions and their role in economic globalization.

**Multivalent Institutions and Economic Globalization**

Realist market competition and world-polity perspectives diverge in explaining why policies proliferate across the globe (for a review, see Dobbin, Simmons, and Garrett 2007), emphasizing either instrumental calculation or symbolic emulation. Still, both approaches focus on single-minded motives of actors who adopt policies, be it for efficiency or legitimacy. But we know from the law and organizational sociology literature that policies are open to various interpretations (Edelman and Suchman 1997). We also know from the transnational governance literature that institutions can evolve and be reinterpreted. For instance, Chorev (2012) points to processes of modification in understanding the Trade-Related Aspects of Intellectual Property Rights agreement, which contributed to a new, globally accepted reinterpretation of the original institution, aligned with demands for improved access to affordable AIDS drugs.

We build on these constructivist and learning/reactive diffusion approaches to emphasize that institutions are multivocal, open to multiple interpretations and translations around their original purpose, and that actors have multiple motives and can combine the use of institutions with various purposes. We call this combining power of actors with institutions multivalence. The use of the word follows its use in chemistry, in which valence describes how a chemical element can combine with others to form substances, and in linguistics, in which valence refers to the number of grammatical elements with which a particular word, often a verb, combines in a sentence. As applied to institutional diffusion, multivalence has two aspects. One aspect is from the perspective of an institution or policy. Certain institutions are multivalent if they can be used to achieve a variety of purposes: economic, legal, political, cultural, personal, or others. The other angle is from the perspective of actors. Actors can use a single institution with multiple purposes in mind: instrumental, oriented toward the original institution’s purpose; symbolic, oriented to legitimacy and emulation (related to original purpose or not); or other creative unexpected purposes. Both of these aspects of institutional multivalence should facilitate a multivalent institution’s diffusion (Padgett and Ansell 1993).

Following this definition, BITs are multivalent institutions because they easily align with multiple purposes and are used by various actors who hold various motives. As originally intended, BITs regulate FDI between private companies so they have an economic purpose. In addition, BITs are legal provisions because they are country-level treaties. They are political arrangements signed between states as part of negotiation of political relations between states. Moreover, BITs can be seen as policy scripts diffused by international organizations, which states can use to signal legitimacy or emulation behavior.

Moreover, actors combine institutions with multiple purposes because they are practical rather than merely rational (Bourdieu 1998). Sources of uncertainty in a global environment are omnipresent and cannot be easily turned into risk probabilities (Beckert 1996). Actors’ deliberate cognitions are infused with unreflective routine following, emotional reactions, normative commitments, and creativity. Actors are practical and creative in that not only is their action
contingent on the situation, but the “situation is constitutive of action” (Joas 1996:160). Goals and preferences do not simply derive from the “inside” of actors but also depend on the situations in which these actors find themselves and the creative solutions they identify in response to novel circumstances (Whitford 2002; cf. Dewey 1939). From the practical action stance, creative actors will exploit the multivalence of institutions and appropriate them for originally unintended uses. Moreover, as Poulsen (2015) concluded on the basis of interviews with diplomats and officials involved with signing BITs, these officials are often irrational and may pursue goals without careful a priori deliberation. As a result, due to multivalence, when a policy is adopted with new purposes in mind, and/or with multiple or vague motives, we expect to see decoupling between the policy and its originally intended effects. To be sure, the original purpose of the policy does not disappear, but it constitutes only one possible valence of a policy in question, and this one valence can be more or less dominant.

Specifically, if BITs are signed for investment protection reasons and investors care about credible commitments of countries to provide such protection, then we can expect that signing BITs will, in effect, attract more FDI. However, if BITs are signed for other purposes and adopted for the reasons of geopolitical alliances, legitimacy seeking, or practical reasons of economic diplomacy, then the link between BITs and FDI will be weaker. From the institutional multivalence perspective, decoupling between BITs and FDI would be largely due to reframing and practical repurposing outside of originally intended goals rather than due to weak structural capacities of actors (Meyer et al. 1997) who adopt with the intent to attract FDI but do not have resources to make this happen.

**Historical Analysis of BITs Adoption**

To understand potentially variegated uses of policy, we turn to historical analysis of the adoption of BITs since 1958, when they were first established, and consider specific regional developments, such as communism and its collapse, in shaping the evolution of BITs’ diffusion around the world. As such, we distinguish four developments: (1) use of BITs by developed countries mostly for protection of FDI in the initial period, 1959 to 1980; (2) deployment of BITs by communist countries in the 1970s; (3) the postcommunist countries’ embrace of BITs after the Cold War; and (4) the expansion of BITs among developing countries facilitated by UNCTAD in the 2000s. We examine each of these four developments in turn.

**Using BITs for Protection and Promotion of FDI: 1959–1980s**

The first BIT was signed between Germany and Pakistan in 1959. Analysts contend that because Germany lost its foreign investment as a result of its defeat in the Second World War, it was especially sensitive to the political risks to which foreign investment was exposed in the decolonization period (Salacuse and Sullivan 2005). France followed Germany’s lead and signed BITs with the Central African Republic, Chad, and Congo in 1960, as did Switzerland, which signed a BIT with Tunisia in 1961. With advanced countries from Europe signing with politically risky counterparts, the period between the 1960s and 1980s was one in which BITs were driven primarily by these developed countries’ attempts to protect their investments abroad (Poulsen 2015), particularly in the context of a wave of decolonization and/or procommunist political upheavals in Africa and the Middle East. Indeed, these initial BITs were signed after a series of expropriations in connection with foreign investments abroad, such as the nationalization of British oil assets in Iran in 1951, the American oil company Liamco’s concessions expropriations in Libya in 1955, and the nationalization of the Suez Canal by Egypt in 1956 (Elkins et al. 2006). In brief, almost all (97 percent) of BITs signed in this early period linked advanced capitalist countries, mostly Germany, Switzerland, and France, to countries in the global South, mostly Africa and the Middle East (see Table 1).

**BITs with Communist Countries: Mid-1970s**

While initial decades of signing between developing countries and rich investor countries point to instrumental adoption of BITs, we also note a peculiar development in the mid-1970s with communist countries signing these treaties. BITs specify provisions about private investment from one investor country to a host country. Communist countries abolished private property rights, so signing BITs to regulate private investment in these countries doesn’t make much sense. Yet we note that Yugoslavia and Romania signed several BITs starting in 1974, when the first BIT with a communist country was signed between the former Yugoslavia and France. Yugoslavia also signed a BIT with the Netherlands in 1976. Meanwhile, in 1976, Romania signed three BITs with Austria, France, and the United Kingdom.

### Table 1. Proportion of New Bilateral Investment Treaties Signed by Developing Countries with Advanced Capitalist Countries and with Other Countries.

| Time Period | With Advanced Capitalist Countries (%) | With Other Countries (%) |
|-------------|----------------------------------------|--------------------------|
| 1960s       | 96                                     | 4                        |
| 1970s       | 87                                     | 13                       |
| 1980s       | 71                                     | 29                       |
| 1990s       | 42                                     | 58                       |
| 2000s       | 30                                     | 70                       |

Note: The 1960s period covers bilateral investment treaties signed between 1960 and 1969—likewise for other time periods, except for 2000s, which spans 2000 to 2014.
which established close ties with the Third World countries. Yugoslavia also had a more liberal travel policy than did other communist countries, and Tito himself visited many world leaders outside of the Eastern bloc. It is in this context that Yugoslavia signed the Agreement on Economic, Industrial and Technical Cooperation with the European Community in 1970 and, pursuant to this agreement, signed a BIT with France in 1974. As reported previously, the 1970s were a period when France was signing BITs with other developing (mostly African) countries, and it may be relevant that France also had some established trade relationships with Slovenia, the northernmost state of Yugoslavia, where a heavy machinery manufacturer made a deal to produce components for a French Renault car company (Gutman 1980).

Romania’s signing of BITs in the 1970s occurred in a similar context of geopolitical alliances outside of the Soviet Union’s influence. The 1976 BITs with Romania reference the Helsinki Declaration, which 35 states, including the United States, Canada, and all European states except Albania and Andorra, signed at the Conference on Security and Co-operation in 1975. The Helsinki Declaration was set up with a goal to improve relations between the Communist bloc and the West. However, it was nonbinding as it did not have treaty status. In addition, Romanian communist leader Nicolae Ceaușescu, who also had a maverick foreign engagement policy, fended off the strong hand of the Soviet Union and opened to the United States and Western Europe (Phinnemore 2006). For instance, Romania was the first Warsaw Pact country to receive a U.S. president, Richard Nixon, in August 1969. In 1971, Romania became a member of the General Agreement on Tariffs and Trade.

Ceaușescu enjoyed his independent foreign policy pursuits and was eager to mediate in international conflicts. He negotiated the opening of U.S. relations with China in 1969 and the visit of Egyptian president Anwar Sadat to Israel in 1977 (Phinnemore 2006). In the 1960s, he ended Romania’s active participation in the Warsaw Pact, although Romania formally remained a member. He did not take part in the 1968 invasion of Czechoslovakia by Warsaw Pact forces. All these independent actions made Ceaușescu a maverick, but the Soviet Union largely tolerated his actions (Sebetsyen 2009).

In brief, signing BITs aligned with a relatively open foreign policy that both Tito in Yugoslavia and Ceaușescu in Romania pursued. As such, these economic treaties (with an original purpose to protect and promote foreign investment) were reframed and used as geopolitical instruments to reinforce these countries’ alliances outside of the Soviet Union. Signing of these treaties is consistent with other outward-oriented political/economic efforts of Romania and Yugoslavia, which were the only Eastern European countries that entered into trade agreements with the European Economic Community before the collapse of communism in 1989 (Sajdik and Schwarzinger 2008).

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\*Tab. 2. Bilateral Investment Treaties with Communist Countries in the 1970s.

| Year | Country |
|------|---------|
| 1974 | Yugoslavia |
| 1974 | France |
| 1976 | Romania |
| 1976 | Austria |
| 1976 | Romania |
| 1976 | France |
| 1976 | Romania |
| 1976 | United Kingdom |
| 1976 | Yugoslavia |
| 1976 | Netherlands |
| 1977 | Yugoslavia |
| 1977 | Italy |
| 1977 | Yugoslavia |
| 1977 | Egypt |
| 1978 | Romania |
| 1978 | Belgium |
| 1978 | Romania |
| 1978 | Pakistan |
| 1978 | Romania |
| 1978 | Sudan |
| 1978 | Yugoslavia |
| 1978 | Sweden |
| 1979 | Romania |
| 1979 | Gabon |
| 1979 | Romania |
| 1979 | Germany |

Later, as Table 2 shows, Romania signed five more treaties in the 1970s, including those with Sudan and Pakistan. Yugoslavia signed one more with Sweden in 1978.

The Agreement on Economic, Industrial and Technical Cooperation, which was signed between the European Community and Yugoslavia in 1970, offers insight into the context in which Yugoslavia signed the BIT with France in 1974. The BIT that Yugoslavia signed with Sweden in 1976 also references this agreement. We link the institutional agreements supporting economic cooperation between Yugoslavia and the European Community to the outward-looking style of socialism championed by Yugoslav leader Josip Broz Tito. Yugoslavia was not a Soviet satellite state as Tito broke with Stalin due to their divergent views and perhaps also a clash of personalities (Campbell 1980).

Given that no FDI flowed into Yugoslavia after the BIT between France and Yugoslavia was signed (nor did Yugoslavs invest in France), we suggest that signing this treaty involved geopolitical as well as economic purposes in line with Tito’s independent course in world politics.\* For instance, the Yugoslav Army had two official defense plans, one against a NATO invasion and one against a Warsaw Pact invasion (Perovic 2007). Moreover, Tito was one of the founders of the Non-Aligned Countries Movement in 1961,

\*If Yugoslavia signed with France mostly for geopolitical reasons, it is less clear why France signed with Yugoslavia. It is harder to identify evidence that would help illuminate this process. What we know is that France was signing BITs with other developing, mostly African, countries during the 1970s and that it had established some trading relationships with the northernmost part of Yugoslavia. Likely, France’s reasons for signing a BIT with Yugoslavia were economic and geopolitical. It is also important to acknowledge that motives for signing bilateral treaties do not have to completely align between the two parties for the treaty to be agreed upon. Moreover, motives can be multiple, even for one of the parties.
In the late 1980s, before the fall of the Berlin Wall in 1989, Bulgaria, Hungary, and Poland also signed BITs. This is consistent with economic reform efforts that Hungary and Poland pursued before 1989. In fact, in 1986, Poland adopted the Joint Venture Law, permitting joint ventures with foreign investors under certain conditions. And in 1988, Hungary adopted Act XXIV on the Investment of Foreigners. This suggests that BITs were available as a policy instrument well before communism officially unraveled, and it appears that this path dependency influenced the widespread adoption of BITs in postcommunist states. We discuss this development next.

**Postcommunist Eastern Europe’s Embrace of BITs: 1990s**

Significant changes occurred in the pattern of signing BITs starting in the late 1980s, even though, importantly, the content of these treaties has stayed remarkably constant over time (Poulsen 2015). While fewer than 400 BITs were concluded in the 30 years from 1959 to 1989, during the next 20 years, more than 2,000 BITs were signed. UNCTAD (2013) reports that between 1994 and 1996, an average of 4 BITs were signed every week.

Table 3 shows that 47 percent of all treaties signed in the 1990s were with East European and Eurasian postcommunist countries. This is a large and disproportionate share given that in the 1990s, postcommunist European and Eurasian countries represented less than 15 percent of the world’s countries. Researchers have noted the interplay between processes of neoliberal globalization and postcommunist transformation and have identified the influence of neoliberal economic policy on various market reforms in the region (Orenstein 2009; Srubar 1996; Stuckler, McKee, and King 2009) due to not merely external pressures (Ganev 2007) but also endogenous developments (Bockman and Eyal 2002). East European reformers were part of a transnational network of American and East European economists established during the Cold War, allowing for the dissemination of neoliberal ideas (Bockman 2011).

So how did the embrace of neoliberalism play out with regard to FDI in Central and Eastern Europe? Postcommunist countries began to institutionalize demand for FDI soon after 1989 (Bandelj 2009). Integral to these efforts were actions to institute the regulatory framework that encouraged foreign investment with various tax breaks and incentives. In addition, all postcommunist countries created professional agencies charged with attracting FDI and facilitating deals with foreign investors (Cass 2007). Moreover, the legitimacy of FDI was enhanced after several important state monopolies, such as those in telecommunications or banking, were sold to foreign investors. This signaled to potential investors that postcommunist countries are serious about attracting FDI and diffused the idea that domestic firms should actively pursue foreign partners as investment partners (Bandelj 2009). Likewise, Drahokoupil (2008:197) points to the role of “investment promotion machines,” or coalitions of actors “that form in the process of bidding for investors and promoting them in [Central and Eastern Europe].” Such coalitions include politicians, bureaucrats, and economic actors at the national, regional, and municipal levels, together with international actors.

Considering the centrality of FDI to the discourse around postcommunist economic transformation, researchers point out not only the importance of postcommunist countries in the global BIT network but also that signing BITs does not yield corresponding levels of FDI (Bandelj et al. 2015). As Figure 2 shows, this may be because a substantial share of BITs signed by postcommunist countries are actually with other postcommunist and/or developing countries. These countries harbor very low stocks of outward FDI and are unlikely to yield high FDI flows. Thus, it seems that while some of the BIT activity in the postcommunist region was instrumental to attracting foreign investment to build capitalist institutions, signing BITs also served political purposes such as reintegrating the postcommunist region into the post–Cold War global system.

In sum, the embrace of BITs in postsocialism was facilitated by availability of this instrument during communist times, and postcommunist countries led the adoption of BITs in the decade following 1989, during which they signed nearly half of all BITs. These agreements were not only with investment-rich advanced countries but also among postcommunist countries themselves and other developing countries. Such efforts increased recognition of BITs as a global instrument among peer developing countries, not only between developed and developing countries. By the early 2000s, however, patterns of BIT adoption took another turn. In the late 1990s and early 2000s, BIT agreements were facilitated by a crucial international organization for

| Time Period | Percentage |
|-------------|------------|
| 1960s       | 0          |
| 1970s       | 17         |
| 1980s       | 27         |
| 1990s       | 47         |
| 2000s       | 32         |

*Note: The 1960s period covers bilateral investment treaties signed between 1960 and 1969—likewise for other time periods, except for 2000s, which spans 2000 to 2014. Socialist countries (in the 1960s and 1970s) include Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, Soviet Union, and Yugoslavia. Postcommunist European and Eurasian countries (in the 1990s and 2000s) include Albania, Armenia, Azerbaijan, Belarus, Bosnia & Herzegovina, Bulgaria, Croatia, Czech Republic, Czechoslovakia (until 1993), Estonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Montenegro (since 2006), Poland, Romania, Russia, Serbia (since 2006), Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Yugoslavia (until 2006).*
promotion of foreign investment in developing countries: UNCTAD. We examine this development next.

**Expansion of BITs among Developing Countries, Facilitated by UNCTAD: The 2000s**

By 2013, BITs became truly widespread, with 179 out of 193 UN member states, that is, 92 percent of the world’s countries, having signed at least one BIT. We propose that UNCTAD, a chapter of the United Nations, played a central role in facilitating the adoption of BITs by developing countries in the period following the late 1990s. UNCTAD was established with a clear mandate to work with the interest of developing countries in mind, as its founding general secretary, Argentine economist Paul Prebisch (whose economic models were later developed into an influential dependency theory of development) made publicly clear (UNCTAD 2014b:21). As such, UNCTAD was not a typical hegemonic international body exerting a coercive force upon developing countries. Moreover, no clear conditionality could be attached to signing BITs, which were, after all, bilateral instruments between pairs of countries and not a multilateral treaty. UNCTAD promoted the role of FDI in development by bringing countries together to sign BITs. Indeed, taking it upon itself to promote BITs played an important part in UNCTAD’s organizational strategy after its failed efforts to negotiate the multilateral initiative on investment, which had a similar approach to the World Trade Organization’s (WTO’s) multilateral trade agreement. Poulsen (2015:91) reports,

After the Cold War, UNCTAD had embraced foreign investments as a necessary part of the package to promote economic development. This was partly due to a change in management and partly based on the broader realization that a neoliberal bend was the only way the organization could survive. Skeptics even began referring to UNCTAD as the “Global OECD [Organisation for Economic Co-operation and Development],” and the organization quickly became the leading international agency dealing with FDI regulation in developing countries.

UNCTAD’s initial interest was to negotiate a Multilateral Agreement on Investment, but when that failed, the organization reverted its attention to BITs (Poulsen 2015). In the early 1990s, UNCTAD launched a BIT initiative supported by its Trust Fund on International Investment Agreement (financed by contributions from the European Commission,

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**Figure 2.** New bilateral investment treaties (BITs) signed by postcommunist countries with advanced, developing, and other postcommunist countries, by decade.

Source: UNCTAD Database on BITs (https://investmentpolicy.unctad.org/international-investment-agreements).

Note: 2000s data represent 2000–2007 period. ACC = BITs signed between (post)socialist countries and advanced capitalist countries; Developing = BITs signed between (post)socialist countries and other developing countries; PSEE = BITs signed between postcommunist countries and other postcommunist European and Eurasian countries.
France, Germany, Japan, the Netherlands, Norway, Switzerland, and the United Kingdom). A round of BIT signing was arranged in 1999, sponsored by the Swiss government (remember that Switzerland was an early signatory to BITs in the 1960s) and the United Nations Development Programme. As UNCTAD wrote in its publications, the idea was to “further promote economic cooperation and FDI” (quoted in Poulsen 2015:92). Between June 2000 and July 2005, UNCTAD organized nine additional events, which led to the signing of 160 more BITs (almost 25 percent of all BITs signed between 2000 and 2005) (Poulsen 2015). As such, UNCTAD provided concrete infrastructure and workspaces (Hironaka 2014) that facilitated the diffusion of BIT policies: “UNCTAD promoted the process [of BIT signing] by bearing the costs of travel, full board, and lodging for developing country officials as well as organizing the necessary facilities and substantive support” (Poulsen 2015:92; cf. Karsegard, Bravo, and Blom 2006).

UNCTAD’s actions were crucial for not only facilitating BIT signing but also promoting BITs as part of an “appropriate FDI framework” (UNCTAD 1996:41), signaling their legitimacy as part of neoliberal reforms. As such, there is evidence that after being exposed to UNCTAD’s efforts to broker BITs between developed and developing countries, developing countries also began to initiate conferences among themselves to sign BITs, as the following passage reveals:

During a meeting jointly sponsored by UNCTAD, the Swiss government, and a group of fifteen developing countries (G-15), seven developing countries signed eight bilateral treaties among themselves. Individual developing countries soon began to seize the initiative. At the request of Thailand, a minilateral conference yielded seven more developing country BITs, and furthered discussions on several more. Bolivia (2000), India (2001), and Croatia (2001) initiated minilateral discussion on a similar model. (Elkins et al. 2006:818)

This trend of increasing BIT signing among developing countries themselves is clear also from Figure 3, which shows that developing countries began to sign exponentially more BITs beginning in the 1990s and that the share of BITs they signed with other developing and postcommunist countries surpassed the share with advanced capitalist countries in the 2000 to 2007 period.

UNCTAD played a crucial role in promoting BITs to developing countries and spearheaded the idea that by signing BITs, “developing countries are sending a strong signal of their commitment to provide a predictable, stable and

| Decade | ACC | Developing | PSEE |
|--------|-----|------------|------|
| 1960s  | 65  | 3          |      |
| 1970s  | 69  | 6          | 4    |
| 1980s  | 125 | 31         | 19   |
| 1990s  | 477 | 436        | 230  |
| 2000s  | 316 | 201        | 132  |

*Figure 3. New bilateral investment treaties (BITs) signed by developing countries with advanced, developing, and postcommunist countries, by decade.*

*Source:* UNCTAD Database on BITs (https://investmentpolicy.unctad.org/international-investment-agreements).

*Note:* 2000s data represent 2000–2007 period. ACC = BITs signed between developing countries and advanced capitalist countries; Developing = BITs signed between developing countries and other developing countries; PSEE = BITs signed between developing countries and (post)socialist European and Eurasian countries
reliable legal environment for foreign direct investors, to stimulate investors’ confidence, and boost FDI flows” (UNCTAD 1999). This was very much in line with a broader neoliberal message communicated to developing countries about “globalization as development” (McMichael 2000) and the need to create the demand for FDI (Bandelj 2009). However, how do the shifting meanings and uses of BITs during these three time periods correlate with FDI?

Quantitative Analysis of the Impact of BITs on FDI

Previous Research

Other studies have assessed the relationship between BITs and FDI using various methods, units of analysis, time periods, and data samples. Overall, this scholarship yields disparate findings regarding the impact of BITs on FDI. Some cross-national studies show that BITs have a strong positive effect on FDI flows, particularly in lower-income countries (Busse, König, and Nunnencamp 2010; Büthe and Milner 2004; Neumayer and Spess 2005; Salacuse and Sullivan 2005). Meanwhile, regional studies of the BIT-FDI link based in Latin America and the Caribbean find that BITs provide a modest boost to FDI (Gallagher and Birch 2006).

Other scholars find that BITs do not unilaterally spur FDI (Kerner and Lawrence 2014; Yackee 2010). Yackee (2010) argues that econometric analyses of the BIT-FDI link lack the necessary precision to delineate the BIT-FDI relationship. He asserts that scholars should focus their attention on how, if at all, BITs affect political risk and finds that they do not do so. Kerner and Lawrence (2014) agree that BITs are intended to reduce the risks of foreign investment and that raw FDI data do not differentiate between investment types for a finer-grained analysis of effects. These authors find that BITs modestly increase investment in illiquid fixed capital but have no effect on the value of total assets or the accumulation of liquid assets. In brief, studies concerning the BIT-FDI link abound, but with conflicting findings (see also Egger and Merlo 2007; Hallward-Driemeier 2003; Jandhyala, Henisz, and Mansfield 2011; Peinhardt and Allee 2008; Tobin and Rose Ackerman 2005; UNCTAD 2014a).

Moreover, some scholars argue that quantitatively assessing the BIT-FDI link suffers from methodological issues. Aisbett (2007) considers the possibility that unobserved exogenous and domestic factors are driving the simultaneous rise of FDI and BITs. Reversal causality is also a potential problem. Using unbalanced bilateral FDI outflows reported by 24 OECD member countries to 28 recipient low- and middle-income countries from 1980 to 1999, she finds that BITs do not cause significant increases in FDI.

We conjecture that the widely divergent findings of the effects of BITs on FDI are not simply due to methodological problems of measurement and potential endogeneity. They also are due to the fact that BITs become a multivalent institution whereby various purposes become legitimized and are often combined, obfuscating these treaties’ originally intended effects to spur FDI. Moreover, previous studies largely ignore differentiation across different regions, specifically the role of communist and postcommunist countries in the diffusion of BITs. Once we take these historical developments into account, we expect to see variability in BITs’ effects on FDI over time, including the earlier period focused on investor property rights protection, the middle period of postcommunist adoption and rise of neoliberal “globalization as development” strategy, and the most recent period of signing among developing states themselves, promulgated by UNCTAD.

Our Data

All data for the quantitative analyses are drawn from the World Bank, UNCTAD, and the Center for Systemic Peace. Our sample consists of countries in the global South, reflecting our theoretical and empirical emphasis on the developing world. We exclude advanced capitalist countries, or the 19 wealthiest members of OECD; members of OECD do not sign BITs with each other since these instruments are designed to facilitate foreign investment within and between developing countries. Specifically, our sample includes a total of 124 developing countries, listed in Appendix A. Descriptive statistics are listed in Appendix B.

Following Neumayer and Spess (2005), the dependent variable is total FDI inflows in current U.S. dollars. This is because our interest is in changes in the overall flow of FDI relative to BITs. Originally, UNCTAD listed FDI statistics in millions of dollars. To ease interpretability, we rescaled this indicator to reflect actual dollar amounts. We also logged FDI inflows due to their skewed distribution. Our independent variable of interest is the accumulated count of BITs adopted per country in any given year, also logged, drawn from UNCTAD.

We control for lagged FDI because previous levels of FDI generally predict FDI levels in the future (Blonigen 2005). Because FDI scales with size (Billington 1999), we control for gross domestic product (GDP) per capita, logged. We also control for country population levels and inflation, which captures economic risk and is measured by the annual percentage change in the cost to the average consumer of acquiring a basket of goods and services, logged. Developing countries also vary in terms of economic structure—some are much more industrialized than others. Because industrialized countries receive more FDI on average, we control for industrialization output as a percentage of GDP. Previous research also suggests that countries with open economies receive more FDI (e.g., Blonigen 2001; Swenson 2004), so we control for trade openness with the sum of imports and exports of goods and services over GDP. The economic data we include come from the World Bank. Building on research

1 In a series of unreported analyses we also use overall GDP (log) while controlling for population. Results are substantively similar and available upon request.
on FDI determinants in political science (e.g., Jensen 2006; Li and Resnick 2003), we also control for the political environment by including Polity IV democracy scores. All seven of these control indicators are lagged one year to establish causal priority.

**Methods**

We use unbalanced longitudinal panel models to estimate the effect of BITs on FDI in developing countries. Due to our substantive focus on the BIT-FDI link within countries over time and following other cross-national studies on BITs and FDI (Aisbett 2007; Busse et al., 2010; Neumayer and Spess 2005), we use country fixed effects. Country fixed effects eliminate the impact of stable country-specific attributes, such as static levels of foreign investment within a given country (Allison 2005). The Hausman test reinforces this choice, indicating that fixed effects are the preferred specification. Since FDI flows and BITs both trend upward over time, we incorporate year fixed effects (Aisbett 2007; Neumayer and Spess 2005). This diminishes the risk of establishing a spurious link between BITs and FDI and controls for endogenous shocks that affect all countries alike. We employ clustered standard errors to address potential concerns with serial correlation. The independent variable and covariates are all lagged one year to establish causal order. We examined two- and three-year lag structures in all analyses for BITs. Results were substantively similar and are available upon request.

Given our proposition that BITs have differential effects on FDI in different time periods, we create three period effects to isolate the early (1970–1989), middle (1990–1999), and late (2000–2007) stages of BIT adoption. (We report results through 2007 due to the turbulence introduced by the global financial crisis after 2008.) Although the first BIT was signed in 1959, systematic data on FDI are first available from UNCTAD beginning in 1970. We end the first period in 1989 given our argument that the fall of communism transformed the global landscape. Postcommunist countries were particularly keen on using BITs with other developed, postcommunist countries as well as other developing countries to reenter into a post–Cold War global system. We employ 1999 as a cutoff for the middle period because UNCTAD began organizing meetings to facilitate BIT signings, especially those between developing countries, beginning in 2000. To reiterate, our expectation is that the link between BITs and FDI will be strong in the first period, will be weaker in the middle period, and will fade in the late period.

**Robustness Checks**

Since we incorporate a lagged dependent variable with $N > T$ (the number of countries $[N]$ is greater than the number of years $[T]$) for each time period, we run additional checks using dynamic panel models. Using the system generalized method of moments estimator, Busse et al. (2010) found that BITs significantly increased FDI in developing countries. Results for these analyses were substantively similar to those reported and are available upon request. However, diagnostics including bond and sargan tests, which respectively check for second-order autocorrelation and instrument validity, indicate that dynamic models are not suitable for the data. These diagnostics likely differ from Busse et al. (2010) because we include 30 more countries in the present study. Additional diagnostics such as Variance Inflation Factors and Cook’s Distance revealed no issues with multicollinearity or outliers. However, since these tools identified variation across cases, we ran additional sensitivity checks. Probing for issues that stem from within-case variation, we ran models with modest cuts in extreme values for inflation, trade percentage GDP, and industry percentage GDP. Specifically, we cut inflation values of 10,000 or more, trade percentage GDP values of 250 percent or more, and industry percentage GDP values of 100 percent or more. This involved minimal data loss (1–4 case-years) for the following countries: Argentina, Armenia, Bolivia, Bahrain, Liberia, and Zambia. Due to Singapore’s deep reliance on international trade, the majority of case-years were cut in these sensitivity analyses. Results are available upon request.

We also inspected our decision to run analyses separately for the three time periods necessitated by two-way fixed effects, specifically to check for potential bias of model strategy in favor of our hypothesis. Therefore, we ran country fixed-effects analyses with period interactions effects in a single model. Those analyses (available upon request) show that the interaction effect (of the BIT variable interacted with the period 3 dummy) is significantly lower than the middle period coefficient (baseline comparison), $p < .05$. This shows that the difference between the BIT coefficients between the middle and third period is statistically significant.

Moreover, after examining the BIT-FDI link for a sample of postcommunist European and Eurasian countries (see Table 4), we find no relationship between BITs and FDI among these cases. (This is consistent if we run two-way fixed effects models for two periods separately, as in Table 4, or one-way country fixed effects with BIT x Period interaction.) Overall, the findings are consistent with our historical evidence, which showed that BITs were used after the Cold War to cultivate and signal political legitimacy and geopolitical integration with the global community after the fall of communism. These multiple uses of BITs led to a weaker relationship between BITs and FDI in the sample of East European and Eurasian countries. This is in contrast to the use of BITs in the early period (1970–1989) among developing countries, which indicated a less multivalent and more instrumental utilization, with BITs serving as conduits of FDI from the global North to the global South.
Findings

Table 5 reports results for two-way fixed-effects regression models. Findings indicate the link between BIT and FDI shifts across the three time periods we investigate: 1970–1989, 1990–1999, and 2000–2007. This aligns with other accounts showing that the effect of BITs on FDI diminishes over time in developing countries (Busse et al. 2010). However, by examining this trend relative to the economic, political, and cultural valences that prevail in different periods, our findings suggest that the BIT-FDI link weakens precipitously in the latter period.

In Table 5, results demonstrate that BITs have a positive and robust correlation with FDI inflows during the 1970–1989 period. This is when large amounts of FDI flowed from investor countries in Europe to select countries across Africa, Latin America, or East Asia. During this period BITs were conceptualized primarily as an economic instrument: Treaties reassured investors that their property rights were protected, especially in light of decolonization movements of the 1960s and 1970s.

Table 4. Determinants of Foreign Direct Investment in Postcommunist European and Eurasian Countries.

|                      | 1990–1999 | 2000–2007 |
|----------------------|-----------|-----------|
| Bilateral investment treaties (log) | 0.074     | 0.140     |
| Lagged foreign direct investment inflows (log) | 0.173†     | 0.233*    |
| GDP per capita (log) | −0.908*   | 0.691     |
| Inflation            | 0.000     | 0.000     |
| Industry percentage GDP | −0.002    | 0.045     |
| Trade percentage GDP | 0.005     | −0.006    |
| Democracy            | −0.030    | 0.081     |
| Population (log)     | 0.0349    | −4.546    |
| Constant             | 22.270    | 82.880    |
| Observations         | 130       | 177       |
| R²                   | .64       | .69       |
| Number of countries  | 22        | 23        |
| Country fixed effects| Yes       | Yes       |
| Year fixed effects   | Yes       | Yes       |

Note: Standard errors, clustered by country, are in parentheses. GDP = gross domestic product.
†Period interaction analyses with country fixed effects show that the coefficient for the 2000–2007 period is not statistically significantly different from the coefficient for the 1990–1999 period.
* p < .10. † p < .05 (two-tailed tests).

Table 5. Determinants of Foreign Direct Investment in Developing Countries.

|                      | 1970–1989 | 1990–1999 | 2000–2007 |
|----------------------|-----------|-----------|-----------|
| Bilateral investment treaties (log) | 0.490*    | 0.272**   | −0.105    |
| Lagged foreign direct investment inflows (log) | 0.242      | (0.404)   | (0.277)   |
| GDP per capita (log) | −0.061    | −0.313    | 0.270     |
| Inflation            | 0.000     | −0.000    | −0.000    |
| Industry percentage GDP | 0.012     | −0.003    | 0.000     |
| Trade percentage GDP | 0.017***  | −0.004    | 0.001     |
| Democracy            | −0.022†   | 0.027     | 0.057***  |
| Population (log)     | −2.177*   | 0.641     | 0.464     |
| Constant             | 43.136**  | 3.658     | 7.067     |
| Observations         | 851       | 834       | 858       |
| R²                   | .46       | .35       | .49       |
| Number of countries  | 75        | 111       | 122       |
| Country fixed effects| Yes       | Yes       | Yes       |
| Year fixed effects   | Yes       | Yes       | Yes       |

Note: Standard errors, clustered by country, are in parentheses. GDP = gross domestic product.
*Period interaction analyses with country fixed effects show that the coefficient for the 2000–2007 period is statistically significantly lower than the coefficient for the 1990–1999 period (p < .05).
† p < .10. * p < .05. **p < .01. ***p < .001 (two-tailed tests).

During the 1990–1999 period, however, the BIT coefficient drops to less than half its original size. Similar research on developing countries confirms that the effect of BITs on FDI diminishes over time (Busse et al. 2010). We interpret this declining effect of BITs on FDI, in part, as a result of the shifting meaning attributed to these instruments (cf. Jandhyala et al. 2011). After the fall of communism, the nascent political valence associated with BITs gained considerable traction. Elites in postcommunist countries began to aggressively sign BITs with countries around the world, likely for geopolitical reasons; as indicated by Table 2, nearly half of all treaties signed in this period were with postcommunist states. Table 4 provides additional support for the claim that BITs were not only to directly encourage FDI: The BIT-FDI effect is substantively small and is not significant for the subset of postcommunist East European and Eurasian countries during the 1990–1999 period.

In the final period we examine, from 2000 to 2007, the overall BIT-FDI relationship diminishes substantially,
Bilateral investment treaties (log)\(^a\)

|                      | 1970–1989 | 1990–1999 | 2000–2007 |
|----------------------|-----------|-----------|-----------|
| Lagged foreign direct investment Inflows (log) | (0.054) | (0.084) | (0.067) |
| GDP per capita (log) | −0.061    | −0.281    | 0.129     |
| Inflation            | 0.000     | −0.000    | 0.000     |
| Industry percentage GDP | 0.011   | 0.001     | −0.007    |
| Trade percentage GDP | 0.017***  | −0.005    | 0.002     |
| Democracy            | −0.022†   | 0.035     | 0.051**   |
| Population (log)     | −2.177*   | 1.369     | 1.913     |
| Constant             | 43.136*** | −15.522   | −8.828    |
| Observations         | 851       | 705       | 686       |
| \(R^2\)              | .46       | .34       | .45       |
| Number of countries  | 75        | 89        | 99        |
| Country fixed effects| Yes       | Yes       | Yes       |
| Year fixed effects   | Yes       | Yes       | Yes       |

Note: Standard errors, clustered by country, are in parentheses. GDP = gross domestic product.

\(\text{a}^\)Period interaction analyses with country fixed effects show that the coefficient for the 2000–2007 period is statistically significantly lower than the coefficient for the 1990–1999 period (\(p < .05\)).

\(\text{b}^\)\(p < .10\), \(\text{c}^\)\(p < .05\), \(\text{d}^\)\(p < .01\), \(\text{e}^\)\(p < .001\) (two-tailed tests).

Discussion

As one of the central indicators of economic globalization, FDI has increased substantially over time, and so has the signing of BITs, instruments designed to protect and promote FDI. Previous research from legal and political science scholarship presents BITs mostly as an instrument of private property rights protection for rich investor countries and a mechanism for developing countries to offer credible commitments in their competition for FDI to such investors. But it is possible that adoption of BITs is also ceremonial, especially in more recent years (Jandhyala et al. 2011), or that it occurs for reasons not originally intended. We examine the evolution of BIT adoption and underscore and historicize the pivotal role postcommunist states played in this process.

In doing so, we document the little-known historical fact that statesmen in communist Yugoslavia and Romania, where private property was abolished and foreign investment prohibited, signed BITs. We show that maverick leaders such as Tito in Yugoslavia and Ceaușescu in Romania used BITs to forge geopolitical alliances outside of the Soviet Union. This points to the refashioning and co-optation of BITs for novel purposes in ways that transcend their original design. Moreover, we suggest that the presence of BITs during communism laid the groundwork for postcommunist countries to spearhead the use of BITs as a political instrument for post–Cold War global integration and legitimation. For instance, the minister of finance in Czechoslovakia, upon the country’s signing of its first BITs with Belgium in 1989, claimed that signing was intended, quite broadly, to create “favorable economic and political conditions for the development of mutually advantageous forms of cooperation” (emphasis added; Daily Report East Europe, May 1, 1989, reported in Fecak 2011). Further, as noted above, nearly half of all BITs signed in the second period we examine (1990–1999) were with postcommunist states. Our scrutiny of regional developments shows that peer emulation among developing countries (Jandhyala et al. 2011) is not a uniform process. Instead, we demonstrate the regional-historical contingencies and bottom-up dynamics in the postcommunist countries that buttress the rise of BITs as a globalized practice.

A prominent explanation by political scientists focuses on how BITs signal credible commitments to potential investors who calculate risks and returns. In this vein, Jandhyala et al. (2011) suggest that in the early 2000s, the pointing to amplified decoupling. Supplementary analyses (available upon request) show substantively similar results if we extend our analysis up to 2013, the latest year for which we have available data. For this last period, we posit that the weak BIT effect on FDI reflects the crystallization of yet another potential use of BITs. The global legitimacy of the “globalization as development” frame, and the active involvement of UNCTAD, led many countries of the global South to sign BITs en masse with each other for economic diplomacy reasons (Poulsen 2015), further decoupling BITs from FDI. To show the robustness of our results to sampling, we also report findings of the effect of BITs on FDI for developing countries that exclude postcommunist European and Eurasian countries (see Table 6). These show substantively similar trends compared to those of the whole sample, indicating that it was likely the postcommunist region that led the way in widespread adoption of BITs outside of its originally intended effects.

In terms of other predictors in the model, as expected, previous FDI flows strongly predict future flows in all three periods. Trade as percentage of GDP is a positive and significant predictor of FDI flows from 1970 to 1989. This suggests that countries that are more integrated in the global economy are more likely to encourage FDI during this time. However, the effect of trade diminishes in the later periods. Meanwhile, democracy has a significant and positive effect on FDI flows in the later period from 2000 to 2007.
adoption of BITs was characterized by a return to instrumental cost-benefit analysis due to a surge in investor-state disputes. They argue that “as the costs and benefits have become clearer, fewer states are blindly emulating their peers,” and national states are once again abiding by a rational decision-making calculus (p. 1055). Our historical analysis offers an alternative interpretation: We show that by the end of the twentieth century, the meaning and adoption of BITs shifted largely due to the activities of UNCTAD, which quite literally brokered adoption of BITs between pairs of developing countries. Having actual workspaces (Hironaka 2014) in which to sign treaties at UNCTAD organized meetings, countries of the global South signed BITs in line with a legitimized “globalization as development” strategy. They also signed these treaties to engage in economic diplomacy (Poulsen 2015). Notably, the share of BITs that developing countries signed with their peers and postcommunist countries surpasses the number of agreements signed with advanced capitalist countries during this period, as Figure 3 indicates. Moreover, such adoption was often practical, rather than carefully deliberated, as the case of Ecuador reveals.

After the [BIT] agreement with Washington, Ecuador continued to sign investment treaties, primarily with Latin American partners and European states. But rather than cautiously considering the costs and benefits of different provisions, Ecuadorian officials negotiated based on European models primarily because they were quick and easy to adopt. . . . The same was the case for the choice of BIT partners, where “there was no real strategy.” One official, “tried to know why we were choosing different countries. But there wasn’t anything: we were signing with pretty much all types of countries.” . . . Occasionally, BITs were pushed by embassies and foreign affairs officials as photo-ops for state visits. Some Ecuadorian ambassadors, for instance, initiated the treaties at the end of their posting to “finish with a bang.” (emphasis added; interview with Ecuador official, quoted in Poulsen 2015:121).

These direct reports of officials’ and economic diplomats’ signing BITs point to multiple potential roles of BITs and, as such, show how these economic treaties perform as multivalent instruments. As the quote above exemplifies, BITs could be used for cultural purposes of increasing legitimacy of alignment with neoliberalism (even if they were not originally designed with this purpose in mind) or for political purposes of geostrategic alliances between states. They also could be adopted for pragmatic reasons by practical actors advancing their own personal interests, such as ambassadors finishing their terms “with a bang” (as quoted above) by arranging for the signing of BITs. Finding multiple purposes and motives for BIT signing—economic, legal, cultural, political, and so forth—aligns with our theory of institutional multivalence as a potential mechanism leading to the decoupling of globalized policies. As such, the decoupling not only is due to a lack of resources by signing countries, which cannot effectively implement desired policies, but also occurs because the motives to adopt policies depart from originally intended purposes in the first place.

Still one could ask, if BITs were fulfilling many other roles, as we argue, what happened to fears of the political risks associated with investment in developing countries? Our data provide some preliminary evidence for addressing this question by pointing to the role of political democratization. We note that in our quantitative models the measure of democratization is positively related to FDI in the most recent period that we examine. Moreover, it is possible that some FDI protection was achieved through WTO’s Agreement on Trade-Related Investment Measures and the General Agreement on Trade in Services, although these are not explicitly concerned with the regulation of foreign investment. Within the legal framework of WTO, the fears of expropriation may be lessened because the freedom of signatories to expropriate the property of foreign entities is circumscribed by a body of WTO law, and signatories also are required to compensate the owners of any expropriated property for the value of that property and incurred expenses during expropriation (Van den Bossche and Zdouc 2018). More generally, we acknowledge that during the period we examine, the global institutional environment shifted toward encoding protections related to FDI in multilateral agreements, which would additionally facilitate adoption of BITs for uses other than attracting FDI. While our study could not examine this possibility in detail, future research should consider it more systematically.

Conclusion

Developing countries adopt global policies in their quest for economic development. Most studies show that due to structural weaknesses of these developing countries, adopted policies are not effectively implemented and remain decoupled from their intended effects. More recent research shows that with time, and due to closer monitoring and enforcement mechanisms, transnational instruments, primarily those related to environment or human rights, can become better aligned, or more closely coupled, with their intended effects. But could the opposite also happen, whereby coupling initially exists, but then decoupling amplifies over time? In a mixed-methods study combining historical and quantitative analyses, we examined a case of such amplified decoupling: BITs, instruments established to protect and promote FDI. A defining feature of neoliberal globalization, FDI has substantially increased since the 1970s. Its effects on economic growth and economic inequality have been studied and debated extensively (e.g., Alderson and Nielsen 1999, 2002; Bandelj and Mahutga 2010; Bornschier, Chase-Dunn, and Rubinson 1978; Firebaugh 1996; Kentor 1998, 2001). Investment
treaties to promote FDI also have proliferated since they were first established in 1959. However, the link between BITs and FDI, tight in the earlier decades after 1970, has become increasingly loose over time.

Our mixed-methods analysis helped reveal reasons behind this trend of amplified decoupling. BITs were originally established to protect private property after World War II and during the decolonization period in order to attract FDI to developing countries. At that time, BITs brought about intended effects and led to more FDI because signing BITs likely sent a signal to investors about the credibility of a country’s commitment to property rights (Elkins et al. 2006), fending off fears of nationalization during decolonization.

However, our historical analyses are among the first to bring attention to the fact that BITs gained a surprising foothold in some communist states during the Cold War. Yugoslavia and Romania, especially, used BITs in the mid-1970s to forge select geopolitical alliances with countries outside of the Soviet Union—with no realistic expectations of attracting FDI from these countries, as private property was banned during communism. These unexpected uses of BITs during communism likely paved the way for quick and broad BIT adoption by postcommunist countries in the late 1980s and early 1990s for purposes of reintegration into Western geopolitical space after the fall of the Berlin Wall. During this time, BIT signings between countries surged, but almost half of those were between postcommunist countries and wealthy, industrialized states of the core. Postcommunist states repurposed BITs as a way to forge interstate alliances and gain legitimacy in a global arena, but these BITs did not yield FDI, as our quantitative analyses showed.

Beginning in the 2000s, it became commonplace for developing countries, including postcommunist countries, to sign BIT agreements with each other. What encouraged this process was UNCTAD, which set up a series of meetings enabling participating developing countries to sign BIT agreements with other meeting participants. Once again, BITs underwent a process of reframing and repurposing. In this case, we suggest that signing BITs signaled a “globalization as development” (McMichael 2000) approach, aligned with the neoliberal order (Crouch 2011; Fourcade and Babb 2002; Mudge 2008; Prasad 2006; Williamson 1993). This was enacted through economic diplomacy fostered by UNCTAD, which footed the bill for meeting participation, as it also “made [its] first publicly available econometric attempt to estimate the investment impact of BITs [on FDI]—and found none” (Poulsen 2015:94).

Therefore, motives for signing BITs in UNCTAD workspaces (Hironaka 2014) were multiple and sometimes unclear, as qualitative evidence revealed. Still, as Elkins and colleagues (2006:819) put it, even “noncontiguous, poor, highly indebted African countries for which it is difficult to imagine much benefit” have embarked on the BIT crusade. But “what are the chances that capital from Burkina Faso would flow to Chad, or investors from Benin would soon demand entrada to Mali?!” (Elkins et al. 2006:819). Our statistical analyses align with this skepticism: During the 2000s, the BIT to FDI relationship is characterized by decoupling in a broad sample of developing countries.

Ultimately, we showed that as BITs expanded in meanings, purposes, and uses, their originally intended effects of attracting FDI were muddied. We view this process as indicative of what we called “institutional multivalence”: Practical actors reframe and repurpose policies toward uses that go beyond original policy goals and use policies with multiple and sometimes unclear motives in mind. Barring procedural forms of scrutiny, monitoring, and enforcement as found in domains such as human rights and the environment (Cole 2012, 2015; Hironaka 2014), institutional multivalence leads to amplified decoupling.

We encourage future research to examine institutional multivalence and amplified decoupling in other policy contexts. While BITs may lend themselves to multiple uses and repurposing because they operate across levels of analysis (i.e., they are conducted by state actors, but foreign investment can be fully realized only by private economic entities) and because they are not necessary for FDI to take place, we expect that adoption of other types of global instruments could nevertheless exhibit similar dynamics. Participatory budgeting, for instance, was once hailed as a progressive vehicle for democratic development in Brazil and, more broadly, Latin America (Baiocchi and Ganuza 2016). However, since the early 1990s, this instrument has traveled the globe and become justified by a striking range of rationales, and its efficacy in far-reaching contexts has diminished (Peck and Theodore 2015). Similarly, countries around the world are decentralizing state administrations for reasons that now range from streamlining economic development to facilitating postconflict reconstruction, and the efficacy of these efforts is highly variable (Manor 1999; Treisman 2007). We hope future research will examine whether institutional multivalence amplifies decoupling in these and other global policy cases.

On the whole, our analysis revitalizes a long-standing but overshadowed emphasis on the cultural and pragmatically driven sources of decoupling between global institutions and outcomes in addition to the well-established mechanism of weak structural capacities (Meyer et al. 1997; cf. Bromley and Powell 2012). Our analysis also illustrates the importance of historicizing contemporary transnational relations and paying due attention to the role of peripheral regions in bottom-up processes of globalization, which can enhance our understanding of the relationship between global policies and economic development.
Appendix A. Developing Countries Included in the Analysis.

| Country                  | Country                  | Country                  |
|--------------------------|--------------------------|--------------------------|
| Albania                  | Gabon                    | Nigeria                  |
| Algeria                  | Georgia                  | Oman                     |
| Angola                   | Ghana                    | Pakistan                 |
| Argentina                | Greece                   | Panama                   |
| Armenia                  | Guatemala                | Papua New Guinea         |
| Azerbaijan               | Guinea                   | Paraguay                 |
| Bahrain                  | Guinea-Bissau            | Peru                     |
| Bangladesh               | Guyana                   | Philippines              |
| Belarus                  | Honduras                 | Poland                   |
| Benin                    | Hungary                  | Portugal                 |
| Bhutan                   | India                    | Romania                  |
| Bolivia                  | Indonesia                | Russia                   |
| Botswana                 | Iran                     | Rwanda                   |
| Brazil                   | Ivory Coast              | Saudi Arabia             |
| Bulgaria                 | Jamaica                  | Senegal                  |
| Burkina Faso             | Jordan                   | Sierra Leone             |
| Burundi                  | Kazakhstan               | Slovakia                 |
| Cambodia                 | Kenya                    | Slovenia                 |
| Cameroon                 | Kyrgyzstan               | Solomon Islands          |
| Cape Verde               | Laos                     | South Africa             |
| Central African Republic | Latvia                   | South Korea              |
| Chad                     | Lesotho                  | Sri Lanka                |
| Chile                    | Liberia                  | Sudan                    |
| China                    | Libya                    | Suriname                 |
| Colombia                 | Lithuania                | Swaziland                |
| Comoros                  | Macedonia                | Syria                    |
| Congo                    | Madagascar              | Tajikistan               |
| Costa Rica               | Malawi                   | Tanzania                 |
| Croatia                  | Malaysia                 | Thailand                 |
| Cyprus                   | Mali                     | Togo                     |
| Czech Republic           | Mauritania               | Trinidad and Tobago      |
| Democratic Republic of the Congo | Mauritius               | Tunisia                  |
| Djibouti                 | Mexico                   | Turkey                   |
| Dominican Republic       | Moldova                  | Uganda                   |
| East Timor               | Mongolia                 | Ukraine                  |
| Ecuador                  | Morocco                  | Uruguay                  |
| Egypt                    | Mozambique               | Venezuela                |
| El Salvador              | Myanmar                  | Vietnam                  |
| Equatorial Guinea        | Namibia                  | Yemen                    |
| Estonia                  | Nepal                    | Zambia                   |
| Ethiopia                 | Nicaragua                | Zimbabwe                 |
| Fiji                     | Niger                    |                         |

Appendix B. Descriptive Statistics.

| Variable                                      | Mean   | Standard Deviation | Minimum | Maximum |
|------------------------------------------------|--------|--------------------|---------|---------|
| Foreign direct investment inflows (log)       | 18.55  | 2.44               | 6.91    | 25.01   |
| Bilateral investment treaties (log)           | 1.90   | 1.32               | 0.00    | 4.78    |
| GDP per capita (log)                          | 6.91   | 1.17               | 4.05    | 10.21   |
| Inflation                                     | 33.61  | 207.69             | -18.11  | 4734.92 |
| Industry percentage GDP                       | 27.76  | 10.53              | 4.72    | 87.80   |
| Trade                                         | 68.44  | 35.93              | 0.25    | 225.76  |
| Democracy                                     | 1.51   | 6.84               | -10.00  | 10.00   |
| Population (log)                              | 16.15  | 1.56               | 12.65   | 20.99   |

Note: GDP = gross domestic product.

Source: All data drawn from the World Bank (2020), UNCTAD (2020), and Marshall et al., (2014).
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