

The 2024 Bilateral Investment Treaty Between India and the UAE: A Pivotal Moment for Global Investment



Gunjan Chhabra^[1]
Partner, MRP Advisory

On February 13, 2024, India and the United Arab Emirates (UAE) entered into a landmark Bilateral Investment Treaty (BIT),^[2] marking a decisive step forward in enhancing the economic ties between the two nations. This treaty serves as a testament to the evolving nature of their partnership, which has witnessed considerable growth in recent years. With the global investment landscape undergoing rapid transformations^[3], the 2024 BIT is poised to be a catalyst for increased foreign direct investment (FDI) between India and the UAE. This shift promises to create new opportunities for both countries, bolster their economic cooperation, and ensure a secure environment for cross-border investments.

Background: A Growing Economic Partnership

India and the UAE share a long history of economic collaboration.^[4] The UAE is India's third-largest trading partner, with bilateral trade exceeding \$85 billion in the fiscal year 2022-2023, surpassing the previously estimated \$60 billion.^[5] The UAE has also emerged as a significant investor in India, particularly in the energy, infrastructure, and real estate sectors.^[6] Additionally, India remains one of the largest labor exporters to the UAE, with millions of Indian expatriates contributing significantly to the UAE's thriving economy.^[7]

The signing of the 2024 BIT represents the natural progression of this robust economic relationship. This strategic agreement aims to further solidify these ties by attracting more FDI and improving the business environment in both nations. For India, which is currently undergoing a transformative shift in sectors such as infrastructure, renewable energy, and manufacturing, the treaty is expected to act as a springboard to unlock additional investments, particularly from the UAE's wealth of investors.

[1] The author is dual qualified as an Indian Advocate and an English Solicitor and is currently working as Partner with MRP Advisory. She is grateful to Ms. Anisha Pandey of NLU Nagpur, who is currently interning with her team at the firm.

[2] Press Information Bureau, India-UAE Bilateral Investment Treaty, 2024, available at <https://pib.gov.in/PressReleasePage.aspx?PRID=2062692>.

[3] Schroders Global Investor Study 2023, Regime Shift: Understanding the Investment Landscape, Schroders, (2023), available at <https://www.schroders.com/en/global/individual/global-investor-study-2023/regime-shift/>.

[4] UAE-India Bilateral Investment Promotion and Protection Agreement (BIPPA), 2013; UAE-India Comprehensive Economic Partnership Agreement (CEPA), 2022; BIT-MoU on digital infrastructure, and agreements to link payment systems, 2024, etc.

[5] Ministry of External Affairs, India-UAE Bilateral Relations, available at https://www.mea.gov.in/Portal/ForeignRelation/India_UAE2024n.pdf, at para. 7.

[6] Ibid at para. 8.

[7] Ibid at para 22.

Key Provisions of the 2024 Bilateral Investment Treaty

The 2024 India-UAE BIT introduces a comprehensive legal framework designed to promote and protect investments between the two countries.[8] Several key provisions stand out for their potential to reshape bilateral trade and investment flows:

Investor Protections

One of the cornerstones of the BIT is the robust protection it offers to investors.[9] The treaty ensures that investors will be treated fairly and equitably, providing a guarantee against arbitrary expropriation of investments without adequate compensation.[10] In addition, it secures the protection and safety of investments, shielding them from both political and economic risks that may arise in either country.[11]

Dispute Resolution Mechanism

The BIT establishes a dispute resolution mechanism through international arbitration, a provision that is especially significant for investors.[12] This mechanism ensures that in the event of disputes with the government, investors will have access to a neutral, transparent, and efficient process for resolution. By providing access to well-established arbitration bodies, such as the International Centre for Settlement of Investment Disputes (ICSID), the treaty offers investors reassurance and security when entering either market.[13]

National Treatment and Most-Favored-Nation Clauses

The BIT includes provisions that ensure both Indian and UAE investors are granted treatment that is no less favorable than that afforded to investors from any other nation.[14] This is a vital aspect of the agreement as it promotes fairness, granting Indian and UAE investors access to the same privileges and advantages as investors from other countries.

Free Transfer of Funds

Another key feature of the BIT is the freedom it guarantees investors to transfer funds across borders.[15] This includes the ability to move profits, dividends, royalties, and other related payments without undue restrictions.[16]

[8] India-United Arab Emirates Bilateral Investment Treaty, 2024, available at: <https://dea.gov.in/sites/default/files/BIT%20MoU%20Englsh.pdf>, at Preamble (B). (hereinafter “BIT”)

[9] Ibid.

[10] BIT supra note 7, Article 6.1.

[11] BIT supra note 7, Article 4.2.

[12] BIT supra note 7, Chapter IV.

[13] BIT supra note 7, Article 18.

[14] BIT supra note 7, Article 5.

[15] BIT supra note 7, Article 7.1.

[16] Ibid.

This provision will be particularly beneficial for UAE investors who wish to repatriate earnings from their investments in India, as well as for Indian investors operating in the UAE, fostering a more fluid flow of capital between the two nations.

Promotion of Sustainable Investment

Both India and the UAE have underscored the importance of sustainable investment that aligns with global environmental and social standards.[17] The BIT encourages investments in sectors that contribute to long-term economic development while adhering to sustainability principles. This includes clean energy, technology, and infrastructure—sectors critical to both countries' future growth and alignment with global sustainability goals.[18]

Regulatory Transparency and Accountability

A significant feature of the BIT is the emphasis on transparency in the regulatory environment.[19] Both India and the UAE have committed to ensuring clear, predictable, and transparent regulations for foreign investors.[20] This commitment seeks to eliminate bureaucratic obstacles, streamline procedures, and create a more navigable regulatory landscape for investors in both countries.

Strategic Implications for India and the UAE

The 2024 BIT is particularly timely, as both India and the UAE focus on diversifying their economies and attracting investment in high-growth sectors. For India, the agreement is instrumental as the country works towards its goal of becoming a \$5 trillion economy by 2025.[21] To achieve this ambitious target, India needs to continue attracting substantial FDI, particularly in infrastructure, technology, manufacturing, and renewable energy sectors.

For the UAE, this treaty opens a wide array of opportunities in India's vast consumer market and burgeoning middle class. Sectors such as renewable energy, electric vehicles, and digital infrastructure present significant investment potential for UAE-based companies. Additionally, Indian businesses stand to benefit from the UAE's status as a global business hub, gaining access to global financial markets and regional opportunities within the Gulf Cooperation Council (GCC).

The treaty is also likely to pave the way for increased cross-border collaborations and joint ventures, further accelerating the strategic goals of both countries. The UAE, with its extensive expertise in infrastructure development and renewable energy, is uniquely positioned to support India's ambitious infrastructure projects, including smart cities, sustainable transportation systems, and urbanization initiatives.

[17] BIT supra note 7, Preamble (B).

[18] DD News, Minister Athawale highlights India-UAE cooperation on environmental initiatives, (August 3, 2024), available at: <https://ddnews.gov.in/en/minister-athwale-highlights-india-uae-cooperation-on-environmental-initiatives/>.

[19] BIT supra note 7, Article 11.

[20] BIT supra note 7, Articles 11.1, 11.2.

[21] The Hindu, India to become third-largest economy with GDP of \$5 trillion in three years: Finance Ministry, (September 8, 2023), available at: <https://www.thehindu.com/business/Economy/india-to-become-third-largest-economy-with-gdp-of-5-trillion-in-three-years-finance-ministry/article67788662.ece>.

Sectors Primed for Growth Under the BIT

Several sectors stand to benefit from the 2024 BIT, particularly those that align with both countries' development priorities:

- **Infrastructure Development:** India's rapidly growing demand for infrastructure[22] presents an ideal opportunity for UAE investors, especially in transport, logistics, and urban development projects.
- **Renewable Energy:** Both nations are committed to ambitious renewable energy targets.[23] The BIT provides an optimal framework for UAE investors to collaborate with Indian companies in solar and wind energy projects.
- **Technology and Innovation:** India's expanding technology sector, combined with the UAE's push to become a global center for innovation, creates fertile ground for deeper collaboration in fields such as artificial intelligence, fintech, and clean technology.[24]
- **Healthcare and Biotechnology:** The healthcare sector, especially in biotechnology and pharmaceuticals, is another area ripe for investment. UAE investors, with their experience in medical infrastructure[25], are well-positioned to partner with India's rapidly growing pharmaceutical and biotech industries.

Conclusion: A Model for Global Investment Cooperation

The 2024 BIT between India and the UAE represents a bold and transformative step in the evolution of their economic relationship. By providing a clear framework for dispute resolution, encouraging greater market access, and promoting sustainable investments, the treaty lays the foundation for future economic growth and cooperation. It also serves as a model for other countries looking to engage with India, demonstrating that investment protection, transparency, and a fair regulatory environment can align with the needs of emerging economies.

As both nations continue to diversify their economies and pursue growth, this treaty will undoubtedly unlock new business opportunities and investment flows. It not only strengthens bilateral relations but also enhances India's position as a premier destination for global investment, making it an increasingly attractive partner in the global economy.

[22] India Brand Equity Foundation (IBEF), Infrastructure Sector in India, (October, 2024), available at: <https://www.ibef.org/industry/infrastructure-sector-india>; Ernst & Young (EY), Unleashing India's Infrastructure Potential: EY Roundtable Insights, (February 26, 2024), available at: https://www.ey.com/en_in/insights/infrastructure/unleashing-india-s-infrastructure-potential-ey-roundtable-insights.

[23] NDTV Profit, India, UAE Resolve to Boost Energy Ties and Collaborate on Key Infrastructure Projects, (December 13, 2024), available at: <https://www.ndtvprofit.com/nation/india-uae-resolve-to-boost-energy-ties-and-collaborate-on-key-infrastructure-projects>.

[24] Ernst & Young (EY), How India is Emerging as the World's Technology and Services Hub, (January 27, 2023), available at: https://www.ey.com/en_in/insights/india-at-100/how-india-is-emerging-as-the-world-s-technology-and-services-hub; KPMG, "Expanding Tech Horizons: Unlocking India's Digital Potential," available at: <https://kpmg.com/in/en/insights/2023/10/expanding-tech-horizons-unlocking-indias-digital-potential.html>.

[25] Ernst & Young (EY), Five Future Trends and Insights That Are Shaping UAE Health Care Ecosystem, (April 25, 2024), available at: https://www.ey.com/en_bh/industries/health/five-future-trends-and-insights-that-are-shaping-uae-health-care-ecosystem.