22nd Nov, 2024

1. A Bilateral Investment Treaty With a 'Bit' of Change **GS 2 (International Relations)**

Why in News:

The Bilateral Investment Treaty (BIT) signed earlier this year between India and the United Arab Emirates (UAE) reflects critical developments in India's approach to international investment agreements

By replacing the 2014 India-UAE investment treaty, the new BIT reveals India's evolving strategy and might offer insights into its negotiations with entities like the United Kingdom and the **European Union.**

Therefore, it is important to explore the BIT's objectives, key deviations from India's Model BIT, and its implications for investment protection and state sovereignty.

Objectives: Balancing Investment A bilateral investment treaty with a 'bit' of change

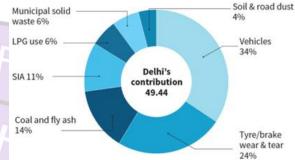
BIT's **Protection and Sovereignty**

- A well-designed BIT aims to balance two competing goals: providing robust protections to foreign investors and preserving the host state's regulatory autonomy.
- It must also reduce the interpretive discretion of investor-state dispute settlement (ISDS)
- The India-UAE BIT signed earlier this year demonstrates significant strides in these areas while highlighting areas of both continuity and departure from India's Model BIT of 2015.
- **Key Departures from India's Model BIT**
 - **Exhaustion of Local Remedies**
 - One notable deviation is the reduced timeframe for exhausting local remedies before initiating ISDS claims.
 - The India-UAE BIT sets this period at three years, compared to the five-year requirement in the **Model BIT** and agreements with Belarus and Kyrgyzstan.
 - This change acknowledges concerns about the inefficiencies of India's overstretched judicial system and provides foreign investors with faster access to international arbitration.
 - By shortening this period, India strikes a middle ground between protecting investor interests and safeguarding against unfounded treaty claims.
 - **Redefining Investment**
 - The India-UAE BIT also revises the definition of 'investment.'
 - While the Model BIT requires investments to significantly contribute to the host state's development, this subjective criterion has been removed.
 - Instead, the new BIT focuses on economic characteristics such as capital commitment, profit expectation, and risk assumption.
 - This change reduces the scope for arbitral discretion by eliminating inherently value-laden assessments, offering greater clarity and predictability to investors.
 - **Greater Clarity: Treatment of Investments**
 - Another major refinement appears in Article 4, which outlines instances of treaty violations.
 - Unlike the Model BIT, which ties such violations to customary international law (CIL), the India-**UAE BIT omits this reference.**

- This is significant because the content of CIL on foreign investment issues remains unsettled, and linking treaty provisions to CIL could lead to inconsistent interpretations by ISDS tribunals.
- By clearly specifying violations, the treaty enhances legal certainty for both states and investors.

• Points of Continuity with India's Model BIT

- Exclusion of the Most-Favoured-Nation (MFN) Clause
 - One of the most prominent continuities is the exclusion of the Most-Favoured-Nation (MFN) provision, a key principle in many international economic agreements.
 - The MFN clause typically ensures that a host country provides no less favourable treatment to investors of one country than it does to those of others.
 - Its absence in the India-UAE BIT is a deliberate move, as India aims to avoid the risk of treaty shopping.
 - Treaty shopping occurs when investors use the MFN clause to invoke more favourable provisions from treaties signed



with other countries, undermining the host country's intent and potentially leading to unpredictable legal disputes.

By excluding this provision, India limits the risk of arbitration claims based on obligations not explicitly agreed upon in the treaty.

Exclusion of Taxation Measures

- Another notable area of continuity is the exclusion of tax-related disputes from the scope of the BIT.
- The India-UAE BIT, like the Model BIT, bars foreign investors from challenging taxation measures through ISDS mechanisms.
- This reflects India's long-standing stance that taxation is a sovereign function and should remain beyond the purview of investment treaties.
- While this exclusion maximises India's regulatory power, it may also raise concerns among foreign investors about the lack of recourse against potentially discriminatory or abusive tax policies.
- Nevertheless, India's consistent policy underscores its priority of safeguarding its fiscal autonomy.

Limitation on ISDS Tribunal Jurisdiction

- The India-UAE BIT, like the Model BIT, places clear restrictions on the jurisdiction of ISDS tribunals.
- Article 14.6(i) explicitly bars tribunals from reviewing the merits of domestic court decisions.
- This provision is rooted in India's belief that domestic judicial systems should retain their authority over legal disputes and that ISDS tribunals should not act as appellate bodies.
- By restricting the scope of ISDS to procedural and treaty-based violations, the treaty minimises the potential for overreach by arbitral tribunals

o Reinforcement of Sovereign Regulatory Space

- The India-UAE BIT continues India's emphasis on preserving sovereign regulatory space, a hallmark of the Model BIT.
- By excluding areas like taxation and limiting tribunal oversight, the treaty ensures that India retains significant control over its internal policymaking.
- This approach aligns with India's broader stance of striking a balance between promoting foreign investment and protecting national interests.

• Broader Implications of Continuity and Impact on Future Treaties

- Implications of Continuity
 - These continuities highlight India's cautious and calculated approach to investment treaties.

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- While the departures from the Model BIT reflect a willingness to accommodate investor concerns, the consistent exclusion of MFN provisions, taxation measures, and unrestricted ISDS jurisdiction reaffirms India's commitment to retaining policy autonomy.
- This continuity sends a clear message to the international community that India values predictability and consistency in its investment treaty framework.

Impact on Future Treaties

- The India-UAE BIT strikes a nuanced balance between investment protection and regulatory autonomy.
- The reduced litigation requirement might appeal to developed countries, signalling India's willingness to accommodate investor concerns.
- However, the continued exclusion of MFN provisions and tax measures underscores India's intent to retain significant policy space.
- Whether these deviations signify a broader shift in India's BIT strategy or are tailored specifically for the UAE remains uncertain.
- Nonetheless, this treaty sets a precedent that could influence ongoing and future negotiations with other countries and economic blocs

Conclusion

- The India-UAE BIT is a pivotal document that highlights India's calibrated approach to international investment agreements.
- By addressing investor concerns while maintaining sovereignty over key regulatory areas, the treaty
 exemplifies a pragmatic middle path.
- Its innovations and continuities alike offer valuable insights into the future trajectory of India's investment treaty practices in an increasingly complex global economic landscape.

2. <u>Is Delhi Becoming an Uninhabitable City?</u> GS 3 (Environment)

Why in News:

Delhi faces severe environmental challenges, with worsening air pollution and extreme weather patterns, particularly during winter and summer.

Is Delhi becoming an uninhabitable city?

The Air Quality Index (AQI) highlights Delhi's alarming pollution levels, primarily dominated by fine particulate matter (PM2.5), which penetrates deep into the lungs, posing significant health risks.

Air Quality Trends (2017–2023):

- Healthy Air Days: Delhi averaged only two days per year with healthy air.
- Poor Air Quality: Over half the year, residents inhale air deemed unfit for breathing.
- Lockdown Impact: Even during the COVID-19 lockdown in 2020, air quality improved only marginally indicating systemic issues.

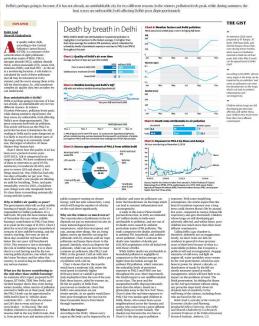
• Contributors to Air Pollution:

- Stubble Burning: Often blamed for Delhi's pollution, stubble burning accounts for 15–35% of PM2.5 during peak days. However, even in its absence the AQI remains dangerously high.
- Local Sources: A report by IIT and TERI identifies local sources as responsible for half of PM2.5 levels in winter. Key contributors include:
 - Vehicles (58%): Combustion exhaust (34%) and wear-and-tear emissions (24%).
 - Other sources include construction dust and industrial emissions

Seasonal Worsening in Winters:

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- Meteorological Factors: Cold air traps pollutants near the ground, while stagnant winds prevent
- Rain and Wind Effects: Months with higher rainfall (July-September) and stronger winds (February-June) show better air quality.

Health Impacts:

- o WHO Findings: Air pollution affects almost every organ, causing systemic inflammation and potentially carcinogenic effects.
- o Death Rates: In 2019, 1.67 million deaths in India were linked to pollution, with Delhi showing higher mortality from ambient PM pollution than the national average.
- Class Divide: Poor residents face greater exposure and risks. Children from marginalized areas experience significantly reduced life expectancy compared to affluent peers.

Government Response:

- Short-term Measures: Initiatives like odd-even vehicle rules, water sprinklers, and mask distribution have had minimal impact.
- Political Stalemate: Blame-shifting between the central and Delhi governments has hindered systemic reforms.

Solutions Needed:

- o Public Transport Overhaul: Transitioning from private vehicles to cleaner, efficient public transport with improved last-mile connectivity.
- Holistic Action Plan: Long-term strategies addressing emissions from all sources, paired with political commitment, are critical for reversing the decline in air quality.

3. Gautam Adani Bribery Case Recent events of importance

Why in News: Gautam Adani, the chairman of the Adani Group, faces serious charges in the United States for allegedly paying bribes to Indian officials. These bribes were supposedly given to secure contracts for a large solar

power project in India. The total amount of the bribes is said to be over \$250 million. The project in question is related to a bid won by Adani Green Energy, a part of the Adani Group, to supply 8 gigawatts of solar power to a state-owned company in India.

What are the Charges?

- The criminal charges against Gautam Adani in the U.S. are as follows:
 - Foreign Bribery: Paying bribes to foreign officials (Indian officials) to secure business deals.

After U.S. indictment, conglomerate will face greater pressure in Bangladesh over power deal, says expert



- Securities Fraud: Providing false or misleading information to investors about the company's activities.
- Wire Fraud Conspiracy: Involving the use of electronic communications to carry out fraudulent activities.
- Under U.S. law, companies can be charged for bribing foreign officials, even if the bribery takes place outside the U.S., especially if they are raising money from U.S.-based investors.

The Issue: The Solar Power Project

- In June 2020, Adani Green Energy won a major bid to supply 8 gigawatts of solar power to a stateowned electricity company in India.
- However, there was a problem—local power companies did not want to buy the power at the prices set by the government, which could have led to the deal collapsing.
- To fix this problem, U.S. authorities allege that Gautam Adani decided to bribe local officials to persuade them to buy the electricity. The bribes were allegedly worth \$250 million, and the money was meant to secure the solar contracts.

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How the Alleged Scheme Unfolded?

- 2020-2021: Adani Green Energy and another company, Azure Power, were awarded major contracts for solar power projects.Local power distributors did not want to buy the power at the agreed prices, which delayed the deal. Adani's associates (including his nephew Sagar Adani) allegedly discussed paying bribes through encrypted messages (like WhatsApp) to push the local distributors to buy the power.
- August 2021: Gautam Adani reportedly promised a \$228 million bribe to officials in the southern state of Andhra Pradesh to get them to agree to buy the power.
- December 2021: The Andhra Pradesh government agreed to buy the power, and other states followed suit. The sudden success of the project raised suspicions in the market about how the deals were signed.
- 2022: The S. Securities and Exchange Commission (SEC) and Justice Department began investigating the payments. They found evidence of misleading statements made to investors about anti-bribery practices.

Legal Actions in the U.S.

- S. Authorities: The Justice Department and SEC allege that Adani's companies raised billions of dollars from international investors (including U.S. investors) between 2021 and 2024.
- They say that in the process, Adani's companies lied to investors, falsely claiming that they had not paid any bribes. This, according to the U.S. authorities, was fraud.
- In March 2023, the FBI seized devices from Sagar Adani, Gautam Adani's nephew, as part of their investigation.
- In October 2024, a grand jury indictment was issued against Gautam Adani, his nephew Sagar Adani, and others involved. The indictment was made public in November 2024, causing a major drop in the value of Adani's companies (a loss of \$27 billion).
- o The Extradition Issue: Gautam Adani is believed to be in India and not in U.S. custody. If U.S. authorities want to charge him, they would have to request his extradition (send him to the U.S. for trial).
- Extradition would be complicated, as India would have to decide whether the charges apply under Indian law and whether any political or human rights issues exist.

World's largest solar award

- The project, which required Adani Green to develop 8 GW of solar capacity and 2 GW of solar manufacturing, was hailed as a milestone for India's AtmaNirbhar Bharat initiative.
- Adani Green Energy's solar project was expected to displace 900 million tonnes of CO2 and create 400,000 jobs, positioning it as a leader in India's renewable energy transition.

Extradition under Indian Law

- **Extradition** refers to the formal process by which one country requests the surrender of an individual to face criminal charges or serve a sentence in the requesting country. International law governs extradition agreements between states, and it ensures that countries cooperate in handling criminal matters that cross national borders.
- The Extradition Act, 1962 regulates the law relating to India's extradition of fugitive criminals. A fugitive criminal is a person who is accused or convicted of an extradition offence in a foreign country.
- India has entered into extradition treaties with certain other countries like the UK, USA, Bangladesh, etc

4. Intercontinental Ballistic Missile (ICBM) **GS 2 (International Relations)**

Why in News: In an escalation of the Russia-Ukraine war, Russia fired longer-range intercontinental ballistic missile (ICBM) on the Ukrainian city of Dnipro. Russia launched an ICBM for the first time: Ukraine

What is an ICBM?

- ICBMs (Intercontinental Ballistic Missiles) are long-range missiles designed primarily to carry nuclear warheads and can travel distances of over 3,400 miles.
- These missiles are strategic weapons used as part of a country's nuclear deterrence.



Levelling up: Flaches over the Ukrainian city of Dripro. Kyiv has accused flussia of Jaunching an ICPM on Thursday. 200 aunching an ICBM on Thursday. 421

any evidence that an ICBM forces had hit Ukraine with a was used in the attack on the new central city of Dnipro, apparently armed with conven-

tional warheads. Ukrainian President Volo-(ICBM) overnight at a city. If dymyr Zelenskyy said a mis-confirmed, it would be the sile used "matches the speed first time Moscow has used and altitude* of an ICBM. Russian President Vladimir

Ukraine claimed on Thursday

that Russia launched an inter-continental ballistic missile

such a weapon in the war.

Ukraine did not provide

Mr. Putin said in a televised address that Russia carried out "testing in combat conditions of one of the newest Russian mid-range missile systems... Our engineers named it Oreshnik," which means ha-

mid-range ballisti

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- ICBMs are powerful and difficult to intercept because they travel at extremely high speeds (up to 4,000 mph), making them challenging for defense systems like Patriot to stop.
- The use of an ICBM in this conflict is seen as **escalating** the war because it signals the potential use of **nuclear capabilities** and could lead to a broader confrontation.

The RS-26 Rubezh ICBM:

- O According to reports, the missile fired at Dnipro was likely a RS-26 Rubezh, a relatively new and experimental ICBM.
 - Range: The RS-26 can travel up to 5,800 km (about 3,600 miles), making it capable of reaching distant targets.
 - Speed: It can reach supersonic speeds, around 4,000 mph, making it nearly impossible for current missile defense systems to intercept.
 - Payload: The missile can carry a warhead weighing up to 1,200 kg, which is equivalent to three Iskander missiles.
- Challenges: The RS-26 is still in the testing phase, and its use in combat could result in inaccurate strikes and collateral damage due to the missile's unproven technology.

Russia's ICBM Arsenal:

- o Russia has around 306 strategic ICBMs, capable of carrying a total of 1,185 nuclear warheads.
- Some of Russia's ICBMs include:
 - Topol-M (SS-27 Mod 1) and Yars (SS-27 Mod 2), both capable of carrying multiple warheads.
 - Sarmat (SS-X-30), a new missile under development, larger and more capable than previous ones.
 - Avangard, a hypersonic glide vehicle under development, designed to evade missile defenses.
 - The Sarmat ICBM, also called Satan II in the West, has recently been deployed and can replace older Soviet-era missiles.

International Implications:

- The use of an ICBM by Russia in the Ukraine conflict raises fears of nuclear escalation, though this strike did not carry a nuclear warhead.
- on the use of such missiles, fearing it could worsen the conflict.
- Although the RS-26 Rubezh is part of Russia's nuclear deterrence, its use in this conflict indicates the
 possibility of further escalationif tensions increase.

5. Global Alliance Against Hunger and Poverty GS 2 (International Relations)

Why in News: The Global Alliance Against Hunger and Poverty was officially launched during the G20 Leaders'

Summit in Rio de Janeiro, Brazil. Its primary objective is to accelerate efforts toward the eradication of hunger and poverty globally while promoting the achievement of the Sustainable Development Goals (SDGs).

What is Global Alliance Against Hunger and Poverty, launched at Brazil G2O? **THECRI Lader's Summit held is favored by the company of the co

• Hunger and India

O What is Hunger?

■ The Food and Agriculture Organization (FAO) defines hunger as food deprivation, or undernourishment, as the habitual consumption of too few calories to provide the minimum dietary energy an individual requires to live a healthy and productive life, given that person's sex, age, stature, and physical activity level.

Hunger and India

• India is ranked 105th among 127 countries in the Global Hunger Index (GHI) 2024, indicating a 'serious' level of hunger.

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• Notably, **India's GHI score of 27.3** is a cause for concern, especially when compared to its South Asian neighbours like Bangladesh, Nepal, and Sri Lanka, which fall into the "moderate" category.

• Global Alliance Against Hunger and Poverty

The Need for the Alliance

- The 2030 Agenda for Sustainable Development, adopted in 2015 by all UN Member States, set targets to end poverty, hunger, and ensure food security by 2030.
- However, the Covid-19 pandemic reversed progress, leading to a rise in extreme poverty and declining nutrition standards, particularly in the Global South.
- Projections indicate 622 million people will live below the extreme poverty line of \$2.15 per day by 2030.
- 582 million people are expected to live in hunger by 2030, the same as in 2015.
- Global conflicts, climate change, and inequalities have further weakened progress.

About

- The G20 summit in Rio de Janeiro launched the Global Alliance Against Hunger and Poverty, connecting nations with resources to tackle hunger.
- Led by Brazil's President Luiz Inácio Lula da Silva, the initiative focuses on cash transfers, school meals, and support for farmers.



Aims/objectives

- The alliance aims to eradicate hunger and poverty by 2030, aligning with the Sustainable Development Goals (SDGs).
- Its key objective is to remove all nations from the FAO Hunger Map by fostering collaboration and resource mobilization.

Membership and Structure

- Members: 148, including 82 countries; African Union and European Union; 24 international organizations; 9 financial institutions; 31 philanthropic and non-governmental organizations.
- Available to non-G20 countries since July 2024.
- Early members include Brazil, Bangladesh, and G20 members, with participants spanning all continents.

Key Pillars of the Alliance

- National: Coordination of public policies specific to eradicating hunger.
- Knowledge: Integration of data and technologies for evidence-based solutions.
- Financial: Large-scale resource mobilization to fund programs.

Strategic Commitments

- Income Distribution: Reach 500 million people through income support programs by 2030.
- School Meals: Provide school meals to 150 million children in high-hunger regions.
- Financial Mobilization: Leverage multilateral banks to raise billions for anti-poverty initiatives.

Funding

- No exclusive fund; relies on contributions from members and institutions like FAO, UNICEF, and the World Bank.
- Estimated operational cost: \$2-3 million annually.

Technical Office

- Based at FAO with functional autonomy.
- It is expected that the headquarters of this alliance will be based in Brasilia or another Global South country.

Key Activities

- Regular Summits Against Hunger and Poverty.
- Creation of a High-Level Champions Council to oversee alliance activities.

Other features

- Facilitates sharing of best practices among members.
- Provides technical expertise or financial support for national hunger and poverty eradication policies.
- Includes a policy basket with over 50 instruments for targeted support in areas like: School meals;
 Cash transfers; Support for smallholder and family farming; Socio-economic inclusion programs;
 Maternal and early childhood interventions; Water access solutions.
- The Alliance acts as a matchmaking platform, connecting countries in need with donors and support organizations.



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