Chapter 2 Theory and evidence linking investment with behind-the-border issues

The theoretical literature on cross-border investment has expanded over decades to a vast size. Theory on international capital transactions generally follows one of two traditional lines—portfolio investment theory and theory of the firm—which have been the basis of myriad contributions.

International portfolio investment theory presupposes a transfer of financial capital, generally of a temporary nature, to achieve profitable returns on the basis of financial arbitrage through a difference either of currencies or of interest rates. Portfolio investment can generate important gains but is often associated with a higher level of risk and volatility, especially since investors do not have control over their capital.

By contrast, the theory of the firm is associated with international capital in the form of foreign direct investment (FDI), which responds to firms’ decisions to invest in foreign locations. This second type of international capital flow tends to be more durable and predictable, since it is often linked with firms’ interest in expanding their productive capacities beyond their domestic markets while retaining some degree of ownership and control over their investment.

FDI is unlike portfolio investment, which generally takes an arms-length approach to investing as long as the returns outweigh the risks and costs of that investment. In contrast, FDI entails transferring other tangible and intangible assets, such as managerial capacity, value chain connectivity, industrial know-how and technology, among others, that are part of the investing firm. The intangible assets are hardest to measure and yet most valued for their potential dynamic impact on an economy.

This chapter first reviews major theories of why firms decide to invest in a foreign location. It next examines theoretical and empirical underpinnings of investment and trade in the context of regional integration theory. Third, the chapter conceptualizes the relationship between FDI and three behind-the-border issues: competition, intellectual property and the digital economy. Last, it highlights empirical evidence substantiating and complementing the theoretical literature to propose a theoretical framework explaining the interlinkages between investment and the behind-the-border issues, setting the stage for the later chapters.
Theoretical literature on the underpinnings of investment

Among the seminal theories explaining FDI as a type of investment by firms beyond national borders are those focusing on multinational enterprises (MNEs). The theories depict MNEs as firms able to extend their operations across borders to maximize profits; access resources, inputs and markets and, in more recent literature, even access value chains.99

This stream of theories dates back as far as Ronald Coase,100 who initially explained that firms’ growth is a function of their expected profitability, which in turn is defined by transaction costs. In Coase’s theory, firms diversify either by managing exchange transactions for new products or by ceasing transactions for old products that become too costly. That theory has since evolved to consider not only products but also production factors, such as technology and capital, with transaction costs being costs that cannot be fully internalized by the firm but can greatly be influenced and minimized by the method a firm chooses to organize itself.101

Other well-rooted theories have focused on the asset-based movements of MNEs. For example, Stephen Hymer’s market structure theory lays an important theoretical foundation for FDI, characterizing a firm’s FDI decisions as resting on two distinct factors: the prevalence of market imperfections and the firm’s intrinsic competitive advantages, such as know-how and access to cheaper production factors, supply chains and distribution networks.102 In the presence of market imperfections, MNEs can use their firm-specific advantages and market power to influence market outcomes, either engaging in horizontal competition when selling their products in the same markets or in vertical competition when trading with each other across several countries. A firm’s decision to invest abroad will also be determined by additional factors, such as market size, the risk of expropriation and exchange rate risks.

A contemporary of Hymer, Charles P. Kindelberger, developed industrial organization theory to explain how MNEs invest (relocating assets across borders) to overcome informational and operational deficiencies with respect to their domestic competitors.103 FDI results from imperfect competition across markets, where market power results from a monopolistic advantage rather than, as Hymer claimed, a firm-specific advantage. So, cross-border investment can issue from a firm leveraging a market failure to its advantage, rather than merely competing with a firm-specific asset under conditions of perfect competition.

Product cycle theory, a major theoretical contribution by Raymond Vernon (1961), uses innovation-driven considerations to explain FDI. Vernon argued that innovation is a conduit to technology-based FDI, which in turn enables knowledge transfer. The investment corresponds to a firm’s maturity in producing a certain good. In an initial stage, the firm launches a new product in a given host or location based on the cost of factors of production and external economies. Depending on the firm’s proximity to the host market, it gains access to information. In a second stage, a firm benefits from economies of scale and will choose import markets from which it can source inputs depending on production and transport costs, where prospective
cost savings are defined as the differences in technology and factor costs between the home and foreign market. Finally, in a third stage, the prevalence of a highly standardized product enables the firm to relocate production to less developed countries, and locating the cross-border investment depends on the cost and proximity to the input source.

Kaname Akamatsu contributed his flying geese theory, which portrays the growth of manufacturing industries in developing countries as the rationale for FDI. This contribution, rather than being firm-specific, takes a more economy-wide approach to offer a broader view of FDI in the context of a developing economy. It shows how latecomer countries catch up as they industrialize. Like the product cycle theory, the flying geese theory breaks production into three stages. Initially, industries in a developing economy diversify and upgrade from simple to more sophisticated products or from consumer goods to capital goods (along an inter-industry dimension). In a second stage, the economy that initially imported a good learns to use local production for that good and finally to export it (along an intra-industry dimension). In a third and last stage, industries relocate to the developing country, bringing FDI from the advanced economy.

Stage theory, by Jan Johanson and Jan-Erik Vahlne (1977, 1990) and Johanson and Finn Wiedersheim-Paul (1975), claims that the international engagement of firms is progressive, motivated by a sequential increase in worldwide involvement in which firms gradually gain experiential knowledge and commit resources. As MNEs become more integrated into the world economy through either vertical or horizontal integration, their increased international involvement will enhance their experiential knowledge and learning by exposing them to cross-border production. The development of experiential knowledge and skills, a condition of a firm’s internationalization, cannot be bought. Such experience ultimately allows an MNE to identify exploitable market opportunities while reducing the uncertainty associated with investment risk.

Newer theoretical contributions rely on new or revised assumptions. The evolution has been a response to the limitations of older assumptions in explaining the realities of FDI. John H. Dunning (1973, 1977 and 1993), developed an approach more dynamic and all-encompassing than the prevalent FDI theories, known as the eclectic paradigm or OLI framework. It explains investment decisions by firms as a function of ownership (O), location (L) and internalization (I) advantages. Ownership advantages are derived from the ability of firms to control and have some degree of ownership over their investment, while location advantages or benefits are associated with location-specific assets in host countries, such as
natural resources and factor endowments. Internalization advantages enable firms to overcome market imperfections by internalizing costs and cutting red tape and uncertainty. A firm will undertake vertical FDI if it can reduce some of those costs by relocating production to a foreign market.

Further specifying OLI-specific advantages firms might have, Dunning (1993) sorted FDI into four main categories. Market-seeking FDI (sometimes called vertical FDI) taps into consumer or producer markets and qualifies the relationship between investment and trade. Efficiency-seeking FDI favours the reduction of costs. Resource-seeking FDI envisages tapping into locally available infrastructure, labour and raw materials or inputs. Strategic asset-seeking FDI seeks access to specific advantages ahead of the pack, such as a new technology, innovative process or another opportunity that could arise for a first-comer in a given market.

In more up-to-date FDI theories built on the OLI framework, a fifth category has complemented that typology: learning or knowledge-seeking FDI. These theories consider cross-border investment due to delocalization of production and cross-border networks that operate in global value chains. In such a context, the intangible assets that FDI brings or develops within firms receive more emphasis, as explained by the link, leverage and learn (LLL) framework developed by John Mathews (2002, 2006) and subsequently elaborated. In this analysis, a firm's behaviour in international markets depends on its degree of exposure to such markets. The theory helps explain the rise of firms known as emerging market multinational enterprises (EMMEs), which became active during the 1990s in international markets. Such firms, due to their exposure to interconnected global networks, are able to access the capital and other resources of more mature and established firms to set up linkages to them. Learning happens as the EMMEs repeatedly gather information and acquire knowledge, becoming more adaptable and capable of competing in that situation.

The more modern contributions explain the surge of business models today focused on such criteria as value creation, task specialization, linkage development, on-demand production, local sourcing of goods and services by intermediary firms, and delocalized sourcing of inputs. These theoretical contributions on FDI are more attuned to the fast and changing pace of global value chains.
Towards a Common Investment Area in the African Continental Free Trade Area

Theoretical and empirical underpinnings of investment and trade in the context of regional integration theory

The rich literature on FDI has used international trade theory and regional integration theory to expand its analysis and understanding. Bringing investment, trade and integration together can follow the understanding of cross-border trade and cross-border investment as comparable conduits of MNEs' international operations.

Trade theory and regional integration theory perspectives

Are trade and investment substitutes or complements? If substitutes, a firm with international operations will choose to either trade or invest across borders, not both, depending on a given set of market conditions, investing would likely crowd out trading opportunities in the host country. But if they are complements, a firm investing in a foreign location can complement or crowd in trading opportunities in the host country market.

Some of the classical FDI theories reviewed above clearly assume substitution between investment and trade. And FDI theories with more sequential approaches seem to suggest that in initial stages, substitution shapes investment decisions. But as a firm gains a foothold in a foreign location and become more sophisticated and knowledgeable about production, trade can follow and even complement the initial FDI made in the host country so the firm can export to other markets or even back to the original home economy.

More recent theoretical work suggests that firms' decisions can face both substitution and complementarity effects, depending on the nature and determinants of the investment. The literature thus remains unsettled, so such relationships require a case-by-case empirical approach (the focus of the next section). Much theoretical evolution has been propelled by empirical contributions that tested and counter-tested theories.

Combined theoretical and empirical contributions on international trade are as disparate in their approach as the FDI literature in characterizing the relationship of FDI and trade. Some assume a substitution relationship in horizontal FDI, where MNEs have an incentive to invest to gain access to a market while bypassing tariffs (tariff jumping).

Others—trade models that look at vertical FDI—observe complementarity between trade and investment flows, provided they make allowances for differences between the source and host countries, such as those in wages and factor endowments. These investments may even have trickle-down effects, such as reducing the cost of credit by promoting domestic investment. But another strand of literature argues the contrary, saying that larger companies such as MNEs can crowd out credit to smaller companies, such as SMEs, since the larger companies are seen as less risky and thus more creditworthy.
The trade literature, like the investment literature, has elaborated on the FDI–trade relationship with multiple and combined empirical contributions. How FDI and trade each behaves in the presence of the other depends on local factors, such as trade openness and incentives for FDI activity in foreign markets.\textsuperscript{116} From this perspective, trade openness—critical to advancing regional integration through regional trade agreements—has been considered as complementary to attracting FDI.\textsuperscript{117}

The empirical literature on Africa also provides a wide spectrum of explanations about the trade–FDI relationship. Regional trade agreements are at the heart of this research as Africa begins trade in the AfCFTA, which envisages eliminating tariffs for 90 per cent of trade. If this structure is coupled with common investment rules through an Investment Protocol, complementarities between trade and investment flows could be maximized.

Regional integration theories uncover the links between FDI and trade in the context of countries’ motivations to participate in such schemes as customs unions and free trade areas. They also describe the welfare impact of such participation. There are two kinds of analysis of development strategies in the economic integration literature.\textsuperscript{118} Static analysis seeks to explain the impact of integration on a country’s welfare through trade effects. Dynamic analysis expands the economic rationale for integration beyond trade to include new dimensions, including behind-the-border issues and more.

In static analysis, Jacob Viner’s seminal work (1950) discusses the advantages and disadvantages of economic integration by distinguishing two different effects: trade creation and trade diversion. Regional integration schemes such as customs unions affect trade flows between members and non-members. Trade creation happens when, in the absence of tariff barriers among members, lower-cost producers inside the customs unions can export more to other members with a higher cost base. Trade diversion results from the replacement of imports to member states from more efficient producers outside the union by imports from higher-cost member states. Trade creation increases a country’s welfare, since such a shift goes in the direction of the free-trade allocation of a country’s resources, but trade diversion reduces welfare by a moving away from that.\textsuperscript{119} According to static analysis of comparative advantage, decisions to take part in economic integration schemes become a matter of cost-benefit analysis: it makes sense for a country to participate when integration leads to more trade creation than trade diversion.\textsuperscript{120}

But static analysis is limited in assessing the welfare impact of integration. The concept of dynamic effects explains the wider economic rationale behind economic integration schemes.\textsuperscript{121} Bela A. Balassa identified major dynamic effects of
integration in addition to static trade effects: “large-scale economies, technological change, as well as the impact of integration on market structure and competition, productivity growth, risk and uncertainty, and investment activity.”

Another strain of economic integration theory concerns the applicability of static and dynamic analyses to developing country contexts. Various researchers argue that, in developing countries, dynamic effects analysis is a better instrument to evaluate economic integration. Amr Sadek Hosny (2013), for example, cited studies that question the relevance of mainstream theories of regional economic integration for considering only production and consumption effects while disregarding employment, productivity and income effects that are essential in developing countries.

Contributing further to the question of application, Robert Z. Lawrence (1997) argued that recent integration agreements have more diverse rationales than past efforts, for which countries can unlock economies of scale, economies of scope, investment creation and investment diversion, increased competition and so on.

Economic integration theories thus reveal the often complex economic rationales underpinning regional integration arrangements. In the case of the AfCFTA, the harmonization of investment rules through the Investment Protocol in Phase II shows ambitions, beyond simply boosting intra-regional investment, to deepen regional integration among AU Member States. Future studies of the impact of the AfCFTA need to take these intentions into account.

Empirical evidence supporting theoretical investment underpinnings in Africa

A growing number of empirical contributions attempt to transpose theories on investment and regional integration to the African context and to test them there. The literature has a diverse geographical scope examining evidence from countries, subregions, and even the whole continent. But its results are mixed in substantiating or corroborating the elements of various theories.

Trade openness shows it has a positive relationship with FDI, including agglomeration effects in African subregions or countries. An array of other locational factors also have positive relationships with FDI, including market size, efficient legal systems, political stability and a good business environment. Other research investigates elements of macro stability and nominal or monetary
convergence\textsuperscript{131} and good infrastructure,\textsuperscript{132} among others, in relation to attracting FDI. Some literature reinforces the notion that adequate policies and regulations help attract more sustainable and development-oriented investment.\textsuperscript{133}

Counterfactual research tends to corroborate that thinking. Poor regulation, poor infrastructure\textsuperscript{134} and the prevalence of trade restrictions\textsuperscript{135} deter FDI in Africa. More recent research points to trade facilitation, an aspect of infrastructure specific to trade, as critical to improving gains in the volume of intra-African trade of as much as 22 per cent due to trade openness expected from the AfCFTA.\textsuperscript{136}

The gains from trade facilitation, given the complementarities between trade and investment indicated by the literature, are likely to stimulate market-seeking FDI in the AfCFTA. They also imply a more fundamental structural transformation:\textsuperscript{137} that infrastructure-related FDI, which contributes directly to trade facilitation, could link African economies to global value chains and promote greater trade connectivity and insertion into the world economy.\textsuperscript{138}

Regional and intra-African FDI in recent years have been increasingly geared towards the service economy. Financial services, such as commercial banking and insurance,\textsuperscript{139} have taken the lion’s share of intra-African greenfield investment—as much as 50 per cent in 2003–2014.\textsuperscript{140} That trend also reinforces the notion that more open trade in services could promote further trade in financial services and thereby attract more investment to finance Africa’s structural transformation and development.\textsuperscript{141}

In sum, these African-specific results do not substantially differ from those reported in the literature for other regions or even for the entire world (table 2.1). Even so, some literature establishes a negative relationship between trade openness and FDI in African subregions, pointing to substitution effects between the two.\textsuperscript{142} That finding is consistent with divergent views on FDI and calls for a case-by-case approach with sufficient disaggregation that research results do not mask regional or sectoral specifics.
Table 2.1 Summary of theoretical and empirical literature portraying the relationship of FDI and trade openness in Africa

<table>
<thead>
<tr>
<th>SETUP</th>
<th>A PAIR OF COUNTRIES</th>
<th>SEVERAL COUNTRIES</th>
<th>CONTINENTAL SPACE</th>
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<tbody>
<tr>
<td><strong>Geographical scope</strong></td>
<td>In a theoretical context, any given pair of two countries that dismantle trade barriers between themselves in the context of a free trade area or customs union. Examples from the past: Senegambia, and earlier versions of the East African Community.</td>
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<tr>
<td><strong>Degree of liberalization</strong></td>
<td>Elimination of tariffs in a free trade agreement Set up of a common external tariff in a customs union</td>
<td>Elimination of tariffs in a free trade agreement Set up of a common external tariff in a customs union Sectoral liberalization of services, free movement of people</td>
<td>Liberalization of trade in goods Sectoral liberalization of trade in services Liberalization of investment Regulation on IPRs and competition Free movement of people Liberalized air transport (SAATM) Continental Digital Strategy</td>
</tr>
<tr>
<td><strong>FDI typology</strong></td>
<td>Tariff-jumping FDI, which sought to access a market and possibly also resources in substitution of trade, will cease Market-seeking FDI may increase in the regional trade area market Resource-seeking FDI</td>
<td>Complementary to trade Market-seeking FDI Resource-seeking FDI Efficiency-seeking FDI Learning or knowledge-seeking FDI</td>
<td>Complementary to trade Market-seeking FDI Resource-seeking FDI Efficiency-seeking FDI Learning or knowledge-seeking FDI</td>
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<tr>
<td><strong>Static effects</strong></td>
<td>Reduction in trade in the presence of market-seeking FDI Increase of trade if resource-seeking FDI Reduction of welfare gains from trade if tariff-jumping FDI</td>
<td>Increase in capital flows reflected in the balance of payments capital and current account</td>
<td>Administrative procedures (or arbitration)</td>
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### Dynamic effects

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<tr>
<th>Economies of scale</th>
<th>Economies of scope</th>
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<tr>
<td>Production structure may experience shifts, as labour moves from trade to other sectors</td>
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<tr>
<th>Agglomeration effects</th>
<th>Monetary, nominal or real convergence</th>
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<tr>
<td>Technological change</td>
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<td>Productivity growth</td>
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<td>Increased competition and investment flows</td>
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<th>Complete factor mobility</th>
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<td>Price equalization effects</td>
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<table>
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<tr>
<th>Economies of scope, scale and agglomeration</th>
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<tr>
<td>Regional value chains</td>
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<td>Access to global value chains</td>
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### Expected outcomes

<table>
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<tr>
<th>A free trade area or customs union</th>
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<tr>
<th>A common market</th>
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<tr>
<td>A common digital market</td>
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<table>
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<tr>
<th>A common investment area</th>
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<tr>
<td>A common air transport market</td>
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<td>A common digital space</td>
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</tbody>
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Source: ECA interpretation based on literature cited in this subsection.

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### Linkages between investment, competition, intellectual property and the digital economy

Firm decisions on cross-border investment depend on factors in the behind-the-border areas of competition, intellectual property and digitalization. Among competitive features are market imperfections that might enable a degree of market control or even monopoly. Intellectual property considerations focus on intellectual property embedded in transferrable innovation and technology. Digitalization considerations concern the ways cross-border investment can be complemented and scaled up.

The relationships between investment and competition, intellectual property and the digital economy are fluid. Conceptualizing existing linkages between investment and these various policy areas becomes critical to understanding causality between them. The following discussion offers such a conceptualization and then proposes a theoretical framework for the relationships between investment and such behind-the-border policy areas.

### Competition and investment

Competition can play a key role in helping African countries stimulate and attract investment to achieve inclusive growth and sustainable development. Competition is a double-edged sword: it can stifle investment, but if properly regulated, it can encourage investment. Some empirical and qualitative studies have shown that the contestation of investment opportunities—disputing them by raising points of disagreement—promotes investment. Other studies have shown that, in some cases, competition can dampen firms’ capacity to invest. The impact of competition on investment depends both on precise competition-enhancing measures and the type of investment at stake.
In many African countries, markets are restricted by business practices that undermine competitive dynamics and by government actions that create barriers to healthy competition. Of 55 African countries, 23 have both competition laws in force and competition authorities to enforce them, 10 have laws but no authorities, 4 have competition laws in an advanced stage of preparation and 17 have no competition laws at all. So, fewer than half Africa’s national economies are genuinely ready for a larger and more liberalized market. Of Africa’s regional economic communities (RECs), five have enacted competition laws, which are at different stages of implementation. AU Member States with no competition regulations both weaken the AfCFTA instrument and are more vulnerable to anti-competitive behaviour by firms. Given competition’s role in promoting investment, coherent competition rules and regulatory approaches in the context of the AfCFTA are crucial.

Proliferating digital markets present a further risk. They are multi-sided and characterized by network effects, large economies of scale and scope and increasing returns to scale—which together raise barriers for new entry—and so tend towards oligopoly or monopoly. But in its broader economic setting, the digital economy has lower entry barriers than other, more traditional sectors. If market failures are reigned in, the digital economy can catalyse the rest of the economy.

Since African countries and RECs lack a coherent and coordinated competition policy framework and have disparate competition regimes, anti-competitive conduct could undermine efforts to stimulate and attract investment. The integration of markets under the AfCFTA will likely create breeding ground for cross-border cartels, anti-competitive mergers, other anti-competitive trade agreements and the creation of dominant firms that can abuse their market power. If those factors are not regulated through a concerted framework, they will undermine the investment gains that African countries are seeking.

Effective national, regional and continental enforcement of competition laws will greatly bolster the policies they embody. The AfCFTA policy framework on competition should build on existing national and regional competition frameworks. It should cover the main substantive competition issues: cartels, merger control, abuse of dominance and anti-competitive agreements. It should also address consumer protection issues. Since African countries are at different levels of legal development and governance, the framework should incorporate appropriate exceptions in areas such as public procurement to allow countries the policy space to implement measures to deal with their unique economic challenges. Strengthening the enforcement of national competition laws should be emphasized through building capacity and harmonizing national and REC competition frameworks to
create synergies. Last but not least, a Competition Protocol for the AfCFTA must be adequately negotiated, adopted and implemented, and enforced at the national level in each State Party.

**Intellectual property rights and investment**

Intellectual property rights (IPRs) seek to balance the dynamic trade-offs between generating knowledge or innovation and distributing the resulting benefits or profits. Since knowledge and innovation are public goods (that is, their consumption is non-rival—my benefiting from an innovation does not prevent yours—and non-excludable—everyone typically benefits from innovation), compensation for their benefits for individuals and society often does not accrue to their creators, unless there are strong IPRs. For instance, a lack of protection against low-cost imitation erodes creators’ incentive to innovate, reducing the creators’ productivity and preventing the maximization of benefits.\(^\text{149}\)

These considerations also shape the relationship between investment and IPRs. Research indicates that stronger intellectual property (IP) regimes have higher FDI, while more lenient IP protection rules tend to favour domestic companies. Although robust IP regimes form part of an attractive business environment,\(^\text{150}\) the purpose and type of FDI involved, the overall economic environment, including technological development, the type of industry in question and individual types of IP also matter to investors.\(^\text{151}\) IP protection is only one of many factors weighing on investment decisions. Other factors, as shown above, include factor productivity, regulatory stability and the size of the market.

Strong IP regimes encourage innovation, favour the transfer of modern technologies\(^\text{152}\) and can be expected to attract FDI related to knowledge.\(^\text{153}\) IP protection against copycats rewards the necessary investment, though it implies trade-offs of static and dynamic efficiency.\(^\text{154}\) IPR protection also facilitates product innovation, production relocation and increases in real wages if technology is introduced via FDI.\(^\text{155}\) Companies might be more inclined to technology diffusion through joint ventures if they believe their IPRs are sufficiently protected. Mid-level companies in research and development–intensive industries are the most likely to form joint ventures involving technology diffusion while allowing for flexibilities to maximize consumer welfare.\(^\text{156}\)

But excessive IPR laws can obstruct home-grown innovation and industrialization and by extension slow inclusive and sustainable development.\(^\text{157}\) Stringent IP protection, by hindering smaller firms using imitation and reverse engineering as part of their own innovative processes, can limit knowledge dissemination through those channels. A patent with an excessive term can create a monopolistic or near-monopolistic situation in which a product is undersupplied and the opportunities for new actors are limited or foreclosed.\(^\text{158}\) The restriction affects both horizontal (within the sector) and vertical (across sectors) competition, since both direct consumers of the patented product and indirect consumers—such as companies that use the patented product in their production and their consumers—would face higher costs.
Since stronger IP regimes attract higher levels of FDI and technology licensing but can restrict some kinds of innovation, non-discriminatory and transparent frameworks are needed. Foreign enterprises can engage in enclave production with limited spill-overs, or they might unduly exploit their IPRs to the point of market abuse to hinder dynamic competition driven by follow-on innovation. Investment opportunities in the sector, and the economy at large, could thus deteriorate. So, a delicate balance between IP protection and innovation or knowledge dissemination is needed to give investment a foothold, generate backward linkages to the economy and present opportunities for domestic investment and reinvestment.

The effect of weak IP protection—characterized by imperfect contract enforcement mechanisms—is ambiguous. Investors could be deterred, since their domestic competitors could appropriate know-how that is vulnerable to imitation. Or they could eschew joint ventures or technology-licensing production models in favour of greenfield investments, allowing them to keep control over their know-how. Low-income countries may be well-placed to compete through imitation in industries that are labour-intensive rather than technology-intensive, attracting investment and creating much-needed employment.

Historically, many Asian countries attracted significant volumes of FDI despite weak IP regimes. And many developed nations that today strongly advocate stricter IPRs benefited in the past from more relaxed rules that helped them develop their industries, first tapping low-cost production and learning-by-doing strategies and advancing to higher levels of product and process innovation.

The empirical literature is mixed on what IPR protection is adequate, suggesting once more that a case-by-case approach specific to Africa may be more suitable in understanding causality and the relationship between IPRs and investment.

**Digitalization and investment**

Business operations in today’s world cannot be conceived of without the digital platforms they are transacted on. Services from ride hailing to online tutoring can scale appropriately within and across countries through technology platforms that enable search, booking, payment and reviews and aggregate demand for businesses and entrepreneurs and supply for consumers.

In finance, investments are made through digital platforms. For example, in the agriculture sector, mutual funds and crowdfunding platforms aggregate investors from multiple jurisdictions, while electronic banking spurs business transactions, filling the previous void of financial services for remote, rural areas and marginalized groups.

The relationship between the digital economy and investment is complex. E-commerce can spur FDI inflows, but FDI is often necessary to build the infrastructure to support digital trade in the first place. FDI is thus a first-order issue.
The evolution of companies’ behaviour due to digitalization and the need to promote a thriving digital economy are likely to shape investment policies in African countries. Digital and technology-driven MNEs are less likely to invest in foreign markets than their more traditional peers. When digital and technology-driven MNEs expand, physical investment and job creation are lower than for MNEs in other industries. Companies with higher internet intensity—more likely to be started in developed economies—have been more sensitive than other companies to favourable tax treatment and expect adequate hard and soft infrastructure. There seems to be some substitution between cross-border investment and technology as a way to deliver goods and services across borders.

But a strand of literature suggests that concentration in a market marked by information-intense production, intangible assets, network effects and first-mover advantages can undermine developing countries’ ability to develop competitive companies.

Digitalization can influence market outcomes in many unexpected ways. For example, the internet can lower entry barriers, resulting in more competition and higher productivity. Business models evolve as new technologies are introduced in production (robots and 3D printing), distribution (transformation of previously tangible products into intangible ones), and consumption (for example, streaming). These changes could have profound, yet contrary, impacts on value chains. On the one hand, large companies can now source from a host of suppliers around the world, and micro, small and medium enterprises (MSMEs) can use digital trade platforms to reach customers beyond the borders of their countries. On the other hand, large corporations can demand standardization that is difficult for developing country suppliers to meet, which could also entail lock-in effects making it hard for these suppliers to develop other products for other customers.

African countries must overcome the digital divide that kept their firms from fully integrating into the global digital economy and seizing the opportunities of the digital world. Internet penetration is lower in Africa than in other regions. In industrial output, the value addition of programming services in manufacturing exports rose faster in developed economies than in developing counterparts between 2000 and 2014. Both connectivity and a wider enabling environment are essential for a digital economy to emerge, including local data centres, supportive laws and regulations and local content driving interest in online services.

A case has been made for an African digital industrial strategy. A continental digital market associated with specific industrial policies targeting digitalization would enhance the overall investment attractiveness of the continent. Economies of scale and low transaction costs from digitalization, on the back of clear, predictable and
universal rules, would provide opportunities to enhance competitiveness. Regional integration and cooperation are also needed for African countries to bridge the digital divide and catch up with more developed peers.\textsuperscript{174} Informed by these rationales, the Digital Transformation Strategy for Africa (2020–2030) was formally adopted by the African Union Executive Council in January 2020 (see chapter 7).

Digital trade reveals how big the challenge of the digital economy is. It requires infrastructure for both digital and physical connectivity (roads and ports), skills development and a supportive legal, institutional and regulatory environment.\textsuperscript{175} Investment will be needed to bridge the digital divide. But in addition, a unified continental approach and rules will be needed to support e-commerce, since much of it crosses borders and implies the value of network economies. Any regulations, whether national, regional or continental, would entail the simplification and alignment of rules traditionally managed by diverse line ministries and regulators.

Since connectivity is necessary but not sufficient for a knowledge-based digital economy to emerge, targeted policies must sustain a thriving digital environment.\textsuperscript{176} Many such policies could apply region-wide—including the development of tech incubators and data centres that might attract foreign investors and support local start-ups and new forms of private financing.\textsuperscript{177} Investment decisions in the technology and innovation sector will be affected by the economies of scope and agglomeration tech incubators could provide.

E-government is another avenue for investment in the age of the digital economy. An online government portal can set standards and create demand for online services, thus encouraging investment in the digital economy.\textsuperscript{178} E-government portals providing information on business opportunities and regulations increase transparency, reduce transaction costs and thus contribute to the investment attractiveness of the whole economy.\textsuperscript{179} Since building e-government facilities is resource-intensive, exchanging best practices and experiences could help countries save resources and improve and innovate on the basis of gathered experiences.\textsuperscript{180}

The relationship between investment and the digital economy is multifaceted and bidirectional. A wide rethink of investment policies is needed to target and coordinate a series of targeted approaches across national, regional and continental levels for policy areas such as trade, investment, competition, infrastructure, consumer protection and industrial policy.
A conceptual framework for the interplay between investment and the three behind-the-border policy areas

Although competition, intellectual property rights and digitalization have similarities in attracting investment, the regulatory environment is often far from providing optimal enforcement and protection on the issues that affect them.

Cross-border investment presupposes competition at one level across the MNEs that venture abroad and at second level between MNEs and domestic firms already operating in the market where the MNE chooses to invest. Some theories, as has been noted, highlight the added advantage firms sometimes have to set up operations in a foreign market through cross-border investment so they can exercise some form of market power or even anti-competitive behaviour where market failures allow it.

Investing MNEs, especially those transferring know-how, technology and intermediate inputs incorporating intangible assets, embed elements of intellectual property such as industrial design, patents, copyrights and industrial secrets in their investment. That IP forms part of the goods or services they sell through their foreign operations, often representing the unique or competitive advantage of such firms over their domestic competitors in today’s knowledge economy.

And many companies investing in foreign operations use digital platforms for their transactions or their outreach to prospective consumers and to the producers of vital inputs of their core business. Such firms’ investments are strongly determined by the digital space they can tap into. It is the digital economy that allows them to diversify, expand their business strategy and employ new elements of trade (e-commerce) and investment (e-finance and e-banking) well beyond their initial investment.

The way firms engage across borders is porous and changeable. Their investment and trade operations are strongly determined by the measures and regulations governing local market conditions. Most conditions shaping competition and local protection for intellectual property have classically remained behind the borders, meaning they are under the purview of national regulatory authorities and domestic regulations—which can in turn be curtailed by international agreements the country has joined.

So, market access for firms from abroad can only be fully evaluated when the effect is known of the “interference” of domestic regulations on their ability to operate just like domestic firms. In other words, effective market access is defined by the ability to be treated similarly to domestic competitors under domestic regulations so the firm from abroad has comparable opportunities to compete (and
be protected) in the domestic market. And digitally driven investment vehicles and models require evolved regulatory supervision within national borders and cooperation across borders.

For example, in Nigeria, the Mavrodi Mundi Moneybox digital platform (also known as MMM) collapsed in 2016, leaving individual investors with significant losses. But financial regulators were unable to intervene, finding that type of platform beyond their remit of action.

Underregulation can also distort market functionalities and aggravate market failures, as often happens in the absence of competition regulations. Digital markets, which are characterized by network effects, control over user data and increasing returns to scale, often suffer market power abuse that raises barriers to entry, especially when the markets are not regulated well enough to ensure fair and free competition and adequate consumer protection.

The regulation of other investment-related issues, such as taxation, has also been transformed. Technology giants such as Facebook and Google collect payments for services, such as advertisements and subscriptions, without remitting value-added tax (VAT) or corporate tax in the jurisdictions where revenue is collected. This is a concern in many African countries, especially where efforts, not restricted to the digital economy, are under way to improve domestic resource mobilization through widening and deepening the tax base.

The proliferation of borderless digital platforms can integrate African economies through networked industries, value chains and institutions. Nonetheless, digitalization creates virtually linked economies and raises traditional concerns around investment in addition to taxation, such as intellectual property ownership; protections for investors, workers and consumers; and the establishment and enforcement of standards, among others (see chapter 7). At the same time, digitalization also offers opportunities for greater industrial development, including in the context of the Fourth Industrial Revolution.

In sum, the benefits of investment, in tandem with competition and IP opportunities in digitalized economies, will be maximized where coherent regulations and supervisory structures ensure protection for corporate and individual investors and investors’ end clients. This is particularly important when investors do not stand on the same footing. As mentioned above, levelling the playing field implies that governments take account of the differences across the panoply of investors and investment models, and seeks to offer condition under which certain types of investor are not crowded out because of regulatory or market imperfections.
To view the complex relationships between investment and the behind-the-border issues, a conceptual framework is proposed that points to location factors, among others, as major determinants of FDI. A starting point is the eclectic paradigm, also known as the ownership, location, and internalization (OLI) model, which considers pull and push factors besides location. It will help to explain how creating a common African market in the AfCFTA will attract investment from MNEs able to take advantage of ownership and internalization advantages and combine them with the locational advantages the AfCFTA presents.

The conceptual framework below attempts to capture the ownership, location, and internalization advantages that MNEs tap into when investing in the AfCFTA common market (figure 2.1). An MNE choosing the continental market as a host for its business operations based on location will incorporate into its decision a view of competition based on the protection AfCFTA common competition rules will provide against unfair competition (such as abuse of market power and predatory behaviour by incumbent firms or copycats) and on the effective market access such rules will confer in the AfCFTA common market.

And an MNE is likely to invest in a host country in the AfCFTA if two IP conditions are observed. First, regulatory and policy enablers for IP must be in place. Regulations cover patents, copyrights, trade secrets and industrial design. Policy enablers include effective IP enforcement in the host country and in countries where the firm’s IP assets are registered, as enabled by the AfCFTA Intellectual Property Protocol (chapter 4). Second, other locational factors that may make one host more attractive than another in the AfCFTA market might be proximity to knowledge or technology institutions and innovation hubs and incubators.

Last, an MNE assuming that investment and trade are complementary and vying to invest will consider FDI the right conduit for its business operations in a given host economy if operations will be able to expand into the e-trade of its goods and services in a common digital space under the AfCFTA. The envisaged protocol on e-commerce under the AfCFTA is a critical location factor besides enabling regulations facilitating digital trade, as is the information and communications technology infrastructure and the digital readiness of the envisaged host country.

African MNEs may be latecomers in regional and global value chains, so the ownership-location-internalization model may not be sufficient to explain how they might begin to participate. Since those companies would first expand their operations and gain experience in the regional value chains that the AfCFTA is expected to foster, they need strategies to link, leverage, and learn (LLL) from that experience. As they grow stronger and emerge as MNEs, they could expand their activities further, beyond the African market. So the elaboration of the conceptual framework through the LLL framework should complement the OLI framework.
Figure 2.1 depicts how African firms will operate in the context of the newly established AfCFTA under the LLL framework. Now that trade has formally commenced, barriers to trade in goods and services will be reduced and dismantled. Four additional protocols will be instituted governing investment, competition, intellectual property and e-commerce, for which negotiations are expected to start soon. The protocols will contain elements to bolster the LLL process of African firms to maximize the desired outcomes of a common AfCFTA market where goods, services, capital and people can circulate freely.

First, African small and medium-sized enterprises (SMEs) will have the incentive and ability under such conditions to link themselves to more mature MNEs, such as the Dangote Group (which even before the AfCFTA formally began was operating across African markets). Since the MNEs that already have a considerable and firm foothold on the continent are expected to have first mover advantages, demand for their goods and services will increase, creating opportunities for SMEs to link themselves to bigger MNEs through supplier and outsourcing contracts for products, inputs and services.

In a second stage, African firms will leverage resources and inputs through the advantages of the four AfCFTA protocols as they are implemented in 2021 and beyond. The AfCFTA will produce an African common investment area under the Investment Protocol and a common digital market under the E-commerce Protocol. African firms will be able to use digital platforms to leverage resources and inputs for, for instance, local sourcing contracts. They will also be able to access wider credit markets and financial technology (fintech) opportunities under the common investment area to expand their production possibilities. That will let them respond to the growing demands from the MNEs they supply and to foster greater opportunities with a wider network of MNEs.

The protocols’ provisions will be key to this process. For example, the elements of the protocol on investment—such as the definition of an investment in the common investment area, or protection against convertibility and transferability risks for investments and their proceeds—will enable intra-African investment to flow more freely across the African markets. Equally, a protocol on competition must contain elements to support adequate and fair competition across all continental markets, including the common investment area’s credit markets so intra-African investment will be accessible to firms.

Provisions in the Intellectual Property Protocol must balance attracting international investment through a protection regime with incentivizing home-grown innovation (excessive IP laws deter local innovation). And the E-commerce Protocol will be a paramount and regulatory tool cutting across all levels and sectors of the economy to bolster the link, leverage and learn (LLL) process. Digitalization in Africa will ease doing business so that firms can compete and ultimately attract investment. However, acquiring digital platforms, upgrading the technological infrastructure and investing in cybersecurity and fraud prevention pose major cost and resource challenges.
Figure 2.1 A conceptual framework linking investment to IPRs, competition and digitalization


DIGITALIZATION-LINKED OLI ASSETS

OWNERSHIP ASSETS: In-house development of digital tools and digital strategies (e.g., marketing and sales strategy through e-commerce platforms and distribution chains)

LOCATION ASSETS: Prevalence of digital infrastructure and a digital market space, regulatory and policy enablers for digitalization, enabled by an E-commerce Protocol in the AfCFTA and associated national digital trade strategies

INTERNALIZATION ASSETS: Ability to uptake digital technologies and innovation through the digital space, ability to engage suppliers of digital technologies and applications in lock-in contracts and exclusive supply modalities

IPRS AND ENFORCEMENT-LINKED OLI ASSETS

OWNERSHIP ASSETS: Patents, industrial designs, copyrights or trade secrets, owned by the firm covering the firm’s research and development assets, products and services, including for business and management processes

LOCATION ASSETS: Regulatory and policy enablers for IP, such as effective IP regulation enforcement in the host country and in countries where IPR assets of the firm are registered, as enabled by the AfCFTA IP Protocol

INTELLECTUAL-ASSETS: Uptake and usage of research and development assets, as well as benefit accrual from IP protection (royalties & fees stemming from patent and copyrights use). Ability to protect ownership assets from unwanted consumption by third parties (both consumers and producers) through lock-in contracts and physical or technical measures

COMPETITION-LINKED OLI ASSETS

OWNERSHIP ASSETS: Competitive or firm-specific asset or advantage (e.g., a company’s management model or strategy)

LOCATION ASSETS: Regulatory and policy enablers for competition (i.e., covering elements of antitrust, protection against market power and predatory behaviour, consumer protection and ensuring a degree of effective market access in the AfCFTA Competition Protocol

INTERNALIZATION ASSETS: Ability to protect and safeguard company assets, such as knowledge about internal price structures, clients and input providers, from unfair competition
The protocols’ provisions could foster cooperative frameworks for shared digital platforms for business, addressing common challenges that must be met with harmonized regulations. They could also incentivize African countries to share experiences and best practices for e-government facilities to improve ease of doing business, boosting efficiency and cutting red tape for firms. That would bolster efforts towards the AU’s Digital Transformation Strategy initiative (see chapter 7).

In the third stage of LLL, learning, the AfCFTA’s industrialization and infrastructure pillars will be further bolstered, and regional value chains in the AfCFTA will bring about greater connectivity for the common market’s entrepreneurs. African firms that have gone through linkage and leverage will find themselves in a position to learn through imitation and other means from the MNEs they have been partnering with. They will eventually emerge as MNEs themselves when they learn how diversify and scale up supply by adapting business models to local realities and AfCFTA market space demands in a continuous and iterative process. They will thus become more adaptable and able to compete.

Across all three link, leverage and learn stages, the transformation of African SMEs into full-fledged MNEs will be affected by the flanking issues that require proper attention by policymakers. For example, even after the full implementation of AfCFTA, differences across African markets will remain in the ease of doing business (registering a business, obtaining operating licenses, hiring staff, enforcing contracts and so on). Similarly, divergent fiscal regimes could create opportunities for the newly minted MNEs to engage in creative transfer pricing or other tax strategies (legitimate and illegitimate) to minimize their total tax liabilities. Continental coordination on tax and private sector policies will be needed to avoid a race to the bottom that could negate some gains from deepening regional integration.

Targeted support and assistance for firms’ participation in the economy will be required above and beyond linkage, leverage and learning. A level playing field is necessary so all players can take part in economic activity. As noted above, a level playing field requires policies and regulations permitting firms to deliberately seek backward and forward linkages in economic activity to strengthen and extend the entrepreneurial fabric. A third level of intervention is needed, where complementary national, subregional and regional policies and flanking policies in other policy domains ensure such connectivity for African entrepreneurs, big and small (figure 2.2).185

This chapter has proposed a conceptual framework theoretically compatible with the AfCFTA, explaining how investment is linked to competition, intellectual property and digitalization. The report now turns to specific applications in investment, competition, e-commerce and intellectual property rights. The following chapters review existing national and regional policies and regulations, document best practices and propose recommendations for a common investment area levelling the playing field for productive and sustainable investment across Africa.
**Figure 2.2 Applying the lens of the link, leverage and learn framework to the AfCFTA**

<table>
<thead>
<tr>
<th><strong>INVESTMENT PROTOCOL</strong></th>
<th><strong>COMPETITION PROTOCOL</strong></th>
<th><strong>IP PROTOCOL</strong></th>
<th><strong>E-COMMERCE PROTOCOL</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>National and most-favored-nation treatment</td>
<td>Covers anti-trust, abuse of market power, predatory behavior and so on</td>
<td>Rules covering patents, traditional knowledge, geographical indications, copyrights and industrial design in a continental space</td>
<td>Creates a digital market for e-commerce</td>
</tr>
<tr>
<td>Eliminates barriers to investment and creates common investment area</td>
<td>Offers a cooperation framework</td>
<td>Possibility of legal redress and remedies when IPRs are infringed</td>
<td>Sets standards on cybersecurity and interoperability</td>
</tr>
<tr>
<td>Protects investments and provides redress in disputes</td>
<td>Redress against anticompetitive practices</td>
<td>National and regional competition policies</td>
<td>Common rules for e-trade</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>COMPETITION</strong></th>
<th><strong>IPRs</strong></th>
<th><strong>DIGITAL</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LINKAGE</strong></td>
<td>Ability of competing latecoming firms to establish sourcing relationships with existing MNEs on the continent</td>
<td>Ability of MNEs to leverage existing locational assets the AfCFTA may offer, such as access to credit in a common investment area, access to a continental labour force and other factors and inputs</td>
</tr>
<tr>
<td><strong>LEVERAGE</strong></td>
<td>Ability of latecomer firms to develop technologies or innovative products and services in demand by established MNEs</td>
<td>Ability of latecomer firms to leverage and tap into R&amp;D resources on the continent, as well as a result of continental IP regulation that protects and markets technologies and innovation</td>
</tr>
<tr>
<td><strong>LEARNING</strong></td>
<td>Ability of latecomer firms to use the digital AfCFTA market to sell intermediary goods and services to existing MNEs</td>
<td>Ability of competing latecoming firms to establish sourcing relationships with existing MNEs on the continent</td>
</tr>
</tbody>
</table>

**COMPLEMENTARY MEASURES AND FLANKING POLICIES**

<table>
<thead>
<tr>
<th><strong>TRADE POLICY</strong></th>
<th><strong>FISCAL POLICY</strong></th>
<th><strong>PRIVATE SECTOR POLICY</strong></th>
<th><strong>OTHER POLICY AREAS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>National and regional digital policies and strategies</td>
<td>National and regional competition policies</td>
<td>National and regional IP policies</td>
<td>National and regional digital policies and strategies</td>
</tr>
<tr>
<td>National and regional digital trade and economy institutions</td>
<td>National and regional competition authorities</td>
<td>National and regional IP bodies</td>
<td>National and regional digital trade and economy institutions</td>
</tr>
<tr>
<td>National and regional AfCFTA strategies</td>
<td>National and regional AfCFTA strategies</td>
<td>National and regional AfCFTA strategies</td>
<td>National and regional AfCFTA strategies</td>
</tr>
</tbody>
</table>

Source: Based on Mathews (2002).
References


End notes

97 In the mainstream literature, the standard asset-based minimum for FDI is 10 per cent of voting stock or voting power in a firm that operates outside the investor's economy. Capital below that threshold is treated as portfolio investment. See World Bank (2014) and OECD (2008) for commonly used FDI definitions and benchmarks.

98 Traditionally in the literature, investment competition, intellectual property and digitalization (as part of wider ICT regimes) were considered to be policy areas under national regulatory purview, addressed within national confines and hence dubbed as behind-the-border issues. With the expansion of trade agreements and trade regimes, which widened their scope to include such issues, they have increasingly become part of international regulation. The discussions below further details why the lines are blurred in the sense that in today's day and age, and thanks to the advancement of digitalization, these policy areas have transcended national confines and are often found in a regulatory vacuum or regulatory disconnect because neither national nor international regulation have adequately catered for them, or alternatively because existing regulation at the national and international level is disjointed and conflicting, leading to a so-called regulatory disconnect. For digitalization in particular, the discussion in chapter 7 elaborates on the modalities required for overcoming the challenge of regulatory and policy disconnect.

99 For a summary of the various theoretical underpinnings of FDI see Pílez (2011) and ECA (2020a).

100 Coase, 1937.


103 Kindleberger, 1969.

104 Akamatsu, 1962.

105 These O/L/I advantages can be replicated against economy-wide policy frameworks in various ways, helping policymakers better understand under what policy channels they can incentivize investment to meeting policy objectives. Examples of complementary policy areas are given in figure 2.1.


112 Belderbos and Steuwaegen, 1998; Brainard, 1997; Caves, 1996; Ma, Morikawa and Shone, 2000.


115 Barth, Caprio and Levine, 2006; Caprio, Hanson and Litan, 2005.

116 Dunning, 1993; Markussen and Maskus, 2002.


118 Marinov, 2014.

119 Marinov, 2014; Rekiso, 2017.


121 Balassa, 1961; Cooper and Massell, 1965.


123 Rekiso, 2017.

124 Balassa and Stoutjesdijk, 1975; Corden and Neary, 1982.


127 Marinov, 1999.


129 Anyanwu and Yameogo, 2015; Asiedu, 2006; Bartels, Kratzsch and Eicher, 2009; Mijiyawa, 2015.

130 Benjamin, 2012; Morisset, 2000; Nnaode and Njuguna, 2011.


134 Dupasquier and Osakwe, 2006.


136 ECA, 2013.

137 Structural transformation is conceived as a shifting of gears from lower value-added activities and lower productivity to higher value-added activities and higher productivity within and across economic sectors. This is best demonstrated when countries move from the lower end of global value chains, where activities are characteristically extractive and there is little value-added, to activities higher up, which have more advanced and sophisticated production processes, implying a greater adding of value into the final good or service being produced (ECA, 2020a).

138 ECA, 2020a.

139 Krüger and Strauss, 2015.

140 ECA, 2020a.

141 ECA, 2020a.

142 Kudahl, 2014.

143 Aidakou and MacKay, 2008.

144 Mathis and Sand-Zantman, 2014.


146 ECA, 2019a.

147 World Bank, 2016.

148 Dessemond, 2019.

149 Other situations where the accrual of benefits and profits may not be in the hands of the knowledge creators or innovators relates to profits that accrue to the rightful owners of registered geographical indications and traditional knowledge-based products.


151 Correa, 1995; Maskus and Yang, 2000.

152 Maskus and Yang, 2000.


154 Fink and Maskus, 2005.


156 Leahy and Naghavi, 2010.


158 Greenhalgh and Rogers, 2010.

159 Maskus and Yang, 2000.


162 Correa, 1995; Chang, 2002. For China, see Mansfield (1994) and Yu (2007); for South Korea, see Lee and Kim (2010).


164 Pires, Stanton and Salavarakos, 2010.

165 UNCTAD, 2017b.


Several such portals do exist. In the field of investment promotion, work has been advanced in developing the electronic investment guides (iGuides). For examples of such portals in the African continent, see chapter 6.

Chapter 7 draws attention to some of the policy disconnects between, investment, trade and fiscal policy. Earlier work of ECA on the nexus between digitalization and fiscal policies and digitalization and industrialization is also found in ECA (2019c, 2020c). Analysis on the relationship between investment and taxation in the context of bilateral investment treaties and double taxation treaties is found in ECA (2020b).

Chapter 7 of the present publications looks at some of the actions that may be necessary in support of overcoming the existing policy disconnect.