



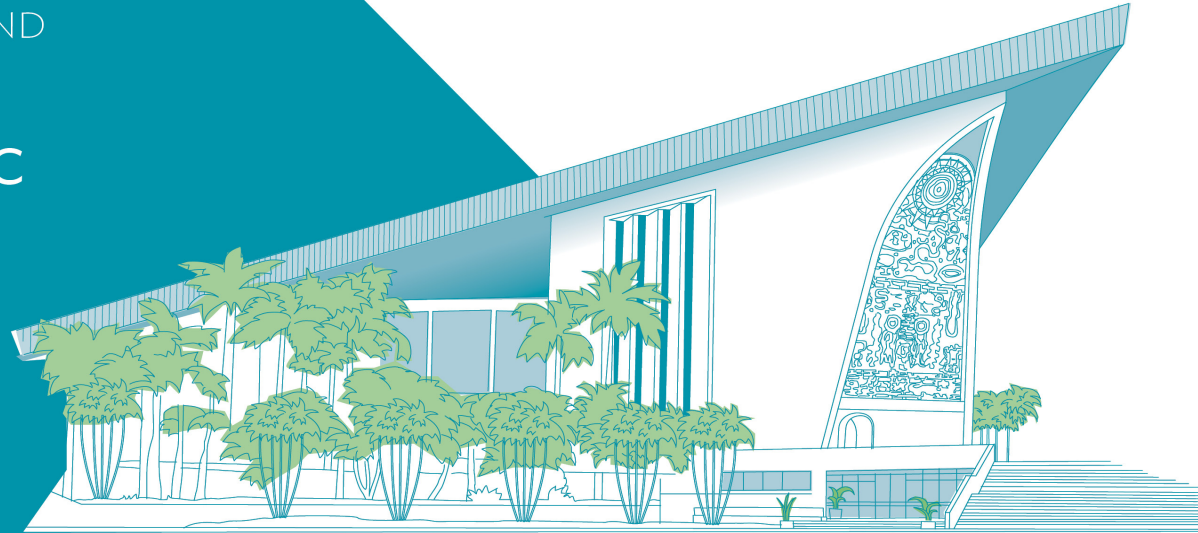
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INTERNATIONAL MEDIATION AND
ARBITRATION CONFERENCE

2nd South Pacific International Arbitration Conference

25–26 March 2019
Stanley Hotel, Port Moresby
Papua New Guinea



ECONOMICS OF INTERNATIONAL ARBITRATION

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University of Valencia, Spain
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If FDI & trade were a country.....they would be a **big one**

GDP (billions of \$)

- 1 United States 18,036
- 2 **Trade 16,576**
- 3 Japan 4,383
- 4 Germany 3,363
- 5 United Kingdom 2,861
- 6 France 2,419
- 7 India 2,419
- 8 **FDI 2,136**
- 9 Brazil 1,804
- 10 Canada 1,553
- 11 Korea 1,378
- 12 Russia 1,366
- 13 Australia 1,339
- 14 Spain 1,193

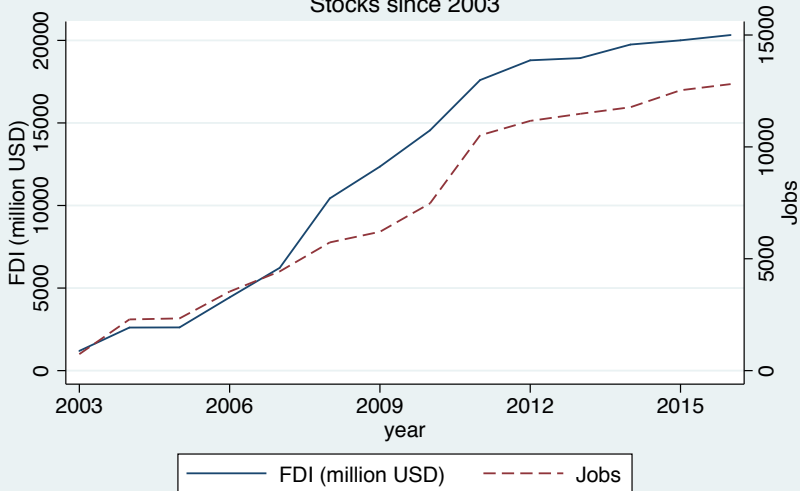
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Outline

- 1 Introduction
 - Teaser
 - Objectives
- 2 Some motivating facts about FDI in PNG
 - How much
 - What
 - From whom: Gravity Falls
- 3 Fostering International Business through arbitration
 - Determinants of trade and FDI
 - Contractual environment & FDI
 - Economic effects of arbitration on trade & FDI
 - Best practices in the South Pacific
- 4 Tips & takeaways

Foreign Direct Investment in PNG

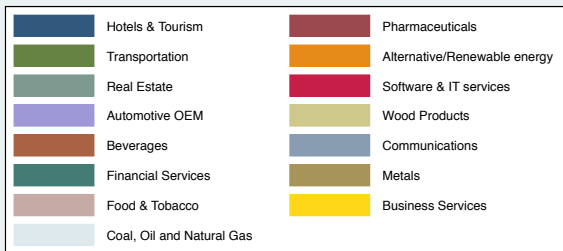
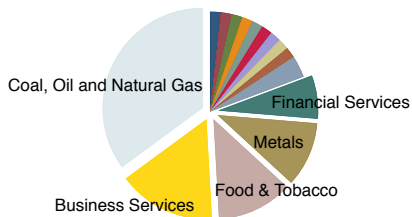
Stocks since 2003



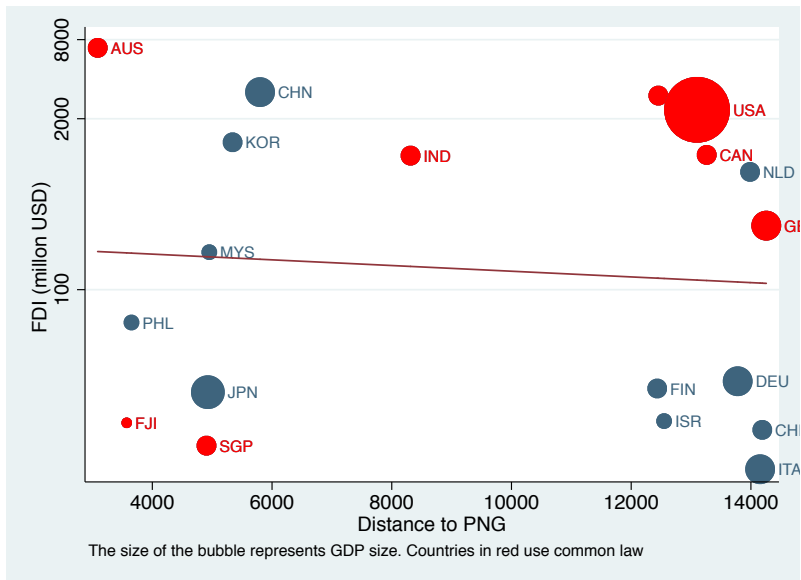
Greenfield Investment. Source: FDI Markets

FDI in PNG

Sectors (number of projects)



Greenfield Investment.Source: FDI Markets



Determining Flows: What

Comparative Advantage

- Comparative advantage: predicts trade patterns and aggregate gains from trade
- Intuition: Export what you do best and import the rest.
 - Relative to Australia, PNG is relatively more efficient at producing metals than textiles ...
 - ... so PNG will export metals, Australia textiles.
- Both countries gain: Trade not a zero-sum game
 - Countries that are different have the potential for large gains

Determining Volumes: How much

Gravity equation

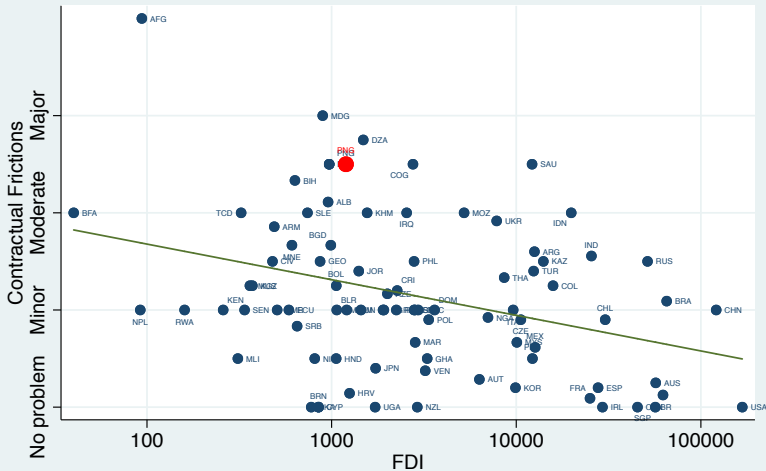
- Trade volumes follow the law of gravity:

$$FDI_{i \rightarrow j} = \underbrace{\frac{GDP_i GDP_j}{GDP_{world}}}_{\text{Economic size}} \times \underbrace{\left(\frac{\text{Contractual environment}}{Distance_{i \rightarrow j}} \right)}_{\text{Frictions}}$$

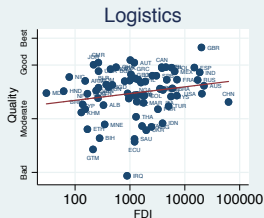
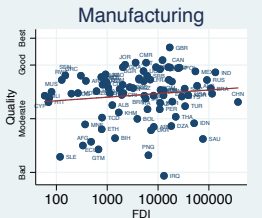
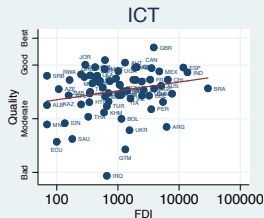
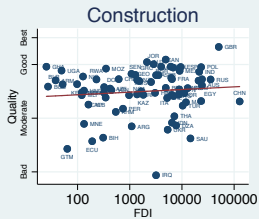
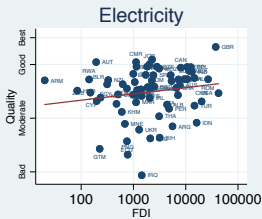
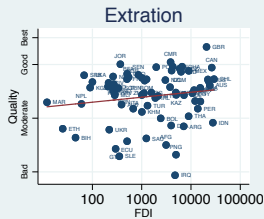
- FDI & trade increase with economic activity (more consumers & producers)
- FDI & trade falls with certain frictions:
 - Natural: Distance & History & Culture & Language
 - Man-made: Contractual & institutional environment

Contractual Frictions vs. Inward FDI

Year 2012



Arbitration Quality vs. FDI by Sector



FDI in Million USD

What is International Commercial Arbitration?

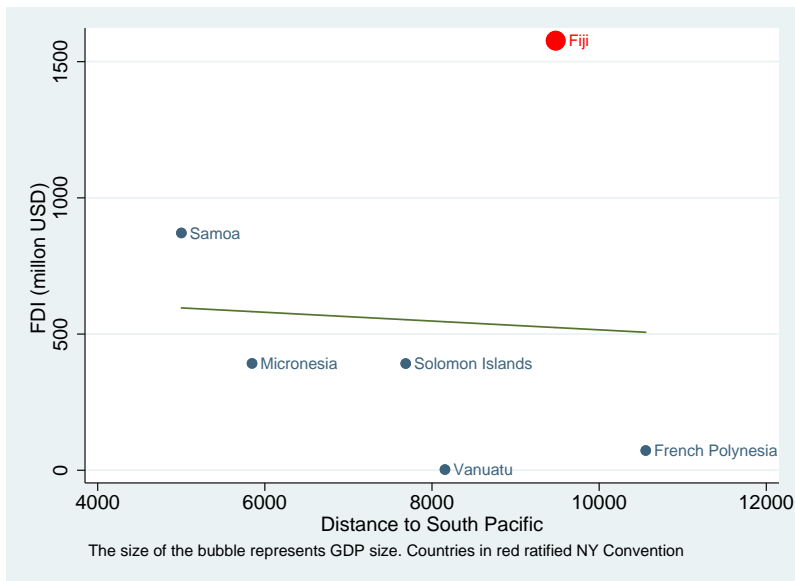


Mechanisms by which arbitration affects FDI & trade

- Arbitration provides an effective and predictable dispute settlement mechanism:
 - 1 Flexible, confidential & final:
 - Award can be executed worldwide
 - 2 Increases the trust between parties:
 - High cost of engaging in nuisance suits
 - 3 Reduces the uncertainty of litigation in domestic courts in trade disputes:
 - Choice of law

Economics of arbitration: options and effects?

- ① International agreements
 - Ratifying the NY convention on arbitration has increased FDI flows by 77% and trade flows by 19%
- ② Domestic law reform
 - Implementing UNCITRAL Model Laws has increased FDI flows by 67% and trade flows by 7%
- Arbitration increases the size of FDI projects, rather than their number
 - The effect is greater for larger projects, distant countries and weaker contractual environments



International Business Promotion

Countries have three basic ways to escape the “gravity push” and promote trade and FDI

- ① Get closer
 - Play for gravity (not against it): Common language, historical links
 - Be social: What happens in PNG stays online!
- ② Grow bigger
 - Seek comparative advantages & economic growth
 - Human capital, knowledge, innovation
- ③ Be smarter!
 - Reduce man-made frictions
 - Provide a better contractual environment via arbitration

tenk yu tru

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Background

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- 4 Gil-Pareja, S., Llorca-Vivero, R. & Paniagua, J. (2018). Trade Law and Trade Flows. Working Papers 1804, Department of Applied Economics II, Universidad de Valencia.
- 5 Paniagua, J., Korzynski, P., & Mas-Tur, A. (2017). Crossing borders with social media: Online social networks and FDI. *European Management Journal*, 35(3), 314-326