

WALL STREET JOURNAL

Beware the BIT

In your editorial on a possible China-U.S. bilateral investment treaty ("[China Chomps at the BIT](#)," Review & Outlook, Aug. 14), you state that "The goal in the [treaty] ... is to extend the principle of 'national treatment'—foreign firms are treated the same as domestic ones—to the greatest possible extent."

If national treatment were the only obligation, these treaties would be great. Unfortunately, they go well beyond this basic principle, and include vague and broad provisions such as "fair and equitable treatment" and "full protection and security." These obligations may sound innocuous, but when put in the hands of clever lawyers they have been stretched quite far. In domestic legal systems with greater legitimacy, they work quite well. But in an international process where investors can sue foreign governments directly, and ad hoc tribunals make rulings, they have made international investment rules more about litigation than liberalization.

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