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Regionalism and Cross-Border Investment: The Political Economy of Malaysia's Outward Foreign Direct Investment in India

Regionalisme dan Pelaburan Rentas Sempadan: Ekonomi Politik Pelaburan Langsung Asing Keluar oleh Malaysia di India

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ABSTRACT

This study contributes to the discourse on regional dynamism by exploring key impediments to outward foreign direct investment (OFDI) despite growing regionalism between both countries. Growing Malaysia–India relations in recent years have not only led to new dimensions in bilateral trade but also investment. This study examines a significant, yet underexplored issue related to the dynamics of Malaysia's economic engagement in investment with India. An important international political economy question that deserves our attention is, did enhanced regionalism—as seen by the increase in preferential trade agreements (PTAs) between Malaysia and India, in particular Malaysia-India Comprehensive Economic Cooperation Agreement (MICECA)—play an important role in stimulating Malaysia's OFDI in India. Using a qualitative comparative case study approach, the article compares AirAsia's aviation investment and IHH Healthcare Berhad's healthcare investment in India over the 2013–2024 study period, focusing on their market entry, regulatory encounters, and strategic responses. While the macro context shows promising investment opportunities offered by the PTAs for Malaysian firms in various sectors, our case studies provide fresh insights into various problems and challenges facing Malaysian firms' ventures in India. Despite the liberalisation of India's services sector, there is a 'regulatory minefield' through which foreign investors have to navigate. Only the big corporations with strong financial resources are well positioned to take the right strategic options to steer through the minefield.

Keywords: India; Malaysia; Preferential Trade Agreements; Outward Foreign Direct Investment; Regionalism

ABSTRAK

Kajian ini menyumbang kepada wacana mengenai kedinamikan serantau dengan meneroka halangan utama kepada pelaburan langsung asing keluar (OFDI) walaupun terdapat peningkatan regionalisme antara kedua-dua negara. Hubungan Malaysia-India yang semakin berkembang sejak kebelakangan ini bukan sahaja membawa kepada dimensi baru dalam perdagangan dua hala malah turut merangkumi pelaburan. Kajian ini meneliti isu penting yang masih kurang ditinjau berkaitan dengan kedinamikan penglibatan ekonomi Malaysia dalam pelaburan dengan India. Satu persoalan penting dalam ekonomi politik antarabangsa yang wajar mendapat perhatian kita adalah, adakah peningkatan regionalisme —seperti yang dilihat menerusi peningkatan perjanjian perdagangan keutamaan antara Malaysia dan India, khususnya Perjanjian Kerjasama Ekonomi Komprehensif Malaysia-India (MICECA)— memainkan peranan penting dalam merangsang OFDI Malaysia di India. Dengan menggunakan pendekatan kajian kes perbandingan kualitatif, artikel ini membandingkan pelaburan penerbangan AirAsia dan pelaburan penjagaan kesihatan IHH Healthcare Berhad di India sepanjang tempoh kajian 2013–2024, dengan fokus kepada kemasukan pasaran, cabaran kawal selia, dan tindak balas strategik mereka. Walaupun konteks makro menunjukkan peluang pelaburan cerah yang ditawarkan oleh PTA untuk firma Malaysia dalam pelbagai sektor, kajian kes kami merungkai pelbagai masalah dan cabaran yang dihadapi oleh pelaburan oleh firma Malaysia di India. Di sebalik liberalisasi sektor perkhidmatan India, terdapat medan ranjau peraturan yang perlu diharungi oleh pelabur asing. Hanya syarikat besar yang mempunyai sumber kewangan yang kukuh berada pada kedudukan yang baik untuk mengambil opsyen strategik yang sesuai bagi mengharungi medan ranjau tersebut.

Kata kunci: India; Malaysia; Perjanjian Perdagangan Keutamaan; Pelaburan Langsung Asing Keluar; Regionalisme

INTRODUCTION

With the 'Look East' (LEP), later refined as the Act East Policy (AEP), India has strengthened its engagement with ASEAN to promote economic integration with East Asia and the Pacific and to balance China's growing regional influence (Acharya, 2015). Since becoming a full ASEAN dialogue partner in 1995, India-ASEAN relations have expanded across political, economic, and security domains, with economic cooperation remaining the core focus (Kipgen, 2020; Ghosh, 2024). Building on closer ASEAN-India economic relations, Malaysia signed the 'Malaysia-India Comprehensive Economic Cooperation Agreement' (MICECA) with India in February 2011, effective from July 2011. Extending ASEAN-India Trade in Goods Agreement (AITIGA), it covered trade in goods and services, the movement of natural persons, investment and economic cooperation in infrastructure development, human resource development, science and technology, including health, creative industries, tourism, small and medium enterprises, business facilitation and finance (MITI, 2011, pp. 81–82). Both sides agreed to reduce tariffs and ensure fair, non-discriminatory investment protection, including dispute resolution. India allowed 49-100% Malaysian equity in 84 service sub-sectors; Malaysia reciprocated in 91 sub-sectors, including professional services, telecom, healthcare, and retail (MITI, 2011, 2016).

While existing studies largely focus on trade expansion (Banik & Kim, 2024; Chandran & Nathan, 2015), less attention has been paid to whether deepening Malaysia-India economic ties have stimulated Malaysian outward foreign direct investment (OFDI) in India. From an international political economy perspective, an important question is whether enhanced regionalism—particularly the MICECA—has facilitated Malaysian OFDI in India. The literature suggests that preferential trade agreements can promote cross-border investment by lowering investment barriers and expanding market opportunities (Choudhury et al., 2025; Huang, 2026; Medvedev, 2012; Wang et al., 2026; Yue et al., 2023). Against the backdrop of deepening Malaysia-India economic relations, this paper examines Malaysian OFDI in India through two case studies: one public listed firm and one government-linked company (GLC) operating in the liberalised but highly competitive aviation and healthcare services sectors. The analysis focuses on investment trends, challenges, and constraints faced by Malaysian firms. While enhanced regionalism has created new opportunities, persistent structural and regulatory impediments continue to shape investment outcomes.

LITERATURE REVIEW

This section reviews how PTAs have evolved beyond tariff reduction to include deeper investment and services provisions. They shape cross-border investment through four mechanisms that are connected and roughly sequential. First, PTAs allow governments to tie their hands by making commitments in a binding external agreement. This reassures investors that policies will not be reversed later. By raising the reputational and legal costs of policy reversal, such agreements send credible signals to potential investors—an effect that proves especially consequential in countries where domestic institutions are weak or underdeveloped (Büthe & Milner, 2008, 2014). This credibility-enhancing function, in turn, lays the groundwork for a second mechanism: the legalization of investor rights. Contemporary PTAs usually include provisions on national treatment, protection against expropriation, and investor-state dispute settlement. These turn what might otherwise be informal promises into binding rules, reducing uncertainty about the regulatory

environment once a firm has invested (Gamso & Grosse, 2021; Laget et al., 2021; Miroudot & Rigo, 2022).

Once such institutional conditions are established, a third mechanism becomes operative. The removal of tariff and non-tariff barriers, combined with efforts to harmonise regulatory standards, lowers the transaction costs of geographically dispersing production. Firms are consequently better positioned to engage in vertical FDI and participate in global value chains (GVCs), and available evidence suggests that deeper agreements deliver considerably stronger investment effects than shallow liberalisation (Bruhn, 2014; Gounder et al., 2019). In service sectors such as aviation and healthcare, however, production integration depends less on physical manufacturing supply chains and more on regulatory harmonisation and the licences and approvals required to establish and operate locally. Service-sector investments are especially vulnerable to what may be termed a regulatory minefield − a complex web of sector-specific licensing requirements, state-level regulations, professional accreditation rules, local content obligations, bureaucratic discretion, and informal governance arrangements. Unlike manufacturing, where tariffs and customs procedures often dominate, services are highly dependent on domestic regulatory systems. Consequently, investors must navigate a series of localized institutional filters that often determine actual market access more than formal trade agreements. Hence, overcoming non-tariff barriers and regulatory friction is critically important.

A fourth and final mechanism concerns how PTAs redistribute incentives across firms. Because firms in member states enjoy better treatment, firms from outside the bloc are left at a disadvantage. Some respond by investing within the PTA area to protect their market access, either defending existing sales or setting up an export base there. At the same time, the gains from liberalisation are unevenly distributed, tending to favour more productive and export-orientated firms over others (Baccini & Dür, 2015; Baccini et al., 2017). Considered together, these four mechanisms reveal that PTAs have come to function as layered governance structures that do not merely open markets but actively shape the conditions under which cross-border investment occurs—though not without costs, including constraints on regulatory autonomy and uneven distributional consequences.

Despite the entry into force of the MICECA in 2011, Malaysia's share of India's total FDI inflows remained relatively modest. Existing studies suggest that this divergence can be partly attributed to host-country conditions that mediate PTA effectiveness. In particular, Malaysian investors appear highly sensitive to regulatory complexity, administrative procedures, and policy uncertainty (Andaman et al., 2016; Ang, 2008; BNM, 2018). This is consistent with evidence that institutional quality and institutional distance impose thresholds on where and how much emerging-market firms invest, shaping OFDI into India in particular (Nayyar & Luiz, 2024a, 2024b). Moreover, although MICECA includes investment-related provisions, these may not work well in practice, owing to gaps in implementation, overlapping rules and institutions, and weak enforcement (Chandran & Nathan, 2017; Sahu, 2014). At the same time, production in the two economies is not closely linked and their industries do not complement each other well, which leaves little room for investment driven by global value chains. On top of this, problems at the company level—especially among smaller firms—have further limited their ability to make good use of the agreement (Louis & Singh, 2024). However, existing studies offer limited firm-level evidence on how these PTA mechanisms interact with host-country regulatory requirements and why firms under the same bilateral framework have different investment outcomes. To address this gap, this article employs the four PTA mechanisms outlined above as an analytical starting

point. It compares how regulatory constraints and firm-level capabilities shaped the investment trajectories of AirAsia and IHH Healthcare Berhad in India.

METHODOLOGY AND STUDY AREA

The synthesis of the literature suggests that the PTA mechanisms outlined above are not self-executing but mediated by host-country regulatory environments and firm-level capabilities (Gomez-Mera & Varela, 2024). Emerging-market firms, in particular, have been found to adjust the location and scale of their OFDI on the institutional differences between their home and host countries (Tang & Buckley, 2022; Huang et al., 2024). However, existing research has largely focused on aggregate investment outcomes, offering limited insight into how these mechanisms operate, or fail to operate at the firm level, particularly in the context of OFDI. In the Malaysia–India case, the persistence of complex and fragmented regulatory structures—often described as a 'regulatory minefield'—raises questions about whether formal institutional commitments under MICECA are sufficient to shape actual investment behaviour. This tension between treaty commitments and domestic regulatory discretion is well documented in the investment-treaty literature (Bonnitcha & Williams, 2024).

To do so, the study adopts a qualitative comparative case study design, which is well suited to examining how regulatory mechanisms operate in specific real-world contexts. Hence, the article is based on two case studies of Malaysian companies that had ventured into India's two liberalised yet competitive and tough service sectors, namely aviation and healthcare. The case studies comprise a public listed company, namely AirAsia under AirAsia Group Berhad and a Government-Linked Company, namely the IHH Healthcare Berhad backed by Malaysia's sovereign wealth fund, Khazanah Nasional. Although both are global major firms which entered liberalised Indian service sector at quite similar time, the comparative case studies explore their different trajectories in navigating competitive environment and regulatory minefield. While the macro context shows promising investment opportunities offered by the PTAs for Malaysian firms in various sectors, our case studies provide fresh insights into various problems and challenges facing Malaysian firms' ventures in India. Both Malaysian firms ventured into India following the 2012 aviation liberalisation and the subsequent relaxation of healthcare FDI restrictions to foreign investment. The scope of the study is from each firm's entry (2013 for aviation, 2015 for healthcare) to 2024, covering entry, operation, and outcome. Despite the liberalisation of India's services sector, there is a 'regulatory minefield' through which foreign investors have to navigate.

The data were collected from multiple documentary sources, which were selected if they were directly relevant to the two cases, came from authoritative institutions, and could help verify investment and regulatory events. These included company reports, official legal and financial documents, newspapers, and academic literature. No primary interviews were conducted, so the study relies on documentary evidence only. This data boundary is especially relevant to the IHH case, as Fortis-related legal proceedings were ongoing during the study period. Key events, dates, ownership changes, regulatory decisions, and financial information were cross-checked across different source types to strengthen triangulation and reduce dependence on any single source.

The analysis employed process tracing in three steps. First, it identified the PTA and sectoral liberalisation measures linked to firm entry. Second, it traced subsequent regulatory encounters and firm responses. Third, it assessed how these developments shaped firm outcomes, including expansion, adaptation, withdrawal, or exit. A cross-case comparison then examined how

regulatory constraints, firm capabilities, and financial resilience shaped the divergent trajectories of AirAsia and IHH Healthcare Berhad.

As the study focuses on two large Malaysian firms in the aviation and healthcare sectors, its findings are analytically rather than statistically generalisable. The findings may nevertheless offer insights into other service sub-sectors under MICECA where foreign investors face comparable licensing, regulatory, and capital requirements, but their applicability across service industries remains context-dependent.

RESULTS AND DISCUSSION

MACRO-LEVEL INVESTMENT CONTEXT

To make sense of what Malaysian firms actually encounter in India, it helps to first look at the broader investment picture between the two countries. 2014 marked significant progress in economic cooperation when the ASEAN–India Trade in Services Agreement and the ASEAN–India Investment Agreement [AIIA] were signed in November 2014. While the first stipulated provisions on transparency, domestic regulations, recognition, market access, national treatment and dispute settlement, the latter covered protection of investment to ensure fair and equitable treatment for investors, non-discriminatory treatment in expropriation or nationalisation, as well as fair compensation. Both agreements entered into force on 1 July 2015 for six ASEAN member countries, namely Brunei, Malaysia, Myanmar, Singapore, Thailand, and Vietnam, as well as for India, which ratified the agreements (Ministry of Foreign Affairs Brunei Darussalam, 2018). The treaties were part of a strong partnership between ASEAN and India in expanding their economic markets based on liberal trade policies to bring down trade barriers, particularly tariffs, and to facilitate investments. Since then, both parties have committed to progressively eliminating or reducing tariffs on 80 percent of the tariff lines, accounting for 75 percent of the trade. India has excluded 489 tariff lines from the list of tariff concessions and 590 tariff lines from the list of tariff elimination to address sensitivities in textiles, automobiles, chemicals, petrochemicals, crude and refined palm oil, coffee, tea, pepper and so on.

Table 1 tracks FDI restrictiveness over nearly two decades, and the trend is fairly clear: both India and Malaysia moved toward more open investment regimes. India's index dropped from 0.42 in 2003 to 0.21 by 2020, while Malaysia's fell from 0.46 to 0.26. On paper, the institutional groundwork appeared solid—MICECA came into force in 2011, adding a formal bilateral layer on top of the ASEAN-India framework.

TABLE 1. Malaysia and India: FDI Restrictiveness, 2003–2020

Year	India	Malaysia
2003	0.42	0.46
2006	0.28	0.46
2010	0.29	0.30
2011	0.29	0.30
2012	0.28	0.26
2013	0.26	0.26
2014	0.26	0.25
2015	0.25	0.25
2016	0.22	0.25
2017	0.22	0.25

2018	0.21	0.25
2019	0.21	0.25
2020	0.21	0.26

Note: FDI restrictiveness is an OECD index measuring the restrictiveness of a country's FDI rules by examining four main types of restrictions: foreign equity restrictions; discriminatory screening or approval mechanisms; restrictions on key foreign personnel and operational restrictions. Implementation issues and factors such as the degree of transparency or discretion in granting approvals are not taken into account. Scale: 0 = open; 1 = closed
Source: OECD (2024), FDI Regulatory Restrictiveness Index

In November 2023, Malaysia and India reinforced a framework for conducting business using national currencies and initiated a process to review the MICECA. This review includes exploring new sectors such as electronics, semiconductors, new technologies, and fintech. Earlier notable Malaysian investments in India included investments by Khazanah Nasional in Indian companies such as Apollo Hospitals and Yes Bank. In September 2023, India's Prime Minister Modi presented a 12-point proposal to strengthen economic relations between India and ASEAN. Among these, enhanced connectivity, digital transformation, digital future fund and affordable medicines are related to Malaysia's industrial advantages and have the potential for further collaboration.

India's greater outward oriented economic policy, as illustrated in Table 1, attracted increased investment from Southeast Asian countries. Although Malaysia's share in total FDI inflow in India during 2000 to 2014 was merely 0.32 percent, which was far behind Singapore (11.85 percent), the country was the largest contributor of private investment in infrastructure in South Asia between 1990 and 2013, providing funding of US$ 79.4 billion (26 percent) out of total Southeast Asian financing of US$ 306 billion (consumer price index—CPI—adjusted), followed by the Philippines (24 percent), Indonesia (23 percent) and Thailand (17 percent) (Ray, 2016, pp. 99–100). From 2016 to 2022, India ranked fourth among countries hosting Malaysian contractor projects. Malaysian firms invested US$ 3.3 billion in India, mainly in infrastructure. India hosts the largest concentration of Malaysian construction firms operating outside Malaysia (India Brand Equity Foundation [IBEF], 2025). India's relatively high infrastructure spending as a share of GDP encouraged Malaysian firms to enter the market. As a key player in South Asia's cross-border connectivity initiatives, India has historically drawn the region's largest capital flows into privately developed infrastructure, including power generation, transmission, and transport.

Major GLCs like Petronas, via its subsidiaries, have tapped into the growing market demand for clean and reliable energy use in India. For example, Petronas LNG Ltd. [PLL] successfully acquired a sale and concession agreement with the H-Energy Mideast DMCC [HEMD] company, part of the Indian Hiranandani Group, to supply LNG (liquefied natural gas) to India (Pengying, 2018). Another subsidiary, Gentari, acquired a 30% stake in India's Greenko-owned AM Green Ammonia Holdings BV, which plans to produce five million tons of green ammonia per year by 2030 (MIDA, 2024).

Yet Figure 1 tells a more complicated story. Malaysia's share of India's total inward FDI stock barely reached 0.1 percent by 2023, a figure that looks particularly modest when set against Singapore's much larger presence. The gap between what the agreements promised and what actually materialised in investment terms is hard to ignore, and it is precisely this gap that the two case studies below try to explain.

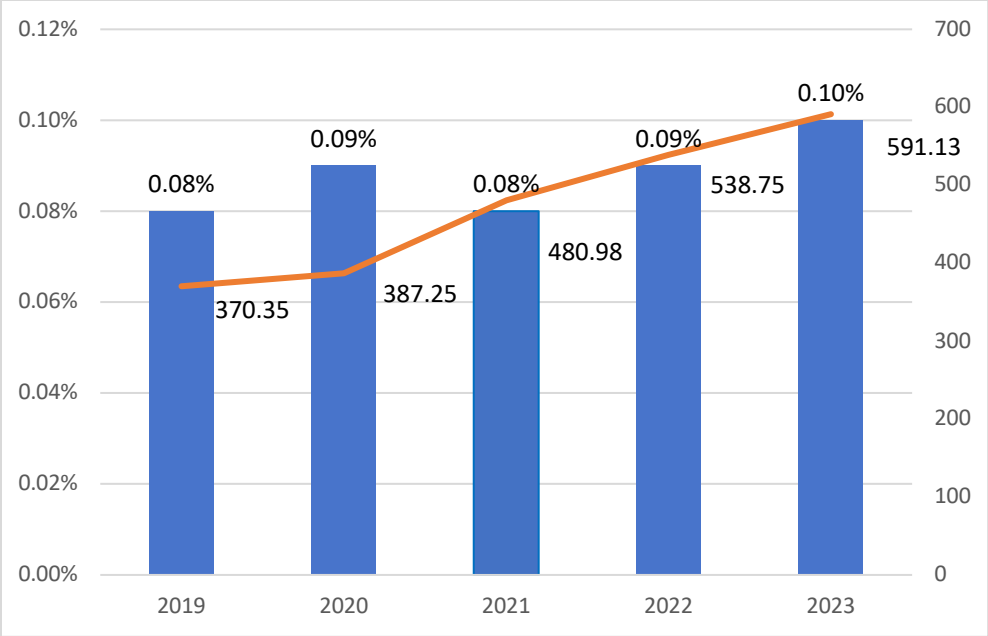


FIGURE 1. Malaysia's FDI Stock in India and Its Share of India's Total Inward FDI Stock, 2019–2023
Line: Malaysia's FDI stock in India, in USD million
Columns: Malaysia's FDI stock as a percentage of India's total inward FDI stock
Source: Reserve Bank of India, ASEANstates Data Portal; compiled by the authors
Note: The amount in US$ terms is arrived at by using financial year-end rupee/dollar exchange rate

CASE STUDY 1: AIRASIA BHD

AirAsia was bought over from a government-owned company, HICOM Holdings Bhd (now known as DRB-HICOM Bhd.), by Tony Fernandes, Kamarudin Meranun, Aziz Baka and Pahamin Ab. Rajab. After making remarkable progress in the domestic low-cost airline market, AirAsia Group has expanded its operation by establishing affiliates over the years in Indonesia, Thailand, India, Japan and Vietnam. Following India's gradual liberalisation of its airline industry, which permitted 49% stake for foreign airline investments in 2012, the firm tapped into the country's growing budget aviation market by obtaining a 49% stake in AirAsia India, with the remaining stake 49% held by Tata Sons and 2% by Telestra Tradeplace in 2013 (Varottil & Lee, 2017, p. 23). AirAsia India started from its base in south India, which is headquartered in Chennai, before spreading its operation to other cities in the country. Towards the end of 2016, AirAsia India reported the highest aircraft utilisation rate among all short-haul airlines in the AirAsia Group, managing a 52% capacity increase in the 12 months to the fourth quarter of 2016 (AirAsia, 2017).

Despite the gradual aviation liberalisation, a major constraint facing foreign investment in airline companies in India is notably the substantial ownership and effective control [SOEC] requirements. Under the requirements, India's airlines 'must not only be owned substantially by its own nationals, but they must also be under effective local control' (Varottil & Lee, 2017, p. 5). The SOEC restrictions are complicated further by the influence of several interest groups-generally comprising incumbent airline companies and their controllers-that attempt to influence government policy to raise the bar for new entrants (Varottil & Lee, 2017, pp. 3–4). CEO Tony Fernandes faced allegations of incumbent Indian airlines that his airline rather than the Indian partners was exerting undue control over the Indian business (Varottil & Lee, 2017, p. 5).

Apart from the discriminating restrictions, AirAsia India faced stiff competition from other competitors, especially SpiceJet, GoAir and IndiGo, using various price and non-price strategies (Singh et al., 2021). AirAsia India's growth was overshadowed by the absolute increase in seats of its competitors. Like all the airline companies in the world, AirAsia Group's performance was adversely affected by the COVID-19 pandemic. Nevertheless, its third quarter 2020 operating statistics show strong recovery for every major domestic airline in the group compared to the preceding quarter. For instance, there was a 79% increase in passengers carried by AirAsia India, a 36% increase in passengers carried by AirAsia Malaysia, and an increase of 65% in passengers carried by AirAsia Thailand (AirAsia, 2020).

In order to consolidate and focus its operation in Southeast Asia, AirAsia's stake in AirAsia India was reduced to 16.33% as the Malaysian-based company officially sold 32.67% of its stake to majority shareholder Tata Sons in 2020. As noted by Tony Fernandes (AirAsia, 2020), the reason for the partial exit from India was:

> Our businesses in Japan and India have been draining cash, causing the Group much financial stress. Cost containment and reducing cash burn remain key priorities evident by the recent closure of AirAsia Japan and an ongoing review of our investment in AirAsia India. A detailed network and fleet optimisation strategy has been implemented across the network, putting the right foundations in place for a sustainable and viable future. . . ASEAN is where our brand and foothold is strongest and that's where our immediate focus will lie.
>
> (AirAsia, 2020)

After 2020, AirAsia gradually reduced its stake in AirAsia India. In October 2021, Tata Sons acquired Air India. Air India had initiated a review process that would eventually result in the merger of Air India Express and AirAsia India, following the latter's full acquisition. In November 2022, AirAsia sold its remaining 16.33% stake to Tata Sons and exited the Indian market, ending the joint venture focused on the Southeast Asian market (AirAsia, 2022b). The airline was rebranded as AIX Connect in December 2022. AirAsia India's brand ceased operation on October 31, 2023. In January 2022, AirAsia Group renamed itself Capital A, shifting to an investment holding model focused on synergistic travel and lifestyle businesses (AirAsia, 2022a). CEO Bo Lingam explained the pandemic prompted a strategic refocus on an 'ASEAN-only business', leveraging prior experience in India for ASEAN-India services.

CASE STUDY 2: IHH HEALTHCARE BERHAD

IHH Healthcare—originally established as Integrated Healthcare Holding Berhad and backed by Khazanah Nasional Berhad, one of its major shareholders—has expanded into one of the world's largest healthcare groups. Through brands including Mount Elizabeth, Gleneagles, Pantai, Parkway, and Fortis, it delivers hospital and supporting medical services across Asia, Central and Eastern Europe, and the wider Middle East and North Africa. Currently it handles 80 hospitals across 10 countries where it is listed and employs over 70,000 skilled professionals (IHH, 2025).

The healthcare sector is one of India's largest economic sectors in terms of revenue and employment (IBEF, 2021). The Indian government plans to develop the country as a global healthcare hub, leveraging its relatively large pool of well-trained medical professionals. Following the relaxation of foreign investment restrictions in the healthcare sector in India (Hooda, 2017), the IHH Group expanded its operations in the country. The group's reach in India started when it acquired controlling stakes in two Indian hospitals (51% in Continental Hospitals and 73.4%

in Global Hospitals) in 2015. It subsequently pursued an acquisition-led strategy aimed at building a pan-India presence concentrated in large tertiary-care facilities across major metropolitan centres.

The defining moment of IHH's India chapter came in November 2018, when it acquired a 31.17 percent controlling stake in Fortis Healthcare—India's second-largest integrated healthcare provider—for approximately INR 40 billion (IHH, 2019). Under the Securities and Exchange Board of India (SEBI) rules, this triggered a mandatory open offer obligation for a further 26 percent of Fortis shares, requiring IHH to place US$ 483.5 million in a non-interest-bearing escrow account (SEBI, 2024). Within weeks, India's Supreme Court issued a stay order halting the process, prompted by ongoing investigations into the alleged financial misconduct of Fortis's former owners, the Singh brothers. What followed was years of litigation. The Supreme Court upheld the stay in September 2022, sending the matter to the Delhi High Court, where it remained unresolved as of May 2024 (Fortis Healthcare, 2024).

Despite all of this, IHH kept generating profits in India. As shown in Figure 2, IHH India EBITDA improved substantially over the study period, although the trend was uneven. The EBITDA rose sharply in 2019, declined in 2020, surged again in FY2021, and then moderated in FY2022 and FY2023. Despite facing tough competition from domestic interest groups in India and the Indian government regulations regarding share expansion and corporate governance, IHH has shown great resilience and strong profitability. The pandemic highlighted to the Indian government and the private sector the necessity of investing in health care. Public healthcare spending rose from 1.2% of GDP in 2020 to 2% in 2022, with plans to reach 2.5% by 2025, focusing on the underprivileged (International Trade Administration, 2024). Government support and a growing market create favorable conditions for IHH's continued expansion and profitability. On the other hand, the Indian government is actively strengthening the domestic production capacity of medical devices in India and is supporting a policy of actively purchasing local medical devices. India's protection of its domestic industries and uncertainty in domestic economic policy exerts pressure on IHH India's profit margin. For example, the Public Procurement Order of June 2020 prioritized Indian enterprises whose products contained 50% or more local content (Department for Promotion of Industry and Internal Trade [DPIIT], 2020). If the domestic value-added component of a product is below 20%, the supplier is designated as non-local and is not eligible to bid for government tenders. The New Drugs, Medical Devices, and Cosmetics Bill, proposed in July 2022, sought to establish a new regulatory framework for medical devices, pharmaceuticals, and cosmetics in India (Ministry of Health & Family Welfare India, 2022). The National Medical Devices Policy, effective May 2023, aims to boost local production capacity to increase domestic manufacturing capacity for affordability (Department of Pharmaceuticals, Ministry of Chemicals & Fertilizers India, 2023). Table 2 summarises the main regulatory measures and their operational impacts on foreign healthcare providers in India.

TABLE 2. Selected Regulatory Measures and Their Operational Impacts on Foreign Healthcare Providers in India

	Regulatory measure	Main requirement	Operational impact
1.	Public Procurement Order (2020)	Preferred supplier with 50% or more local content; suppliers with less than 20% were classified as non-local	Limited access of foreign suppliers to government procurement
2.	New Drugs, Medical Devices, and Cosmetics Bill (2022)	Proposed a new regulatory framework for medical devices, pharmaceuticals, and cosmetics	Increased regulatory and compliance requirements
3.	National Medical Devices Policy (2023)	Promoted domestic manufacturing of medical devices	Increased competitive pressure on foreign providers

Source: Department for Promotion of Industry and Internal Trade (DPIIT India, 2020); Ministry of Health & Family Welfare India (2022); Department of Pharmaceuticals, Ministry of Chemicals & Fertilizers India (2023); compiled by the authors.

IHH India has expanded its presence in India by acquiring and increasing its stakes in Continental Hospitals, Gleneagles Healthcare India, and Fortis Healthcare. However, IHH's investment in India has faced various problems and challenges during its expansion. IHH India had increased the stake in Continental Hospitals to 52.3% in 2016 (IHH, 2017, p. 20). In 2017, through the consolidation of newly acquired facilities under the 'Gleneagles' brand, IHH India sought to optimise synergies and advance its ambition of building a foremost chain of tertiary and quaternary care hospitals in the country (IHH, 2017, p. 6). Until 2018, IHH owned 62.23% of Continental Hospitals and 73.87% of Gleneagles Healthcare India (IHH, 2018, p. 52). However, in 2021, IHH has stated that it has fully divested its entire stake (62.23%) in India-based Continental Hospitals Private Limited back to its founder (Business Today, 2021). To extend IHH's presence in India, IHH India acquired an additional 24.53% stake in Gleneagles Healthcare India from Dr. Ravindranath Kancherla and his affiliates, increasing total ownership to 98.17% in August 2023 (IHH, 2023, p. 218).

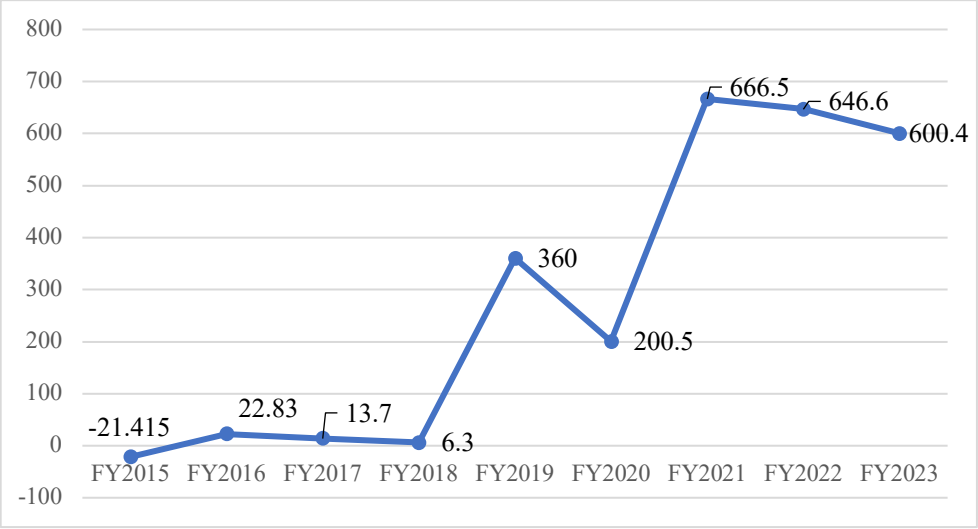


FIGURE 2. IHH India EBITDA (Earnings Before Interest, Tax, Depreciation, and Amortisation), in RM million
Source: IHH Healthcare Berhad annual reports (2015–2023); compiled by the authors

The Indian government-imposed price caps on medical procedures during the pandemic reduced Fortis Healthcare's revenues and impacted profitability. Nevertheless, Fortis maintained revenue growth and improved financial performance between 2019 and 2023, supported by strong liquidity and a solid financial position (CRISIL Ratings, 2020–2024).

Regulatory pressure did not stop at the courtroom. The Public Procurement Order of June 2020 imposed local content requirements that disadvantaged foreign medical device suppliers (DPIIT India, 2020), while the 2023 National Medical Devices Policy pushed further toward domestic manufacturing (Department of Pharmaceuticals India, 2023). Pandemic-era price caps on medical procedures squeezed revenues further.

Compared side by side, the two cases show divergent investment outcomes. AirAsia, facing ownership-and-control restrictions and mounting losses, exited India in 2022, whereas IHH, backed by stronger financial resources, continued to expand despite prolonged regulatory and legal constraints. This finding concurs with Amer (2023) which examines how multinational and internationalizing firms navigate the complex "regulatory minefield" (referred to as formal and informal institutional pressures) when expanding globally. The study shows that firms require deep

financial resources to absorb the high compliance, administrative, and legal costs required to decipher and adapt to host-country rules and sustain their operations over prolonged planning horizons.

DISCUSSION

The two case studies, taken together, raise some questions for the standard account of how preferential trade agreements promote FDI. Instead of these agreements working as planned, formal legal commitments collide with real-world regulatory hurdles that neither MICECA nor the broader ASEAN-India framework was built to solve. Both AirAsia and IHH entered India following specific sectoral opening measures—the 2012 aviation liberalisation and the subsequent relaxation of healthcare FDI restrictions—which suggests that formal commitments do lower initial barriers in a meaningful way. Malaysia's share of India's total FDI stock remained modest, increasing overall from 0.08 percent in 2019 to 0.10 percent in 2023 (see Figure 1), points in the same direction. This trajectory is consistent with Patel et al. (2024)'s finding that formal institutional quality positively influences inward FDI flows into India, suggesting that incremental improvements in India's regulatory framework have contributed to gradual investment growth. At the agreement level, this dynamic is further reinforced by Büthe & Milner's (2008, 2014) argument that PTAs work partly by making liberalisation commitments credible and internationally legible, reducing the perceived risk of entry for foreign firms. But entry, as both cases make clear, is not the same as sustained investment presence—and this is where the standard account begins to unravel.

AirAsia's trajectory is analytically useful precisely because the company followed the rules. It entered through a properly structured joint venture, maintained its equity stake with permitted limits, and operated in a sector India had formally opened to foreign participation. None of this protected it. The SOEC requirement, mandating not just majority Indian ownership but genuine effective domestic control, created a structural ambiguity that proved impossible to resolve in practice. Domestic incumbents exploited this ambiguity aggressively, using regulatory channels to challenge AirAsia's operational legitimacy rather than competing purely on commercial terms (Varottil & Lee, 2017, pp. 3-4). Governance disputes fractured the joint venture from within, criminal investigations followed, and the carrier struggled to achieve sustainable profitability and scale despite reaching seven percent market share at its peak. Long before the pandemic arrived, the strategic retreat was already underway. By November 2022, AirAsia had exited India entirely, and Capital A's subsequent repositioning as an ASEAN-only business made the underlying logic plain: the Indian regulatory environment had proved incompatible with what the company could sustain.

Both companies faced regulatory complexity, judicial unpredictability, and protectionist pressures of various kinds. IHH watched US$ 483.5 million sit frozen in a non-interest-bearing escrow account for over five years while Supreme Court litigation over the Fortis open offer dragged on. This experience illustrates how investor-state disputes and judicial unpredictability can immobilise capital even where formal treaty protections exist (Aisbett et al., 2018). It absorbed local content requirements that disadvantaged foreign medical device suppliers, pandemic-era price caps that compressed revenues, and domestic manufacturing policies that progressively narrowed its operating space. Yet IHH stayed, adapted, and kept generating profit—Figure 2 shows a substantial overall improvement in EBITDA over the study period, despite considerable

year-to-year volatility. The different outcomes suggest that the regulatory minefield did not affect all firms equally. At the firm level, capacities and financial resilience set the limits of what each company could bear in terms of long-term regulatory and legal expenses. IHH, with its stronger financial resources and institutional backing, was able to adapt and survive while AirAsia was less able to withstand the cumulative pressures of regulatory uncertainty, governance disputes and financial losses. Where AirAsia eventually hit the limits of what it could absorb, IHH had the resources to wait out the regulatory environment. India's investment landscape, in this reading, does not operate as a uniform barrier—it operates as a selective filter, one that lets firms in but drives out those who cannot sustain the ongoing costs of navigating regulatory friction and unpredictable compliance.

Three mechanisms explain how this filtering process works. The first is operational delegitimization through regulatory ambiguity: SOEC-type requirements are genuinely contestable, and that interpretive space gives incumbent domestic firms a lever to challenge competitors through regulatory channels rather than market competition alone. AirAsia's experience shows the cumulative damage, shareholder exits, criminal investigations, and reputational costs, all while maintaining formal equity compliance. The second is judicial capital immobilization. IHH's mandatory open offer was frozen by court order for years, trapping US$ 483.5 million in escrow with zero return. This was not regulation malfunctioning; it was India's legal system operating as designed but imposing asymmetric costs on a foreign acquirer that would not apply comparably to a domestic transaction. The third is cumulative policy layering. No single measure—the 2020 Public Procurement Order, the 2023 National Medical Devices Policy, the pandemic price caps—constituted an explicit barrier. But their combined effect incrementally disadvantaged foreign providers while the headline investment regime remained formally open. Collectively, these three mechanisms can be seen as a form of de facto non-tariff protectionism. While the investment regime remained open on paper, regulatory, judicial, and administrative frictions made it more costly for foreign firms to operate and, in practice, favoured local incumbents. In this sense, the regulatory minefield works not through explicit restrictions on foreign investment, but through a build-up of obstacles that determines whether firms can stay and grow after entry.

Three competing explanations deserve consideration, and none fully holds. The pandemic is the most obvious culprit for AirAsia's exit, but the SOEC disputes, governance fractures, and sustained losses all predate the health crisis by years. More telling, IndiGo, SpiceJet, and Go First posted comparable losses yet stayed; only the foreign partner left. Commercial miscalculation is the second explanation, but it cannot account for the Central Bureau of Investigation (CBI) investigations or the SOEC allegations, which were regulatory rather than market phenomena, nor does it explain why IHH, under similar competitive pressure, chose consolidation over retreat. A third explanation−that MICECA was poorly implemented−likewise fails to provide an adequate explanation. The Fortis litigation was not a failure of bilateral follow-through since it was India's Supreme Court applying domestic corporate governance law to a foreign acquirer. Together, the cases point toward a more conditional understanding of how PTAs shape investment outcomes. Formal agreements matter at entry, but they do not address the regulatory environment investors will encounter. A practical policy response would be to establish a bilateral fast-track ombudsman mechanism under MICECA to address investment-related administrative and regulatory frictions early on. Such a mechanism would enable time-bound consultation between firms and relevant authorities, make regulatory requirements clear and allow for bilateral intervention before disputes turn into lengthy litigation.

CONCLUSION

There is no doubt that enhanced regionalism—as seen by the increase in preferential trade agreements signed between ASEAN and India and between Malaysia and India—plays an important role in strengthening bilateral economic cooperation and investment by lowering market entry barriers and granting legal commitments to foreign investors. Notwithstanding the closer bilateral economic ties, there are various problems facing Malaysian firms in their expansion in India. As both case studies show, the market for the services sector, which includes aviation and healthcare, is highly competitive and tough. Despite the promotion of trade and foreign investment in India through the PTAs, the case studies point toward a more conditional understanding of how PTAs shape investment outcomes. While formal PTAs matter at entry, they do not address the regulatory minefield and legal entanglements through which foreign investors may have to navigate. Undoubtedly, firms require deep financial resources to steer through the minefield. Being a government-linked company, backed by Malaysia's sovereign wealth fund as well as the lucrative healthcare sector which continued to generate revenue certainly gave IHH Healthcare the deep pockets and 'patient capital' needed to go through the legal disputes in the Indian court system for seven years.

On the other hand, AirAsia's retreat from India proves that global scale and deep pockets are not always sufficient to conquer a fundamentally complex local market. Despite pioneering the low-cost carrier model across Asia, the group endured turbulent years before finally selling its stake to joint-venture partner Tata Group. Ultimately, the airline's vast resources could not outlast the combined weight of hostile regulations, boardroom clashes, and a global pandemic. While various trade and investment agreements between India and ASEAN as well as Malaysia were completed, significant challenges still exist, with a myriad of stakeholders and domestic pressures and lobbies adding uncertainty to the success or otherwise of final implementation.

The selective filter model suggests that while trade agreements create an open-door framework, actual investment outcomes are filtered through domestic regulatory institutions that selectively facilitate, delay, reshape, or restrict foreign investment. This perspective generates several policy recommendations. It is well documented that the ease of doing business is complicated with varying legal provisions, policies and regulations in different parts of India. To make matters worse, there have been concerns about the Indian government's changes to regulations on FDI in the areas of admission, operations, dispute settlement and profit outflows that can leave foreign investors uncertain about investing in the country. The uncertainty brought about by the revision of FDI rules and regulations is likely to pose more difficulty to smaller companies. Our case studies also show that Malaysian firms venturing into the country need to comprehend India's diverse culture and complex rules and regulations to avoid costly complications associated with legal issues and challenges. Thus, the Indian government can reduce red tape and improve transparency in its rules and regulations, as well as facilitate further cooperation with Malaysia through the relevant institutions, such as the Malaysia–India Business Council, to provide easy availability of information on investment regulation in India. Host and home countries should create sector-specific bilateral regulatory councils to align standards in highly regulated services, shifting the focus from broad treaty text to practical, operational harmonisation. Malaysia and India could jointly create a MICECA Regulatory Facilitation Portal that provides investors with sector-specific compliance roadmaps. Such a mechanism would reduce transaction costs and regulatory uncertainty, transforming opaque administrative processes into predictable investment pathways.

As insufficient attention is paid to regulatory implementation, future upgrades of MICECA should include permanent regulatory cooperation committees involving sector regulators, investment promotion agencies, and industry representatives. These bodies could undertake regular regulatory dialogues, early notification of new regulations, joint impact assessments, and regulatory harmonization initiatives. The objective should not be complete convergence but greater regulatory compatibility, thereby lowering compliance burdens faced by investors. More specifically, Malaysia and India could set up a bilateral fast-track ombudsman mechanism under MICECA to clarify regulatory requirements, facilitate time-bound consultations and resolve administrative and regulatory frictions before they snowball into protracted litigation. It can fast-track administrative bottlenecks and resolve inter-agency friction.

Beyond the Malaysia-India case, the 'selective filter' model may be relevant to other South-South investment corridors in which formal macro-level diplomatic open-door policies clash with micro-level legal friction. To address this mismatch, joint trade commissions should stop measuring treaty success solely by trade volumes or signed Memorandums of Understanding. Instead, they should implement a Bilateral Regulatory Restrictiveness Index (BRRI) modeled after the OECD FDI Regulatory Restrictiveness Index. This index would track the exact time and capital required to clear domestic sub-national regulations, forcing both nations to actively dismantle the "selective filters" that undermine their formal trade agreements.

Given rising geopolitical risks and uncertainty, Malaysia and India should reinvigorate the bilateral economic relations by further strengthening economic cooperation through the establishment of more effective mechanisms and implementation to facilitate investment in both countries. Efforts to overcome remaining impediments to investment are necessary to effectively integrate all parties into the regional economy, and more firms, including SMEs, can benefit from the opportunities afforded by enhanced regionalism between the two countries.

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