Asian Journal of International Law (2023), 1–2
doi:10.1017/S2044251323000565

CAMBRIDGE UNIVERSITY PRESS

BOOK REVIEW

Incomplete International Investment Agreements: Problem, Causes, and Solutions

by Tae Jung PARK. Cheltenham, UK/Northampton, MA: Edward Elgar Publishing, 2022. ix + 168 pp. Hardcover: £75.00. doi: 10.4337/9781802202434

Sau Wai LAW

School of Law, University of Reading, Reading, UK

It may or may not be surprising to many that the provisions stated in the International Investment Agreements (IIAs) are often incomplete. Instead of a fully termed IIA, nations often insert a renegotiation clause with the intention to complete these provisions later (p. 39). In this book, Park analyses the problems, causes, and solutions for this phenomenon through an interdisciplinary approach in economics and international law.

Chapter 1 provides an overview and summary of each chapter. Chapter 2 examines the main provisions and reservation lists in IIAs, setting the scene for readers to appreciate what is contained in a completed IIA. Chapter 3 examines the positive correlation between IIAs, Foreign Direct Investment (FDI), and Trade Liberalization due to the technology spillover effect (pp. 36–8), which puts forward Park's positive appreciation of completed IIAs. Chapter 4 describes the four types of unnecessarily incomplete IIAs, namely missing texts, missing articles, missing reservation lists, and missing or unspecified measures. Chapter 5 discusses, through theoretical economic analysis of the marginal costs and marginal benefits, the optimal degree of incompleteness of IIAs (pp. 69–70). Chapter 6 explains the cost of incomplete IIAs with three negative consequences related to missed opportunities in attracting FDI, establishing "appropriate economic and legal policies", and inducing opportunistic behaviours (p. 73). Chapter 7 details how strong protectionism and a lack of institutional capacity are causes of incomplete IIAs. Chapter 8 proposes legal and institutional remedies. Chapter 9 advocates for the urgent need to resolve these issues to facilitate transparency and predictability of domestic law and to improve the credibility of IIAs.

This book is a practical guide for a wide range of readers to learn about the function of IIAs. It is a bold attempt to inspire readers to appreciate this phenomenon through the lens of economic contract theory. Yet, as the theoretical deliberation and breakdown of the components of costs, benefits, and level of incompleteness are not further developed, it hinders the visualization of how different factors move together and how a certain level of incompleteness can be warranted (p. 71). The overarching question is that if parties negotiate the IIA with a presumption that they would end up facing each other at court, what should be put in the IIAs? What provisions are absolutely essential to facilitate trade, and what provisions are essential to gain advantage in a litigation. Hence, such appropriate deliberation during the negotiation process of IIAs would enable parties to realize that the cost of a fully-termed IIA could mount up (p. 12). One advantage of an

© The Author(s), 2023. Published by Cambridge University Press on behalf of the Asian Society of International Law

https://doi.org/10.1017/S2044251323000565 Published online by Cambridge University Press

incomplete IIAs might offer much-needed flexibility for their execution despite the asymmetrical bargaining power between nations.

The book helpfully offers numerous global examples to illustrate incomplete IIAs, and it is also worth exploring how the phenomenon impacts individual and corporate behaviour to justify the apprehension stated in this book and to motivate reform as advocated.

Competing interest. The author declares none.

https://doi.org/10.1017/S2044251323000565 Published online by Cambridge University Press