the AI-IEL questions and Gregory Shaffer's excellent framing piece in Chapter 2. Further, the editors have achieved significant consistency by avoiding a mere collation of diverse regional experiences.

Its forward-looking approach, the quality of the scholarship, and being openly accessible will likely make this book an influential contribution to the field in years to come. Perhaps its main shortcoming is the lack of translational capacity into policy, as there are limited solution-driven proposals in its chapters, with the notable exception being Zufall and Zingg's chapter on data portability (although very focused on the EU) and Gao's insightful but perhaps too ambitious defence of a new targeted instrument, mentioned above.

Overall, I can only invite AsianJIL readers to peruse the text and congratulate the editors, authors, and the Erasmus+ Programme for making it accessible to all. Regardless of their country of origin, state representatives to the WTO and other regional agreements now have immediate access to solid scholarship on a topic of exponentially increasing importance for their work.

**Conflicting interests.** The author declares none.

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## Investment Treaties and the Rule of Law Promise: An Examination of the Internalization of International Commitments in Asia

**edited by N. Jansen CALAMITA and Ayelet BERMAN. Cambridge: Cambridge University Press, 2022. xxxiv + 384 pp. Hardcover: AUD $179.95; eBook: USD $125.00. doi: 10.1017/9781009152990**

## Between Market Economy and State Capitalism: China's State-Owned Enterprises and the World Trading System

**by Henry GAO and Weihuan ZHOU. Cambridge: Cambridge University Press, 2022. xxiv + 250 pp. Hardcover: AUD $160.95; eBook: USD $110.00. doi: 10.1017/9781108908795**

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Some scholars and policy makers view international law and national law as two separate and autonomous systems (dualism). Some others might consider that international law and national law should be a coherent system with a certain normative hierarchy (monism). In reality, the interaction between the two systems might be more complex, swaying between domesticating international law and internationalizing (or extra-territorializing)

domestic law. Two recent publications have tested traditional wisdom in investment and trade law practices and shed new light on the classical debate.

It is a prevailing and yet empirically untested view that within "the rule of law theory", "investment treaties will improve domestic governance" (p. 8). N. Jansen Calamita and Ayelet Berman, together with other contributors, in *Investment Treaties and the Rule of Law Promise* revealed that "there is insufficient evidence to support the central predicate of the rule of law theory's spill-over claim" (p. 329). To operationalize it, Calamita and Berman have proposed three internalization processes of investment treaties for typification: the informational process, diffusing information of international legal obligation to domestic actors; the monitoring process, *ex ante* screening of domestic policies or decisions for consistency with international obligations; and the remedial process, correcting or defending the state's compliance (Chapter 1).

Based on varying levels of internalization in India, Indonesia, Korea, Myanmar, Singapore, Sri Lanka, Thailand, and Vietnam, respectively (from Chapters 2 to Chapter 9), Calamita and Berman conclude that "in general the conclusion of investment treaties has led to little or no internalization, while investor-state dispute settlement (ISDS) seems at most to have triggered some *ad hoc*, sporadically implemented informational measures of internalization" (p. 329). A further aspect of the complexity of real-world state responses to investment treaties and ISDS is the seeking of external reform, reducing the risk of ISDS claims rather than working on internal reform, as India and Indonesia had done (p. 326). They then discuss "factors that may affect whether and to what extent international commitments are internalized" (p. 7): public administration (internalization strategy, bureaucratic culture, and regulatory capacity), the national context, and the international context (treaty conclusion and arbitral claims). Indeed, the book has contributed to our empirical understanding of the impact of investment treaties on domestic governance.

Henry Gao and Weihuan Zhou tell a different story in *Between Market Economy and State Capitalism*. They challenge the conventional wisdom that existing World Trade Organization (WTO) rules are insufficient to deal with the challenge of China's state capitalism and argue that "existing WTO rules, especially those on subsidies, coupled with China-specific rules in its accession protocol, do provide feasible tools to counter China's state capitalism" (p. i).

After reviewing the history of China's reform of state-owned enterprises (SOEs) (Chapter 2), Gao and Zhou argue that "WTO members were well aware of the potential clashes between WTO rules and China's state capitalism since the very beginning" (p. 10). Practical solutions were tailor-made in China's Accession Protocol (Chapter 3). General WTO rules are of limited utility in disciplining market-distortive behaviours of SOEs (Chapter 4). At the same time, "great potential can be found in China-specific rules on pricing and the commercial behaviour of SOEs" (p. 10) in China's WTO Accession Protocol (Chapter 5). After discussing unilateral, bilateral, and plurilateral approaches (Chapter 6), they advocate multilateral negotiations on more advanced rules on SOEs and subsidies based on constructive engagement and common ground (Chapter 7).

Gao and Zhou have made some interesting observations in their book. They point out that the China Problem in the WTO is, in its essence, the Chinese model (that is, "pervasive use of state-owned enterprises, subsidies and other government support in the pursuit of ambitious industrial policies"), "tend[s] to undermine the condition of competition that WTO rules are designed to protect" (pp. 185–6). The combination of unilateral measures and bilateral deals (such as those actuated by Trump) have been proved futile, being "more wishful thinking than reality" (p. 186). Moreover, they argue that the plurilateral approach (that is, "agreeing on rules in small circles and then forcing them upon China as *fait accompli*") will "more likely backfire and destroy China's faith in multilateralism" (pp. 187–8).

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Putting the two books together, we could see a new paradigm of international economic law scholarship. Both turn to domestic institutions, policies, and practices to illustrate the factors underlying the clash (for example, the US-China trade war) or harmonization (the window period for WTO reform after the Pandemic) between international law and national law. They both emphasize the institutional spillover of international law on domestic governance. By contextualizing domestic accountability, the two books also contribute to the current debate on democratic vis-à-vis authoritarian international law. It is interesting to note that both books consider China's exceptionalism differently: Calamita and Berman posit that China is an exception under the regime of international investment law. At the same time, Gao and Zhou find evidence to line up China's state capitalism with existing WTO disciplines. This "fork in the road" might deserve further observations.

Both books are written by scholars based in Asia (N. Jansen Calamita and Ayelet Berman at the National University of Singapore; Henry Gao and Weihuan Zhou at Singapore Management University and University of New South Wales, respectively), who are familiar with the target states and have demonstrated the complexity of international law practices in the real world. Both books are well-structured and fluidly written, offering a valuable resource to students, researchers, and policy makers. The analytical frameworks and some of the findings in the two books will help us to contemplate a fundamental challenge of our age.

**Competing interest.** The author declares none.

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# Judging the Law of the Sea

## by Natalie KLEIN and Kate PARLETT. Oxford: Oxford University Press, 2022. xl + 424 pp. Hardcover: £102.50; available as eBook. doi: 10.1093/9780198853350

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*Judging the Law of the Sea* is an exciting book concerning the developments of the Law of the Sea by international courts and tribunals. Natalie Klein has a long-standing interest in UNCLOS dispute settlements, publishing her first monograph, *Dispute Settlement in the UN Convention on the Law of the Sea,* based on her PhD in 2005. Kate Parlett is a barrister who specializes in the full range of public international law issues, including the Law of the Sea.

The authors' approach differs from other works on UNCLOS dispute settlements; some take a doctrinal approach that focuses solely on analyzing the rules and procedures of international courts and tribunals. This book fills the gap by evaluating whether international courts and tribunals – and, in particular, judges when deciding cases – act according to the objectives of UNCLOS, namely, "the peaceful settlement of disputes, the rule of law, and the public order of the oceans" (p. 39).

The authors propose an explanatory paradigm based on "stakeholder identification theory" to assess whether international courts and tribunals follow these objectives. According to this theory, judges are deemed decision makers who act in the organization's interests, in this case, UNCLOS (p. 37). Judges must also pay attention to actors' rights and