Constraints and Incentives in the Investment Regime: How bargaining power shapes BIT reform

Tuuli-Anna Huikuri*

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Abstract

States have increasingly initiated reform of the international investment treaty regime by starting to terminate and renegotiate their bilateral investment treaties (BITs). Both rationalist and bounded rationality approaches have been employed to explain ongoing changes. The current narratives have however overlooked the underlying bargaining dynamic of investment treaty negotiations: without sufficient bargaining power in relation to the treaty partner, a state will not be able to escape old BITs even if they become dissatisfied with them. This paper identifies observable implications of incentives and bargaining power constraints of states in reforming their bilateral investment treaties. Leveraging a new panel dataset on BITs, interaction effects between bargaining power and incentives stemming from rationalist, boundedly rational, and alternative assumptions about states' decision-making are analyzed. It finds that bargaining power in relation to the treaty partner is an important factor underlying decisions to terminate or renegotiate BITs, regardless of why states have decided to do so.

Keywords: bilateral investment treaties; bargaining power; bounded rationality; international treaties; international cooperation

* Department of Politics and International Relations, University of Oxford, Oxford, United Kingdom, tuuli-anna.huikuri@nuffield.ox.ac.uk. Orchid ID: 0000-0002-8497-9759.

Introduction

The most prominent institutional architecture to regulate international investments today consists of a web of bilateral investment treaties (BITs) and the investor-state dispute settlement (ISDS) practice enabled by them (Bonnitcha et. al. 2017). In recent years, the international governance regime has increasingly seen states terminating and renegotiating their investment treaties. Dominant explanations for the shift argue that the ISDS practice empowering foreign investors over their host states is driving the current change: governments are pursuing efforts towards greater regulatory autonomy through reforming their treaty commitments (Thompson et. al. 2019). Both domestic and international audiences have become more alerted to the risks associated with BITs, and efforts have been taken to replace old BITs with new ones or investment provisions in new preferential trade agreements (PTAs), and even domestic legal arrangements (Berge and St John 2020). Yet, many states have not taken action to reform their BIT-commitments, while others have only done so selectively. Why do some states keep their investment treaties even when faced with ISDS? What explains the variation in governments' reform efforts regarding their BITs?

From the very first investment treaty between Germany and Pakistan in 1959, BITs were meant to protect the interests of foreign investors abroad, and therefore enhance foreign direct investment (FDI) into states which otherwise may have been left without benefits of this specific form of economic cooperation. Especially developing countries hoped to attract badly needed capital by signing BITs with major capital exporters through from 1980s and 1990s.[1] After the rapid accumulation of investment treaties, the number of new signed BITs has however declined noticeably. Increasingly, many states are deviating from their existing BITs, either by renegotiating their terms or unilaterally terminating them (Figure 1.) While the percentages of terminated and renegotiated investment treaties are modest in relation to the large stock of BITs that remain in place, shift in the proliferation of the instruments is evidently on the way.[2]

[1] The beginning of global diffusion of BITs took place during the economic downturn in the late 1980s and early 1990s, which was also time of stagnant international bank lending (Simmons 2014).

[2] There is also an emerging shift towards signing multilateral investment agreements, as well as replacing traditional BITs with free trade agreements. See Forere (2017).

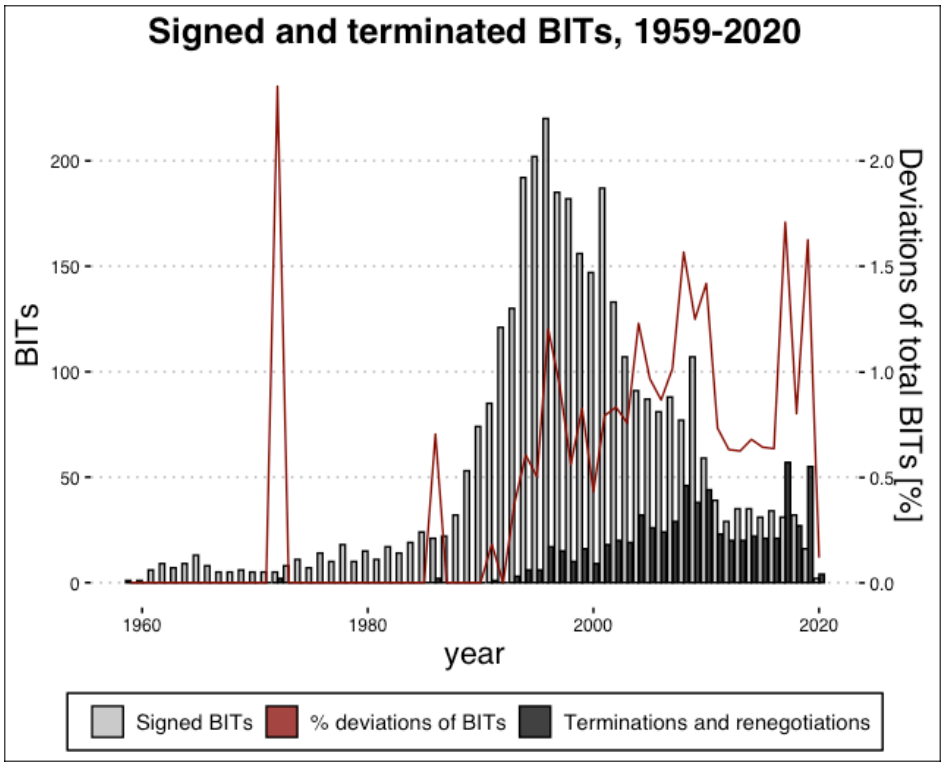

Figure 1. Signed BITs, terminations and renegotiations, and percentage of deviations of total stock of BITs signed over time

What is causing the shift in the pattern? The current census on developments in the investment regime focuses on the increasingly controversial practice of ISDS, a provision included in most BITs. ISDS enables foreign investors to bring lawsuits against their host governments in international courts and claim compensation when they feel the host has violated terms of the treaty, bypassing any domestic courts. While such disputes were initially thought to mainly arise in situations of direct expropriation such as nationalization, modern ISDS mostly addresses so-called cases of indirect appropriation. For example, Argentina became the target of a large number of ISDS-challenges due to its efforts to manage the financial crisis of early-2000s: currency devaluation and other emergency measures hit foreign investors with severe financial losses who responded through legal means. Germany's efforts to transform towards renewable energy sources by banning nuclear energy initiated ISDS cases with foreign investors in the energy sector. Likewise, Australia found itself in legal problems with Philipp Morris and other tobacco companies following its policy to enhance public health by only allowing plain cigarette packaging. ISDS is therefore increasingly employed not only when the host government is intentionally infringing the property rights of investors, but when damage

is done to their investments as a by-product of other regulatory efforts.[3] There is an emerging consensus that BITs have granted investors extraordinary powers over sovereign states, and that the ISDS-practice is badly in need of reform.

The declining number of new BITs and the simultaneously increasing ISDS cases have led many to observe that the investment regime is currently undergoing a "backlash" against the dispute settlement mechanism (Figure 2).[4] States are expected to turn against BITs when facing investment disputes, and the increasingly common instance of ISDS is claimed to be driving changes in the investment regime. Indeed, many states have directly referenced ISDS as the reason for their efforts to reform investment treaty commitments.

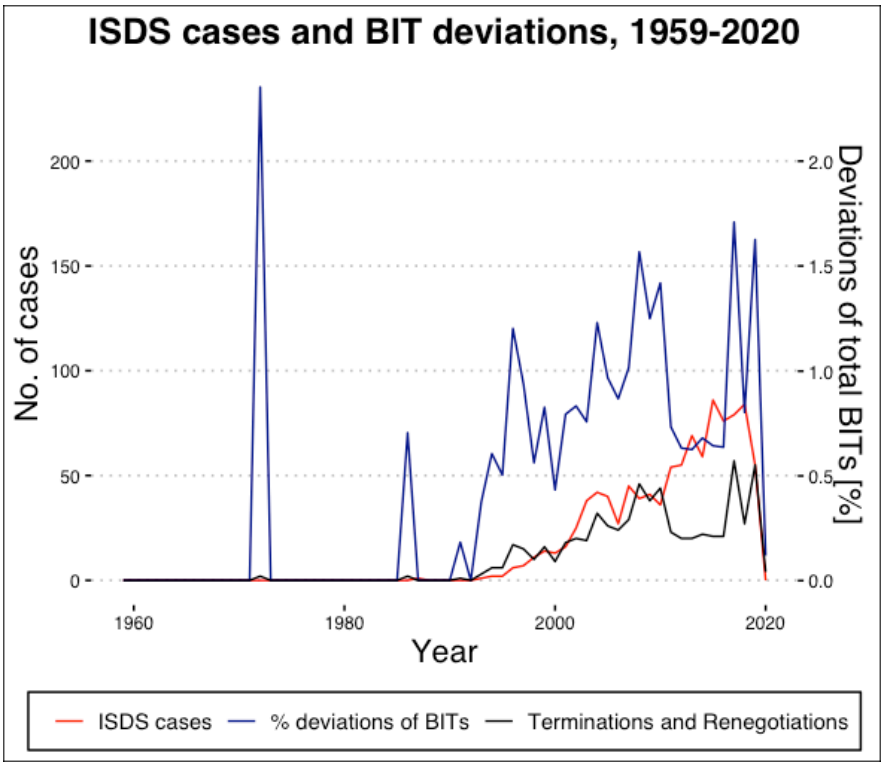

Figure 2. ISDS cases, BIT terminations and renegotiations over time

[3] It has also been suggested that investors do not only result to ISDS when facing legitimate grievances related to the host governments actions, but use the provision strategically to extract settlement payments, or to deter possible future policy-decisions by the host government which may be unfavourable to them (Pelc 2017).

[4] Waibel (2010); Peinhardt and Wellhausen (2016)

While the number of ISDS cases and BIT reform efforts follow a similar pattern, the aggregated trends hide certain oddities. Although Argentina has faced the largest number of ISDS disputes, 62 reported by UNCTAD, it has not terminated any of its BITs, and only renegotiated one.[5] ISDS experience alone therefore does not seem to have determined Argentina's approach towards its BITs.[6] When Ecuador decided to take radical action in response to accumulating legal challenges based on its investment treaties, it unilaterally denounced a large number of BITs between 2008 and 2010. However, it decided to keep some of the treaties that had resulted in a large number of legal disputes, most notably the BIT with the United States (Peinhardt and Wellhausen, 2016: 573). It is therefore also evident that states are selective in their efforts to reform BITs, and not all bilateral treaties are treated alike. Overall, the association between how many ISDS cases a state has faced and how many BITs they have resorted to unilaterally terminate or renegotiate is not very strong (Figure 3.) It is remarkable that the majority of states that have faced ISDS have not terminated *any* BITs, while some states have terminated and renegotiated treaties despite none, or relatively few arbitration cases faced.

[5] 4 out of 5 of Argentina's treaties that are no longer in force have been unilaterally terminated by its treaty partners, not by Argentina: Argentina – India BIT (1999), Argentina – South Africa BIT (1998), Argentina – Bolivia (1994), and Argentina – Ecuador BIT (1994).

[6] Argentina's ISDS experience and unexpected approach towards BITs has been researched through in-depth case studies, see for example Calvert (2018) and Haftel and Levi (2019).

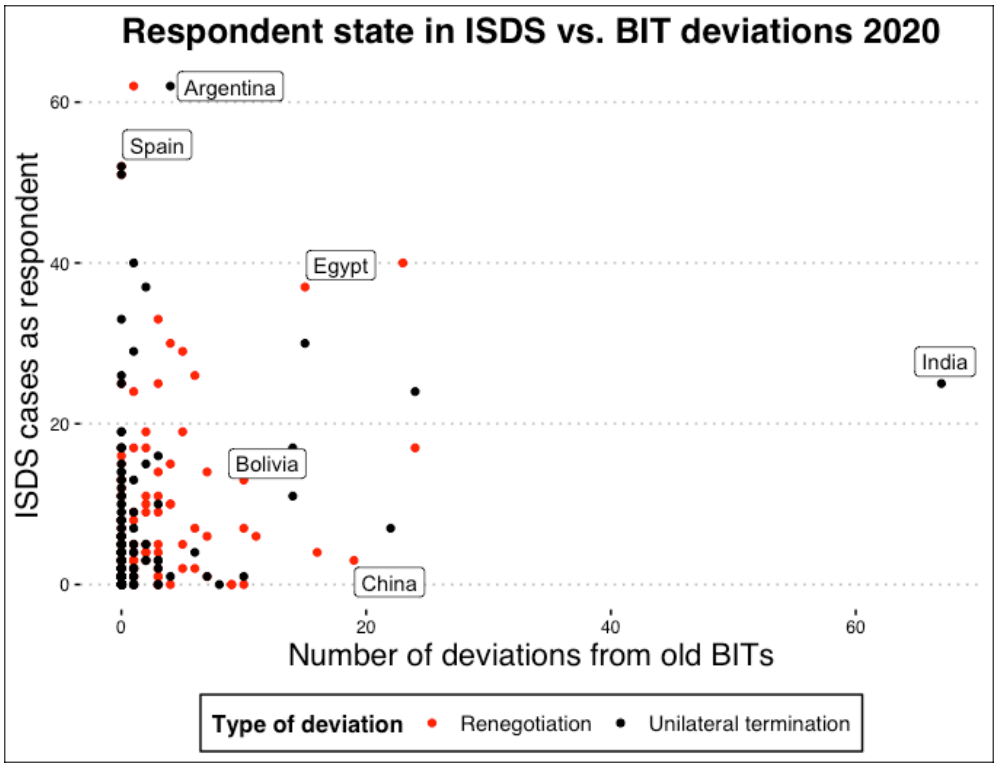

Figure 3. States by number of ISDS cases they have been respondents in and the number of terminated and renegotiated BITs they were parties to in 2020.[7]

Why do some states keep BITs despite facing ISDS? The current emphasis on ISDS as an explanation for driving change in the investment treaty regime is overlooking structural dynamics that are well-established in the literature on international cooperation and negotiations. A largely overlooked constraint on government action can help to address this puzzle – the bargaining power dynamic between treaty partners. While the consideration of states relative bargaining power has been at the front and center of explaining initial emergence and design of BIT (Guzman 1998; Elkins, Guzman, and Simmons 2006; Allee and Peinhardt 2010; 2014), a similar framework has not been employed to explain recent developments in the investment treaty regime. Bargaining power is an important constraint determining which states can initiate reform of international agreements that they no longer consider desirable. Even when states have incentives to reform their BITs, they only take action to change them if their bargaining position vis-à-vis the bilateral treaty partner enables them to do so.

[7] The pattern looks similar even if terminations and renegotiations are counted as proportion of the country's total BITs. The only exception is Bolivia, which has the second largest proportion of terminations with 90% of its BITs terminated in 2018, when counted as a proportion of its total BIT stock.

A dominant debate regarding the origins of the BIT-regime focuses on either the rational or boundedly rational decision-making by states when first signing BITs. A rational state signed the treaties because it was in their interest to do so: BITs formalized cooperation between two states by providing host states a credible commitment device to "tie their hands" regarding fair treatment of foreign investors (Salacuse 1990). The ISDS feature in particular has been considered by rational design literature a prime example of an enforcement mechanism for continued international cooperation (Koremenos, Lipson, and Snidal 2001).[8] On the other hand, especially amongst developing countries, the competition over attracting FDI created a race-to-the-bottom dynamic, whereby states signed BITs despite of their possible opposition to their features (Guzman 1998).[9] More recently, a bounded rationality perspective has been put forward, according to which real-world leaders are more likely to resort to mental short-cuts optimizing time and effort, and therefore are likely to fall into cognitive biases in their decision-making (Poulsen and Aisbett 2013; Poulsen 2015). BITs were, according to this logic, not a rational choice by states, but merely a boundedly rational one – perhaps due to their status as focal points for arranging governance of investments (Poulsen 2019).

This paper contributes to the discussion on investment treaty reform by showing that a background factor of international bargaining power influences the BIT reform efforts of all states. This is *regardless* of their reasons for joining them in the first place, and *regardless* of the incentives driving their decisions for reform. Whether or not states were rational or boundedly rational when signing BITs, they are similarly bounded in their options to walk away from or renegotiate the old treaties.

Established international agreements are sticky: once in place, any state wishing to escape investment treaties has to weigh their options in light of the existing treaty. States must not only consider whether they will be better-off without the treaty, but also decide if the costs

[8] Alternatively, ISDS-mechanism can function as an escape clause that enables signatories to temporarily deviate from their treaty obligations, compensate the other party, and return back to the cooperative state under the treaty (Rosendorff and Milner 2001).

[9] Other rationalist logics put forward include the snowballing hypothesis that states are more likely to sign BITs if their competitors have also signed them (Elkins, Guzman, and Simmons 2006), the rent-seeking motivations of authoritarian leaders as drivers of signing BITs (Arias et. al. 2018) or attempts to signal competence to domestic audiences in the face of a civil conflict (Billing and Lugg 2019).

resulting from terminating or seeking to renegotiate investment treaties outweigh the benefits. Unilateral termination of BITs has created costs for host states by sending hostile signals to foreign investors, and even declarations of renegotiation intentions have resulted in increased uncertainty. Reform efforts also create costs in the form of time, effort, and drain on bureaucratic and diplomatic capacity.[10] Without the bargaining power to walk away or convince the treaty partner to renegotiate, and ability to withstand the associated costs, states will not be able to deviate from their BITs.

Bargaining power therefore places important constraints on all states in their reform efforts. The incentives for states regarding change in BITs however differ depending on the reasons for which they initially signed them. While states who joined for boundedly rational reasons are likely to terminate or renegotiate BITs after facing ISDS-cases, states who were rational are likely to initiate reform following changes that lower investors' political risk in the country, or otherwise attract FDI: economic growth, improved rule of law and strength of property rights, and overall improved investment profile can provide incentives for states to reform BITs. These incentives are however only acted upon if the constraint of bargaining power enables the reform effort.

The current academic and policy discussion surrounding the investment regime is largely focused on the legal aspects of investment treaty arbitration and the implications for states' regulatory autonomy. Undoubtedly, better understanding of the legal and technical detail on behalf of policymakers as well as researchers about the regime is certainly called for: in comparison to the trade regime, there are severe "blind spots" regarding investment treaties (Sándor 2020). However, there are plenty of existing tools of studying international economic governance, inter-state bargaining, and treaty-based cooperation that have largely been overlooked in the legally-dominated space. Decades of international relations theory indicate that structural factors do matter for international outcomes, and they can also help in explaining states' behavior regarding BITs otherwise left unexplained.

[10] In addition, how exactly to reform investment treaties is not obvious. Extensive transnational efforts have been carried out already for multiple years at the UNCITRAL Working Group III to find solutions to how best create a new, functioning investment governance system.

The rest of this paper proceeds as follows. First, it outlines the theory about constraints and incentives surrounding the investment treaty reform and outlines testable hypotheses. Second, a quantitative study using a novel panel dataset on BITs is presented, along with measures for bargaining power and different incentives. Third, results of empirical analysis focusing on interaction effects between constraints and incentives in predicting deviation from an existing BIT are presented. The final section concludes.

Why some states terminate and renegotiate BITs while others do not?

Constraints on states' choices

BITs are fundamentally shaped by underlying asymmetric negotiations. Crucially, the state with stronger bargaining power in relation to the opponent shapes the treaty to more closely resemble its preferences.[11] The weaker party in negotiations, on the other hand, is largely a rule-taker.[12] At the onset of the BIT regime, the treaties in protection of foreign investments were designed by powerful, capital exporting states: European countries, and later the United States, were leading the way in designing legal protections for investors, often in regions of political instability.[13] This asymmetry resulted in expansive protections for foreign investors from the powerful states. Strong ISDS-mechanism, sunset clauses ensuring treaty protections long after possible treaty termination, and vague definitions of investments and investor nationality are examples of treaty features included that specifically serve the interests of the largely capital exporting state.

If these underlying asymmetric bargaining power relations change, we should also expect a change in BITs themselves. Recent years have seen an increasing importance of new actors in the global economy: China as well as other emerging economies are, for the first time, serious

[11] See the foundational analysis by Allee and Peinhardt (2014).

[12] Recent automated text analysis of concluded BIT texts and model BITs shows that the more powerful parties include their favoured terms in investment treaties with higher certainty (Alschner and Skougarevskiy 2016).

[13] Because investors form powerful interest groups in most democratic states, their governments are motivated to serve their interests. These states took the lead with their drafted model agreements, and the terms of investment governance were largely dictated by such countries and imposed on their treaty partners in the developing world (Salacuse, 1990: 655–75). On the role of bureaucrats of European capital exporting countries in shaping the investment regime, see St John (2018).

actors in economic negotiations. The newly found activism has become evident for example through the increasing popularity of South-South BITs.[14] It is not a coincidence that states who are responsible for the majority of BIT-reform efforts are also those who have risen into prominence in the last few decades: India, Indonesia, South Africa, and China alone account for a third of all renegotiated and unilaterally denounced BITs.[15] This new position and preferences of states that have significantly improved their economic power since initial treaty signature are no longer reflected by the existing treaties.

Why should we expect changes in the economic power of some states to result in changes in investment treaties? Economic power translates into bargaining power in investment treaty negotiations by lowering the costs of getting rid of old BITs, in comparison to keeping them. Two main strategies that states can employ in reforming old investment treaties are unilateral termination and renegotiation. They both, however, generate costs: unilateral termination of BITs can send a hostile signal to foreign investors and the partner state about the states' intentions regarding their commitments to them. It can also have reputational consequences amongst the wider international audience. Efforts to renegotiate BITs or establish alternative agreements, on the other hand, require time, effort, and diplomatic resources (Table 1.)

Table 1. Costs and benefits of keeping status quo BIT, unilateral termination, and renegotiation

	Status quo	**Unilateral termination**	**Renegotiation**
Benefits	Reputation from adherence to treaty commitments (not "defecting") Continued attraction of FDI via stability	Dissolve ISDS-obligations for new investors	Strengthen cooperation Update treaty terms
Costs	Continued exposure to ISDS: 1. costs of arbitration 2. limitations to State Regulatory Space	Hostile signal to foreign investors Political costs of "reneging" from cooperation	Diplomatic and bureaucratic efforts Time

These costs of the unilateral termination and renegotiation are felt less strongly by economically powerful states. Economic power lowers the costs of both options in comparison to keeping the status quo treaty in place: it helps the state to attract FDI independent of BITs, hence mitigating any negative signaling. It also enables states to cope better with the costs

[14] United Arab Emirates, for example, has signed 10 new BITs since 2018, all with non-Western partners.

[15] These states are parties to 130 out of 394 terminated and renegotiated BITs.

associated with maintaining complex and lengthy international negotiations to reform BITs or establish new economic agreements, such as PTAs.

On the other hand, the costs of keeping the status quo BIT are not impacted by increases in economic power. While increases in economic power can also lower the impact of arbitration resulting from continued exposure to ISDS, the limitations to state regulatory space (SRS) imposed by BITs are not impacted by it (Broude, Haftel, and Thompson 2017). BITs have been employed against both economically powerful and less powerful states, and there is increased awareness of the unprecedented rights BITs grant to private investors in international law. The increasing concerns regarding possible regulatory chill because of BITs can also be felt by states regardless of their economic power (Pelc 2017).

Economically powerful states therefore face lower costs of terminating or renegotiating BITs. However, economic power of a state alone does not determine constraints on investment treaty reform. Instead, it is the economic power *relative* to the treaty partner that determines the constraints. A change in the relative economic power between treaty partners is likely to change the underlying bargaining dynamic between them: if the costs of reform are suddenly felt less strongly by one signatory state than the other, they will have a credible claim for improving the terms of the existing agreement or else walk away from the agreement. Assuming mutual benefits still exist from having an investment treaty in place, the partner has to give concessions in order to keep an agreement in place, or else see the BIT unilaterally terminated by the partner state.

Therefore, as one state catches up economically with the other, or one state declines in relation to the partner, there is inevitably an alteration of the bargaining dynamic. Changes in relative, over-time economic power capture constraints experienced by states when deciding whether to unilaterally terminate or renegotiate their old BITs. While the rapid economic improvement of certain states is likely to have also improved their relative economic position in relation to many partner states, it is fundamentally the changed relative bargaining power dynamic since treaty signing that determines whether states are in a position to demand BIT reform.

The bargaining power dynamic influences states' decisions regarding BITs regardless of the reasons for which they signed BITs in the first place: once in place, there are consequences if agreed-on obligations are abandoned, and states have to consider the associated costs and

benefits – even if they initially joined under boundedly rational decision-making logic. Afterall, it is a different matter to deviate from an established agreement than it is to join one in the first place (Mossallam 2015). Bargaining power however only explains when a state *can* initiate change in their treaties, without explaining why they might want to do so. Consideration of states' incentives is therefore vital in explaining the variation in question.

Incentives for reform

The bargaining power dynamic characterizes which courses of action are available for signatory states, but it cannot sufficiently capture the reasons for why a state may have developed a distaste for the existing BITs. The reasons why individual governments may want to reform their international agreements are likely as numerous as there are specific agreements; however, it is possible to identify common factors that have given rise to incentives to reform BITs across states. States' incentives to initiate change in BITs are likely to differ depending on whether they signed them rationally, or as a result of boundedly rational decision-making.

Boundedly rational states and Facing ISDS

For boundedly rational states, the decision to sign BITs initially was made based on mental short-cuts, such as relying on the focal instrument available. According to the bounded rationality perspective, ISDS-cases can generate learning effects that break the bounded rationality underlying the agreement. Once governments become targets of ISDS lawsuits themselves, or observe instances of arbitration by others, the underlying boundedly rational logic of BITs becomes questioned.

The newly pressing salience and imminently costly consequences resulting from ISDS-cases give emergence to a new, more rational decision-making process. Instead of defaulting to the old cognitive biases, increased efforts are made to carefully consider the costs and benefits of the BIT. Resources may be spent to gain more information about the treaties, and the risks are assessed as carefully as possible based on the acquired information. This dynamic can explain

the lack of enthusiasm towards signing more investment treaties with ISDS clauses ever since the legal disputes have started to accumulate (Poulsen and Aisbett 2013).[16]

For boundedly rational states, experienced ISDS cases as respondent therefore form the strongest incentive driving their decision to deviate from old BITs. Since they are also constrained by their bargaining power, we would expect an interaction effect between changed economic gap between the signatory states and ISDS experience.

Hypothesis 1: *BIT is increasingly likely to get terminated or renegotiated if a signatory state has faced ISDS cases and the relative economic power difference between signatory states has changed since treaty signature*

Rational States and Attracting FDI

There are distinct incentives that may be driving the behavior of states that initially signed BITs rationally. These states signed BITs in an effort to attract FDI through BITs. They can however develop other means to appear attractive to investors, and hence make old BITs futile in this task. First, high economic growth may result in an ability to attract investors regardless of whether or not the state is a member to BITs. Second, improved rule of law or security of property rights domestically may serve the same purpose as BITs did in the past, and hence create incentives to get rid of the old BITs. Finally, if the general investment climate in a country has improved though fair treatment of investors, the relevance in guarantees provided by BITs may have declined.

Like for the initially boundedly rational states, the constraints of sufficient economic power however influence whether or not the emergence of these incentives can be acted upon. Interaction effects between factors that capture these incentives and those addressing bargaining power are therefore expected to correspond to higher likelihood of deviation from the old BIT.

[16] Empirical support between the increasing instance of renegotiations and terminations of BITs and ISDS experience has been found by Haftel and Thompson (2018) and Thompson et. al. (2019).

Hypothesis 2: *BIT is increasingly likely to get terminated or renegotiated if signatory state experiences high economic growth and the relative economic power difference between signatory states has changed since treaty signature*

Hypothesis 3: *BIT is increasingly likely to get terminated or renegotiated if signatory state has high rule of law and the relative economic power difference between signatory states has changed since treaty signature*

Hypothesis 4: *BIT is increasingly likely to get terminated or renegotiated if signatory state has high investment climate and the relative economic power difference between signatory states has changed since treaty signature*

Whose incentives matter

The changing bargaining power dynamic can favor one state or the other, depending on what has caused the change. First, it is possible that the economic gap between the treaty signatory parties has gotten smaller, either because one of the states has caught up with the other, or the other has experienced a decline. When the two parties have approached each other in power parity, we would expect this to favor the initially weaker state and make them able to act upon whatever incentive may drive their desire for reform. It is therefore likely that if the economic gap between the parties has gotten smaller, it should increase the chance of BIT reform when interacted with the initially weaker party's incentives.

Hypothesis 5: *BIT is increasingly likely to get terminated or renegotiated when Party 2 has high incentives for reform and the relative economic power difference has gotten smaller since treaty signature*

Second, the economic gap can also have grown larger. This can result from the initially stronger state further improving its economic position in relation to the other, or the initially weaker party having declined further. Widening of the economic gap in both scenarios is then likely to empower the initially stronger state: an increase in the likelihood of a BIT reform between the parties is expected after the emergence of incentives for the stronger state are interacted with the widened economic gap.

Hypothesis 6: *BIT is increasingly likely to get terminated or renegotiated when Party 1 has high incentives for reform and the relative economic power difference has grown larger since treaty signature*

Alternative incentives

To distinguish the constraints of bargaining power and the theorized incentives of rational and boundedly rational states in investment treaty politics, some key alternative explanations must be addressed. States and their governments may have ideological attitudes towards the international investment regime that explain their actions towards BIT commitments (Calvert, 2018). It is possible that states with governments situating economically to the left may have more hostile attitudes towards foreign investors.

Change in the political regime can also lead to reform efforts by the new leaders to abandon foreign policies of previous autocratic leaders. Democratic transitions can make governments more sensitive to domestic pressures to regulate in favor of public issues such as health and the environment, which BITs have been accused of limiting due to the obligations owed to foreign investors. The involvement of citizens in politics is also likely to influence states' incentives towards investment treaties. Domestic socioeconomic conditions may influence how involved the population is in politics in general, as improved socioeconomic conditions tend to come hand in hand with higher political participation.

Quantitative Study

The study of BIT-reform has, apart from a few recent exceptions, largely employed qualitative case- and comparative studies.[17] Given the publicly available data regarding BITs, and a theory with generalizable implications, the research puzzle lends itself to quantitative empirical testing. The study contributes to the existing line of inquiry into the systematic study of BIT formation, design, and recently, their outcomes.

In the empirical tests conducted, all BIT renegotiations and unilateral terminations are combined into one outcome of interest – deviation from the existing BIT. This is because the

[17] Notable exceptions include work by Broude, Haftel, and Thompson.

theory characterizes the impact of bargaining power constraints and different incentives as a key determinant for a state to take action regarding its BITs, whether it is through renegotiations or unilateral denunciation. However, it is important to note that the reasons why a state might want to terminate are likely to differ from those to renegotiate. For the puzzle at hand, the focus is on the initial hurdle of having sufficient bargaining power to initiate reform at all. The successive decision to either terminate or renegotiate, and the different routes states take to BIT reform, presents a fascinating line of future inquiry.

Decisions to initiate reform of international agreements are complex and unique to each government. Therefore, a modelling exercise attempting to comprehensively explain every change in a BIT is hardly a fruitful or an achievable exercise. Rather, the goal of the empirical test provided is to examine the hypothesized interactions of constraints and incentives, and their relationship with BIT changes. To the knowledge of the author, the presented study employs the most rigorous statistical test conducted on the relationship between bargaining power measures, rational and boundedly rational incentives, and BIT reform.

Data

The obtained new dataset of BITs is based on the UNCTAD Investment Agreements Database and includes information whether they have been reported as signed, entered into force, or terminated.[18] The dataset is unique in capturing multiple instances of BIT termination and renegotiation between the same country-dyad: any treaty between a country-dyad that gets renegotiated at a later stage will have observations for both the old and the new BIT. For example, both the Indonesia-Netherlands (1968) and the Indonesia-Netherlands (1994) are included as separate treaties, regardless of the extent of revisions made. Therefore, the data records a higher number of instances of deviation from BITs than other comparable datasets, such as the most recent dataset on BIT renegotiations by Haftel et. al. (2019).

For the analysis, only BITs that have entered into force are included, as the dynamic addressed only explains outcomes of BITs that had the power of international law with the associated costs. The data is converted into a cross-section time-series format, where the unit of analysis

[18] The status information of BITs in the dataset are reported as they stood on the 15h April 2020, scraping of the data was conducted.

is the individual treaty-year, embedded in country dyads. Each treaty enters the data on the year of its entry into force, and has observations until 2019, or the year when it got terminated. Covariate data is acquired from alternative sources: data on investment disputes is provided by the UNCTAD Investment Dispute Navigator, and the rest of the covariates are added from other cross-national datasets.[19] The new dataset on unique BITs constitutes a vital empirical contribution to the study of the investment regime.

Party 1 & Party 2

Capturing the changes in the bargaining power dynamic and the effects of the signatory states' incentives requires identifying the initially stronger and weaker party in the bargaining interaction. By ordering the signatory states systemically, it is possible to gain insight into whether it is the initially weaker or stronger states driving changes in the investment regime. The ordering of the two states therefore identifies their respective bargaining power positions the year the BIT was signed.

Following the existing literature on the power-dynamics at the onset of the BIT-regime, I use exporter status and international institution membership of the states to estimate the bilateral partners' relative bargaining strength. The primary coding rule identifies Party 1 as the state with a larger volume of FDI exports in the year of BIT signature. However, if the party with smaller exports was a member of the OECD, the OECD member is coded as Party 1.[20] The coding rule captures the key aspects determining the powerful state at the time of BIT negotiations: larger capital exporters were less dependent on a given BIT due to their attractiveness to potential alternative recipients, and OECD states usually have access to institutional and technical knowledge regarding international negotiations and economic issues

[19] World Development Indicators (2019); Varieties of Democracy (V-Dem) (Coppedge et al. 2019); World Economics and Politics Dataverse (Graham et al. 2018); The Quality of Government Standard Dataset (Theorell et al. 2020); Database of Political Institutions (DPI2017) (Cruz, Keefer, and Scartascini 2018)

[20] In cases where both or neither states are OECD members, larger total exports determine Party 1. Similar rules were first adopted by Allee and Peinhardt (2010).

not available to non-OECD states. 90% of the dyads can be ordered according to this coding rule.[21]

To include additional dyads, especially from the global South for which export data may not be available for the critical years, two additional coding rules are employed: if one of the states was a member state of the EU in the year of BIT signature while the other was not, it is coded as Party 1. If the dyad cannot be ordered by these rules, the party with higher GDP in the year of signature is coded as Party 1. The resulting dataset includes 2,623 unique BITs, and 51,702 treaty-years.[22]

Design

To isolate the hypothesized interaction effects driving deviation from BITs, I estimate a linear probability model with fixed effects for each individual BIT and year. Linear probability model is chosen as the main model for the ease of interpretation of the interaction effects of interest.[23] As a robustness check to ensure the rarity of events in the data does not influence results, survival analysis is conducted using a Cox Proportional Hazard model.

Employing fixed effects is a method of accounting for concerns of endogeneity and controlling for unobservable factors. First, the treaty-fixed effect α_i addresses the concern that some exceptional BITs may be driving the results by controlling for all time-invariant factors that are specific to the treaty or the country dyad.[24] The year fixed effects $\delta_{t,}$ on the other hand,

[21] The coding rule is a compromise between capturing the bargaining dynamic at regime onset and data availability, without comprehensive bilateral FDI flows, and the use of net capital importer and exporter status resulting in multiple oddities. The adopted coding rule results largely in informative ordering of states within each dyad.

[22] Details on coding are provided in the Online Appendix.

[23] Linear probability model is chosen over a fixed-effects logit model, as the latter does not allow for estimation of average marginal effects (Baltagi, 2014, Ch. 5; Wooldridge 2010: 622), which are necessary for interpreting the interaction effects of interest.

[24] Treaty fixed effects address the problem of large amounts of data that would be otherwise required to control for a multitude of factors, such as unique treaty features (i.e. how strict the dispute settlement provisions are), colonial history between partner states, or diplomatic or cultural factors that do not vary over the study period in a significant majority of the cases.

enable accounting for any year-specific trends that are constant across entities but vary over time, such as general trends in the world economy, overall accumulation of ISDS-disputes, or any major world events in a specific year.

The main model estimated can be written as follows:

$$Deviation_{it} = \beta_0 + \beta_1 \Delta BP_{it} + \beta_2 X_{it} + \beta_3 \Delta BP_{it} * X_{it} + \alpha_i + \delta_t + u_{it}$$

where $Deviation_{it}$ is the dependent variable whether or not the BIT i on a year t gets terminated or renegotiated. ΔBP_{it} is the relative economic power change since the initial year of treaty signature, and X_{it} is a set of time- and treaty-varying, observable control variables. α_i is the treaty fixed effect, δ_t is the year fixed effect, and u_{it} is the idiosyncratic error. The main goal is therefore to investigate whether there are interaction effects between bargaining power constraints and variables capturing state incentives when estimating the likelihood of BIT deviation.

Different treaties can be nested within the same country dyads: for example, the aforementioned Indonesia-Netherlands (1968) and the Indonesia-Netherlands (1994) BITs are both nested withing the Indonesia-Netherlands dyad. This dependence of treaty-year observations may be a cause of concern for consistency of the standard errors, and hence they will be clustered at the dyad-level.[25]

Variables and measurement

Deviation from BIT

The employed outcome variable is binary, capturing whether or not the BIT is renegotiated, amended, unilaterally terminated, or terminated by consent. When incentives align with the lifting of bargaining power constraints, the BIT is expected to deviate from staying in force. The data is supplemented by inclusion of instances of BIT amendments reported as Amendment Protocols by UNCTAD, as well as renegotiations that have not been reported to have taken force. Some BITs have also been replaced by PTAs rather than new BITs, which

[25] The number of clusters, or unique dyads, in the full dataset is 2,481.

are also coded as having deviated from the status quo. I include instances of termination by consent of both parties into the outcome variable, as it signals that an agreement regarding reform has been reached by the parties.

Constraints

To capture the constraints on states BIT policy, GDP data from World Development Indicators is used to capture bargaining power changes over time. The measure ***Relative power change*** captures the difference between the parties' logged GDP compared to what it was in the year of BIT signature. Smaller values correspond to the gap between the parties having become smaller, either by the initially weaker party having caught up, or the stronger party having declined. Substantively, one unit decrease in relative power change is equivalent to Party 1 having had 10 times the GDP of Party 2 on the year of BIT signature and ended up with equal economic power in the year of observation.

Incentives

The initially boundedly rational states' incentives are theorized to be driven by increasing experience with the dispute settlement mechanism. The ***ISDS respondent*** captures the number of cumulative ISDS cases brought against each state. I include ISDS cases based on BITs as well as other instruments, as legal challenges by foreign investors are likely to change states' incentives regardless of which instrument was used to bring the suit. It is also possible that states learn from other countries ISDS experiences as well as their own, possibility accounted for by time fixed effects.

To capture the incentives of initially rational states, the following measures are adopted: ***Economic Growth*** is captured by the annual GDP percent growth rate measure from World Development Indicators. ***Law and Order*** as well as ***Investment Climate*** come from the PRS Group's researcher dataset, where they are measured in 6- and 12-point scales respectively, higher values capturing more positive conditions.[26]

[26] Construction of the variables and their components are described in depth in The International Country Risk Guide (ICRG) methodology.

To assess possible alternative incentives driving BIT-policy decisions, a set of measures capturing such incentives are included in the model. ***Left executive*** is a dummy measure capturing whether or not the executive of the country is labelled as communist, socialist, social democratic or left-wing in the Database of Political Institutions.[27] Change in the political regime is captured by ***Democratization****,* which is a binary variable taking the value 1 the state has experienced an increase in their Polity IV score of 3 or more the past three years. In addition, the ***Socioeconomic conditions*** in each partner state are measured by variables from the PRS dataset.

Controls

Finally, various control variables are included in the models in order to isolate the theorized dynamics. A recent ruling by the Court of Justice of the European Union on the Slovak Republic v. Achmea B.V. case concluded that the provisions in the Netherlands – Slovakia BIT (1991) had an adverse effect on the autonomy of EU law, and hence the treaty was to be considered not compatible with European legislation. Since many BITs include similar provisions, the implications for all intra-EU BITs may be severe. While the Achmea ruling is a recent development, it is possible that some of the latest terminations in the dataset may have been a result of this decision. I therefore control for ***Intra-EU***, which is coded 1 if both of the parties are EU members.

Whether or not the parties to a BIT also have an existing PTA in force may influence BIT reform in two ways: either by making it less costly to deviate from existing BITs by providing an alternative agreement and hence making deviation more likely; or by indicating close economic ties and good faith between the partners in a given year. Therefore, ***PTA in force*** is also controlled for, which is a binary variable for whether or not the parties currently have a PTA in force.

In addition, country- and year-specific controls are included from the PRS dataset, such as internal and external conflict, corruption, and government stability. Table 2 presents summary statistics of all variables are provided.

[27] Cruz, Keefer, Scartascini (2017) Database of Political Institutions 2017 Codebook

Table 2. Summary Statistics

Statistic	N	Mean	St. Dev.	Min	Max
Deviation	51,702	0.01	0.09	0	1
Relative power change	43,435	-0.06	0.18	-1.78	1.15
ISDS Respondent 1	51,702	3.65	8.54	0	62
ISDS Respondent 2	51,702	3.61	7.09	0	62
GDP growth 1	51,267	2.82	3.79	-62.08	123.14
GDP growth 2	50,347	4.16	5.12	-62.08	149.97
Law and Order 1	49,281	4.79	1.04	1.00	6.00
Law and Order 2	42,435	3.64	1.07	0.00	6.00
Investment Profile 1	49,281	9.38	2.13	0.08	12.00
Investment Profile 2	42,435	7.91	2.02	0.00	12.00
Democratization 1	45,254	0.004	0.07	0.00	1.00
Democratization 2	44,098	0.02	0.13	0.00	1.00
Socioeconomic conditions 1	49,281	7.65	1.89	0.54	11.00
Socioeconomic conditions 2	42,435	5.47	1.88	0.00	11.00
Leftist executive 1	34,134	0.44	0.50	0.00	1.00
Leftist executive 2	22,877	0.57	0.50	0.00	1.00
External conflict 1	49,281	10.25	1.37	2.58	12.00
External conflict 2	42,435	9.80	1.46	0.00	12.00
Internal conflict 1	49,281	9.93	1.49	0.42	12.00
Internal conflict 2	42,435	9.03	1.82	0.00	12.00
Corruption 1	49,281	3.77	1.37	0.00	6.00
Corruption 2	42,435	2.44	0.86	0.00	6.00
Government stability 1	49,281	7.97	1.53	2.17	12.00
Government stability 2	42,435	7.88	1.71	0.67	12.00
Intra-EU	51,702	0.06	0.23	0	1
PTA in force	47,069	0.43	1.06	0.00	7.00

Results

Before discussing the results of hypothesis testing, a set of observations are noted from the independent effects in the linear probability models.[28] Most notably, the effect of facing ISDS cases, where detectable, has a remarkably small effect on likelihood of BIT termination or renegotiation. The positive association can only be detected where alternative explanations are not controlled for, which is surprising given the explanatory power previously attributed to ISDS. In a model where rational and boundedly rational incentives along with control variables are included, 10 additional ISDS cases faced by Party 1 and Party 2 only increase the probability of BIT termination or renegotiation by 0.9% and 0.4% respectively. Once alternative explanations are controlled for, these effects disappear.

Instead, the effects of economic growth and socioeconomic conditions of Party 1, as well as internal conflict for Party 2, increase the likelihood of BIT reform. In addition, improved investment profile of the stronger party and corruption in the initially weaker state have an independent negative effect on the likelihood of deviation from the BIT. It appears that the faced ISDS cases are but one possible incentive shaping outcomes in the reform of the regime up to date.

Table 3 presents the hypothesized interaction effects, grouped by boundedly rational, rational, and alternative incentives for both parties. The key finding is that there are multiple interaction effects with the relative power change variable across measures for different incentives: bargaining power change between the treaty partners shapes the impact of other developments on investment treaty reform.

The results contribute to the discussion on the hypothesized effect of ISDS practice on the backlash on BITs. Most notably, the impact of ISDS cases *depends* on bargaining power change. The interaction effect between relative power change and ISDS Respondent for Party 2 is statistically significant at the 95% confidence level, supporting Hypothesis 1: the larger the relative power change between the parties has been since the year of treaty signature, the larger the effect of being a respondent in an ISDS dispute is on the likelihood of deviating from the BIT. On the other hand, the interaction effect between relative power change and ISDS cases faced by Party 1 is not statistically significant. The boundedly rational incentives

[28] Table A1 in the Appendix.

reflected in the ISDS cases by the initially weaker party therefore increase the likelihood of BIT reform, but only if the bargaining power difference between the parties has gotten smaller.

Table 3. Interaction effects in Linear Probability models

	M1	M2	M3	M1+M2 +controls	Full
Boundedly rational					
Relative power change*ISDS Res. 1	**0.003****			**0.004****	0.002
	(0.001)			(0.001)	(0.002)
Relative power change*ISDS Res. 2	**-0.004*****			**-0.003****	**-0.005****
	(0.001)			(0.001)	(0.002)
Rational					
Relative power change*GDP growth 1		**0.004*****		**0.004****	**0.005***
		(0.001)		(0.001)	(0.002)
Relative power change*GDP growth 2		**-0.002*****		**-0.001***	**-0.002***
		(0.000)		(0.000)	(0.001)
Relative power change*Law and order 1		**0.018****		0.023**	0.008
		(0.006)		(0.007)	(0.012)
Relative power change*Law and order 2		**-0.024*****		**-0.026*****	**-0.028***
		(0.007)		(0.008)	(0.011)
Relative power change*Investment profile 1		**-0.005***		**-0.006***	**-0.014***
		(0.003)		(0.003)	(0.007)
Relative power change*Investment profile 2		**0.009*****		**0.011*****	**0.017****
		(0.003)		(0.003)	(0.006)
Alternative					
Leftist executive 1			-0.001		-0.003
			(0.003)		(0.003)
Leftist executive 2			-0.001		-0.002
			(0.002)		(0.002)
Democratization 1			0.001		0.003
			(0.007)		(0.008)
Democratization 2			0.005.		0.005
			(0.003)		(0.003)
Socioeconomic conditions 1			0.002		**0.003.**
			(0.001)		(0.001)
Socioeconomic conditions			0.000		-0.000
			(0.001)		(0.001)
Year FEs	yes	yes	yes	yes	yes
BIT FEs	yes	yes	yes	yes	yes
Num. obs.	43435	35643	12021	32488	12021
R^2 (full model)	0.091	0.093	0.158	0.103	0.167
Adj. R^2 (full model)	0.037	0.038	0.081	0.043	0.088
Num. groups: year	54	36	33	34	33
Num. groups: bit	2382	1985	970	1970	970

$^{***}p < 0.001$; $^{**}p < 0.01$; $^{*}p < 0.05$; $^{\cdot}p < 0.1$; SEs clustered at dyad-level

Interaction effects are also detected for measures capturing rational incentives and relative power change, providing support for Hypotheses 2-4. Closing the bargaining power gap creates conditions where economic growth as well as improved law and order in the initially weaker state correspond to increased chance of BIT reform. These developments make BITs more redundant in the state that initially wanted to attract FDI, and because of its improved bargaining power position it can act upon these new preferences regarding investment treaty commitments. Because widening bargaining gap will inevitably favor the party that already had the upper hand in negotiations, incentives for Party 1 to terminate or renegotiate correspond to actual changes in BITs when the relative power gap is larger. This is supported by the positive and statistically significant coefficient of the interaction effect between relative power change and GDP Growth 1.

The direction of change in relative power therefore determines which Party's incentives matter for the faith of the BIT, providing support for Hypotheses 5-6. Figure 4 shows graphically the conditional effect of incentive-variables on deviation from the BIT for different levels of the relative power change. Larger relative power change corresponds to greater positive effect of Party 1's incentives on BITs, while it creates a stronger negative effect of Party 2's incentives. Similar dynamic is observable across interaction effects with the exception of investment profile, which is discussed in turn.

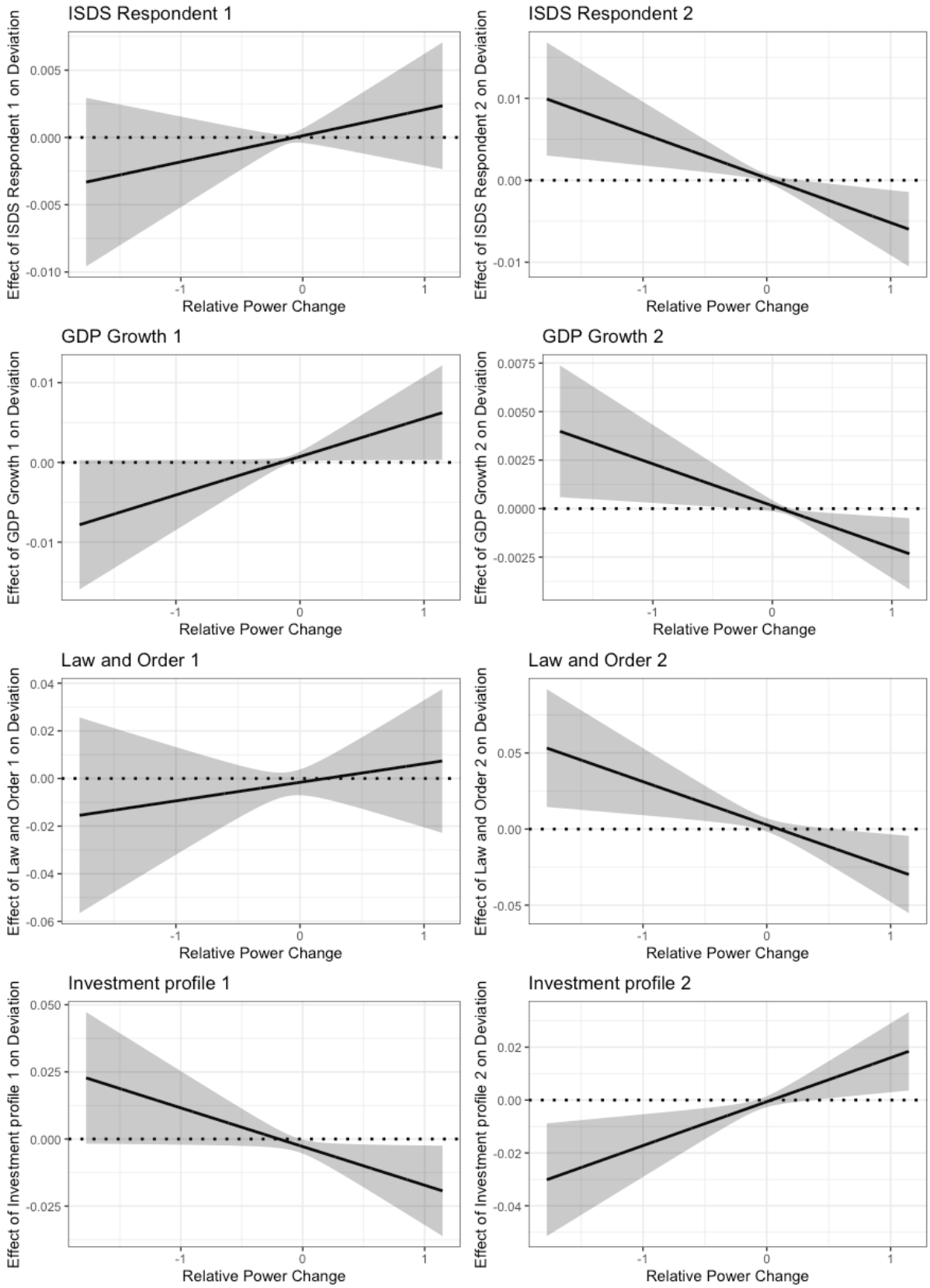

Figure 4. Conditional effects of incentives conditional on relative power change in the full linear probability model

The investment profile of Party 1 and Party 2 contradict the general direction of detected effects, which warrants a short discussion. The incentives emerging from improved investment conditions seem to have two different possible impacts regarding BITs. In the first instance, improved investment profile could be expected to increase the chances of reform, because BITs are no longer necessary for attracting FDI. However, improved investment climate can also help mitigate the costs of keeping BITs, as disputes with investors are less likely to emerge.

When interacted with the relative power change, the effects differ for the initially weaker and stronger party to the treaty. When the economic gap has widened since treaty signature, favorable investment climate in Party 1 hinders the reform efforts rather than helps them. This is likely due to the lack of incentives for Party 1 to reform its investment treaty commitments. In addition, with a widened bargaining power disparity, Party 2 will be unable to demand renegotiation or benefit from termination because of its even weaker bargaining position than initially. However, if Party 2 is the one with favorable investment climate, widening power gap seems to enhance its reform efforts. The improved investment climate for the party in weaker negotiating position can mitigate associated costs and encourage reform regardless of worse bargaining position.

The only detectable effect of alternative explanations is the socioeconomic conditions in the initially stronger state, which has a positive effect on BIT termination or renegotiation at the 90%-significance level. This provides evidence for the discussions surrounding the role of domestic pressures especially in developed states towards BIT-reform: the trend towards an increasing demand to include provisions for environmental protection and public health concerns is likely to explain part of the dynamic underlying changes in old investment treaties.

To ensure that the rarity of instances of termination and renegotiation of BITs in the data is not a concern for the analysis relying on linear probability models, survival analysis using a Cox Proportional Hazard model is conducted as a robustness check to test the hypotheses.[29] The results largely confirm those from the linear probability models: the interaction effects between constraints and both boundedly rational and rational incentives are systematically statistically significant, and their impact is in the same direction in relation to deviation from the BIT. In

[29] Table A2 in the Appendix.

addition, relative power change has an independent negative effect on BIT renegotiation or termination.

Conclusion

ISDS experience has so far dominated the analysis of changes in the BIT regime. The regulation of international investment is, however, not uniquely exempt from the dynamics of international bargaining: bargaining power considerations are inevitably present whenever inter-state agreements are negotiated. The rationalist account relying on changes in the bargaining power dynamic can provide important insight into on-going changes in the BIT regime. Many different factors influence states' incentives regarding their investment treaty commitments, ranging from experience with ISDS to becoming otherwise attractive for international investors, and to domestic political factors. Yet, it is important that actors' ability to act upon their incentives will be constrained by power considerations in the international arena – especially with regards to international investment, shaped by asymmetric inter-state relations.

The results from the presented empirical analysis illustrate how the impact of various events creating incentives for BIT-reform are constrained by bargaining power. Experience as a respondent in ISDS cases is most likely to provide incentives to abandon old BITs for the initially boundedly rational states, as they are likely to learn from the consequences of investment treaties when facing lawsuits from investors. While the ISDS cases faced by the signatory parties do not appear as important as the current discourse has claimed, if the relative power difference between the parties has gotten smaller, additional ISDS cases faced by the initially weaker party increase the likelihood of BIT termination. In other words, the impact of being a defendant in ISDS cases on BIT reform depends on the changes in the underlying bargaining power between treaty partners.

Interaction effects between relative power change and measures capturing rationalist incentives for terminating or renegotiating BITs likewise return statistically significant results. States who initially signed BITs rationally in the hopes of attracting FDI are likely to seek their reform when they become otherwise favorable for foreign investors. While higher economic growth and improved law and order for Party 1 increase the likelihood of deviation from old BIT the larger the power difference has grown, the effect is of the opposite direction for corresponding

improvements for Party 2. Initially weaker parties are able to act on their rationalist incentives when the bargaining power gap has gotten smaller since the year of initial BIT signature.

Interestingly, generally improved investment conditions contradict this general pattern in the findings: because investor-friendly conditions also make keeping BITs in place less costly, they can create incentives to keep them. The results show that BIT renegotiation or termination becomes more likely when the initially weaker party has become even weaker in relation to the treaty partner when combined with high investment profile. High investment profile is therefore likely to mitigate the costs or walking away from BITs when the power difference has grown larger.

The implications of changing bargaining power dynamics are likely to become more important in the future for the BIT regime. With the dispersion of information on the risks of ISDS and inadequacies of BITs underway, improved alternatives for attraction of FDI, and domestic pressures towards reform, more states are likely to become incentivized to move towards a new model of investment governance. On the other hand, the analysis shows that the impact of these developments will depend on power considerations. When relative power changes have been small, the impacts on incentive changes on BITs remain modest. However, we are likely to see new actors becoming more active in the arena of international economic agreements as relative economic power differences decrease between traditional investment treaty partners.

Important questions for further inquiry emerge from the findings, expanding the research agenda on the investment treaty regime. The theory and analysis presented remain agnostic as to the specific type of action taken to reform old BITs. Although unilateral termination and renegotiation of BITs are very different decisions with their associated costs and benefits, according to the theory, the same bargaining power considerations will determine whether we observe a manifestation of either. Sufficient bargaining power is, most importantly, a vital hurdle to be cleared before a state is likely to deviate from an old agreement. Future research on the factors resulting either unilateral denunciation or renegotiation can further improve the explanatory power of models of BIT reform.

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Appendix

Table A1. Independent effects in Linear Probability Models

	M1	M2	M3	M1+M2 +controls	Full
Relative Power Change	0.007	-0.025	-0.043	-0.043	0.008
	(0.007)	(0.044)	(0.065)	(0.052)	(0.098)
ISDS Res. 1	**0.001*** **			**0.001** ***	0.000
	(0.000)			(0.000)	(0.000)
ISDS Res. 2	**0.001*** **			**0.000** *	0.000
	(0.000)			(0.000)	(0.000)
GDP growth 1		**0.001*** **		**0.000** *	**0.001***
		(0.000)		(0.000)	(0.000)
GDP growth 2		0.000		0.000	0.000
		(0.000)		(0.000)	(0.000)
Law and order1		0.001		0.002	-0.002
		(0.001)		(0.001)	(0.003)
Law and order2		0.000		0.002	0.003
		(0.001)		(0.001)	(0.002)
Investment profile 1		-0.000		-0.000	**-0.003***
		(0.000)		(0.001)	(0.001)
Investment profile 2		**0.001***		**0.001** *	-0.001
		(0.000)		(0.001)	(0.001)
Leftist executive1			-0.001		-0.003
			(0.003)		(0.003)
Leftist executive2			-0.001		-0.002
			(0.002)		(0.002)
Democratization 1			0.001		0.003
			(0.007)		(0.008)
Democratization 2			**0.005.**		0.005
			(0.003)		(0.003)
Soc.ec. conditions 1			**0.002.**		**0.003.**
			(0.001)		(0.001)
Soc.ec. conditions 2			0.000		-0.000
			(0.001)		(0.001)
Internal conflict 1				-0.000	0.000
				(0.001)	(0.001)
Internal conflict 2				**0.001.**	**0.002.**
				(0.001)	(0.001)
External conflict 1				0.000	0.000
				(0.001)	(0.001)
External conflict 2				**-0.001.**	-0.001
				(0.001)	(0.001)
Corruption 1				0.000	0.001
				(0.001)	(0.002)
Corruption 2				-0.002	**-0.005****
				(0.001)	(0.002)
Government stability 1				**0.001.**	0.001
				(0.000)	(0.001)
Government stability 2				-0.000	-0.000
				(0.000)	(0.001)
PTA in force				0.002	0.000
				(0.002)	(0.002)
Year FEs	yes	yes	yes	yes	yes
BIT FEs	yes	yes	yes	yes	yes
Num. obs.	43435	35643	12021	32488	12021
Num. groups: year	54	36	33	34	33
Num. groups: bit_no	2382	1985	970	1970	970

$^{***}p < 0.001$; $^{**}p < 0.01$; $^{*}p < 0.05$; $^{\cdot}p < 0.1$; SEs clustered at dyad-level

Table A2. Cox Proportional Hazard Models

	Model 1	Model 2	Model 3	Model 4
Relative power change	-0.305	**-3.436.**	-2.696	**-6.011.**
	(0.395)	(2.016)	(2.567)	(3.211)
ISDS Respondent 1	**0.044*** **		**0.045*** **	**0.048*** **
	(0.004)		(0.006)	(0.007)
ISDS Respondent 2	**0.019** **		**0.022*** **	0.013
	(0.006)		(0.006)	(0.009)
GDP Growth 1		**0.039 *** **	**0.048*** **	**0.043*** **
		(0.008)	(0.007)	(0.007)
GDP Growth 2		-0.003	**0.014* **	**0.014.**
		(0.009)	(0.007)	(0.008)
Law and Order 1		**-0.243 *** **	-0.026	**0.247.**
		(0.066)	(0.082)	(0.138)
Law and Order 2		-0.005	0.093	0.106
		(0.065)	(0.072)	(0.095)
Investment Profile 1		**0.080 * **	**0.078.**	**0.115* **
		(0.036)	(0.042)	(0.052)
Investment Profile 2		**0.075 * **	**0.075* **	**0.075.**
		(0.035)	(0.038)	(0.044)
Relative power change*ISDS Res. 1	**0.127*** **		**0.130** **	**0.170*** **
	(0.034)		(0.040)	(0.046)
Relative power change*ISDS Res. 2	**-0.150*** **		**-0.150*** **	**-0.160** **
	(0.037)		(0.038)	(0.059)
Relative power change*GDP growth 1		**0.193*** **	**0.232*** **	**0.193*** **
		(0.042)	(0.038)	(0.041)
Relative power change*GDP growth 2		**-0.108*** **	**-0.141*** **	**-0.109*** **
		(0.024)	(0.022)	(0.030)
Relative power change*Law and order 1		0.514	0.859*	**1.725** **
		(0.341)	(0.433)	(0.556)
Relative power change*Law and order 2		-0.629*	-1.042**	**-1.075** **
		(0.295)	(0.333)	(0.409)
Relative power change*Investment profile 1		**-0.264.**	**-0.306.**	**-0.589** **
		(0.147)	(0.168)	(0.223)
Relative power change*Investment profile 2		**0.609*** **	**0.621*** **	**0.856*** **
		(0.156)	(0.168)	(0.208)
AIC	6364.483	5852.359	5723.770	4649.371
R^2	0.004	0.002	0.006	0.006
Max. R^2	0.139	0.153	0.153	0.137
Num. events	316	292	292	237
Num. obs.	43435	35643	35643	32488
Missings	8267	16059	16059	19214

$^{***}p < 0.001$; $^{**}p < 0.01$; $^{*}p < 0.05$; $^{\cdot}p < 0.1$; SEs clustered at dyad-level