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Treaties

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Discusses the bilateral investment treaty, or BIT.

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Bilateral investment treaties (BITs) signed prior to the 21st century are problematic. Some countries with BITs signed during this period have since reviewed those BITs and taken action to address the disadvantages the BITs held for the host nation or

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have either resorted to eradicating some of their BITs. In particular, developing countries that signed BITs with developed nations seem to be disproportionately disadvantaged in these agreements. This research highlights Kenya's current BIT

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situation and compares it in light of another developing country, South Africa, with regards to its BIT experience. Given that South Africa has undergone an extensive BIT review process and moves to change some of these BITs, this study

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compares and contrasts the Kenyan and South African experience. The study highlights the possible lessons that could be learnt from the South African BIT review experience and provides recommendations for the Kenyan government regarding its

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outdated BITs. The lessons and recommendations benefit not only Kenya but also other countries that are still to review their BITs as it adds to the literature on why it is important for countries with such BITs to revisit them and how they

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can go about the review mechanism best. In addition, the study is also significant as far as it raises awareness of the use and effects of BITs, thereby enabling countries that enter into such agreements to make informed decisions.

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"Bilateral Investment Treaties," which has been prepared under the auspices of the International Centre for Settlement of Investment Disputes, examines BIT provisions, particular emphasis being placed on treatment, expropriation and the

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settlement of disputes. Dolzer and Stevens show that a great degree of uniformity exists in modern investment treaties and thus clearly establish that the significance of these treaties lies not only in the extensive network of rights and

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obligations of their respective parties; equally important is the contribution of these treaties to an emerging international acceptance of common standards for the treatment of foreign investment. This book presents all the elements of

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modern BITs and explains what the main problems are. Based on research that has never been published elsewhere, it offers a valuable contribution to the understanding of an area of international law that is currently

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undergoing tremendous change.'
From the "Preface" by Ibrahim F.I. Shihata.

Trends in Investment Rulemaking
More Balanced, Less Isolated,
Increasingly Diversified
Do Bilateral Investment Treaties

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Attract Foreign Direct Investment?
Improving International Investment
Agreements

India and Bilateral Investment
Treaties

report (to accompany Treaty Docs.
108-13, 108-15, 108-17, 108-18,

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108-19, 108-20, 108-21, and
108-22).

**This work organizes,
summarizes and comments upon
the arbitral awards
interpreting and applying
BIT provisions. Policymakers**

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and practitioners will find a thorough introduction to the operation of the BITs, including the principal arguments and case authorities on both sides of the major issues in international investment

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law.

The tax aspects of bilateral investment treaties, which, in most cases, provide the investor with the unique opportunity to directly initiate an international dispute settlement process?

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also known as investor-state dispute settlement? are often overlooked. The increasing number of tax-related investment disputes is a clear indicator of an urgent need to identify and examine the issues emerging

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in this area in an academic context.0 The aim of this book is to provide a comprehensive analysis of the relationship between taxation and bilateral investment treaties. Twenty-one national reports from

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countries across the globe have been compiled in this volume. The reports, prepared for the conference?The Impact of Bilateral Investment Treaties on Taxation?, which took place in Rust (Austria)

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from 2-4 July 2015, help bring to light tax aspects of bilateral investment treaties that have significant unexplored aspects.

An updated list of bilateral investment treaties

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concluded to mid- 1991.

Bilateral Investment
Treaties, Double Taxation
Treaties, and Investment
Flows

The U.S. Bilateral
Investment Treaty Program
and Foreign Direct

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Investment Flows

Only a Bit ... and They
Could Bite

Bilateral Investment
Treaties Do Work

Hearing Before the Committee
on Foreign Relations, United
States Senate, One Hundred

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Third Congress, First
Session, September 10, 1993
U.S. International
Investment Agreements
*Foreign direct
investment (FDI) is an
increasingly important*

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driver of the global economy. In the absence of an overarching multilateral framework on investment, bilateral investment treaties (BITs) and investment

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chapters in free trade agreements (FTAs), collectively referred to as "international investment agreements", have emerged as the primary mechanism for

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promoting a rules-based system for international investment. This book provides an overview of U.S. international investment agreements, focusing specifically on

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BITs and investment chapters in FTAs. It discusses key trends in U.S. and international investment flows, governance structures for investment at the

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bilateral and multilateral levels, the goals and basic components of investment provisions in U.S. international investment agreements, the outcomes

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*of the Administration's
model BIT review, and
key policy issues for
Congress.*

*Over the past twenty
years, foreign direct
investments have spurred*

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*widespread
liberalization of the
foreign direct
investment (FDI)
regulatory framework. By
opening up to foreign
investors and*

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encouraging FDI, which could result in increased capital and market access, many countries have improved the operational conditions for foreign

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affiliates and strengthened standards of treatment and protection. By assuring investors that their investment will be legally protected with

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closed bilateral investment treaties (BITs) and double taxation treaties (DTTs), this in turn creates greater interest in FDI.

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The First Bilateral Investment Treaties is the first and only history of the U.S. postwar Friendship, Commerce, and Navigation (FCN) treaty program,

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and focuses on the investment-related provisions of those treaties. The 22 U.S. postwar FCN treaties were the first bilateral investment treaties ever

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concluded, and nearly all of the core provisions in the modern network of more than 3000 international investment agreements worldwide trace their

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origin to these FCN treaties. This book explains the original understanding of the language of this vast network of agreements which have been and

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continue to be the subject of hundreds of international arbitrations and billions of dollars in claims. It is based on a review of some 32,000

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*pages of negotiating
history housed in the
National Archives. This
book demonstrates that
the investment
provisions were founded
on the New Deal*

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liberalism of the Roosevelt-Truman administrations and were intended to acquire for U.S. companies investing abroad the same protections that foreign

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*investors already
received in the United
States under the U.S.
Constitution. It
chronicles the failed
U.S. attempt to obtain
protection for*

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*investment through the
proposed International
Trade Organization
(ITO), providing the
first and only history
of the investment-
related provisions in*

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the ITO Charter. It then shows how the FCN treaties, which dated back to 1776 and originally concerned with establishing trade and maritime relations,

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were re-conceptualized as investment treaties to provide investment protection bilaterally. This book is also a work of diplomatic history, offering an account of

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the negotiating history of each of the 22 treaties and describing U.S. negotiating policy and strategy.

Bilateral Investment Treaties with

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*Azerbaijan, Bahrain,
Bolivia, Croatia, El
Salvador, Honduras,
Jordan, Lithuania,
Mozambique, Uzbekistan,
and a Protocol Amending
the Bilateral Investment*

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Treaty with Panama

*The Effect of Treaties
on Foreign Direct
Investment*

*The Interaction Between
Bilateral Investment
Treaties and EU Law*

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*The Impact of Bilateral
Investment Treaties on
Taxation*

*U.S. Postwar Friendship,
Commerce, and Navigation
Treaties*

Hearing Before the

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Committee on Foreign Relations, United States Senate, One Hundred Second Congress, Second Session, August 4, 1992

Bilateral Investment Treaties (BITs) are an important instrument for the

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protection of foreign direct investment (FDI). However, compared to international trade law, international investment law has so far received only little research attention from an economic point of view. By applying a law and

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economics approach, Jan Peter Sasse provides a systematic analysis of the way BITs function. He explains why BITs are more than just a signal, how they relate to institutional competition as well as to institutional quality and why

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transparency in international investment arbitration is hard to achieve and may even be detrimental.

"The secretariat of the United Nations Conference on Trade and Development (UNCTAD) is

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implementing a programme on international investment arrangements. It monitors the trends in IIAs and analyzes the emerging issues and development implications. It seeks to help developing countries participate as effectively as possible

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in international investment rulemaking. ... This paper is part of the programme's research and policy analysis on international investment policies for development. ... The main objective of this paper is to update UNCTAD's 1998 study

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entitled Bilateral Investment Treaties in the Mid-1990s and to identify trends in the normative developments of each of the elements typically addressed in BITs since this last stocktaking in 1998. The study traces and explains the

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new issues that have emerged in recent BITs and also sets out the implications of those developments for developing countries."--Pref. International investment law is in transition. Whereas the prevailing mindset has always been the

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protection of the economic interests of individual investors, new developments in international investment law have brought about a paradigm shift. There is now more than ever before an interest in a more inclusive, transparent, and

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public regime. Shifting Paradigms in International Investment Law addresses these changes against the background of the UNCTAD framework to reform investment treaties. The book analyses how the investment treaty regime has

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changed and how it ought to be changing to reconcile private property interests and the state's duty to regulate in the public interest. In doing so, the volume tracks attempts in international investment law to recalibrate itself

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towards a more balanced, less isolated, and increasingly diversified regime. The individual chapters of this edited volume address the contents of investment agreements, the system of dispute settlement, the interrelation of investment

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agreements with other areas of public international law, constitutional questions, and new regional perspectives from Europe, South Africa, the Pacific Rim Region, and Latin America. Together they provide an invaluable

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resource for scholars, practitioners, and policymakers. The individual chapters of this edited volume address the contents of investment agreements, the system of dispute settlement, the interrelation of investment agreements with other

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areas of public international law, constitutional questions, and new regional perspectives from Europe, South Africa, the Pacific Rim Region, and Latin America.

Together they provide an invaluable resource for scholars, practitioners,

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and policymakers.

Revisiting Bilateral Investment
Treaties in the 21st Century. A
Kenyan and South African
Experience

U.S. Postwar Friendship,
Commerce and Navigation Treaties

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Report (to Accompany Treaty Docs. 106-47; 106-25; 106-26; 106-29; 106-28; 106- 27; 106-30; 106-42; 106-31; 104-25; and 106-46).

The Development of International Arbitration on Bilateral Investment Treaties

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Decoding Chinese Bilateral Investment Treaties

Why LDCs Sign Treaties that Hurt Them

Touted as an important commitment device that attracts foreign investors,

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the number of bilateral investment treaties (BITs) ratified by developing countries has grown dramatically. Hallward-Driemeier tests empirically whether BITs have actually

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had an important role in increasing the foreign direct investment (FDI) flows to signatory countries. While half of OECD FDI into developing countries by 2000 was covered by a BIT,

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this increase is accounted for by additional country pairs entering into agreements rather than signatory hosts gaining significant additional FDI. The results also indicate

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that such treaties act more as complements than as substitutes for good institutional quality and local property rights, the rationale often cited by developing countries for

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ratifying BITs. The relevance of these findings is heightened not only by the proliferation of such treaties, but by recent high profile legal cases. These cases show that the rights

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given to foreign investors may not only exceed those enjoyed by domestic investors, but expose policymakers to potentially large-scale liabilities and curtail the feasibility of

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different reform options. Formalizing relationships and protecting against dynamic inconsistency problems are still important, but the results should caution policymakers to look

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closely at the terms of agreements. This paper--a product of Investment Climate, Development Research Group--is part of a larger effort in the group to understand the

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determinants of productive investment.

Scholars consistently argue that the United States has signed Bilateral Investment Treaties (BITs) with developing countries to

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promote the development of international investment law and to protect American capital invested abroad. I challenge this view of the United States' BITs program. I argue that the

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United States has used BITs as a foreign policy tool to improve relationships with strategically important countries in the developing world, and, as a result, the program should in part be

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evaluated based on whether it has produced political benefits. I empirically test this theory in two ways. First, I test whether investment or political considerations are better at

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explaining U.S. BIT signings. This analysis shows that investment considerations do not help to explain the pattern of U.S. BIT formation, but that political considerations do. Second, I

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estimate the political benefits the United States has received from signing BITs with developing states. This analysis suggests that having signed a BIT makes countries likely to vote

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similarly to the United States at the United Nations. This project thus provides the first empirical evidence that the U.S. BITs program has been motivated by political considerations,

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and that the program may have produced modest foreign policy dividends. The increasing internationalization of the world's capital markets, evident in the past decade,

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has generated pressing economic, social & legal issues. Study & reform of these markets have become necessary in view of their changing nature & the growth of the transactions

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being conducted on them, as is recognised by market professionals, investors & regulators. Law may provide a framework in which market forces can operate, & parameters of fair

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behaviour. This new Yearbook offers a forum for debate & comment on such developments under the auspices of the recently formed Capital Markets Forum of the IBA's Section

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on Business Law
(established as a private
sector initiative). The
Yearbook comprises Articles
& Commentary on
significant developments
(for example, Volume 1

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contains articles on 'What is an exchange?', 'The efficient market hypothesis', 'National treatment, harmonization & mutual recognition'), a Year-in-Review section, special

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reports on seminars & other events of note, a Literature section containing a bibliography & book reviews. Source materials are included when appropriate, & the subject

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index makes the Yearbook a very accessible source of information.

Bilateral Investment
Treaties, Treaty Docs. 99-14
and 101-18

Bilateral Investment

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Treaties, 1959-1991
Bilateral Investment
Treaties 1995-2006
Reconsidering the
Motivations of the United
States' Bilateral Investment
Treaty Program

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Bilateral Investment
Treaties with the Czech and
Slovak Federal Republic, the
Peoples' Republic of the
Congo, the Russian
Federation, Sri Lanka, and
Tunisia, and Two Protocols

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to Treaties with Finland and
Ireland

Bilateral Investment
Treaties in the Western
Hemisphere

***The rapid growth in
investment treaties has led to***

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a burgeoning number of international arbitration decisions that have applied and interpreted treaty provisions in disputes between investors and states concerning their respective rights. This flurry of treaties

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and arbitral decisions has seen the creation of a new branch of international law- the law of investment claims. In this revised edition, Jeswald Salacuse examines the law of international investment treaties,

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specifically in relation to its origins, structure, content, and effect, as well as their impact on international investors and investments, and the governments that are parties to them. Investment treaty law is a rapidly

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evolving field and since publication of the first edition, the law of international investment treaties has both experienced considerable growth and generated extensive controversy. 2011 saw the

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highest number of new treaty-based arbitration filed under international investment agreements to date, and in July 2014, the Yukos Universal Limited (Isle of Man) v The Russian Federation culminated with awards of

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over US\$50 billion; a historic record for any arbitration. Controversy in this field has primarily revolved around the investor-state dispute settlement process, which as thus far involved at least 98 states as respondents.

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Salacuse captures these developments in this updated edition, examining not only the significant growth in treaties, but the trends that have followed, and their effect on the content and evolution of the law of

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investment treaties. Specific topics include conditions for the entry of foreign investment and general standards of treatment of foreign investments; monetary transfers; operational conditions;

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protection against expropriation; dispossession and compensation for losses; dispute settlement, including negotiation, arbitration, and conciliation; and judicial proceedings.

Over the last thirty years, the

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United States has entered into nearly fifty Bilateral Investment Treaties (BITs). A foundational question that has not yet been adequately explained, however, is why the U.S. has signed these agreements. Despite the fact

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that this question has not been empirically studied, a dominant narrative in the academic literature has emerged to answer it. The logic of that narrative is simple: the United States negotiated investment

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treaties to protect American capital invested abroad. This view of the United States' BITs program should not only be unsurprising because of the content of the treaties, but also unsurprising because the same explanation has

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consistently been offered by scholars to explain why developed countries in general are motivated to sign investment agreements. It is my contention, however, that this investment-centric theory for why the United States

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would have been motivated to sign BITs does not fit the evidence.

This is a major work investigating China's bilateral investment treaties (BITs) regime through various approaches including textual

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analysis, case study, comparative study and empirical study. This book tries to unveil some of the puzzles in Chinese BITs. The general consensus is that the evolution of China's BIT regime has its underlying

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logic, which follows an investment liberalization trend and fits China's changing role from a key capital-importing state to a major capital-exporting state. A similar trend is evident in Chinese BIT-making and BIT

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policy. This book investigates these theoretical assumptions and looks into some of the loopholes in Chinese BITs. Shifting Paradigms in International Investment Law Disputes Between States and Investor, ICSID Cases Against

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Turkey Regarding Energy Sector Bilateral Investment Treaties in the Mid-1990s Until They Don't From Bilateral Investment Treaties to Cooperation and Facilitation Investment

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Agreements

Explaining the Popularity of Bilateral Investment Treaties

The book is divided into four chapters. Chapter I reviews the purposes of bilateral investment

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treaties (BITs) and their origins. Chapter II discusses the negotiating process of such treaties. Chapter III analyses individual clauses in BITs,

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focusing in particular on the definition of the terms and principles involved, how these are used, the differences and similarities between present and former

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treaty practice, and the implications of individual treaty provisions for development. Chapter IV examines the impact BITs have on investment

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flows. Annex I contains a list of BITs signed as at 1 January 1997.

In recent years, the treaties and strategies promoting global investment have changed

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dramatically. This book is a comprehensive assessment of the performance of these treaties. It presents the most recent literature on BITs and

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DTTs as well as their impact on foreign investments.

Many countries have started contesting international investment treaties that allow

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foreign corporations to sue sovereign States for alleged treaty breaches at international arbitration fora. This contestation has taken the form of either

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countries terminating their investment treaties or walking out of the investor-State dispute settlement (ISDS) system. India has also jumped on the

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contestation bandwagon.
As a consequence of
being sued by more than
20 foreign investors,
India terminated close
to 60 investment
treaties and adopted a

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new model bilateral investment treaty (BIT) purportedly to balance investment protection with the host State's right to regulate. This book

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studies critically India's approach towards BITs by tracing its origin, evolution, and the current state of play. The book does so by locating it in

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India's economic policy in general and policy towards foreign investment in particular. India's approach towards BITs and its policy towards

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foreign investment were consistent with each other in the periods of economic nationalism (1947-1990) and economic liberalism (1991-2010). However, post 2010,

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India's approach to BITs has become protectionist while India's foreign investment policy continues to be liberal. In order to balance

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investment protection with the State's right to regulate, India needs to evolve its BIT practice based on the twin framework of international rule of

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law and embedded
liberalism.

The Law of Investment
Treaties

A Study of the Brazilian
Experience

The Politics of the

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United States' Bilateral
Investment Treaty
Program

An Economic Analysis of
Bilateral Investment
Treaties

The First Bilateral

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Investment Treaties

A Compendium Prepared
for the Free Trade Area
of the Americas Working
Group on Investment

In The Interpretation of
Investment Treaties, Trinh

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Hai Yen analyzes arbitral neglect or misapplication of international rules on treaty interpretation in investor-state arbitrations and proposes both adjudicative and

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legislative solutions. Bilateral investment treaties (BITs) provide rules to the flow of foreign direct investment between two countries. This type of agreement

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establishes the main terms and conditions under which individuals and companies of one country can make investments in the jurisdiction of another country. Brazil signed a

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number of BITs in the 1990s but did not ratify any of them. Since 2015, the Brazilian government has signed several new agreements, of which two have been ratified and are

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already in force. The other agreements seem to be following the same path towards ratification. This thesis seeks to explain this change. It argues that three factors have

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been crucial in bringing the success in ratification of this latest wave of agreements: 1) the reformulation of the investment agreements from the traditional

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template of BITs to the new template of Cooperation and Facilitation Investment Agreements (CFIAs); 2) the changing role of Brazil from an importer to both

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an importer and an exporter of capital; and 3) the extensive political organization, both inside and outside the government, to support the ratification of the

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agreements.

"In recent years, the world has witnessed the coming of age of international investment law. The numbers are telling with over 2600

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bilateral investment treaties, over 462 free trade, customs unions and other economic partnership agreements notified to the WTO, with 276 being in force, an increasing

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number of which include investment chapters, and over 350 known investor-State treaty-based arbitrations. This phenomenon has not left many untouched as over 175

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States have signed international investment agreements (IIAs) and at least 81 governments have faced investment treaty arbitrations. The regime, however, has not been

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without criticisms. The main criticisms being: that IIAs do not fulfil their great bargain the promotion of investment, while they effectively protect powerful economic

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interests; that IIAs protect investor's rights over the public interest of the host country; that the dispute settlement system put in place by IIAs lacks legitimacy due

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to the fundamentally ad hoc nature of investor-State arbitration; and that the complexity and cost of the system are out of control. This book takes stock of developments in

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international investment law and analyzes potential solutions to some of these criticisms from the perspective of international public policy, in negotiations,

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substantive obligations and dispute resolution. The book is prepared by a group of scholars and practitioners from Canada and Europe. It takes a multidisciplinary approach

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to the subject, with analysis from the legal, political and economic perspectives. The first part of the book traces the evolution in IIA treaty-making and provides

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an evaluation from a political economy and economics perspective. The other three parts are organised around the concepts of efficiency, legitimacy and

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sustainability. Each contributor analyzes one or more issues of treaty negotiation, substance or dispute resolution, with the ultimate aim of improving IIA treaty-

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making in these
respects."--

The Interpretation of
Investment Treaties
Hearing Before the
Committee on Foreign
Relations, United States

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Senate, One Hundred Fourth
Congress, First Session,
November 30, 1995
Protocols amending the
existing bilateral
investment treaties with
new European Union member

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nations

Bilateral Investment
Treaties

History, Policy, and
Interpretation

Bilateral Treaties
Concerning the

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Encouragement and
Reciprocal Protection of
Investment, Treaty Doc.

104-19 ... 103-36 ...

103-38 ... 104-13 ...

103-35 ... 104-12 ...

104-10 ... 104-14 ...

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103-37 . . .

Foreign investment is mainly protected through national laws. However the wide-spreading network of bilateral investment treaties aims to ensure a certain standard of protection. These treaties demonstrate far-reaching implications at both treaty level and international level. The

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implications raise an important question as to whether bilateral investment treaties are coherent or not. Coherence can be viewed as an attempt to prettify the law and minimise the effect of politics which may leave the law incoherent. It is obvious that bilateral investment treaties need to be coherent for a number of reasons. Firstly,

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incoherent treaties may create problems in relation to the development policy of member countries. Secondly, coherence reassures that negotiators of such treaties would not encounter possible contradictions and inconsistencies amongst the countries' agreement network as well as between the treaties and

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domestic laws. Thirdly, coherence is critical to treaty interpretation as it is necessary to avoid further complications which may arise from contradictory awards. The aim of this thesis is mainly to elucidate the meaning of coherence and use it to provide an understanding as to how coherent these treaties are. The

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coherence of bilateral investment treaties will be evaluated in a number of aspects: coherence between bilateral investment treaties and the fundamental principles of international investment law; coherence between bilateral investment treaties and their objectives of investment promotion and investment liberalisation; coherence

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within the bilateral investment treaties network; coherence between bilateral investment treaties and customary international law on foreign investment; coherence between bilateral investment treaties and free trade agreements; coherence between bilateral investment treaties' obligations and non-investment

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obligations of states.

Bilateral Investment Treaties: History, Policy, and Interpretation organizes, summarizes and comments upon the arbitral awards interpreting and applying BIT provisions. Policymakers and practitioners will find a thorough introduction to the operation of the BITs,

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including the principal arguments and case authorities on both sides of the major issues in international investment law. The book is intended to be a single-volume reference covering every important development in the 50 years of BIT programs worldwide, from 1959 until 2009. Author Kenneth Vandeveld argues

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that the primary purpose of the BITs is to promote the application of the rule of law to foreign investment, while a secondary purpose is to create a liberal investment regime. He further argues that BITs are based on six core principles: reasonableness, security, nondiscrimination, access, transparency

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and due process. The book explains each of these principles and analyzes the major BIT provisions based on them.

Vandavelde addresses the host of complex questions that BITs engender: Do bilateral investment treaties attract foreign investment or otherwise contribute to economic development? Do BITs limit

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host state regulatory discretion too much? Why should countries continue to conclude BITs? What is meant by BIT guarantees of "fair and equitable treatment" and "full protection and security"? What is the scope of the BIT provision for most-favored-nation treatment? The book's expert analysis of

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these questions makes it useful to policy makers in the area of international economic relations, attorneys representing multinational companies, and anyone interested in the process of economic globalization.

Comprehensively investigate key characteristics, evolutionary path, driving

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forces, interpreting methodologies, and some missing puzzles of Chinese BITs. Bilateral Investment Treaties, Double Taxation Treaties and Investment Flows Hearing Before the Committee on Foreign Relations, United States Senate, One Hundred First Congress, Second Session, September 18, 1990

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Bilateral Investment Treaties with Argentina, Treat Doc. 103-2; Armenia, Treaty Doc. 103-11; Bulgaria, Treaty Doc. 103-3; Ecuador, Treat Doc. 103-15; Kazakhstan, Treaty Doc. 103-12; Kyrgyzstan, Treaty Doc. 103-13; Moldova, Treaty Doc. 103-14; and Romania, Treaty Doc. 102-36

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Refusal, Acceptance, Backlash
A Coherence Perspective of Bilateral
Investment Treaties

This dissertation analyses developments of international arbitration on investment disputes. Recent years, there

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has been an extraordinary increase in the number of investment arbitration for breach of Bilateral Investment Treaties (BITs). These treaties include substantive and procedural rules to provide investment security

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and investment neutrality to foreign investor. In particular, most BITs have investor-state dispute settlement provision which allows investors to sue host states directly. Through analyzing the Turkish BIT

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experience, this study concludes that there are different approaches that utilized in various investor-state dispute settlement provisions. Thus, the wording of these provisions is important. Furthermore, the

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ICSID arbitration is mostly incorporated into BITs dispute settlement provisions since the ICSID arbitration has an effective system and different characteristics from other types of international commercial

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arbitration. This dissertation examines not only the main features of the ICSID, but also the recent amendments made to the ICSID arbitration rules. Finally, after analyzing the concluded and pending ICSID

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cases against Turkey regarding energy sector, this study concludes that the ICSID has an important role for the development of the international arbitration on investment disputes.

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In July 2010 the Commission published a communication titled "Towards a Comprehensive European International Investment Policy" expressing its vision of a common investment policy with the ultimate goal of

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replacing the network of bilateral investment treaties (the "BITs") concluded between Member States and third countries by a regulation based on measures (legislation as well as international treaties) taken

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primarily by the European Union (the "EU"). It shall be noted that regulation of foreign investments is traditionally seen as a prerogative of sovereign states. The present work reflects current discussions over whether EU law

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provides for a regulation of foreign investments comparable to the regulation covered by the current BITs concluded by Member States.