

Principles Of International Investment Law

This book outlines the principles behind the international law of foreign investment. The main focus is on the law governed by bilateral and multilateral investment treaties. It traces the purpose, context, and evolution of the clauses and provisions characteristic of contemporary investment treaties, and analyses the case law, interpreting the issues raised by standard clauses. Particular consideration is given to broad treaty-rules whose understanding in practice has mainly been shaped by their interpretation and application by international tribunals. In addition, the book introduces the dispute settlement mechanisms for enforcing investment law, outlining the operation of Investor vs State arbitration. Combining a systematic analytical study of the texts and principles underlying investment law with a jurisprudential analysis of the case law arising in international tribunals, this book offers an ideal introduction to the principles of international investment law and arbitration, for students or practitioners alike. '...This book [...] goes beyond stating what the law is and focuses on controversies occurring within this area of the law... an excellent introduction to this complex area of international law for newcomers to the subject' Kate Miles, Australian International Law Journal The updated edition of this acclaimed book offers a critical overview of the law of foreign investment, incorporating a thorough analysis of the principles and standards of treatment available to foreign investors in international law. It is authoritative and multi-layered, offering an analysis of the key issues and an insightful assessment of recent trends in the case law, from both developed and developing country perspectives. A major feature of the book is that it deals with the tension between the law of foreign investment and other competing principles of international law. In doing so, it proposes ways of achieving a balance between these principles and the need to protect the legitimate rights and expectations of foreign investors on the one hand, and the need not to restrict unduly the right of host governments to implement their public policy on the other, including the protection of the environment and human rights, and the promotion of social and economic justice within the host country. Many of the pioneering ideas that were advanced in the first edition of this book in 2008 have been taken up by governments and international organisations in their attempts to reform the investor-State dispute settlement mechanism and strike a balance between different competing principles in developing international investment law. Accordingly, this fourth edition captures the essence of the ongoing multiple reform processes -either planned or envisaged – currently underway.

Drawing on State practice, arbitral awards and national decisions, this book provides a systematic study of the sources of rights and obligations in the field of transnational investment, and their coordination and interaction.

General Principles and the Coherence of International Law offers a comprehensive analysis of general principles of law, assessing their role in guaranteeing the coherence of the international legal system.

Bringing Theory into Practice

Principles of International Investment Law

The Law of Investment Treaties

'Fair and Equitable Treatment' in International Investment Law

International Investment Law and the Right to Regulate

Principles of International Investment Law Oxford University Press

"[This book reviews] the substantive principles of international law applied by investment arbitration tribunals, and a clear and comprehensive description of the present state of the law...The second edition is fully updated to take account of the arbitration awards rendered in the period since 2007...Key areas of coverage include: the instruments under which investment disputes arise; the legal basis of treaty arbitration; dispute resolution and parallel proceedings; who is a foreign investor, including nationality issues and foreign control; what is an investment; investors' substantive rights, including fair and equitable treatment; expropriation; compensation and remedies. Arbitration of overseas investment disputes is one of the fastest growing areas of international dispute resolution. The exponential growth of international investment in recent years has led to the signature of over two thousand Bilateral Investment Treaties (BITs) between foreign states, in addition to a wealth of multilateral treaties and other forms of concession agreements. The legal principles that have developed in this area are subject to intense debate, and are still in a state of flux. While tribunals routinely state that they are applying principles of public international law to determine disputes, many of the principles applied have only been developed recently in the context of investment treaty arbitrations, and tribunals are often guided more by the approaches taken by other tribunals, than by pre-existing doctrines of public international law."--

This book is essential reading for academics of international investment law and related matters, with useful research material for both practitioners and policy-makers. Moreover, the innovative approach of this book makes it appropriate for adoption in
Developments within various sub-fields of international law influence international investment law, but changes in investment law also have an impact on the evolution of other fields within international law. Through contributions from leading scholars and practitioners, this book analyses specific links between investment law and other sub-fields of international law such as the law on armed conflict, human rights, sustainable development, trade, development and EU law. In particular, this book scrutinises how concepts, principles and rules developed in the context of such sub-fields could inform the content of investment law. Solutions aimed at resolving problems in other settings may provide instructive examples for addressing current problems in the field of

investment law, and vice versa. The underlying question is whether key sub-fields of public international law, notably international investment law, are open to cross-fertilisation, or, whether they are evolving further into self-contained regimes.

Arbitral Awards as Investments

The First 50 Years of ICSID

Legal Principles and Arbitral Practice

Reconciling Policy and Principle

The Path Towards Convergence

This title provides the reader with immediate access to understanding the world of international arbitration. Arbitration has become the dispute resolution method of choice in international transactions. This book explains how and why arbitration works. It provides the legal and regulatory framework for international arbitration, as well as practical strategies to follow and pitfalls to avoid. It is short and readable, but comprehensive in its coverage of the basic requirements, including changes in arbitration laws, rules, and guidelines. In the book, the author includes insights from numerous international arbitrators and counsel, who tell firsthand about their own experiences of arbitration and their views of the best arbitration practices. Throughout the book, the principles of arbitration are supported and explained by the practice, providing a concrete approach to an important means of resolving disputes.

In his monograph the author attempts to identify and disclose the principles of contemporary international investment law, which are based on the provisions of multilateral and bilateral treaties and other sources of international and national law. In particular, the conditions and procedure for expropriation are specified. It is proved to use one general term "expropriation" in the legislation of the Russian Federation, which includes diverse forms of forced taking of foreign property and entails not only the formal termination of ownership of a foreign investor, but also the impossibility of exercising property rights of the owner. In order to create uniformity in the interpretation and application of law on expropriation by state courts and international commercial arbitrations it is proposed to provide the exhaustive list of actions of a host state, which are not recognized as expropriation, as well as to limit in some cases the amount of compensation for damage to a foreign investor due to necessity of maintenance of balance of interests of the foreign investor and the host state. Two different types of legal means to ensure the stability of legal conditions for investment activity are analyzed. They are the guarantee against unfavorable changes in legislation ("grandfather's" clause) and amendments to a contract due to the changes in legislation (the stabilization clause), which have a different legal nature. It is shown that the "grandfather's" clause is based on the action of legal acts during the time, whereas the stabilization clause is related to a contract. As a result the scope of the "grandfather's" clause is broader and includes not only contractual (civil), but also public-law relationships. According to the examination of norms of international and national investment law a set of legal proposals for the improvement of the legal regulation of investment activity is made.

This accessible textbook presents an up-to-date and scholarly overview of the law of foreign investment, as well as a comprehensive and succinct analysis of the main principles and the standards of treatment available to foreign investors in international law. The book is authoritative and multi-layered, offering an analysis of the most pressing issues. It is an insightful assessment of recent trends in case law on the interpretation of established and evolving principles, from both developed and developing country perspectives. A major feature of this book is that it deals with the emerging tension between the law of foreign investment and other competing principles of international law. It proposes a number of ways and means of achieving a balance between these principles. It recognizes the need to protect the legitimate rights and expectations of foreign investors on the one hand, as well as the need not to unduly restrict the right of host governments to implement their public poli

This comprehensive book provides a complete overview of the international legal system of foreign investment protection, synthesising material from treaties, general international law, contracts and case law to demonstrate a coherent system of investment protection. Through this systematic approach, the book considers all aspects of the discipline, providing a thorough and accessible analysis.

Community Interests Across International Law

Substantive Principles

National, Contractual, and International Frameworks for Foreign Capital

Building International Investment Law

Investment Law within International Law

This book is a codification of the principles and rules relating to the prosecution of investment claims.

This comprehensive book provides a complete overview of the international legal system of foreign investment protection. Proposing a simple, practical approach, it examines the problems one might face when studying or practising international investment law, including those arising from contemporary changes and controversies. In this incisive book, Arnaud de Nanteuil synthesises material from treaties, general international law, contracts and case law to demonstrate a coherent system of investment protection, rather than simply describing the law as it currently stands. Through this systematic approach, the book considers all aspects of the discipline, examining its history, the content of the law, investment arbitration, investor-state dispute settlement, and its relationship with other areas of international law such as human rights, the environment and EU law. It also discusses answers to questions that remain open in current case law. Providing a thorough and accessible analysis, this book will be invaluable to both students and academics working in the field of international investment law, as well as practitioners who will appreciate its pragmatic style. Government officials and those working for international organisations in this area will also find its discussion of the possible future evolution of the law insightful.

International Arbitration Law Library# 62 The much-debated fragmentation of international law, most clearly manifest in the stand-alone nature of the investor-state dispute settlement regime, has produced the unfortunate side effect of an intense focus on material damages at the expense of moral damages. This timely groundbreaking book seeks to remedy the unfairness and injustice that flows from this difference in treatment by offering a thorough review of the underlying rules and principles of international law relating to moral damages claims, with a view to considering the appropriateness and possibility of convergence of the various sub-disciplines or branches of international law (e.g., international investment law and international

human rights law) to preserve and protect the coherence, uniformity and stability of the international legal order. The analysis covers such central issues as the following: who should be entitled to seek moral damages; the legal test to determining moral damages claims, in respect of both substantive and evidential issues; applicability and scope of the theory of corrective justice in moral damages claims; the victim status of natural persons, corporations, and investors' employees in investor-state disputes; quantification of moral damages; what the precise nature of the compensation ought to be; and role of the theory of law and economics in the context of moral damages claims. Decisions of international human rights courts are examined to assess, by way of comparison, the appropriateness of the stance taken by international investment tribunals. This is the first in-depth treatment of the important question of whether and under which circumstances international investment tribunals should have jurisdiction to award moral damages, as well as the remedies available and the quantification exercise guiding compensation. The analysis will prove invaluable to practitioners and academics eager to enhance their knowledge and understanding of the rules and principles applicable to moral damages claims under international investment law.

A clear and accessible introduction to one of the fastest growing and most highly debated spheres of international law.

Treaty Shopping in International Investment Law

The Three Laws of International Investment

Text, Cases and Materials, Third Edition

The International Law of Investment Claims

General Principles and the Coherence of International Law

The book argues that international investment law is a structured body of law based on uniform principles of investment protection.

International investment law is one of fastest-growing areas of international law, but it is plagued by the vagueness of many investors' rights and unpredictable investment tribunal decisions. This book analyses international investment law through the lens of comparative public law to clarify investment treaty obligations and arbitral procedure.

This book expands upon research into the protection of foreign investments, which is currently an intensively studied area of international law. At the same time, it also examines environmental protection, as well as general areas of debate in international law, including fragmentation, self-contained regimes, the role of interpretation and of principles, and theories of indeterminacy.

There is a growing interplay between international investment law, arbitration and human rights. This book offers a systematic analysis of this interaction, exploring the role of principles of justice in investment law, comparing investment arbitration with other courts, and examining case studies on human rights.

Moral Damages under International Investment Law

Commentary, Awards and other Materials

International Investment Law

Principles of International Trade and Investment Law

The Principles and Practice of International Commercial Arbitration

This volume celebrates the first fifty years of the International Centre for Settlement of Investment Disputes (ICSID) by presenting the landmark cases that have been decided under its auspices. These cases have addressed every aspect of investment disputes: jurisdictional thresholds; the substantive obligations found in investment treaties, contracts, and legislation; questions of general international law; and a number of novel procedural issues.

Each chapter, written by an expert on the chapter's particular focus, looks at an international investment law topic through the lens of one or more of these leading cases, analyzing what the case held, how it has been applied, and its overall significance to the development of international investment law. These topics include: - applicable law; - res judicata in investor-State arbitration; - notion of investment; - investor nationality; - consent to arbitration; - substantive standards of treatment; - consequences of corruption in investor-State arbitration; - State defenses - counter-claims; - assessment of damages and cost considerations; - ICSID Arbitration Rule 41(5) objections; - mass claims, consolidation and parallel proceedings; - provisional measures; - arbitrator challenges; - transparency and amicus curiae; and - annulment. Because the law of international investment continues to grow in importance in an ever globalizing world, this book is more than a fitting way to mark the past fifty years and to welcome the next fifty years of development. It will prove both educational for practitioners new to the field and informative for seasoned investment lawyers. Moreover, the book itself is a landmark that will be of great value to professionals, scholars and students interested in international investment law.

International investment law is one of the fastest growing areas of international law. It has led to the signing of thousands of agreements, mostly in the form of investment contracts and bilateral investment treaties. Also, in the last two decades, there has been an exponential growth in the number of

disputes being resolved by investment arbitration tribunals. Yet the legal principles at the basis of international investment law and arbitration remain in a state of flux. Perhaps the best illustration of this phenomenon is the wide disagreement among investment tribunals on some of the core concepts underpinning the regime, such as investment, property, regulatory powers, scope of jurisdiction, applicable law, or the interactions with other areas of international law. The purpose of this book is to revisit these conceptual foundations in order to shed light on the practice of international investment law. It is an attempt to bridge the growing gap between the theory and the practice of this thriving area of international law. The first part of the book focuses on the 'infrastructure' of the investment regime or, more specifically, on the structural arrangements that have been developed to manage foreign investment transactions and the potential disputes arising from them. The second part of the book identifies the common conceptual bases of an array of seemingly unconnected practical problems in order to clarify the main stakes and offer balanced solutions. The third part addresses the main sources of 'regime stress' as well as the main legal mechanisms available to manage such challenges to the operation of the regime. Overall, the book offers a thorough investigation of the conflicting theoretical positions underlying international investment law, testing their worth by reference to concrete issues that have arisen in the jurisprudence. It demonstrates that many of the most important practical questions arising in practice can be addressed by a carefully dosed resort to theory.

The rise of international investment arbitration has resulted in the emergence of a number of intriguing legal and political challenges. One of those is the question of whether or not arbitral awards may constitute investments pursuant to existing investment treaties. In approaching the problem, it is the interconnection between theory and practice that delivers solutions. This book presents the first detailed analysis of the existing tribunals' approaches to date. In examining the principles of treaty interpretation, their application in arbitral practice, shortcomings and their ramifications and possible routes to improvement, the book addresses the following questions: - What is the foundation of interpretation in public international law and when is it adequately carried out? - Can arbitral awards constitute investments, offering relief from frustrated enforcement attempts? - Is there a trend of convergence of commercial and investment arbitration? - Do respective interpretative outcomes stem from adequate interpretation? - What are the ramifications, if interpretation is not fully adequate? - What are the feasible routes to greater interpretive discipline? The book is mindful of the underlying public international law principles, such as state sovereignty and the increasing legal and political dynamics of international investment law. This is the first in-depth treatise on arbitral awards' qualification as investments within international investment law. Its detailed analysis of the interpretive approaches, their foundation and consequences will, from a theoretical and practical point of view, prove of great value to international tribunals, counsel and sovereign entities. Maximilian Clasmeier has gained international arbitration experience in the dispute resolution practices of international law firms in Frankfurt, Düsseldorf and Singapore and worked for the World Bank Group in Washington, D.C.

The rapid growth in investment treaties has led to 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 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, 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 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 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 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. 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 investment treaties. Specific topics include conditions for the entry of foreign investment and general standards of treatment of foreign investments; monetary transfers; operational conditions; protection against expropriation; dispossession and compensation for losses; dispute settlement, including negotiation, arbitration, and conciliation; and judicial proceedings.

Human Rights in International Investment Law and Arbitration

The Sources of Rights and Obligations

International Investment Arbitration

International Investment Law and Comparative Public Law

This book explores the extent to which contemporary international law expects states to take into account the interests of others - namely third states or their citizens - when they form and implement their policies, negotiate agreements, and generally conduct their relations with other states. It systematically considers the various manifestations of what has been described as 'community interests' in many areas regulated by international law and observes how the law has evolved from a legal system based on more or less specific consent and aimed at promoting particular interests of states, to one that is more generally oriented towards collectively protecting common interests and values. Through essays by experts in the field, this book explores topics such as the sources of international law and the institutional aspects of developing the law and covers a range of areas within the law.

This book looks at fair and equitable treatment as a key standard of international investment law.

This book provides the actors involved in investor-State arbitration with a set of comprehensive guidelines to better understand the nature, meaning, and function of general principles of law in the field of international investment law.

This insightful and accessible introduction provides students and practitioners with a comprehensive overview of the increasingly important discipline of international investment law. Focusing primarily on the legal principles contained in the growing body of international investment agreements, this book covers the core concepts of the discipline with attention given to their relation to each other and to the manner in which they have been developed through arbitration case law. The context of each legal principle is explored along with a consideration of some of the major debates and emerging criticisms. Avoiding extensive case extracts, this book adopts an engaging and succinct narrative style which allows readers to advance their understanding of the topic while examining the legal principles with academic rigour and discerning commentary.

A human rights perspective

International Investment Law and Arbitration

The Multilateralization of International Investment Law

General Principles of Law and International Investment Arbitration

The Oxford Handbook of International Investment Law

This up-to-date and revised third edition offers a clear and comprehensive overview aimed at upper-level undergraduate and postgraduate courses on international investment law. Key features and benefits include: • concise descriptions of legal principles followed by classic and contemporary cases • extracts from and analysis of key recent decisions, revised investment treaty texts and new court system proposals • detailed discussion notes and all new 'Questions to an Expert' to enable classroom discussion and facilitate critical reflection.

The book considers the ways in which the international investment law regime intersects with the human rights regime, and the potential for clashes between the two legal orders. Within the human rights regime states may be obligated to regulate, including a duty to adopt regulation aiming at improving social standards and conditions of living for their population. Yet, states are increasingly confronted with the consequences of such regulation in investment disputes, where investors seek to challenge regulatory interferences for example in expropriation claims. Regulatory measures may for instance interfere with the investment by imposing conditions on investors or negatively affecting the value of the investment. As a consequence, investors increasingly seek to challenge regulatory measures in international investment arbitration on the basis of a bilateral investment treaty. This book sets out the nature and the scope of the right to regulate in current international investment law. The book examines bilateral investment treaties and ICSID arbitrations looking at the indicative parameters that are granted weight in practice in expropriation claims delimiting compensable from non-compensable regulation. The book places the potential clash between the right to regulate and international investment law within a theoretical framework which describes the stability-flexibility dilemma currently inherent within international law. Lone Wandahl Mouyal goes on to set out methods which could be employed by both BIT-negotiators and adjudicators of investment disputes, allowing states to exercise their right to regulate while at the same time providing investors with legal certainty. The book serves as a valuable tool, an added perspective, for academics as well as for practitioners dealing with aspects of international investment law.

In General Principles of Law in Investment Arbitration, the authors address selected general principles of law, assessing their functions in investment arbitration. The resulting picture is that of a lively source that escapes doctrinal straitjackets and maintains its relevance.

This book provides an ideal introduction to the fundamentals of international investment law and dispute settlement for students or practitioners. It combines a systematic analytical study of the texts and principles underlying investment law with a jurisprudential analysis of the case law arising in international tribunals.

A Guide to General Principles of Law in International Investment Arbitration

The Foundations of International Investment Law

International Investment Protection of Global Banking and Finance

An Introduction to International Investment Law

Treaty Interpretation and the Dynamics of International Investment Law

A new edition connecting extracts from arbitral decisions, treaties and scholarly works with concise, up-to-date and reliable commentary.

Global banking and finance is a complex and specialized field with sector-specific investment forms, subject to distinctive legal and regulatory frameworks and unique types of political risk. This comprehensive guide to international investment protection in the finance and banking sector, written by acknowledged experts in the field of investor-State arbitration, provides the first in-depth discussion of how international investment law applies to investors and investments in the sector. Featuring expert guidance on the key legal protections for cross-border banking and finance investments, with complete and up-to-date coverage of investor-State cases, the analysis crystallizes a set of field-specific legal principles for the sector. In particular, the authors address the following practical aspects of investment protection in the banking and finance sector: how sector-specific forms of investment, such as loans and derivatives, impact the dispute resolution process; types of political risk that cross-border investments in the sector are likely to encounter; distinctive adverse sovereign measures that underlie disputes in the sector, including those from sovereign debt defaults and banking sector bailouts; specific treaty provisions, such as jurisdictional carve-outs and targeted exclusions; remedies available for violations of international investment protections; how monetary damages may be assessed for injury to banking and finance sector investments; the scope of financial services chapters included in certain free trade agreements; the protections available under domestic foreign investment laws; and alternative sources of protection such as political risk insurance and investment contracts. International disputes practitioners and academics, in-house counsel in the finance and banking industries, and arbitrators addressing banking and finance disputes will welcome this book for its practical guidance. With strategies for investors as well as for sovereign States to navigate the intricacies of the investment protection system, the authors' comprehensive analysis will help ensure appropriate international protection for banking and finance sector investments, both when establishing investments and when resolving disputes. The book lays the groundwork for the future consolidation of international investment protection as a critical tool to manage the political risk confronting global banking and finance.

The Oxford Handbooks series is a major new initiative in academic publishing. Each volume offers an authoritative and state-of-the-art survey of current thinking and research in a particular subject area. Specially commissioned essays from leading international figures in the discipline give critical examinations of the progress and direction of debates. Oxford Handbooks provide scholars and graduate students with compelling new perspectives upon a wide range of subjects in the humanities and social sciences. The Oxford Handbook of International Investment Law aims to provide the first truly exhaustive account of the current state and future development of this important and topical field of international law. The Handbook is divided into three main parts. Part One deals with fundamental conceptual issues, Part Two deals with the main substantive areas of law, and Part Three deals with the major procedural issues arising out of the settlement of international investment disputes. The book has a policy-oriented introduction, setting the more technical chapters that follow in their policy environment within which contemporary norms for international foreign investment law are evolving. The Handbook concludes with a chapter written by the editors to highlight the major conclusions of the collection, to identify trends in the existing law, and to look forward to the future development of this field.

This essential book discusses a wide range of important legal principles such as procedural fairness and reasonableness in the context of international trade and investment law. Using comparative methodology, the authors examine how those principles are reflected in treaties and how they are employed by adjudicators resolving disputes.

Integrationist Perspectives

International Investment Law and the Environment

This is an authoritative and full-scale review of the substantive law and principles of investment treaty arbitration. The first edition has been widely referenced and relied upon, and presents the first and deepest analysis of this rapidly-growing field; the second edition accounts for the significant growth in BITs and case law since 2006.

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There are three legal frameworks applicable to international investments: the laws of the host state and the investor's country, the contract between the host state and the investor, and the rules of international investment law. This book assesses how these three bodies of law interact in investment agreements and dispute arbitration.