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Buy Online Investment Treaty Arbitration Public International:

Improving International Investment Agreements Armand De Mestral, Céline Lévesque, 2013-02-11 This book presents the reflections of a group of researchers interested in assessing whether the law governing the promotion and protection of foreign investment reflects sound public policy Whether it is the lack of checks and balances on investor rights or more broadly the lack of balance between public rights and private interests the time is ripe for an in depth discussions of current challenges facing the international investment law regime Through a survey of the evolution in IIA treaty making and an evaluation from different perspectives the authors take stock of developments in international investment law and analyze potential solutions to some of the criticisms that plague IIAs The book takes a multidisciplinary approach to the subject with expert analysis from legal political and economic scholars The first part of the book traces the evolution of IIA treaty making whilst the other three parts are organised around the concepts of efficiency legitimacy and sustainability Each contributor analyzes one or more issues related to substance treaty negotiation or dispute resolution with the ultimate aim of improving IIA treaty making in these respects Improving International Investment Agreements will be of particular interest to students and academics in the fields of International Investment Law International Trade Law Business and Economics

The Public Order Exception in International Trade, Investment, Human Rights and Commercial Disputes Zena Prodromou, 2020-08-12 In the process of resolving disputes it is not uncommon for parties to justify actions otherwise in breach of their obligations by invoking the need to protect some aspect of the elusive concept of public order Until this thoroughly researched book the criteria and factors against which international dispute bodies assess such claims have remained unclear Now by providing an in depth comparative analysis of relevant jurisprudence under four distinct international dispute resolution systems trade investment human rights and international commercial arbitration the author of this invaluable book identifies common core benchmarks for the application of the public order exception To achieve the broadest possible scope for her analysis the author examines the public order exception s function role and application within the following international dispute resolution systems relevant World Trade Organization WTO agreements as enforced by the organization s Dispute Settlement Body and Appellate Body international investment agreements as enforced by competent Arbitral Tribunals and Annulment Committees under the International Center for Settlement of Investment Disputes provisions under the Inter American Convention of Human Rights and the European Convention of Human Rights as enforced by the Inter American Court of Human Rights and the European Court of Human Rights respectively and the New York Convention as enforced by national tribunals across the world Controversies tensions and pitfalls inherent in invoking the public order exception are elucidated along with clear guidelines on how arguments may be crafted in order to enhance prospects of success Throughout tables and graphs systematize key aspects of the relevant jurisprudence under each of the dispute resolution systems analysed As an immediate practical resource for lawyers on any side of a dispute who wish to

invoke or strengthen a public order exception claim the book's systematic analysis will be welcomed by lawyers active in WTO disputes international investment arbitration human rights law or enforcement of foreign arbitral awards Academics and policymakers will find a signal contribution to the ongoing debate on the existence legal basis content and functions of the transnational public order

Treaty Shopping in International Investment Law Jorun Baumgartner, 2016-11-24 Treaty shopping also known under the terms of nationality planning corporate re structuring or corporate maneuvering implies a strategic change of nationality or strategic invocation of another nationality with the aim of accessing another usually more favourable investment treaty for purposes of investment arbitration When deciding on whether an investment claim based on treaty shopping should be upheld or dismissed investment arbitral tribunals have been increasingly faced with significant questions such as What is treaty shopping and how may legitimate nationality planning be distinguished from treaty abuse in international investment law Should a claimant that is controlled by a host State national be considered a protected investor or should tribunals pierce its corporate veil Does an investor have to make the investment in good faith and does it have to make a contribution of its own to the investment it is claiming protection for When does a corporate restructuring constitute an abuse of process and which is the role of the notion of dispute in this respect How efficient are denial of benefits clauses to counter treaty shopping Treaty Shopping in International Investment Law examines in a systematic manner the practice of treaty shopping in international investment law and arbitral decisions that have undertaken to draw this line While some legal approaches taken by arbitral tribunals have started to consolidate others remain unsettled painting a picture of an overall inconsistent jurisprudence This is hardly surprising given the thousands of international investment agreements that provide for the investor's right to sue the host State on grounds of alleged breaches of investment obligations This book analyses and discusses the different ways by which arbitral tribunals have dealt with the value judgment at the core of the distinction between objectionable and unobjectionable treaty shopping and makes proposals de lege ferenda on how States could reform their international investment agreements in particular with respect to treaty drafting in order to make them less susceptible to the practice of treaty shopping

International Environmental Law and International Human Rights Law in Investment Treaty Arbitration Giovanna E. Gismondi, 2023-08-22 Policies aimed at the expansion of transnational capital are sometimes implemented at the expense of growing social inequality and popular frustration in host countries This timely and deeply researched volume identifies and offers new insights into the growing use of and reliance upon international environmental and human rights law in the arbitration of investor State disputes It presents a comprehensive and pragmatic approach to the most effective way to connect international investment law to the protection of human rights and the environment Based on an analysis of 30 arbitral awards this book demonstrates how recent investment treaty arbitration and in particular respondent States argumentation in arbitral proceedings highlights the human rights and environmental considerations connected with such factors as the following the fair and equitable treatment FET

clause jurisdictional obstacles treaty conflict role of amici curiae damages tribunal's dilution of the significance of environmental and human rights law corporate social responsibility free prior and informed consent social license to operate and in applicability of the systemic approach to the interpretation of investment treaties As investment arbitration continues to be challenged by growing demands for greater public involvement and for participation of third parties that are affected by the proceedings this book responds to the need to reshape the investment regime into more human rights and environmentally friendly system It will prove an invaluable resource for arbitral institutions academics arbitrators arbitration counsel and other participants in investment treaty arbitration

Second Thoughts Armand de Mestral, 2017-01-30

Criticism Doubts Second thoughts Although investor state arbitration ISA has been included in investment agreements between developed and developing countries since the 1960s and provided foreign investors with a kind of private justice against developing world host states it became increasingly controversial in developed countries when it was included in NAFTA in 1993 creating the possibility of ISA claims between and against two developed countries the United States or Canada as well as claims against and by a developing state Mexico A few years later the OECD's attempt to finalize the Multilateral Agreement on Investment was stymied by concerted civil society protest and opposition to ISA and in recent years each new proposed agreement has sparked fresh rounds of protest What engenders the controversy about ISA While ISA's advantage is that it prevents escalation of international conflict by relieving states from feeling obliged to espouse claims of injured investors against foreign governments it is criticized for creating regulatory chill whereby states are reluctant to make necessary public policy reforms for fear that changes to the investment environment will lead to expensive investor claims Are fears of litigation and expensive payouts well founded Can key modifications to the ISA system such as those added to the Comprehensive Economic and Trade Agreement satisfy critics and redeem this system of private justice Is ISA really necessary between developed democracies where an independent and professional judiciary can generally be trusted to decide without fear or favour In *Second Thoughts Investor State Arbitration between Developed Democracies* 16 international investment legal experts have undertaken in depth analyses of ISA's economic political and social impacts when included in agreements between developed democracies This timely volume appears at a critical moment seeking answers to the crucial questions that will determine the next generation of international investment agreements

International Investment Law Surya P Subedi, 2024-03-21 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 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 fifth edition captures the essence of the ongoing multiple reform processes either planned or envisaged currently underway.

The Effects of Armed Conflict on Investment Treaties Tobias

Ackermann, 2022-08-25 Based on author's thesis doctoral Ruhr University at Bochum 2020

Multilateralism and

Regionalism in Global Economic Governance Junji Nakagawa, 2012-03-29 Reconciling regionalism and multilateralism is a challenge common to all branches of global economic governance. While the Bretton Woods GATT WTO institutions decades old multilateral framework for global economic governance are facing serious challenges to their effectiveness regional framework are emerging as complementary or alternative means of global economic governance. The real challenge is how to reconcile multilateralism and regionalism in global economic governance. This book tackles this problem by analysing issues of multilateral regional conciliation and coordination in global economic governance focusing on Asia. Chapters of the book deal with challenges of multilateralism and regionalism in three fields of global economic governance namely global monetary financial governance global trade governance and global investment governance. The major regional focus is on Asia though some chapters deal with regionalism in Europe and North America. Topics include Asian Monetary Fund and Asian financial architecture open accession provisions of regional trade agreements and APEC's role in multilateral investment rules. As a whole the book elucidates the contemporary reach of Asian regionalism in global economic governance and shows the neat balance between regionalism and multilateralism in global economic governance. It is of particular use to the students and practitioners of international economic law international political economy international finance and international economics both with and without Asian focus.

The Investment Treaty Regime and Public Interest

Regulation in Africa Dominic Npoanlari Dagbanja, 2022-07-14 A large amount of foreign direct investment (FDI) has been poured into Africa in recent decades and these investments can come with adverse effects on the environment human rights and development. At the same time investment treaties entered into by African states and aimed at promoting and protecting FDI seriously limit those states' ability to regulate such activities in the interests of affected communities. Whilst these tensions have generated global debate little attention has been paid to the legal status of many of these investment treaties and whether given their constitutional and customary international law obligations to act in the public interest African states

truly have the capacity to conclude treaties which contain standards of investment protection expressly preventing or unduly abridging the exercise of their regulatory authority Focusing on this question The Investment Treaty Regime and Public Interest Regulation in Africa presents The Imperatives Theory a legal normative and principled framework for rethinking the legal status making and reform of investment treaties and investment dispute settlement in Africa with relevant and significant implications for the global investment treaty regime

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