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Arbitration Under International Investment Agreements-Katia Yannaca-Small 2010 Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries. Claims are submitted to independent, international arbitration tribunals, which are called upon to interpret the treaty at hand. Because of the public interest involved in these cases, the awards of these tribunals are subject to much scrutiny and debate. Thus, it has already generated hundreds of cases and created new legal disciplines, inspiring a continuous string of legal writings. This book provides a comprehensive analysis of the main issues that arise in investor-state arbitration. It accompanies the reader through the phases of such a procedure, starting with an examination of the instruments which provide, in the overwhelming majority of the cases, the legal basis for the requests for such arbitration. It then continues with the launching of the arbitration procedure, followed by the analysis of the main jurisdictional and substantive issues that the tribunals are confronted with, and the review procedures, when there is a request for setting aside of the award. It finally looks at the post-award phase and concludes with a reflection on the role of precedent in investment arbitration.

Arbitration Under International Investment Agreements: a Guide to the Key Issues contains in one volume what everybody needs to know on this evolving topic. Calling on the most renowned experts in this field, private practitioners, academics, government and international organization officials, it describes the process in all its phases from A to Z, providing a comprehensive insight in the way investor-state arbitration works from the perspective of the main actors involved. Its analyses of all key aspects of the topic are pragmatic and reliable.

Arbitration Under International Investment Agreements-Katia Yannaca-Small 2018 Arbitration Under International Investment Agreements describes the most important procedural and substantive aspects of investment arbitration in a practical and accessible manner. Covering all procedural stages of investor-state arbitration, the text provides a broad overview of the key topics.

Arbitration Under International Investment Agreements-Katia Yannaca-Small 2018 Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries.

Attribution in International Investment Law-Csaba Kovács 2018-08-20 The term ‘attribution’ refers to the means by which it is ascertained whether the State is involved in a dispute governed by international law. The notion of attribution is primarily used to determine if the State is responsible for the wrongful conduct of persons or entities with links to the State. In the context of international investment law, the exponentially growing arbitration jurisprudence arising from international investment agreements (IIAs), especially bilateral investment treaties (BITs), reflects the extent and risk of attribution determined in investment relationships that often involve State enterprises. This book, the first in-depth study of the use of attribution in international investment law, provides a deeply informed analysis of the treatment of attribution in applicable legal instruments and investment arbitration jurisprudence worldwide. The analysis responds to such questions as the following: - When is a conduct attributable to the State for the purposes of its responsibility under international investment law? - What legal instruments govern the question of attribution under international investment law? - In what circumstances is the State the proper party to a contract entered into by a State-owned enterprise with an investor protected by an investment treaty? - How can State policymakers minimise their international law responsibility within the existing framework of attribution in international investment law? - How can investors maximise their protection within the existing framework of attribution in international investment law? Also covered are the procedural treatment of attribution by investment tribunals, explication of such broad-brush wordings as ‘elements of governmental authority’ and ‘under the direction or control’, and the impact of the rise of State-owned enterprises as investors. Ongoing and future trends in the jurisprudence are also taken into account. A one-stop reference on the question of attribution in international investment law, the analysis extracts identifiable commonalities among instruments and rulings, turning them into useful practice tools. This book will prove invaluable for practitioners advising States or investors in investment disputes. More generally, this book will be welcomed by arbitrators, in-house counsel for companies doing transnational business and international arbitration centres, as well as by academicians in international arbitration.

Arbitration and Renegotiation of International Investment Agreements:A Study with Particular Reference to Means of Conflict Avoidance Under Natural Resources Investment Agreements Wolfgang Peter 1995-06-08 This book is a single, revised edition of the original 1986 publication. Since then, the issue of contract change has increasingly challenged the business community and legal practitioners. The world-wide recession may well have accelerated the need to secure contractual relationships by reasonable flexibility. Successful foreign investment, a relentless challenge, is subject to many unpredictable errors. Of all these variables, however, successful investment is most dependent on the investor-host country relationship, which is the object of the present study. In particular, the pressure by host countries for contract change and its counterpart; the investor's defence of contract stability. The book is essentially a reference handbook for legal practitioners. It analyzes a variety of increasingly important questions concerning international investment agreements that come under pressure for change by one of the contracting parties: either a transnational corporation or a host country government. The seven case studies and the analytical chapters which follow are based on the author's research and the assistance of corporate and government officials, experts from the United Nations and other organizations, and members of academic research institutes.

International Investment Law and Arbitration-Todd Weiler 2005-01-01 Essays on leading cases of international investment law.

Arbitrating Foreign Investment Disputes-Norbert Horn 2004-01-01 Cross-border direct investment constitutes a substantial sector of the international financial market and is also an important vehicle for the transfer of technology and the modernisation of national economies. In recent years, international arbitration has gained a prominent role as a means of settlement of foreign investment disputes. The number and size of investment disputes under arbitration have risen significantly due to the growing number of bilateral investment treaties and increased use of arbitration under multilateral investment treaties. Arbitrating such disputes requires specialised skills and arbitrators with international experience. This new title, featuring contributions from leading experts in the field, deals with the procedural and substantive legal aspects of arbitrating foreign investment disputes. The...
International Investment Arbitration—Campbell McLachlan 2017-09-07 "[This book reviews] the substantive principles of international law applied by investment arbitration tribunals, and a clear and comprehensive description of the relevant state of the law... The second edition is fully updated to take account of the investment 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."
**Evolution in Investment Treaty Law and Arbitration**

Chester Brown 2011-11-17 International investment law is in a state of evolution. With the advent of investor-State arbitration in the latter part of the twentieth century - and its exponential growth over the last decade - new levels of complexity, uncertainty and substantive expansion are emerging. States continue to enter into investment treaties and the number of investor-State arbitration claims continues to rise. At the same time, the various participants in investment treaty arbitration are faced with increasingly difficult issues concerning the fundamental character of the investment treaty regime, the role of the actors in international investment law, the new significance of procedure in the settlement of disputes and the emergence of cross-cutting issues. Bringing together established scholars and practitioners, as well as members of a new generation of international investment lawyers, this volume examines these developments and provides a balanced assessment of the challenges being faced in the field.

**The Law of Investment Treaties**

Jeswald Salacuse 2015-06-04 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 culmination 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 impact on the content and evolution of the law of the treaty. 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.

**International Investment Law and Arbitration**

C. L. Lim 2021-04-30 International investment law and arbitration is a rapidly evolving field, and can be difficult for students to acquire a firm understanding of, given the considerable number of published awards and legal writings. The first edition of this text, cited by courts in Singapore and Colombia, overcame this challenge by interweaving extracts from these arbitral decisions, treaties and scholarly work with concise, up-to-date and reliable commentary. Now fully updated and with a new chapter on arbitrators, the second edition retains this practical structure along with the carefully curated end-of-chapter questions and readings. The authors consider the new chapter an essential revision to the text, and a discussion which is indispensable to understanding the present calls for reform of investment arbitration. The coverage of the book has also been expanded, with the inclusion of over sixty new awards and judicial decisions, comprising both recent and well-established jurisprudence. This textbook will appeal to graduates studying international investment law and international arbitration, as well as being of interest to practitioners in this area.

**Substantive Law in Investment Treaty Arbitration**

Monique Sasson 2016-04-24 This new edition of what has rapidly become the pre-eminent work on the role of municipal law in investment treaty arbitration is justified not only by the accelerating appearance of investment treaty awards but also by the continuing, serious flaws in the application of international law by investment treaty arbitral tribunals. As a matter of international law, arbitrators need to be attentive to the circumstances where municipal law supplies the necessary substantive legal rule. They will find this book to be the best guide to this complex challenge. The author has maintained the overall structure of the first edition and added a new chapter on Article 42 of the ICSID Convention. Certain descriptions and arguments have been rethought and revised to clarify their significance and their applicability. The treatment focuses on the role of municipal law in providing the substance for concepts such as contracts, property, and national law, the rights which are relevant in the international investment treaty context but are not regulated under international law. Among the complex questions that are raised are: - If the application of international law requires a renvoi to municipal law, how should that renvoi be conducted? - In investment disputes, what role, if any, should municipal law have in assessing State attribution under international law? - Should shareholders receive compensation for damages suffered by their company due to a violation of an international obligation vis-à-vis the company? - Does a contractual right exist to foreign investment 'property'? - Under what conditions may a violation of municipal law become internationally wrongful? - May foreign investors rely on 'expectations' as an autonomous source of rights in investment treaty disputes? - Does an alleged breach of an umbrella clause transform a breach of contract claim covered by municipal law into an international law claim? The chapters answer these and many other questions in extraordinary depth, drawing on detailed analyses of the issues and implications posed by major relevant cases and arbitral decisions. The author's analysis of the unavoidable interplay of municipal law and international treaty arbitration - and the consequences stemming from rejecting the application of municipal law when relevant - will continue to prove of immeasurable value to arbitrators, arbitration counsel, corporate counsel, and scholars of international law.

**Shifting Paradigms in International Investment Law**

Markus Krajewski 2016-01-21 International investment law is in transition. Whereas the prevailing mindset has always been the 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 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 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 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 agreements with other areas of public international law, constitutional questions, and new regional perspectives from South Africa and Latin America. Together they provide an invaluable resource for scholars, practitioners, and policymakers.

**Asia’s Changing International Investment Regime**

Julien Chaisse 2017-10-24 This book focuses on the Asia-Pacific region, delineating the evolving dynamics of foreign investment in the region. It examines the relationship between efforts to increase foreign direct investment (FDI) and efforts to improve governance and inclusive growth and development. Against a background of rapidly developing international investment law, it emphasises the need to strike a balance between these domestic and international legal frameworks, seeking to promote both foreign investment and the laws and policies necessary to regulate investments and investor conduct. Foreign investments play a pivotal role in most countries’ political economies, and in order to encourage cross-border capital flows, countries have taken various steps, such as revising their domestic legal frameworks, liberalising rules on inward and outward investment, and creating special regimes that provide incentives and protections for foreign investment. Alongside the developments in domestic laws, countries have also taken bilateral and multilateral action, including entering into trade and/or investment agreements. Further, the book explores regional investment trends, highlights specific features of Asia-Pacific investment laws and treaties, and analyses policy-making themes: the rise of the Asia-Pacific agreements; the current state of play; and with recent global trends in the evolving rules on foreign investment; what China is doing; current investment arbitration practice in Asia; and the importance of regionalising investment law in the Asia-Pacific region. In addition, it identifies and discusses the research and policy gaps that should be filled in order to promote more sustainable and responsible investment. The book offers a valuable resource not only for academics and students, but also for trade and investment officials, policy-makers, diplomats, economists, lawyers, think tanks, and business leaders interested in the governance and regulation of foreign investment, economic policy reforms, and the development of new types of investment agreements.
The framework of thousands of IIAs and within it the system of Investor State Dispute Settlement (ISDS) is fragmented and increasingly subject to harsh critique of providing inconsistent arbitration awards and lacking legitimacy in general. This paper addresses the development of ISDS provisions in investment agreements and how the current system could be reformed. Chapter two provides a historical overview of investment treaty practice, the roots of the current system and the development of private courts of arbitration. Main ISDS institutions and their rules will be introduced. The following section will point out the arguments in favour and opposing ISDS. Critique will be made visible on examples of prominent cases as well as on overall findings from treaty arbitrations in order to know the possibilities of reform and rethinking international investment laws. It will address recent megaregional agreements such like the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership (TTIP) and their possible roles in shaping future rules which will govern international investment flows.

International Investment Law and Development -Stephan W. Schill 2015-12-18 International investment law has often been seen as an obstacle to sustainable development. While the connections between investment and development are plain, for a long time there has been relatively little scholarship exploring them. Combining critical reflection and detailed analysis, this book addresses the relationship between contemporary investment law and development. The book is organized around two competing visions of investment and development - as working either harmoniously or in conflict with one another. The expert contributors reflect on both of these views and analyse the social dimensions of development and its impact on investment law. Coverage includes in-depth discussion on such issues as human rights, poverty reduction, labor standards, and indigenous peoples. Students and scholars of international investment law will benefit from the informed analysis of the links between investment and development. This book will also be of use to practitioners and experts of development law who are looking for an up-to-date perspective of the field.

The Protection of Foreign Investments in Mongolia -Bajar Scharaw 2017-11-07 This book analyses the adequacy of Mongolia’s legal system for foreign investment protection by conducting a multi-level assessment of international investment treaties, domestic legislation of the host State, and investor-State contracts from an international comparative perspective. The investigation distinguishes between three legal dimensions, each of which offers both substantive legal guarantees for the protection of a multi-level in the host State and provisions for the settlement of investment disputes by arbitration. In the first dimension of Public International Law (PIL), Mongolia is bound by international investment treaties, which offer investors an international law setting. In the second dimension, a special domestic investment law defines the domestic framework for the establishment, promotion and protection of investments, but also for the conclusion of investor-State contracts. These contracts in turn open a third legal dimension, which represents a cross-section through the PIL and domestic-law dimensions. The multiplicity of the legal dimensions that are not isolated but rather interrelated and mutually reinforcing, the book examines whether Mongolia’s international investment treaties and domestic investment law reflect globally shared international and domestic standards of treatment and protection of foreign investments. Lastly, the author inquires whether the domestic
laws applicable to investor-State contracts in Mongolia allow investors and the Mongolian Government to agree on protective terms according to the (not uncontroversial) standards of international contract practice.

**Arbitration Costs**-Susan D. Franck 2019-03-26 Investment treaty arbitration (sometimes called investor-state dispute settlement or ISDS) has become a flashpoint in the backlash against globalization, with costs becoming an area of core scrutiny. Yet “conventional wisdom” about costs is not necessarily wise. To separate fact from fiction, this book tests claims about investment arbitration and fiscal costs against data so that policy reforms can be informed by scientific evidence. The exercise is critical, as investment treaties grant international arbitrators the power to order states-both rich and poor-to pay potentially millions of dollars to foreign investors when states violate the international law commitments made in the treaties. Meanwhile, the cost to access and defend the arbitration can also climb to millions of dollars. This book uses insights drawn from cognitive psychology and hard data to explore the reality of investment treaty arbitration, identify core demographics and basic information on outcomes, and dissect the costs counsel and states incur. It offers a nuanced perspective of how and when cost-shifting occurs, parses tribunals' rationalization (or lack thereof) of cost assessments, and models the variables most likely to predict costs, using data to point the way towards evidence-based normative reform.

With an intelligent interdisciplinary approach that speaks to ongoing reform at entities like the World Bank's ICSID and UNCITRAL, this book provides the most up-to-date study of investment dispute treaty settlement, offering new insights that will shape the direction of investment treaty and arbitration reform more broadly.

**Protection of Foreign Investment in India and Investment Treaty Arbitration**-Aniruddha Rajput 2016-04-24 India is one of the fastest growing economies and intends to achieve the desired growth with the help of foreign investment. Recently, India terminated all the existing Bilateral Investment Treaties (BITs) and announced to renegotiate them based on the newly issued Model BIT. This book is the first comprehensive commentary and analyses of international investment law with focus on India. It offers detailed examination of India's legal position in relation to protection of foreign investment and the impact of investment treaty arbitration and related jurisprudence on the country's governance structures and regulatory framework. Additionally, it reflects upon the political and economic rationales for the policy on foreign investment. Among the matters discussed are the following: • Jurisprudence of investment tribunals, with focus on cases where India was a party (White Industries v. India); • Impact of the Make in India campaign and other reforms on foreign investment; • Requirement of valid entry and operation of foreign investment; • Prominent treatment standards such as expropriation, fair and equitable treatment, full protection and security, most favoured nation, and national treatment; • Dispute resolution clauses and enforcement of investment arbitration awards; • Interaction of protection of foreign investment and the Indian judiciary; and • Reasons for India not joining the ICSID Convention. Given India's position as a hugely influential player in the cross-border movement of capital, with the willingness to 'change the rules' on foreign investment and investment treaty arbitration worldwide, this book will prove of immeasurable value to practitioners, legal academics, interested policy makers, multinational corporations and their counsel and others interested in international investment law and India.

**Piercing the Corporate Veil Doctrine in International Investment Agreements**-Anastasia Dulka 2018-06-01 Diploma Thesis from the year 2017 in the subject Law - Miscellaneous, grade: 1,7, Humboldt-University of Berlin (International Dispute Resolution Master of Laws (LL.M.) Programme), course: International Investment Arbitration, language: English, abstract: The piercing the corporate veil in ISDS plays a twofold role. It is an area of international dispute resolution, which has undergone tremendous growth in recent years and resulted in the significant number of Bilateral Investment Treaties (BITs) between foreign states and several Multilateral Investment Treaties (MITs). Numerous cases involving these instruments are resolved through international arbitration. Arbitral tribunals have rendered many awards ordering the payment of large sums of money. This handbook provides an explanatory introduction into the area of investment arbitration, differentiating it from commercial arbitration and state-to-state arbitration. It examines the legal framework and the general course of an international investment arbitration. In particular, it focuses on the standards of protection in investment arbitration, the concept of piercing the corporate veil and the arbitral award, including the notions of recognition, enforcement and execution. Moreover, this cutting-edge publication contains relevant and recent case law in the area and deals with contemporaneous issues such as the ongoing controversy regarding the future of Intra-EU BITs and Free Trade Agreements as well as the link between vulture funds and investment arbitration. The handbook aims at arbitrators, lawyers, practitioners, academics, students and everyone interested in international investment arbitration.

**Investor-State Arbitration**-Christopher Dugan 2011-11-25 Investor-State Arbitration describes the increasing importance of international investment and the necessary development of a new field of international law that defines the obligations of host states and creates procedures for resolving disputes. The authors examine the international treaties that allow investors to proceed with the arbitration of their claims, describe the most-commonly employed arbitration rules, and set forth the most important elements of investor-State arbitration procedure - including tribunal composition, jurisdiction, evidence, award, and challenge of annulment. The authors trace the evolution and rapid development of the field of international investment, including the formation of the International Center for the Settlement of Investment Disputes (ICSID), and the more than 2,000 bilateral investment treaties, most of which were entered into in the last twenty years. The authors explain how this debate has shaped the rules governing international investment and the arbitration of disputes. The book is a must-read for those who have an interest in international investment arbitration and the cross-border movement of capital as well as how it has incentivized growth in international trade and commerce.

**International Challenges in Investment Arbitration**-Muset Akhba 2018-09-20 As the proverbial workhorse of international economic law, investment arbitration heavily relies on the law of international investment and corporate law. It has to cope with the demands of increasingly complex proceedings. At the same time, investment arbitration has come under close public scrutiny in the midst of heated political debate. Both of these factors have led to the field of investment protection being subject to continuous changes. Therefore, it presents an abundance of challenges in its interpretation and application. While these challenges are often deeply rooted in the doctrinal foundations of international law, they similarly surface during live arbitral proceedings. International Challenges in Investment Arbitration serves not only as a collection of recently debated issues in investment law; it also deals with the underlying fundamental questions at the intersection of investment arbitration and international law. The book is the product of the 1st Bucerius Law Journal Conference on International Investment Law & Arbitration. It combines the current state of knowledge, new perspectives on the topic as well as practical issues and will be of interest to researchers, academics and practitioners in the fields of international investment law, international economic law, regulation and comparative law.
The Use of Commercial Arbitration Rules in Investment Treaty Disputes - Joel Dahlquist 2021 “Arbitration clauses in investment treaties often provide investors with a choice between ICSID arbitration, on the one hand, and rules originally drafted for commercial arbitration on the other. The Use of Commercial Arbitration Rules in Investment Treaty Disputes studies how domestic courts and commercial arbitration institutions impact the scope of arbitral tribunal jurisdiction when commercial arbitration rules are used. Based on extensive studies of court decisions and previously-unknown arbitral awards, Joel Dahlquist’s book analyses the practice of domestic courts in reviewing treaty-based jurisdiction, and explains how the two most used commercial arbitration institutions - the ICC and the SCC - have drafted, interpreted and applied their arbitration rules in treaty-based disputes”--

International Investment Law and Arbitration - Chin Leng Lim 2018-04-26 What was once a contested body of principles applied peripherally to the international settlement of expropriation disputes has been transformed and in its place now stands an important area of international dispute practice. International Investment Law and Arbitration offers a comprehensive introduction to the subject. Presenting the facts of daily legal practice and the largely unaltered aims of the subject alongside a broad selection of key awards and original materials, historical developments are discussed in the context of the changing directions in the arbitral jurisprudence and current treaty and arbitration reform debate. Key features: accessible and engaging commentary integrated throughout, end of chapter questions test reader understanding, further reading lists support and encourage exploration of the subject. Suitable for postgraduate law students studying modules on international investment arbitration, International Investment Law and Arbitration offers an indispensable introduction to the subject.

General Principles of Law and International Investment Arbitration - Andrea Gattini 2018-06-01 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.

Arbitrating Brands - Metka Potočnik 2019 In light of the controversy of the Philip Morris cases against Australia and Uruguay, this book systematically explores trade marks and brands as foreign direct investment, and in particular their substantive protection under international investment treaties. With the use of various hypothetical examples of devaluation of investments made in brands, the book explores the specifics of arbitrating investment claims arising out of state trade mark regulation. This work aims to establish useful tools in bridging the terminological and analytical gaps between experts in intellectual property law and international investment law.