

Shifting Paradigms In International Investment Law More Balanced Less Isolated Increasingly Diversified

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Balanced Less Isolated Increasingly Diversified so simple!

Law and Development Piotr Szwedo 2019-09-14 This book examines the concept of 'development' from alternative perspectives and analyzes how different approaches influence law. 'Sustainable development' focuses on balancing economic progress, environmental protection, individual rights, and collective interests. It requires a holistic approach to human beings in their individual and social dimensions, which can be seen as a reference to 'integral human development' – a concept found in ethics. 'Development' can be considered as a value or a goal. But it also has a normative dimension influencing lawmaking and legal application; it is a rule of interpretation, which harmonizes the application of conflicting norms, and which is often based on the ethical and anthropological assumptions of the decision maker. This research examines how different approaches to 'development' and their impact on law can coexist in pluralistic and multicultural societies, and how to evaluate their legitimacy, analyzing the problem from an overarching theoretical perspective. It also discusses case studies stemming from different branches of law.

Research Handbook on Environment and Investment Law
Kate Miles 2019 The Research Handbook on Environment and Investment Law examines one of the most dynamic areas of international law: the interaction between international investment law and environmental law and policy. The Research Handbook takes a thematic

approach, analysing key issues in the environment–investment nexus, such as freshwater resources, climate, biodiversity, biotechnology and sustainable development. It also includes sections which explore regional experiences and address practice and procedure, and offers innovative approaches and critical perspectives, including the interface between foreign investment and the environment with human rights, gender, indigenous peoples, and economics.

Emerging Powers, Global Justice and International Economic Law Andreas Buser 2021-01-04 The book assesses emerging powers' influence on international economic law and analyses whether their rhetoric of reforming this 'unjust' order translates into concrete reforms. The questions at the heart of the book surround the extent to which Brazil, Russia, India, China, and South Africa individually and as a bloc (BRICS) provide alternative regulatory ideas to those of 'Western' States and whether they are able to convert their increased power into influence on global regulation. To do so, the book investigates two broader case studies, namely, the reform of international investment agreements and WTO reform negotiations since the start of the Doha Development Round. As a general outcome, it finds that emerging powers do not radically challenge established law. 'Third World' rhetoric mostly does not translate into practice and rather serves to veil economic interests. Still, emerging powers provide for some alternative regulatory ideas, already leading to a diversification of international economic law. As a general rule, they tend to support norms that allow host States much policy space which

could be used to protect and fulfil socio-economic human rights, especially – but not only – in the Global South.

International Investment Law and Legal Theory Jörg Kammerhofer 2021-05-06 A theoretical analysis of the structure of expropriation in investment law, investigating the foundations for contemporary scholarship and practice.

Promoting and Managing International Investment J Anthony VanDuzer 2020-03-23 This book provides an overview of international investment policy and policy-making, drawing upon perspectives from law, economics, international business, and political science. International investment is a complex phenomenon with significant effects worldwide. Developing effective policies and strategies to attract investment in sufficient quantities and marshal it to contribute to sustainable development is a critical challenge for governments at all levels. This book's interdisciplinary approach provides fresh insights into the mix of policy options available to governments seeking investment to support their country's (or region's) development. As well as identifying ways to effectively design, implement, and assess policies to attract foreign investment, it explores how to manage foreign investment's effects. Various dimensions of international investment policy are discussed, including benefits and costs (economic, environmental, social, and political) of foreign investment, the significance of global value chains, state-owned enterprises and sovereign wealth funds, and the role of tax policy, investment promotion, and policy advocacy, location branding, investment treaties, and national security considerations. Through its contributions to a new interdisciplinary understanding of

international investment policy-making, this book will benefit students and scholars working in areas such as international business, international economic law, international economics, development economics, international development, and international political economy as well as being a valuable resource for policy-makers.

The Politics of Private Transnational Governance by Contract A. Claire Cutler 2017-03-31 This edited volume provides critical reflections on the interplay between politics and law in an increasingly transnationalized global political economy. It focuses specifically on the emergence and operation of new forms of governance that are developing through a variety of transnational contractual practices, institutions, and laws in multiple sectors and areas of economic activity. Interdisciplinary in nature, the volume includes contributions from law, political science, sociology, and international politics, with the focus on the political foundations of transnational contract being both original and path-breaking. Placing power at the center of the analysis, the volume reveals the heterogeneous landscape of contemporary law-making and the different kinds of politics giving rise to this form of global ordering. As the contributors note, this new form of governance requires a different type of political theory and legal theory, with the volume advancing understanding of the analytical, theoretical and normative dimensions of private transnational governance by contract, making a valuable contribution to new theory in law and politics. It will be of great interest to students and academics in law, political science, international relations,

international political economy and sociology, as well as international commercial arbitration lawyers, trade and investment lawyers, and legal firms.

Shifting Paradigms in International Investment Law

Steffen Hindelang 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 Europe, South Africa, the Pacific Rim Region, and Latin America. Together they provide an invaluable 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 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, and policymakers.

Foreign Investor Misconduct in International Investment Law Anna Kozyakova 2020-11-12 This book examines the issue of foreign investor misconduct in modern international investment law, focusing on the approach that international investment law as it currently operates has developed towards foreign investor misconduct. The term 'misconduct' is not a legal notion, but is used to describe a certain phenomenon, namely, a group/class of actions. This term is convenient since it makes it possible to introduce and describe the phenomenon as such, without a division into concrete types of conduct, like 'abuse of process', 'violation of national law', 'corruption', 'investment contrary to international norms and standards', etc. The term 'misconduct' is intended to embrace various kinds of conduct on the part of foreign investors that the system of international investment law does not accept – such as that which it regards as illegal, against public policy, or otherwise inappropriate – and triggers legal consequences. Rarely, however, does international investment law clearly articulate what it considers unacceptable investor conduct, and certainly not in any systematic fashion. As such, this book addresses the following questions: What types of investors' conduct are legally unacceptable? What mechanisms are available to deal with unacceptable

investors' conduct, and what are the legal consequences?
Research Handbook on Foreign Direct Investment
Markus Krajewski 2019 Increasing international investment, the proliferation of international investment agreements, domestic legislation, and investor-State contracts have contributed to the development of a new field of international law that defines obligations between host states and foreign investors with investor-State dispute settlement. This involves not only vast sums, but also a panoply of rights, duties, and shifting objectives at the juncture of national and international law and policy. This engaging Research Handbook provides an authoritative account of these diverse investment law issues.

International Investment Law and Water Resources Management Ana Maria Daza-Clark 2016-12-01 In International Investment Law and Water Resources Management, Daza-Clark offers an appraisal of indirect expropriation, including an analysis of the doctrine of police power.

Encounters between Foreign Relations Law and International Law Helmut Philipp Aust 2021-06-03 A fresh look at the bridges and boundaries between foreign relations law and public international law.

EU External Action in International Economic Law Mads Andenas 2020-09-25 The topic of this book is the external action of the EU within international economic law, with a special focus on investment law. The aim of the volume is to provide the reader with an appraisal of the most recent trends and developments that have characterised a field that has been rapidly evolving and in which the EU has

imposed itself as a leading actor. The book is aimed at academics, practitioners and graduate students as well as at EU officials and judges, all of whom should find the subject matter discussed useful for keeping updated on a scholarly discussion of relevance to case law. Mads Andenas is Professor of Law at the Faculty of Law of the University of Oslo in Norway. Luca Pantaleo is Doctor of Law and Senior Lecturer in International and European Law at The Hague University of Applied Sciences in The Netherlands. Matthew Happold is Professor of Law at the Université du Luxembourg in Luxembourg. Cristina Contartese is Lecturer in Law at the European Law and Governance School in Athens, Greece.

China's International Investment Strategy Julien Chaisse
2019-02-07 Since China adopted its 'open door' policy in 1978, which altered its development strategy from self-sufficiency to active participation in the world market, its goal has remained unchanged: to assist the readjustment of China's economy, to coordinate its modernization programs, and to improve its quality of life. With the 1997 launch of the 'Going Global' policy, an outward focus regarding foreign investment was added, to circumvent trade barriers and improve the competitiveness of Chinese firms. In order to accommodate inward and outward investment, China's participation in the international investment regime has underpinned its efforts to join multilateral investment-related legal instruments and conclude international investment agreements. This collection, compiled by award-winning scholar Professor Julien Chaisse, explores the three distinct tracks of China's investment policy and strategy:

bilateral agreements including those with the US and the EU; regional agreements including the Free Trade Area of the Asia Pacific; and global initiatives, spear-headed by China's presidency of the G20 and its 'Belt and Road initiative'. The book's overarching topic is whether these three tracks compete with each other, or whether they complement one another - a question of profound importance for the country's political and economic future and world investment governance.

Research Handbook on Intellectual Property and Investment Law Christophe Geiger 2020-06-26 This innovative Research Handbook explores the complex and controversial interactions between intellectual property (IP) and investment law. In light of recent developments at national, European and international levels, the chapters critically examine the legitimacy of current practices with regard to the social function of IP rights and the regulatory autonomy of States to undertake measures in the public interest.

Sustainable Trade, Investment and Finance Clair Gammage 2019 Sustainable development remains a high priority in international politics, as governments seek new methods of managing the consumption of resources while maintaining national economic growth. This timely book explores how the contours and facets of sustainability shape international laws and regulations that govern trade, investment and finance.'

World Trade and Local Public Interest Csongor István Nagy 2020-07-15 Trade liberalization has shaped international economic relations since the conclusion of the GATT 1947. The last few decades have seen a

significant shift in the focus of this process: multilateralism seems to have reached its limits, giving way to regionalism, and the focus of trade liberalization has shifted to non-tariff barriers. While these developments have attracted considerable attention, exploring them from comparative perspectives has been largely neglected. Trading systems – the WTO, regional economic integrations and federal systems – are all based on the same dichotomy of free trade and local public interest: they generally prohibit the constituent parties (states) from restricting trade, but exempt them from this limitation if the restriction is warranted by a legitimate local end. The purpose of this volume is to contribute to filling the above-mentioned research gap by exploring central issues in regional economic integrations from a comparative perspective. It provides a general economic analysis of the costs and benefits of trade liberalization and the role and function of normative values in commercial policy. This is followed by a comparative analysis of the approaches used in various regional economic integrations (in North America, Europe and Latin America) and federal markets (the United States, Australia and India) regarding the balance between free trade and local public interest. Key issues in investment law, one of the most contentious elements of next-generation free trade agreements, are also addressed.

European Yearbook of International Economic Law 2016
Marc Bungenberg 2016-07-16 Volume 7 of the EYIEL focusses on critical perspectives of international economic law. Recent protests against free trade agreements such

as the Transatlantic Trade and Investment Partnership (TTIP) remind us that international economic law has always been a politically and legally contested field. This volume collects critical contributions on trade, investment, financial and other subfields of international economic law from scholars who have shaped this debate for many years. The critical contributions to this volume are challenged and sometimes rejected by commentators who have been invited to be “critical with the critics”. The result is a unique collection of critical essays accompanied by alternative and competing views on some of the most fundamental topics of international economic law. In its section on regional developments, EYIEL 7 addresses recent megaregional and plurilateral trade and investment agreements and negotiations. Short insights on various aspects of the Transpacific Partnership (TPP) and its sister TTIP are complemented with comments on other developments, including the African Tripartite FTA and the negotiations on a plurilateral Trade in Services Agreement (TiSA). Further sections address recent WTO and investment case law as well as recent developments concerning the IMF, UNCTAD and the WCO. The volume closes with reviews of recent books in international economic law.

The Use of Commercial Arbitration Rules in Investment Treaty Disputes Joel Dahlquist 2021-03-15

The Use of Commercial Arbitration Rules in Investment Treaty Disputes is an extensive study of how domestic courts and commercial arbitration institutions impact the scope of arbitral tribunal jurisdiction when commercial arbitration

rules are used in investment treaty disputes.

International Investment Protection within Europe Julien Berger 2020-11-24 The steadily rising number of investor-State arbitration proceedings within the EU has triggered an extensive backlash and an increased questioning of the international investment law regime by different Member States as well as the EU Commission. This has resulted in the EU's assertion of control over the intra-EU investment regime by promoting the termination of bilateral intra-EU investment treaties (intra-EU BITs) and by opposing the jurisdiction of arbitral tribunals in intra-EU investor-State arbitration proceedings. Against the backdrop of the landmark Achmea decision of the European Court of Justice, the book offers an in-depth analysis of the interplay of international investment law and the law of the European Union with regard to intra-EU investments, i.e. investments undertaken by an investor from one EU Member State within the territory of another EU Member State. It specifically analyses the conflict between the two investment protection regimes applicable within the EU with a particular emphasis on the compatibility of the international legal instruments with the law of the European Union. The book thereby addresses the more general question of the relationship between EU law and international law and offers a conceptual framework of intra-European investment protection based on the analysis of all intra-EU BITs, the Energy Charter Treaty and EU law, as well as the arbitral practice in over 180 intra-EU investor-State arbitration proceedings. Finally, the book develops possible solutions to reconcile the international legal standards of protection with the

regionalized transnational law of the European Union.

EU and CARICOM Alicia Elias Roberts 2020-10-13

Investigating the unique EU-CARICOM legal relationship, this book explores the major theme of globalisation, which shapes inter-regional organisations individually and determines their relationship to one another. It evaluates how EU-CARICOM relations have fostered trade, security and other development measures, reflecting on the past, future and present of the Caribbean states that are active in the EU-CARICOM framework. Providing case studies on key issues such as immigration, tax and energy, it examines the impact that the EU-CARICOM has on the slave trade and the deportation of millions of people. Such bitter experiences still indirectly shape culture, hopes and the economic framework of possibilities today; therefore, the focus of the volume is on the issues which the constant stream of globalisation creates. The book assesses many potential impacts that the agenda of the EU and Brexit pending will have upon the EU-CARICOM relationship, given the potential for these to create instability. Overall, it highlights how the EU and CARICOM are representations for multilateralism and serve as models that provide the basis for many successful initiatives and agreements. In all new agreements and negotiations, the will to accept the Sustainable Development Goals and thus to make inequality, climate change and other goals of the SDGs the basis of an order that puts people at the centre, are evaluated, and the global agenda 2030 and its impact on EU-CARICOM. Overall, it highlights how the EU and CARICOM are representations for multilateralism and

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Shifting Paradigms in International Investment Law
Steffen Hindelang 2016

India and Bilateral Investment Treaties Prabhash Ranjan
2019-04-24 As a consequence of being sued by more than 20 foreign investors, India terminated close to 60 investment treaties and adopted a new Model Bilateral Investment Treaty (BIT) purportedly to balance investment protection with the host State's right to regulate. This book is a critical study of India's approach towards BITs and traces their origin, evolution, and the current state of play. It does so by locating them in India's economic policy in general and policy towards foreign investment in particular. India's approach towards BITs and policy towards foreign investment were consistent with each other in the periods of economic nationalism (1947–1990) and economic liberalism (1991–2010). However, post 2010, India's approach to BITs has become protectionist while India's foreign investment policy continues to be liberal. To balance 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 law and embedded liberalism.

The Effects of Armed Conflict on Investment Treaties

Tobias Ackermann 2022-08-31 The book explores the effects of armed conflict and international humanitarian law on the interpretation and application of investment treaties.

Sustainable Development in EU Foreign Investment Law
Stefanie Schacherer 2021-08-24 Sustainable Development in EU Foreign Investment Law offers a clear and convincing assessment of how the EU contributes to the ongoing debate on sustainable development integration in international investment agreements.

Global Values and International Trade Law
Csongor István Nagy 2021-12-27 Exploring the relationship and interaction between economic interests and normative non-trade values, this book argues that the emergence and development of non-trade values is based on a complex dialectic interaction between selfish economic interests and normative values, and examines how their structural interdependence has given rise to a remarkable evolution in international trade. Conceiving this relationship as an intricate dialectic one that is neither purely value-driven, nor purely economic-interest-driven, it addresses the emergence, function, and role of non-trade values in international trade with a synthesizing approach and explores the results of their interaction in international economic intercourse. Approaching the non-trade issues of trade in a holistic manner, the book demonstrates that trade can operate smoothly only if it is framed by an architecture of normative value standards and international trade liberalization has reached the level where further development calls for cooperation also in fields that, at first glance, may appear to be non-trade in

nature.

Foreign Direct Investment and Sustainable Development in International Investment Governance Economic and Social Commission for Asia and the Pacific 2020-03-11

Foreign direct investment (FDI) is a principal means of financing the 2030 Agenda for Sustainable Development and the corresponding 17 Sustainable Development Goals. FDI's potential contributions to sustainable development in Asia-Pacific can only be realized if the right conditions and policies are in place and if both the quantity and quality of FDI to, from, and within the region increase. This requires not only identifying and prioritizing FDI projects in key sustainable development sectors - such as renewable energy, education, health, water and sanitation, etc. - but also developing and operationalizing FDI policies and legal and regulatory frameworks at national and international levels that maximize the sustainable development potential of FDI in local economies. This publication sets explores the latter point further by focusing on two emerging and important issues related to international investment governance: sustainable development-orientation in international investment agreements (IIA) and the coherence between IIAs and national investment laws in Asia-Pacific. This publication comprises of three chapters. The first chapter sets the scene analyses recent FDI trends, both in terms of flows of inward and outward investment as well as FDI policymaking and international investment governance; the second chapter provides an in depth analysis of the extent to which the bilateral investment treaties of Asia-Pacific least developed countries and landlocked

developing countries are oriented towards sustainable development; and, the third and final chapter examines the extent of coherence between the IIA regimes and national frameworks for investment in Thailand and Viet Nam. The chapters in this publication offer promising signs that the momentum for and political will to reform the IIA regime to make it more sustainable development-oriented and coherent are picking up, and ESCAP stands ready to further support its member States in their efforts to achieve both.

Integrating Sustainable Development in International Investment Law Manjjao Chi 2017-10-10 The current international investment law system is insufficiently compatible with sustainable development. To better address sustainable development concerns associated with transnational investment activities, international investment agreements should be made more compatible with sustainable development. Integrating Sustainable Development in International Investment Law presents an important systematic study of the issue of sustainable development in the international investment law system, using conceptual, normative and governance perspectives to explore the challenges and possible solutions for making international investment law more compatible with sustainable development. Chi suggests that to effectively address the sustainable development concerns associated with transnational investment activities, the international investment agreements system should be reformed. Such reform should feature redesigning the provisions of the agreements, improving the structure of international investment agreements,

strengthening the function of soft law, engaging non-state actors and enhancing the dispute settlement mechanism. The book is primarily aimed at national and international treaty and policy-makers, lawyers and scholars. It is also suitable for graduate students studying international law and policy-making.

European Yearbook of International Economic Law 2017
Marc Bungenberg 2017-10-06 Volume 8 of the EYIEL focuses on the external economic relations of the European Union as one of the most dynamic political fields in the process of European integration. The first part of this volume analyses the recent controversial questions of the external economic relations of the Union, dealing with the complexity of mixed agreements, transparency and legitimacy issues as well as recent proposals in relation to Investor-State-Dispute Settlement, the Trade Defence Instruments and the implications of the “Brexit” in this context. The second part of EYIEL 8 addresses ongoing bilateral and multilateral negotiations of the EU with China, Japan, Australia, Canada and Taiwan. Moreover, the third part deals with the EU in international organisations and institutions, in particular the recent institutional aspects of the EU-UN relationship, representation in the IMF as well as WTO jurisprudence involving the EU in 2015. The volume concludes with reviews of recent books in international economic law.

Decoding Chinese Bilateral Investment Treaties Shen Wei 2021-08-26 Comprehensively investigate key characteristics, evolutionary path, driving forces, interpreting methodologies, and some missing puzzles of

Chinese BITs.

China and International Dispute Resolution in the Context of the 'Belt and Road Initiative' Wenhua Shan 2021-02-18

The first comprehensive study of China's role in international dispute resolution in the context of the 'Belt and Road Initiative'.

China-European Union Investment Relationships Julien Chaisse Based on original research, and bringing together expert contributors, this book provides a critical analysis of the current law and policy between the EU and China, both internally and internationally. Covering key topics on the subject, this book draws together diverse perspectives into a single collection, and is an invaluable tool for both scholars and practitioners of trade and investment law, as well as human rights and environmental law and policy.

EU Human Rights, International Investment Law and Participation Vivian Kube 2019-08-02 This book demonstrates how human rights obligations of the EU foreign constitution can be operationalized in the realm of international economic regulation. The content is divided into three major parts. The first outlines the legal foundations needed for the EU to become a shaper of international investment law, which include the general principles and objectives of EU external policies, the Charter of Fundamental Rights, international human rights and the international investment competences of the EU. The second part demonstrates the current international investment regime's incompatibility with human rights interests, while the third analyzes two mechanisms stemming from trade Law – ex-ante human rights impact

assessments and civil society monitoring bodies – and explores whether they could mitigate the current inequalities in the protection of rights. The potential of these mechanisms, the book argues, lies in their capacity to ensure a comprehensive assessment of all interests at stake, and to empower traditionally marginalized rights-holders to make, shape and contest the international investment regime.

Towards Consistency in International Investment Jurisprudence Katharina Diel-Gligor 2017-05-30 In Towards Consistency in International Investment Jurisprudence, Katharina Diel-Gligor addresses the problem of inconsistent arbitral decision-making, with a focus on ICSID arbitration. After analysing the causes, forms, and manifestations of inconsistencies, she proposes a preliminary ruling system as a means of reform.

Sustainable Commodity Use Maximilian Eduard Oehl 2021-12-07 This open access book examines the governance and legal landscape of the global commodity sector. For that purpose, the author conceptualises both Global Commodity Governance (GCG) as well as Transnational Commodity Law (TCL). He defines the key terms of Global Commodity Governance, delineates the underlying legal framework of Transnational Commodity Law, and assesses the effectiveness of Transnational Commodity Law in fostering a functional commodity sector. “Sustainable Commodity Use” is based on a comprehensive analysis of over 250 international agreements, standards, and guiding documents. The author distils the main findings into a conceptualisation of

Transnational Commodity Law and provides the reader with a succinct overview of its normative configurations as well as regulatory gaps. Moreover, he elaborates a taxonomy of International Commodity Agreements. In addition, an outline of the normative substance of Transnational Commodity Law features in an appendix to the main text. The author concludes by making concrete suggestions on how rules regulating commodity activities *de lege ferenda* could and should be designed to improve the effectiveness of law regulating transnational commodity activity. In doing so, he demonstrates the application of the sustainable use principle as the overall objective and purpose of Transnational Commodity Law and discusses International Commodity Agreements as future regulatory instruments. This book may assist lawmakers, practitioners, civil society advocates, and academics worldwide in developing a legal framework for sustainable global commodity activity.

YSEC Yearbook of Socio-Economic Constitutions 2020
Steffen Hindelang 2021-03-29 This book presents the very first, interdisciplinarily grounded, comprehensive appraisal of a future “Common European Law on Investment Screening”. Thereby, it provides a foundation for a European administrative law framework for investment screening by setting out viable solutions and evaluating their pros and cons. Daimler, the harbour terminal in Zeebrugge, or Saxo Bank are only three recent examples of controversially discussed company takeovers in Europe. The “elephant in the room” is China and its “Belt and Road Initiative”. The political will in Europe is growing to more actively control investments flowing into

the EU. The current regulatory initiatives raise several fundamental, constitutional and regulatory issues. Surprisingly, they have not been addressed in any depth so far. The book takes stock of the current rather fragmented regulatory approaches and combines contributions from leading international academics, practitioners, and policy makers in their respective fields. Due to the volume's comprehensive approach, it is expected to influence the broader debate on the EU's upcoming regulation of this matter. The book is addressed to participants from academia as well as to representatives from government, business, and civil society.

Re-Politicising International Investment Law in Latin America through the Duty to Regulate Paradigm
María José Luque Macías 2021-05-22
This book offers insights into how international investment law (IIL) has frustrated states' protection of human rights in Latin America, and IIL has generally abstained from dealing with inter-regime frictions. In these circumstances, this study not only argues that IIL should be an object of contention and debate ('politicisation'). It also contends that Latin American countries have traditionally been the frontrunners in the politicisation of international legal instruments protecting foreign investment, questioning whether the paradigms informing their claims' articulation are adequate to frame this debate. It demonstrates that the so-called 'right to regulate' is the paradigm now prevalently used to challenge IIL, but that it is inadequate from a human rights perspective. Hence, the book calls for a re-politicisation of IIL in Latin America through a re-

conceptualization of how states' regulation of foreign investment is understood under international human rights law, which entails viewing it as an international duty. After determining what the 'duty to regulate' constitutes in relation to the right to water and indigenous peoples' right to lands based on human rights doctrine, the book analyses the extent to which Latin American countries are currently re-politicising IIL through an articulation of this international duty, and arbitral tribunals' responses to their argumentative strategies. Based on these findings, the book not only proposes investment treaties' reform to anchor the 'duty to regulate' paradigm in IIL, and in the process, to induce tribunals' engagement with human rights arguments when they come to underpin respondent states' defences in investor-state dispute settlement (ISDS). In addition, drawing upon the (now likely defunct) idea of creating a regional ISDS tribunal, the book briefly reflects on options available to such a tribunal in terms of dealing with troubling normative/institutional interactions between regimes during ISDS proceedings.

Mega-Regional Trade Agreements: CETA, TTIP, and TiSA
Stefan Griller 2017-08-24 The Comprehensive Economic and Trade Agreement between the EU and Canada (CETA), proposed Transatlantic Trade and Investment Partnership between the EU and the US (TTIP), and the plurilateral Trade in Services Agreement (TiSA) between the EU and 22 other States have sparked a great deal of academic and public interest. This edited collection brings together leading experts in the field of international economic law to address the legal complexities of these treaties and provide an explanation of their core

principles. In the first two chapters, this book examines changing conceptions of international economic law and the main motivations for negotiating mega-regional agreements. In nine further contributions, international experts examine sectoral issues such as the trade, investment, and dispute settlement procedures envisaged in these 'mega-regional' agreements. The book goes on to consider the progress made in intellectual property protection, the problems associated with data protection, human rights, labour, and environmental standards, issues of transparency and legitimacy, and the relationship between CETA, TTIP, and TiSA on the one hand and EU law on the other. It concludes with four chapters that discuss globalization and other fundamental questions surrounding these mega-regional agreements from economic, political science, and legal perspectives.

The Asian Turn in Foreign Investment Mahdev Mohan
2020-04-30 This collection critically discusses the increasing significance of Asian States in the field of international investment law and policy. Consisting of contributions authored by a leading team of scholars and practitioners of international investment law, this volume contains analyses of both national and multilateral investment law rule-making in Asia, including a critical discussion of certain States' approaches to balancing the different tension between investment protection and the preservation of States' regulatory sovereignty. It also contains thematic chapters on cutting-edge developments which are of relevance to Asia as well as the global community, such as investors' obligations of due diligence, additional transparency in treaty-based

investment arbitration responses by ASEAN member States to transboundary haze pollution, and the relevance of human rights obligations in international investment law. It also contemplates future possibilities for investor-State dispute settlement, including the use of investor-State mediation in view of the Singapore Convention on Mediation.

Investments in Conflict Zones Tobias Ackermann 2020-12-15 In *Investments in Conflict Zones*, a selected group of experts explores how armed conflicts, territorial disputes, and 'frozen' conflicts impact the application and interpretation of international investment law and how investment protection can be reconciled with such politically charged circumstances.

Reassertion of Control over the Investment Treaty Regime Andreas Kulick 2016-12-15 This book identifies a paradigm shift in international investment law and enquires into how states reassert control over investment treaties.