

**YEARBOOK ON
INTERNATIONAL
INVESTMENT LAW
& POLICY
2010-2011**

**EDITED BY
KARL P. SAUVANT**

OXFORD

Yearbook On International Investment Law Policy 2010
2011 Yearbook On International Investment Law Policy
2010 2011

Karl P Sauvant



Yearbook On International Investment Law Policy 2010 2011 Yearbook On International Investment Law Policy 2010 2011:

Yearbook on International Investment Law & Policy 2010-2011 Karl P. Sauvant, 2012-02-16 The Yearbook on International Investment Law Policy 2010 2011 monitors current developments in international investment law and policy focusing in Part One on recent trends and issues in foreign direct investment FDI Part Two then addresses the fundamental developments in European Union policy toward bilateral investment treaties and annexes the key official European Union documents **The Foundations of International Investment Law** Zachary Douglas, Joost Pauwelyn, Jorge E. Viñuales, 2014-05-01 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 **Regionalism in International Investment Law** Leon Trakman, Nicola Ranieri, 2013-03-07 Regionalism in International Investment Law provides a multinational perspective on international investment law In it distinguished academics and practitioners provide a critical and comprehensive understanding of issues in a field which has grown exponentially in its importance particularly over the last decade focusing on the European Union Australia North America Asia and China The book approaches the field of foreign direct investment from both academic and practical viewpoints and analyzes different bilateral regional and multinational agreements often yielding competing perspectives The academic perspective yields a strong conceptual foundation to often misunderstood elements of

international investment law while the practical perspective aids those actively pursuing foreign direct investment in better understanding the landscape identifying potential conflicts which may arise in more accurately assessing the risk underlying the issues in conflict and in resolving those issues Thorny issues relating to global commerce sovereignty regulation expropriation dispute resolution and investor protections are covered depicting how they have developed and are applied in different regions of the world These different treatments ensure that readers are able grasp the subject matter at multiple levels and provide a comprehensive overview of developments in the field of foreign direct investment

Performance Requirement Prohibitions in International Investment Law Alexandre Genest, 2019-09-16 In Performance Requirement Prohibitions in International Investment Law Alexandre Genest explores the prohibition of performance requirements in investment treaties The author focuses on answering two questions first how do States prohibit performance requirements in investment treaties And second how should such prohibitions of performance requirements be interpreted and applied In providing answers to these questions Alexandre Genest breaks new ground by proposing the first empirical typology of performance requirement prohibitions in investment treaties and the first in depth analysis of arbitral awards on the subject Alexandre Genest formulates insightful remarks for a more deliberate and informed interpretation and application of existing performance requirement prohibitions These remarks will help improve the drafting of performance requirement prohibitions in future investment treaties

Investor-State Dispute Settlement and National Courts Gabrielle Kaufmann-Kohler, Michele Potestà, 2020-06-29 This open access book examines the multiple intersections between national and international courts in the field of investment protection and suggests possible modes for regulating future jurisdictional interactions between domestic courts and international tribunals The current system of foreign investment protection consists of more than 3 000 international investment agreements IIAs most of which provide for investment arbitration as the forum for the resolution of disputes between foreign investors and host States However national courts also have jurisdiction over certain matters involving cross border investments International investment tribunals and national courts thus interact in a number of ways which range from harmonious co existence to reinforcing complementation reciprocal supervision and occasionally competition and discord The book maps this complex relationship between dispute settlement bodies in the current investment treaty context and assesses the potential role of domestic courts in future treaty frameworks that could emerge from the States current efforts to reform the system The book concludes that in certain areas of interaction between domestic courts and international investment tribunals the division of labor between the two bodies is not always optimal producing inefficiencies that burden the system as a whole In these areas there is a need for improvement by introducing a more fruitful allocation of tasks between domestic and international courts and tribunals whatever form s the international mechanism for the settlement of investment disputes may take Given its scope the book contributes not only to legal analysis but also to the policy reflections that are needed for ongoing efforts to reform investor State dispute settlement

Proportionality in Investor-State Arbitration Gebhard Bücheler, 2015-06-11 While international investment law is one of the most dynamic and thriving fields of international law it is increasingly criticized for failing to strike a fair balance between private property rights and the public interest Proportionality is a tool to resolve conflicts between competing rights and interests This book assesses its current role its potential and its limits in investor State arbitration Proportionality is often lauded for reconciling colliding interests This book identifies three factors arbitrators should consider before engaging in a proportionality analysis the rule of law the risk of judicial law making and the availability of a value system that guides the proportionality analysis Apart from making suggestions when arbitrators should apply proportionality and when not to the book outlines what States can do to recalibrate the balance between private property rights and the public interest if they wish to do so without dismantling the current system of investor State arbitration Proportionality in Investor State Arbitration considers whether and to what extent the notion of general principles of law within the meaning of Article 38 1 c of the ICJ Statute and the concept of systemic integration enshrined in Article 31 3 c of the Vienna Convention on the Law of Treaties provides a valid legal foundation for applying proportionality in investor State arbitration **Yearbook on International Investment Law & Policy 2008-2009** Karl P Sauvant, 2009-07-02 Today international investment law consists of a network of multifaceted multilayered international treaties that in one way or another involve virtually every country of the world The evolution of this network continues raising a host of issues regarding international investment law and policy especially in the area of international investment disputes This Yearbook monitors current developments in international investment law and policy focusing in Part One on trends in foreign direct investment FDI international investment agreements and investment disputes with a special look at developments in the oil and gas sector Part Two then looks at central issues in the contemporary discussions on international investment law and policy With contributions by leading experts in the field this title provides timely authoritative information on FDI that can be used by a wide audience including practitioners academics researchers and policy makers **Preface** Karl P. Sauvant, 2018 The recovery of world investment flows will depend substantially on how the world economy will perform in 2011 and beyond on how MNEs perceive the risks of investing abroad and on how the regulatory environment for foreign investment evolves Thus finding the proper balance between protecting the rights of investors and the need for governments to have sufficient policy space to pursue their legitimate public policy objectives will receive increased attention This attention is particularly important as the international investment regime finds itself in flux as new actors enter the picture and established actors seek to shape the investment regime in light of their own expectations Renegotiations the negotiation of new treaties security clauses climate change acquisition of land and risk allocation will affect the development of the international investment law and policy regime *Regulation of Foreign Investment* Zdenek Drabek, Petros C. Mavroidis, 2013 Introduction Zdenek Drabek and Petros C Mavroidis 1 Regulation of investment in the trade regime from ITO to WTO Petros C Mavroidis 2 Domestic regional

and multilateral investment liberalization Jorge A Huerta Goldman 3 Mode 3 of the GATS a model for disciplining measures affecting investment flows Bart De Meester and Dominic Coppens 4 Labor standards and human rights implications for international trade and investment Drusilla K Brown Alan V Deardorff and Robert M Stern 5 Interactions between subsidies regulation and foreign investment and the primacy of the international trade regime Tomer Broude 6 Environmental protection Daniel M Firger and Michael B Gerrard 7 Technology transfer regulatory Issues and international investment agreements Keith E Maskus 8 Sovereign wealth funds and political risk new challenges in the regulation of foreign investment Victoria Barbary and Bernardo Bortolotti 9 International tribunals as agents of harmonization Moshe Hirsch 10 Foreign acquisitions and national security what are genuine threats What are implausible worries Theodore H Moran 11 Public services investment liberalization and protection Federico Ortino 12 The EU approach to investment Americo Beviglia Zampetti and Colin Brown 13 Harmonization of rules on foreign investment Zdenek Drabek

Application of Most-Favoured-Nation Clauses by Investor-State Arbitral Tribunals Tanjina Sharmin, 2020-04-01 This book comprehensively examines various issues regarding the scope of Most Favoured Nation MFN Clauses in International Investment Agreements IIAs and addresses the reform interpretation and enforcement of IIAs with a specific focus on the MFN clause The book begins with a study of the history and evolution of the MFN It then presents a substantive analysis focusing on the drafting style and how it affects the scope of the MFN rules of interpretation and arbitral case law on the scope of the MFN procedural prerequisites to arbitration and jurisdiction of arbitral tribunals and the implications of adopting an expansive approach to the MFN clause The book s argument centres on the need for arbitral tribunals to interpret the MFN in a manner that reflects the expressed intent of the parties This requires taking into consideration the text of the MFN its purpose and the overall context of the IIA rather than relying on values and assumptions that have nothing to do with the original intent of the parties In making this argument the book draws on Articles 31 and 32 of the Vienna Convention on the Law of Treaties and other interpretative rules What sets the book apart is its comprehensive coverage of issues concerning the interpretation and application of the MFN in IIAs At the same time it addresses issues in connection with an expansive interpretation of MFN clauses as well as concerns regarding the legitimacy crisis in investor state arbitration Accordingly it contributes to future Investor State Dispute Settlement ISDS reform while also offering a wealth of theoretical and practical insights for future treaty drafters arbitrators and policymakers

Select Proceedings of the European Society of International Law, Volume 4, 2012 Mariano J Aznar, Mary E Footer, 2016-01-28 This is the fourth in the Series of Select Proceedings of the European Society of International Law ESIL featuring the most important and interesting papers presented at the Fifth Biennial Conference on Regionalism and International Law organised by ESIL and the University of Valencia in 2012 As usual the best papers from that conference have been re written edited and drawn together by the two editors to present a perspective on what is a flourishing forum for the discussion of new ideas and scholarship on

international law *Yearbook on International Investment Law & Policy 2008-2009* Karl P Sauvant,2009-07-02 Today international investment law consists of a network of multifaceted multilayered international treaties that in one way or another involve virtually every country of the world The evolution of this network continues raising a host of issues regarding international investment law and policy especially in the area of international investment disputes This Yearbook monitors current developments in international investment law and policy focusing in Part One on trends in foreign direct investment FDI international investment agreements and investment disputes with a special look at developments in the oil and gas sector Part Two then looks at central issues in the contemporary discussions on international investment law and policy With contributions by leading experts in the field this title provides timely authoritative information on FDI that can be used by a wide audience including practitioners academics researchers and policy makers

World Trade Report 2013 World Trade Organization,2013 The world is changing with extraordinary rapidity driven by many influences including shifts in production and consumption patterns continuing technological innovation new ways of doing business and of course policy The World Trade Report 2013 focuses on how trade is both a cause and an effect of change and looks into the factors shaping the future of world trade One of the most significant drivers of change is technology Not only have revolutions in transport and communications transformed our world but new developments such as 3D printing and the continuing spread of information technology will continue to do so Trade and foreign direct investment together with a greater geographical spread of income growth and opportunity will integrate a growing number of countries into more extensive international exchange Higher incomes and larger populations will put new strains on both renewable and non renewable resources calling for careful resource management Environmental issues will also call for increasing attention Economic and political institutions along with the interplay of cultural customs among countries all help to shape international cooperation including in the trade field The future of trade will also be affected by the extent to which politics and policies successfully address issues of growing social concern such as the availability of jobs and persistent income inequality These and other factors are all examined in the World Trade Report 2013

Official Records ,2011 **Yearbook on International Investment Law & Policy 2009-2010** Karl P. Sauvant,2010-11-24 Today international investment law consists of a network of multifaceted multilayered international treaties that in one way or another involve virtually every country of the world The evolution of this network continues raising a host of issues regarding international investment law and policy especially in the area of international investment disputes Yearbook monitors current developments in international investment law and policy focusing on trends in foreign direct investment FDI international investment agreements and investment disputes The Yearbook on International Investment Law Policy 2009 2010 also looks at central issues in the contemporary discussions on international investment law and policy With contributions by leading experts in the field this title provides timely authoritative information on FDI that can be used by a wide audience including practitioners academics researchers and

policy makers Transnational Corporations ,2011-04 Bowker's Law Books and Serials in Print ,1984 **Yearbook of International Organizations 2013-2014 (Volumes 1a-1b)** Union Of International Associations,Union of International Associations,2013-06-21 Volume 1 A and B covers international organizations throughout the world comprising their aims activities and events **Bibliographie Mensuelle** United Nations Library (Geneva, Switzerland),2011-06 *The Global Community Yearbook of International Law and Jurisprudence 2009 Volume II* Giuliana Ziccardi Capaldo,2010-10-22 a The set generally Please note that the following description applies to both volumes in the 2009 Yearbook not solely to Volume II The Global Community Yearbook is a one stop resource for all researchers studying international law generally or international criminal tribunals specifically The Global Community Yearbook appears annually in two volume editions of carefully chosen primary source material and corresponding expert commentary The general editor Professor Giuliana Ziccardi Capaldo employs her vast expertise in international law to select excerpts from important court opinions and also to choose experts from around the world who contribute essay guides to illuminate those cases Although the main focus is recent case law from the major international tribunals and regional courts the first volume of each year s edition always features expert articles by renowned scholars who address broader themes in international law themes that appear throughout the case law of the many courts covered by the series as a whole b This particular edition 2009 This year s edition of the Global Community Yearbook is restructured to update its format and to better respond to its objective The change affects the section entitled Decisions of International Courts and Tribunals all other sections will remain the same This section divided into twelve sub Sections presents annually the more significant international case law in the form of legal maxims systematically collected The elaboration of legal maxims extracted from the courts decisions and their systematic classification makes this year s edition of the Yearbook unique International courts and tribunals have developed remarkably in recent years and it is becoming increasingly difficult to follow the case law emanating from those jurisdictions without the help of an intermediary The Yearbook and its unique changes fill this gap by serving as an intermediary between the case law and international scholars practitioners and students In previous issues of the Yearbook these legal maxims were prepared by referring both to the law and often extensively to the specific facts of the case In the new format the legal maxims will now distil the most important elements of judicial decisions and rely less heavily on the facts The text of the legal maxims has been reduced to the minimum necessary for systematic classification printing the website links for the case law An introductory note on each international tribunal or court continues to be provided as a synopsis of their activity over the year This reduction of the text of legal maxims better responds to the goals of the Yearbook to serve as a mediator and to provide complete coverage of case law from international courts and tribunals c Individual volumes The first volume of the 2009 edition of Global Community Yearbook presents three categories of material wholly beneficial to any international law researcher International tribunals court opinions excerpted with scholarly skill by General Editor Giuliana Ziccardi Capaldo expert guidance on those cases in

the form of commentary by globally recognized luminaries whom Ziccardi has chosen personally and more broadly focused introductory essays by similarly prominent scholars whom Ziccardi has also selected for that purpose In the introductory essays those scholars take on the current controversial topics of the case against criminalizing hate speech the global importance of human rights for environmental protection the evolution of international environmental law and the politics of global powers Those incisive and knowledgeable introductory articles help frame the debates currently raging in international law before this volume leads the reader on to expert commentary on the noteworthy cases from this past year s dockets of the following tribunals The International Court of Justice The WTO Dispute Resolution System The International Criminal Court International Criminal Tribunal for the Former Yugoslavia International Criminal Tribunal for Rwanda Ziccardi has arranged the sections of this volume according to that list of tribunals and she has included a short targeted index for each of those sections making any research in this volume efficient and fruitful Volume 2 This second volume of the 2009 edition of Global Community Yearbook gives researchers an illuminating tour through the varied and dynamic law of regional and organizational courts In the court opinion excerpts and expert commentary that fill this volume researchers will find detailed guidance on a rich diversity of legal topics from whether the European Court of Human Rights is effective as the centerpiece of the European human rights protection system to the jurisdictional challenges by respondent States under applicable investment agreements On these questions and a host of others this volume provides to students scholars and practitioners alike a valuable combination of expert discussion and direct quotes from the court opinions to which that discussion relates The courts covered by this particular volume are The Court of First Instance of the European Communities The Court of Justice of the European Communities The European Court of Human Rights Inter American Court of Human Rights International Centre for the Settlement of Investment Disputes

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