

# The International Law on **Foreign Investment**

Third Edition

**M. Sornarajah**

CAMBRIDGE

# The International Law On Foreign Investment

**M. Sornarajah**

## **The International Law On Foreign Investment:**

*The International Law on Foreign Investment* M. Sornarajah, 2004-08-26 This new edition of Sornarajah's book available for the first time in paperback surveys the international law developed to protect foreign investment by multinational corporations. The area has always been one of controversy due to the different political and economic conflicts that exist in the field. The book assesses the role of multinational corporations in making foreign investments and considers the ways in which misconduct on the part of such corporations in host states could be controlled. Sornarajah focuses on the protection of foreign investment and the problems associated with such protection. He explores treaty based methods and examines several bilateral and regional investment treaties. The failure to agree on a multilateral treaty system and the inability to incorporate a discipline on investment within the WTO are also considered. He takes account not only of the law but also of the relevant literature in economics, political science and other associated disciplines.

*The International Law on Foreign Investment* M. Sornarajah, 2010-05-06 Given recent seismic upheavals in the world's money markets an updated edition of an authoritative reliable textbook on the international law of foreign investment has rarely been so timely. Sornarajah's classic text surveys how international law has developed to protect foreign investments by multinational actors and to control any misconduct on their part. It analyses treaty based methods examining the effectiveness of bilateral and regional investment treaties. It also considers the reverse flow of investments from emerging industrialising powers such as China and Brazil and explores the retreat from market oriented economics to regulatory controls. By offering thought provoking analysis of not only the law but related developments in economics and political sciences Sornarajah gives immediacy and relevance to the discipline. This book is required reading for all postgraduate and undergraduate international law students specialising in the law of foreign investments.

*The International Law on Foreign Investment* M. Sornarajah, 2017-08-11 Following the Trans Pacific Partnership TPP and Transatlantic Trade and Investment Partnership TTIP the demonstrations against investor state arbitration and the wide discussion during the 2016 US presidential election the climate surrounding foreign investment law is one of controversy and change and with implications for human rights and environmental protection foreign investment law has gained widespread public attention and visibility. Addressing the pressing need to examine foreign investment law in the context of public international law the role of the multinational corporation in foreign investment and issues of liability for environmental and other damage this new edition analyses contractual and treaty based methods of investment protection and examines the effectiveness of bilateral and regional investment treaties. By offering thought provoking analysis of the law in historical political and economic contexts this fully updated edition of Sornarajah's classic text captures leading trends and charts the possible course of future developments. Suitable for postgraduate and undergraduate students The International Law on Foreign Investment is essential reading for anyone specialising in the law of foreign investments.

**Foreign Investments and International Law** Georg Schwarzenberger, 1969

**International Investment Law**

Surya P Subedi,2020-06-11 This book goes beyond stating what the law is and focuses on controversies occurring within this area of the law an excellent introduction to this complex area of international law for newcomers to the subject Kate Miles Australian International Law Journal The updated edition of this acclaimed book offers a critical overview of the law of foreign investment incorporating a thorough analysis of the principles and standards of treatment available to foreign investors in international law It is authoritative and multi layered offering an analysis of the key issues and an insightful assessment of recent trends in the case law from both developed and developing country perspectives A major feature of the book is that it deals with the tension between the law of foreign investment and other competing principles of international law In doing so it proposes ways of achieving a balance between these principles and the need to protect the legitimate rights and expectations of foreign investors on the one hand and the need not to restrict unduly the right of host governments to implement their public policy on the other including the protection of the environment and human rights and the promotion of social and economic justice within the host country Many of the pioneering ideas that were advanced in the first edition of this book in 2008 have been taken up by governments and international organisations in their attempts to reform the investor State dispute settlement mechanism and strike a balance between different competing principles in developing international investment law Accordingly this fourth edition captures the essence of the ongoing multiple reform processes either planned or envisaged currently underway *Foreign Investment, International Law and Common Concerns*

Tullio Treves,Francesco Seatzu,Seline Trevisanut,2013-10-23 Increasingly transnational corporations developed countries and private actors are broadening the boundaries of their investments into new territories in search of a higher return on capital This growth in direct foreign investment involves serious concerns for both the investor and host state Various exponents of international civil society and non governmental organisations persuasively claim that such growth in foreign investments constitutes potential and serious hazards both to the environment and the fundamental rights and freedoms of local populations This book explores from an international law perspective the complex relationship between foreign investments and common concerns i e values that do not coincide or do not necessarily coincide with the interests of the investor and of the host state It pays particular attention to the role of the main international development banks in reconciling the needs of foreign investors with the protection of common concerns such as the environment human rights and labour rights Among its collection of essays the volume asks how much regulatory space investment law leaves whether international investment law is an effective means of balancing contrasting interests and whether investment arbitration currently constitutes a mechanism of global governance In collecting the outlooks of various experts in human rights environmental and international economic law this book breaks new ground in exploring how attention to its legal aspects may help in navigating the relationship between foreign investment and common concerns In doing so the book provides valuable insights into the substantive issues and institutional aspects of international investment law Principles of

International Investment Law Rudolf Dolzer, Ursula Kriebaum, Christoph Schreuer, 2022 This book provides an ideal introduction to the fundamentals of international investment law and dispute settlement for students scholars and practitioners It combines a systematic analytical study of the texts and principles underlying investment law with a jurisprudential analysis of the case law arising in international tribunals Principles of International Investment Law Rudolf Dolzer, Ursula Kriebaum, Christoph Schreuer, 2022-01-13 This book outlines the principles behind the international law of foreign investment The main focus is on the law governed by bilateral and multilateral investment treaties It traces the purpose context and evolution of the clauses and provisions characteristic of contemporary investment treaties and analyses the case law interpreting the issues raised by standard clauses Particular consideration is given to broad treaty rules whose understanding in practice has mainly been shaped by their interpretation and application by international tribunals In addition the book introduces the dispute settlement mechanisms for enforcing investment law outlining the operation of Investor State arbitration Combining a systematic analytical study of the texts and principles underlying investment law with a jurisprudential analysis of the case law arising in international tribunals this book offers an ideal introduction to the principles of international investment law and arbitration for students scholars and practitioners alike The Fair and Equitable Treatment Standard in the International Law of Foreign Investment Ioana Tudor, 2008-03-13 The treatment of foreign investors and of their investments on the territory of a host State is often subject to a bilateral investment treaty BIT signed by the national State of the investors and the host State These BITs usually contain a clause in which the two States offer fair and equitable treatment FET to the foreign investors on their territory Moreover this clause has become a norm of customary law implying that investors may rely on it even outside the context of the BIT Foreign investors whose rights under this clause have not been respected may bring the State in front of an international tribunal This book analyses not only the conventional and customary framework se the FET clause but also its scope and all its applications in the existing case law This book tackles the standard of fair and equitable treatment by applying four conceptual frames the legal basis of FET its nature as a standard its content and finally the implications of its breach The first two chapters explore the two classical sources of international law as possible sources for FET The main sources of FET lie in a rich conventional framework mainly bilateral and regional Yet the high number of BITs does not appear to offer a uniform model of FET clauses quite the opposite the book offers a classification of the FET clauses found in more than 400 BITs Having concluded that the conventional framework is essential to FET the book turns to the examination of the possible customary character of FET and argues that the view equating FET with the International Minimum Standard is erroneous and it limits the scope of FET Alternatively it suggests that the FET standard is an independent standard of customary nature Then the book looks at the nature of FET that of being a standard and retains three direct consequences for its meaning its flexibility the absence of a fixed content and its evolutionary character With these three characteristics in mind it proceeds to the third conceptual

framework the content of FET Although no fixed content may be given to it it identifies and develops each one of those situations in which the FET standard has already been applied Finally the last conceptual framework aims at discussing the final act of a FET claim i e the amount of compensation awarded It argues that FET is a standard which balances the interests and behaviours of both the States and the investors at the stage of compensation

**The Changing Practices of International Law** Tanja Aalberts, Thomas Gammeltoft-Hansen, 2018-04-05 Countering mainstream theories this book focuses on the expanding institutionalisation of international law *International Investment Law* Arnaud de Nanteuil, 2020-02-28 This comprehensive book provides a complete overview of the international legal system of foreign investment protection synthesising material from treaties general international law contracts and case law to demonstrate a coherent system of investment protection Through this systematic approach the book considers all aspects of the discipline providing a thorough and accessible analysis

**International Investment Law** Tarcisio Gazzini, Eric De Brabandere, 2012-08-22 Transnational investment involves a variety of actors States public and private legal entities and natural persons whose relationships are governed by rules and legal instruments belonging to different legal systems This book provides a systematic study of the sources of rights and obligations in the field of transnational investment and their coordination and interaction It focuses primarily on the network of over 3 000 Bilateral Investment Treaties international investment contracts customary international law the main multilateral treaties national legislation international case law and general principles of law The book firmly based on State practice arbitral awards and national decisions is indispensable to fully appraise the nature and content of the claims of private investors as well as to identify the law applicable in investment arbitration

**Investors' International Law** Jean Ho, Mavluda Sattorova, 2021-06-03 This book is the first book length analysis of investor accountability under general and customary international law international human rights law international environmental law international humanitarian law as well as international investment law International investment law is currently facing growing criticisms for its failure to address corruption abuse environmental damage and other forms of investor misconduct Reform initiatives range from the rejection of international law as a governing regime for investors to the dramatic overhaul of investment treaties that supposedly enable investor overprotection to the creation of a multilateral international instrument that would enable the litigation of claims against errant businesses before an international tribunal Whether these initiatives succeed in disciplining investors remains to be seen What these initiatives undeniably show however is that change is warranted to counteract this lopsided investors international law Each chapter in the book addresses a different and underexplored dimension of investor accountability thus offering a novel and consolidated study of international law The book will be of immense assistance to legal practitioners academics and policy makers involved in the design drafting application and reform of various international instruments addressing investor accountability

**Foreign Investment and the Environment in International Law** Jorge E. Viñuales, 2012-09-13 Conflicts between

foreign investment law and environmental law are becoming increasingly frequent On the one hand the rise of environmental regulation poses significant challenges to foreign investors in several industries On the other the surge in investment arbitration proceedings is making States aware of the important litigation risks that may result from the adoption of environmental regulation This study of the relationship between these two areas of law adopts both a policy and a practical perspective It identifies the major challenges facing States foreign investors and their legal advisers as a result of the potential friction between investment law and environmental law and provides a detailed analysis of all the major legal issues on the basis of a comprehensive study of the jurisprudence from investment tribunals human rights courts and bodies the ICIJ the WTO the ITLOS the CJEU and other adjudication mechanisms *The International Law on Foreign Investments and Host Economies in Sub-Saharan Africa* Valentine Nde Fru,2011

*The Three Laws of International Investment* Jeswald W. Salacuse,2013-02-14

There are three legal frameworks applicable to international investments the laws of the host state and the investor s country the contract between the host state and the investor and the rules of international investment law This book assesses how these three bodies of law interact in investment agreements and dispute arbitration *Resistance and change in the international law on foreign investment* ,2015 Since the 1990s conflicts within international law on foreign investment have arisen as a result of several competing interests The neoliberal philosophy ensured inflexible investment protection given by a network of investment treaties interpreted in an expansive manner which led to states creating regulatory space over foreign investment However NGOs committed to single causes such as human rights and the environment protested against inflexible investment protection The rise to prominence of arguments against the fragmentation of international law also affected the development of investment law as an autonomous regime These factors have resulted in some states renouncing the system of arbitration and other states creating new treaties which undermine inflexible investment protection The treaty based system of investment protection has therefore become tenuous and change has become inevitable Emphasising the changes resulting from resistance to a system based on neoliberal foundations this study looks at recent developments in the area *The Foundations of International Investment Law* Zachary Douglas,Joost Pauwelyn,Jorge E. Viñuales,2014-02

Bringing together conceptual theories of international investment law with the practical application of the law in treaty arbitration this book investigates the key controversies in the field It provides a detailed examination of how a different theoretical approach would have led to a different outcome in a number of important arbitral awards

**Investment Rules for the Global Economy** Pierre Sauvé,Daniel Schwanen,1996 A key element in the formal liberalisation of the global marketplace is the codification of relations between states and foreign investors Such codification has become an essential complement to the existing elaborate rules governing trade flows since trade and investment increasingly complement each other This book presents a collection of papers that document the current state of international investor state relations examine the technical and theoretical issues underlying the need for multilateral rules

on investment and discuss proposals for the content and process of such a rule making initiative Topics of the papers consider such matters as existing investment instruments negotiation of an agreement on foreign direct investment lessons learned from NAFTA investment barriers private and public impediments to market presence and tax harmonisation     *ABA Journal* ,1989-09 The ABA Journal serves the legal profession Qualified recipients are lawyers and judges law students law librarians and associate members of the American Bar Association

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