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In The Interpretation of Investment Treaties, Trinh Hai Yen analyzes arbitral neglect or misapplication of international rules on treaty interpretation in investor-state arbitrations and proposes both adjudicative and legislative solutions. Over the past twenty years, foreign direct investments have spurred widespread liberalization of the foreign direct investment (FDI) regulatory framework. By opening up to foreign investors and encouraging FDI, which could result in increased capital and market access, many countries have improved the operational conditions for foreign affiliates and strengthened standards of treatment and protection. By assuring investors that their investment will be legally protected with closed bilateral investment treaties (BITs) and double taxation treaties (DTTs), this in turn creates greater interest in FDI. Many countries have started contesting international investment treaties that allow foreign corporations to sue sovereign States for alleged treaty breaches at international arbitration fora. This contestation has taken the form of either countries terminating their investment treaties orwalking out of the investor-State dispute settlement (ISDS) system. India has also jumped on the contestation bandwagon. 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 studies critically India's approach towards BITs by tracing its origin, evolution, and the current state of play. The book does so by locating it in India's economic policy in general and policy towardsforeign investment in particular. India's approach towards BITs and its 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 protectionistwhile India's foreign investment policy continues to be liberal. In order 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. Comprehensively investigate key characteristics, evolutionary path, driving forces, interpreting methodologies, and some missing puzzles of Chinese BITs. Why do states enter into treaties? In literature on the investment regime, the dominant

answer is that investment treaties provide credible commitments to foreign investors. This narrative provides valuable insights but cannot account for the historical origins of the treaties, where drafters explicitly decided to exclude 'strong' dispute settlement provisions. Unlike modern- day investment treaties, the early investment treaty regime did not allow investors to file claims against host states through investor-state dispute settlement (ISDS). Using historical evidence from three major capital exporting states - the United States, the United Kingdom, and Germany - the article shows that this was a conscious design choice. Rather than providing formal dispute settlement, sanctions and penalties to make credible commitments, Western states intended investment treaties to serve as salient focal points for the informal resolution of investment disputes. The substantive obligations were expected to fulfil their coordinating role without the shadow of judicialized dispute settlement. The argument is not just of historical interest but has broader implications for literature on international economic law dominated by the credible commitment narrative, as well as the current political backlash against ISDS. Many countries have started contesting international investment treaties that allow foreign corporations to sue sovereign States for alleged treaty breaches at international arbitration fora. This contestation has taken the form of either countries terminating their investment treaties or walking out of the investor-State dispute settlement (ISDS) system. India has also jumped on the contestation bandwagon. 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 work studies critically India's approach towards BITs by tracing its origin, evolution, and the current state of play. This book provides a conceptual and legal analysis of the core of investment protection guarantees that emerge from international treaties signed since 1959 for the promotion and protection of foreign investment. It focuses on both the origin and evolution of investment treaty standards. Beginning with origins, the work considers the broader context at the time when the first modern investment treaty was concluded. It goes on to examine the many decisions of ad hoc arbitral tribunals that have since been called upon to apply these treaties in order to resolve the several hundred investor-State disputes. It also looks at some of the recent investment treaties that have attempted to clarify and/or reform the content and scope of investment protection guarantees. Federico Ortino posits that the key investment protection provisions in investment treaties, and thus much of the controversy associated with such treaties, revolve around three concepts: legal stability, investment's value, and reasonableness. He argues that, from the very beginning, the protections afforded to foreign investments by modern investment treaties have been exceptionally broad, and as such restrictive of host States' ability to regulate. And whilst a growing number of investment treaty tribunals, as well as new investment treaties, have to some extent reined in such broad protections, the evolution of key investment protection standards has been marred by inconsistency and uncertainty. The Role of the Domestic Law of the Host State in Determining the Jurisdiction ratione materiae of Investment Treaty Tribunals: The Partial Revival of the Localisation Theory? focuses on the largely

unexplored role of the host state law in jurisdiction ratione materiae of investment treaty tribunals. Given domestic law's essential role in subject-matter jurisdiction, and in light of the broader functions of host state law and host state courts, the author argues that the dormant "localisation" theory has been partially revived in contemporary investment treaty law. International Arbitration Law Library, Volume 63 [IALL-63] Many corporations engage in treaty shopping – or 'nationality planning' – to procure investment treaty protection by attainment of a nationality of convenience. This book is the first in-depth exploration of a substantive legal basis by which to assess the bona fides of a corporate investor's identity in a convenient jurisdiction: i.e., examination of the purpose for which a corporate exists in the ownership structure of the relevant investment. In a comprehensive review of the concept of treaty shopping, the author examines the degree to which manipulation of corporate nationality is consistent with the objects and purposes of the investment treaty regime, and analyses its effect on the legitimacy of investor-state dispute mechanisms. To evaluate a substantive test for a bona fide investor, the book looks to analogous areas of international law such as the law of diplomatic protection and double tax treaties, and reviews in detail the relevance in investment treaty law of such pertinent issues and topics as the following: the concept of separate legal personality; abuse of the corporate form at municipal law; the role of Article 25 of the ICSID Convention; the approach to the nationality of natural persons; the approach to the jurisdictional concept of an 'investment'; criteria used to connote corporate nationality; the concept of the commercial purpose of the corporate investor claimant; the concept and limits of the principle of abuse of right at international law; and the application of, and the relationship between, the four tenets of Article 31(1) of the Vienna Convention: ordinary meaning, good faith, context, and object and purpose. The effectiveness of substantive criteria presently used to mitigate illegitimate or undesirable treaty shopping are examined and compared with the 'purpose to exist' test, and the prospective legal mechanisms that may be utilised to implement a substantive approach are canvassed in detail. This incomparable book brings coherence – and indeed a solution – to the debate about the attribution and use of nationality by corporations in the field of investment treaty law. It is a giant step towards legal certainty as to the need for, and the means by which, limits can be placed on investment treaty jurisdiction for corporate entities. It will be of immense interest to practitioners who advise on jurisdictional issues for clients (whether states or investors) and debate jurisdictional concepts and corporate nationality issues before international tribunals. It will also be a useful resource, and a challenge, to arbitrators regarding the extent to which investment treaty tribunals tolerate manipulation of corporate nationality and circumscribe jurisdiction to protect the legitimacy of the investment treaty system. "The secretariat of the United Nations Conference on Trade and Development (UNCTAD) is implementing a programme on international investment arrangements. It monitors the trends in IIAs and analyzes the emerging issues and development implications. It seeks to help developing countries participate as effectively as possible in international investment rulemaking. ... This paper is part of the programme's research and policy analysis on international investment

policies for development. ... The main objective of this paper is to update UNCTAD's 1998 study entitled Bilateral Investment Treaties in the Mid-1990s and to identify trends in the normative developments of each of the elements typically addressed in BITs since this last stocktaking in 1998. The study traces and explains the new issues that have emerged in recent BITs and also sets out the implications of those developments for developing countries."--Pref. Traditionally, international investment law was conceptualised as a set of norms aiming to ensure good governance for foreign investors, in exchange for their capital and know-how. However, the more recent narratives postulate that investment treaties and investor–state arbitration can lead to better governance not just for foreign investors but also for host state communities. Investment treaty law can arguably foster good governance by holding host governments liable for a failure to ensure transparency, stability, predictability and consistency in their dealings with foreign investors. The recent proliferation of such narratives in investment treaty practice, arbitral awards and academic literature raises questions as to their juridical, conceptual and empirical underpinnings. What has propelled good governance from a set of normative ideals to enforceable treaty standards? Does international investment law possess the necessary characteristics to inspire changes at the national level? How do host states respond to investment treaty law? The overarching objective of this monograph is to unpack existing assumptions concerning the effects of international investment law on host states. By combining doctrinal, empirical, comparative analysis and unveiling the emerging 'nationally felt' responses to international investment norms, the book aims to facilitate a more informed understanding of the present contours and the nature of the interplay between international investment norms and national realities. This important book examines the development of soft law instruments in international investment law and the feasibility of a 'codification' of the present state of this field of international economic law. It draws together the views of international experts on the use of soft law in international law generally and in discrete fields such as WTO, commercial, and environmental law. The book assesses whether investment law has sufficiently coalesced over the last 50 years to be 'codified' and focuses particularly on topical issues such as most-favoured-nation treatment and expropriation. This timely book will appeal to academics interested in the development of international law and legal theory, to those working in investment law, Government investment treaty negotiators and arbitration practitioners. The book focuses on the substantive protections accorded to investors and investments and on the variations among jurisdictions. Among the many specific issues and topics that arise in the course of the discussion are the following: - problems of transparency and conflict of interest; - the recent growth in IIAs between and among developing nations; - the effect of new model bilateral investment treaties (BITs); - the ability of non-disputing parties to participate in investor-state arbitration; - theories of the interaction of foreign direct investment (FDI) and BITs; - investor-state arbitration as an evasion of public regulatory authority; - the role of investment funds in international investment; - 'fork in the road' provisions; and - institutional versus ad hoc arbitration. International business and other investors will greatly appreciate the in-depth information

and insightful guidance in this solidly useful book. It will also be welcomed by jurists and students as a significant milestone in the development of principles in a quickly growing field of practice that is still plagued with inconsistencies. Foreign investors have a privileged position under investment treaties. They enjoy strong rights, have no obligations, and can rely on a highly efficient enforcement mechanism: investor-state dispute settlement (ISDS). Unsurprisingly, this extraordinary status has made international investment law one of the most controversial areas of the global economic order. This book sheds new light on the topic, by showing that foreign investor rights are not the result of unpredicted arbitral interpretations, but rather the outcome of a world-making project realized by a coalition of business leaders, bankers, and their lawyers in the 1950s and 1960s. Some initiatives that these figures planned for did not emerge, such as a multilateral investment convention, but they were successful in developing a legal imagination that gradually occupied the space of international investment law. They sought not only to set up a dispute settlement mechanism but also to create a platform to ground their vision of foreign investment relations. Tracing their normative project from the post-World War II period, this book shows that the legal imagination of these business leaders, bankers, and lawyers is remarkably similar to present ISDS practice. Common to both is what they protect, such as foreign investors' legitimate expectations, as well as what they silence or make invisible. Ultimate, this book argues that our canon of imagination, of adjustment and potential reform, remains closely associated with this world-making project of the 1950s and 1960s. The Vienna Convention on the Law of Treaties (VCLT) – as the 'treaty on treaties' – has achieved a rich and nuanced track record of use in international law. It has now been over fifty years since the VCLT was opened for signature in 1969, and over forty years since it entered into force in 1980. As of 2022, the VCLT has been ratified by 116 States and signed by 45 others, with some non-ratifying States also recognising parts as reflective of customary international law. In the intervening decades, the VCLT has had a profound influence on the interpretation, application and development of international investment law, including in the context of investment treaty arbitration. This book presents the first consolidated analysis of how the VCLT has informed the practice of international investment law and the resolution of investor-State disputes, and the role that the VCLT may play in shaping the future of this field. The diverse contributors to this book are scholars and practitioners from around the world, who offer a variety of perspectives on the nexus between the VCLT, international investment law and investor-State dispute settlement (ISDS). Each chapter demonstrates how approaches to key issues of treaty law in investment treaty arbitration diverge or converge from the VCLT and approaches of other international courts, as well as the lessons that investment treaty arbitration could derive – or even offer – for the interpretation and application of the VCLT rules in other settings. Their insights and analyses consider aspects such as the role of the VCLT for: interpretation of more specific approaches to treaty law drafted by treaty negotiators; treaty application in circumstances of contested State territory or succession challenges; temporal challenges arising in treaty interpretation; the status of bilateral investment treaties between European Union

Member States and related termination endeavours; questions concerning the validity, termination and amendment of investment treaties, including as part of ongoing ISDS reform processes; current multilateral reform proposals, including the possibility of an appellate mechanism or a multilateral investment court; grappling with the challenge of fragmentation in international investment law, including the role of prior decisions in treaty interpretation, the challenges introduced by treaty conflict and the multitude of approaches that may be taken by national courts when implementing treaties like the New York Convention; and treaty interpretation and drafting as aided by emerging technologies, such as data analytics, machine learning, smart contracts and blockchain. The book's appendix provides a highly valuable tabular summary of ISDS arbitral practice relating to the VCLT, collating key references from over 350 different procedural orders, decisions and awards. By revisiting the role that the VCLT has played in the development of this field of law, this invaluable book unlocks insights into how the VCLT might be used to support its ongoing development and the resolution of the next generation of investor-State disputes. This book is essential reading for a variety of stakeholders, including arbitrators, counsel, scholars and government officials, who will benefit from its in-depth and practical analysis of the VCLT's relevance to and impact on investment law and investor-State arbitration and its role in shaping where this field of public international law might be headed in the decades to come. U.S. International Investment Agreements is the definitive interpretative guide to the United States' bilateral investment treaties (BITs) and free trade agreements (FTAs) with investment chapters. Providing an authoritative look at the development of the BIT program, treatment provisions, expropriation, and other provisions, Kenneth J. Vandevelde draws on his years of investment treaty and agreement expertise as both a former practitioner and a scholar. This unique and well-organized book analyzes the development of U.S. international investment agreement language and strategy within their historical context. It also explains the newest changes to the model negotiating text (US Model BIT 2004) and additional treaties. Treaty shopping, also known under the terms of nationality planning, corporate (re-)structuring or corporate maneuvering, implies a strategic change of nationality or strategic invocation of another nationality with the aim of accessing another (usually more favourable) investment treaty for purposes of investment arbitration. When deciding on whether an investment claim based on treaty shopping should be upheld or dismissed, investment arbitral tribunals have been increasingly faced with significant questions, such as: What is treaty shopping and how may legitimate nationality planning be distinguished from treaty abuse in international investment law? Should a claimant that is controlled by a host-State national be considered a protected investor, or should tribunals pierce its corporate veil? Does an investor have to make the investment in good faith, and does it have to make a contribution of its own to the investment it is claiming protection for? When does a corporate restructuring constitute an abuse of process, and which is the role of the notion of dispute in this respect? How efficient are denial of benefits clauses to counter treaty shopping? Treaty Shopping in International Investment Law examines in a systematic manner the practice of treaty shopping in international

investment law and arbitral decisions that have undertaken to draw this line. While some legal approaches taken by arbitral tribunals have started to consolidate, others remain unsettled, painting a picture of an overall inconsistent jurisprudence. This is hardly surprising, given the thousands of international investment agreements that provide for the investor´s right to sue the host State on grounds of alleged breaches of investment obligations. This book analyses and discusses the different ways by which arbitral tribunals have dealt with the value judgment at the core of the distinction between objectionable and unobjectionable treaty shopping, and makes proposals de lege ferenda on how States could reform their international investment agreements (in particular with respect to treaty drafting) in order to make them less susceptible to the practice of treaty shopping. "Bilateral Investment Treaties," which has been prepared under the auspices of the International Centre for Settlement of Investment Disputes, examines BIT provisions, particular emphasis being placed on treatment, expropriation and the settlement of disputes. Dolzer and Stevens show that a great degree of uniformity exists in modern investment treaties and thus clearly establish that the significance of these treaties lies not only in the extensive network of rights and obligations of their respective parties; equally important is the contribution of these treaties to an emerging international acceptance of common standards for the treatment of foreign investment. This book presents all the elements of modern BITs and explains what the main problems are. Based on research that has never been published elsewhere, it offers a valuable contribution to the understanding of an area of international law that is currently undergoing tremendous change.' From the "Preface" by Ibrahim F.I. Shihata. International investment law today 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 raises a host of issues regarding international investment law and policy, especially in the area of international investment disputes. The Yearbook on International Investment Law & Policy 2013-2014 monitors current developments in international investment law and policy, focusing on recent trends and issues in foreign direct investment (FDI). 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. The 2013-2014 Yearbook begins with trends in international investment and the activities of multinational enterprises, a review of trends and new approaches in international investment agreements for 2013-2014, and a review of international investment law and arbitration for 2013. This edition contains a sample of the research and ideas generated by the Investment Treaty Forum at the British Institute of International and Comparative Law--The Investment Treaty Forum brings together experts in international investment law to engage in high-level debate about salient topics in investment law. This edition covers many important topics, such as the principle of proportionality and the problem of indeterminacy in international investment treaties; proportionality, reasonableness and standards of review in investment treaty arbitration; and the role of investors' legitimate expectations in defense of investment treaty claims. The general articles included in this volume provide analysis of balancing investor

protection and regulatory freedom in international investment law. The jurisprudential interaction between ICSID tribunals and the International Court of Justice are also discussed, along with inconsistencies in investor-state awards, the role of state interpretations; old and new ways for host states to defend against investment arbitrations, and approaches and analogies in the countermeasures defense in investor-state disputes. This volume explores the political economy of crises and the international law of necessity after the great recession. In addition to this are articles on minilateral treaty-making and bilateral investment treaties; investment promotion, agencies; the trend toward open contracting; and new regulations on foreign acquisitions of land in Brazil and Argentina. This volume concludes with the winning memorials from the 2013 FDI International Moot Competition. The rise of investment arbitration in the last decade has generated an unprecedented body of arbitral case law. The work of these arbitral tribunals has provided scholars and practitioners with public international law jurisprudence, including materials on treaty interpretation which has not yet been thoroughly analysed. This book evaluates the contribution of investment arbitration treaty interpretation jurisprudence to international law, covering all key aspects of treaty interpretation. Included in the book's coverage are awards which feature in prominent discussions or in applications of treaty interpretation rules. Among the significant portion of arbitral awards analysed, which deal with investment treaties, are ICSID awards, ad hoc investment arbitration awards, NAFTA awards, and Energy Charter Treaty awards. The extensive analysis of investment arbitration awards and decisions has also been used to create a table highlighting both the references to principles of treaty interpretation and instances in which they were rejected. This invaluable insight into the practice of investment tribunals will be of interest to both practitioners and academics alike. Foreword by by Professor Michael Reisman, Yale Law School _ Bilateral Investment Treaties: History, Policy, and Interpretation organizes, summarizes and comments upon the arbitral awards interpreting and applying BIT provisions. Policymakers and practitioners will find a thorough introduction to the operation of the BITs, including the principal arguments and case authorities on both sides of the major issues in international investment law. The book is intended to be a single-volume reference covering every important development in the 50 years of BIT programs worldwide, from 1959 until 2009. Author Kenneth Vandevelde argues that the primary purpose of the BITs is to promote the application of the rule of law to foreign investment, while a secondary purpose is to create a liberal investment regime. He further argues that BITs are based on six core principles: reasonableness, security, nondiscrimination, access, transparency and due process. The book explains each of these principles and analyzes the major BIT provisions based on them. Vandevelde addresses the host of complex questions that BITs engender: Do bilateral investment treaties attract foreign investment or otherwise contribute to economic development? Do BITs limit host state regulatory discretion too much? Why should countries continue to conclude BITs? What is meant by BIT guarantees of "fair and equitable treatment" and "full protection and security"? What is the scope of the BIT provision for most-favored-nation treatment? The book's expert analysis of these

questions makes it useful to policy makers in the area of international economic relations, attorneys representing multinational companies, and anyone interested in the process of economic globalization. This volume provides a unique country-by-country discussion of legal protections and dispute resolution/arbitration relating to foreign investment in Latin America. 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 culminated 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 effect on the content and evolution of the law of investment treaties. 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. Substantive Protection under Investment Treaties provides the first systematic analysis of the consequences of the substantive protections that investment treaties provide to foreign investors. It proposes a new framework for identifying and evaluating the costs and benefits of differing levels of investment treaty protection, and uses this framework to evaluate the levels of protection for foreign investors implied by different interpretations of the fair and equitable treatment and indirect expropriation provisions of investment treaties. The author examines the arguments and assumptions of both supporters and critics of investment treaties, seeks to test whether they are coherent and borne out by evidence, and concludes that the 'economic' justifications for investment treaty protections are much weaker than is generally assumed. As such, the 'economic' objectives of investment treaties are not necessarily in tension with other 'non-economic' objectives. These findings have important implications for the drafting and interpretation of investment treaties. 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 rights, and shareholders' rights, which are relevant in the international investment treaty context but are not regulated under international law. Among the complex questions considered are the following: - 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 interaction of municipal law and international law in investment 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. This book examines how developing countries often sign up to highly potent rules underwriting economic globalisation without even realising it. This book evaluates the core of the concept of legitimate expectations from first principles in moral philosophy. It adopts an unconventional approach by examining this topic from a deep, philosophical perspective and delves into the debates on the binding nature of promise in moral philosophy. It then develops a doctrinal structure for the standard of protection. The author places the key premise of the book on the possibility of deriving firm conclusions from the debate and on creating a set of precise and prescriptive 'guidelines of the application of legitimate expectations'. The features of this book are threefold: first, a significant body of literature on moral philosophy is assimilated; second, core philosophical principles are extracted and expressed as a normative framework to resolve concrete cases; third, the author analysed a vast number of investment treaty awards against the underlying framework. The First Bilateral Investment Treaties is the first and only history of the U.S. postwar Friendship, Commerce, and Navigation (FCN) treaty program, and focuses on the investment-related provisions of those treaties. The 22 U.S. postwar FCN treaties were the first bilateral investment treaties ever concluded, and nearly all of the core provisions in the modern network of more than 3000 international investment agreements worldwide trace their origin to these FCN treaties. This book

explains the original understanding of the language of this vast network of agreements which have been and continue to be the subject of hundreds of international arbitrations and billions of dollars in claims. It is based on a review of some 32,000 pages of negotiating history housed in the National Archives. This book demonstrates that the investment provisions were founded on the New Deal liberalism of the Roosevelt-Truman administrations and were intended to acquire for U.S. companies investing abroad the same protections that foreign investors already received in the United States under the U.S. Constitution. It chronicles the failed U.S. attempt to obtain protection for investment through the proposed International Trade Organization (ITO), providing the first and only history of the investment-related provisions in the ITO Charter. It then shows how the FCN treaties, which dated back to 1776 and originally concerned with establishing trade and maritime relations, were re-conceptualized as investment treaties to provide investment protection bilaterally. This book is also a work of diplomatic history, offering an account of the negotiating history of each of the 22 treaties and describing U.S. negotiating policy and strategy. The book considers the ways in which the international investment law regime intersects with the human rights regime, and the potential for clashes between the two legal orders. Within the human rights regime states may be obligated to regulate, including a duty to adopt regulation aiming at improving social standards and conditions of living for their population. Yet, states are increasingly confronted with the consequences of such regulation in investment disputes, where investors seek to challenge regulatory interferences for example in expropriation claims. Regulatory measures may for instance interfere with the investment by imposing conditions on investors or negatively affecting the value of the investment. As a consequence, investors increasingly seek to challenge regulatory measures in international investment arbitration on the basis of a bilateral investment treaty. This book sets out the nature and the scope of the right to regulate in current international investment law. The book examines bilateral investment treaties and ICSID arbitrations looking at the indicative parameters that are granted weight in practice in expropriation claims delimiting compensable from non-compensable regulation. The book places the potential clash between the right to regulate and international investment law within a theoretical framework which describes the stability-flexibility dilemma currently inherent within international law. Lone Wandahl Mouyal goes on to set out methods which could be employed by both BIT-negotiators and adjudicators of investment disputes, allowing states to exercise their right to regulate while at the same time providing investors with legal certainty. The book serves as a valuable tool, an added perspective, for academics as well as for practitioners dealing with aspects of international investment law. 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 FETis a standard which balances the interests and behaviours of both the States and the investors, at the stage of compensation. International Investment Treaties and Arbitration Across Asia examines whether and how the Asian region has or may become a significant 'rule maker' in contemporary international investment law and dispute resolution, focusing on the 'ASEAN+6' economies. This book covers substance and procedure, including key awards and materials with commentary on past, current and potential developments. Model Bilateral Investment Treaties (BITs) are a state's blueprint for the investment treaties it negotiates with other states. This book compiles commentaries on the Model BITs of 19 key jurisdictions. It analyses state practice on international investment law, detailing each state's legislative regime on foreign investment and their BIT programme Investment treaties are some of the most controversial but least understood instruments of global economic governance. Public interest in international investment arbitration is growing and some developed and developing countries are beginning to revisit their investment treaty policies. The Political Economy of the Investment Treaty Regime synthesises and advances the growing literature on this subject by integrating legal, economic, and political perspectives. Based on an analysis of the substantive and procedural rights conferred by investment treaties, it asks four basic questions. What are the costs and benefits of investment treaties for investors, states, and other stakeholders? Why did developed and developing countries sign the treaties? Why should private arbitrators be allowed to review public regulations passed by states? And what is the relationship between the investment treaty regime and the broader regime complex that governs

international investment? Through a concise, but comprehensive, analysis, this book fills in some of the many "blind spots" of academics from different disciplines, and is the first port of call for lawyers, investors, policy-makers, and stakeholders trying to make sense of these critical instruments governing investor-state relations. This open access book focuses on public actors with a role in the settlement of investment disputes. Traditional studies on actors in international investment law have tended to concentrate on arbitrators, claimant investors and respondent states. Yet this focus on the "principal" players in investment dispute settlement has allowed a number of other seminal actors to be neglected. This book seeks to redress this imbalance by turning the spotlight on the latter. From the investor's home state to domestic courts, from sub-national governments to international organisations, and from political risk insurance agencies to legal defence teams in national ministries, the book critically reviews these overlooked public actors in international investment law. This is a major work investigating China's bilateral investment treaties (BITs) regime through various approaches including textual analysis, case study, comparative study and empirical study. This book tries to unveil some of the puzzles in Chinese BITs. The general consensus is that the evolution of China's BIT regime has its underlying logic, which follows an investment liberalization trend and fits China's changing role from a key capital-importing state to a major capital-exporting state. A similar trend is evident in Chinese BIT-making and BIT policy. This book investigates these theoretical assumptions and looks into some of the loopholes in Chinese BITs.