

The International Law on

# Foreign Investment

Fifth Edition

M. Sornarajah



# The International Law On Foreign Investment

**M. Sornarajah**



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

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, 2010-05-06

This book is a thought provoking and authoritative text on this fast moving field of international law **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, 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 **The International Law on Foreign Investments and Host Economies in Sub-Saharan Africa** Valentine Nde Fru, 2011 **Alternative Visions of the International Law on Foreign Investment** C. L. Lim, 2016-03-03 This book is about the forces that are reshaping the international law on foreign investment today It begins by explaining the liberal origins of contemporary investment treaties before addressing a current backlash against these treaties and the device of investment arbitration The book describes a long standing legal intellectual resistance to a neo liberal global economic agenda and how tribunals have interpreted various treaty standards instead It introduces our reader to the changes now taking place in the design of a range of familiar treaty clauses and it describes how some of these changes are now driven not only by developing and emerging economies but also by the capital exporting nations Finally it explores the life career and writings of Muthucumaraswamy Sornarajah a scholar whose work has been dedicated to the realisation of many of these changes and his views about the hold global capital has over legal practice **International Investment Law** Surya P Subedi, 2024-03-21 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 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 fifth 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

**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

**The Oxford Handbook of International Law and Development** Ruth Buchanan,Luis Eslava,Sundhya Pahuja,2024-02-15 The Oxford Handbook of International Law and Development is a unique overview of the field of international law and development

examining how normative beliefs and assumptions around development are instantiated in law and critically examining disciplinary frameworks competing agendas legal actors and institutions and alternative futures

**Legal Framework for the Admission of FDI** Thomas Pollan, 2006 The law on foreign direct investment FDI belongs to the fastest changing legal field in international law Investors and the host state have long left behind a relationship dominated by the host state's desire to screen and choose FDI In the current market for FDI both parties try to assert influence but in the end the scarcity of FDI is the decisive factor This book provides an in depth study of the legal framework for the admission of FDI and presents insights into the pros and cons of various admission models Its goal is to identify legal and policy options that serve the host state's and investor's common needs The book is a comprehensive easy reference handbook that is of interest to lawyers academics and policy makers

**Foreign Direct Investment and International Law** Adaeze Agatha Aniodoh, 2025-07-16 This book examines the regulatory framework for foreign direct investments most notably the bilateral investment treaties which provide several guarantees that minimise the exposure of risks to foreign investors in a host State Most States have recognised that one of the ways they can improve their economic growth is by providing effective mechanisms for the attraction of foreign investments In this regard foreign direct investments have become a key element in the strategic vision for advancing any national economy The book examines guarantees which have the capacity to impinge on the economic sovereignty of a State raising questions such as are host States obliged to comply with the rights of foreign investors to free capital repatriation in the face of economic difficulties What power does a host State have to regulate and impose capital controls that are deleterious to the rights of a foreign investor This book argues that policies aimed at increasing foreign direct investment need to extend beyond investment liberalisation to strike a balance between the regulatory rights of a State and the legitimate expectations of foreign investors Advancing the discussion on the necessity of balancing the needs of foreign investors with those of the host community and exploring the power asymmetry present in treaty negotiations this book will be of interest to students academics and practitioners with an interest in international investment law

*Exploring African approaches to international law: Essays in honour of Kéba Mbaye* Frans Viljoen, Humphrey Sipalla, Foluso Adegalu, 2022-10-04 It is unfortunate that the idea that Africa contributes to international law and has always done so remains in 2022 largely a side note an auxiliary approach rather than something widely accepted and deeply entrenched It is cause for pause that this is also true in Africa itself Exploring African approaches to international law Essays in honour of Kéba Mbaye is a volume of essays that aims to contribute to a larger effort of imagining what possible approaches to international law Africa has adopted in the decades since the 1960s It also recognises the legacy of the great Senegalese jurist Kéba Mbaye Edited by Frans Viljoen Humphrey Sipalla and Foluso Adegalu the volume is divided into five broad thematic parts and comprises eleven chapters It covers the following themes Kéba Mbaye in African approaches to international law international legal theory international human rights law international environmental and criminal law and

teaching of international law This publication finds its origins in the 2017 Roundtable on African approaches to international law held at the Centre for Human Rights University of Pretoria The explorations at the Roundtable on the concept of an African approach to international law were taken further at the K ba Mbaye Conference on African approaches to international law held at the Senate Hall University of Pretoria in December 2018 This conference brought together around 80 students academics and members of civil society to address the many questions left unanswered by the death of Judge Mbaye arguably Africa s greatest international law jurist of his generation It provided a forum to continue discussions on African approaches to international human rights law building on but rethinking and vernacularising the Third World Approaches to International Law TWAIL approach The contributions to this publication flow from papers presented at the conference However the reflections in the book extend beyond K ba Mbaye as central figure The result is a broad treatment of various aspects of African approaches to international law by thirteen authors and co authors covering a wide range of generational geographic and thematic backgrounds and perspectives *International Law* Malcolm David Evans, 2014 Clearly and accessibly written this new text provides a valuable resource for undergraduate and postgraduate students of international law and covers subjects including the history theories and sources of international law as well as current areas of interest such as international criminal law **International Law** Mohammed Bedjaoui, 1991 The arrival of the *International Law Achievements and Prospects* can fairly be described as a major event in international legal publishing It has been written by international lawyers from the North the South the East and the West whose differing origins and different or even opposed academic backgrounds have ensured that the book encapsulates and brings into focus the main forms of civilization and the principal legal systems of the world The book s most distinctive feature is its international multi cultural and polyphonic nature *International Law Achievements and Prospects* aims to inform and to educate to make the discipline of international law accessible to a very broad public and to promote a meeting of minds on fundamental notions key concepts and the guiding principles of international law over and beyond frontiers ideologies and doctrines In addition it is intended to provide a framework for thought to describe what international law is today to specify its nature define its purpose and show its strengths and also to point out its weaknesses All the contributing authors are or have been practitioners of international law Their contributions express a global view of international law which helps to unravel the complex reality of the contemporary world *International Law Achievements and Prospects* has been produced under the auspices of UNESCO its content also aspires to reflect in some measure the imprint of that Organization s sponsorship

**The Misery of International Law** John Linarelli, Margot E. Salomon, M. Sornarajah, 2018 Poverty inequality and dispossession accompany economic globalization Bringing together three international law scholars this book addresses how international law and its regimes of trade investment finance as well as human rights are implicated in the construction of misery and how international law is producing reproducing and embedding injustice and narrowing the alternatives that

might really serve humanity Adopting a pluralist approach the authors confront the unconscionable dimensions of the global economic order the false premises upon which they are built and the role of international law in constituting and sustaining them Combining insights from radical critiques political philosophy history and critical development studies the book explores the pathologies at work in international economic law today International law must abide by the requirements of justice if it is to make a call for compliance with it but this work claims it drastically fails to do so In a legal order structured around neoliberal ideologies rather than principles of justice every state can and does grab what it can in the economic sphere on the basis of power and interest legally so and under colour of law This book examines how international law on trade and foreign investment and the law and norms on global finance has been shaped to benefit the rich and powerful at the expense of others It studies how a set of principles in the form of a New International Economic Order NIEO that could have laid the groundwork for a more inclusive international law without even disrupting its market orientation were nonetheless undermined As for international human rights law it is under the terms of global capitalism that human rights operate Before we can understand how human rights can create more just societies we must first expose the ways in which they reflect capitalist society and how they assist in reproducing the underlying terms of immiseration that will continue to create the need for human rights protection This book challenges conventional justifications of economic globalization and eschews false choices It is not about whether one is for or against international trade foreign investment or global finance The issue is to resolve how if we are to engage in trade investment and finance we do so in a manner that is accountable to persons whose lives are affected by international law The deployment of human rights for their part must be considered against the ubiquity of neoliberal globalization under law and not merely as a discrete benevolent response to it

**Public International Law** Sué González Hauck, Raffaella Kunz, Max Milas, 2024-03-15 Public International Law A Multi Perspective Approach is a comprehensive yet critical introduction to the diverse field of public international law Bringing together a unique range of perspectives from around the world and from different theoretical approaches this textbook introduces both the overarching questions and doctrines of public international law as well as the specialised sub fields These include emerging fields such as international law in cyberspace international migration law and the international climate regime The book includes numerous case examples references to debates and controversies in the literature and focus sections addressing topics in more depth Featuring an array of pedagogical features including learning objectives suggested further reading and resources and QR codes to interactive exercises this book is ideal for students studying this field for the first time and also offers something new for students who would like to deepen their knowledge via a diverse and engaging range of perspectives The Open Access version of this book available at [www.taylorfrancis.com](http://www.taylorfrancis.com) has been made available under a Creative Commons Attribution ShareAlike CC BY SA 4.0 License

**The Fair and Equitable Treatment Standard in the International Law of Foreign Investment** Ioana Tudor, 2008 This text analyses the conventional and customary framework



of the fair and equitable treatment clauses commonly found in bilateral investment treaties BITs and charts how these clauses have become norms of customary international law

**Legal Treatment of Foreign Investment** Ibrahim F. I. Shihata, 1993-10-27 Corporation law dates from the 19th century when the growth of business enterprise required a division between the private the company sphere making the company a legal person with its own rights responsibilities liabilities The company was no longer the legal equivalent of its owner but became a separate legal entity providing a form of legal protection for the owners employees the customers The introduction of company law meant a great step forward for those engaged in big business in Europe the U S elsewhere

**International Investment Law** Surya P Subedi, 2012-08-01 This book offers an up to date scholarly overview of the law of foreign investment incorporating a thorough and succinct 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 unduly restrict the right of host governments to implement their public policy including the protection of the environment and human rights and the promotion of social and economic justice within the host country on the other Since the first edition was published a number of landmark decisions have been produced by various international investment tribunals calling for an update in what is a fast growing and rapidly changing investment environment In addition scholars and other actors both non governmental and inter governmental have responded to the agenda set by the first edition of this book thus the second edition also reflects on the work of some of these major actors in the field This is perhaps the first book of its type authored by an international lawyer who has taught researched and advised in both the developed and developing world over the past 25 years The wealth of experience he brings to the task enables him to develop unique insights into the interplay between the law economics and politics of foreign investment making this book essential reading for students scholars practitioners and diplomats interested in the contemporary law of foreign investment

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