

Customary International Law Chapter 6

Custom – common definition: it is accepted practice or that it is a practice of longstanding

No clear list of norms, complex to determine

Clear arguments can be made both for and against 2003 Invasion of Iraq

CIL describes what IL there are and evaluating the legality of state action

Historical acceptance

CIL attempts to create normative structures and rules to constrain and evaluate the conducted of states → but these structures & rules are themselves drawn from state conduct. [chicken v egg]

Objections to IL – empty legal talk; reflection of desires of strong states

Treaties bind states who sign/ratify – while norms of CIL are binding from moment they come into being

Pacta sunt servanda – bindingness of treaties

Tacit consent – failure to actively protest a norm during its evolution is deemed to be an endorsement of it

What counts as CIL // legal norm?

- Constant need to differentiate legal norms from moral and political ones (ontological dispute)
- Moral analyses vs political process
- Content of norms vs process within which norms are created
- CIL is a system of rules derived from the observable practice of states
- Contains a subjective element

2 constituent elements of CIL: state practice and *opinio iuris* (or *juris*)

No state alone controls the law making and law changing process under CIL

- It is an aggregation of state practice with intent that creates CIL

Approach to state behavior

opinio iuris (or *juris*) is belief of law

four generic forms of state conduct:

- 1) Conduct in compliance with existing law'
- 2) Conduct at variance with existing law, but not intended to create law;
- 3) Conduct in breach of old law, but not intended to create new law; and
- 4) Conduct in breach of old law, but intended to make new law:
 - a. Which fails; or
 - b. Which succeeds.

State practice – what states actually do. That portion of state conduct which manifests & indicates *opinio iuris*: conduct intended by states to create new law, or reform existing law.

Opinio iuris sive necessitates – belief of law or necessity; the subjective element

opinio iuris is a community concept. Must be held by state, but also by its peers.

Norms can evolve only from consistent conduct and belief of states (state practice)

CIL is a *manifestation of the will of states* draw directly and exclusively from the observed practice of the international community of states viewed as a whole.

CIL provides conceptual lens to evaluate state behavior as well as motivations for action, support, and dissent.

The Law Of Groups Of Companies An International Bibliography

L Reisser



The Law Of Groups Of Companies An International Bibliography:

The Law of Groups of Companies Christine Van Den Wyngaert, M Kruithof, 1991-12 The law and regulations governing groups of enterprises have undergone an amazing development during the last ten to twenty years The growing attention paid in legal writing to the specific issues raised by the group phenomenon is a direct consequence of the widespread and increasing utilization of separate legal entities to organize business activities whether in the profit or non profit sector It is increasingly felt that the traditional approach of today s company law does not provide adequate answers for the questions raised by today s enterprise organization Few national regulations have paid specific attention to the growth of groups of companies This does not mean that group law does not exist but rather that it has developed from its roots in judicial case law administrative practice and in many particular provisions of different statutes Legal doctrine has paid a great deal of attention to group relationships often utilizing material originating from other legal systems At the EEC level a directive on groups of companies has been envisaged but no agreement has been reached on its content The purpose of the research which resulted in the present publication was to document and orient research by everyone interested in the study of the law of groups of enterprises The Law of Groups of Companies systematically classifies the wealth of literature which was thus revealed and makes clear that although formal statutes on groups of companies rarely exist the law has been developing and concepts structures and reasoning have kept the minds of many legal writers active This book is a publication of the Studiecentrum Ondernemingsgroepen Centre d Etude des Groupes d Entreprises **The Law of Groups of Companies** E. Wymeersch, M. Kruithof, 1991-01-01 *The Law of Groups of Companies* E. Wymeersch, M. Kruithof, Studiecentrum ondernemingsgroepen (Netherlands), 1991-01-01 Connecticut journal of international law , 1998 **The Impact of Tax Treaties and EU Law on Group Taxation Regimes** Bruno da Silva, 2016-07-11 Should the income of a corporate group be taxed differently solely because the traditional structure of the income tax system considers each company individually Taxation affects business decisions including location the form in which business is carried out and the efficient allocation of company resources Disparities differences arising from the interaction of different tax systems and obstacles distortions created by domestic legislation arising from differences between domestic and cross border situations both become more acute when a business chooses to set up or acquire other companies thus forming a group usually operating in multiple jurisdictions Responding to such ever more common developments this book is the first in depth analysis of how tax treaties and EU law influence group taxation regimes Among the issues and topics covered are the following analysis of the different tax group regimes adopted by different countries advantages and disadvantages of a variety of models application of the non discrimination provision of Article 24 of the OECD Model Tax Convention to group taxation regimes application of the fundamental freedoms of the TFEU to group taxation regimes following the three step approach adopted by the EU Court of Justice uncertainty raised by the landmark Marks interrelations between tax treaties and EU Law in the context of tax groups

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The Governing Law of Companies in EU Law Justin Borg-Barthet,2012-04-09 The manner in which the governing law of companies is determined has attracted much attention from academics and practitioners alike ever since the European Court of Justice began receiving references for preliminary rulings regarding the compatibility of protective conflict of corporate law norms with the EC Treaty provisions concerning freedom of establishment Although recent developments have been less controversial than the ground breaking judgment in Centros they have not only consolidated the general thrust of liberalisation occasioned by the Court of Justice but have added new dimensions to the regulatory landscape These developments include amendments to the European constitutional order enshrined in the Lisbon Treaty European legislation on cross border mergers the proposed statute for a European Private Company the judgment of the Court of Justice in Cartesio and a Commission communication that contemplates the introduction of legislation on the governing law of companies This book examines these recent developments and appraises the current law as well as the foreseeable trajectory of the law within a theoretical setting that addresses the socio economic and legal theoretical concerns associated with choices of the governing law of companies In addition to considering the present and probable future state of EU law the book also develops new theoretical perspectives and proposes novel solutions to long standing dilemmas In particular it suggests that the use of information technology may render possible previously impossible compromises between party autonomy and the proper locus of prescriptive sovereignty **The IMF, the World Bank Group and the Question of Human Rights** Bahram Ghazi,2021-10-25 The IMF The World Bank Group and the Question of Human Rights explores

various issues facing international financial institutions and their obligations to adhere to human rights norms Bahram Ghazi gets to the heart of the most important issues facing the global community today namely how to reconcile globalization and the activities of the World Bank and the IMF with the implementation of international human rights rules His comprehensive work explains the relation between economy finance and investments and their impact on the human rights situation Using an interdisciplinary approach the author incorporates historical political economic financial and institutional dimensions into his analysis The IMF The World Bank Group and the Question of Human Rights is the fourth volume to be published in Transnational s International Law and Development series edited by Raj Bhala Published under the Transnational Publishers imprint Bibliographic Index ,1997 **Liability of Corporate Groups and Networks** Christian A. Witting,2018-01-11 What happens when a corporate subsidiary or network company is unable to pay personal injury victims in full This book sets out to tackle the insolvent entity problem especially as it arises in cases of mass wrongdoing such as those involving asbestos exposure and defective pharmaceuticals After discussing the nature of corporate groups and networks from the perspectives of business history organisation studies and social theory the book assesses a range of rules and proposed rules for extending liability for personal injuries beyond insolvent entities New proposals are put forward for an exception to the rule of limited liability and for the development of a flexible new tort based on conspiracy that encompasses not only control based relationships but also horizontal coordination between companies The book concludes with a general discussion of lessons learned from debates about extended liability and provides guidelines for the development of new liability rules

Australian National Bibliography: 1992 National Library of Australia,1988 *International Transactions In Services* Karl P Sauvant,2020-01-29 This book focuses on the international politics of transborder data flows It examines the rise of data services and the impact of these services on international economic transactions The book looks at trade and foreign direct investment in services and reviews the policy position of the U S **Running A Company Under Indonesian Laws - Rajawali Pers** Sulistiowati,Bagus SD Nur Buwono,2023-09-01 This book is the result of a rare collaboration between an academic and a corporate lawyer with recognized expertise in the field of corporate law So this book has a distinctive feature as it provides equal coverage of both theoretical and practical sides about various forms of business entities operating under the Indonesian laws Moreover apart from having a comparative approach with other jurisdictions it also discusses the relevant Indonesian court decisions to provide additional perspective on how the judges interpret the provisions on the company laws Thus the readers will get a comprehensive and unparallel legal perspective of these business entities Furthermore this book has reflected the latest legal developments including after the enactment of the first Omnibus Law in Indonesia on job creation in November 2020 The establishment of a business entity in Indonesia including business licensing is rarely discussed in a comprehensive book This book offers this effort to readers especially investors to fully understand and be updated on how the establishment registration and licensing process for a business entity are carried out Although

this book is informative at first glance the authors in each chapter provide critical analysis of the present law and practice to enable the readers to Understand the differences risks and tensions related to a particular form of business entity and corporate governance So this book is also suitable for those who want to keep abreast of new developments in this field

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