Transparency In International Investment Arbitration A Guide To The Uncitral Rules On Transparency In Treaty Based Investor State Arbitration

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.

Investor-State Arbitration describes the increasing importance of international investment and the necessary development of a new field of international law that defines the obligations of host states and creates procedures for resolving disputes. The authors examine the international treaties that allow investors to proceed with the arbitration of their claims, describe the most-commonly employed arbitration rules, and set forth the most important elements of investor-State arbitration procedure - including tribunal composition, jurisdiction, evidence, award, and challenge of annulment. The authors trace the evolution and rapid development of the field of international investment, including the formation of the International Center for the Settlement of Investment Disputes (ICSID), and the more than 2,000 bilateral investment treaties, most of which were entered into in the last twenty years. The authors explain how this development has led to far greater certainty for foreign investors in dealing with their host countries, as well as how it has incentivized growth in international trade and commerce.

This volume celebrates the first fifty years of the International Centre for Settlement of Investment Disputes (ICSID) by presenting the landmark cases that have been decided under its auspices. These cases have addressed every aspect of investment disputes: jurisdictional thresholds; the substantive obligations found in investment treaties, contracts, and legislation; questions of general international law; and a number of novel procedural issues. Each chapter, written by an expert on the chapter’s particular focus, looks at an international investment law topic through the lens of one or more of these leading cases, analyzing what the case held, how it has been applied, and its overall significance to the development of international investment law. These topics include: - applicable law; - res judicata in investor-State arbitration; - notion of investment; - investor nationality; - consent to arbitration; - substantive standards of treatment; - consequences of corruption in investor-State arbitration; - State defenses - counter-claims; - assessment of damages and cost considerations; - ICSID Arbitration Rule 41(5) objections; - mass claims, consolidation and parallel proceedings; - provisional measures; - arbitrator challenges; - transparency and amicus curiae; and - annulment. Because the law of international investment continues to grow in importance in an ever globalizing world, this book is more than a fitting way to mark the past fifty years and to welcome the next fifty years of development. It will prove both educational for practitioners new to the field and informative for seasoned investment lawyers. Moreover, the book itself is a landmark that will be of great value to professionals, scholars and students interested in international investment law.

In Reshaping the Investor-State Dispute Settlement System, Jean E. Kalicki and Anna Joubin-Bret offer a broad compendium of practical suggestions for reform of the current system of resolving international investment treaty disputes through arbitration.

This book presents the first critical review of the less frequently addressed stakeholders in international investment law. Focusing on private actors, including but not limited to lawyers, experts, funders, civil society, the media and scholars, the book highlights the variety of actors that help shape international investment law and demonstrates how best to manage their interactions in order to achieve synergies and enhance the legitimacy of this pluralistic field.

Master's Thesis from the year 2018 in the subject Law - Civil / Private / Trade / Anti Trust Law / Business Law, grade: 1,3, Stellenbosch Universitiy, language: English, abstract: This research paper will examine the current development of amicus curiae participation in investment arbitration and the functioning of the European Commission in this role. The need for transparency and reforms in international investment arbitration will be examined and it will be critically evaluated whether amicus participation is a suitable tool for addressing legitimacy concerns. The role of an amicus curiae in current arbitration practice will be examined as well. Various arbitration regimes and their approach to amicus participation will be evaluated. The last part of the paper will concentrate on the role of the European Commission and will examine the Commission’s role as an amicus in investment disputes in practice. Within our global economy, international investments are a cornerstone. In the modern era, the favoured dispute resolution mechanism has been investment arbitration, a distinct form of international commercial arbitration, which has increased dramatically. Today, investors usually submit claims after consultations and negotiations with the host state for resolution under the auspices of an arbitral institution. Similarly, a new trend in structuring and supporting investments is the proliferation of regional arrangements in the form of Free Trade Agreements, like the North American Free Trade Agreement (NAFTA), the Comprehensive Economic and Trade Agreement between Canada and the EU (CETA) or the multi-party Energy Charter Treaty (ECT). As investment arbitration has gained more presence within the international judicial landscape, it has also been put under the scrutiny of public society. Especially during the CETA and the TTIP negotiations, a growing public concern within Europe evolved, manifesting the belief that international investment arbitration is a threat to the principles of a democratic society and could, by allowing a “secretive panel of corporate lawyers” to overrule the will of parliament and thus, destroy legal protection. These concerns led to public and academic discussions on whether the traditional principle of confidentiality should be reformed towards more transparency in international investment arbitration. The most discussed component for these reforms is the figure of an amicus curiae.

Investment treaty arbitration has a hybrid nature combining public international law (as regards its substance) with elements of international commercial arbitration (mainly as regards procedure). However, in essence and function it deals with a special, internationalised form of judicial review of governmental conduct that is more akin to the judicial control of governmental action provided for by national administrative and constitutional law than to either classic inter-state dispute resolution or international commercial arbitration. This has been recognised in some academic writing and several awards, where reference to national administrative law concepts and principles of international law-based judicial review of governmental action, such as international trade or human rights law, is used to help specify and apply the open-ended concepts of investment treaties. In-depth conceptualization is however often lacking. The current study is the first, pioneering effort to bring these under-developed ad hoc references to comparative and international administrative law concepts into a deeper theoretic and systematic framework. The book thus intends to develop a 'bridge' between treaty-based international investment arbitration and comparative administrative law on both a theoretical and practical level. The major obligations in investment treaties (indirect expropriation, fair and equitable treatment, national treatment, umbrella/sanctity of contract clause) and major procedural principles will be compared with their counterpart in comparative public law, both on the domestic as well as international level. That 'bridge' will allow international investment law

to benefit from the comparative public law experience, which could enhance its legitimacy, its political acceptance, and its ability to develop more finely-tuned interpretations of central treaty obligations.

The Rise of Transparency in International Arbitration is inspired by a joint research conducted in the last years by the Milan Chamber of Arbitration and the Law School of the University Carlo Cattaneo–LIUC, Castellanza, in Italy. The two bodies have shared a common concern in order to increase the use of international commercial arbitration and to develop a proper culture in the field: the need for enhancing transparency and especially for a wider dissemination of arbitral awards. The advantages of arbitration as the main alternative means of dispute resolution are well known and undisputed. Privacy and confidentiality are among them and at the same time among the prevailing features of any arbitral proceedings. However, sometimes users have the feeling to deal with a close and too slow-growing world. The need, if not the request, for a greater accountability of the arbitral world in the whole is more and more widespread. In this context the aim of this book is on the one hand to spur discussion and to shed new light on the traditional idea of confidentiality in international commercial arbitration (and in some other figures alike). Although this idea is sometimes founded upon sound reasons that cannot be ignored or totally set aside, it must be reconsidered by taking into account the rise of transparency. On the other hand, a specific proposal is made in order to step ahead from the current situation, with particular reference to the issue of the publication of the awards. In this respect, the main outcome is the Guidelines for the Anonymous Publication of Arbitral Awards, already adopted and experienced by the Milan Chamber. They are addressed to institutions, practitioners, scholars with the goal to favor the circulation of the awards and of the related decisions.

In General Principles of Law in Investment Arbitration, the authors address selected general principles of law, assessing their functions in investment arbitration. The resulting picture is that of a lively source that escapes doctrinal straitjackets and maintains its relevance.

The Oxford Handbooks series is a major new initiative in academic publishing. Each volume offers an authoritative and state-of-the-art survey of current thinking and research in a particular subject area. Specially commissioned essays from leading international figures in the discipline give critical examinations of the progress and direction of debates. Oxford Handbooks provide scholars and graduate students with compelling new perspectives upon a wide range of subjects in the humanities and social sciences. The Oxford Handbook of International Investment Law aims to provide the first truly exhaustive account of the current state and future development of this important and topical field of international law. The Handbook is divided into three main parts. Part One deals with fundamental conceptual issues, Part Two deals with the main substantive areas of law, and Part Three deals with the major procedural issues arising out of the settlement of international investment disputes. The book has a policy-oriented introduction, setting the more technical chapters that follow in their policy environment within which contemporary norms for international foreign investment law are evolving. The Handbook concludes with a chapter written by the editors to highlight the major conclusions of the collection, to identify trends in the existing law, and to look forward to the future development of this field.

Based on the author's dissertation (doctoral)--University of Geneva.

Is a State free to adopt measures to protect the public health of its citizens? If so, what are the limits, if any, to such regulatory powers? This book addresses these questions by focusing on the clash between the regulatory autonomy of the state and international investment governance. As a wide variety of state regulations allegedly aimed at protecting public health may interfere with foreign investments, a tension exists between the public health policies of the host state and investment treaty provisions. Under most investment treaties, States have waived their sovereign immunity, and have agreed to give arbitrators a comprehensive jurisdiction over what are essentially regulatory disputes. Some scholars and practitioners have expressed concern regarding the magnitude of decision-making power allocated to investment treaty tribunals. This book contributes to the current understanding of international investment law and arbitration, addressing the fundamental question of whether public health has and/or should have any relevance in contemporary international investment law and policy. With a focus on the 'clash of cultures' between international investment law and public health, the author critically analyses the emerging case law of investment treaty arbitration and considers the theoretical interplay between public health and investor rights in international investment law. The book also explores the interplay between investment law and public health in practice, focusing on specific sectors such as pharmaceutical patents, tobacco regulation and environmental health. It then goes on to analyze the available means for promoting consideration of public health in international investment law and suggests new methods and approaches to better reconcile public health and investor rights.

Investment treaty arbitration is fast becoming one of the most common methods of dispute settlement in international law. Despite having ancient roots, tensions remain between the private interests in international investment relations and the public international law features of the arbitral procedure. This book, which presents an account of investment treaty arbitration as a part of public international law - as opposed to commercial law - provides an important contribution to the literature on this subject. Eric De Brabandere examines the procedural implications of conceiving of investment treaty arbitration in such a way, with regard to issues such as the principles of confidentiality and privacy, and remedies. The author demonstrates how the public international law character of investment treaty arbitration derives from, and has impacted upon, the dispute settlement procedure.

HauptbeschreibungIn the last years, the law of international investment protection has increasingly caught the attention of international lawyers, both practitioners and academics. In this regard, two related but often not comprehensively covered aspects are relevant: arbitral proceedings and awards on the one side, and individual commercial interests of enterprises which are engaged in foreign direct investment or international portfolio investment on the other. The applicable law in order to protect these commercial interests is both, of an international and national character, and concerns.

International Commercial Arbitration tracks every phase of the international commercial arbitral process, including designing arbitration agreements, jurisdictional issues, policies with respect to arbitrability, choosing arbitrators, arbitral proceedings, professional ethics of arbitrators and counsel, conflicts of interest, control mechanisms, and enforcement of awards.

An increasing number of international trade disputes are settled through the WTO dispute settlement (DS) procedure. In parallel, an increasing number of international investment disputes are settled through investor-host state arbitration procedure. What does "transparency" mean in the context of international trade and investment dispute settlement? Why is enhanced transparency demanded? To what extent and in what manner should these dispute settlement procedures be transparent? The book addresses these issues of securing transparency in international trade and investment dispute settlement. Transparency in international trade and investment dispute settlement drew attention of international economic law scholars in the late 1990s, but most literature discusses the transparency in trade DS and investment DS separately. The book deals with the issue in a comprehensive and coherent manner, combining the analyses of the issue in both DS procedures and comparing the pros and cons to enhanced transparency in them. The main argument of the book is, firstly, that transparency in these procedures should be enhanced so that they may be accountable to a wider range of stakeholders, but, secondly, that the extent and the manner of transparency might differ in these two procedures, reflecting their structural and functional differences. The book appeals to both scholars and students interested in international economic law and international relations, as well as lawyers and government officials who deal with international trade and investment regulation.

Litigating International Investment Disputes: A Practitioner’s Guide serves as a comprehensive and straightforward resource for those who are new to international investment arbitration, as well as for seasoned practitioners.

Until now, the resolution of international commercial and investment disputes has been dominated almost exclusively by

international arbitration. But that is changing. Whilst they may be complementary mechanisms, international mediation and conciliation are now coming to the fore. Mediation rules that were in disuse gather momentum, and dispute settlement centres are introducing new mediation rules. The European Union is encouraging international mediation in both the commercial and investment spheres. The 2019 Singapore Mediation Convention of the United Nations Commission on International Trade Law (UNCITRAL) is aiming to ensure enforcement of international commercial settlement agreements resulting from mediation. The first investor-State disputes are mediated under the International Bar Association (IBA) rules. The International Centre for Settlement of Investment Disputes (ICSID)'s conciliation mechanism is resorted to more often than in the past. The International Chamber of Commerce (ICC) has recently administered its first mediation case based on a bilateral investment treaty, and a new training market on mediation is flourishing. Mediation in Commercial and Investment Disputes brings together a line-up of outstanding, highly-qualified experts from academia, mediation and arbitration institutions, and international legal practice, to address this highly topical, complex subject from a variety of angles.

In Investor – state arbitration and human rights Filip Balcerzak examines the interrelations between human rights and international investment law. He discusses the place of human rights arguments in the course of arbitral proceedings based on investment treaties.

'...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.

International Arbitration and the COVID-19 Revolution Edited by Maxi Scherer, Niuscha Bassiri & Mohamed S. Abdel Wahab The impact of the COVID-19 pandemic on all major economic sectors and industries has triggered profound and systemic changes in international arbitration. Moreover, the fact that entire proceedings are now being conducted remotely constitutes so significant a deviation from the norm as to warrant the designation ‘revolution’. This timely book is the first to describe and analyse how the COVID-19 crisis has redefined arbitral practice, with critical appraisal from well-known practitioners of the pandemic’s effects on substantive and procedural aspects from the commencement of proceedings until the enforcement of the award. With practical guidance from a variety of perspectives – legal, practical, and sector-specific – on the conduct of international arbitration during the COVID-19 pandemic and beyond, the chapters present leading practitioners’ insights into the unprecedented and multifaceted issues that arise. They provide expert tips and challenges in such practical matters as the following: preventing and resolving disputes of particular types – construction, energy, aviation, technology, media and telecommunication, finance and insurance; arbitrator appointments; issues of planning, preparation and sample procedural orders; witness preparation and cross-examination; e-signature of arbitral awards; setting aside and enforcement proceedings; and third-party funding. Also included are an empirical survey of users’ views and an overview of how the COVID-19 revolution has affected the arbitration rules of leading arbitral seats. With this timely and practical book, arbitration practitioners and scholars will gain up-to-date knowledge of sector-specific challenges brought about by the COVID-19 pandemic and approach arbitration proceedings with an understanding of the most important legal and practical considerations during the crisis and beyond.

Investment arbitration is at the cutting edge of international law and dispute resolution, and is predicted to be a major factor in the development of the global economic system in years to come. This one-volume monograph contains contributions from leading experts on a wide range of topics of both theoretical importance and practical implication that will affect the future of investment arbitration. The highly innovative chapters combine to form a constructive and valuable discussion for all in the arbitration field. The contributors, chosen to represent the full spectrum of perspectives, are leading arbitration experts from all over the world, including ICSID insiders, US government officials, UNCTAD research personnel, seasoned investment arbitrators and counsel, and renowned legal scholars. The book is divided into three themes, with the first centering on the adequacy of UNCITRAL and ICSID arbitration rules, with particular attention to recent and proposed changes. The second theme focuses on the future of bilateral investment treaties, discussing trends in the interpretation of treaty provisions and the debate concerning the efficacy of the treaties in benefiting developing countries. The third theme revolves around the public function of investment arbitration decisions, including the use of arbitration to resolve disputes between sovereigns and the arbitrators' role as a guardian of international public policy. The Future of Investment Arbitration is unique in its outstanding range of topics and the expertise of the contributors. It previews and guides future directions in the field, as well as discussing the larger policy implications of specific rules. It includes cutting-edge analysis of empirical research regarding BITS that is essential to evaluating many assumptions about investment law and arbitration. Finally, the book takes a broad perspective, examining the rules discussed within

the larger structural context of investment arbitration, and drawing investment arbitration into the wider setting of international law and corporate governance.

This book shows how the reform in investment regulation contributes to a broader attempt to transform the international economic order.

This thought-provoking book combines analysis of international commercial and investment treaty arbitration in order to examine how they have been framed by the twin tensions of ‘in/formalisation’ and ‘glocalisation’. Taking a comparative approach, the book focuses on Australia and Japan in their attempts to become regional hubs for international arbitration and dispute resolution services in the increasingly influential Asia-Pacific context as well as a global context.

Transparency in International Investment ArbitrationA Guide to the UNCITRAL Rules on Transparency in Treaty-Based Investor-State ArbitrationCambridge University Press

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 provides an original and critical analysis of the most contentious subjects being negotiated in the China–EU Comprehensive Agreement on Investment (CAI). It focuses on the pathway of reforming investor-state dispute settlement (ISDS) from both Chinese and European perspectives in the context of the China–EU CAI and beyond. The book is divided into three parts. Part I examines key and controversial issues of the China–EU CAI negotiations, including market access, sustainable development and human rights, as well as comparing distinct features between the China–EU CAI and the China–US BIT. Part II concentrates on the institutional reform of investor-state arbitration with an extensive analysis of the EU’s approach to replacing the private nature of investment arbitration with the public nature of an investment court. Part III addresses the core substantive and procedural issues concerning ISDS, such as the role of domestic courts in investment dispute settlement, the status of state-owned enterprises (SOEs) as investors, transparency and the protection of victims in investment dispute resolution. This book will be of interest to scholars and practitioners in the field of international investment and trade law, particularly investment dispute settlement.

International Arbitration Law Library Volume 59 The eastward shift in international dispute resolution has already involved initiatives not only to improve support for international commercial arbitration (ICA) and investor-state dispute settlement (ISDS) but also to develop alternatives such as international commercial courts and mediation. Focusing on these initiatives and their accompanying case law and trends in the Asia-Pacific region, this invaluable book challenges existing procedures and frameworks for cross-border dispute resolution in both commercial and treaty arbitration. Specially assembled for this project, an outstanding team of experienced and insightful arbitrators and scholars describes pertinent developments including: ICA and ISDS in the context of China’s Belt and Road Initiative; the Singapore Convention on Mediation; the shift to virtual hearings and other challenges from the COVID-19 pandemic; mistrust of the application of the rule of law in certain East Asian jurisdictions; growing public concern over ISDS arbitration; tensions between confidentiality and transparency; and potential regional harmonisation of the public policy exception to arbitral enforcement. The contributors chart evolving practices and high-profile cases to make informed observations about where changes are needed, as well as educated guesses about the chances of reforms being successful and the consequences if they are not. The main jurisdictions covered are China, Hong Kong, Japan, Malaysia, India, Australia and Singapore. The first in-depth study of recent trends in dispute resolution practice related to business in the Asia-Pacific region, the book’s practical analysis of new resources for dealing with the increasing competition among countries to become credible regional dispute resolution hubs will prove to be of great value to specialists in the international business law sector. Lawyers will be enabled to make informed decisions on which venue and dispute resolution methods are the most suitable for any specific dispute in the region, and policymakers will confidently assess emerging trends in international dispute resolution policy development and treaty-making.

This Handbook brings together many of the key scholars and leading practitioners in international arbitration, to present and examine cutting-edge knowledge in the field. Innovative in its breadth of coverage, chapter-topics range from the practicalities of how arbitration works, to big picture discussions of the actors involved and the values that underpin it. The book includes critical analysis of some of international arbitrations most controversial aspects, whilst providing a nuanced account overall that allows readers to draw their own informed conclusions. The book is divided into six parts, after an introduction discussing the formation of knowledge in the field. Part I provides an overview of the key legal notions needed to understand how international arbitration technically works, such as the relation between arbitration and law, the power of arbitral tribunals to make decisions, the appointment of arbitrators, and the role of public policy. Part II focuses on key actors in international arbitration, such as arbitrators, parties choosing arbitrators, and civil society. Part III examines the central values at stake in the field, including efficiency, legal certainty, and constitutional ideals. Part IV discusses intellectual paradigms structuring the thinking in and about international arbitration, such as the idea of autonomous transnational legal orders and conflicts of law. Part V presents the empirical evidence we currently have about the operations and effects of both commercial and investment arbitration. Finally, Part VI provides different disciplinary perspectives on international arbitration, including historical, sociological, literary, economic, and psychological accounts.

International investment law is in transition. Whereas the prevailing mindset has always been the protection of the economic interests of individual investors, new developments in international investment law have brought about a paradigm shift. There is now more than ever before an interest in a more inclusive, transparent, and public regime. Shifting Paradigms in International Investment Law addresses these changes against the background of the UNCTAD framework to reform investment treaties. The book analyses how the investment treaty regime has changed and how it

ought to be changing to reconcile private property interests and the state's duty to regulate in the public interest. In doing so, the volume tracks attempts in international investment law to recalibrate itself towards a more balanced, less isolated, and increasingly diversified regime. The individual chapters of this edited volume address the contents of investment agreements, the system of dispute settlement, the interrelation of investment agreements with other areas of public international law, constitutional questions, and new regional perspectives from Europe, South Africa, the Pacific Rim Region, and Latin America. Together they provide an invaluable resource for scholars, practitioners, and policymakers. The individual chapters of this edited volume address the contents of investment agreements, the system of dispute settlement, the interrelation of investment agreements with other areas of public international law, constitutional questions, and new regional perspectives from Europe, South Africa, the Pacific Rim Region, and Latin America. Together they provide an invaluable resource for scholars, practitioners, and policymakers.

"This book, the outgrowth of a conference organized by the editors at Harvard Law School on April 19, 2008, aims to uncover the drivers behind the backlash against the current international investment regime."--Library of Congress Online Calalog.

International investment law and arbitration is a rapidly evolving field, and can be difficult for students to acquire a firm understanding of, given the considerable number of published awards and legal writings. The first edition of this text, cited by courts in Singapore and Colombia, overcame this challenge by interweaving extracts from these arbitral decisions, treaties and scholarly works with concise, up-to-date and reliable commentary. Now fully updated and with a new chapter on arbitrators, the second edition retains this practical structure along with the carefully curated end-of-chapter questions and readings. The authors consider the new chapter an essential revision to the text, and a discussion which is indispensable to understanding the present calls for reform of investment arbitration. The coverage of the book has also been expanded, with the inclusion of over sixty new awards and judicial decisions, comprising both recent and well-established jurisprudence. This textbook will appeal to graduates studying international investment law and international arbitration, as well as being of interest to practitioners in this area.

Trade liberalization has shaped international economic relations since the conclusion of the GATT 1947. The last few decades have seen a significant shift in the focus of this process: multilateralism seems to have reached its limits, giving way to regionalism, and the focus of trade liberalization has shifted to non-tariff barriers. While these developments have attracted considerable attention, exploring them from comparative perspectives has been largely neglected. Trading systems – the WTO, regional economic integrations and federal systems – are all based on the same dichotomy of free trade and local public interest: they generally prohibit the constituent parties (states) from restricting trade, but exempt them from this limitation if the restriction is warranted by a legitimate local end. The purpose of this volume is to contribute to filling the above-mentioned research gap by exploring central issues in regional economic integrations from a comparative perspective. It provides a general economic analysis of the costs and benefits of trade liberalization and the role and function of normative values in commercial policy. This is followed by a comparative analysis of the approaches used in various regional economic integrations (in North America, Europe and Latin America) and federal markets (the United States, Australia and India) regarding the balance between free trade and local public interest. Key issues in investment law, one of the most contentious elements of next-generation free trade agreements, are also addressed.

This in-depth commentary analyses the new UNCITRAL Rules on Transparency in Treaty-Based Investor-State Arbitration.

While its importance in domestic law has long been acknowledged, transparency has until now remained largely unexplored in international law. This study of transparency issues in key areas such as international economic law, environmental law, human rights law and humanitarian law brings together new and important insights on this pressing issue. Contributors explore the framing and content of transparency in their respective fields with regard to proceedings, institutions, law-making processes and legal culture, and a selection of cross-cutting essays completes the study by examining transparency in international law-making and adjudication.

This is an authoritative and full-scale review of the substantive law and principles of investment treaty arbitration. The first edition has been widely referenced and relied upon, and presents the first and deepest analysis of this rapidly-growing field; the second edition accounts for the significant growth in BITs and case law since 2006.

There is a growing interplay between international investment law, arbitration and human rights. This book offers a systematic analysis of this interaction, exploring the role of principles of justice in investment law, comparing investment arbitration with other courts, and examining case studies on human rights and protection standards.

Procedural issues are an area of increasing complexity and concern in modern investment arbitration, and one in which very little guidance currently exists. Indeed, there are a number of important points of departure from the procedural rules commonly adopted in the context of international commercial arbitration. Procedural Issues in International Investment Arbitration is the first text of its kind to address this gap, examining the most prevalent and controversial procedural issues that arise in investment arbitrations conducted under the ICSID, UNCITRAL, and other arbitral rules. Written by international arbitration experts, the book takes the reader through an investment arbitration in chronological order, identifying each key procedural issue in turn and providing details of the relevant precedents. It charts the process of an arbitration from applicable law and first sessions right through to post-hearing applications and costs. Fully cross-referenced and tabled, Procedural Issues in International Investment Arbitration is an invaluable and practical guide to issues of increasing importance and relevance in ICSID and other arbitrations today.

Investor-state arbitration is a relatively new dispute settlement mechanism that allows foreign investors the opportunity to seek redress for damages arising out of breaches of investment-related treaty obligations by the governments of host countries. Claims are submitted to independent, international arbitration tribunals, which are called upon to interpret the treaty at hand. Because of the public interest involved in these cases, the awards of these tribunals are subject to much scrutiny and debate. Thus, it has already generated hundreds of cases and created new legal disciplines, inspiring a continuous string of legal writings. This book provides a comprehensive analysis of the main issues that arise in investor-state arbitration. It accompanies the reader through the phases of such a procedure, starting with an examination of the instruments, which provide, in the overwhelming majority of the cases, the legal basis for the requests for such arbitration. It then continues with the launching of the arbitration procedure, followed by the analysis of the main jurisdictional and substantive issues that the tribunals are confronted with, and the review procedures, when there is a request for setting aside of the award. It finally looks at the post-award phase and concludes with a reflection on the role of precedent in investment arbitration. Arbitration under International Investment Agreements: a Guide to the Key Issues contains in one volume what everybody needs to know on this evolving topic. Calling on the most renowned experts in this field, private practitioners, academics, government and international organization officials, it describes the process in all its phases from A to Z, providing a comprehensive insight in the way investor-state arbitration works from the perspective of the main actors involved. Its

analyses of all key aspects of the topic are pragmatic and reliable.
This book critically analyses how arbitration cases, institutional rules and emerging codes of conduct in the international arbitration sector? have ?dealt with? a series of? key? arbitrator duties to date. In addition, it ?offers a range of feasible and well-grounded proposals regarding ?investment arbitrators' duties in the future. The following aspects are examined in depth: the duty of disclosure the duty to investigate? the duty of diligence? and integrity?, which in turn may be divided into temporal availability, a non-delegation of responsibilities, and adhering to appropriate behaviour? the duty of confidentiality, and other duties such as monitoring arbitration costs, or continuous training?. Investment arbitration is currently undergoing sweeping changes. The EU proposal to create a Multilateral Investment Court incorporates a number of ground-breaking developments with regard to arbitrators. Whether this new model of permanent "members of the court" will ever become a reality, or whether the classical ex-parte arbitrator system will manage to retain its dominance in the investment arbitration milieu, this book is based on the assumption that there is a current need to re-examine and rethink the main duties of investment arbitrators. Apart from being the first monograph to analyse these? duties in detail, the book will spark a crucial debate among international scholars and practitioners. It is essential to identify arbitrators' duties and find consensus on how they should be reshaped in the near future, so that these central figures in investment arbitration can reinforce the legitimacy of a system that is currently in crisis.