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Investment Protection and the Energy Charter Treaty  
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 International Investment Law and Arbitration  
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## PRECIOUS ROBERTS

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Juris Publishing, Inc.

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.

### **Investment Protection and the Energy Charter Treaty**

Kluwer Law International B.V.

The past decade has seen a veritable explosion of investment treaty and other arbitration claims brought against sovereigns. Many of those cases have been filed before the International Centre for Settlement of Investment Claims (ICSID), which has its own self-contained rules for enforcement. Given this significant increase in sovereign cases and the issues attendant to sovereign immunity, this treatise is timely in addressing the various issues that arise in enforcing arbitral awards against sovereigns. One of the first questions posed to their counsel by clients considering the initiation of an arbitration proceeding against a sovereign state is whether and how the resulting award can be enforced. The origin of the client's question is usually based in some

knowledge that a state possesses sovereign immunity, along with an uncertain concern about the exceptions to such immunity and the difficulties of enforcement against a sovereign's assets. This uncertainty is understandable, especially in light of the sometimes confusing and even contradictory court decisions in certain jurisdictions. It is these inquiries in their broadest application that form the subject of this treatise. With contributions by eminent and experienced practitioners of the multiple issues that have arisen in various jurisdictions and the key cases that have created the law of enforcement of obligations against sovereigns, this book will provide access to valuable information, add to the transparency of this subject and further spur the consistent development of this area of law. This book is divided into three parts. The first part is general in nature and includes chapters encompassing the subjects of sovereign immunity in general (including both immunity from jurisdiction and immunity from enforcement), treaty obligations to honor awards, diplomatic protection by a claimant's government to obtain payment of awards, and conciliation and settlement. The second part of the book deals with the means of enforcing awards. Part three of this treatise addresses the enforcement issues that arise in specific jurisdictions in which enforcement against sovereign assets is often sought - in particular, the United States, the United Kingdom, Switzerland, France, The

Netherlands, and South America.

**Key Issues and Future Challenges** Kluwer Law International B.V.

This book offers the ideal way for a foreign lawyer to get in touch with litigation practice and procedure in the Netherlands.

Whether a lawyer comes to Dutch litigation in the normal course of business, or whether the brief and inexpensive kort geding (preliminary relief proceedings) is the main attraction, this concise guide provides a solid understanding of the practical implications of Dutch litigation

**International Investment Law and Arbitration** Kluwer Law International B.V.

With its practical, problem-solving approach, this book provides corporate counsel, international lawyers, and business people, as well as students of dispute resolution, with a realistic picture of dispute settlement practices in business transactions in China today.

**Martindale-Hubbell International Dispute Resolution**

**Directory** Kluwer Law International B.V.

These carefully selected contributions offer a timely analysis of the most significant contemporary issues in investment treaty law and arbitration.

**Advocacy in International Commercial Arbitration: ASA Special Series No. 36** Juris Publishing, Inc.

Corruption is one of the main obstacles to sustainable development and has a significant negative impact on a country's productivity. In this book, which reproduces the transcribed presentations and lively discussions at the 2019 Annual Conference of the Swiss Arbitration Association (ASA), four panels including internationally known arbitration practitioners, criminal lawyers and accountants exchange views on the causes, costs, and impacts of corruption not only on society but also on the arbitral process and the arbitral profession. Among the many facets of corruption, the contributors address the following: legal framework of corruption and applicable law; cost of corruption from an economic perspective; jurisdiction and the arbitrability of issues of corruption; aspects of corruption that are specific to arbitration in specific business sectors; cases involving corrupt arbitrators, experts, and witnesses; establishing correctness or incorrectness of suspicion of corruption; bringing issues of corruption before the parties; and judicial scrutiny of corruption-tainted arbitral awards at the setting aside and enforcement stage. The authors, all of them prominent in representing the full range of business sectors active in international arbitration, provide matchless practical guidance in dealing with challenges associated with corruption in arbitration. Among much else, they deal with 'red flags' likely to indicate suspicious relationships, effective strategies to employ when confronted with a corruption-tainted contract and reporting suspicion of corruption and the related risk of personal liability. All of this invaluable material will be greatly appreciated by practising arbitrators, corporate counsel, arbitration institutions, and concerned academics.

**Evolution in Investment Treaty Law and Arbitration** Juris Publishing, Inc.

The International Arbitration Review, edited by James H Carter of Wilmer Cutler Pickering Hale and Dorr, provides an analytical review of what has occurred in each of the important arbitration jurisdictions during the past year, capturing recent developments and putting them in the context of the jurisdiction's legal arbitration structure and selecting the most important matters for comment. In this book, leading practitioners seek to provide current information on both general international commercial arbitration and international investment arbitration, treating important investor-state dispute developments in each jurisdiction as a separate but closely related topic. There are in-depth examinations of arbitration in 41 jurisdictions as well as

editorial chapters on The Impact of Corporate Taxation on Economic Losses, and overviews on ASEAN and Africa.

Contributors include: Bart Legum, Michelle Bradfield and Jean-Christophe Honlet, Dentons; James Nicholson, FTI

Consulting.&quote;This new and timely publication promises to tackle pressing and present day global concerns and to make valuable contributions to the ongoing dialogue on international arbitration&quote; - Peter Tomka, President, International Court of Justice, The Hague&quote;Comprehensive and topical, an excellent reference.&quote; - Professor Christine Mallin, University of Birmingham Business School&quote;The most discursive and engaging survey of the world of arbitration today.&quote; - Jamie Maples, Weil Gotshal & Manges LLP  
**Appeals Mechanism in International Investment Disputes** Kluwer Law International B.V.

The Yearbook Commercial Arbitration continues its longstanding commitment to serving as a primary resource for the international arbitration community, with reports on arbitral awards and court decisions applying the leading arbitration conventions and decisions of general interest to the practice of international arbitration as well as announcements of arbitration legislation and rules. Volume XLVI (2021) includes: • excerpts of arbitral awards made under the auspices of the International Chamber of Commerce (ICC) and the Cairo Regional Centre for International Commercial Arbitration (CRCICA), as well as awards rendered in accordance with the rules of the Stockholm Chamber of Commerce (SCC); • notes on new and amended arbitration rules, including references to their online publication; • notes on recent developments in arbitration law and practice in Belize, Brazil, Ecuador, Ethiopia, Hong Kong SAR, India, Iran, Iraq, Malawi, Ukraine, and Uzbekistan ; • excerpts of 85 court decisions applying the 1958 New York Convention from 28 countries - including, for the first time, cases from Costa Rica, Cuba, and Iran - all indexed by subject matter and linked to the commentaries on the New York Convention published in the Yearbook, authored by former General Editor and leading expert Prof. Dr. Albert Jan van den Berg; • excerpts from three decisions applying the 1965 Washington (ICSID) Convention and three decisions applying the 1975 Panama (Inter-American) Convention, as well as a selection of nine court decisions of general interest; • an extensive Bibliography of recent books and journals on arbitration. The Yearbook is edited by the International Council for Commercial Arbitration (ICCA), the world's leading organization representing practitioners and academics in the field, under the general editorship of Prof. Dr. Stephan W. Schill and with the assistance of the Permanent Court of Arbitration, The Hague. It is an essential tool for lawyers, business people and scholars involved in the practice and study of international arbitration.

**Managing Business Disputes in Today's China** Cameron May

Written by today's leading arbitrators and counsel, this remarkably candid guide provides insight into the practitioner's approach, conduct, style, and techniques that have proven most effective. While the facts and the law are fundamental, a successful outcome is the product of painstaking document review, witness interviews, legal research, strategizing and focusing the case, and developing compelling written and oral presentations. How to properly perform these tasks is the subject of this book. And where the first edition focused mainly on the cultural differences in advocacy performed in various regions of the world, this new edition expands on this theme by addressing each functional aspect of an international arbitration and the techniques that have been developed for good written and oral advocacy. Intended to assist both the novice in learning the techniques of advocacy, and the experienced advocate in

improving his skills, this is an essential reference.

*State Entities in International Arbitration* Edward Elgar Publishing  
Since the Chinese economic reform was realized in the early 1990s, a significant revolution has been launched socially, economically, and politically in China. At present, China is an indispensable actor in the international arena, so that the transitions domestically bring about substantial influence on the whole world. Dynamics of Local Governance in China during the Reform takes close look at China's current transformation and its broader implications. Through their thought-provoking essays, the contributors to this volume dissect China's transformation by examining various topics in the field of contemporary China studies, such as rural industrialization, development of civic society, socio-economic transformation and local self-governance.

*The ICSID Convention* Hotel Publishing

This new book provides the most thorough analysis of the 'law merchant' analysing and clarifying current thinking and including a formula to recognise and apply a rule of the *lex mercatoria* in practice.

*Corporate Social Responsibility – Sustainable Business* OUP  
Oxford

*Energy Dispute Resolution: Investment Protection, Transit and the Energy Charter Treaty* is a compilation of written contributions prepared in the context of a conference organized by the Energy Charter Secretariat, in cooperation with five other well-known legal institutions (the Arbitration Institute of the Stockholm Chamber of Commerce, the British Institute of International and Comparative Law, the International Centre for Settlement of Investment Disputes, the International Chamber of Commerce and the Permanent Court of Arbitration). This highly successful conference took place in Brussels in October 2009. *Energy Dispute Resolution: Investment Protection, Transit and the Energy Charter Treaty* focuses on investment arbitration under the Energy Charter Treaty (or ECT) and on transit dispute resolution under the ECT. Part I consists of a review of awards, decisions and other developments in ECT investment arbitrations, of which nearly 30 were in the public domain as of 1 January 2011. Part II deals with the relationship between bilateral investment treaties, the ECT as a multilateral investment treaty, and European Union (EU) law, and addresses the question of whether conflict between these legal systems is inevitable. In Part III, the book reviews the highly developed provisional application mechanism of the ECT, particularly in relation to Russia, which signed the ECT in 1994 but has never ratified it. Part IV deals with the energy transit provisions of the ECT and the Treaty's potential application with respect to East-West energy transit and supply disputes. The book also contains an Editor's Preface, introductory and closing remarks, a table of contents, a detailed index, and an Appendix in the form of a CD-ROM containing the rules of arbitration of the three international arbitration mechanisms provided by the ECT (ICSID, SCC and ad hoc UNCITRAL arbitration). The book is of international application, particularly within the 51-country Energy Charter constituency (Western, Central and Eastern Europe, the former Soviet Union, Japan, Turkey, Mongolia and Australia), but is relevant to energy and international arbitration lawyers worldwide.

*Building International Investment Law* Law Business Research Ltd.

The Yearbook Commercial Arbitration continues its longstanding commitment to serving as a primary resource for the international arbitration community, with reports on arbitral awards and court decisions applying the leading arbitration conventions and decisions of general interest to the practice of

international arbitration as well as announcements of arbitration legislation and rules. Volume XLV (2020) includes: excerpts of arbitral awards made under the auspices of the International Chamber of Commerce (ICC) and the Milan Chamber of Arbitration (CAM), as well as twelve awards reflecting the practice of tribunals constituted under the auspices of the Arbitration Institute of the Stockholm Chamber of Commerce (SCC); notes on new and amended arbitration rules, including references to their online publication; notes on recent developments in arbitration law and practice in Ethiopia, Lithuania, Macao SAR, Palau, Peru, Poland, Portugal, Russian Federation, Seychelles, Sierra Leone, Singapore, Switzerland, Tanzania, Thailand, and Tonga; excerpts of 87 court decisions applying the 1958 New York Convention from 27 countries – including, for the first time, a selection of seven cases from Egypt, and cases from Tanzania and Uzbekistan – all indexed by subject matter and linked to the commentaries on the New York Convention published in the Yearbook, authored by former General Editor and leading expert Prof. Dr. Albert Jan van den Berg; excerpts from two decision applying the 1965 Washington (ICSID) Convention and seven decisions applying the 1975 Panama (Inter-American) Convention, as well as a selection of four court decisions of general interest; an extensive Bibliography of recent books and journals on arbitration. The Yearbook is edited by the International Council for Commercial Arbitration (ICCA), the world's leading organization representing practitioners and academics in the field, under the general editorship of Prof. Dr. Stephan W. Schill and with the assistance of the Permanent Court of Arbitration, The Hague. It is an essential tool for lawyers, business people and scholars involved in the practice and study of international arbitration.

**The Fordham Papers 2007** Kluwer Law International B.V.

The 2012 volume of *Contemporary Issues in International Arbitration and Mediation: The Fordham Papers* is a collection of important works in the field written by the speakers at the 2012 Fordham Law School Conference on International Arbitration and Mediation, held in London.

**International Investment Law and the Law of Armed Conflict** Juris Publishing, Incorporated

Assessing the extent to which armed conflict impacts the obligations that states have towards foreign investors and their investments under international investment treaties requires considering a wide range of issues, many of which are systemic in nature. These include substantive and procedural topics, not only with regard to international investment law, but also concerning the law on the use of force, international humanitarian law and human rights law, the law of treaties, the law of state responsibility and the law of state succession. This volume provides an in-depth assessment of the overlap between international investment law and the law of armed conflict by charting the terrain of the multifaceted and complex relationship between these two fields of public international law, fostering debate and offering novel perspectives on the matter.

*International Arbitration Review* Edward Elgar Publishing

This major new commentary on the ICSID Convention, *Regulations and Rules* offers a new, forward-looking and highly practical interpretation of the convention and its associated documents. It is the first commentary to provide systematic article-by-article coverage not only of the Convention itself, but also of the institution rules, the ICSID arbitration rules and the ICSID administrative and financial regulations. Written by a team of leading experts from private practice, government and academia, this uniquely comprehensive work will be an essential resource for those in the investment arbitration community, and a turn-to reference work for international investment law and international arbitration scholars.



**A Practical Commentary** Kluwer Law International B.V.

The Lex Mercatoria in Theory and Practice OUP Oxford

60 Years of the New York Convention Juris Publishing, Inc.

Essays on leading cases of international investment law.

*Environmental, Social and Governance Frameworks for the 21st Century* Kluwer Law International B.V.

In a dramatic departure from its voluntary origins, corporate social responsibility (CSR) is rapidly shifting to hold multinational companies accountable for more than traditional shareholder performance. This CSR movement is embracing new environmental, social and governance (ESG) frameworks that both promote global sustainability goals and enhance accountability for negative impacts businesses can have on 'planet and people'. This collection of essays by leading businesspeople, international civil servants, legal practitioners, academics, and other experts offers a forward-looking and pragmatic perspective that illuminates the major themes in this movement towards increasingly sustainable, transparent and accountable business practices. The collection shows how CSR has evolved to account for societal pressures, environmental, climate change and human rights impacts, international policy imperatives and the practical challenges of regulating commercial activity that transcends borders. The chapters offer an in-depth examination of current issues including: international frameworks and multistakeholder initiatives catalysing foundational change; the shifting emphasis on corporate imperatives to avoid harm to third parties; trends in CSR, focused on assuring the planet's future sustainability and social stability; regulatory initiatives around the globe, including Europe, North America, Asia and Africa; and extended accountability for activities of corporate group members and supply chains. The

pressure and business case for companies to incorporate CSR into corporate governance is intensifying with each quarter, shareholder meeting, and regulatory agenda. The integration of CSR and new ESG frameworks into multinational corporate strategy and operations is key to sustainable business models that can generate long-term value for the organization and all stakeholders. Their acceptance as cornerstones of 21st century business practice appears inevitable. Taking full account of the imperative for companies and their lawyers to grapple with the practical and legal challenges in this area, this volume is an invaluable and pragmatic addition to the practitioners' toolbox at this important juncture in an ever-more dynamic field.

Martinus Nijhoff Publishers

States get involved in international affairs either directly or through their instrumentalities. The activities of these instrumentalities raise many issues, two of which have given rise to significant recent developments both in arbitral and domestic case law. The first is whether and under what conditions a State may be held liable for the conduct of such instrumentalities on the basis of an investment treaty. This issue will be the subject of a systematic survey of ICSID and ICC case law and that of other arbitral tribunals so as to identify the circumstances in which such liability may arise. The second issue, which is addressed by State courts, is whether and under what conditions State instrumentalities that have a separate and autonomous legal personality may be held liable for the pecuniary obligations of the State. A comparative law study focusing in particular on solutions found in French, English and U.S. law will provide answers to the question as to whether an award holding a State liable may be enforced against the assets of instrumentalities of that State, where such instrumentalities are prima facie separate juridical persons.

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