

## Book Review

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### *International Investment Law in Latin America/Derecho Internacional de las Inversiones en América Latina*

edited by Attila Tanzi, Alessandra Asteriti, Rodrigo Polanco Lazo, and Paolo Turrini  
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#### *Catharine Titi\**

*International Investment Law in Latin America /Derecho Internacional de las Inversiones en América Latina* is an ambitious edited volume aimed to serve as a reference book on the legal framework regulating foreign investment in Latin America. The volume adopts a novel linguistic approach in that chapters are written in either English or Spanish, and are preceded by an extended abstract in the other language. This reflects the editors' wish to contribute to a cultural dialogue on the topic. Following a Preface by Raúl E. Vinuesa and an Introduction by the editors, Section I on *General perspectives* sets the book's conceptual framework. In the first chapter, Stephan W. Schill argues for a public comparative law approach to international investment law, through the expansion of 'public law thinking' within the current structure of international investment law. Rodrigo Polanco Lazo takes over with a comprehensive review of Latin American international investment agreements (IIAs), focusing on new generation IIAs and revealing the complexity and variety in Latin American approaches to international investment law. The ensuing contribution by Carlos Bellei Tagle explores the evolving Latin American attitudes to investment arbitration, and José Gustavo Prieto Muñoz canvasses the legitimacy of investor-state dispute settlement (ISDS) in Latin American in the context of global pluralism.

Section II on *Procedural Aspects* considers salient procedural aspects of IIAs concluded by Latin American countries and related issues. Federica Cristani

opens with a survey of dispute settlement clauses in Latin American IIAs, covering both ISDS and interstate arbitration clauses. The section continues with a chapter co-authored by Enrico Milano and José Gustavo Prieto Muñoz on interstate adjudication of international investment disputes, and a contribution by Ximena Fuentes and Johanna Klein Kranenberg on annulment proceedings in cases involving Latin American countries. The latter concentrate on annulment proceedings according to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention), mirroring the broader debate on commercial and public law approaches to investment dispute settlement. Diego P. Fernández Arroyo addresses transparency as a paradigm of investment arbitration, exploring consequences of selecting one set of arbitration rules over another, and, as in other contributions to the volume, underlining the significance of the public or private law approach to ISDS.

Section III of *International Investment Law in Latin America/Derecho Internacional de las Inversiones en América Latina* turns to substantive issues of investment law focusing on the Latin American experience. Francisco Javier Leturia considers the issue of the investment's contribution to the economic development of the host state as part of the definition of covered investment from a Latin American perspective. In the following chapter, Attila Tanzi and Lorenza Mola discuss breaches of state contracts in the interpretation and application of international investment law in disputes involving Latin American countries. Tarcisio Gazzini and Yannick Radi take over to address the specific issue of the practice and interpretation of umbrella clauses in the Latin American experience. Lorenza Mola studies investment arbitration of economic crises with the focus on lessons

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learnt from the adjudication of disputes born out of Argentina's 2001 crisis and Abba Kolo writes on 'expropriatory taxation' in the Latin American experience.

Section IV of the volume on *Regional and National Perspectives* provides a selective list of regional and national case studies. The first contribution is by María Antonia Correa Serrano on foreign direct investment and development in the Pacific Alliance trade bloc. Chantal Ononaiwu continues with a chapter on relatively-little discussed regional investment treaty arrangements in the Caribbean, such as CARICOM and CAFTA-DR, uncovering the similarities and differences in their approach to investment policies. Fabrizio Marrella and Sara De Vido consider investment treaty relationships between the EU and Latin America and Valeria Poppa examines the Chevron and Ecuador 'cases' in a systemic perspective. The participation of Latin American states and public entities in arbitration before the International Chamber of Commerce (ICC) are the focus of the ensuing chapter by José Ricardo Feris and Ana Serra e Moura, and the revival of the Permanent Court of Arbitration (PCA) in Latin American investment treaty arbitration that of the contribution by Martín Doe Rodríguez and José Luis Aragón Cardiel. The three remaining contributions in Section IV deal respectively with the Argentinean bonds 'saga' (chapter by Andrea Carlevaris and Rocío Digón), implementation of the law on foreign investment in Mexico (by Bendreff Desilus and Wendy Marilú Sánchez Casanova) and Peru's success before ICSID tribunals (by Víctor Saco).

Section V, the volume's final section, turns to the relationship between *International Investment Law and Other Bodies of Law in Latin America*, having special regard to environmental law and human rights.

In the first chapter, Juan Pablo Bohoslavsky and Juan Bautista Justo address the issue of combining the rights of foreign investors and human rights, arguing for a balanced interpretation that takes into account both sets of rights. In the following chapter, Claudia Cinelli looks at an issue of particular significance for Latin America: indigenous populations, sustainable development and foreign investment. Francesco Seatzu takes over with a chapter on the role of the Multilateral Investment Fund (IMF) in increasing foreign investment in the Latin American and Caribbean Region. Elisa Ruozi analyses the Argentinean approach to the production of biofuels, and their potential impact on trade and investment flows. The section's final chapter by María Amparo Grau Ruiz and Jacques Malherbe considers the tension between international investment law and local taxation measures, with a focus on environmental taxation. The volume closes with a concluding chapter by Jorge E. Viñuales on governing laws and the 'judge' of foreign investment. Finally, an annex, compiled by Federica Cristani and Rodrigo Polanco Lazo, gives the list of Latin American IIAs.

*International Investment Law in Latin America/Derecho Internacional de las Inversiones en América Latina* is an exceptional volume, bringing together numerous scholars from different legal cultures. It is a comprehensive and thorough study covering an indisputably broad range of issues. The book's various chapters eloquently reveal Latin America's particular significance and multiple stances in the system of the international protection of investments, seen both from a historical and modern perspective. This is an important reference volume on the topical, fascinating and evolving theme that is international investment law and Latin America.