

Book Notes: Principles of International Investment Law, by Rudolf Dolzer & Christoph Schreuer

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Book Note

PRINCIPLES OF INTERNATIONAL INVESTMENT LAW, by Rudolf Dolzer & Christoph Schreuer¹

REN BUCHOLZ

THE NUMBER OF BILATERAL, MULTILATERAL, and regional investment treaties has surged since the mid-twentieth century. In the last twenty years alone, states have quintupled the number of bilateral investment treaties (“BITs”) to about 2,500. These instruments are intended to encourage foreign direct investment by establishing stable, predictable markets with acceptable minimum standards of treatment for investments. *Principles of International Investment Law* is an excellent introduction to this complex and evolving area of law.

The book’s first section provides a short account of international investment law’s development. Most of this history focuses on the last century, when conflicts between disparate regional views of foreign investment began to crystallize. The authors describe how the customary international law standards of treatment for foreign investors—*i.e.*, “fair and equitable treatment” and “national treatment”—developed throughout this period. Dolzer and Schreuer also discuss the resistance to a minimum standard of treatment at international law. Against the backdrop of Latin American, Middle Eastern, and Soviet resistance to externally imposed guidelines for the treatment of investors, the authors argue that the shift to explicit treaty-based protections for foreign investment was a necessary evolution.

With this context in mind, Sections II-V proceed to introduce the foundations of the modern investment law regime. The authors include discussions of investment treaty interpretation, the scope of deceptively obvious concepts like “investor” and “investment,” and the unique aspects of contracts between investors and states.

Most useful are the book’s organized, substantive examinations of expropriation and the standards of treatment for foreign investors and investments,

1. (Oxford: Oxford University Press, 2008) 433 pages.

which are found in Sections VI-VII. Here, *Principles of International Investment Law* is at its most accessible. When compared to other leading texts² in the field, which are often comprehensive but disjointed compilations of excerpted source material, Dolzer and Schreuer provide a welcome, consistent narrative.

The book concludes by looking at the practice of investment treaty dispute resolution. Section X is a guide to the available venues and procedures for settling international investment disputes. This portion is particularly illuminating for newcomers to this area, as the proliferation of treaties and arbitral regimes, as well as the way that seemingly disparate regimes may incorporate one another by reference, can be inscrutable.

Though perhaps understandable in an introductory text like this, Dolzer and Schreuer do not give much attention to criticisms of the international investment system. For example, how does the growing body of decisions from arbitral tribunals—the primary site of BIT adjudication—inform the rest of the international legal system? Are these decisions evidence of customary international law? If so, when? Should these often-secret decisions, many of which bind the agency of sovereign states, be made public? While attempting to answer these questions may be beyond the scope of this volume, more explicit recognition of their existence would have been appreciated.

Despite some technical issues with the book—it contains many typesetting errors that detract from the authors' analysis—Dolzer and Schreuer have authored a welcome contribution to the literature on international investment law.

2. See e.g. Raymond Doak Bishop *et al.*, *Foreign Investment Disputes* (The Hague: Kluwer Law International, 2005).