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The book considers the ways in which the international investment law regime intersects with the human rights regime, and the potential for clashes between the two legal

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orders. Within the human rights regime states may be obligated to regulate, including a duty to adopt regulation aiming at improving social standards and conditions of living for their population.

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Abstract. The right of States to regulate for the public interest has been the focus of increased interest in recent years,

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multiple
international
investment
agreements
(IIAs). Formal
recognition of
the right to
regulate has
largely been
considered as a
positive
development in

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terms of making
IIAs more
balanced and
giving arbitral
tribunals a
clear
interpretive
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human rights law
in an investment
treaty does not,*
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on its own,
establish the
inapplicability
of human rights.
The potential
relevance of
human rights law
or other
branches of
international
law is implicit
in investment
treaties. As a
creature of

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AND THE "RIGHT
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recognised rule
in international
law that the
property of
aliens cannot be
taken, whether
for public
purposes or not,
without adequate
compensation.

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INNOVATIONS -
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shareholders, to
be accepted as
claimants with
respect to the
portion of
shares they own
or control.
There is no
single
definition of

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what constitutes
foreign
investment.
The Right To
Regulate In
International
investment
agreements
usually define
investment in
very broad
terms.

*International
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Understanding
Page 30/121*

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The whole point
of international
investment law

is to find
balance between
the right of the
states to self-
regulate and the
interests of the
foreign
investors.

Abandoning or
prohibiting FDI

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territory would
cripple many
nations but at
the same time,
leaving FDI
unregulated will
result in just
as much of a
catastrophe.

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Despite this recent paradigm shift in treaty drafting, international investment law is still composed of traditional IIAs whose main function is to prescribe how host states

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Development*

When a company goes abroad to invest, what are the risks the company takes – whether political or

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and what are the
rules of
international
law that protect
foreign
investments? The
laws between the
investing
country and the
host country as
well as the
interface
between

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investment law
and other areas
of international
law are all
covered in this
course.

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Since the inception of the international investment law system, investment promotion and protection have been the *raison d'être* of investment treaties and

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states have
confined their
policy space in
order to attract
foreign
investment and
protect their
investors
abroad.

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Passionate and
sometimes ill-
informed

discussions have
resulted from
this
realisation.

They have
focused on the
features of
international
investment law,
which has

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traditionally
granted rights
to foreign
investors to
foster States'
economic
development.
Central to these
discussions are
the issues of:

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Investment Law"
clarifies the
concept, based
on jurisprudence
and state
practice.

" 'Indirect
Expropriation'
and the 'Right

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to Regulate' in
International
Investment Law"
identifies the
main criteria
found in
investment
agreements and
used by
tribunals to
articulate the
difference
between the two
concepts.

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and the "Right
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In the absence
of a global
treaty on the
law of foreign
investment,
international
courts, claims
commissions and

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tribunals have
tried to flesh
out the main
principles of
the part of the
role of foreign
investment and
especially those
relating to the
requirements for
a lawful
expropriation
and the nature
of compensation,

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damages,
reparation or
restitution for:
~ lawful
expropriation ~
the illegal or
confiscatory
actions of
states.

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Page 45/121*

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The right to expropriate inheres in every State. This right is recognised under national law, as well as under international law. An act of expropriation, in and of itself, is neither

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prohibited by national law nor by international law. An

expropriation is not objectionable so long as it satisfies prescribed cumulative conditions for lawfulness.

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...

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halt
international
trade for 1.5m
uk smes Over 1.5
million UK SMEs
have stopped
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internationally

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this year which
could cost the
UK £20 billion,
due to the
impacts of COVID
...

The book
considers the
ways in which
the
international

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investment law
regime
intersects with
the human rights
regime, and the
potential for
clashes between
the two legal
orders. Within
the human rights
regime states
may be obligated
to regulate,
including a duty

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to adopt
regulation
aiming at
improving social
standards and
conditions of
living for their
population. Yet,
states are
increasingly
confronted with
the consequences
of such
regulation in

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disputes, where
investors seek
to challenge
regulatory
interferences
for example in
expropriation
claims.

Regulatory
measures may for
instance
interfere with
the investment

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by imposing
conditions on
investors or
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arbitration on
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the nature and
the scope of the
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regulate in
current
international

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The book
examines
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treaties and
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arbitrations
looking at the
indicative
parameters that
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weight in
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between the
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regulate and
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within a

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framework which
describes the st
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goes on to set

out methods

which could be

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employment by both
BIT-negotiators
and adjudicators
of investment
disputes,
allowing states
to exercise
their right to
regulate while
at the same time
providing
investors with
legal certainty.
The book serves

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intersects with the human rights regime, and the potential for clashes between the two legal orders. Within the human rights regime states may be obligated

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to regulate,
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Drawing on State
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practice, arbitral awards
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decisions, this
book provides a
systematic study
of the sources
of rights and
obligations in
the field of
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coordination and

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There is a growing interplay between international investment law, arbitration and human rights. This book offers a systematic analysis of this interaction,

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exploring the
role of
principles of
justice in
investment law,
comparing
investment
arbitration with
other courts,
and examining
case studies on
human rights.

Due to the
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worldwide, the state's right to regulate has been recaptured as a prominent concept in international investment law. The fair and equitable

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treatment (FET)
standard
provision in the
text of an
international
investment
agreement (IIA)
has become a
detailed clause
clarifying the
specific
obligations of a
state towards an
investor under

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the FET standard.
However,
striking the
right balance
between the
interests of
host states and
investors in
these new treaty
formulations has
proved to be
challenging.

This book

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greatly
clarifies the
field by
offering the in-
depth analysis
of the
application of
the state's
right to
regulate in
relation to FET
standard
provisions in
IIAs and to

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arbitral
tribunals in FET
cases.

Recognising that
the role of
tribunals is to
balance the
state's public
interests and
the interests of
the investor
when
interpreting and

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applying the FET
standard, the
author pursues
such seminal
issues and
topics as the
following: the
legitimacy of
the objective of
the state's
measure;
obligations and
responsibilities
of investors

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towards a host
state; the
nature and
impact of a
change to a
national
regulatory
framework;
special economic
and
sociopolitical
circumstances in
a host state;
and due

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diligence and risk assessment as a condition for the protection of an investor's legitimate expectations. Multiple IIAs concluded by the OECD Member States, as well by Russia and China between

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the developing
countries, and
the prominent
investment law
cases on the FET
standard are
examined in
detail. The
analysis pays
particular
attention to how
investment
jurisprudence in
FET cases has

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Comprehensive
Economic and
Trade Agreement
between the
European Union
(EU) and Canada
(CETA), the EU-
Vietnam FTA and
the EU-Singapore
FTA. These case
studies

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demonstrate the evolution of the IIAs' FET standard provisions and how they balance the application of the FET standard and the state's right to regulate.

Suggestions are provided for drafting

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formulations of
the FET standard
that can
contribute to
achieving such a
balance. In the
clear light it
sheds on the
legal conditions
under which
states may
regulate in the
public interest
and its

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contribution to
the reforms that
are currently
taking place in
the field of
international
investment law,
this book
constitutes an
exemplary
framework to
evaluate
investment
decisions on the

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the right to
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sure to prove
extremely useful
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inception of the
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system,

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promotion and
protection have
been the raison
d'être of
investment
treaties and
states have
confined their
policy space in
order to attract
foreign
investment and
protect their

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abroad.

Languishing in
relative

obscurity until
recently, the
right to
regulate has
gradually come
to the spotlight
as a key
component of
negotiations on
new generation

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agreements
around the
globe. States
and regional
organisations,
including,
notably, the
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and the United
States, have
started to
examine ways in
which to

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safeguard their
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and guide - and
delimit - the
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thus
contributing to
a better
understanding of
the concept and

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theory to
highlight the
role of
investment

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investments.

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its intersection
with the rule of
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identifies
alternatives for
ISDS and the
extent to which
these
alternatives
address the
objectives of
attracting

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promote the rule
of law and offer
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general
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law; and a
number of novel
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chapter, written
by an expert on
the chapter's
particular
focus, looks at
an international
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topic through
the lens of one
or more of these
leading cases,
analyzing what
the case held,
how it has been

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applied, and its
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significance to
the development
of international
investment law.
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include: -
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in investor-
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41(5)

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- consolidation
- and parallel
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- provisional
- measures; -
- arbitrator

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fitting way to

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of development.
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and arbitration
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[...] goes
beyond stating
what the law is
and focuses on
controversies

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investors in
international
law. It is
authoritative
and multi-
layered,
offering an
analysis of the
key issues and
an insightful
assessment of

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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

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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

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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

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and the
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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

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governments and
international
The Right to
organisations in
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their attempts
to reform the
investor-State
dispute
settlement
mechanism and
strike a balance
between
different
competing
principles in

Get Free International Investment Law developing international investment law. Accordingly,

this fourth
edition captures
the essence of
the ongoing
multiple reform
processes
-either planned
or envisaged -
currently
underway.

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