

THE REGULATION OF THE GLOBAL WATER SERVICES MARKET

Drinking water and wastewater services must be provided to many sectors of a nation's economy, including its industrial, commercial, and residential sectors. This forms the scope of the water industry's activities and it explains why the privatization of water sanitation and water services has become a huge market and a much-debated issue in a number of jurisdictions. Historically, the water industry has been run as a public service which is owned by the local or national government; recent trends suggest that the role of the private sector is increasing. The growing economic interests concerning water and wastewater services are generating tension with the recent recognition of the human right to water and sanitation; this tension between human right and economic rules is the focus of this book which reviews all the international rules that form the regulation of global water services.

JULIEN CHAISSE is Professor at the Faculty of Law and Director of the Centre for Financial Regulation and Economic Development at The Chinese University of Hong Kong. He is an award-winning specialist in international economic law with particular expertise in the regulation and economics of foreign investment.

THE REGULATION OF
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SERVICES MARKET

Edited by

JULIEN CHAISSE

The Chinese University of Hong Kong

Foreword by

LAURENCE BOISSON DE CHAZOURNES



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CONTRIBUTORS

ALINE BAILLAT is an adjunct professor at the International University in Geneva. Her research and teaching activities focus on global environmental governance, climate change politics and policy, water and energy governance, common pool resources, and property rights. She previously worked as a researcher at WaterLex, where she led various projects on the human right to water and sanitation, public–private partnerships, financing mechanisms, and human-right-based water governance. She held various research positions at the Graduate Institute of International and Development Studies in Geneva and the Institute Kurt Bösch in Sion, Switzerland. She worked on issues of hydropolitics and power asymmetries in international river basins, hydroelectric power, international water law and policy, water markets, and privatization. Her regional expertise is in the Western United States, Australia, Chile, and Europe. She authored various reports and articles and published a book in 2010: *International Trade in Water Rights*. She holds a PhD in International Relations from the Graduate Institute of International and Development Studies, Geneva.

LAURENCE BOISSON DE CHAZOURNES has gained a wide-ranging reputation in academic circles and as a practitioner. Her writings cover fields such as the law of international organizations, international economic law, international dispute settlement, and international environmental law. At the same time, she is recognized for her role as adviser to many international organizations and states, as well as an arbitrator and counsel in various dispute settlement fora. Following her career as Senior Counsel to the World Bank, she has been a professor at the Law Faculty of the University of Geneva since 1999, and was the Head of the Department of Public International Law and International Organization between 1999 and 2009. She has been and is a visiting professor at the University of Aix-Marseille III, the University of Paris I (Sorbonne), the University of Paris II (Panthéon-Assas), and the Graduate Institute of

International and Development Studies. She has been invited as guest lecturer at numerous universities in Europe, North America, Latin America, Africa, and Asia.

ANATOLE BOUTE is an associate professor at the Faculty of Law of The Chinese University of Hong Kong and Legal Advisor to the International Finance Corporation (the World Bank Group). He is the author of *Russian Electricity and Energy Investment Law* (2015) and of articles in several internationally peer-reviewed journals, including the *Fordham International Law Journal*, *Michigan Journal of Environmental & Administrative Law*, *ICSID Review – Foreign Investment Law Journal*, *Common Market Law Review*, *Journal of Environmental Law*, *European Law Review*, *Europe-Asia Studies*, and *Energy Policy*. He has assisted public authorities, companies, and various international organizations – including the United Nations Conference on Trade and Development, the International Finance Corporation, the International Energy Agency, and the Energy Charter Secretariat – on different aspects of national and international environmental and energy law.

N. JANSEN CALAMITA is Principal Research Fellow, Centre for International Law and also the Head for the Investment Law and Policy Programme. He will also co-teach at the Faculty of Law as a Research Associate Professor (CIL) with effect from 1 January 2017. He was previously Director of the Investment Treaty Forum and Senior Research Fellow at the British Institute of International and Comparative Law in London. He has previously held posts on the law faculties of the University of Oxford and the University of Birmingham, and been a visiting fellow of Institute of European and Comparative Law (University of Oxford) and the University of Vienna.

Prior to entering academics, Mr. Calamita served in the Office of the Legal Adviser in the U.S Department of State (International Claims and Investment Disputes Division) and as a member of the UNCITRAL Secretariat. He began his career in private practice in New York. He holds Juris Doctor magna cum laude (Boston) and a Bachelor of Civil Law (Oxford). He continues to advise governments on matters relating to international investment and international dispute resolution. He is a Consultative Expert to the United Nations Conference on Trade and Development and a member of the editorial board of the *Yearbook of International Investment Law and Policy* (Oxford University Press).

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JULIEN CHAISSE is an award-winning specialist in international economic law with particular expertise in the regulation and economics of foreign investment. His research also covers other relevant fields, such as WTO law, international taxation, and the law of natural resources. Before joining The Chinese University of Hong Kong Law Faculty in 2009, Professor Chaisse served in the Ministry of Foreign Affairs of France, and started his academic career in Europe. Professor Chaisse has authored a broad body of well-regarded and widely cited articles on topics ranging from the rise of sovereign wealth funds and the regulation of foreign investment to decision-making challenges facing the WTO, which have been published in the leading peer-reviewed journals of international law. In recognition of his outstanding scholarly achievements, Professor Chaisse received the Chinese University of Hong Kong Research Excellence Award in 2012, and was appointed Director of the Center for Financial Regulation and Economic Development in 2013.

LEÏLA CHOUKROUNE is Director of the Centre for Social Sciences and Humanities (CSH), New Delhi, India, the French National Research Centre (CNRS) Unit on South Asia. She is a visiting professor at the World Trade Institute (Bern), the University Paris II Panthéon-Assas, the Trade Policy Training Centre in Africa (Arusha, Tanzania), the China-EU School of Law (Beijing), and the University of Geneva. Her research focuses on the interactions between trade, investment, and human rights applied to emerging countries, China and India in particular. She has published numerous scientific articles and authored several books including (with Sangeeta Khorana) *Global Health and the Emerging World: An Integrated International Trade Approach* (2015). She is the editor of the book series *International Law and the Global South* and member of the editorial board of *China Perspectives*. Leïla Chourkroune is regularly solicited as an independent expert on international economic law and business and human rights issues. She holds a doctorate in international law (highest honor) from the University Paris I Panthéon Sorbonne and is a qualified lawyer to the Paris Bar.

PANAGIOTIS DELIMATIS is Professor of European and International Trade Law and Director of the Tilburg Law and Economics Center (TILEC), an interdisciplinary institute studying the governance of economic activity at Tilburg University, the Netherlands. Panagiotis' research focuses on regulatory issues in the service sector, in particular the effects of unduly burdensome domestic regulations on factor mobility

from a comparative perspective. He also has a keen interest in and regularly publishes on the institutional and substantive aspects of standardization, financial regulation and energy, and more general issues relating to global economic governance. His work has appeared in the leading peer-reviewed journals, including the *European Journal of International Law*, *Journal of International Economic Law*, *Common Market Law Review*, *European Law Review*, *Journal of World Trade*, and *World Trade Review*. He is the author of *International Trade in Services and Domestic Regulations—Necessity, Transparency, and Regulatory Diversity* (2007). His most recent work on *The Law, Economics and Politics of International Standardization* was published by Cambridge University Press in 2015.

BRYAN DRUZIN is an assistant professor and deputy director of the LLM programme at The Chinese University of Hong Kong. In recognition of his outstanding scholarly achievements, Dr Druzin received the university's Research Excellence Award in 2015. Dr Druzin's chief research interests lie at the intersection of legal theory and law and economics, with a strong emphasis on game theory. He has published extensively in these areas in a variety of leading peer-reviewed journals and US law reviews. Dr Druzin received his BA, LLB, and LLM from the University of British Columbia and completed his PhD at King's College London. Dr Druzin's current research includes topics such as the spontaneous emergence of property rights, rapid normative changes in Internet censorship, and the self-ordering potential of public international law. Dr Druzin has also previously taught at King's College London and Brunel University London. He has been frequently interviewed by international media on current events and legal issues.

SHINTARO HAMANAKA joined the Institute of Developing Economies of Japan External Trade Organization (IDE-JETRO) in 2016. In the Interdisciplinary Studies Center, he is conducting a wide range of research on regional integration from multi-disciplinary angles, including politics, international relations, economics, and international law. Prior to this, he worked for the Asian Development Bank (ADB) for 8 years as an economist in the Regional Economic Integration and Economic Research Department. Between 2006 and 2008, he was involved in the Doha Round services trade negotiations at the Japanese Mission to the World Trade Organization (WTO) in Geneva. He also worked for the Bank of Japan for eight years and was involved in economic research

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and policy making on regional financial cooperation in Asia soon after the financial crisis. His research interests include international political economy (IPE), regionalism, free trade agreements (FTAs), service agreements, bilateral investment treaties (BITs), regional financial institutions, and trade facilitation. He has written several books and numerous journal articles in the field of international relations, political science, economics, and international economic law. He is the author of *Asian Regionalism and Japan: The Politics of Membership in Regional Diplomatic, Financial and Trade Groups* and *Asian Free Trade Agreements and WTO Compatibility: Goods, Services, Trade Facilitation and Economic Cooperation*. He has a PhD from the University of Sheffield.

CHRISTOPH HERRMANN studied law and some economics (with a focus on banking and finance) at the University of Bayreuth (1st State Examination, Germany, 1999) and European and International Law at the University of London (LLM, 2002). He is qualified for the German bar and judicial bench (2nd State Examination, State of Bavaria, 2005) in Germany. Christoph holds a doctorate in European Union law from the University of Bayreuth (Dr. jur., 2002) and a Habilitation (professoral thesis; subject 'Monetary Sovereignty, the Monetary Constitution, and Individual Rights', published 2010) from the University of Munich (2009). In 2006/07, Christoph was Jean Monnet Postdoctoral Fellow at the European University Institute (EUI, Florence). Since 2009, Christoph has held the chair for Constitutional and Administrative Law, European Law, European and International Economic Law at the University of Passau. Christoph's research focuses on European and international economic law, in particular the common commercial policy and the Economic and Monetary Union. Among other things, he was founding co-editor of the *European Yearbook of International Economic Law (EYIEL)*, co-author of a German textbook on WTO law and co-editor of a German commentary on EU external trade and customs law.

HELEN HAI-NING HUANG is an attorney at Lee and Li, Attorneys-at-Law. Her practice focuses on international trade law, competition law, corporate investment, and administrative litigation. She has assisted in several trade remedy cases representing companies and associations in trade remedy matters. She studied at National Taiwan University (LLM), and was a research assistant of the Asian Center for WTO and International Health Law and Policy (ACWH) and the Institute of European and America Studies, Academia Sinica. Her research mainly focused on

international trade law, human rights law, and the regulatory coherence between the international trade and the human rights. She also assisted the Taiwanese government agencies in drafting the position papers for several trade agreement negotiations the Taiwanese government participated in when she served in the ACWH.

SUFIAN JUSOH is an external fellow of the World Trade Institute (WTI), University of Bern, Switzerland. He is a senior fellow at Institute of Malaysian and International Studies (IKMAS) Universiti Kebangsaan Malaysia (UKM) and a distinguished fellow at the Institute of Diplomacy and Foreign Relations, Malaysia. Sufian is an investment law and policy expert at the World Bank and ASEAN. Sufian is also the current chairman of the Africa-Asia Expert Group on the Customary International Law. Sufian is a Barrister-at-Law of Lincoln's Inn, holds an LLB from Cardiff Law School, an LLM (Merit) from University College London, and a Doctor in Law (summa Cum Laude) from the University of Bern, Switzerland. Sufian's expertise is in international trade, international investment and intellectual property management. Sufian coordinates WTI's consultancy and training programmes in the field of international trade and investment in Southeast Asia. Sufian has been a consultant in many countries and international organizations. They include the United Nations Conference on Trade and Development, the World Intellectual Property Organisation, APEC High Level Policy Dialogue on Biotechnology, Asian Development Bank, World Bank, and ASEAN. Sufian has authored several books and journal articles.

MARKUS KRAJEWSKI is a professor of public and international law at the University of Erlangen-Nürnberg. He chairs the board of the Centre for Human Rights Erlangen-Nürnberg (CHREN), an interdisciplinary research centre on human rights and is one of the directors of the master programme on Human Rights. He teaches German constitutional and administrative law, European law, public international law, and human rights. His research focusses on international economic law, human rights, European external relations, and the law of public services. He obtained his PhD from the University of Hamburg and taught at King's College London and the Universities of Potsdam and Bremen before taking up his current position.

ANTOINE MARTIN is a research associate at The Chinese University of Hong Kong, where he focuses on legal and policy aspects of international

trade, foreign investment, and international finance. Antoine holds a PhD on foreign investment contracts and international economic relations, and has worked as a lecturer (international law), a regulatory affairs consultant, and policy adviser to multinational corporations and institutions.

BRYAN MERCURIO is professor and Vice Chancellor's Outstanding Fellow of the Faculty of Law at The Chinese University of Hong Kong (CUHK), having served as Associate Dean (Research) from 2010 to 2014. Specializing in international economic law, Professor Mercurio is a leading expert in the intersection between trade law and intellectual property rights. His work also frequently deals with free trade agreements, dispute settlement, and, increasingly, international investment law. Professor Mercurio is the author of one of the most widely used case books on WTO law (2012, with S. Lester) and editor of the leading collection on bilateral and regional trade agreements (Cambridge University Press, 2016, 2nd edn, with S. Lester and L. Bartels).

SUZARIKA BINTI SAHAK currently serves as a legal officer in the Chief Registrar Office, Federal Court of Malaysia. During her tenure in the judiciary, she was appointed as a senior assistant registrar of the Kuala Lumpur High Court from 2005 until 2010. She was then appointed as a magistrate in criminal and civil Magistrate Court until 2014. She is the Head of Division, Commissioner for Oaths Division of Federal Court of Malaysia. After completing her degree and graduating from University of Malaya, Suzarika furthered her master in law at the National University of Malaysia (UKM) and graduated in November 2015. Born and raised as a native of Sabah (on the island of Borneo), she intends to pursue her PhD in the area of indigenous and native law, as it is closer to her cultural roots.

PIERRE SAUVÉ is Director of External Programmes and Academic Partnerships and a faculty member at the World Trade Institute (WTI), University of Bern, Switzerland. He also serves as an academic adviser and as a faculty member of the University of Barcelona's LLM programme in international economic law and policy (IELPO) and is a visiting professor at the College of Europe, in Bruges, Belgium. He has held visiting professor appointments at the Institut d'Etudes Politiques (Sciences-Po) in Paris, France, and the London School of Economics and Political Science. He served as a senior economist in the OECD

Trade Directorate from 1993 to 2002, a period during which he was a faculty member of the John F. Kennedy School of Government at Harvard University and was appointed non-resident senior fellow at the Brookings Institution in Washington, DC. Prior to joining the OECD, he served as services negotiator within the Canadian Department of Foreign Affairs and International Trade's Office of North American Free Trade Negotiations. He was previously a staff member of the General Agreement on Tariffs and Trade in Geneva, Switzerland, as well as the Bank for International Settlements, in Basel, Switzerland. Mr Sauvé was educated in economics and international relations at the Université du Québec à Montréal and Carleton University in Canada, as well as at Cambridge and Oxford universities in the United Kingdom. He has advised the governments of a number of OECD and developing countries and served as a consultant to leading regional and multilateral agencies involved in trade, finance, and development. He serves on the editorial board of the *Journal of International Economic Law* and the *Journal of World Trade*. He was appointed in 2003 as a member of the dispute panel roster of trade specialists established under the North American Free Trade Agreement and served on the Warwick Commission on the Future of the Multilateral Trading System in 2007. He currently serves on the Scientific Committee of the Swiss network for International Studies and on the Advisory Board of the WTO Academic Chairs programme.

FERNANDO DIAS SIMÕES is an assistant professor at the Faculty of Law of the University of Macau (China). He holds a PhD from the University of Santiago de Compostela (Spain), an LLM from the University of Glasgow (United Kingdom) and a Bachelor degree from the University of Coimbra (Portugal). He is a senior research fellow at the University Institute of European Studies – IUSE (Italy) and gLAWcal – Global Law Initiatives for Sustainable Development (United Kingdom). He was EU Commission Marie Curie Fellow at Beijing Normal University (China) in 2014 and 2015, and a visiting scholar at the Faculty of Law of McGill University (Canada) in 2014 and Emory University School of Law (United States of America) in 2015. Currently, he is principal investigator in a research project at the University of Macau and research unit coordinator in two research projects funded by the European Commission. His main research interests include international arbitration, contract law, and consumer law.

KARAMJIT SINGH currently serves as a legal executive officer (Investigation and Prosecution Section) for one of the water services industry companies (SYABAS) in Kuala Lumpur, Malaysia. While reading law, he served as a paralegal at Scribe Synergy Sdn Bhd and Messrs Shareen Thrivina, Andy & Co. (Advocate & Solicitors), conducting legal research in civil and criminal litigation matters. After completing his degree and graduating from the University of Northumbria, UK, Karamjit furthered his master in law at the National University of Malaysia (UKM) and successfully obtained a Dean's List recognition award.

HAYATUNNISAH-BINTI SULAIMAN obtained her LLB(Hons) from the University of Malaya in 1988 and is currently pursuing a master in law at the National University of Malaysia (UKM). Hayatunnisah currently holds the position of Senior Director, Legal and Secretarial Department at National Water Services Commission (SPAN), the national water regulatory body. Prior to joining SPAN, she had eighteen years' experience in Malaysia Judicial and Legal Services starting with her first appointment as an assistant parliamentary draftsman with the Attorney-General Department of Malaysia. She later held several positions as senior federal counsel, deputy public prosecutor, high court deputy registrar, and legal adviser to the anti-narcotics department and the public services department. She is working on two publications titled *Preservation of Cultural Heritage: Other Legal and Non-Legal Mechanism beyond the National Heritage Act 2005 [Act 645]* and *An Insight of Sports Development Act 1997 [Act 576] and Proposed Improvements*.

CHIEN-HUEI WU is currently an associate research professor at the Institute of European and American Studies, Academia Sinica, Taipei, Taiwan. He received his PhD at the European University Institute, Florence, in 2009. His research interests cover EU external relations law and international economic law. He follows closely EU–China and EU–ASEAN relations and pays particular attention to comparative regionalism and WTO–IMF linkage. He has just published a new book entitled *WTO and the Greater China: Economic Integration and Dispute Resolution*. He has been a visiting fellow/professor at the World Trade Institute, University of Bern, University of Cologne, University of Passau, and Georgetown University and has lectured at various institutions. He has been advising the Ministry of Welfare and Public Health and Ministry of Economic Affairs on trade and health-related trade issues.

FOREWORD

It is no overstatement to say that water and sanitation are essential to human life, health, dignity, development, and the environment. Consequently, water has a variety of qualifications and uses. It may be qualified as a public good, a commodity, a human right, or perhaps even as part of the common heritage of mankind. As a precious resource, managing its distribution among different uses is fundamentally important. And it is in this way that international law can play a significant role, alongside the contribution of other disciplines such as economics.

The law applicable to water can be apprehended through various strands that are each discernible from one another, but that are also intertwined. They concern economic activities and uses, environmental protection, as well as human-centred uses and needs. As water cannot be managed for any single use, there is a need to reconcile these strands. This should be done in an integrated manner, that is to say a coherent, holistic, and interdisciplinary approach is needed to ensure a sound and equitable management of fresh water resources.

Economic activities comprise multiple uses of fresh water, such as navigation, irrigation, the generation of hydroelectric power, and the supply of water for industrial and domestic uses, to name just a few examples. Fresh water as a natural resource is also increasingly seen as a source of profit. This is most evident in the context of the international trade of goods and services, as well as investment law, and may also be seen in respect of international bulk transfers of water. Water in itself has indeed become a source of profit, with international investment law and international trade law bringing this characteristic into sharp focus.

In this context, the progressive recognition of the critical link between economic activities and the promotion of human development and the environment is profoundly important. There is a need to overcome tensions that may arise when these various objectives are pursued. Access to water and sanitation for all human beings should be a common objective and end. The newly adopted Sustainable Development Goals

(SDGs), and more particularly SDG 6 (Ensure availability and sustainable management of water and sanitation for all), highlights this crucial need. Further still, the emergence of a right to water, which emanates in particular from the rights to an adequate standard of living and the highest attainable standard of health, is yet another prism through which to view the uses of fresh water.

Our interdependence and increasing interactions at the international level have catalyzed the need for effective multilateral water governance. In order to propose effective solutions to the challenges that water presents, it is necessary to understand that the nature of water governance and use is multifaceted and requires an analysis that takes the various interests of different stakeholders involved into account.

Professor Julien Chaisse should be congratulated for having gathered an impressive group of experts who have analysed the various facets of the law and political economy relevant to the global water services market in both its universal and regional dimensions. The present book will undoubtedly become a reference for all those interested in services geared towards access to water.

Laurence Boisson de Chazournes
Professor of International Law at the University of Geneva
President of the European Society of International Law (ESIL)
(2012–2014)