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978-1-107-07793-5 - Transparency in International Investment Arbitration: A Guide to the UNCITRAL Rules on Transparency in Treaty-Based Investor-State Arbitration

Edited by Dimitrij Euler, Markus Gehring and Maxi Scherer

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## TRANSPARENCY IN INTERNATIONAL INVESTMENT ARBITRATION

The topic of transparency in international investment arbitration is gaining increasing attention. This in-depth commentary analyses the UNCITRAL Rules on Transparency in Treaty-Based Investor-State Arbitration, one of the most recent and innovative developments in international law. Focusing on the application of these rules, contributors analyse the issue of transparency in investment law more broadly and provide in-depth guidance on how to apply the UNCITRAL Transparency Rules. Chapters encompass all treaty-based disputes between investors and States, examining the perspectives of disputing parties, third parties, non-disputing State parties and arbitral tribunals. The contributors each have a strong background in investment arbitration, in both professional practice and academia. This commentary will be of interest to all actors involved in investment arbitrations, especially practitioners, counsels, NGOs, and scholars in the fields of international law, commercial arbitration and investor-State arbitration.

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Edited by

DIMITRIJ EULER, MARKUS GEHRING

AND MAXI SCHERER

Assistant editors

MEAGAN WONG AND REBECCA HADGETT



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## FOREWORD

Investment disputes often engage matters of the public interest. One of the most significant challenges facing international investment law today is the need to balance the interests of investors in the protection of their investment with the regulatory interests of host States. At times, ad hoc tribunals deciding investment treaty claims have produced decisions with seemingly little regard for the latter interests. This contributes to a concern on the part of States that international investment law is becoming one-sided, favouring claimant investors over host States.

The UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration underline the public interest function of those tribunals and should help to render these disputes more visible. The UNCITRAL Rules, analysed in this book, could facilitate third parties' access to proceedings and thereby increase the transparency of these disputes in the public interest.

The editors, Dimitrij Euler, Maxi Scherer and Markus Gehring, all have strong research and professional links to investment law. Dimitrij Euler, a PhD researcher at the University of Basel and a former Visiting Scholar at the Lauterpacht Centre for International Law in Cambridge, focuses his research on transparency and arbitration. Dr Maxi Scherer, a Senior Lecturer at Queen Mary, University of London (School of International Arbitration) and Special Counsel at Wilmer Cutler Pickering Hale and Dorr LLP, is a distinguished scholar and has acted as arbitrator in investment arbitration. Dr Markus W. Gehring, MA (Cantab), LL.M. (Yale), Dr. jur. (Hamburg), is Deputy Director of the Centre for European Legal Studies (CELS) at the Faculty of Law, University of Cambridge and a Fellow at Hughes Hall and at the Lauterpacht Centre. He has worked extensively on sustainable development in investment and trade law.

Their edited commentary reflects the search for increased transparency in investment law and provides a useful insight into the history and interpretation of the UNCITRAL Rules. They have gathered together contributions from authors with diverse backgrounds in academia,

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private and public legal practice and international organisations. These different perspectives add to our understanding of this new set of international standards. Their analysis of the history and of relevant international cases and awards provides a useful resource for academics and practitioners in the field of investment law. Transparency in investment arbitration has to seek viable compromises between the interests of the parties and the interest of the public. This volume contributes usefully to this discussion.

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The book has incorporated all material up to 1 March 2014. We were able to include selected references and some major developments between March and July 2014. All websites were accurate as of 1 July 2014.

*Editors*

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