This book advances the idea that in order to address some of the criticisms against investor–state dispute settlement, a large majority of states have taken a 'normative' strategy, negotiating or amending investment treaties with provisions that potentially give more control and greater involvement to the contracting parties, and notably the home state. This is particularly true of agreements concluded in the past fifteen years. At the same time, there is a potential revival of the 'remnants' of diplomatic protection that have been embedded in investment treaties since the beginning of the system. But why is the home state being brought back into a domain from which it was expressly excluded several decades ago? Why would a home state be interested in intervening in these conflicts? Is this 'new' role of the home state in foreign investment disputes a 'return' to diplomatic protection of its nationals, or are we witnessing something different?

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Barnali Choudhury

The Law and Politics of WTO Waivers: Stability and Flexibility in Public International Law
Isabel Feichtner

African Regional Trade Agreements as Legal Regimes
James Thuo Gathii

Liberalizing International Trade after Doha: Multilateral, Plurilateral, Regional, and Unilateral Initiatives
David A. Gantz

Processes and Production Methods (PPMs) in WTO Law: Interfacing Trade and Social Goals
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Simon A. B. Schropp
THE RETURN OF THE
HOME STATE TO
INVESTOR–STATE
DISPUTES

Bringing Back Diplomatic Protection?

RODRIGO POLANCO

University of Bern
# CONTENTS

<table>
<thead>
<tr>
<th>List of Tables</th>
<th>page xii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgements</td>
<td>xiii</td>
</tr>
<tr>
<td>List of Abbreviations</td>
<td>xiv</td>
</tr>
<tr>
<td>Table of Cases</td>
<td>xviii</td>
</tr>
<tr>
<td>Table of Treaties</td>
<td>xxvi</td>
</tr>
</tbody>
</table>

**Introduction** 1

A The Background 1

B The Problem 3

C The Thesis 4

D Methodology 7

E Structure 9

I The Age of Diplomatic Protection of Foreign Investors 11

A The Foundations of Diplomatic Protection 11

1 The Calvo Doctrine and the Calvo Clause 14

2 Evolution of Diplomatic Protection 18

B Diplomatic Protection in Investment Disputes 22

1 International Arbitration 22

2 Binational Claims Commissions and Mixed Arbitral Tribunals 24

3 Lump-Sum Agreements 26

4 International Adjudication 27
II The Rise of and Backlash against Investor–State Arbitration 29

A Origins and Evolution of Investor–State Arbitration 30
1 Before the ICSID Convention 30
2 After the ICSID Convention 32

B Why Investor–State Arbitration Was Created 35
1 To Depoliticize the Dispute 36
2 Limitations of Diplomatic Protection 38
   (a) Exhaustion of Local Remedies 38
   (b) Nationality of the Investor 40
   (c) Available Remedies 42
3 To Overcome Barriers at Host State Courts 43

C Criticisms of Investor–State Arbitration 46
1 Against the System of Investor–State Arbitration 46
2 Against the Functioning of Investor–State Arbitration 48

III Home States and the Prevention of Investment Disputes 53

A Home State Interests in Preventing Investment Disputes 53

B Tools for Prevention of Investment Disputes Involving Home States 56
1 Prevention of Disputes in IIAs 56
   (a) Investment Facilitation and Investor Liability in Model IIAs 56
   (b) The New Brazilian Model 59
   (c) Other Treaties 62
2 Prevention by Review of IIAs’ Implementation 65
   (a) Direct Review by the Contracting Parties 67
   (b) Institutional Review of the Agreement 70
3 Prevention of Investment Disputes Based on Principles of International Law 74
   (a) International Principles and Standards on Corporate Social Responsibility 74
   (b) Principles on Business and Human Rights 77
   (c) ILO and UNCTAD Frameworks 79
CONTENTS

(d) Emerging Principles of International Law  81
4 Implementing Rules and Principles for the Prevention of Investment Disputes  82
5 The Nature of Home State Prevention of Investment Conflicts  86

IV Home State Role in ISDS Together with the Host State  89
A Filtering of Claims  89
  1 Types of Filtering Mechanisms  90
     (a) Taxation Measures  90
     (b) Public Welfare Measures  96
  2 Use of Filtering Mechanisms in ISDS  97
  3 The Nature of Filtering Mechanisms in ISDS  100
B Joint State Interpretation of IIAs  103
  1 Abstract Interpretation  109
     (a) Direct Interpretation by the Parties  109
     (b) Interpretation by a Treaty Body  111
  2 Intra-Arbitral Interpretation  113
     (a) General Renvoi  113
     (b) Interpretation of Reservations, Exceptions or NCMs  114
     (c) Financial Measures  117
  3 The Effective Use of Joint Interpretations  118
     (a) NAFTA Free Trade Commission Interpretations  120
     (b) CCFTAC Notes of Interpretation  124
     (c) Joint Interpretative Statements by States  126
  4 The Nature of Joint State Interpretations in ISDS  131
C Technical Referral to Domestic Authorities  138
  1 Taxation Measures  139
  2 Financial Services  141
  3 The Nature of Technical Referrals in ISDS  148
D Regulating the Work of Tribunals  151
  1 Selection of Arbitrators  151
  2 The New EU Approach: Standing Investment Courts  154
     (a) Establishment of the Tribunal  157


CONTENTS

(b) Limited Scope 158
(c) Regulation of Proceedings 159
(d) Appellate Tribunal 160
(e) Reception of the Investment Courts System 161
3 Code of Conduct 163
4 Adoption of Supplemental Rules of Procedure 165
5 The Nature of Regulating the Work of Tribunals in ISDS 166

V Unilateral Home State Participation in ISDS 167
A Non-Disputing State Party Interventions 167
1 Regulated in the Treaty 167
(a) Different Types of Participation 169
(b) Treaty Case Law 173
2 Unilateral Interpretations of Home States 186
3 The Nature and Value of Non-Disputing State Party Intervention 189

B Consultation of Draft Awards or Decisions 195

C Enforcement of ISDS Awards 196
1 Inter-State Arbitration 200
2 International Adjudication 201
3 Home State Countermeasures 202
(a) Withdrawal or Suspension of Trade Benefits 205
(b) Voting against Loans 209

VI Current and Future Roles of Diplomatic Protection in Investment Disputes 212
A Limited Exclusion of Diplomatic Protection in Investment Treaties 215
1 Limitations in the ICSID Convention 215
2 Limitations in Other Investment Treaties 217
3 Limitations in Other Arbitral Rules 220
4 Implied Limitations 221

B Current Mechanisms of Diplomatic Protection in Investment Disputes 222
1 Consular Assistance/Diplomatic Action 223
(a) To Facilitate the Settlement of a Dispute 225
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) Diplomatic Pressure</td>
<td>227</td>
</tr>
<tr>
<td>2 State-to-State Dispute Settlement</td>
<td>231</td>
</tr>
<tr>
<td>(a) Diplomatic Methods</td>
<td>234</td>
</tr>
<tr>
<td>(b) Treaty Review</td>
<td>238</td>
</tr>
<tr>
<td>(c) State-to-State Adjudication</td>
<td>240</td>
</tr>
<tr>
<td>(d) State-to-State Arbitration</td>
<td>246</td>
</tr>
</tbody>
</table>

### VII Home State Limitations on Diplomatic Protection 274

A Why Home States Do Not Intervene 274

1 Who Is the Home State? 275
2 Home State and Its Nationals May Have Competing Interests 284
3 The Reserved Nature of Diplomatic Intervention 289

B Lessons Learned: The Relevance of Peaceful Diplomatic Protection 291

1 Jurisdictional Issues 293
2 The Appointment of Decision-Makers 295
3 A Balanced or a Biased Mechanism? 296
4 The Shortcomings and Legacy of Claims Commissions and Mixed Arbitral Tribunals 301

Conclusion 306

A Bringing Back the Home State to Investment Disputes 306

B There Is No 'Return' of Diplomatic Protection 308

Bibliography 313

Index 339
TABLES

3.1 IIAs with provisions on review of implementation  page 65
4.1 IIAs with provisions on filtering of claims  90
4.2 IIAs with joint interpretation provisions  107
4.3 IIAs with technical referral provisions  139
4.4 IIAs with provisions regulating the work of tribunals  152
5.1 IIAs, including NDSP submissions  170
5.2 United States’ NDSP submissions as home state in NAFTA  174
5.3 Canada’s NDSP submissions as home state in NAFTA  177
5.4 United States’ NDSP submissions as home state in CAFTA–DR  181
7.1 Home countries in more than ten ISDS cases  277
7.2 ISDS cases with several home states (2003–2017)  278
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ABBREVIATIONS

ACHPR African Charter on Human and Peoples’ Rights
ADR alternative dispute resolution
ALBA Bolivarian Alliance for the Peoples of Our America
App. appendix
Art./Arts. article / articles
ASEAN Association of Southeast Asian Nations
ATFA American Task Force Argentina
ATPA Andean Trade Preference Act
BEE Black Economic Empowerment
BIT bilateral investment treaty
BLEU Belgium–Luxembourg Economic Union
CACM Central American Common Market
CAFTA-DR Dominican Republic–Central America–United States FTA
CANACAR Cámara Nacional del Autotransporte de Carga
CARICOM Caribbean Community
CCFTAC Canada–Chile Free Trade Agreement Commission
CCIA COMESA Common Investment Area
CCJ Caribbean Court of Justice
CEFTA Central European Free Trade Agreement
CEO Corporate Europe Observatory
CEPA closer economic partnership arrangement
CETA Comprehensive Economic and Trade Agreement
CFIA cooperation and facilitation investment agreement
Ch. chapter
CIS Commonwealth of Independent States
CMM conflict management mechanism
COMESA Common Market for Eastern and Southern Africa
Comm. Commentaries
CPTPP Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CSR corporate social responsibility
DPP dispute prevention policy
DRC Democratic Republic of the Congo
LIST OF ABBREVIATIONS

EC European Commission
ECA economic cooperation agreement
ECC Economic Cooperation Committee
ECFA Economic Cooperation Framework Agreement
ECJ European Court of Justice
ECO Economic Cooperation Organization
ECOWAS Economic Community of West African States
ECT Energy Charter Treaty
ECC Eurasian Economic Community
EEU Eurasian Economic Union
EFTA European Free Trade Association
EPA economic partnership agreement
ETEA Economic and Trade Expansion Agreement
EU European Union
FCNA friendship, commerce and navigation agreement
FCPA Foreign Corrupt Practices Act (United States)
FDFA Federal Department of Foreign Affairs (Switzerland)
FDI foreign direct investment
FET fair and equitable treatment
FIPA foreign investment promotion and protection agreement
fn footnote
FPS full protection and security
FTA free trade agreement
FTC Free Trade Commission
GSP Generalized System of Preferences
IACHR Inter-American Commission on Human Rights
IADB Inter-American Development Bank
IAISD International Agreement on Investment for Sustainable Development (of IISD)
IBA International Bar Association
ICC International Chamber of Commerce
ICCPR International Covenant on Civil and Political Rights
ICJ International Court of Justice
ICS Investment Court System
ICSID International Centre for Settlement of Investment Disputes
ICSID Convention Convention on the Settlement of Investment Disputes between States and Nationals of Other States
ICTSD International Centre for Trade and Sustainable Development
IEL international economic law
IIA international investment agreement
IISD International Institute for Sustainable Development
ILC International Law Commission
xvi

LIST OF ABBREVIATIONS

ILO International Labour Organization
IMS international minimum standard
IPA investment protection agreement
IPFSD Investment Policy Framework for Sustainable Development
ISA investor–state arbitration
ISDN Investment Dispute Settlement Navigator
ISDS investor–state dispute settlement
JBIC Japan Bank for International Cooperation
JC joint committee
LDC least-developed country
MAI Multilateral Agreement on Investment (OECD)
MERCOSUR Southern Common Market
MFN most-favoured nation
MIC multilateral investment court
MNE multinational enterprise
NAFTA North American Free Trade Agreement
NCP national contact point
NDSP non-disputing state party
NT national treatment
OAS Organization of American States
OECD Organisation for Economic Co-operation and Development
OPIC Overseas Private Investment Corporation
PAAP Pacific Alliance Additional Protocol
PACER Pacific Agreement on Closer Economic Relations
PCA Permanent Court of Arbitration
PCIJ Permanent Court of International Justice
R2P responsibility to protect
RIA regional investment agreement
RICO Act Racketeer Influenced and Corrupt Organizations Act (United States)
RIT regional investment treaty
SAAs stabilization and association agreement
SADC Southern African Development Community
SAFTA Singapore–Australia Free Trade Agreement
SCC Stockholm Chamber of Commerce
SMEs small and medium-sized enterprises
SNIS Swiss Network for International Studies
SPA Serbian Privatization Agency
SWF sovereign wealth funds
TBT Agreement Agreement on Technical Barriers to Trade
TNI Transnational Institute
LIST OF ABBREVIATIONS  xvii

TPA  trade promotion agreement
TPP  Trans-Pacific Partnership
TRIPS Agreement  Agreement on Trade-Related Aspects of Intellectual Property Rights
TTIP  Transatlantic Trade and Investment Partnership
UAE  United Arab Emirates
UK  United Kingdom of Great Britain and Northern Ireland
UN  United Nations
UNCITRAL  United Nations Commission on International Trade Law
UNCTAD  United Nations Conference on Trade and Development
UNEP  United Nations Environment Programme
UNGC  United Nations Global Compact
UNRRIA  United Nations Reports of International Arbitral Awards
US  United States of America
USTR  United States Trade Representative
VCCR  Vienna Convention on Consular Relations
VCDD  Vienna Convention on Diplomatic Relations
VCLT  Vienna Convention on the Law of Treaties
WTO  World Trade Organization
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xviii
TABLE OF CASES

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Application for Annulment of the Argentine Republic, 1 September 2009
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Metalclad Corp. v. United Mexican States, ICSID Case No ARB(AF)/97/1, Submission of the Government of the United States of America, 9 November 1999

Methanex Corp. v. United States of America, UNCITRAL, Decision of the Tribunal on Petitions from Third Persons to Intervene as ‘amici curiae’, 15 January 2001
<table>
<thead>
<tr>
<th>Case</th>
<th>Jurisdiction/Type</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methanex Corp. v. United States of America, UNCITRAL, Final Award</td>
<td>on Jurisdiction and Merits</td>
<td>3 August 2005</td>
</tr>
<tr>
<td>Mobil Investments Canada Inc. and Murphy Oil Corp. v. Canada,</td>
<td>UNCITRAL, Second Submission of Canada Pursuant to NAFTA</td>
<td>30 April 2001</td>
</tr>
<tr>
<td>Mobil Investments Canada Inc. and Murphy Oil Corp. v. Canada,</td>
<td>UNCITRAL, Decision on Liability and on Principles of</td>
<td>22 May 2012</td>
</tr>
<tr>
<td>Mondev International Ltd v. United States of America, Canada</td>
<td>Quantum</td>
<td>6 July 2001</td>
</tr>
<tr>
<td>Mondev International Ltd v. United States of America, ICSID Case</td>
<td>ARB(AF)/99/2, Award</td>
<td>10 October 2002</td>
</tr>
<tr>
<td>Neer (L. F. H.) and Pauline Neer (United States of America v.</td>
<td>United Mexican States)</td>
<td></td>
</tr>
<tr>
<td>Nottebohm case (Liechtenstein v. Guatemala), Judgment 6 April</td>
<td>1955 [1955] ICJ Reports 4</td>
<td></td>
</tr>
<tr>
<td>Pac Rim Cayman LLC v. Republic of El Salvador, ICSID Case ARB/09/12</td>
<td>Decision on the Respondent’s Jurisdictional Objections,</td>
<td>1 June 2012</td>
</tr>
<tr>
<td>Philip Morris Asia Ltd v. Commonwealth of Australia, UNCITRAL, PCA</td>
<td>Case No 2012–12, Award on Jurisdiction and Admissibility,</td>
<td>17 December 2015</td>
</tr>
<tr>
<td>Pious Fund of the Californias Case (United States of America v.</td>
<td>Mexico), Award, 14 October 1902, IX UNRIAA 1–14</td>
<td></td>
</tr>
<tr>
<td>Pope &amp; Talbot Inc. v. Government of Canada, UNCITRAL. Award in</td>
<td>Respect of Damages, 31 May 2002</td>
<td></td>
</tr>
<tr>
<td>Railroad Development Corp. v. Republic of Guatemala, ICSID Case</td>
<td>Phase 2, 10 April 2001</td>
<td></td>
</tr>
<tr>
<td>Railroad Development Corp. v. Republic of Guatemala, ICSID Case</td>
<td>Award, 29 June 2012</td>
<td></td>
</tr>
<tr>
<td>Renco Group, Inc. v. Republic of Peru, ICSID Case No UNCT/13/1,</td>
<td>Submission of the United States of America, 31 January 2012</td>
<td></td>
</tr>
<tr>
<td>State Party Submission of the United States of America, 10 September 2014</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TCW Group, Inc. and Dominican Energy Holdings, LP v. Dominican Republic, UNCITRAL, Procedural Order No 3, 16 December 2008

TECO Guatemala Holdings, LLC v. Republic of Guatemala, ICSID Case No ARB/10/23, Award, 19 December 2013

TECO Guatemala Holdings, LLC v. Republic of Guatemala, ICSID Case No ARB/10/23, Submission of the United States of America, 23 November 2012

Tokelés (Tokios) v. Ukraine, ICSID Case No ARB/02/18. Decision on Jurisdiction. Dissenting Opinion Chairman Prosper Weil, 29 April 2004


United Parcel Service of America Inc. v. Government of Canada, UNCITRAL, Award on Jurisdiction, 22 November 2002

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Veteran Petroleum Ltd (Cyprus) v. Russian Federation, UNCITRAL, PCA Case No AA 228, Final Award, 18 July 2014

Veteran Petroleum Ltd (Cyprus) v. Russian Federation, UNCITRAL, PCA Case No AA 228. Interim Award on Jurisdiction and Admissibility, 30 November 2009

Waste Management Inc. v. United Mexican States [II], ICSID Case No ARB(AF)/00/3, Final Award, 30 April 2004

Yukos Universal Ltd (Isle of Man) v. Russian Federation, PCA Case No AA 227, Final Award, 18 July 2014

Yukos Universal Ltd (Isle of Man) v. Russian Federation, UNCITRAL, PCA Case No AA 227 Interim Award on Jurisdiction and Admissibility, 30 November 2009
### TABLE OF TREATIES

Unless otherwise indicated, in addition to the sources indicated in this section, the text of all international investment agreements cited in this book can be found in UNCTAD, International Investment Agreements Navigator: [http://investmentpolicyhubunctad.org/IIA](http://investmentpolicyhubunctad.org/IIA)

#### Bilateral Treaties

<table>
<thead>
<tr>
<th>Agreement</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acuerdo por Canje de Notas Interpretativo del Convenio entre la República Argentina y la República de Panamá para la Promoción y Protección Recíproca de Inversiones de 1996, 15 September 2004</td>
<td>15 September 2004</td>
</tr>
<tr>
<td>Agreement between Japan and the Democratic Socialist Republic of Sri Lanka Concerning the Promotion and Protection of Investment, signed at Colombo 1 March 1982</td>
<td>1 March 1982</td>
</tr>
<tr>
<td>Agreement on Cooperation and Facilitation of Investments between the Federative Republic of Brazil and the Republic of Chile, signed at Santiago, 23 November 2015</td>
<td>23 November 2015</td>
</tr>
<tr>
<td>Agreement on Cooperation and Facilitation of Investments between the Federative Republic of Brazil and the Republic of Colombia, signed at Bogota 9 October 2015</td>
<td>9 October 2015</td>
</tr>
<tr>
<td>Agreement on Cooperation and Facilitation of Investments between the Federative Republic of Brazil and the United Mexican States, signed at Mexico City 26 May 2015</td>
<td>26 May 2015</td>
</tr>
<tr>
<td>Agreement on Cooperation and Facilitation of Investments between the Government of the Federative Republic of Brazil and the Government of the Republic of Angola, signed at Luanda 1 April 2015</td>
<td>1 April 2015</td>
</tr>
<tr>
<td>Agreement on Cooperation and Facilitation of Investments between the Government of the Federative Republic of Brazil and the Government of the Republic of Mozambique, signed at Maputo 30 March 2015</td>
<td>30 March 2015</td>
</tr>
<tr>
<td>Agreement on Economic and Commercial Enlargement between the Federative Republic of Brazil and the Republic of Peru, signed at Lima, 29 April 2016</td>
<td>29 April 2016</td>
</tr>
</tbody>
</table>
TABLE OF TREATIES

General Claims Commission, (Agreement 8 September 1923). (United Mexican States, United States of America), IV UNRIAA 11–14
Investment Cooperation and Facilitation Agreement between the Federative Republic of Brazil and the Republic of Malawi, signed at Brasilia 25 June 2015
Investment Promotion and Protection Agreement between Mauritius and the United Arab Emirates, signed at Dubai 20 September 2015
Mainland China and Hong Kong Closer Economic Partnership Arrangement, signed at Hong Kong 28 June 2017, entered into force 28 June 2017
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Treaty between the Federal Republic of Germany and Pakistan for the Promotion and Protection of Investments, Bonn, 25 November 1959
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Regional Treaties

Agreement on Investment Among the Governments of the Hong Kong Special Administrative Region of the People’s Republic of China and the Member States of the Association of Southeast Asian Nations, signed at Manila, 12 November 2017
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Intra-MERCOSUR Cooperation and Facilitation Investment Protocol, signed in Buenos Aires 7 April 2017
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Trans-Pacific Partnership Agreement, signed on 4 February 2016, between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam

Multilateral Treaties
Convention on the Settlement of Investment Disputes between States and Nationals of Other States 18 March 1965, 575 U.N.T.S. 159

Draft Instruments and Other Non-Binding Instruments
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>UNCITRAL, Resolution adopted by the General Assembly 68/109, UN DOC. A/68/462 (16 December 2013)</td>
</tr>
</tbody>
</table>