In recent years, investor-State tribunals have often permitted shareholders’ claims for reflective loss, despite the well-established principle of no reflective loss applied consistently in domestic regimes and in other fields of international law. Investment tribunals have justified their decisions by relying on definitions of “investment” in agreements that often include “shares,” while the no reflective loss principle is generally justified on the basis of policy considerations pertaining to the preservation of the efficiency of the adjudicatory process and to the protection of other stakeholders, such as creditors. Although these policy considerations militating for the prohibition of shareholders’ claims for reflective loss also apply in investor-State arbitration, they are curable in that context and must be balanced with policy considerations specific to the field of international investment law that weigh in favor of such claims – the protection of foreign investors in order to promote trade and investment liberalization.

Lukas Vanhonnaeker is a postdoctoral fellow at the Faculty of Law, McGill University, Montréal, Canada, where he is conducting research in the field of international economic law with an emphasis on international investment law and arbitration and international aspects of corporate law.
Processes of economic regionalisation and globalisation have intensified over the last decades, accompanied by increases in the regulation of international trade and economics at the levels of international, regional and national laws. At the same time, significant challenges have arisen with respect to economic liberalization, rule-based systems of trade and investment, and their political and social impacts. The subject matter of this series is international economic law, in this contemporary context. Its core is the regulation of international trade, investment, finance and cognate areas such as intellectual property and competition policy. The series publishes books on related regulatory areas, in particular human rights, labour, environment and culture, as well as sustainable development. These areas are horizontally interconnected and vertically linked at the international, regional and national levels. The series also includes works on governance, dealing with the structure and operation of international organisations related to the field of international economic law, and the way they interact with other subjects of international and national law. The series aims to include excellent legal doctrinal treatises, as well as cutting-edge interdisciplinary works that engage law and the social sciences and humanities.

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SHAREHOLDERS’ CLAIMS FOR REFLECTIVE LOSS IN INTERNATIONAL INVESTMENT LAW

LUKAS VANHONNAEKER

McGill University
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Shareholders’ claims for reflective loss, whereby shareholders qua investors seek compensation for a reduction in share value resulting from harm done to a corporate investment vehicle, are no longer surprising in nature. Investor-State arbitration tribunals have granted such claims, notwithstanding the prohibition of similar claims in customary international law (as established by the International Court of Justice in the Barcelona Traction case and later confirmed in Diallo) and in domestic corporate law regimes, in both common and civil law systems. Investor-State arbitration tribunals have based their decisions on the language of international investment agreements, which accord broad standing to investors of all kinds to vindicate claims that States have failed in observing the obligations they have undertaken to protect the investments of those investors. Investment is also defined broadly to encompass, inter alia, the ownership of shares. They have not, however, elaborated on the underlying reasons why investment law should depart from generally established norms, or on how this departure should be implemented. Investment tribunals have embraced shareholders’ claims for reflective loss on the basis of narrow legal considerations derived from straightforward treaty interpretation, but have refrained from overtly considering what the embrace of such claims may entail.

The need for a principled framework to address these issues in the context of international investment arbitration is clear from the existing decisions. Arbitral awards to date fail to display any particular rationale to explain the according standing to shareholders who seek recovery for their reflective loss. Decisions are limited to narrowly resolving the case at hand, without providing the kind of legal analysis that, by justifying the decision to depart from corporate law orthodoxy, would be capable of providing guidance and predictability, and of ensuring fairness.

In this masterly monograph drawn from his doctoral and postdoctoral work at McGill, Lukas Vanhonnaeker provides the elements of a workable legal framework for shareholders’ claims for reflective loss. He explains the
reasons that legal considerations differ in the modern world of transnational investment while exploring the principled procedural and substantive changes that can and should be implemented within the broad lines of the existing treaty framework.

The backdrop to the book’s argument is a consideration of the legitimacy debate over investor-State arbitration. Legitimacy, or the lack thereof, has been extensively canvassed, but never in the light of an important rise in the number of shareholders’ claims for reflective loss. Yet, the suitability of investor-State arbitration for disputes involving the complex corporate structures that have become a feature of corporate law and of contemporary ways of doing business internationally should be central to this debate. How such claims are handled is a fundamental piece in the equilibrium of international investment law and investor-State arbitration.

The key points in the argument may be captured as follows. By defining shares as protected investments, investment treaties are best viewed as allowing shareholders’ claims for reflective loss, and thus departing from the *lex generalis* established in *Barcelona Traction*. The *lex specialis* of international investment law is informed by specific policy reasons (not least the necessity to protect the real parties in interest if the treaties’ central objectives are to be achieved), which justify in this context the protection of shareholders against reflective loss. In practice, however, such protection runs against the reasons of policy and principle that led to the rejection of shareholders’ claims for reflective loss in other contexts. Investment treaty negotiators have not worked out the rules and mechanisms that are needed to operationalize this protection in a principled manner. Those rules and mechanisms must therefore be supplied by case law and by adjustments to procedures, as informed by high-quality doctrinal work such as this monograph.

Dr. Vanhonnaeker identifies and clearly explains the problems raised by shareholders’ claims for reflective loss, which track the policy reasons often put forward in domestic contexts to explain their general prohibition. These problems are diverse and include the enhanced risk of parallel proceedings, the threat of double recovery, and the prejudice that such claims can cause to other corporate stakeholders, including creditors and other shareholders. Why the international investment context might be different so as to justify a different approach is a question that has not yet been answered in a systematic way; this gap requires the considered and principled approach found here. After analyzing the problems – real and perceived – raised by shareholders’ claims for reflective loss in
investment arbitration, this book proposes and assesses the possible solutions to those problems. In particular, concepts such as international res judicata, the consolidation of proceedings, and innovative means of allocating damages are critically analyzed.

While the issues are complex and there is no silver bullet to be found, this doctrinal contribution is not only desirable but has become critical as the means of doing business internationally continue to evolve and complex claims arise more frequently. The framework proposed in this book will facilitate the concerted and principled development of solutions through the evolution of both substantive and procedural rules. Notably, it will provide arbitrators with the required background analysis to undertake a more thorough and reasoned assessment – and better-informed decisions about procedural management – of shareholders’ claims for reflective loss. This will help investors evaluate from the outset the procedural avenues for, and chances of success of, their claims, and enable home States to better assess the risk of liability toward foreign investors in cases of a treaty breach. More importantly, it will allow international investment law to be aligned with the practical reality of international economic interactions and improve this area of law by enhancing efficiency, fairness, predictability, and legal certainty, and consequently affirming its legitimacy.

Dr. Vanhonnaeker’s work draws on an impressive knowledge and understanding not only of international and transnational law but also of arbitration, comparative law, and multiple legal traditions. In this respect, his work displays a combination of the breadth and depth that is normally associated with scholars who are more advanced in their career. This allows him to navigate with uncommon skill the most complex questions situated at the twilight of procedure and substance, and at the boundary of public and private law. Dr. Vanhonnaeker’s time at McGill has brought both of us immense joy, satisfaction, and intellectual stimulation. We wish for him the broad readership and influence that this superb work of international legal scholarship deserves.

Andrea K. Bjorklund

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Antoine Goetz et consorts v. République du Burundi, ICSID (W. Bank) ARB/95/3 (Award) (Feb. 10, 1999)

Apotex Holdings Inc. and Apotex Inc. v. The Government of the United States of America, ICSID (W. Bank) ARB(AF)/12/1 (Request for Arbitration) (Feb. 29, 2012)

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Azurix Corp. v. The Argentine Republic, ICSID (W. Bank) ARB/01/12 (Decision on the Application for Annulment of the Argentine Republic) (Sept. 1, 2009)


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Bayview Irrigation District et al. v. United Mexican States, ICSID (W. Bank) ARB(AF)/05/1 (Award) (Jun. 19, 2007)


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Acuerdo para la Promocion y la Proteccion Reciproca de Inversiones entre el Reino de España y la Republica Argentina, signed Nov. 3, 1991, entered into force Sept. 28, 1992

Agreement between Canada and the Czech Republic for the Promotion and Protection of Investments, signed May 6, 2009, entered into force Jan. 22, 2012


Agreement between the Belgo-Luxemburg Economic Union and the Government of Malaysia on Encouragement and reciprocal Protection of Investments, signed Nov. 22, 1979, entered into force Feb. 8, 1982


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<th>Date Entered into Force</th>
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Agreement between the Kingdom of the Netherlands and the Republic of Paraguay on encouragement and reciprocal protection of investments, signed Oct. 29, 1992, entered into force Aug. 1, 1994
Agreement on Encouragement and Reciprocal Protection of Investments Between the Kingdom of the Netherlands and the Republic of Bolivia, signed Mar. 10, 1992, entered into force Nov. 1, 1994, terminated Nov. 1, 2009
Convenio entre la República Argentina y la Unión Económica Belgo-Luxemburguesa para la Promoción y la Protección Recíproca de las Inversiones, signed Jun. 28, 1990, entered into force May 20, 1994
Tratado entre la República de Chile y la República Federal de Alemania sobre Fomento y Reciproca Protección de Inversiones, signed Oct. 21, 1991, entered into force May 8, 1999
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Treaty between the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment, signed Jun. 17, 1992, not yet entered into force
Treaty between the United States of America and Ukraine concerning the encouragement and reciprocal protection of investment, signed Mar. 4, 1994, entered into force Nov. 16, 1996

Model Investment Treaties

Agreement between Canada and __________ for the Promotion and Protection of Investments, 2004
Agreement between the Kingdom of Norway and __________ for the Promotion and Protection of Investments, 2007
Agreement between the Kingdom of Norway and __________ for the Promotion and Protection of Investments, 2015

Free Trade Agreements and Regional Investment Agreements


Agreement on Promotion and Protection of Investment in ASEAN, Dec. 15, 1987

ASEAN Comprehensive Investment Agreement, entered into force Mar. 29, 2012


Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part, signed Oct. 30, 2016, provisionally entered into force Sept. 21, 2017


EU-Singapore Investment Protection Agreement, authentic text as of April 2018


Free Trade Agreement between the Republic of Chile and Mexico, signed Apr. 17, 1998, entered into force Aug. 1, 1999


Intra-MERCOSUR Cooperation and Facilitation Protocol, signed Apr. 7, 2017, not yet entered into force

Investment Agreement for the Common Market for Eastern and Southern Africa (COMESA) Investment Area, signed May 23, 2007, not yet entered into force

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Protocol of Colonia for the Promotion and Reciprocal Protection of Investments within MERCOSUR, signed Jan. 17, 1994, never entered into force


United States-Peru Trade Promotion Agreement, signed Apr. 12, 2006, entered into force Feb. 1, 2009
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<td>IACHR</td>
<td>Inter-American Convention on Human Rights</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>BIT(s)</td>
<td>Bilateral investment treaty(ies)</td>
</tr>
<tr>
<td>CAFTA-DR</td>
<td>Dominican Republic-Central America Free Trade Agreement</td>
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<tr>
<td>CETA</td>
<td>Canada-European Union Comprehensive Economic and Trade Agreement</td>
</tr>
<tr>
<td>CJEU</td>
<td>Court of Justice of the European Union</td>
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<tr>
<td>CPTPP</td>
<td>Comprehensive and Progressive Agreement for Trans-Pacific Partnership</td>
</tr>
<tr>
<td>DOB</td>
<td>Denial of benefits</td>
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<tr>
<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>ECommHR</td>
<td>European Commission on Human Rights</td>
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<td>ECT</td>
<td>Energy Charter Treaty</td>
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<td>ECHR</td>
<td>European Court of Human Rights</td>
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<td>EFTA</td>
<td>European Free Trade Association</td>
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<td>EPA</td>
<td>Economic Partnership Agreement</td>
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<td>FCN Agreement(s)</td>
<td>Friendship Commerce and Navigation Agreement(s)</td>
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<td>FDA</td>
<td>Food and Drug Administration</td>
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<td>FDI(s)</td>
<td>Foreign direct investment(s)</td>
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<td>FET</td>
<td>Fair and equitable treatment</td>
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<td>FIPA</td>
<td>Foreign Investment Promotion and Protection Agreement</td>
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<td>FTA(s)</td>
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<td>Home Country(ies)/State(s)</td>
<td>Country(ies)/State(s) from which the investor(s) is/are originating</td>
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<td>Home Government(s)</td>
<td>Government(s) of the Home State(s)/Country(ies)</td>
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<tr>
<td>Host Country(ies)/State(s)</td>
<td>Country(ies)/State(s) in which the investment operation(s) take(s) place</td>
</tr>
<tr>
<td>Host Government(s)</td>
<td>Government(s) of the Host State(s)/Country(ies)</td>
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<tr>
<td>IACommHR</td>
<td>Inter-American Commission on Human Rights</td>
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<td>ICJ</td>
<td>International Court of Justice</td>
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# List of Abbreviations and Acronyms

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<td>International Centre for Settlement of Investment Disputes</td>
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<td>International investment agreement(s)</td>
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<td>ISA</td>
<td>Investor-State arbitration</td>
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<td>ISDS</td>
<td>Investor-State dispute settlement</td>
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<tr>
<td>LCIA</td>
<td>London Court of International Arbitration</td>
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<td>MAI</td>
<td>Multilateral Agreement on Investment</td>
</tr>
<tr>
<td>MFN</td>
<td>Most-favored nation</td>
</tr>
<tr>
<td>MIGA</td>
<td>Multilateral Investment Guarantee Agency</td>
</tr>
<tr>
<td>MNC(s)</td>
<td>Multinational Corporation(s)</td>
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<tr>
<td>NAFTA</td>
<td>North American Free Trade Agreement</td>
</tr>
<tr>
<td>NT</td>
<td>National treatment</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for the Economic Co-operation and Development</td>
</tr>
<tr>
<td>PCA</td>
<td>Permanent Court of Arbitration</td>
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<tr>
<td>RTA(s)</td>
<td>Regional trade agreement(s)</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
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<tr>
<td>SCC</td>
<td>Stockholm Chamber of Commerce</td>
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<tr>
<td>SPRL(s)</td>
<td>Société(s) Privée(s) à Responsabilité Limitée</td>
</tr>
<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
</tr>
<tr>
<td>Third State(s)</td>
<td>States that are not party to a given agreement</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on International Trade Law</td>
</tr>
<tr>
<td>VCLT</td>
<td>Vienna Convention on the Law of Treaties</td>
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<tr>
<td>WTO</td>
<td>World Trade Organization</td>
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