SOVEREIGN INVESTMENT

CONCERNS AND POLICY REACTIONS

Edited by KARL P. SAUVANT, LISA E. SACHS,
and WOUTER P.F. SCHMIT JONGBLOED

OXFORD

Sovereign Investment

CONCERNS AND POLICY REACTIONS

Editors
Karl P. Sauvant
Lisa E. Sachs
Wouter P.F. Schmit Jongbloed

OXFORD
UNIVERSITY PRESS

OXFORD
UNIVERSITY PRESS

Oxford University Press is a department of the University of Oxford. It furthers the University's objective of excellence in research, scholarship, and education by publishing worldwide.

Oxford New York
Auckland Cape Town Dar es Salaam Hong Kong Karachi Kuala Lumpur Madrid
Melbourne Mexico City Nairobi New Delhi Shanghai Taipei Toronto

With offices in
Argentina Austria Brazil Chile Czech Republic France Greece Guatemala Hungary
Italy Japan Poland Portugal Singapore South Korea Switzerland Thailand
Turkey Ukraine Vietnam

Published in the United States of America by
Oxford University Press
198 Madison Avenue, New York, NY 10016

Library of Congress Cataloging-in-Publication Data

Sovereign investment : concerns and policy reactions / edited by Karl P. Sauvant, Lisa E. Sachs, Wouter P.F. Schmit Jongbloed.
p. cm.
Includes bibliographical references and index.
ISBN 978-0-19-993792-9 (hardback : alk. paper)
1. Sovereign wealth funds—Law and legislation—United States. 2. Sovereign wealth funds—Law and legislation—European Union countries. 3. Investments, Foreign—Law and legislation—United States. 4. Investments, Foreign—Law and legislation—European Union countries.
I. Sauvant, Karl P. II. Sachs, Lisa E. III. Jongbloed, Wouter P.F. Schmit.
K3830.S68 2012
346.73'092—dc23

2012009017

9 8 7 6 5 4 3 2 1

Printed in the United States of America on acid-free paper

Note to Readers

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is based upon sources believed to be accurate and reliable and is intended to be current as of the time it was written. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. Also, to confirm that the information has not been affected or changed by recent developments, traditional legal research techniques should be used, including checking primary sources where appropriate.

(Based on the Declaration of Principles jointly adopted by a Committee of the American Bar Association and a Committee of Publishers and Associations.)

List of Figures/Tables/Boxes

Chapter 1 Sovereign Investment: An Introduction

Figure 1. Number of SWFs Established, by Year 5

Figure 2. SWF Equity Transactions, by Number and Volume, 2000–H1 2010 7

Figure 3. FDI by Sovereign Wealth Funds, 2000–May 2010 (US$ million) 7

Figure 4. FDI by Sovereign Wealth Funds, by Main Target Industry, 2007–2008 and 2009–May 2010 8

Figure 5. Linaburg-Maduell Transparency Index Ratings, Q1-2011 (Index 0–10) 13

Table 1. SWFs and Their Subsidiaries Raising Capital from the Private Sector, 2010 6

Chapter 2 Sovereign Wealth Funds: An Overview

Figure 1. Countries Ranked by Financial Commitment to SWF Investment, October 2009 26

Figure 2. Most Active SWFs: Number of Deals by Fund 2008 (percentage by fund) 28

Figure 3. Most Active SWFs: Dollarized Value of Deals 2008 (percentage by fund) 29

Figure 4. Number of SWF Deals by Target Location: Domestic v. Foreign, 2000-Q4 of 2009 53

Figure 5. Value of SWF Deals by Target Location, 2000-Q4 of 2009 (US$ billion) 54

Table 1. Largest SWFs by Assets Under Management, October 2009 27

Table 2. Review of SWF Capital Infusions into Financial Institutions (May 2006–June 2009) 45

Table 3. Comparison of Citigroup and Morgan Stanley Infusions 46

Table 4. Review of Selected SWF Investments Outside of the Financial Sector (August 2007–December 2009) 47

Chapter 3 Sovereign Wealth Funds: A Developing Country Perspective

Figure 1 Global Reserve Accumulation—Selected Groupings and Countries, December 2003–September 2009 (US$ billion) 58

Figure 2. Drivers of Reserve Accumulation, US$ million (1998–2008 cumulative) 59

Figure 3. Drivers of Reserve Accumulation (LA), 1998–2008 cumulative (US$ million) 60

Table 1. Basic Motivation for the Accumulation of Foreign Exchange Assets by Developing Countries 75

Chapter 4 Sovereign Wealth Funds and the Crisis: Investment Managers or Providers of Liquidity?

Figure 1. Oil Price Scenarios: OPEC's Potential Savings into SWFs Out of Energy Export Revenues (US$ per barrel, US$ billion) 87

Figure 2. SWF Deals: Domestic vs. Foreign, 2008–2009 (Percent) 90

Figure 3. Value of SWF Investments by Industry, 2008–2009 (US$ billion) 94

Table 1. Large SWFs' Investments by Location, (Number, Percent) 92

Table 2. Deals Over US$1 billion by Large SWFs, 2007–2008 93

Chapter 5 The International Activities and Impacts of State-Owned Enterprises

Figure 1. The Situation of State Ownership in SOEs, 2003 103

Figure 2. Organization and Evolution of the Ownership Function 106

Table 1. Largest Sovereign Wealth Funds, 2008 (Year, US$ billion) 107

Table 2. State-Owned Firms among the Worlds 100 Largest Non-Financial MNEs, 2006 (percentage) State Ownership of Total Exists Through Ownership by French and Norwegian State Pension Funds 110

Table 3. State-Owned Firms Among the 100 Largest Non-Financial MNEs from Emerging Markets, 2005 112

Table 4. Governance Models 116

Table 5. The Largest Chinese Multinational Companies, 2006 136

Box 1. Chinalco Case Study 139

Chapter 6 Sovereign Wealth Funds and Global Finance

Figure 1. Major Links between SWFs, Countries and Western Banks, August 2008 147

Figure 2. Major Links between SWFs, Countries and Western Banks, December 2008 151

Chapter 8 Are Sovereign Wealth Fund Investments Politically Biased? A Comparison with Mutual Funds

Figure 1. Average Portfolio Characteristics for SWFs and Mutual Funds, 2008 230

Figure 2. Distribution of Fund Equity Holdings for the Ten Largest Host Countries, 2008 231

Figure 3. Distribution of Fund Equity Holdings, by Region, 2008 232

Figure 4. Distribution of Fund Equity Holdings, by Sector, 2008 233

Figure 5. Distribution of Fund Equity Holdings for the Twelve Largest Industries, 2008 234

Figure 6. SWF and Mutual Fund Equity Investments in OECD and Non-OECD by Sector, 2008 236

Figure 7. Investment Criteria in SWFs and Pension Funds, 2008 238

Figure 8. Political Regime for SWFs and Pension Funds by Home Country, 2008 240
Figure 9. Political Regime Characteristics in SWF and Mutual Fund Host Countries Target, 2008 241
Figure 10. Bertelsmann Index for SWF and Mutual Fund Holdings, 2007 vs. 2009 242
Table 1. Disclosed Benchmarks for Selected SWFs, 2008 227

Chapter 11 Sovereign Wealth Funds and Regulation: Some Conceptual Issues

Figure 1. The Regulation of Sovereign Wealth Funds 303
Table 1. Estimated Size of Sovereign Wealth Funds, 2008 (Percentage, US$ billion) 301
Table 2. World's 500 Largest Firms, 2007 308

Chapter 16 The Canadian Policy Response to Sovereign Direct Investment

Table 1. Sovereign Wealth Fund Summary Scoreboard (Percent of Maximum Possible Points) 438

Chapter 18 The Regulation of Sovereign Wealth Funds in the European Union: Can the Supranational Level Limit the Rise of National Protectionism?

Table 1. Selection of Major Sovereign Wealth Fund Mergers and Acquisitions (M&As) in Europe, January 2007–July 2011 465
Box 1. Main Reasons to Scrutinize SWFs More than Private Investors 470
Box 2. Transparency as Suggested by the EU Approach 480
Box 3. EU Principles of Good Governance Applicable to SWFs 483

Chapter 19 Foreign Government-Controlled Investors and Host Country Investment Policies: OECD Perspectives

Box 1. Forms of Government Control or Infl uence 497

Chapter 20 Sovereign Wealth Funds and the IMF

Table 1. The Santiago Principles: Elements Addressing Issues Raised by the IWG 524

Foreword

THIS VOLUME ON *Sovereign Investment: Concern and Policy Reactions* brings together many of the world's leading specialists on global financial markets to analyze the investment dynamics of sovereign wealth funds (SWFs) and state-owned enterprises (SOEs) from the emerging markets. The studies are consistently insightful, thorough, and up-to-date. They cover the nature, size, and motivations of the largest sovereign investors, the financial and macroeconomic implications of sovereign investment flow, and the legal, policy, and regulatory issues that are raised by this special class of investors. As an enormous added bonus, many chapters include detailed and carefully collected original data on SWFs and SOEs that will be of enormous value to researchers and policy-makers.

The subject matter of sovereign investment is fascinating and timely. Investments by sovereign entities such as SWFs and SOEs (as well as other entities such as state-owned pension funds) inevitably reflect both political and economic considerations, raising important and subtle issues of market behavior, political motivations, and even national security. The emerging-market SWFs and outward-investing SOEs have quickly become important and controversial players in global capital markets. Their public profile has soared in recent years. Several SWFs made investments in major Wall Street firms in the midst of the 2008 financial crisis, thereby playing a visible and controversial role in the rescue of several major firms, also often incurring large losses along the way. Around the same time, several SOEs from the Middle East and Asia became embroiled in public controversies when they sought to invest in ports, oil companies, and other sensitive sectors in the United States and Europe. Opponents of these deals charged that the deals would imperil the national security of the receiving countries. Proponents of the deals charged that the opposition was nothing more than disreputable, and possibly illegal "investment protectionism."

While such high profile and controversial deals thrust SWFs and SOEs into the public spotlight, the growth, scale, and importance of sovereign investments by emerging markets reflects several deeper trends in the global economy. The first and most fundamental is the dramatic rise in global significance of the emerging economies themselves. As the BRICS (Brazil, Russia, India, China, South Africa) have grown significantly as a share of the world economy, rising from a combined fifteen percent in 1992 to twenty-six percent in 2010, their enterprises have entered the Fortune 500 list, becoming some of the world's largest economies. In 2010, Chinese companies took three of the top ten spots on the list, compared with none in 1980.

Second, the very rapid growth of the world economy in the years leading up to the financial crisis, and the still rapid though lower growth since 2009, has caused a major and persisting rise in primary commodity prices, including hydrocarbons (oil and gas), coal, minerals such as iron and copper, and agricultural products. The result has been soaring profits of the natural-resource economies, and soaring budget revenues for the host countries, especially Brazil, Russia, and the Middle East oil states. These large earnings in turn have filled the coffers of SWFs and have fueled the investment plans of SOEs.

Third, as a matter of macroeconomic policy, several of the resource-rich countries created SWFs or other sovereign investment vehicles to manage the earnings of the primary-resource sectors. The choice to adopt specialized investment funds is relatively new. Before the advent of SWFs, the government's earnings would generally have accrued directly to the national budget and the Central Bank's foreign exchange reserves. These, in turn, would typically have been invested very conservatively in U.S. and European treasury bills and bank balances, rather than in equity and still less in direct investments with ownership control. The motivations for creating SWFs have varied across countries and over time, and include: increased transparency of oil earnings, a desire to use the specialized funds to support macroeconomic control and long-term saving, higher yields on more aggressive portfolios, industrial policies, and strategic objectives to own foreign claims in banking, commodities, high-tech, or other sectors. The bottom line has been stunning, with SWFs quickly amassing several trillion U.S. dollars in their portfolios (as documented in this volume).

Fourth, the global push toward more liberalized international-investment regimes opened the way for both SWFs and SOEs to become more deeply involved as diversified investors in the high-income economies. Ironically, the initial push for global capital market liberalization came from the high-income countries, who aimed to invest in each other and in the developing economies. In the 1980s and 1990s, almost all observers supposed that investments would flow overwhelmingly from the rich to the developing countries. The reality has been different, and hence the present volume.

Fifth, and finally, the very low saving rates in the U.S. during the past twenty years led U.S. policy-makers and business leaders to encourage capital inflows from the increasingly cash-rich emerging economies of China and the Middle East. The U.S.

aggressively courted foreign investors, especially in 2006–2008 when Wall Street banks needed urgently to raise capital in the midst of financial market upheaval. Even though U.S. businesses courted these investments, the psychological impact on the U.S. public was dramatic. Suddenly, foreign investors, from developing countries no less, seemed to be gaining control over key sectors, including finance, energy, and even ports.

The analytical and policy issues raised by sovereign investments are consistently fascinating, cutting to the heart of modern political economy. What are the main motivations of SWFs and outward-investing SOEs: commercial, political, or even strategic (i.e., to win control of sectors vital to the national security of the outward and host countries)? How significant are these investments in terms of transferring corporate control to outside investors, a phenomenon that is typical perhaps in many countries but is relatively novel in the U.S.? Are these investments of macroeconomic significance in moderating global financial shocks? How should the international financial system honor the free flow of cross-border investments while addressing legitimate concerns about national security that some investments might raise? These issues are treated in their full complexity throughout the present volume.

Importantly, several chapters provide a detailed look at the fast evolving legal and regulatory frameworks governing SWFs and outward-investing SOEs. The analyses of the Committee on Foreign Investment in the United States (CFIUS), the evolving EU institutions, the OECD "Freedom on Investment" Roundtables, and the new IMF voluntary Santiago Principles, are all superb and extremely valuable and up-to-date. They show vividly the complex and subtle balancing of political, economic, financial, and security considerations in the evolving legal framework.

All of these issues of course reflect and illuminate the deepest geopolitical changes of our time: the rise of China, the relative decline of the United States and Europe and the growing scramble for strategic resources. The implications of these trends are of course vast, and the issues regarding sovereign investments offer a window in the larger geopolitical issues as well. The authors of this volume do a masterful job of describing the complexity of the issues and illuminating the deep changes underway in the world economy.

New York, December 2011

Jeffrey D. Sachs
Director of The Earth Institute
Quetelet Professor of Sustainable Development
Professor of Health Policy and Management
Columbia University

Acknowledgments

WE WOULD LIKE to thank all contributors to this volume for their outstanding work, patience, and continuing enthusiasm in analyzing the varying aspects of sovereign investment, accompanying concerns, and policy responses. Without their willingness to engage in many rewarding discussions, the volume would not have come to fruition. This volume originated at the third Columbia International Investment Conference entitled "FDI by State-Controlled Entities: Do the Rules Need Changing?" and therefore benefited tremendously from the valuable exchange of ideas among all participants. We are especially grateful to Zehra G. Kavame, Delphine Papaud, Jonathan Strauss, and Kathryn Linsky for their help in preparing this volume for publication.

List of Contributors

José E. Alvarez is the Herbert and Rose Rubin Professor of International Law at the New York University School of Law. He is a graduate of Magdalen College, University of Oxford, and the Harvard Law School. He was Law Clerk to Judge Thomas Gibbs Gee, U.S. Court of Appeals for the Fifth Circuit and an Attorney-Adviser at the U.S. Department of State in the Office of the Legal Adviser. He has also held full-time academic appointments at the Georgetown University Law Center, George Washington University Law School, the University of Michigan Law School, and the Columbia University Law School. He has been an International Affairs Fellow at the Council on Foreign Relations, where he is a member, and has served on the Board of Editors of the *American Journal of International Law* and the *Journal of International Criminal Justice,* and is a former President of the American Society of International Law. He is a member of the Department of State Advisory Committee on International Law. His principal areas of publishing and teaching are international law, especially international organizations, international tribunals, war crimes, international legal theory, and foreign investment.

Rolando Avendaño is a Research Associate at the OECD Development Centre. His research focuses on areas of financial economics and development—currently working on Asia's impact on emerging economies, sovereign wealth funds, and commodity markets. Prior to joining the centre, he worked with the OECD Economics Department on macroeconomic policy in Latin America. He received a B.Sc. in industrial engineering and operations research at University of Los Andes and a B.A. in anthropology, jointly with University of London. He is completing a Ph.D. in economics at the Paris School of Economics.

Alexander A. Berengaut is an Associate at Covington & Burling LLP. He practices in the areas of national security law, international arbitration, and civil and criminal litigation. He previously served as a Law Clerk for Judge Sandra S. Ikuta on the U.S. Court of Appeals for the Ninth Circuit. He is a graduate of Harvard Law School, the University of Cambridge, and Columbia University.

Julien Chaisse holds a Ph.D. from University of Aix-Marseille III, is Associate Professor in the Faculty of Law, Chinese University of Hong Kong (CUHK) and a member of the Centre for Financial Regulation and Economic Development (CeFRED). He has developed practical and theoretical expertise in many fields of international economic law. Upon completing his master studies, he worked first for the French Ministry of Foreign Affairs in New Delhi. While involved in research for his Ph.D., he became a Lecturer in France at Sciences-Po Aix. He then moved to the World Trade Institute in Switzerland to coordinate an interdisciplinary project on "Multilateral Rules on Investment." The research he is currently leading at CUHK investigates the evolution of the international law of foreign investment across relevant agreements and aims to discern patterns of congruence and divergence across substantive disciplines and practices among regions, countries, and major stakeholders such as sovereign wealth funds.

Mark A. Clodfelter is a partner with Foley Hoag LLP and has represented sovereign states for more than twenty years, particularly in investor-state and state-to-state disputes under international treaties. Before joining Foley Hoag, he was Of Counsel at Winston & Strawn and served for seven years as the U.S. State Department's Assistant Legal Adviser for International Claims and Investment Disputes, representing the United States before international arbitration proceedings, including NAFTA Chapter 11 proceedings, in which he led his office's unblemished record of success, and proceedings before the Iran-U.S. Claims Tribunal and the United Nations Compensation Commission. He is a member of the UNCTAD's Experts Group on Investor-State Dispute Resolution, the International Center on Dispute Resolution International Roster of Neutrals and the American Arbitration Association Panel of Commercial Arbitrators. He lectured widely for seven years and was Adjunct Professor of Law for international commercial arbitration at Georgetown University Law Center. He earned his B.A., M.A., and J.D. degrees from the University of Michigan. After election to three terms in the Michigan House of Representatives, he was appointed as a White House Fellow, serving as a special assistant to the U.S. State Department's Under Secretary of State for Political Affairs.

Udaibir S. Das is Assistant Director in the Monetary and Capital Markets Department of the IMF, where he heads the Sovereign Asset and Liability Management Division. He leads a team that covers policy and operational issues relating to sovereign balance sheet risk management, debt, reserves, and sovereign asset management.

Patrick DeSouza is the CEO of the Plain Sight Group of Companies, a private holding company headquartered in New Haven, Conn., which is focused on alternative investments. He is also President of Leeb Capital Management, a New York-based asset management company. He has been a Visiting Lecturer at Yale Law School and has spent most of his career practicing law and in investment banking with significant experience in mergers and acquisitions. He served at the White House during the Clinton Administration as Director for Inter-American Affairs on the National Security Council. In addition to various articles, he is the author of *Economic Strategy and National Security* (2000). He is a graduate of Columbia College, Yale Law School, has a Ph.D. from Stanford University, and is a member of the Council on Foreign Relations.

David N. Fagan is a partner at Covington & Burling LLP. His practice covers national security law, international trade and investment, and global privacy and data security. He has represented clients before federal and state government agencies and Congress in connection with a range of issues, including regulatory approvals of international investments, national security-related criminal investigations, high-profile congressional investigations, and federal and state regulatory and enforcement actions in the data security area. On investment issues, he has represented foreign and domestic clients in various industries (including defense, software, information technology, communications, energy, aviation, maritime transportation, ports, and biotechnology/pharmaceuticals) in securing the approval of the Committee on Foreign Investment in the United States (CFIUS), as well as in connection with ongoing compliance matters related to mitigation agreements with CFIUS. He also frequently handles matters related to the mitigation of foreign ownership, control or influence under applicable national industrial security regulations. He is Adjunct Professor of Law at Georgetown University Law Center, teaching a seminar on "National Security Law and the Private Sector."

David Gaukrodger is a Senior Legal Consultant at the OECD Investment Division. His recent work has focused on investor-state dispute settlement, the application of state immunity to state-controlled investors, and the interaction of international environmental law and investment law. He was previously a Principal Administrator at the OECD Anti-Corruption Division; he led teams for numerous published country evaluations (including the United Kingdom, Spain, and Argentina) by the thirty-eight-country OECD Working Group on Bribery. He also helped design the G20-mandated peer review mechanism for the intergovernmental exchange of tax-related information. Prior to joining the OECD, he was a Special Counsel with Sullivan & Cromwell LLP and represented clients in numerous matters relating to international investments. He is a "lauréat" of Sciences Po Paris. He obtained law degrees with distinction from the University of Toronto and the Université de Paris I, and clerked for Justice La Forest at the Supreme Court of Canada.

Steven Globerman is the Kaiser Professor of International Business and the Director of the Center for International Business at Western Washington University's College of Business and Economics. He writes and consults widely on a range of issues related to international trade and foreign direct investment, and he is currently a member of the Editorial Review Board for the *Journal of International Business*. He received his Ph.D. from New York University.

Kathryn Gordon is a Senior Economist in the Investment Division of the OECD. She is currently working on the OECD project on investor-state dispute settlement and on investment policy monitoring, including the role of national security in international investment policy. Earlier, she was one of the main Secretariat participants in the negotiations that led up to the successful review of the OECD *Guidelines for Multinational Enterprises* and was responsible for OECD research on corporate responsibility. In earlier positions at the OECD, she dealt with fiscal, tax, and regulatory issues. Prior to taking her position at the OECD, she was a Professor at École Supérieure des Sciences Économiques et Commerciales. She obtained a Ph.D. and an M.B.A.in finance from the University of California, Berkeley before moving to France.

Mark Gordon is a partner at the New York law firm of Wachtell, Lipton, Rosen & Katz. His practice focuses on advising public companies and major leveraged buyout firms in domestic and cross-border mergers and acquisitions, take-over defense, shareholder activism and corporate governance, private equity and leveraged buyouts, and securities law matters. He is also a Lecturer on Law at Harvard Law School, where he teaches an annual winter-term mergers and acquisitions course.

Stephany Griffith-Jones is an Economist whose areas of expertise are international finance and development. Her work has focused on global capital flows to emerging markets, especially macroeconomic management of capital flows, financial crises and their effects as well as international financial reform with emphasis on regulation. She is Financial Markets Director at the Initiative for Policy Dialogue at Columbia University (IPD), as well as Associate Fellow at ODI. Prior to joining IPD, she was Professorial Fellow at the Institute of Development Studies at University of Sussex, United Kingdom, and served as Senior Official at the United Nations Department of Economic and Social Affairs and the Economic Commission of Latin America, and as Head of International Finance at the Commonwealth Secretariat (UK). She has acted as senior consultant to governments in Eastern and Western Europe, Latin America, and Africa and to many international agencies, including the World Bank, the Inter-American Development Bank, and United Nations, as well as the European Commission and European Parliament. She has led many international research projects and published many academic articles and written or edited more than twenty books on international and national finance, most recently *Time for a Visible Hand* (2010), coedited with José Antonio Ocampo and Joseph Stiglitz.

Francesca M. S. Guerrero is a graduate of Princeton University and Harvard Law School and has practiced corporate law at Winston & Strawn LLP since 2006. Focusing on domestic and international business transactions, she advises clients on cross-border investments, joint ventures, mergers and acquisitions, and private equity transactions.

She also regularly counsels clients on corporate governance and legal compliance, including with respect to the U.S. Foreign Corrupt Practices Act and Exon-Florio and related filings before the Committee on Foreign Investment in the United States. She has received awards for advising nonprofit companies on corporate governance requirements, for assisting American University's Constitutional Literacy Project, and for contributing to the Washington D.C. Bar's small business educational initiative.

Thomas Jost is Professor of Economics in the Department of Economics and Law at the University of Applied Sciences Aschaffenburg, Germany, which he joined in 2000. From 1989 to 2000 he served as a head of a unit in the International Economics Department of Deutsche Bundesbank. He was a member of the Economics Research Group of Deutsche Bundesbank and of the Short Term Economic Prospects Group of OECD. Since 2004, he has been a consultant for the Division on Investment, Technology and Enterprise Development of UNCTAD, and from 2010 to March 2011, he served as Editor of the *Columbia FDI Profiles*. His research focuses on European integration and foreign direct investment.

Alan P. Larson, an economist and international policy expert, is a senior advisor at Covington & Burling LLP, where he provides clients with strategic advice, counseling, and representing at the intersection of international business and public policy. His practice encompasses international trade, investment and acquisitions, centering on the U.S. Committee on Foreign Investment in the United States (CFIUS), sanctions and trade compliance, international energy transactions, protection of intellectual property, and compliance with anti-bribery rules. He is a member of the Board of Counselors of McLarty Associates. He is Chairperson of Transparency International/U.S.A., a board member of Bread for the World, a member of the Atlantic Council's Business and Economic Advisory Committee, and a Distinguished Fellow at the Council on Competitiveness. He previously served as Under Secretary of for Economics and is a Career Ambassador, the State Department's highest honor.

Clay Lowery is a Vice President for Rock Creek Global Advisors and is Visiting Fellow at the Center for Global Development. Previously, he was the Assistant Secretary for International Affairs at the U.S. Treasury Department from 2005 to 2009. In this role, he chaired CFIUS, was the point person on Sovereign Wealth Funds, and served as the Finance Deputy to the G20 and the Financial Stability Forum. He was appointed by the President to be the U.S. representative to the World Bank, AfDB, EBRD, and IDB. His responsibilities included guidance and oversight in the areas of economic and financial diplomacy, banking issues, currency strategy, trade and investment policies, and development finance. He also served as Vice President at the Millennium Challenge Corporation (MCC), was Director of International Finance at the National Security Council (NSC) and held a variety of jobs in a fifteen-year career at the U.S. Treasury. He graduated Phi Beta Kappa from the University of Virginia and earned a masters of science in economics at the London School of Economics.

Adnan Mazarei is Deputy Director in the IMF's Middle East and Central Asia Department. Previously, he was Assistant Director in the Fund's Strategy, Policy, and

Review Department, where he coordinated the work on sovereign wealth funds, and did other policy and country work.

James Mendenhall is Counsel in the International Trade and Dispute Resolution group at the law firm of Sidley Austin LLP in Washington, D.C., concentrating in international trade policy and litigation. From 2005 to January 2007, he served as the General Counsel of the United States Trade Representative (USTR), supervising U.S. participation in WTO and NAFTA disputes and handling all legal aspects of U.S. trade negotiations. He also served as the Principal U.S. negotiator of the United States-Canada Softwood Lumber Agreement and was the USTR representative on the Committee on Foreign Investment in the United States. Previously, he served as the Assistant United States Trade Representative for Services, Investment and Intellectual Property and as the USTR's Deputy General Counsel. Prior to joining the U.S. government, he spent nine years in private practice, concentrating in the areas of trade remedies litigation, international arbitration, trade policy, and litigation before WTO panels. He has testified before Congress on multiple occasions related to free-trade agreement negotiations, intellectual property, protection in foreign markets, trade in services, financial services, and other matters.

Sabastian V. Niles is Corporate Associate at Wachtell, Lipton, Rosen & Katz. His practice has involved a variety of industries and focuses on U.S. and cross-border mergers and acquisitions, strategic transactions and joint ventures, spin-offs, takeover defense and shareholder activism, capital-raising transactions for distressed entities, cross-border listings, and corporate governance and securities law matters. He received his J.D. from Harvard Law School, where he cofounded the Harvard Association of Law and Business and participated in the Harvard Program on Negotiation, leading the Harvard Negotiation team to an ABA National Championship.

José Antonio Ocampo is Professor of Professional Practice and Director of the Economic and Political Development Concentration at Columbia's School of International and Public Affairs. He is also a Fellow of the Committee on Global Thought. He served in a number of positions in the United Nations and with the Government of Colombia—most notably as United Nations Under-Secretary-General for Economic and Social Affairs, Executive Secretary of the Economic Commission for Latin America and the Caribbean, Minister of Finance and Public Credit, Chairperson of the Board of the Central Bank of Colombia, Director of National Planning Department (Minister of Planning), and Minister of Agriculture and Rural Development. He is the author of numerous books and articles on macroeconomics theory and policy, economic development, international trade, and economic history.

Katharina Pistor is the Michael I. Sovern Professor of Law at Columbia Law School and the Director of the school's Center on Global Legal Transformation, and has served as a member of Columbia University's Committee on Global Thought since its inception. She previously taught at the Kennedy School of Government. Her main research interests include comparative law and finance, and law and development. In 2012, she received the Max Planck Research Award for her contributions to international financial regulation. Recent publications include "Governing Financial Interdependence: Lessons from the Vienna Initiative" *(Journal of Globalization and Development*, 2011); "Global Network Finance" (*Journal of Comparative Economics*, 2009); and with Curtis Milhaupt, *Law and Capitalism: What Corporate Crises Reveal about Legal Systems and Economic Development Around the World* (2008).

Mark E. Plotkin, a partner in the Washington, D.C. office of Covington & Burling LLP, co-chairs the firm's practice before the Committee on Foreign Investment in the United States. His experience includes handling many of the leading successful CFIUS cases and negotiating several of the most significant, complex, and sensitive national security agreements with the U.S. government in recent years. He has served as Counsel to some of the world's leading companies and private equity funds on CFIUS matters—including BAE Systems, British Telecom (BT), the Carlyle Group, Citadel Holdings, IBM, Kohlberg Kravis & Roberts, and Vodafone, among many others—and also represents some of the most active and respected Asian and Middle Eastern sovereign wealth funds and state-owned enterprises. He is a graduate of Yale College and Harvard Law School. He has been recognized by *Chambers USA: America's Leading Lawyers for Business*, *Best Lawyers in America*, *The Legal* 500, and *Super Lawyers*. He is Adjunct Professor of law at Georgetown University Law Center, and has lectured on national security matters at Yale Law School.

W. Michael Reisman is Myres S. McDougal Professor of International Law at Yale Law School and Honorary Professor, City University of Hong Kong. He has been a Visiting Professor in Tokyo, Hong Kong, Berlin, Basel, Paris, and Geneva. He is a Fellow of the World Academy of Art and Science and a former member of its Executive Council, the President of the Arbitration Tribunal of the Bank for International Settlements, a member of the Advisory Committee on International Law of the Department of State, Vice Chairman of the Policy Sciences Center, Inc., a member of the Board of the Foreign Policy Association, and a member of the Institut de Droit International. He was also President of the Inter-American Commission on Human Rights of the Organization of American States, Vice President and Honorary Vice President of the American Society of International Law, and Editor-in-Chief of the *American Journal of International Law*. He has served as Arbitrator in the Eritrea/Ethiopia Boundary Dispute and in the Abyei (Sudan) Boundary Dispute. He has published widely in the area of international law.

Alan M. Rugman is Professor of International Business at the Henley Business School of the University of Reading, where he is the Director of Research in the School of Management. Previously, he was at Indiana University, 2001–2009, University of Oxford, 1998–2001, the University of Toronto, 1987–1998, Dalhousie University, 1979–1987, and the University of Winnipeg, 1970–1978. As a leading authority in international business, he served as President of the Academy of International Business in 2004–2006. He was elected a Fellow of the Academy in 1991. He is also a Fellow of the Royal Society of Arts, elected 1998. He has published more than 250 articles dealing with the economic, managerial, and strategic aspects of multinational enterprises, and