

EU Foreign Investment Law

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OXFORD
UNIVERSITY PRESS

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Great Clarendon Street, Oxford OX2 6DP

Oxford University Press is a department of the University of Oxford.
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Published in the United States
by Oxford University Press Inc., New York

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First published 2011

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British Library Cataloguing in Publication Data
Data available

Library of Congress Cataloging in Publication Data
Library of Congress Control Number: 20119436351

Typeset by Newgen Imaging Systems (P) Ltd, Chennai, India
Printed and bound by
CPI Group (UK) Ltd, Croydon CR0 4YY

ISBN 978-0-19-969860-8

1 3 5 7 9 10 8 6 4 2

Στους γονείς μου
Ανδρέα και Γεωργία

Preface

Regulation of foreign investment is currently one of the most controversial subjects in EU external relations law. The introduction of foreign direct investment (FDI) in the Lisbon Treaty signalled the initiation of discussions aiming towards a comprehensive EU common external policy in the field of foreign investment. Being still in its infancy, the creation of a comprehensive EU investment policy meets a series of legal and practical challenges. The very existence of an EU investment policy depends on the specific delineation of the scope of EU competence over foreign investment. Its successful materialization rests on the careful determination of the specific objectives and content of EU investment agreements as well as on the clear demarcation of the roles of the EU and its Member States. EU institutions and Member States have to set up an investment policy that guarantees the integration and interaction of Member States' national investment policies with EU policy and addresses their views on the role, scope, and content of international investment law. After all, smooth transition from Member States' investment policies to EU investment policy is necessary to preserve European investors' interests and rights and to soothe the concerns of third countries.

Addressing these challenges, this book is based on the proposition that foreign investment is not an entirely new topic in EU external relations. The EU has long been an international actor gradually affecting the balance of powers and the roles of the EU and its Member States in the field of foreign investment and contributing to the development of international investment law. However, this topic has been until recently largely ignored and unexplored. From this angle, the book views and understands the emerging EU common investment policy as a natural consequence of existing EU policies and international agreements. More importantly, the book pays particular attention to the different origins and content of investment regulation under international law and EU law so far, and it attempts to explain and consolidate the divergent perceptions of foreign investment regulation that exist among international and EU lawyers.

In that regard, this book offers a systematic and detailed analysis of EU foreign investment law. It explores the concept of foreign investment and the aspects of international investment regulation and it facilitates a common understanding of the pertinent EU and international norms. Thereafter, it deals with the core question of the existence of an EU foreign investment policy, which requires a determination of the scope, content, and objectives of EU foreign investment policy. The book offers a detailed analysis of the scope of EU powers in the field of foreign investment, discusses their actual exercise—focusing on the conclusion and content of existing and future EU investment agreements—and explores the objectives and principles of EU foreign investment policy. Thirdly, the book examines the legal effects of EU foreign investment law on both the EU and the international legal order. It addresses the legal ramifications resulting from the nature of

EU investment agreements as instruments of international law, and in particular it explores the scope of the EU's and Member States' international responsibility in the field of foreign investment. Turning to EU law, the book focuses on the effects of EU foreign investment policy on Member States' Bilateral Investment Treaties, as well as on the Member States' obligations to perform and comply with EU investment agreements.

Exploring the existing legal framework on the scope and exercise of EU competence and its legal effects, the book aims to contribute to a better understanding of the legal foundations upon which a comprehensive EU common investment policy is based, addressing doctrinal and practical questions that are of interest to academics, policy makers, and practitioners in the field of EU foreign investment law.

Angelos Dimopoulos

Tilburg
July 2011

Acknowledgements

This book is based on my doctoral thesis, written during my time at the European University Institute in Florence, and re-worked from my current location at the Tilburg Law School. The book would not have been possible without the support of numerous people, to whom I would like to express my sincere gratitude.

First and foremost, I am immensely indebted to my doctoral thesis supervisor, Professor Marise Cremona, for her expert guidance, encouragement, and support. I am deeply grateful to Professor Ulrich Petersmann for his invaluable help and from whom I learned much as his student and research assistant. I also wish to express my sincere gratitude to Professor Eileen Denza and Professor Markus Krajewski, who examined my thesis and shared with me their experience and knowledge in this field. Many thanks are also due to Professors Bruno de Witte, Panos Koutrakos, Petros Mavroidis, Heike Schweitzer, and Karl Sauvant—as well as my fellow researchers in Florence—for their critical and thought-provoking comments which helped to strengthen my arguments and advance my work.

This study would not have been possible without the financial support of the Greek government and the excellent research premises of the European University Institute, Tilburg Law School, Columbia Law School, and Cambridge University, where I spent time working on the book. I am also grateful to the staff at Oxford University Press for their guidance, support, and efficiency in bringing the book to press.

Special words of thanks are due to Patricia for her insightful comments, her encouragement, and her support, which have been the most powerful sources of inspiration and motivation. I am also grateful to my sister and my brother for always being there for me and believing in me. Finally, there are no words sufficient to thank my parents without whose love and unconditional support I would not have been able to accomplish this endeavour; in recognition of my immeasurable gratitude this book is dedicated to them.

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