Book reviews


The present work emanates from the staff, researchers, students and associates of the International Legal Studies programme at the American University’s Washington College of Law. It is a collection of 17 chapters aimed at offering, “both academic and practical information on the international law of foreign investment, and on the applicable legal regime in various countries” (p. xiii). These are divided into three parts. Part A consists of a five chapter introduction to the legal issues surrounding foreign direct investment (FDI), taking account of the views of national regulators, foreign investors and the international community. Part B presents six articles, as the editors style them, on specific aspects of FDI regulation. These concern: the World Bank Guidelines on the Treatment of Foreign Direct Investment, bilateral and multilateral investment treaties, which includes a brief overview of the ill-fated Multilateral Agreement on Investment (MAI), worker rights and FDI, international environmental law and FDI, FDI and the protection of intellectual property and the institutional strengthening of public sector procurement. Part C contains ten chapters offering specific country studies. These include studies on China, India and Thailand from Asia; Nigeria and South Africa from Africa; Colombia, Mexico and Panama from Latin America; and one transitional country, Belarus, and one major capital exporting country, Germany, from Europe.

As such this work does not aim to be a comprehensive textbook on FDI regulation. The choice of topics in Part B and the choice of countries in Part C would be too arbitrary and subjective for such a purpose. Rather, it should be treated as a resource book, bringing together a number of distinct research studies whose common theme is the furtherance of knowledge concerning the regulation of FDI in the contemporary globalising economy and society. In this the book meets its goals. In particular, Alfred Escher’s introduction to the topic in Part A constitutes one of the best overviews of the wide range of issues raised by FDI regulation that the present reviewer has encountered. To do this in 79 pages is a real achievement. Furthermore, of particular utility to
Anglo-American scholars who, sadly, too often overlook (perhaps for reasons of linguistic limitations) the important work in the field of corporate regulation and accountability being done in Germany, Escher offers extensive references to German publications in the field.

Secondly the choice of topics in Part B offers a useful overview of some very significant trends in the emerging international law on FDI. It is especially heartening to see the social dimension of this subject being stressed through chapters on worker rights and the environment. The regulation of multinationals is becoming more than a technical commercial law issue, though some will no doubt regret this. On the other hand, although it is poor reviewing practice to suggest that something else should have been written, it is a shame that no significant mention is made of the issue of human rights and multinationals, given its growing importance in contemporary debates on the social responsibility of multinationals. Furthermore, Part B lacks coverage of certain important themes, such as the taxation of multinational enterprises or more detailed treatment of the World Bank FDI oriented institutions, in particular, the Multilateral Investment Guarantee Agency and the International Centre for the Settlement of Investment Disputes, each of which could easily deserve a chapter to itself in such a work. However, as stressed at the beginning of this review, the book is a collection of specialist essays and not a comprehensive textbook.

As for Part C this is, perhaps, the weakest part of the book, though that judgment depends on what the reader is looking for. If she wants a succinct, and not overly analytical, treatment of the selected countries’ FDI and related laws, then the chapters are certainly useful as a starting point for a more detailed study of the country concerned and its FDI regime. There is also some economic data on FDI flows into the country under discussion – or, in the case of Germany, outflows – in each chapter. However, as the editors themselves point out (at pp. ixx–xxx) FDI laws change and the information contained in the book may be rendered obsolete. In such circumstances, the chapters are said to offer a benchmark against which future developments in the law can be judged. This is undoubtedly the case, and if one is looking for a map of what the state of the law was in 1999 in the countries studied, these chapters provide it. On the other hand, should the reader be looking for a more detailed analytical, and interdisciplinary, account of the law, one that could assist in making judgments about the value of certain regulatory techniques used in the field of FDI, then these chapters offer few insights. This is reinforced by the absence of a final, comparative and discursive chapter in this Part of the book. The value of the case studies to a more academically oriented readership would thereby have been enhanced. The book steers towards “know what” rather than “know why” in Part C.