

Foreign investment and investment arbitration in Asia

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Abstrak

This book brings together foreign investment and investment arbitration in Asia, the fastest growing economic region in the world. It provides a critical analysis of foreign investment, its benefits and the legal regimes of the jurisdictions studied at a time when investor-state disputes are on the rise and investment arbitration is under growing scrutiny. Governments are under greater pressure to balance the promotion of investment with public policy development and interests and calls for a permanent court for investment arbitration are getting louder. To assess future possibilities, this book takes stock of, brings together and analyses the legal regimes on foreign investment in 12 major Asian jurisdictions, namely China, Hong-Kong, India, Indonesia, Japan, South Korea, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. These constitute paradigmatic examples of what is happening in the legal framework of Asian foreign investment and the impact that the current system of investment arbitration has in all of them. The analysis shows the existence of changing positions and degrees of openness towards foreign investment in the region, as well as a distinct level of exposure to and involvement in investment arbitration. Predictably, their situation will change in the near future, at least in relation to investment arbitration. Proposals for reform have already been made and international institutions are working on the development of an alternative to the proceedings of investment arbitration as it is currently constructed and understood. Consequently, the last two chapters of this book are devoted to the analysis of these developments that will most probably affect the existing situation in the region.