

Preface and acknowledgments

Historical arguments in international investment law are omnipresent. They play an important role in the current discourse, whether in interpreting investment treaties in a concrete dispute, in justifying or criticizing the current system of international investment protection and investment dispute settlement, or in debating its reform. Yet, for a long time, the discipline has had a largely instrumental relationship to its history. It has also shied away from addressing the many difficult challenges serious and methodologically reflective uses of history and historical research entail.

More recently, however, scholarship in international investment law is starting to take a 'turn to history'. This is illustrated by a number of book-length studies adopting a pronouncedly historical focus, dealing *inter alia* with specific standards of treatment, the content of customary international law, or the history of institutions, such as the International Centre for Settlement of Investment Disputes. At the same time, international investment law as a discipline is still short of reflections on the foundations for sound historical research, including theoretical questions about the reasons for, and methodological approaches to, history in the field.

The present book brings together scholars for a reflection on some of the foundational questions relating to engaging in historical research and analysis in international investment law. It does not present to the reader 'the' history or even 'a' (more or less comprehensive) history of international investment law. Instead it invites readers to think about the conditions, methodological possibilities, benefits, and challenges of engaging in historical research and historical argument in the field. Consolidating the historiographical turn in the field, the book aims at stimulating further historical research in international investment law and perhaps even raising increased interest of international legal historiography in international economic law and international law's economic foundations.

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In the preparation of this book we have been able to count on many helping hands. A group of dedicated authors has been willing to put up with deadlines and at times demanding editorial comments. In Frankfurt, Dr. Philipp B. Donath and Dr. Jakob Kadelbach, (then) both at Goethe University, provided vital assistance in organizing the meeting of authors in Frankfurt, where presentation and discussion of many of the arguments set out in the contributions to this book took place. At the Amsterdam Center for International Law, Vladislav Djanic, Heather L. Bray, Katrine R. Tvede and A. Devin Bray supported the editorial work and provided comments on the draft papers. At the Max Planck Institute of Comparative Public Law and International Law in Heidelberg, Violetta Sefkow-Werner was in charge of bringing the manuscripts into line with the style guide.

Heather L. Bray has also been kind enough to let us use a photograph of two cases as the cover of this book: ‘The Ship Olive’, William Van Leuvenigh, Master and ‘The Olive Branch’, William Turner Provoost, Master. Taken in The National Archives in Kew, Richmond, UK, it shows the written record of two cases brought on appeal before the Lords Commissioners of Appeals in Prize Causes in London in 1798. These cases were subsequently brought before a mixed claims commission established under Article VII of the Treaty of Amity Commerce and Navigation between Britain and the United States (Jay Treaty) of 19 November 1794. In pointing us to archives and documents, it is perhaps a fitting visualization of the tasks that historically conscious investment lawyers are facing.

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