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Codification and promotion of international law through BITs; D. The relationship of domestic law and international law; 1. Preliminary remarks; 2. The Klockner-Amco doctrine<sup>39</sup>; (a) Case law under ICSID; (i) "Supplemental and corrective functions" of international law; (ii) Domestic law as the primary source (iii) Conclusion (b) Approaches in scholarly writing; (i) Scholarly writing promoting the Klockner-Amco doctrine; (ii) Critique of the Klockner-Amco doctrine; (iii) Reisman: Corrective function only when collision with fundamental norms of international law; 3. The dissolution of the Klockner-Amco doctrine; (a) First doubts: the Amco resubmitted case award; (b) The advent of BITs; (c) The growing role of international law; 4. A new doctrine: Wena; (a) The Wena decision<sup>93</sup>; (b) The first years after Wena: some ambiguities; (c) Confirmation and interpretation of the Wena doctrine

5. The Argentine crisis Tribunals and beyond<sup>118</sup> (a) International and domestic law as comprehensive legal orders; (b) International law as ultimately supreme; E. The changing face of international investment law; 1. Six preliminary observations; 2. "Prominent role": The "internationalization" of international investment law; 3. The "integration" of international investment law<sup>162</sup>; 4. Outlook: The public interest challenge; 5. Consequences of the above findings: Three hypotheticals; (a) Environment; (b) Human rights; (c) Corruption

3: Public interest and international economic law - current approaches

A. Scholarly approaches towards international legal obligations of MNEs; 1. A scholarly attempt to shape the practice: The Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights; 2. Scholarly approaches towards an international legal personality of MNEs; (a) Strict positivist view: only States as subjects of international law; (b) Different approaches endorsing an international legal personality of MNEs; (c) Conclusion

B. Public interest considerations in recent BIT practice

## Sommario/riassunto

The strengths of international investment law - above all, a strong focus on investor interests and an effective adjudication and enforcement system - also entail its weaknesses: it runs the danger of impeding or even sanctioning the host states' legitimate regulatory interests and ignoring other fields of public international law. How does it cope with public interest concerns such as human rights, the environment or the fight against corruption? At the heart of this book lies a fresh approach towards a general theory of such global public interest considerations in the investment realm. Delineating how and why those considerations matter, and why the current system does not accommodate them properly, Andreas Kulick fleshes out general principles and customary international law as defences the host state may raise against alleged investor rights infringements and promotes proportionality as the appropriate balancing mechanism.