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Nota di contenuto	COPYRIGHT; HAGUE ACADEMY OF INTERNATIONAL LAW; The Public International Law Regime Governing International Investment; TABLE OF CONTENTS; CHAPTER I THE EVOLVING INTERNATIONAL INVESTMENT REGIME: AN OVERVIEW; A. Introduction; B. Investment Flows and Globalization; C. The Legalization of International Investment; D. The Contents of International Investment Treaties; E. Investor-State Dispute Settlement; (1) Party control; (2) Remedies for past injury; (3) Impact on State sovereignty; F. Contemporary Critiques of the Investment Regime; (1) Vertical critiques; (2) Horizontal critiques (3) Ideological(4) Rule of law critiques; G. The Regime and Public International Law; CHAPTER II WHAT ARE INVESTMENT TREATIES FOR ?; A. Guzman's Account of the Origins of the Investment Regime; B. Refuting Guzman; C. Explaining the Contemporary Investment Regime; D. What is the Most Recent Wave of US Investment Treaties Trying to Achieve ?; CHAPTER III FAIR AND EQUITABLE TREATMENT: THE HEART OF THE INVESTMENT REGIME; A. The Limits of "Treatification"; B. The "Democratic" Credentials of the Investment Regime; C. The Entwined Nature of Treaty and Non-Treaty Sources (1) Treatification does not equal precision(2) The absence of precision in a treaty is not the last word; (3) Fragmentation and its discontents; D. Globalization and its Discontents; CHAPTER IV LESSONS FROM THE ARGENTINA CRISIS CASES; A. Introduction; B. The Inconsistent Argentina Cases; (1) Inconsistent views of what is "necessary"; (2) Is

there one defence or two ?; (3) Does the customary defence of necessity apply when a BIT is silent, that is, when the BIT does not have an essential security exception or measures not precluded clause ? (4) Assuming that it is applicable, what does the customary defence of necessity require States(or claimants) to show ?(5) Assuming that Article XI of the United States-Argentina treaty is a distinct defence from the excuse of necessity, what exactly does it require in order for it to be successfully invoked ?; (6) What is the effect of a successful invocation of Article XI ?; C. Broader Problems; (1) The fragmentation of international investment law; (2) The hazards of premature de-fragmentation; CHAPTER V THE ONCE AND FUTURE INVESTMENT REGIME; A. The Investment Regime in Transition B. The Argentina Cases and the Regime's Alleged Legitimacy Deficits(1) The problem of inconsistent arbitral awards; (2) Is the investment regime a threat to sovereignty?; (3) Is the investment regime a threat to human rights ?; (4) Is the investment regime "biased" in favour of investors ?; C. Reform Proposals; D. Points of Intersection between the Investment Regime and Public International Law; (1) Treatification and other positivist sources; (2) Fragmentation; (3) Impact of non-State actors; (4) Globalization and its discontents; (5) The international law profession; (6) Judicialization (7) Hegemonic or imperial international law ?

Sommario/riassunto

This monograph considers the ramifications of the legal regime that governs transborder capital flows. This regime consists principally of a network of some 3,000 investment treaties, as well as a growing body of arbitral decisions. Professor Alvarez contends that the contemporary international investment regime should no longer be described as a species of territorial "empire" imposed by rich capital exporters on capital importers. He examines the evolution of investment treaties and investor-State jurisprudence constante and identifies the connections between these and general trends within public international law, including the increased resort to treaties ("treatification"), growing risks to the law's consistency ("fragmentation"), and the proliferation of forms of international adjudication ("judicialization"). Professor Alvarez also considers whether the regime's efforts to "balance" the needs of non-State investors and sovereigns ought to be characterized as "global administrative law," as a form of "constitutionalization," or as an increasingly human-rights-centred enterprise.
