There is a final chapter on enforcement (VIII) which covers both enforcement at the national level and the increasingly important powers of enforcement on the high seas. The explanation on automatic forfeiture is very good. It will be interesting to see how this particular legislative scheme will stand up should it ever come before ITLOS or some other international tribunal.

One problem which faces most writers dealing with aspects of Australian law which has federal, State and territorial aspects is how to achieve a balance between, on the one hand, a synthesis of the practice of nine jurisdictions and avoiding a mind numbing attention to detail as each jurisdiction is covered. Although the author has sought to deal comprehensively with each jurisdiction, he has for the most part avoided getting too bogged down in too much minutiae. That said, the references to the numerous Australian statutory provisions require 44 pages to list.

Overall, this book is a most welcome addition. It has filled a gap that existed in Australia for far too long, and the author is to be congratulated on taking up the gruelling challenge to make sense of a very confusing area of the law, as well as for placing the basic fisheries regimes in their proper historical, constitutional and environmental context.

W R Edeson
PROFESSORIAL VISITING FELLOW
LAW FACULTY, UNIVERSITY OF NEW SOUTH WALES

Law and Practise of Investment Treaties

Andrew Newcombe and Lluís Paradell
(*Kluwer,* 2009, pp 614 + xxx)

The past two to three years have seen quite a number of treatises on international investment law enter the market. Within all of these, the *Law and Practise of Investment Treaties* by Andrew Newcombe and Lluís Paradell is remarkable in two respects. First, it focuses – contrary to the more general textbooks on international investment law – almost entirely on the standards of protection within international investment agreements. This specialisation allows it to address all of the treatment standards in depth, raising and answering many questions which elsewhere can only be addressed cursorily.Second, the book starts with the most excellent and concise description of the development of international investment law, more precisely 'investment treaty law', which one can find on the market. One can only subscribe to the author's finding that it 'is crucial to consider this historical development in order to better understand current debates and contentious issues in investment treaty law'. Understanding this history is indeed indispensable for a proper understanding of the whole of the field of international investment law. Step by step, the authors outline the developments, which have brought about international investment law as a field of specialisation in the domain of public

international law. Here, special emphasis is laid on the establishment of the investor-state arbitration mechanism, which is the key reason for the success of the field.

The first chapter, entitled 'Historical Development of International Investment Law', deals, however, with far more than just history. It starts with a general description of how, especially, diplomatic protection, the law of aliens and the international minimum standards have shaped what one could call the customary law on investment protection. The current status of international investment agreements (IIAs) is equally addressed as well as the structure and scope of their application, highlighting definitional questions around concepts such as 'investment' and 'investor' which are of relevance before the substantive standards of a treaty can be applied. The chapter ends with the most relevant information on the dispute settlement provisions within IIAs.

Chapter 2 focuses on two important aspects which are of relevance for all of the substantive standards: do they have to be applied in investment arbitrations (as part of the applicable law) and how are they to be interpreted? The latter question is of particular concern considering that jurisprudence has revealed to what degree IIAs have failed to answer all relevant questions arising in investment disputes. Here, the emphasis lies on the ordinary meaning and the object and purpose of a treaty, including special approaches in favour of a pro-investor and pro-state interpretation, an old dispute in interpreting investment agreements.

Chapters 3 to 9 deal with main task of the book which is to provide comprehensive explanation of the substantive standards of treatment that states must accord to foreign investors and investment under IIAs'. In this respect, it is together with the book edited by August Reinisch (*Standards of Investment Protection*, Oxford 2008) the most comprehensive description of these key rules within IIAs. Almost all of the chapters follow the same clear structure, addressing all of the standards after a short introduction, the background, treaty practise, the scope and application as well as (where relevant) existing exceptions. All of the chapters are very concise and leave hardly any questions open.

Chapter 3 begins with a discussion concerning obligations in respect of the promotion, admission and establishment of investments. Chapters 4 and 5 deal with the two principal discrimination standards — national treatment and most-favoured-nation treatment. Chapter 6 addresses the minimum standard of treatment which comprises, inter alia, the important fair and equitable treatment standard, the prohibition of arbitrary, unreasonable or discriminatory treatment and the protection and security standard. Chapter 7 addresses the important question of expropriation and especially indirect expropriations and all the related aspects which come into play in this regard. Chapter 8 concerns transfer rights, the prohibition of performance requirements and questions of transparency.

Chapter 9 deals with the observance of the undertakings clause, often referred to as the umbrella clause. This clause is regularly of concern and it is still not settled how the often identically worded clauses have to be interpreted and to which undertakings they precisely apply. Of particular interest in this chapter are the