Contents

Foreword IX
Shaheeza Lalani

The Role of the State in Investor-State Arbitration
Introductory Remarks 1
Michael E. Schneider

PART 1

State Powers and Investor-State Dispute Settlement 15 Krista Nadakavukaren Schefer

- 1 States and Foreign Investment

 A Law of the Treaties Perspective 23

 Tarcisio Gazzini
- 2 The Regulatory State and the Duty of Consistency 49
 Danielle Morris
- The Transplantation of Legitimate Expectations in Investment Treaty
 Arbitration
 A Critique 69
 Teerawat Wongkaew
- 4 Host States as Claimants

 Corruption Allegations 103

 Dai Tamada

PART 2 States and the Investor-State Arbitration Regime 123 Stephen Gelb

5 The Concept of the State in Investor-State Arbitration
A Social Science Perspective 131
Todd Tucker

- 6 The Impact of Investment Treaty Law on Host State Behavior
 Some Doctrinal, Empirical, and Interdisciplinary Insights 162
 Mavluda Sattorova
- 7 Domestic Demands and International Agreements
 What Causes Investor State Disputes? 187
 Zoe Williams
- 8 Exit, Voice, and Loyalty In Investment Treaty Arbitration
 A Summary 211
 Anna T. Katselas
- 9 Inter-Governmental Consideration of Investor-State Dispute Settlement at the OECD-Hosted Freedom of Investment (FOI) Roundtable 220 David Gaukrodger

PART 3

- The Changing Role of the State in Investor-State Disputes 241

 Rodrigo Polanco Lazo
- 10 Towards a Greater Role for State-to-State Arbitration in the Architecture of Investment Treaties? 249

 Michele Potestà
- 11 The Role of the State after an Award is Rendered in Investor-State
 Arbitration 274

 Tomonori Mizushima
- 12 The Return of the Home State and the Rise of 'Embedded' Investor-State Arbitration 293 Wolfgang Alschner
- 13 Illegal Investments and Actions Attributable to a State under International Law 334

 Sergey Usoskin

PART 4

Attribution of Conduct of Non-State Organ Entities: An Introduction 351

Georgios Petrochilos

14 The European Union Investment Arbitration Regime and Local Governments

The Need for a Synchronization of Efforts 361 Cornel Marian

15 State-Owned Enterprises in the Current Regime of Investor-State
Arbitration 380

[i Li]

16 The Many Faces of States in International Investment Law

Supranational Organizations, Unrecognized States, and Sub-State

Entities 405

Chien-Huei Wu

The Changing Role of the Home and the Host State in Investor-State Arbitration

Some Conclusions 430 Rodrigo Polanco Lazo

Bibliography 437 Index 494