Editorial

The ever-recurring issue of investment treaty law and arbitration reform takes again centre stage in this issue, courtesy of Noah Barr's excellent piece focusing on the EU Commission's 'model' of international investment protection as such model arises from the so-called new-generation International Investment Agreements ('IIAs') which the EU signed in recent years. Noah discusses the EU Commission's ambitious plans to develop a grand scheme of EU legal framework towards '*a special responsibility to lead the reform of the global investment regime*' on the basis of non-economic values, including sustainable development, corporate social responsibility and human rights. As Noah explains, the EU Commission has, to date, failed to implement this framework. Instead, Noah posits, the main thrust of any investment law reform at EU level lies at the efforts of individual Member States many which have already begun modernizing their Bilateral Investment Treaties. Nevertheless, the EU model of international investment protection has been highly influential for Member States in aligning national policies on investment law and dispute settlement.

One might be excused to feel a sense of fatigue, or indeed exhaustion, from the ongoing discussions about EU's reform plans of investment treaty law and arbitration. But the Commission's investment law policy (and, for that matter, the CJEU's decisions on investment arbitration) continue to divide opinions and remain important developments to follow. This is why it is interesting to note Noah's conclusion that while some recent national reforms largely align with the EU reformed approach to investment protection, other domestic reforms bring together some *innovative* features of dispute settlement and non-economic provisions which are not included in EU's IIAs.

On this occasion, EU's failure to implement its broader 'model' of investment protection has failed, even if temporarily, by accident rather than design, as many of the EU's IIAs, including the EU-Canada Comprehensive Economic and Trade Agreement, have been subject to legal challenges which has hindered their ratification process.

This raises a broader issue of reform *process* rather than reform *content*: namely, that ambitious reform plans might be more likely and organically implemented if the EU Commission merely sets out the broader goals and general direction of the desired reform allowing, at the same time, the policy space for national states to

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implement these policy goals in line with their domestic legal systems and traditions. While one understands their need to implement a coherent legal framework at a European level, the EU Commission and CJEU often appear to disregard valid national claims for legal nuance and national policy space.

This not an issue of form; rather, it is an important matter of principle upon which wider acceptance of Commission's reform initiates may rest.

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