## Contents

*List of Contributors* xi  
*Table of Cases* xiii  

### PART I  
**NATIONALITY AND INVESTMENT TREATY CLAIMS**  

#### INTRODUCTION  
FEDERICO ORTINO 3  
FRANCISCO ORREGA VICUÑA 3  

#### SECTION ONE  
Chair: CHRISTOPHER GREENWOOD QC 9  
1. Nationality of Corporations under Domestic Law: A Comparative Perspective 11  
   MATTHIAS PANNIER  
2. Nationality Requirements under BITs and Related Case Law 17  
   PIERO BERNARDINI  

#### SECTION TWO  
Chair: ROBERT VOLTERRA 25  
1. The Requirement for Substantive Nationality 27  
   NORAH GALLAGHER  
2. The Requirement for Continuous Nationality 41  
   MAURICE MENDELSON QC
SECTION THREE

Chair: Karyl Nairn

1. Nationality of Physical Persons
   Devashish Krishan
   57

2. The Relevance of the Law on Diplomatic Protection in Investment Arbitration
   Sir Frank Berman QC
   67

3. Derivative Actions and Indirect Claims
   Robert Wisner
   73

CONCLUSION

Audley Sheppard
85
Vaughan Lowe
86

PART II

FAIR AND EQUITABLE TREATMENT IN INVESTMENT TREATY LAW

INTRODUCTION

Federico Ortino
91
Christopher Schreuer
92

SECTION ONE

Chair: Simon Nesbitt

1. Fair and Equitable Treatment—Lines of Jurisprudence on Customary Law
   Rudolf Dolzer and André von Walter
   99

2. The BIT Experience of the Fair and Equitable Treatment Standard
   Lluís Paradell
   117


Contents

ix

SECTION TWO

Chair: Gillian Triggs 147

1. Equivalent Standards under Domestic Administrative Law: A Comparative Perspective 149
   Giacinto della Cananea

   M. Sornarajah

3. Expropriation and the ‘Fair and Equitable Treatment’ Standard 183
   Stephen Fetta

SECTION THREE

Chair: HE Judge David Anderson CMG 195

1. The Standard of Compensation for Violation of the Fair and Equitable Treatment Standard 197
   Matthew Weiniger

2. ‘Caveat Investor’?: The Relevance of the Conduct of the Investor Under the Fair and Equitable Treatment Standard 205
   Peter Muchlinski

3. The Emergency Exception and the State of Necessity 237
   Ian Laird

CONCLUSION

Nigel Blackaby 253
Dan Price 256