

University of Vienna
School of Law
LL.M. in International Legal Studies
Winter Semester 2016

Course Title: International Standards of Investment Protection

Professor: August Reinisch

I. Course Description and Objectives

This course aims at providing an overview on central topics of international investment law. It will trace the traditional approach of regulating foreign direct investments in customary international law and then focus on the present state of investor protection through a dense web of almost 3000 bilateral investment protection treaties as well as some multilateral agreements containing investment provisions such as NAFTA Chapter 11, the Energy Charter Treaty, and others.

The standards of treatment guaranteed to foreign investors in these treaties as well as under customary international law will be analyzed. This course will thus focus on substantive standards, such as fair and equitable treatment, full protection and security, most-favored-nation treatment and national treatment. Equally, the protection against expropriation will merit special attention. The growing case-law of international arbitration tribunals will serve as a background to this analysis.

II. Course Outline

This course will address the following main issue areas in a sequence of sessions throughout the entire semesters:

1. Overview - The Sources of International Investment Law
2. The notion of Investment
3. Expropriation
4. Treatment Standards (Fair and Equitable Treatment, Full Protection and Security)
5. Responsibility of the Host State and Protection by the Home State

III. Basic Texts

There is no single basic text which students have to purchase. Instead, the required books are available in the Library of the Law School's Section of International Law and International Relations. In addition, master copies of the reading assignments according to the syllabus will be available from the LL.M. administration.

Still the following two books are highly recommended for class preparation:

R. Dolzer/C. Schreuer, *Principles of International Investment Law*, **2. edition** (Oxford University Press 2012).

A. Reinisch (ed.), *Standards of Investment Protection* (OUP 2008).

A. Reinisch, *Recent Developments in International Investment Law* (Cours et Travaux, no 12, Inst. des Hautes Études Internationales de Paris, 2009).

IV. Required Reserve Readings

R.D. Bishop/J. Crawford/W.M. Reisman, *Foreign Investment Disputes* (Kluwer Law International 2005).

P. Muchlinski, *Multinational Enterprises and the Law* (Oxford University Press, 2nd ed., 2007).

N. Rubins/N.S. Kinsella, *International Investment, Political Risk and Dispute Resolution* (Oceana Dobbs Ferry 2005).

V. Supplementary Readings

R. Dolzer/M. Stevens, *Bilateral Investment Treaties* (Martinus Nijhoff 1995).

N. Horn (ed.), *Arbitrating Foreign Investment Disputes – Procedural and Substantive Legal Aspects* (Kluwer 2004).

P. Muchlinski/ F. Ortino/Ch. Schreuer (eds.), *The Oxford Handbook of International Investment Law* (OUP 2008).

Ch. Schreuer/L. Malintoppi/A. Reinisch/A. Sinclair, *The ICSID Convention: A Commentary* (Cambridge University Press, 2nd ed., 2009).

M. Sornarajah, *International Law on Foreign Investment* (Cambridge University Press 2004).

T. Weiler (ed.), *International Investment Law and Arbitration: Leading Cases from the ICSID, NAFTA, Bilateral Treaties and Customary International Law* (Cameron May 2005).

VI. Recommended Internet Sites

ICSID Convention, Regulations and Rules, available at <http://www.worldbank.org/icsid/basicdoc/basicdoc.htm>

BITs available through a search engine at UNCTAD Website at http://www.unctadxi.org/templates/DocSearch_779.aspx

NAFTA Chapter 11, available at http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?DetailID=160

UNCTAD (ed.), Issues in International Investment Agreements, available at <http://www.unctad.org/iaa>.

UNCTAD Course on Dispute Settlement: ICSID: available at <http://r0.unctad.org/disputesettlement/course.htm>

Useful material may also be retrieved from the following homepages:

ICSID: <http://www.worldbank.org/icsid/>

World Bank: <http://www.worldbank.org/>

ICC: <http://www.iccwbo.org/>

ILA: www.ila-hq.org

UNCITRAL: <http://www.uncitral.org/>

EU trade page: http://europa.eu.int/comm/trade/index_en.htm

USTR: <http://www.ustr.gov/>

WTO: <http://www.wto.org/>

Investment Claims: <http://investmentclaims.com/>

International Treaty Arbitration: <http://ita.law.uvic.ca/>

NAFTA Claims: <http://naftaclaims.com/>

VII. Teaching Method

This course will be taught using a combination of lectures and class discussions. It will be based on student preparation of the course materials which will be distributed in advance. These course materials structure the entire course program in the form of review questions. Students are expected to prepare and to debate them in class as well as to contribute their own insights. In addition, students will be asked to discuss recent investment decisions in the light of the international standards in short case presentations.

VIII. Assessment Method

- A. There will be a 2-hour written final examination which will be worth 50% of the final course mark.
- B. Class participation is expected. It will be worth 20% of the final course mark.
- C. Case presentation will be worth 30% of the final course mark.

