

LA906-20 International Investment Law

24/25

Department

School of Law

Level

Taught Postgraduate Level

Module leader

Velimir Zivkovic

Credit value

20

Module duration

9 weeks

Assessment

100% coursework

Study location

University of Warwick main campus, Coventry

Description

Introductory description

This module offers a critical introduction to international investment law. Foreign direct investment (FDI) is an important factor in the global economy and this module will focus on the legal regime that applies to cross-border investments. Due to the growth of FDI worldwide and the rising tensions between major economies around the world, international investment law and protection has grown in significance and has attracted not only increased interest but also considerable criticism from political leaders, international organisations, academics and civil society. The aim of the module is to unpack the complex legal framework that governs FDI and to analyse the international rules protecting investments and investors as well as the criticism levelled at the system and the challenges it faces.

[Module web page](#)

Module aims

To introduce students to the complex regulatory framework for international investment and to explore the limits of this framework.

To provide students with the knowledge and tools to be able to identify an investment/investor from a legal perspective.

To discuss and critically evaluate the legal protections provided by International Investment Agreements for investors/investments and their impact on investors, states and civil society.

To provide an overview of the different mechanisms for Investor-State Dispute Settlement and to critically analyse the current system of dispute settlement and reform proposals.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

- What is International Investment Law?
- Principles and History/Development of Investment (Law)
- The regulatory framework for international investment
- Forms of regulation (binding, soft law, contractual, national, international) and key players
- National control mechanisms for foreign direct investment (host and home state)
- International investment protection and regulation and its limits
- Who is an investor? What is an investment?
- Discriminatory and arbitrary measures
- National Treatment
- MFN Treatment
- FET
- Full protection and security
- Umbrella clauses
- Expropriation
- Assessment Workshop
- Exceptions & Justification Mechanisms: Host State "Defences"
- Dispute Settlement
- Challenges of International Investment Law and Reform Proposals

Learning outcomes

By the end of the module, students should be able to:

- Demonstrate understanding of the complex legal framework that regulates international investments and the core legal principles of international investment law.
- Analyse whether an action constitutes an investment and critically assess the suitability of the existing legal criteria.
- Analyse and critically assess the standards of protection international investment agreements provide and the dispute settlement mechanism(s) they have established.
- Critically discuss the system of investment protection that international investment law has created and ongoing reform proposals.

- Conduct research on questions of international investment law effectively using relevant sources and present academic arguments and opinions in writing and orally.

Indicative reading list

Collins, *An Introduction to International Investment Law*, CUP 2017

Dederer, *Extraterritorial Possibilities of Enforcement in Cases of Human Rights Violations*, in: Bungenberg/Hobe, *Permanent Sovereignty over Natural Resources*, Springer, 2015

DiMascio/Pauwelyn, *Nondiscrimination in Trade and Investment Treaties: Worlds Apart or Two Sides of the Same Coin?*, *American Journal of International Law*, Vol. 102, Issue 1 (January 2008), pp. 48-89 [102 *Am. J. Int'l L.* 48 (2008)]

Dolzer & Schreuer, *Principles of International Investment Law*, 2nd edition, 2012, OUP

Fortier/Drymer, *Indirect Expropriation in the Law of International Investment: I Know It When I See It, or Caveat Investor*, *ICSID Review: Foreign Investment Law Journal*, 2004, Vol. 19 Issue 2, p293-327

Henckels, *Protecting Regulatory Autonomy through Greater Precision in Investment Treaties: The TPP, CETA, and TTIP*, *Journal of International Economic Law*, Volume 19, Issue 1, 1 March 2016, Pages 27–50

Legum, *An Overview of Procedure in Investment Treaty Arbitration*, in: Yannaca-Small, *Arbitration under International Investment Agreements, A Guide to the Key Issues*, 2010, pp. 91-104

Leite, *The Fair and Equitable Treatment Standard: a Search for a Better Balance in International Investment Agreements*, *American University International Law Review*, 2016, Vol. 32, Issue 1, p363-401

Lim, Ho, Paparinskis, *International Investment Law and Arbitration*, CUP, 2018

Miles, *Investor-State Dispute Settlement: Conflict, Convergence, and Future Directions*. In: Bungenberg M., Herrmann C., Krajewski M., Terhechte J. (eds) *European Yearbook of International Economic Law* 2016

Mortensen, *The Meaning of "Investment": ICSID's Travaux and the Domain of International Investment Law*, *Harvard International Law Journal*, 2010, Volume 51 No 1, pp.257-318;

Muchlinski, *Multinational Enterprises & The Law*, 2nd edition, OUP, 2007

Muchlinski, *Regulating Multinational Enterprises*. In: Bungenberg M., Herrmann C., Krajewski M., Terhechte J. (eds) *European Yearbook of International Economic Law* 2016.

Nadakavukaren Schefer, *International Investment Law, Text, Cases and Materials*, 2nd ed., Edward Elgar, 2016

OECD *Guidelines for Multinational Enterprises* 2011

Poulsen, *Bounded rationality and economic diplomacy: the politics of investment treaties in developing countries*, CUP, 2015

Ruggie, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (Ruggie Report)

Salacuse, The Three Laws of International Investment, OUP, 2013

Salacuse, The Law of Investment Treaties, OUP, 2015

Schill, Reforming Investor–State Dispute Settlement: A (Comparative and International) Constitutional Law Framework, Journal of International Economic Law, Volume 20, Issue 3, 1 September 2017, Pages 649–672

Sornarajah, The International Law on Foreign Investment, 4th edition, 2017, CUP

Sornarajah, International Investment Law as Development Law: The Obsolescence of a Fraudulent System. In: Bungenberg M., Herrmann C., Krajewski M., Terhechte J. (eds) European Yearbook of International Economic Law 2016.

UNCTAD's Reform Package for the International Investment Regime, December 18, 2017: Reforming investment dispute settlement

UNCTAD Series on Issues in International Investment Agreements II

[View reading list on Talis Aspire](#)

International

This module covers International Investment Law

Subject specific skills

No subject specific skills defined for this module.

Transferable skills

No transferable skills defined for this module.

Study

Study time

Type	Required
Lectures	18 sessions of 1 hour (9%)
Seminars	9 sessions of 1 hour (4%)
Private study	173 hours (86%)
Total	200 hours

Private study description

No private study requirements defined for this module.

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Students can register for this module without taking any assessment.

Assessment group A1

	Weighting	Study time	Eligible for self-certification
4000 word Essay	100%		No

Students will write a 4000 word essay on one of a list of given titles.

Feedback on assessment

Formative assessment: Students are offered the opportunity to submit a piece of formative assessment and receive written individual feedback.

Summative assessment: Student receive formal individual feedback in line with the Law School essay feedback policy and template via Tabula.

Availability

Courses

This module is Optional for:

- Year 1 of TIMA-L981 Postgraduate Social Science Research
- Year 1 of TLAA-M3PJ Postgraduate Taught Advanced Legal Studies
- Year 1 of TLAS-M3P7 Postgraduate Taught International Economic Law
- Year 1 of TLAS-M221 Postgraduate Taught LLM in International Corporate Governance and Financial Regulation

This module is Core option list A for:

- Year 1 of TLAA-M3PJ Postgraduate Taught Advanced Legal Studies

- Year 1 of TLAA-M223 Postgraduate Taught International Commercial Law
- Year 1 of TLAS-M3P7 Postgraduate Taught International Economic Law
- Year 1 of TLAS-M221 Postgraduate Taught LLM in International Corporate Governance and Financial Regulation

This module is Option list A for:

- TLAA-M3PJ Postgraduate Taught Advanced Legal Studies
 - Year 1 of M3PJ Advanced Legal Studies
 - Year 3 of M3PJ Advanced Legal Studies
- TLAA-M223 Postgraduate Taught International Commercial Law
 - Year 1 of M223 International Commercial Law
 - Year 3 of M223 International Commercial Law
- Year 1 of TLAS-M3P7 Postgraduate Taught International Economic Law
- Year 1 of TLAS-M221 Postgraduate Taught LLM in International Corporate Governance and Financial Regulation

This module is Option list C for:

- TPOS-M9PE Double MA in Politics and International Studies (with NTU Singapore)
 - Year 1 of M91F Globalisation and Development (Double Degree - NTU)
 - Year 1 of M91L International Development (Double Degree - NTU)
 - Year 1 of M91B International Political Economy (Double Degree - NTU)
 - Year 1 of M91C International Politics and East Asia (Double Degree - NTU)
 - Year 1 of M91D International Politics and Europe (Double Degree - NTU)
 - Year 1 of M91G International Security (Double Degree - NTU)
 - Year 1 of M91K Political and Legal Theory (Double Degree - NTU)
 - Year 1 of M91J United States Foreign Policy (Double Degree - NTU)
 - Year 2 of M91L International Development (Double Degree - NTU)
 - Year 2 of M91B International Political Economy (Double Degree - NTU)
 - Year 2 of M91C International Politics and East Asia (Double Degree - NTU)
- TPOS-M9PP Double MA in Politics and International Studies (with Universität Konstanz, Germany)
 - Year 1 of M92L International Development (Double Degree - Konstanz)
 - Year 1 of M92B International Political Economy (Double Degree - Konstanz)
 - Year 1 of M92C International Politics and East Asia (Double Degree - Konstanz)
 - Year 1 of M92D International Politics and Europe (Double Degree - Konstanz)
 - Year 1 of M92E International Relations (Double Degree - Konstanz)
 - Year 1 of M92G International Security (Double Degree - Konstanz)
 - Year 1 of M92K Political and Legal Theory (Double Degree - Konstanz)
 - Year 1 of M92H Public Policy (Double Degree - Konstanz)
 - Year 2 of M92B International Political Economy (Double Degree - Konstanz)
 - Year 2 of M92C International Politics and East Asia (Double Degree - Konstanz)
 - Year 2 of M92D International Politics and Europe (Double Degree - Konstanz)
 - Year 2 of M92E International Relations (Double Degree - Konstanz)
 - Year 2 of M92G International Security (Double Degree - Konstanz)
 - Year 2 of M92K Political and Legal Theory (Double Degree - Konstanz)

- Year 2 of M92H Public Policy (Double Degree - Konstanz)
- Year 2 of TPOS-M9PT MA in International Development
- Year 2 of TPOS-M1P8 Postgraduate Taught International Politics and East Asia
- Year 2 of TPOS-M9PS Postgraduate Taught Political and Legal Theory
- Year 2 of TPOS-M9PQ Postgraduate Taught United States Foreign Policy