

LW5568: SELECTED PROBLEMS IN INTERNATIONAL INVESTMENT LAW

Effective Term

Semester B 2025/26

Part I Course Overview

Course Title

Selected Problems in International Investment Law

Subject Code

LW - Law

Course Number

5568

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW4663 Selected Problems in International Investment Law

Exclusive Courses

LW6142E/ LW6543C/ LW6542E International Investment Law (students who completed LW6142E/ LW6543C/ LW6542E are not allowed to take LW5568)

Part II Course Details

Abstract

- a) Introduce students to the treaties that regulate foreign investment;
- b) Provide an understanding of the various protections that are afforded to foreign investors;
- c) Develop a critical awareness of the consequences of the emerging body of foreign investment treaties and related arbitration awards;
- d) Enable students to understand the different dispute settlement mechanisms afforded to foreign investors; and
- e) Encourage effective research, writing and oral communication skills in relation to foreign investment issues.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Describe and explain the basic concepts and principles relating to international investment law		x	x	x
2	Apply the above concepts and principles to solve hypothetical or real situations		x	x	x
3	Communicate ideas, arguments or advice clearly and coherently both orally and in writing		x	x	x
4	Critically analyse and evaluate concepts, principles and policy underpinning international investment law		x	x	x
5	Identify and examine current problems associated with international investment law		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures and tutorials (combined)	Students are required to do preparatory readings before class. Lectures and individual or small-group activities.	1, 2, 3, 4, 5	3 hours per week

Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks ("- " for nil entry)	Allow Use of GenAI?
1	Class participation & presentations	1, 2, 3, 4, 5	20	-	No

Continuous Assessment (%)

20

Examination (%)

80

Examination Duration (Hours)

2

Minimum Continuous Assessment Passing Requirement (%)

0

Minimum Examination Passing Requirement (%)

40

Additional Information for ATs

Grading of Student Achievement:

Standard (A+, A, A-...F).

Grading is based on student performance in assessment tasks / activities.

Assessment will be by continuous assessment, by coursework, inter-active in-class exercises and by examination.

The apportionment of marks will be:-

Inter-active in-class exercises and presentations : 20%

Examination : 80%

Examination duration : Two hours

Grading pattern : Standard (A+ A- ... F)

Applicable to students admitted in Semester A 2022/23 and 2023/24

To pass this course student must obtain an aggregate mark of 50% and a minimum of 50% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

Applicable to students admitted before Semester A 2022/23 and Semester A 2024/25 and thereafter

To pass this course student must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

The course leader will announce whether the examination will be closed book or open book.

Assessment Rubrics (AR)**Assessment Task**

Class participation/ presentation (Applicable to students admitted before Semester A 2022/23 and Semester A 2024/25 and thereafter)

Criterion

Identifying issues and resolving such issues by applying the relevant legal principles and provisions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (Applicable to students admitted before Semester A 2022/23 and Semester A 2024/25 and thereafter)

Criterion

Identifying issues and resolving such issues by applying the relevant legal principles and provisions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Class participation/presentations (Applicable to students admitted in Semester A 2022/23 and 2023/24)

Criterion

Identifying issues and resolving such issues by applying the relevant legal principles and provisions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Marginal

(B-, C+, C) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (Applicable to students admitted in Semester A 2022/23 and 2023/24)

Criterion

Identifying issues and resolving such issues by applying the relevant legal principles and provisions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

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(B+, B) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Marginal

(B-, C+, C) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Part III Other Information

Keyword Syllabus

Foreign investment
Investment treaties
Investment arbitration
Investor protection
Detailed Syllabus

The course aims to examine the following issues (but not necessarily in that order):

1. Introduction

The law of international investment as a part of international law;; diplomatic protection; state sovereignty and state acts; relevant institutional structures; the conflicting interests of host countries and investors, political risks and foreign direct investment; international investment and developing countries.

2. The Sources of International Investment Law

The law of treaties; interpretation of treaties; customary international law of investment; bilateral investment treaties, multilateral treaties, model treaties, guidelines and codes of conduct, national legislations; arbitral awards; regional agreements; relevant international organisations.

3. Jurisdiction and Admissibility

Principle of consent; the scope of jurisdiction; existence of an investment; nationality of individuals and companies; the distinction between jurisdiction and admissibility; shareholder protection.

4. Expropriation

Treaty provisions, case law and theory pertaining to expropriation; compensation; valuation of expropriated property; direct and indirect taking of foreign assets; expropriation of contractual rights.

5. Substantive Standards of Protection

Rights of investor for fair and equal treatment, full protection and security, free transfer of funds, national treatment, most-favoured-nation treatment (MFN), access to justice, protection against arbitrary or discriminatory treatment; umbrella clauses.

6. Responsibility of the Host State

State responsibility for illegal acts, exhaustion of local remedies and procedures, state immunity; attribution; state entities; necessity, armed conflicts, and emergencies.

7. Dispute Resolution

Arbitration; State-State disputes; Investor-State disputes; conciliation; applicable laws; annulment and enforcement of arbitral awards; possible dispute settlement fora.

8. The ICSID System

Parties, subject-matter and consent to ICSID arbitration; rules of procedure; ICSID's Additional Facility; annulment proceedings; MFN-clauses relating to dispute settlement; provisional measures; remedies; compensation.

9. Emerging Issues in International Investment Law

Recent developments in ICSID practice and procedure; regional, sectoral, and multilateral agreements on investment; investment and environment; investment and human rights; investment and development; good governance; legitimacy and effectiveness of the legal regime for the protection of international investments.

Reading List

Compulsory Readings

Title	
1	Rudolf Dolzer, Christoph Schreuer: Principles of international investment law; Oxford: Oxford University Press, 2012.

Additional Readings

Title	
1	Jeswald W. Salacuse, The Law of Investment Treaties; Oxford University Press, 2015.
2	Zachary Douglas, Joost Pauwelyn, and Jorge E. Viñuales (eds), The foundations of international investment law: bringing theory into practice; Oxford, Oxford University Press, 2014.
3	Jonathan Bonnitcha, Substantive protection under investment treaties: A Legal and Economic Analysis; Cambridge Cambridge University Press, 2014.
4	R. Doak Bishop, James Crawford, W. Michael Reisman: Foreign investment disputes: cases, materials, and commentary; The Hague: Kluwer Law International, 2014.
5	Freya Baetens (ed.), Investment Law within International Law: Integrationist Perspectives; Cambridge University Press, 2013
6	Krista Nadakavukaren Schefer, International investment law: text, cases and materials; Edward Elgar, 2013
7	Hege Elisabeth Kjos, Applicable Law in Investor-State Arbitration: The interplay between national and international law; Oxford, Oxford University Press, 2013.
8	Chester Brown (ed), Commentaries on selected model investment treaties; Oxford, Oxford University Press, 2013.
9	Chester Brown and Kate Miles, Evolution in investment treaty law and arbitration, Cambridge, Cambridge University Press, 2011.
10	Lucy Reed, Jan Paulsson, Nigel Blackaby: Guide to ICSID arbitration; The Hague: Kluwer Law International, 2010.
11	M. Sornarajah: The international law on foreign investment; Cambridge, Cambridge University Press 2010.

12	Zachary Douglas, <i>The international law of investment claims</i> ; Cambridge, Cambridge University Press, 2009.
13	Andrew Newcombe and Lluís Paradell, <i>Law and practice of investment treaties: standards of treatment</i> ; The Hague, Kluwer Law International, 2009.
14	Christopher Dugan, Noah D. Rubins, Don Wallace, Borzu Sabahi: <i>Investor-State Arbitration</i> ; Oxford, Oxford University Press, 2008.
15	Campbell McLachlan, Laurence Shore, and Matthew Weiniger, <i>International investment arbitration: substantive principles</i> ; Oxford, Oxford University Press 2007.
16	Norbert Horn, Stefan Kroell (eds.): <i>Arbitrating foreign investment disputes</i> ; The Hague: Kluwer Law International, 2004.
17	Christoph H. Schreuer: <i>The ICSID Convention: A commentary on the Convention on the Settlement of Investment Disputes between States and Nationals of Other States</i> ; Cambridge, Cambridge University Press, 2001.
18	Online Resources:
19	www.kluwerarbitration.com
20	http://icsid.worldbank.org/ICSID/Index.jsp
21	www.investmentclaims.com
22	http://ita.law.uvic.ca/
23	www.naftaclaims.com
24	http://www.iareporter.com
25	http://www.iisd.org/investment/itn/