

**MODULE SPECIFICATION AND GUIDE:
Transnational Investment Law and Policy
Semester 1, (2008/2009)**

Introduction

The purpose of the Module Specification and Guide is to describe an academic module concisely and in a way that is helpful to students and staff.

- The Module Specification defines summary information regarding aims, content, assessment and credit rating.
- The Module Guide provides information to help students engage with the Module successfully.

Module Specification

Title Transnational Investment Law and Policy

School responsible: Postgraduate School of Management and Policy

Programme Board (s) CEPMLP

Aims: The main objectives of this course are to provide a survey of international investment law and policies, and to set the various approaches to regulating foreign investment in a social, economic and political context. In addition the course will provide students with an understanding of current and emerging developments in investment laws and policies

Learning outcomes:

On completion of this course, the student should be able to:

- describe the economic rationale behind trans-national investment and identify the different actors involved along with their respective interests and roles;
- appreciate the political, economic and social context in which international investment takes place;
- describe the different forms of foreign investment and role of bilateral and multilateral investment treaties for the promotion and protection of such investment; and
- appreciate the peculiar features of international investment disputes and the different ways of settling them.

Indicative content

LECTURE 1.

I. INTRODUCTION.

1. Nature, Evolution and Context of International Investment Law
 - a. what is foreign investment?
 - b. why invest overseas
 - c. trade and investment

- d. evolution of international law of foreign investment
- 2. Major actors, interests and responsibilities
 - a. multinational corporations: non-recognition in international law, code of conduct
 - b. state enterprises: origin, contracting power (ultra vires), jurisdictional immunity
 - c. international organisations: UN, OECD, IMF & WB, ICSID
- 3. Investors and Investments
 - a. the concept of investment
 - b. investors: individuals, companies, nationality and shareholders
- 4. Admission and Establishment
 - a. national law models on investment promotion and restrictions
 - b. treaty models of admission
 - c. performance requirements
- 5. Investment Contracts
 - a. types of investment contracts
 - b. applicable law
 - c. stabilisation clauses
 - d. renegotiation/adaptation clauses
- 6. Standards of Protection
 - a. state responsibility and attribution
 - b. national treatment, arbitrary or discriminatory measures
 - c. most favoured nation treatment
 - d. full protection and security
 - e. fair and equitable treatment
 - f. transfer of funds
 - g. emergency exceptions: state of necessity and force majeure
- 7. Expropriation and Compensation
 - a. the right to expropriate
 - b. direct and indirect expropriation
 - c. standards of compensation
- 8. Political Risk
 - a. traditional political risk: expropriation, breach of contract and currency transfer restrictions
 - b. regulatory and fiscal risk
 - c. NGOs and civil society
 - d. risk management: insurance, contractual
- 9. Dispute settlement and Enforcement
 - a. methods of dispute settlement
 - b. state v state disputes
 - c. investor v state disputes
 - d. enforcement of arbitral awards

Credit rating: Level SHE5 **Volume** 20 SCOTCAT points, 2 CEPMLP credits

Assessment:

Degree Examination

No. of exams and duration of each: One exam taking 2hrs

Proportion of total assessment: 30%

Assessed Coursework

One research paper of not more than 3000 words

Proportion of total assessment: 60%

Class Presentations: 10%

Exemption

N/a

When is the Module taught?

Semester 1

Delivery mode

Face to Face

Entry requirements or pre-requisites

None

Co-requisites

None

Anti-requisites

None

Review

2003

Revision

2008

Methods of Teaching, Learning and Assessment This module has 30 contact hours which provide the student with the basic tools and concepts to carry out the necessary self-study to master the basics of the subject before carrying out an individual research project. The assessment will be made on the basis of a formal examination (30 %) taking two hours, a

research paper to be prepared by each student which should have a total of not more than 3000 words (60 %) and class presentations by each student on assigned topic(s) (10%).

Student Effort:

Contact time

30 hours

Personal supporting study

Students are expected to:

- read items on the reading list, before addressing the topic of their research paper and doing further reading for this paper, and
- actively participate in class discussions.

Estimate of total personal study time:

170 hours

Total notional student hours (contact time + personal study)

200 hrs

Specific information relating to this module:

The role of course director and any other instructors is to provide the overall framework for the students' study, to highlight the main issues, to explain the difficult concepts, and to guide the students' self study.

The student has the responsibility to structure their use of the learning resources provided, identify other learning resources, manage their time, and prepare for the defined assessment.

Student comment and feedback Indication of 1) how students may make comments during the module 2) how students' feedback comments will be obtained

Students may address comments and questions to the course director at any time during the course. A specific feedback questionnaire will be given to students to complete in the last class of the course.

Primary references:

The basic texts used for this course are:

1. Rudolf Dolzer and Christoph Schreuer, Principles of International Investment Law (Oxford University Press, 2008).
2. Peter Muchlinski, Multinational Enterprise and the Law (2nd ed. (2007)
3. M Sornarajah, The International Law on Foreign Investment (Cambridge University Press, 2004).

Supplementary Readings are provided under the "Readings" section of the VLE

Staff contact details

Dr Abba Kolo: a.a.kolo@dundee.ac.uk

Professor Thomas Wälde: twaelde@aol.com

Dr Melaku Geboye Desta: m.g.desta@dundee.ac.uk