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Fordham Law School
Time: 4:00 p.m. - 5:50 p.m.

Rm. 211

Spring 2008

INTERNATIONAL INVESTMENT LAW

This seminar will be led by Professor Victor Essien. There is no basic text. Selected readings for each week's class may be downloaded from the Professor's TWEN page.

WEEK ONE: FOREIGN INVESTMENT IN WORLD DEVELOPMENT: (Mon., Jan. 7, 2008) THE CONTEXTUAL FRAMEWORK

Readings:

- (1) Bunn, I. ----- "The Right to Development: Implications for International Economic Law" 15 Am. U. Int'l L. Rev. 1425 (2000) ; 15 AMUILR 1425
- (2) Wallace, Don & D.B. Bailey ----- "The Inevitability of National Treatment of of F.D.I. with Increasingly Few and Narrow Exceptions." 31 Cornell Int'l L.J. 615 (1998) ; 31 CNLILJ 615
- (3) Asante, S.K.B. ----- "International Law and Foreign Investment: A Reappraisal." 37 Int'l & Comp. L.Q. 588 (1988)
- (4) Hunter, Richard J. R .E. Shapiro & ----- "Legal Considerations in Foreign
L.V. Ryan Direct Investment" 28 Okla City U. L. Rev. 851 (2003); 28 OKCULR 851

WEEK TWO: FOREIGN INVESTMENT IN WORLD DEVELOPMENT: (Mon., Jan. 14, 2008) THE LEGAL FRAMEWORK

Readings:

- (1) Barberis, D. ----- Negotiating Mining Agreements: Past, Present & Future Trends. 13-60 (1998)
- (2) Smith, D.N. & L.T. Wells ----- Negotiating Third-World Mineral Agreements (1975) pp. 27-58

- (3) Walde, T.W. & George K. Ndi ----- “Stabilizing International Investment Commitments: International Law versus Contract Interpretation” 31 Tex. Int’l L. J. 215 (1996); 31 TXILJ 215

WEEK THREE: INVESTMENT INCENTIVE LAWS AND OTHER LEGISLATION DEFINING PARAMETERS OF HOST GOVERNMENT - FOREIGN INVESTOR RELATIONSHIP
(Mon., Jan 28, 2008)

Readings:

- (1) Gray C.W. & W.W. Jarosz----- "Law and the Regulation of Foreign Direct Investment....." 33 Colum. J. Transnat’l L. 1. (1995) ; 33 CLMJTL 1
- (2) Vargas, J.A. ----- “Mexico’s Foreign Investment Regulations of 1998" 23 Hous. J. Int’l L. 1 (2000)
- (3) Bryan, G., et. al.. ----- "Foreign Investment Laws & Regulation of Democratic People’s Republic of Korea.” 21 Fordham J. Int’l L 1677 (1998); 21 FDMILJ 1677
- (4) Qin, L.M. ----- Attracting Foreign Investment into the PRC: The Enactment of Foreign Investment Laws. 4 Sing. J. Int’l. & Comp. L 159 (2000); 4 SINGJICL 159

WEEK FOUR: HOME GOVERNMENT INCENTIVES FOR FOREIGN INVESTMENTS
(Mon., Feb. 4, 2008)

Readings:

- (1) Low, L., A.K. Bjorklund & K.C. Atkinson – “The Inter-American Convention Against Corruption: A Comparison with the U.S. Foreign Corrupt Practices Act” 38 Va J. Int’l L. 243 (1998) ; 38 VAJIL 243
- (2) Perry, M.B. ----- “A Model for Efficient Foreign Aid: The Case for the Political Risk Activities of the Overseas Private Investment Corporation” 36 Va J. Int’l L. 511 (1996) ; 36 VAJIL 511

- (3) Sheppard, H.E. ----- “Revamping the Export-Import Bank in 2002: The Impact of this Interim Solution on the United States and Latin America”.
6 N.Y.U. J. Legis. & Pub. Pol’y 89 (2002-2003); 6 NYUJLPP 89

(For reference purposes only)

- (5) I.C.S.I.D. ----- Investment Promotion and Protection Treaties (1983)
- (6) I.C.S.I.D. ----- Investment Laws of the World (looseleaf)
- (7) U.N.C.T.C. ----- Bilateral Investment Treaties (1988)

**WEEK FIVE: INTERNATIONAL REGULATION OF TRANSNATIONAL CORPORATIONS
(Mon., Feb. 11, 2008)**

Readings:

- (1) U.N.C.T.C. ----- Transnational Corporation in World Development: Trends and Prospects, New York, U.N. pp. 331-368 (1988)
- (2) Blanpain, R.----- “Multinational Enterprises and Codes of Conduct...in Blanpain, R& C. Engels. Comparative Labor Law (2000) 185-206
- (3) Dattu, R. ----- “A Journey From Havana to Paris: The Fifty Year Quest for the Elusive Multilateral Agreement on Investment.” 24 Fordham Int’l L. J. 275 (2000) ; 24 FDMILJ 275

(2) Essien, V.L.K. ----- Private Foreign Investment and African Economic Development pp.179-184 (1985)

(3) Blinn, K.W. et al. ----- International Petroleum Exploration and Exploitation Agreements pp.153-163 (1986)

**WEEK NINE: TERMS OF CONTRACT: CLAUSES PROMOTING LINKAGES
(Mon., Mar. 10, 2008)**

Reading:

(1) Smith, D.N. & L.T. Wells ----- Negotiating Third World Mineral Agreements (1975) pp. 97

(2) Linares, J.C. ----- “The Development Dilemma: Reconciling U.S. Foreign Direct Investment in Latin America with Laborers’ Rights: A Case study of Mexico, The Dominican Republic and Costa Rica”
29 N.C. J. Int’l L. & Com Reg 249 (2003) ; 29 NCJILCR 249

(3) Blinn, K.W. et. al ----- International Petroleum Exploration and Exploitation Agreements (1986) pp. 163-180

(4) Selected Investments Contracts

**WEEK TEN: TERMS OF CONTRACT: PROVISIONS DEALING WITH
(Wed., Mar. 26, 2008) THE ENVIRONMENTAL AND SOCIAL AGENDA**

Readings:

(1) Kirchner, et al. ----- Mining Ventures in Developing Countries pp. 212-235 (1981)

(2) Flores, M. . ----- “A Practical Approach to Allocating Environmental Liability and Stabilizing Foreign Investment in the Energy Sectors of Developing Countries.”
12 Colo J. Int’l Envtl L. & Pol’y 141 (2001); 12 COJIELP 141

(3)

(4) Rubin, L.P. ----- "Using Communication and Consultation to Protect Human Rights During a Village Resettlement" in UN Global Compact, Embedding Human Rights Into Business Practice II pp 99-111 (2007).

(5) Chopra, S.----- "Multinational Corporations in the Aftermath of BHOPAL...." 29 Val U. L. Rev. 235 (1994)

(6) Selected Investment Contracts

**WEEK ELEVEN: TERMS OF CONTRACT: CLAUSES DEALING WITH
(Mon., Mar. 31, 2008) EXPROPRIATION AND NATIONALIZATIONS**

Readings:

(1) Norton, P. ----- "A Law of the Future or a Law of the Past? Modern Tribunals and International Law of Expropriation." 85 Am. J. Int'l L. 474 (1991);
85 AMJIL 474

(2) Hober, K. ----- "Investment Arbitration in Eastern Europe: Recent Cases on Expropriation" 14 Am. Rev. Int'l Arb. 377 (2003)
14 AMRIARB 377

3) Barrett, R.----- "Avoiding The Expropriation Nightmare: Tax Consequences and Asset Protection Techniques" 52 U. Miami L. Rev. 831 (1998); 52 UMIALR 831

**WEEK TWELVE: TERMS OF CONTRACT: CLAUSES ENSURING GOOD
(Mon., Apr. 7, 2008) FAITH PERFORMANCE**

(1) Blinn, et al. ----- International Petroleum Exploration and Exploitation Agreements pp. 121-152 (1986)

(2) Greenfield, Don & Bob Rooney---- Aspects of International Petroleum Agreements 37 Alberta L. Rev. 352 (1999)

(3) Selected Investment Contracts

WEEK THIRTEEN:
(Mon., Apr. 14, 2008)

**MISCELLANEOUS PROVISIONS: REPORTING,
ACCOUNTING, AUDITING, FORCE MAJEURE,
TITLE OF ASSETS**

Readings:

- (1) Blinn, et al. ----- International Petroleum Exploration
and Exploitation Agreements (1986)
- (2) Essien, V.L.K. ----- Private Foreign Investment and
African Economic Development (1985) pp.
189-199
- (3) Selected Investment Contracts

WEEK FOURTEEN:
(Mon., Apr. 21, 2008)

**GENERAL PERSPECTIVES: COUNSELING THE
FOREIGN INVESTOR**

LAST DAY OF CLASSES

ALL PAPERS DUE

