

University of Vienna
School of Law
LL.M. in International Legal Studies
Winter Semester 2007/2008

Course Title: International Investment Arbitration

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I. Course Description and Objectives

This course covers international arbitration between States and foreign investors. Arbitration is the preferred method for the settlement of disputes arising from investments. The proliferation of bilateral investment treaties has contributed to a dramatic increase in investor-State arbitrations in the last couple of years.

Investment arbitration is a vibrant field that shows international law in action. It is also an excellent example of how international conflicts can be resolved peacefully and without the usual confrontation between governments. Investment arbitration is an area of international litigation where competition between large international law firms is particularly intense.

II. Course Outline

1. The different ways to settle investment disputes
2. The role of domestic courts
3. Arbitration and conciliation
4. Different arbitration institutions
5. The parties to the dispute (jurisdiction *ratione personae*)
6. The concept of an investment (jurisdiction *ratione materiae*)
7. Consent to arbitration
8. Most favoured nation status and jurisdiction
9. Procedure and evidence
10. Provisional measures
11. Applicable law
12. damages, compensation, injunctive relief
13. Costs

14. Challenge and review of decisions
15. Enforcement and immunities

III. Reading Material

UNCTAD has developed a course on investment arbitration in nine modules. The course is available online at

<http://r0.unctad.org/disputesettlement/course.htm>

Please use Part 2 relating to the International Centre for Settlement of Investment Disputes, modules 2.1 - 2.9. A printed version of the course is available in the Department's library and may be copied.

Other reading material:

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

C. Schreuer, *The ICSID Convention: A Commentary* (Cambridge University Press 2001).
[2d edition in preparation]

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

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

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

The following books are in preparation and should become available in the course of the academic year:

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

P. Muchlinski/F. Ortino/C. Schreuer (eds.), *The Oxford Handbook of International Investment Law* (Oxford University Press).

IV. 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/ia>.

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/>

V. 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 available in advance. Students are expected to prepare and to discuss the material in class.

VI. Assessment Method

- A. There will be a 2-hour written final examination which will be worth 70% of the final course mark.
- B. Class participation is expected. It will be worth 30% of the final course mark.