

INTERNATIONAL INVESTMENT LAW

Professor Schreuer

General readings:

R.D. Bishop, J. Crawford, W.M. Reisman, Foreign Investment Disputes (2005).
[Bishop/Crawford/Reisman]

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

UNCTAD, Course on Dispute Settlement, booklets 2.1 - 2.9
<http://r0.unctad.org/disputesettlement/course.htm>

Abbreviations:

BIT	= Bilateral Investment Treaty
ECT	= Energy Charter Treaty
FDI	= Foreign Direct Investment
FET	= Fair and Equitable Treatment
ICSID	= International Centre for Settlement of Investment Disputes
IL	= International Law
MFN	= Most Favoured Nation Treatment
MIGA	= Multilateral Investment Guarantee Agency
NAFTA	= North American Free Trade Agreement
OPIC	= (U.S.) Overseas Private Investment Corporation

1. INTRODUCTION

The concept of investment, the conflicting interests of the host State and the investor, attitudes towards foreign investment, investment and economic development, factors influencing the flow of investment, political risk and FDI.

Readings:

Bishop/Crawford/Reisman pp. 1-17.

2. THE SOURCES OF INTERNATIONAL INVESTMENT LAW

The customary IL of investment, bilateral investment treaties, multilateral treaties, guidelines and codes of conduct, resolutions, national legislation.

Readings:

Bishop/Crawford/Reisman pp. 47-48, 73-79, 120-127, 712-724.
ICSID Convention

3. INVESTMENT CONTRACTS

The nature of State/investor contracts, from concessions to development agreements, internationalization, applicable law, stabilization, arbitration.

Readings:

Bishop/Crawford/Reisman pp. 213-215, 227-230, 255-256, 267-268, 295-299, 303-304, 308, 311-313.

4. STANDARDS OF TREATMENT

The regulatory framework for FDI, standards of protection, FET, full protection and security, umbrella clauses, national treatment, MFN clauses.

Readings:

Bishop/Crawford/Reisman pp. 1007-1027, 1041-1044, 1049-1060, 1095-1103, 1134, 1146-1151, 1156-1162.

Eureko v. Poland, Award, 19 August 2005, paras. 244-260.

5. EXPROPRIATION

Permissibility of expropriation, the requirements for legal expropriations, indirect expropriation, .

Readings:

Bishop/Crawford/Reisman pp. 837-843, 851-853, 864-867, 877-878, 895-898, 1119-1122.

6. RESPONSIBILITY OF THE HOST STATE

Responsibility for illegal acts, attribution, necessity.

Readings:

Bishop/Crawford/Reisman pp. 799-824, 1203-1213.

7. PROTECTION BY THE INVESTOR'S HOME STATE

Diplomatic protection, nationality of corporations, the Calvo doctrine.

Readings:

Bishop/Crawford/Reisman pp. 759-776.

8. INVESTMENT INSURANCE

National insurance systems, OPIC, MIGA.

Readings:

Bishop/Crawford/Reisman pp. 491-501, 517-521, 526-530, 555-562.

9. DISPUTE SETTLEMENT

Methods of dispute settlement, treaty arbitration, applicable law, enforcement of arbitral awards.

Readings:

UNCTAD Course on Dispute Settlement: ICSID (A. Reinisch, booklet 2.2):

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

Bishop/Crawford/Reisman pp. 626-627, 641-645, 650-654, 689-694, 697-703, 1515-1528.

10. ICSID

The Convention on the Settlement of Investment Disputes between States and Nationals of other States, conciliation and arbitration, jurisdiction, applicable law, annulment, enforcement.

Readings:

UNCTAD Course on Dispute Settlement: ICSID (booklets 2.1, 2.3-2.9):

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

Bishop/Crawford/Reisman pp. 317-326, 333-337, 1542-1549.