

City University of Hong Kong

**Information on a Course
offered by School of Law
with effect from Semester B in 2013/2014**

Part I

Course Title: International Investment Law

Course Code: LW6143C

Course Duration: One semester

Credit Units: 3

Level: P6

Medium of Instruction: predominantly Chinese (Putonghua),

Prerequisites: Nil

Precursors: LW6144C/LW6144E - International Trade Law
LW6130C/LW6130E - Seminar on Advanced Issues in International Law

Equivalent Courses: LW6143C, LW6142E and LW5542 International Investment Law

Exclusive Courses: LW6168E Selected Problems in International Investment Law
(Students who have completed LW6143C/LW6142E are not allowed to take LW6168E. Also, students who have completed LW6168E are not allowed to take LW6143C/LW6142E.)
LW6543C/LW6542E International Investment Law

Part II

Course Aims

This course aims to provide students with an overview of international laws and treaties governing international investment activities, protection and issuance, to offer students practical examples in order to understand and apply those laws and treaties and to understand how international investment disputes may be resolved.

Course Intended Learning Outcomes (CILOs)

Upon successful completion of this course, students should be able to:

No.	CILOs	Weighting (if applicable)	Alignment of CILOs with PILOs	
			Stream	PILO No. Contributed to
1.	Identify and analyse the basic principles of international investment law, including international laws and treaties governing the protection of international investments		IEL	1, 2
2.	Critically analyse on options for the enforcement of these principles, including the international law on state responsibility and the settlement of disputes		IEL	3
3.	Explain the functioning of international institutions relevant to this field, especially that of arbitral tribunals such as those under ICSID		IEL	1, 2
4.	Compare the economic, political, historic, and other background to past and present discussions in this field		IEL	1, 2
5.	Apply the principles to actual and potential legal problems arising from those laws and treaties, including an objective discussion of all relevant arguments		IEL	3
6.	Conduct legal research in this area by identifying and using sources appropriate for high-level professional and academic legal work.		IEL	4

Teaching and Learning Activities (TLAs)

(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	TLAs	Hours/week (if applicable)
CILO 1-6	<p>Lectures and seminars (combined).</p> <p>Students are required to do preparatory readings before class.</p> <p>Student seminars supplemented by additional talks by distinguished visitors, scholars, and practitioners</p> <p>Lectures and individual or small-group activities, such as case-presentations, analysis and peer commentaries.</p>	<p>3 hours/week or a total of 39 hours of block teaching</p>

Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

AT No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	CILO Assessed	Remarks (exam duration, etc)
AT 1	Takehome examination	70%	1- 4, 5	48 hrs
AT 2	Class participation	30%	1-3	

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

The coursework will require the submission of a research paper. As a style guide, students will be required to use:

OSCOLA, The Oxford Standard for Citation of Legal Authorities, Faculty of Law, University of Oxford: <http://denning.law.ox.ac.uk/published/oscola.shtml>

Students are required to attend at least 70% of the classes (lectures, seminars, presentations). If a student does not meet this requirement, he/she may be disqualified for assessment.

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

Grading of Student Achievement: Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks/activities.

Part III

Keyword Syllabus

Introduction, The Sources of International Investment Law, Investment Contracts, Admission and Establishment, Expropriation Substantive Standards of Protection, Responsibility of the Host State, Investment Insurance, Dispute Resolution, The ICSID System, Emerging Issues in Modern Investment Law, Case Study.

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; concept and history of foreign direct investment (FDI); 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; differences between trade and investment.

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. Investors, Investments, and Investment Contracts

The nature of State-investor contracts; the concept of foreign investment; nationality of individuals and companies; shareholder protection; stabilization clauses; renegotiation of investment contracts.

4. Admission and Establishment

Conditions for admission of FDI, procedures, performance requirements, legal form of investment, local participation.

5. 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.

6. Substantive Standards of Protection

The regulatory framework for FDI, rights of investor for fair and equal treatment, full protection and security, national treatment, most-favoured-nation treatment (MFN), access to justice, protection against arbitrary or discriminatory treatment; umbrella clauses.

7. 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.

8. Investment Insurance

Political risks; national insurance systems, MIGA; private investment insurance.

9. Dispute Resolution

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

10. 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; enforcement.

11. 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; convergence of the laws on trade and investment; legitimacy and effectiveness of the legal regime for the protection of international investments.

12. Case Study

Recommended Reading

Text(s)

Wang Guiguo: International Investment Law, the Beijing University Press (Beijing, China), 2001.

Other required and supplementary readings such as specific law journal articles etc. will be assigned by the course leader. The course leader will make available relevant basic documents, such as texts of international treaties etc.

Online Resources

<http://icsid.worldbank.org/ICSID/Index.jsp>

http://www.unctadxi.org/templates/DocSearch_779.aspx (*search engine for BITs*)

<http://ita.law.uvic.ca>

<http://www.investmentclaims.com>

<http://www.naftaclaims.com>

<http://www.iareporter.com>

<http://www.iisd.org/investment/itn/>

<http://www.ll.georgetown.edu/intl/guides/InternationalInvestmentLaw.cfm>

<http://www.mpil.de/ww/en/pub/library.cfm> (*Library of the Max Planck Institute for Comparative Public Law and International Law, Heidelberg*)

<http://www.ppl.nl/bibliographies/all/?bibliography=investment> (*Bibliography on New Aspects of International Investment Law compiled by the Peace Palace Library, The Hague, The Netherlands*)

<http://www.cityu.edu.hk/lib/eres/ej/index.htm> (CityU Library e-Journals)

<http://libweb.cityu.edu.hk/lbdinst/westlaw.htm> (access to WESTLAW via CityU Library)

Supplementary Materials

Convention on the Settlement of Investment Disputes Between States and Nationals of Other States – History of the Convention, Documents concerning the origin and the formulation of the convention, 4 vols., Washington, D.C.: International Centre for Settlement of Investment Disputes, 1968-1970.

ICSID Reports, Cambridge, Grotius, 1993- (12 vols.)

Investment Laws of the World, International Centre for the Settlement of Investment Disputes (ICSID), Dobbs Ferry, N.Y, Oceana Publications (lose-leaf binders) 1972- (10 vols.)

International investment instruments: a compendium; United Nations Conference on Trade and Development (UNCTAD), Division on Transnational Corporations and Investment. New York: United Nations, 1996-2005 (10 vols.)

International Investment Law: A Changing Landscape, A Companion Volume to International Investment Perspectives, OECD, 2005

James Crawford (ed.), The International Law Commission's articles on state responsibility: introduction, text and commentaries; Cambridge: Cambridge University Press, 2002.

Philip Kunig, Niels Lau, Werner Meng (eds.): International economic law – Basic documents;
Berlin: W. de Gruyter, 1993.

World Investment Report, United Nations Conference on Trade and Development (UNCTAD),
New York: United Nations, 1991-2007

Journals (selected)

Arbitration International

Journal of International Arbitration

Journal of International Economic Law

ICSID Review-Foreign Investment Law Journal (FILJ)

Journal of World Investment and Trade