

Course title	International Investment Law				
Responsible person to enter grades	KAWASHIMA Fujio, Nikos LAVRANOS, Eco HAMERSMA			開講区分	単位数
				2nd semester	2.0
Numbering Code		Day・Period, etc.	Wed5(対面)	Timetable Slot Code	3J365

Lesson topic

This course will cover the main elements of “international investment law” and “investment treaty arbitration”. The outline of the course can be broadly divided into two elements. We will start with a historical overview outlining contemporary notions of international investment law. In doing so we will cover the development and origins of treaty systems. The perspective we will take for this first section will be from Japan, using local examples to explain what have become international standards. The second element of this course is focused on teaching all the contemporary aspects of international investment law and treaty arbitration. Here students gain the theoretical knowledge to put arbitration into practice. Furthermore, we will cover the most recent developments in Europe, Asia, and within the UNCITRAL Working Group III. Moreover, at the end of the course students will participate in a mock arbitration case will be done by the students in order to apply their theoretical knowledge into practice.

Lesson target

Upon completing the course, students will have an understanding of the following topics and be able to apply them in practice:

- Origins of International Investment Treaties (Based on Japanese historical examples)
- Introductory principles of International Investment Law
- Protection Standards contained in investment treaties
- Procedural aspects of investment treaty arbitration
- The arbitration process
- Recognition, enforcement, annulment, setting aside procedures
- Recent developments in International Investment Law

Syllabus and plan

There will be a total of fifteen lectures covering the following topics.

Week 1

- Introduction into International Investment Law
- Background on the Japanese entry into the international system
- History and sources of International Investment Law

Week 2

- Continuation

Week 3

- Continuation

Week 4

- Protection Standards contained in investment treaties
- Public interests limitations on foreign investors' protection
- Obligations to protect and respect public interests

Week 5

- Continuation
- Student Presentations

Week 6

- Continuation

Week 7

- Procedural aspects of investment treaty arbitration

Week 8

- Continuation

Week 9

- Recognition, enforcement, annulment, setting aside procedures

Week 10

- The arbitration process

Week 11

- A look inside a functional tribunal

Week 12

- Recent developments in International Investment Law

Week 13

- Recent developments in International Investment Law
- Q&A session

Week 14: Online in real time

- Special guest lecture of Prof. Nikos Lavranos
- Q&A session

Week 15

- Mock Arbitration
- Prof. Nikos Lavranos will be in the tribunal for this process

Evaluation method

Your final grade will be calculated according to the following process:

Presentation 1 15%, Presentation 2 15%, in-class contribution: 15%, Mock arbitration performance: 25%, Final Essay 30%

Evaluation baseline

- Students should be able to explain the main concepts and definitions of “international investment law” and “investment treaty arbitration” as well as recent developments in those areas.
- Two presentations are expected, where in the first the student applies the historical example of Japan to extrapolate their own countries entry into the international system. For Japanese students they can either select another country of their choice to do the same, or discuss an aspect not covered in the course. For the second presentation the student applies practical knowledge by discussing an investment treaty of their own country.
- For the mock arbitration, students are to defend the position of either the host state or investor in a practical example of an investment dispute.
- The Final Essay should be completed with appropriate research questions, hypotheses, logical arguments, evidence based on the discussion in the course. Proper references will be required.

Notice (include info. on related class)

Prior to taking this course, students are expected to have knowledge of public international law, international economic/trade law and as well as a general understanding of the international relations system. Knowledge of the economic/historical circumstances in East Asian during the early modern period would be a plus.

Review and preparation

Prior to class: Read all the assigned materials (the Textbook chapters and the PowerPoint slides) and prepare the case-law before each lecture.

Preparation for the Mock Arbitration: as soon as the case is given to the class and the teams have been formed, start working with your team members to prepare your arguments and practice for the Mock Arbitration.

Presentations: Two very short, structured comments on the class material. The purpose of both presentations is to ensure students have the ability to apply the knowledge they have learned during class.

Review: Read the materials again and develop better understanding of the topics covered during the course.

Office hour · Contact information

Contact details will be announced during the course.

Message for student

Students are recommended to get the textbook for review alongside the course. As the amount of copies in the library are limited acquiring the textbook before the course starts is recommended.

The classes will be structured as follows: After we have completed the historical overview, students will be asked to prepare the first presentation. After we have completed the contemporary section students will again be asked to make a presentation. In both cases students will be assessed on their ability to apply the knowledge they have learned.

Improvements in Teaching

Text

Yannick Radi, Rules and Practices of International Investment Law and Arbitration, Cambridge University Press 2020, <https://www.cambridge.org/core/books/international-investment-law/7C4F917B6618E808EB10542C0ED24670#fndtn-information>

Reference Material

1. ICSID Convention (2022),
https://icsid.worldbank.org/sites/default/files/documents/ICSID_Convention.pdf
2. UNCITRAL Arbitration Rules,
<https://docs.pca-cpa.org/2016/01/UNCITRAL-2013-English.pdf>
3. New York Convention (1958),
<http://www.newyorkconvention.org/11165/web/files/original/1/5/15432.pdf>
4. CPTPP,
<https://www.dfat.gov.au/trade/agreements/in-force/cptpp/official-documents/Pages/official-documents>
5. EU-JAPAN FTA
https://www.mofa.go.jp/policy/economy/page6e_000013.html
6. EU-Singapore FTA
7. <https://trade.ec.europa.eu/access-to-markets/en/content/eu-singapore-free-trade-agreementRCEP>
<https://rcepsec.org/legal-text/>
8. CETA
<https://ec.europa.eu/trade/policy/in-focus/ceta/ceta-chapter-by-chapter/>
9. NAFTA/USMCA
<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between>
10. ECT (1994)
<https://www.energycharter.org/fileadmin/DocumentsMedia/Legal/ECTC-en.pdf>
11. ECT (revised 2022 text, not yet adopted)
<https://www.energycharter.org/fileadmin/DocumentsMedia/CCDECS/2022/CCDEC202210.pdf>
12. Dutch Model BIT text (2019)
<http://arbitrationblog.kluwerarbitration.com/wp-content/uploads/sites/48/2020/05/new-model-Netherlands-BIT.pdf>

(Reference URLs)

1. UNCITRAL Working Group III on ISDS reforms
https://uncitral.un.org/en/working_groups/3/investor-state
2. <https://www.italaw.com/>
3. <https://investmentpolicy.unctad.org/>
4. <http://arbitrationblog.kluwerarbitration.com/>
5. <https://efila.org/>

Classroom Language

English

Keywords

International Law; Foreign Investment; International Arbitration; History