

Advanced International Investment Law

Semester: Spring semester- FS 2025.

ECTS: 5.

Lecturer: Dr Rodrigo Polanco.

Dates: Tuesdays 10:15 – 12:00.

Room: Silva Casa Auditorium, World Trade Institute.

Audience:

- Master of Advanced Studies of International Law and Economics (MILE) Students – Elective
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe – Elective
- Master Level students, University of Bern - Elective
- Certificate of Advanced Studies / Diploma of Advanced Studies in International Law and Economics (CAS ILE & DAS ILE) Students - World Trade Institute, Unibe – Elective

Course Description

This course thoroughly examines selected international law topics governing foreign investment. It covers new developments concerning investment facilitation, investment screening, pre-establishment, establishment, and performance requirements, as well as further research that tackles whether international investment agreements (IIAs) promote foreign investment or serve other purposes. Particular emphasis is given to the relationship between IIAs and public policies, examining exceptions, carve-outs, and non-conforming measures, and the relationship with the “right to regulate” in sensitive policy areas, like sustainable development, climate change, human rights, economic

sanctions, political risk, digitalisation, and taxation. This course also covers new developments in investor-state dispute settlement mechanism (ISDS) concerning conflicts of interests, the role of third parties (and third parties funding), transparency, provisional measures, and a review of the criticisms of the international investment regime, its reform process, and possible alternatives.

Prior attendance to a course providing an introduction to international investment law is desirable but not mandatory.

Lecturer

Rodrigo Polanco

Rodrigo Polanco is a senior lecturer, researcher, and academic coordinator of Master Programmes at the World Trade Institute (WTI), University of Bern, and a Legal Adviser for Spanish and Portuguese-speaking jurisdictions at the Swiss Institute of Comparative Law. In addition, he is a visiting professor at the University of Chile, where he is also a member of the editorial board of the Journal of Economic Law (*Revista de Derecho Económico*).

Rodrigo holds a Bachelor's and a Master of Laws from Universidad de Chile, an LL.M. in International Legal Studies from New York University, and a Ph.D. in Law from the University of Bern.

He has published extensively as an author and editor in leading international academic publishers and international journals on investment, trade, tax, and environmental law. He co-founded the Electronic Database of Investment Treaties (EDIT).

Rodrigo coordinated the WTI/SECO Project, which supported regional competence centres for trade law and policy in Peru, South Africa, Vietnam, Indonesia, and Chile, and the SNIS Project "Diffusion of International Law: A Textual Analysis of International Investment Agreements". He was a post-doctoral researcher at the University of Luzern ("The Governance of Big Data in Trade Agreements: Design, Diffusion and Implications – NFP 75") and an assistant professor and director of international affairs at the University of Chile's Faculty of Law. He is a co-founder and member of the board of Fiscalía del Medio Ambiente (FIMA), a Chilean non-profit environmental organisation, serving on the editorial board of their environmental law journal (*Justicia Ambiental*).

Learning Outcomes

- Gain an advanced understanding of the relationship between the special regime of protection of foreign investors and important domestic policies like those concerning the environment, sustainable development, climate change, and human rights, among others.
- Learn about advanced developments in investment law treaty-making and the reform process underway.
- Learn about advanced elements of international investment arbitration and the most recent developments in case law.

Exams and Grades

The course examination will be an oral exam, following the University of Bern grading system.

Course Overview

Class	Date	Day	Time	Hours	Lecturer	Topic
1	18. Feb.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	International Investment Agreements: Origins and Effects
2	25. Feb.2025	Tuesday	10:15 – 12:00 hrs.	2	Wafaa Saadeh	Investment Facilitation
3	04. Mar.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Screening and Pre-establishment of Investments
4	11. Mar.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Performance Requirements in Investment Treaties
5	18. Mar.2025	Tuesday	10:15 – 12:00 hrs.	2	Wafaa Saadeh	Investment Insurance
6	25. Mar.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	The Effects of Digitalisation on Investment Treaties
7	01. Apr.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Denial of Benefits, Carve-outs, and Exceptions
8	08. Apr.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investment Law and Public Policies I: Investment Treaties and Taxation
9	15. Apr.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investment Law and Public Policies II: Investment Treaties and Economic Sanctions
10	29. Apr.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investment Law and Public Policies III: Sustainable Development and the Environment
11	06. May.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investment Law and Public Policies IV: Labour and Human Rights
12	13. May.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investor-State Dispute Settlement (ISDS) I: Appointment and Challenge of Arbitrators
13	20. May.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investor-State Dispute Settlement (ISDS) II: Third Parties in ISDS
14	27. May.2025	Tuesday	10:15 – 12:00 hrs.	2	Rodrigo Polanco	Investor-State Dispute Settlement (ISDS) III: Annulment, Enforcement and Compliance

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