

International Investment Law

Semester: Fall semester- FS 2025

ECTS: 5

Lecturer: Dr Rodrigo Polanco

Dates: Tuesdays 10:15 – 12:00.

Room: Silva Casa Auditorium, World Trade Institute

Course Description

This course provides an introduction to the international law governing foreign investment, analyzing multilateral, regional and bilateral international investment agreements (IIAs), in particular with regard to investment protection and promotion in bilateral investment treaties (BITs) and preferential trade agreements (PTAs).

The course addresses key rule-making dynamics and challenges in investment negotiations, as well as the rapidly evolving landscape of investment rules under IIAs. It covers the essential elements of IIAs, including their scope of application, standards of treatment, and protection, as developed in treaties and cases.

It also provides a brief examination of investor-state dispute settlement (ISDS) mechanisms and the problems related to investment arbitration and its implications for the development of rules and procedures in this field, as well as review the criticisms and reform process of the international investment regime.

Audience:

The course is designed for advanced students in law, economics or political science with a strong command of English and interest in international law and international relations, and especially for:

- Master of Advanced Studies of International Law and Economics (MILE) Students – Compulsory
- Joint LL.M. / Diploma of Advanced Studies Trade and Investment Law (TRAIL+) Students - World Trade Institute / Faculty of Law, Unibe - Compulsory
- 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

Prior knowledge of international law and/or domestic judicial institutions and procedures is helpful but not indispensable.

Schedule

| Class | Date | Day | Time | Hours | Lecturer | Topic |
|-------|--------------|---------|-------------------|-------|-----------------|---|
| 1 | 16. Sep.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Introduction to Investment Treaty Making |
| 2 | 23. Sep.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Scope of Application I |
| 3 | 30.Sep.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Scope of Application II |
| 4 | 07.Oct.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Scope of Application III |
| 5 | 14. Oct.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Relative Standards of Treatment I |
| 6 | 21. Oct.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Relative Standards of Treatment II |
| 7 | 28. Oct.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Absolute Standards of Treatment I |
| 8 | 04. Nov.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Absolute Standards of Treatment II |
| 9 | 11. Nov.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Standards of Protection I |
| 10 | 18. Nov.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Standards of Protection II |
| 11 | 25. Nov.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Introduction to Investor-State Dispute Settlement (ISDS) I |
| 12 | 02.Dec.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Introduction to Investor-State Dispute Settlement (ISDS) II |
| 13 | 09.Dec.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Criticisms to ISDS |
| 14 | 16.Dec.2025 | Tuesday | 10:15 – 12:00 hrs | 2 | Rodrigo Polanco | Alternatives to ISDS |

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Recording of class

Audio recordings of the lectures will be available. Those recordings may solely be used by students for the purpose of their studies and may not be shared.

Compulsory and recommended reading materials

Students will receive a reading list and a digital reader with chapters and sections from books and articles on the topics addressed in this course. The reader also contains basic international instruments and relevant decisions of international courts and tribunals. Note, in the reading list, the difference made between mandatory and optional reading materials.

Learning Outcomes

Gain an understanding of the special situation of foreign investors. Learn about the main principles as set out in international agreements and case law. Critically assess the movements to reform the current international investment law regime.

Exams and Grades

The final exam is an open-book oral exam of 20 minutes. The course will follow the University of Bern grading system.

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. He is also a visiting professor at the University of Chile, where he is a member of the editorial board of the Journal of Economic Law (Revista de Derecho Económico).

Rodrigo holds a Bachelor's and a Master's in Law from the 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 is the co-founder of the Electronic Database of Investment Treaties (EDIT).

Rodrigo coordinated the WTI/SECO Project, which supported regional competence centers 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". In addition, he served as a post-doctoral researcher at the University of Luzern ("The Governance of Big Data in Trade Agreements: Design, Diffusion and Implications – NFP 75") and as 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).