

WELCOME

Welcome to International Investment Law! This is a master of law course, intended for advanced students with a firm understanding of the basics of international law and a good passive (reading and listening) knowledge of English. The class meets Tuesdays from 10.15-12.00.

The readings indicated are from a textbook (which is available in the library as well as for purchase) and are to be done *before* class. I will call on persons to discuss cases and/or concepts found in the readings. While participation is not “graded” per individual contribution, **the overall impact of each student’s contributions to class discussions will be assessed** and factored into the final grade.

Please note that the exam for this course will be **oral and it will be open book**. To ensure that the examinations remain punctual, exam candidates will be expected to log into the waiting room **30 minutes prior** to his/her timeslot.

If you have questions during the semester, please write me an email at k.nadakavukaren@unibas.ch and we can arrange for a personal meeting.

Required Texts:

- Krista Nadakavukaren Schefer, INTERNATIONAL INVESTMENT LAW 3d ed. (Edward Elgar, 2020).
- Convention Establishing the International Center for the Settlement of Investment Disputes (ICSID Convention)
- Agreement Between the Government of the Hong Kong Special Administrative Region of the People’s Republic of China and the Government of the United Arab Emirates for the Promotion and Reciprocal Protection of Investments (*effective 06/03/2020*)
- Agreement Between the Swiss Confederation and the United Republic of Tanzania on the Promotion and Reciprocal Protection of Investments (*effective 06/04/2006*)
- Investment Cooperation and Facilitation Treaty Between the Federative Republic of Brazil and the Republic of India (*signed 25/01/2020; not yet in effect*)

Further Suggested Texts:

- David Collins, AN INTRODUCTION TO INTERNATIONAL INVESTMENT LAW (Cambridge, 2017)
- M. Sornarajah, The International Law on Foreign Investment 4th ed. (Cambridge, 2017)

** Reading list is subject to change; additional materials may be distributed in class*

READING ASSIGNMENTS

Date	Subject	Reading Assignment <i>* additional materials may be distributed in class</i>
21 Sept.	Introduction <input type="checkbox"/> What is International Investment Law? <input type="checkbox"/> History and Trends	<input type="checkbox"/> https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/Internationale_Investitionen/Vertragspolitik_der_Schweiz.html <input type="checkbox"/> Nadakavukaren, International Investment Law (Nadakavukaren), pp. 4-12
28 Sept.	Sources of Investment Law <input type="checkbox"/> Review of general international law sources <input type="checkbox"/> Sources of international investment law	<input type="checkbox"/> Nadakavukaren, pp. 33-71 ➤ <i>Discussion of Gustav FW Hamester v. Ghana, pp. 50-56</i>
05 Oct.	Definitions <input type="checkbox"/> Definition of “investor”	<input type="checkbox"/> Nadakavukaren, <i>Who is an investor?</i>, pp. 145-205 ➤ <i>Discussion of Soufraki v. UAE, pp. 148-151</i> ➤ <i>Discussion of Waguih Elie George Siag v. Egypt, pp. 151-156</i> ➤ <i>Discussion of Aguas del Tunari v. Bolivia, pp. 185-201</i>
12 Oct.	No Class	<input type="checkbox"/>
19 Oct.	Definitions (con't) <input type="checkbox"/> Definition of “investment”	<input type="checkbox"/> Nadakavukaren, <i>What is an investment?</i>, pp. 74-145 ➤ <i>Discussion of Romak v. Uzbekistan, pp. 83-89</i> ➤ <i>Discussion of Salini v. Morocco, pp. 94-96</i> ➤ <i>Discussion of Abaclat v. Argentina, pp. 121-131</i>
26 Oct.	Expropriation <input type="checkbox"/> Public purpose <input type="checkbox"/> Non-discrimination <input type="checkbox"/> Due process	<input type="checkbox"/> Nadakavukaren, <i>Expropriation</i>, pp. 207-234 ➤ <i>Discussion of Amoco Int'l Finance v. Iran, pp. 212-215</i> ➤ <i>Discussion of Mike Campbell et al. v. Zimbabwe, pp. 227-232</i>
02 Nov.	Expropriation (con't)	<input type="checkbox"/> Nadakavukaren, <i>Expropriation</i>, pp. 234-253, 299-337 ➤ <i>Discussion of Factory at Chorzów, pp. 244-245</i>

	<input type="checkbox"/> Compensation <input type="checkbox"/> Valuation	<ul style="list-style-type: none"> ➤ <i>Discussion of Metalclad v. Mexico, pp. 302-304</i> ➤ <i>Discussion of Amoco Int'l Finance v. Iran, pp. 305-311</i> ➤ <i>Discussion of Biwater Gauff v. Tanzania, pp. 326-337</i>
09 Nov.	<p>Indirect Expropriation</p> <p>Minimum Standards of Treatment, I</p> <input type="checkbox"/> Arbitrariness <input type="checkbox"/> Nat'l Treatment <input type="checkbox"/> MFN	<input type="checkbox"/> Nadakavukaren, <i>Indirect Expropriation</i>, pp. 253-299 <ul style="list-style-type: none"> ➤ <i>Discussion of Ampal-American Israel Corp. et al. v. Egypt, pp. 256-259</i> ➤ <i>Discussion of Tecmed v. Mexico, pp. 265-272</i> ➤ <i>Discussion of Marc E. Poirier, The NAFTA Chapter 11 Expropriation Debate, pp. 283-289</i> <input type="checkbox"/> Nadakavukaren, pp. 340-357 <input type="checkbox"/> Nadakavukaren, pp. 357-381
16 Nov.	<p>Minimum Standards of Treatment, II</p> <input type="checkbox"/> Full Protection and Security <input type="checkbox"/> Fair and Equitable Treatment	<input type="checkbox"/> Nadakavukaren, <i>Full Protection and Security</i>, pp. 384-399 <input type="checkbox"/> Nadakavukaren, <i>Fair and Equitable Treatment</i>, pp. 401-451 <ul style="list-style-type: none"> ➤ <i>Discussion of ELSI case, pp.</i> ➤ <i>Discussion of Occidental v. Ecuador, pp. 362-364</i> ➤ <i>Discussion of Sergei Paushok v. Mongolia, pp. 365-370</i> ➤ <i>Discussion of Bayinder v. Pakistan, pp. 378-381</i> ➤ <i>Discussion of Suez v. Argentina, pp. 390-397</i> ➤ <i>Discussion of Gold Reserve v. Bolivia, pp. 410-415</i> ➤ <i>Discussion of Glamis Gold v. US, pp. 416-424</i>
23 Nov.	Catch-up with case practice	✓ Nothing new...
30 Nov.	<p>Dispute Settlement</p> <p>- Structures</p> <p>- ICSID</p> <p>- Jurisdiction</p>	<input type="checkbox"/> Nadakavukaren, <i>Dispute Settlement</i>, pp. 467-560 <ul style="list-style-type: none"> ➤ <i>Discussion of Murphy Exploration v. Ecuador, pp. 505-508</i> ➤ <i>Discussion of Plama v. Bulgaria, pp. 521-529</i> ➤ <i>Discussion of Pac Rim Cayman v. El Salvador, pp. 552-560</i>
07 Dec.	<p>- Annulment</p> <p>- Award Recognition/ Enforcement</p> <p>- Arbitrator Challenges</p>	<input type="checkbox"/> Nadakavukaren, <i>Dispute Settlement</i>, pp. 565-588, 618-658 <ul style="list-style-type: none"> ➤ <i>Discussion of Urbaser v. Argentina, pp. 627-635</i>
14 Dec.	<p>Investment Insurance</p> <p>*Review</p>	<input type="checkbox"/> Nadakavukaren, <i>Investment Guarantees: Political Risk Insurance</i>, pp. 661-691

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