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International Trade

Session 9

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Welcome to the course on International Trade.

The ninth session of the course provides an introduction into **international investment law**.

International investment law deals with the **protection of foreign investments**, that is, domestic investors may not benefit from this protection. The major problem of international investment law is that **customary international law does not provide for the effective protection of foreign investments**. First, it is questionable if as a matter of **substantive law** investors whose property is expropriated by the host state are entitled to full compensation or but they are entitled merely to equitable compensation. Second, there is **no mandatory dispute settlement mechanism** through which investors could enforce their rights. That is, investors may have recourse to domestic courts but international arbitral tribunals have jurisdiction only if the host state assents to that.

As a result of the above predicament, countries started concluding **bilateral investment treaties (BITs)** with each other **to create clear and protective rules for investment with a view to stimulating investments**.

Please watch the following short video about international investment law, available at <https://www.youtube.com/watch?v=dJygJc0LaVU>

Please read paragraphs 1-30 of Christoph Schreuer: Investments, International Protection. It is a concise summary about international investment law and investment protection. It is available at

https://www.univie.ac.at/intlaw/wordpress/pdf/investments_Int_Protection.pdf

Please watch my video on why general public international law has proved to be insufficient to provide the necessary protection for foreign investors and why capital-exporting and capital-importing states felt compelled to develop a mechanism in the form of bilateral investment treaties (BITs).

At the end of the session, please answer the following questions:

- What is the protection provided by international investment law for foreign investments?
- What are the sources of international investment law?
- What is the most important purpose of bilateral investment treaties (BITs)?
- What are investment contracts and what function do they have in international investment law?

