M.S. Tumakova, *Ukrainian state university of finance and international trade, post-graduate, Sevastopol*

INTERNATIONAL INVESTMENT LAW AS A SPECIFIC DISCIPLINE

International investment law governs transactions between the investors of one country and the companies or governments which receive the funds in another country. Creating rules and guidelines encourages investment and global trade between countries, which would have been too risky and unpalatable for investors otherwise. Because the Internet has made international investment significantly easier, international investment law has become particularly topical.

International investment law defines the rights that a foreign investor has in a country in which they are not a citizen. It is within the power of each country to determine what laws should apply to foreign investors and how these laws differ from citizen investors. It is important to make sure that any overseas brokerage house you use is aware that you are foreign. You must research any applicable taxes and fees that you will have to pay as well as any incentives that might be available to you as a foreigner.

International investment law is governed by agreements and treaties signed between the investor's nation and investment nation. These agreements can change at any time and are not immune to international volatility and embargoes. Further, the laws surrounding investments in another country are governed by that country and as such may not be subject to the same scrutiny as in the United States. For example, according to MSN Money Central, it is usually difficult to get an accurate report of the health of a company and what its stock is worth from outside of the country.

The later half of the twentieth century marked a major shift in the climate of international investment law and created the climate that we have today. Between 1945 and 1989, there was some degree of international protection for foreign investors, but it was within an atmosphere of disagreement. More liberal countries practiced a certain degree of isolationism by reducing incentives for investors and subjecting them to the same laws and taxation as local investors. After 1989, a global spirit of mutual investment emerged in which countries embraced foreign investors and tax laws were created to avoid double taxation for returns on investments.

As investors have learned recently, the market value of investments can change suddenly. The world's economies are becoming more interrelated, and dramatic changes in stock value in one market can spread quickly to other markets. Keep in mind that even if you only invest in national stocks companies you already may have some international exposure in your investment portfolio. Many of the factors that affect foreign companies also affect the foreign business operations of national companies. The fear that economic problems around the globe will hurt the operations of national companies can cause dramatic changes in national stock prices.

Sudden changes in market value are only one important consideration in international investing. Changes in foreign currency exchange rates will affect all international investments, and there are other special risks you should consider before deciding whether to invest. The degree of risk may vary, depending on the

type of investment and the market. For example, international mutual funds may be less risky than direct investments in foreign markets, and investing in developed economies may avoid some of the risks of investing in emerging markets.

When a firm invests abroad, especially in developing economies, what protection does it enjoy under international law? Is it shielded, for example, against expropriation, discriminatory regulation or abuse by corrupted domestic courts? This course must examine the international law of investment protection both in customary law and treaties and bilateral investment treaties (BITs). It should provide an in-depth analysis of procedures for investor state dispute settlement under arbitral facilities such as ICSID and analyzes the exponentially growing case law in the field. The course aims to devote attention also to the environmental and social issues surrounding international legal protection of foreign investment (including the World Bank Inspection Panel) and multilateral efforts to regulate the rights and obligations of multinational corporations (including codes of conduct).

The specific aims of the course are: to assist students to develop an understanding of the issues involved in the regulation of trans-border investment; to give them an advanced knowledge of international investment law and its relationship to national legal systems; to develop an awareness of different methods of international investment law as compared to national law in such matters as textual interpretation and working with judicial decisions; to assist students to recognize international investment law problems in their subsequent careers and to point them in the direction of ways of resolving them.

The programme may consist of several sections:

Section A: Evolution of the law of foreign investment

Origins of the law of foreign investment: the early years

· National standards v. international minimum standard
· National treatment and the Calvo doctrine
· The duty to compensate and the Hull formula

Section B: International efforts to regulate foreign investment

· United Nations efforts
· Efforts made by the World Bank
· OECD efforts
· The role of the World Trade Organization

Section C: Regulation under bilateral and regional investment treaties (BITs)

· Origins of BITs
· The content of BITs
· Significance of BITs
· Regional treaties: NAFTA

Section D: The case-law on the treatment of foreign investment

· Fleshing out of the principles of the law of foreign investment
· Definition of expropriation and nationalization
· Determination of the quantum of compensation
· Extending the frontiers of expropriation

Tymakova, M.S. International Investment Law as a Specific Discipline [Текст] / М.С. Тумакова // Фінансова освіта: сучасний стан, проблеми та перспективи розвитку: зб. матеріалів Міжнародної навчально-методичної конференції (29-30 квітня 2010 р.). – Суми: УАБС НБУ, 2010. – С. 265-266.