

Treatment of Foreign Investment: International Perspectives

by
Prof. Julien Chaisse,
Professor,
The Chinese University of Hong Kong



Julien Chaisse is Professor at The Chinese University of Hong Kong (CUHK), Faculty of Law. He is an award-winning scholar of international law with a special focus on the regulation and development of economic globalization. His teaching and research include international trade/investment law, international taxation, law of natural resources, and Internet law. Prior to joining CUHK in 2009, Dr. Chaisse was a senior research fellow at the World Trade Institute (Switzerland). He also held an appointment as lecturer at elite school Sciences Po Aix (France) and served as a diplomat at the Embassy of France in New Delhi (India).

Dr. Chaisse is frequently invited to lecture at many academic institutions and leading universities around the world, including Columbia University (U.S.), University of Oxford (U.K.), Melbourne University (Australia), Tokyo University (Japan), and Tsinghua University (China). Dr. Chaisse has published numerous well-regarded and widely-cited books and articles, such as "The Regulation of Global Water Services Market", Cambridge University Press (2017); "International Economic Law and Governance", Oxford University Press (2016); "Shareholder Protection Reloaded", Stanford Journal of International Law (2016); "Navigating the Expanding Universe of International Treaties on Foreign Investment", Journal of International Economic Law (2015); "Maintaining the WTO's Supremacy in the International Trade Order", Journal of International Economic Law (2013); and "Promises and Pitfalls of the European Union Policy on Foreign Investment", Journal of International Economic Law (2012).



In recognition of his outstanding academic performance, Dr. Chaisse received the CUHK Vice-Chancellor's Exemplary Teaching Award in 2015 and the CUHK Research Award in 2012. Dr. Chaisse has held the appointment of Director of the Centre for Financial Regulation and Economic Development at CUHK Law since 2013, and has established forward-looking legal projects and events at CUHK, including the series of "Asia FDI Forum", which has become the most prominent conference on foreign investment regulation in Asia.

In addition to his professorship, Dr. Chaisse is a well-experienced arbitrator and a leading consultant to international organizations, governments, multinational law firms, and private investors. He is also member of some of the world's foremost organizations, including the World Economic Forum's International Trade and Investment Council and the Internet Corporation for Assigned Names and Numbers (ICANN) in which Dr. Chaisse serves on the Working Group on gTLDs' rights protection mechanisms review and the Accountability and Transparency Review program.

The **PROFECTIONAL** Company®

Professional Services to the Perfection

Telephone: +852 3118 2371 | Facsimile: +852 3118 2372
Email: info@profectional.com | Website: <http://www.profectional.com>
Address: P.O. Box 9993, General Post Office, Hong Kong

KORNERSTONE

Training. Makes a difference.

Telephone: +852 2116 3328 | Facsimile: +852 2116 3571
Email: enquiry@kornestone.com | Website: <http://www.kornestone.com>
Address: 15/F, Hip Shing Hong Centre,
55 Des Voeux Road Central, Central, Hong Kong

Course Objective:

The 'treatment of foreign investment' is defined as "the set of principles and rules of international law as national law governing the regime of international investment, since the moment of its formation until its liquidation". An initial distinction can be made, according to UNCTAD, between the general standards of treatment, that is to say, the standards for all aspects of the existence of a foreign investment in a host country, and specific standards processing that refer to particular aspects. The general standards of treatment found systematically in a bilateral agreement include absolute norms and standards. This generally means that the absolute standards are those that set out the treatment to be given.

The standards are the standards that define the required treatment by reference to the treatment accorded to other investments. However, it should be noted that "absolute" terms and "relative" terms are not universally accepted. Thus, this classification, mainly initiated and used by UNCTAD, has no legal implication. Generally, bilateral treaties can therefore include several provisions on absolute standards for the treatment to be accorded. BITs provide several clauses that are part of the absolute standard of treatment accorded to investments. These provisions for the FET, full protection and security, the prohibition of arbitrary or discriminatory measures and treatment in accordance with international law, and one or more provisions relating to the treatment. BITs use two different terms in order to prevent the discriminatory treatment of investments. These are the MFN clause and the standard of national treatment (NT).

This course discussed the applicability of these two types of treatment in bilateral treaties, as well as exceptions to these two treatment standards.

Course Outline:

In this course you will have an opportunity to explore recent developments of key issues such as:

- Identify the components of the standard of national treatment
- Understand the importance of identifying the comparator
- Assess the importance of the requirement that the comparators be in "like circumstances"
- Consider the relevance of WTO jurisprudence to the investment context
- Evaluate whether "most-favoured-nation" treatment operates to bring in more favourable dispute settlement options as well as more favourable substantive treatment
- Evaluate the "exceptions" to MFN proposed by the Maffezini tribunal
- Learn what factors distinguish the international minimum standard from fair and equitable treatment
- Consider what level of government conduct is required by the international minimum standard today
- Discuss the advantages of the NAFTA Interpretation Process
- Discuss the disadvantages of the NAFTA Interpretation Process
- Identify the factors that should guide a fair and equitable treatment analysis
- Study the scope of the full protection and security standard

Scan to Calendar



Code:	EVT000000255	Level:	Intermediate
Date:	26 October 2018 (Friday) (Amended)	Language:	English
Time:	09:30 - 12:45 (Reception starts at 09:00)	Accreditation(s):	LSHK 3.0 CPD Points SFC 3.0 CPT Hours
Venue:	Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	Please Contact Us for Details



The **PROFECTIONAL** Company[®]

Professional Services to the Perfection

Telephone: +852 3118 2371 | Facsimile: +852 3118 2372
Email: info@profectional.com | Website: <http://www.profectional.com>
Address: P.O. Box 9993, General Post Office, Hong Kong

KORNERSTONE

Training. Makes a difference.

Telephone: +852 2116 3328 | Facsimile: +852 2116 3571
Email: enquiry@kornestone.com | Website: <http://www.kornestone.com>
Address: 15/F, Hip Shing Hong Centre,
55 Des Voeux Road Central, Central, Hong Kong