



# COMILLAS

UNIVERSIDAD PONTIFICIA

ICAI

ICADE

CIHS

GUÍA DOCENTE

2024 - 2025

## FICHA TÉCNICA DE LA ASIGNATURA

Datos de la asignatura	
Nombre completo	International Investment Arbitration
Código	E000013118
Impartido en	M.U. en Acceso a la Abogacía y la Procura y Máster de Formación Permanente en Abogacía Internacional [Primer Curso]
Cuatrimestre	Semestral
Créditos	1,0 ECTS
Carácter	Obligatoria
Departamento / Área	Área de Derecho Internacional Privado
Responsable	Juan Fernández-Armesto
Horario de tutorías	Upon request from students
Descriptor	jfa@jfarmesto.com / You can also contact T.A. Aleix Pérez Pitarch: app@jfarmesto.com

Datos del profesorado	
Profesor	
Nombre	Juan Fernández-Armesto Fernández-España
Departamento / Área	Centro de Innovación del Derecho (CID - ICADE)
Correo electrónico	jfarmesto@comillas.edu

## DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura
<b>Aportación al perfil profesional de la titulación</b>
<b>Contribution of the degree to the professional profile</b>
<p>In 1965, the World Bank embraced the Washington Convention, which led to the creation of the International Centre for Settlement of Investment Disputes (ICSID). This convention empowered private entities to engage in international arbitration directly against sovereign States in cases where their investments were impaired. Subsequently, due to the extensive acceptance of bilateral and multilateral investment protection agreements, there has been a surge in investor-State arbitration. This phenomenon was unforeseen by the creators of the Convention and the broader international community. The upcoming course will delve into the current status of investment treaty arbitration, reflecting on its development and flourishing over more than two decades.</p> <p>A legal practitioner in a globalized world needs to have a solid understanding of the principles and practice of international investment arbitration, as well as the ability to compare and contrast different legal systems and cultures. This subject will provide students with the essential knowledge and skills to navigate this field of law.</p>
<b>Prerrequisitos</b>



## Pre-requisites

Basic awareness and understanding of contract law, public and private international law, and the main features of arbitration as a dispute resolution mechanism.

## Competencias - Objetivos

## BLOQUES TEMÁTICOS Y CONTENIDOS

### Contenidos – Bloques Temáticos

#### Content

##### Unit 1. Introduction and context

1. What is international investment arbitration?
2. Historical methods and evolution of international dispute resolution
3. A shift in paradigm: from gunboats to legal frameworks
4. Modern developments: the Washington Convention, ICSID, and direct recourse
5. Contemporary issues

#### Readings:

- Blackaby, N., Partasides, C., & Redfern, A. (2022). *Redfern and Hunter on international arbitration* (7th Ed.). Oxford University Press, pp. 441-446.
- Dolzer, R., Kriebaum, U., & Schreuer, C. (2022). *Principles of international investment law* (3rd Ed.). Oxford University Press, pp. 1-33.
- 1991 Argentina- United States of America BIT.
- Skim through: International Centre for Settlement of Investment Disputes. (s/f). *Annual Report 2023*, pp. 16,22-37.

##### Unit 2. Jurisdiction and the timeline of an investment arbitration

1. Existence of an applicable treaty
2. The concept of "investment" in the ICSID Convention and Investment Disputes
3. Consent and conditions to access investment treaty arbitration
4. Jurisdiction *ratione personae*, *ratione materiae*, and *ratione temporis*
5. Timeline of an investment arbitration: from the request of arbitration to the final award

#### Readings:

- Blackaby, N., Partasides, C., & Redfern, A. (2022). *Redfern and Hunter on international arbitration* (7th Ed.). Oxford University Press, pp. 446-464.
- *Tvornica secera Osijek v. Serbia*, ICC Award (Undisclosed; summary by IA Reporter)
- Legum, B. (2018). 5. *An Overview of Procedure in an Investment Treaty Arbitration*, in Yannaca-Small, K., *Arbitration Under International Investment Agreements: A Guide to the Key Issues* (2nd Ed.). Oxford University Press, pp. 103-113.
- Conduct of an ICSID Convention Arbitration, Chart, ICSID (2022).

##### Unit 3. Standards of protection

1. Overview of essential protections in the treaties
2. Expropriation



3. Fair and Equitable Treatment

**Readings:**

- Blackaby, N., Partasides, C., & Redfern, A. (2022). *Redfern and Hunter on international arbitration* (7th Ed.). Oxford University Press, pp. 470-490.
- *OI European Group B.V. v. Bolivarian Republic of Venezuela*, ICSID Case No. ARB/11/25, Award, paras. 277-560.

**Unit 4. Investment arbitration moot**

1. In-class final examination

## METODOLOGÍA DOCENTE

### Aspectos metodológicos generales de la asignatura

#### TEACHING METHODOLOGY

##### General methodology of the subject

##### Contact hours methodology: Activities

The classes will combine theory and practice: the lectures will include a presentation on the main relevant concepts, analysis of cases and lively discussions.

At the end of each class there will be a quiz and in the last session the students will participate in a moot arbitration.

Class attendance is mandatory.

##### Outside class methodology: Activities

Students must read the assigned readings beforehand. This syllabus comprises the relevant materials which students are expected to review for each class. Students must prepare the case throughout the duration of the course.

## RESUMEN HORAS DE TRABAJO DEL ALUMNO

#### SUMMARY OF STUDENT WORK HOURS

##### NUMBER OF CONTACT HOURS

Master classes and solving practical cases/class discussions - 8h

Short quizzes at the end of each class  
in-class final examination - 2h

##### NUMBER OF INDEPENDENT WORK HOURS



Lecture of readings, study of master classes, case submissions, and case preparation - 10h

Readings and practical case

5h

ECTS CREDITS : 1 ECTS (

## EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN

### EVALUATION CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Attendance	Regular attendance is mandatory. Attendance will be monitored through signature sheets.	10%
Quizzes (Kahoot)	At the end of each class, students will be asked to complete a 10-question Kahoot based on the required readings for that day and the lecture in order to assess their knowledge.	30%
	<p>During the course:</p> <ul style="list-style-type: none"><li>• Students assigned to counsel for Claimant will have to file a short Statement of Claim <b>[limited to 15 pages]</b></li><li>• Students assigned to counsel for Respondent will have to file a short Statement of Defense <b>[limited to 15 pages]</b></li></ul> <p>In the last class the students will participate in a moot arbitration, in which every member of the team must participate. The use of demonstratives are permitted insofar as they rely on provided materials or previous submissions.</p> <p>Students will be given further details during the first class. The facts and</p>	



International arbitration Moot

documents of the case will also be provided in due course.

Guidelines to be considered:

- Know your case. Identify the core elements of your case, such as the applicable law, the relevant facts, the main arguments, and the relief sought. Organize your submission in a logical and coherent manner, using headings, signposts, and transitions to guide the tribunal through your case. Use examples, analogies, and visual aids to illustrate and reinforce your points, and avoid unnecessary repetition or digression.
- Know your time. Respect the time limit allocated for your oral opening submission, and plan your submission accordingly. Avoid spending too much time on background information.
- Know your style. Deliver your oral opening submission with confidence, clarity, and courtesy. Engage the tribunal with your voice, eye contact, and body language, and use appropriate intonation, emphasis, and pauses to convey your meaning and emotions.

60% (submissions will account for 30% of the final moot remaining 30%)

## BIBLIOGRAFÍA Y RECURSOS

### Bibliografía Básica

#### BIBLIOGRAPHY AND RESOURCES

##### Basic Bibliography and Resources

Reading lists will be provided for each seminar on Moodle. Essential readings combine primary source materials along with secondary materials to help students navigate the topics. We will make use of Alan Redfern, Martin Hunter, *Redfern and Hunter on*



# COMILLAS

UNIVERSIDAD PONTIFICIA

ICAI

ICADE

CIHS

**GUÍA DOCENTE**

**2024 - 2025**

*International Arbitration*, (7th Ed) 2022, Oxford University Press. Suggestions for further reading:

- Dolzer, R., Kriebaum, U., & Schreuer, C. (2022). *Principles of international investment law* (3rd Ed.). Oxford University Press.
- Lim, C., Ho, J., & Paparinskis, M. (2021). *International Investment Law and Arbitration: Commentary, Awards and other Materials* (2nd Ed.). Cambridge University Press.
- Gaillard E. & Banifatemi Y. (2003). *The Meaning of 'and' in Article 42(1), Second Sentence, of the Washington Convention: The Role of International Law in the ICSID Choice of Law Process*, 18(2) ICSID REV. 375-411.
- McLachlan, C. et al. (2017). *International Investment Arbitration: Substantive Principles* (2nd Ed.). Oxford University Press
- Gaillard E. & Banifatemi Y. (2015). *The Long March Towards a Jurisprudence Constante on the Notion of Investment*, in Kinneer, M.N. et al. *Building International Investment Law: The first 50 years of ICSID*, pp. 97-125.