ABSTRACT

International law governs economic and political relationship between states which will have impact on cross-border trade & investments. The international trade transaction is interlinked with the flow of investment across the globe. Investment acts as a facilitator for development of trade. The flow of investment across the globe is called as foreign investment which is inevitable for development of global economy. International trade is regulated by many international treaties such as GATT, GATS, NAFTA, FTA and RTA. Protection of foreign investment is a burning issue which should be addressed accurately in international regime with the help of effective laws. When the question of protection of foreign investment arise, many issues such as protection of human rights, environment, economy of host state should be addressed properly because when foreign investment enters host state territory will have impact on various sectors. Foreign investment may be in the form of FDI, FII, technology transfer, portfolio investment, etc. Foreign investors (individual/MNCs) while investing abroad, expect effective protection in host state. Foreign investment can be protected through treaties like BITs, RIAs, investment code and guidelines, the various treaties are sheltering investments because of lack of single uniform investment treaty at present. The regional investment treaties which are enforced in a particular region are concentrating only on a region which is creating economic disparities which shall be removed by introducing global investment treaty. As the global investment treaty will concentrates on economic development of both developing and developed states. In international regime, FDI is protected according to TRIMs, MIGA principles, etc. At international level, the protection of FDI has given scope for many issues such as repatriation of profits, expropriation & compensation for investors, investment disputes, etc. Investment disputes are resolved by means of arbitration mechanism by ICSID Centre or UNCITRAL rules. The issue related to investment arbitration is scope for appeal mechanism which is not available at present. There is a requirement of international investment court to give justice to both state and investors. All the states irrespective of being a developed or not, are in need of FDI which is a debt-free capital and help states in their economic development. India is not different, the flow of FDI into Indian economy has both positive and negative impacts. The ‘Make-in-India’ initiative has encouraged the flow of FDI in manufacturing sector and on the other side it is destroying the local manufacturing sectors and small producers. International investment laws must protect the interest of both host state and investors for which the principle of sustainable development shall be adopted and FDI in priority sectors shall be allowed.