GENERAL PRINCIPLES OF INTERNATIONAL RESPONSIBILITY OF THE STATE FOR NATIONALIZATION OF FOREIGN INVESTMENTS AS ONE OF THE MEANS OF THEIR PROTECTION

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Introduction

In the last thirty years, the United States and other highly developed countries initiated the program of global bilateral investment treaties in order to encourage and protect their investments in developing countries. Between November 25, 1959, and February 25, 1989, some two hundred and sixty such treaties have been concluded.[1] The bilateral investment treaties contain provisions satisfying the specified objectives designed for the protection of foreign investments. For example, the bilateral investment treaties concluded by the United States contain the following four objectives: (1) foreign investors are to be accorded treatment in accordance with international law and are to be treated no less favorably than investors of the host country and no less favorably than investors of third countries, whichever is the most favorable treatment ("national" and "most-favored-nation" treatment); (2) international law standards are to be applied to the expropriation of investments and to the payment of compensation for expropriation; (3) free transfers are to be afforded to funds associated with an investment into and out of the host country; and (4) procedures are to be established which allow an investor to take a dispute with a party directly to binding third-party arbitration.[2]

Even though each of all these objectives of the bilateral investment treaties is very important and a very interesting problem of international law, the object of this article is confined only to the general discussion of international law standards which must be applied to the expropriation of investments and to the payment of compensation for expropriation. The term "expropriation" and the term "nationalization" of the property mean the same

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