

Recent Developments of International Standards on Protective Law of Foreign Investment: A Comparison with Iran's Law

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Abstract

In discussions of protective law on foreign investment, the relative issues mainly include standards concerning minimum foreign treatment, fair and equitable treatment, national treatment, methods of expropriation and compensation, methods of foreign investment guarantee, dispute settlement and bilateral treaties. The present paper aims at scrutinizing the main related international standards as the set criteria for a comparison with Iran's law. To this end, while scrutinizing and illuminating such standards, we analyzed and compared them with Iran's corresponding provisions in a case-by-case manner. Doing so, recent established regulations in Iran have been documented. They include: the act of promotion and protection of foreign investment act in Iran, Administration of free trade-industrial zones act in Iran and its latest modifications and amendments, Iran's international trade arbitration act, as well as a review of the content of over fifty cases of foreign investment bilateral treaties. Accordingly, some of the awards issued by the Iran-United States Claims Tribunal and Arbitration Center of Iran's Chamber of Commerce,(ACIC) as well as the law of statute of the Arbitration Center of Iran's Chamber of Commerce and rulls of ACIC, have been thoroughly reviewed and relied on as documentary sources. We have reached the conclusion that most of the current standards of today's world are evident in Iran's law and have been applied accordingly; however, there are still some gaps between some of the international standards and those practiced in Iran.

Key words: Protective law, Foreign Direct Investment, Free trade-industrial zones, International standards.

Introduction

Over the recent years, Iran has been re-experiencing a general appeal from foreign investors to return and invest in Iran due to the removal of the economic sanction imposed on the country by the United Nations. From another perspective, considering the fact that Iran, as one of the richest and oldest civilizations in Asia, has always enjoyed one of the firmest and most stable systems of legislation, we came to comparatively scrutinize Iran's laws seeking to answer two questions: Is there basically any realization of international standards in Iran's domestic laws, in respect to foreign direct investment? If so, what are the documents and evidence to acknowledge the protective aspects? To this end, since the law of investment is too broad to be covered in one single study, this review is limited to issues of foreign investment, more specifically to mere Foreign Direct Investment (FDI), focusing on the protective aspects. Thus, the relevant international standards have been reviewed, as set criteria for the measurement, and compared with the existing Iranian legislation in a case-by-case manner in order to find out to what extent Iranian laws have come through with flying colors.

1. A Review of the Recent Laws in Iran

1.1. Law of Promotion and Protection of Foreign Investment

The latest international standards are evident in the law of promotion and protection of foreign investment, which has predicted principles like fair and equitable treatment, foreign investment guarantee, financial support, dispute settlement, and the like. The decree includes executive regulations, as well¹. It has clearly defined the current expressions in relation to foreign investment and introduced the appropriate methods of the investment, both direct and indirect, as well as the system of capital reception. It has also clarified the duties and responsibilities of the center of foreign investment services.

1.2. Regulations of Exchange in and out of the Stock Market

There are some general principles of stock investments predicted in the Law of Promotion and Protection of Foreign Investment, endorsed and executed in 2007. However, following the current international categorizations, the issue of monetary documents has been

¹ Refer to the "Law of Promotion and Protection of Foreign Investment", endorsed and executed in 2001.

specifically discussed in the category of indirect investment and the related written law has been endorsed².

2. New Responsible institutions for Foreign Investment in Iran

Some steps have been taken forward in Iran in order to facilitate foreign investment and prevent further confusion on the part of foreign investors. In an attempt to do so, care has been taken to avoid extra regulations and responsible referring institutions. For instance, according to Article 5 of the Law of Promotion and Protection of Foreign Investment, there is only one reliable institutions responsible for the related issues to the foreign investment and that is Organization for Investment, Economic and Technical Assistance of Iran³, which through Foreign Investment Service Center offers protective services, such as dissemination of information and provision of necessary guidance to foreign investors concerning investment in Iran for foreign investment opportunities in the country, coordination for contact with a variety of official agencies, assistance for appropriate business partners and contractors, and consultation for dispute settlement.

3. International Protective Standards

3.1. International Minimum Standard

International Minimum Standard (IMS) has been defined by Tudor (2008, p. 17) as “a norm of customary international law which governs the treatment of aliens, by providing for a minimum set of principles which States, regardless of their domestic legislation and practices, must respect when dealing with foreign nationals and their property”. Literature informs us that upon an increase of international commerce and worldwide tendency for foreign investment, it has been revealed that domestic criteria do not justly and equally protect foreigners. This is especially evident in countries where the levels of protective standards are low and do not even meet the minimum of norms, as being practiced in other countries. Thus, the global society has come to realize the need of international laws for creating some standards to be legally observed by all the States all over the world. Any lower treatment than such minimum norms from the governments is not acceptable and should be considered a violation, and the violating State

² Refer to the “Regulations of Exchange in and out of the Stock Market”, endorsed in 1389 (HS).

³ www.investiniran.ir

should be held responsible and prosecuted (Baghban, 2015, p. 59). Iranians are well aware of such minimum standards which are clearly and frequently referred to in the documents collected and issued by Iran-US Claims Tribunal⁴ over the last decades.

As one of the most important international minimum standards, States should pay compensation for any expropriation of foreign investment. Iran's legislation even goes even further by stating in the Article 9 of Iran's Promotion and Protection of Foreign Investment Act that "foreign investment shall not be subjected to expropriation or nationalization, unless for public interests, by means of legal process, in a non-discriminatory manner, and against payment of appropriate compensation on the basis of the real value of the investment immediately before the expropriation". One can infer, then, that the fore-mentioned act realizes some of the current international standards, such as expropriation, compensation payment, and the real value of the investment, among others. Accordingly, the related administrative regulations clarify the government's responsibility to guarantee the foreign capital along with the capital interests. Such resolution is indeed one of the heartening aspects of the promotion of foreign investment. According to Article 4(a), "foreign capital is guaranteed against expropriation and nationalization and in these cases the foreign investor has the right to receive the compensation". Also, it is stated in Article 4(5) that "the transfer of capital, its interest and the capital gains obtained from the investment is possible in the form of either currency or commodities, as it is the case stipulated in the investment license".

Among other international standards predicted in the legislation and practiced in Iran is a guarantee of paying compensation for the foreign investor's losses due to legislation or government decisions. Such a privilege, which is not enjoyed by local investors, is exclusively granted to the foreign investors. As Article 4(2-1) states, "there is a guarantee of compensation, up to a maximum of due installments, for foreign investment losses caused by the legislation or any government bans or suspension of a financial agreement".

Also, there is no limitation in terms of the maximum and type of foreign investment in Iran. Based on Article 4 (B-1, 2), "it is possible for all private sectors to invest in all permitted areas" and "there is no limit to the percentage of foreign investment". However, there are still many countries in the region who observe the old **rull** based on the set criteria of 49% of the

⁴ Iran-United States Claims Tribunal has been established to investigate the claims of US investment companies against Iran and has completed over 4500 cases which are available online in 40 editions, in both Persian and English, found in www.just.net.

share for the foreigner and the other 51% for the local nationals, whereas Iran has done away with such limitation, altogether.

3.2. Fair and Equitable Treatment

Although many are of the belief that the standard of Fair and Equitable Treatment (FET) is the same as the IMS, there are still some differences. One of the most reliable definitions of FET can be found in the USA V. Italy Elettronica Sicula , known as ELSI Case⁵. It is stated there that “the applicable laws and regulations cannot mean that, if an act is in conformity with the municipal law and regulations (as, according to Italy, the requisition was), that would of itself exclude any possibility that it was an act in breach of the FCN Treaty. Compliance with municipal law and compliance with the provisions of a treaty are different questions”.

Among the identified updated feature applications of the above-mentioned standards, one may name those of transparency, stability, protection of investor’s legitimate expectations, a fair hearing and due observance of official processes, proper treatment and the prohibition of pressure and threat. There has been an increasing use of treaties and judicial procedures on the application of this standard.

In Iran, in addition to the evidence found in compliance with the “minimum international standard” that came in the previous section of this article, many of those instances concurrent with the criteria set for “fair and equitable treatment”, as well. As for transparency, all matters relating to the foreign investors have been assigned to only one institute; that is, the Organization for Investment, Economic and Technical Assistance of Iran. In addition, it has been predicted in the Foreign Investment Promotion and Protection Act and its Regulations to clearly define common terminology without any ambiguity, attempting to lay uncomplicated and simple rules of the foreign investment procedures. Further, in accordance with the fore-mentioned law, the agency has established the Foreign Investment Service Center which

⁵ The related claims include: 1-Mondev V. USA, Award, 11 October 2002 2- Waste Management V. Mecxico, final Award 2004.3-Lauder V.Czech Republic, Award 2001. 4- CMC V. Argentina, Award, 2005. 5-Noble Ventures V Romania, 2005.6. Neer V. Mecxico, 1926. 7-Elettronica sicula (ELSI) ICJ, 1989.7- Monde V. USA, award, 2003. 8- pope... Talbot V. Canada Award, 2001. 9- Eureko V. Poland, Award, 2005. 10- Thunderbird V Mecxico, Award, 2006. 11- Azurix V Argentina, Award 2006. 12- ADF Group INC. V. USA, Award 2003. 13- GeninV.Estonia, Award, 2001. 14- TECMED V.Mecxico, Award, 2004. 15- MTD V CHile, Award, 2004. 16- Saluka V. Czech Republic, Award 2006. 17- S D myers V. Canada, Award, 2000. 18- Loewen V. USA, Award, 2003. 19-GAMI V. Mecxico Award, 2004. 20. Feldman V. Mecxico, Award, 2002. 21- SPP V. Egypt, Award, 1992. 22- Metalclad corp. V. Mecxico, Award, 2000. 23- Maffezini V.s pain, Awrad, 1992. 24-PSEG V.Turkey, Award,2007

undertakes all the responsibilities in relation to the coordination between all governmental and non-governmental agencies in order to prevent any wandering on the part of the foreign investors.

In Iran, the new legislation, including the one on International Commercial Arbitration which was ratified in 1997, pursuant to Article 3 (27), have propounded the feasibility of using justice and fairness in the settling of international commercial disputes. Additionally, the foundation of Regional Commercial Arbitration Center in Tehran⁶, the acknowledgement of 1958 New York Convention on the recognition and enforcement of foreign arbitral awards by Iran, and Iran's membership in the International Chamber of Commerce, they all suggest that Iran has accepted such international standards. Moreover, Iran has been involved in bilateral investment treaties with over 50 countries in which she has been and will be following the common international standards on foreign investment.

3.3. National Treatment Standard

Application of the criterion of national treatment in the past few decades, particularly regarding the investors who have invested in countries below the international standards, does not suggest it has been appropriately used. Examples of sensible use of this standard can be noted in the bilateral investment treaties with European countries.

In the new methods, it has been basically emphasized that a foreign investor and the investment should be treated “in such a way that the conduct is not less desirable than that the State has with its own investors” (Alexander, 2009, p. 59).

Today, the standard of national treatment has been dramatically evolved. In fact, the idea is to encourage the host government committing to avoid any discriminatory attempt in order to improve the situation of foreign investment to the same ideal conditions that exists for the national investment. Under the new standard, if international standards are higher than the national standards of the host country, the host State is bound to apply those international rules on foreign investment which are more favorable (Vagts, 1997, p. 408). The new concepts of this standard have also been realized in the international arbitration procedures⁷.

⁶ This is an independent agency which works under the supervision of AALCO. For further information, visit www.trac.ir

⁷ Refer to: S. D. Myers V. Canada, first partial Award, 13 November 2007,1408

The new concept of the national treatment is applied in Iran. On the one hand, under act of International Commercial Arbitration (1997), Article 27, the traders and contracting parties have been allowed to sign contracts under any legal regulation of their own choice. Besides, it has been reiterated and emphasized in the regulations of the Chamber of Arbitration Center, Article 42, that the contracting parties can govern their own selected law on commercial and contractual and contractual obligations. It is also in the same article where the referee is obliged to consider the relevant trade customs, in addition to the contents of the contract. In fact, the article implies that if national standards are law, the referee must pay attention to the current customs of the related international trade practices. On the other hand, Iran has joined the 1958 New York Convention on the recognition and enforcement of international arbitral awards where in Article 3, it has been clarified that no condition is accepted, under which the national law has been realized less favorable than that of the Convention. Thus, this is, on its own stand, a guarantee for foreign investment in that Iran National Treatment Standard is applicable to foreign investors only to the extent that it is, more not less, favorable than international standards. In addition, according to Article 7 of the same convention, such regulations do not downgrade the credibility of neither bilateral or multilateral contracts among states, nor that of more favorable regulations which have been considered for foreign nationals. In fact, the Convention has followed the principle of having the right of choosing the best resolution. Accordingly, foreigners are free to choose to the national regulations of the host country if they find them more favorable.

4. Expropriation

4.1. International Standards

According to the customary international laws and the entered regulations on “expropriation”, the issue is considered legitimate under a couple of conditions. First, “expropriation” must be practiced only to the best benefit of the public, based on justice and far from any discrimination. This issue has been given a lot of importance in the judicial procedures, too⁸. It also has been frankly referred to in some treaties⁹. Secondly, compensation payment must be effective, sufficient, and promptly done. Such compensation is currently equal to the

⁸ See ADC V Hungary, Award, 2 October 2006, par. 429-433

⁹ See Article 6 (1) (d) of the 2004 US Model BIT

market value of the capital which has been affected by the expropriation. The second condition is probably the most challenging issue, and the most controversial, in the arguments on foreign investment as a lot of awards have been issued in this regard since 1960¹⁰.

In accordance with international laws, not only illegal confiscation or expropriation entails compensation payment, but also involves the government's responsibility. In cases of illegal expropriation, the state's primary responsibility is restitution; if impossible for any reason, the financial compensation must be paid to the owner.(irmard,2007,p.202).

A remarkable number of claims have been allocated to the issue of "indirect expropriation", too. In respect to this, some of the cases have illuminated the issue. In some ICSID decisions, the concept of indirect expropriation has been interpreted in a limited way, sometimes taken as an act of infringement of fair and equitable treatment standard (Fortier & Drymer, 2004, p. 93). One possible explanation for the large number of claims in relation to "indirect expropriation" might be attributed to the fact that usually governments tend to deny it altogether, trying to get rid of paying the compensation.

In general, the issue of expropriation, its conditions and the process of compensation payment have been analyzed and clarified to a large degree in Jurisprudence and arbitration practices. For instance, Paragraph 2 of Article 17 of the Universal Declaration of Human Rights has predicted that "no one shall be arbitrarily deprived of their property". Also accordingly, Article 1 of the First Protocol of the European Convention on Human Rights states that, "Protection of property: Every natural or legal person can peacefully enjoy their property and assets. No one is deprived of their property unless in accordance with the public interest and conditions provided by law and the general principles of international law...". (Amirarjmand, 2006, p. 33) As deduced from customary international law, treaties, international instruments, jurisprudence and rich arbitration practices, one can infer the legitimacy of expropriation on the one hand; and on the other, the conditions suggest compliance with public interest and non-discriminatory nature of compensation.

4.2. Expropriation in Iran's Law

As for the issue of expropriation, the compliance of Iran's law with international standards can be found in the awards and practice of the Iran-United States Arbitration Tribunal.

¹⁰ Visit www.just.net for instances regarding Iran US claims tribunal

For instance, in the Amoco case¹¹, and awards Kurzu factory, issued by the Permanent Court of International Justice, is reaffirmed and in some part it states that "although sixty years are passed since the issuance of the decision, it is still regarded as guiding principles in this territory and is considered as valid". Accordingly, the Iran-United States Arbitration Tribunal has accepted to compensate for all the confiscated assets, moveable and intellectual, including the rights of shareholders in relation to significant contract concessions.

Also, in relation to the issue of Starrett Housing V. Iran, Iran-US Arbitration Tribunal states that in the case, the court is widely concerned with the rights of the petitioners that have been violated by the government. These rights include the refund of the loans already paid for the project.

It is observed that Iran-US Arbitration Tribunal has come to realize some development in the concept of expropriation and its new incidents. Additionally, in relation to the concept of "compensation", such as the case of Philip V. Iran, the tribunal states that "compensation must be paid in return for formal expropriation, temporary confiscation, expropriation of immovable properties, such as factories and real estate, movable properties and contracting rights".

It is under paragraph 1, Article 2 of the Claims Settlement declaration, which defines the jurisdiction of the Iran-US Tribunal where the jurisdiction of the court has been realized to take effective actions in particular cases related to property rights and expropriation, in general. Thus, it has been defined in the jurisdictional realm of the tribunal to take care of the claims involved in both actions taken by either of the States (i.e. Iran or the United States of America) in relation to the property and financial rights of their citizens and the effective measures in property. In fact, the claims of indirect or creeping expropriation are mainly related to those of citizens of America against Iran's government or the State-owned agencies of Iran (Mohebbi, 2007, p. 27).

So, it is evident that Iran's arbitration practical relies on the most advanced concepts and methods of dealing with the issue of expropriation and confiscation of property to the extent that it involves indirect or creeping expropriation, which could be encouraging for foreign investors, indeed.

Such consideration is well reflected in the bilateral treaties between Iran and other countries, as well. As far as promotion and protection of foreign investment treaties are

¹¹ Amoco International inance corp V. Iran, 15 Iran – Us CTR, 1987

concerned, Iran's supportive position in bilateral treaties is clear and far from any ambiguity. In the Article on expropriation and compensation, most investment treaties of IRAN, contain statements which are more or less similar to this: "Investments made by the investors from each contracting party will not be subject to any action taken by the other contracting party in terms of expropriation, nationalization, either directly or indirectly, with the same effectiveness except for a public purpose, in a non-discriminatory manner, upon prompt, effective and equitable payment, and in accordance with the statutory law." According to this Article, in addition to nationalization, any direct or indirect action, leading to confiscatory effects is considered expropriation and subject to follow three conditions predicted in this article; i.e. public purpose, non-discrimination, and compensation payment. The terms "direct or indirect effectiveness" indicate the effects of expropriation or nationalization leading to the owner's (foreign investor's) deprivation of property as a result of the host country's acts (Mohebbi, 2007, p. 34).

In relation to expropriation and nationalization, Article 9 of Iran's Foreign Investment Promotion and Protection Act (FIPPA) states that "Foreign investment shall not be subjected to expropriation or nationalization except for the public interest, by means of legal process, in a non-discriminatory manner and against the payment of appropriate compensation on the basis of the real value of the investment immediately before the expropriation". It can be noticed that this article contains the most updated reliable international standards on the issue of expropriation. It has been pointed out that the set criteria for expropriation include legal process, non-discrimination, and compensation payment, equal to the actual value and immediately before the expropriation. Therefore, foreign investors are assured that even in cases of nationalization, there is a guarantee by the government to refund their financial rights.

5. Other Protection Rights

5.1. Investment Guarantee

Notwithstanding the fact that the issue of investment guarantee has been neglected by some countries, Iran has looked into the matter from two dimensions. First, Iran's government has guaranteed foreign investment against expropriation and nationalization. As pointed out in the previous section, according to Article 9 of the Foreign Investment Promotion and Protection Act (FIPPA), the government is obliged to pay immediate compensation to the investor in case their investment is threatened by means of state actions. Secondly, international guarantees have

been taken into account, too. For instance, Iran is a member of Multilateral Investment Guarantee Agency (MIGA) which was endorsed by the Bureau of the International Bank in autumn, 1985. The agency's coverage of guarantees provides for foreign investors to enjoy the benefits under certain conditions. Qualified foreign investors are able to buy insurance from MIGA in order to cover the risks of the inconvertibility of local currency, expropriation, breach of contract, war and civil disorders, including subversive and terrorist actions as politically motivated (Ghanbari Jahromi, 2001, p. 238).

5.2. Dispute Settlement

One of the most advanced premises of dispute settlement in business is the requirement of adherence to the principle of freedom and priority of will power in contracts. In Iran, too, according to Paragraph 1, Article 27 of the act¹², such a principle has been accepted and it has been prescribed that traders can mutually agree and decide on the content of the contracts based on their own choice. Thus, foreign investors may come into agreement with their Iranian contracting party to sign their contracts based on, for instance, law of France, or that of the international convention of goods sale. Even it has permitted in the same act, Article 20, that the contracting parties may agree on the location where to sign the agreement. So, it is possible that they decide on London Trade Chamber, for example. From another perspective, Iran is a member of New York Convention¹³, based on which Iran has committed to carry out the issued arbitral awards inside the country.

Additionally, according to paragraph 4, Article 27, act of Iran's Arbitration of International Trading, it has been emphasized that in all cases the referee must make decisions based on the conditions set in the treaty, considering the relevant trading traditions. It is worth noticing that it is one of the advanced methods of dispute settlement in commerce to draw on trade customs (Lex Mercatoria).

As a member of International Chamber of Commerce (ICC) and based on the act¹⁴, Iran has founded Arbitration Center of Iran Chamber, for which advanced statute and rules of

¹² Iran's Arbitration of International Trading, approved on 1997

¹³ New York Convention on the enforcement of foreign arbitral awards, approved in 1958

¹⁴ Statute of the Arbitration Center of Iran Chamber, approved in 2007

arbitration¹⁵ have been developed and based on its Paragraph B, Article 16, both parties agree and decide on the venue of the international arbitrations. Article 42 of the same regulations has again concentrated on the principle of selected law by choice of parties. Also, Tehran Regional Arbitration Center (TRAC), as one of the most important arbitration centers in Asia and Africa, has gained a remarkable position in dispute settlement.

5.3. Free Trade-Industrial Zones

Free trade-industrial zones are usually established based on act of parliament for the purposes of investment, import and export. There are two types of such zones in Iran, for each of which a legal system of protection has been defined. They include the “Free trade-industrial zones”, legally established by the act of 1993 and the “special economic zones” which were approved in 2003.

According to the act of free trade-industrial zones, Article one, the purpose of their establishment is stated as: “In order to accelerate the implementation of infrastructural and developmental projects; to enhance economic growth and progress; to raise the level of investment and public income; to create sound and productive employment; to regulate the labor and product market; to actively participate in regional and international markets; to produce and to export industrial and processed goods; and to provide public services, the government is hereby authorized to administer free trade and industrial zones”. According to Article 20 of the same law, “Inflow and outflow of capital and expatriation of profits generated by economic activities in each Zone are permitted. The required regulation for attraction and protection of investment in each Zone and the modality and participation of foreigners in activities in each Zone shall be approved by the Council of Ministers”. Accordingly, the Council of Ministers developed and approved the “regulations on the investment in free trade-industrial zones”, based on Article 2 of which, “all natural and legal persons and institutes, both Iranian and foreigner, as well as international organizations, may either separately or jointly with the authority and affiliates thereof or jointly with each other invest in the Free Zones in accordance with these Regulations; their accepted capital shall be subject to these Regulations”. Further, based on

¹⁵ Regulations on providing services by Arbitration Center of the Iran Chamber in relation to domestic and international commercial disputes,2007

Article 12 of the same regulations, foreign investors are permitted to repatriate their net profits, the initial capital and gains resulting from the investment.

The law of administration of free trade-industrial zones was reformed in 2009 which amended regulations on the permission of establishment and activities of the stock market involving investments with domestic and foreign capitals. All in all, it can be concluded that in spite of the existence of special rules and regulations for foreign investment in trade-industrial and special free zones, the main purpose is to accelerate and facilitate customs formalities and foreign investment.

5.4. Bilateral Investment Treaties(BITs)

Since 1950s, foreign investment treaties, mainly bilateral, have been regarded as an alternative to foreign investment in the host country. The number of such treaties has been increasing since then. So far in Iran, over 50 cases of (BITs) have been approved and forced into action for the sake of promotion and protection of foreign investment (Mirveysi, 2004, p. 36). The sample content text of such treaties was provided and communicated in 1996. The task was carried out based on the draft proposed by the Organization for Investment, Economic and Technical Assistance of Iran in meetings of the Presidential Commission on the international agreements with the participation of professors, administrators and experts from relevant ministries. The most important articles of these treaties which guarantee the rights of foreign investment include: promotion of investment, investor treatment, confiscation, losses and damages caused by expropriation, transfer of capital, succession, the scope of the taxing and settlement of disputes (Mirveysi, 2004, pp. 21-22).

(BITs) usually support beyond what has been offered in the national legislation of the host country, and sometimes fill the gaps and complete the shortcomings of the national laws on the protection of the rights of foreign investment. In most of the bilateral agreements signed in Iran, maximum support has been granted in accordance with international standards, including the dispute settlement system, which permits the parties to refer the case to the third party arbitration centers if the issue is not resolved by negotiation and mediation¹⁶.

Conclusion

¹⁶ More information can be gained by visiting info@investin.ir

The law of foreign investment has long been involved in international rules, norms and standards, many of which have been identified in arbitration and judicial procedures, including the ICSID, UNCITRAL, MIGA, and other institutions and international documents.

In this paper, we first had a review of Iran's domestic law and regulations, providing information on the major international standards of foreign direct investment being practiced in Iran. The rest of the paper, then, focused on a comparative review of the content of some legal documents, as evidence for the claim made in the first part of the paper.

Regardless of the age and strength of the law system of Iran, as one of the oldest civilizations of the world, there have been some developments in the modern law system. In this respect, the situation caused by the UN sanctions has specifically provided the ground for legal incentives to promote and attract diverse foreign investment. Through a thorough review of some of the modern regulations, we compared them, on a case-by-case basis, with the international standards on foreign investment protection and proved that many of such standards have been regulated and executed in Iran. The international protection standards that we reviewed in this paper include fair and equitable treatment, minimum international standards, national treatment, expropriation and standards on the issue of compensation, guarantee of foreign investment and new ways of disputes settlements, foreign investment and bilateral investment treaties. However, it is worth noting that some international standards are still out of reach. They include modern methods of arbitration for investment disputes and the issue of compensation.

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