

# YASHIL

# IQTISODIYOT va TARAQQIYOT

Ijtimoiy, iqtisodiy, texnologik, ilmiy, ommabop jurnal



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- 08.00.05 Xizmat ko'rsatish tarmoqlari iqtisodiyoti
- 08.00.06 Ekonometrika va statistika
- 08.00.07 Moliya, pul muomalasi va kredit
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- 08.00.16 Raqamli iqtisodiyot va xalqaro raqamli integratsiya
- 08.00.17 Turizm va mehmonxona faoliyati

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# LEGAL FOUNDATIONS AND CHALLENGES IN THE IMPLEMENTATION OF GUARANTEES FOR FOREIGN INVESTORS' RIGHTS

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**Abstract:** This annotation delves into the legal mechanisms safeguarding international investments, with a particular focus on key clauses within international agreements. Utilizing Uzbekistan as a case study, the research analyzes Bilateral Investment Treaties (BITs), stabilization clauses, and national investment laws to evaluate their efficacy in protecting foreign investors' rights. It identifies critical challenges, including legislative instability, ambiguous guarantees, and tensions between state sovereignty and investor protection. The study proposes actionable reforms to strengthen Uzbekistan's investment climate, drawing on comparative insights from regional and international practices.

**Key words:** protection of foreign investments, bilateral investment treaties (bits), investment contracts, stabilization clauses, international centre for settlement of investment disputes (ICSID), foreign direct investment (FDI), investment law of Uzbekistan, economic equilibrium clauses.

**Annotatsiya:** Ushbu maqolada xalqaro investitsiyalarni himoya qilishning huquqiy mexanizmlari, xususan xalqaro bitimlardagi asosiy bandlar tahlil qilinadi. O'zbekiston misolida ikki tomonlama investitsiya bitimlari (BIT), barqarorlik bandlari va milliy investitsiya qonunlari xorijiy investorlar huquqlarini himoya qilishdagi samaradorligi o'rganiladi. Tadqiqot qonunchilikdagi beqarorlik, noaniq kafolatlar va davlat suvereniteti bilan investorlarni himoya qilish o'rtasidagi ziddiyatlarni asosiy muammo sifatida ajratib ko'rsatadi. Shuningdek, maqolada mintaqaviy va xalqaro tajribalar asosida O'zbekiston investitsiya muhitini mustahkamlashga qaratilgan amaliy islohotlar taklif etiladi.

**Kalit so'zlar:** xorijiy investitsiyalarni himoya qilish, ikki tomonlama investitsiya bitimlari (BIT), investitsiya shartnomalari, barqarorlik bandlari, investitsiya nizolarini hal qilish bo'yicha Xalqaro markaz (ICSID), to'g'ridan-to'g'ri xorijiy investitsiyalar (FDI), O'zbekiston investitsiya qonunchiligi, iqtisodiy muvozanat bandlari.

**Аннотация:** В данной статье рассматриваются правовые механизмы защиты международных инвестиций, с особым акцентом на ключевые положения международных соглашений. На примере Узбекистана анализируются двусторонние инвестиционные соглашения (BIT), стабилизационные оговорки и национальное инвестиционное законодательство для оценки их эффективности в защите прав иностранных инвесторов. Исследование выявляет основные проблемы, включая нестабильность законодательства, неоднозначность гарантий и противоречия между государственным суверенитетом и защитой инвесторов. В работе предлагаются практические реформы по укреплению инвестиционного климата Узбекистана, основанные на сравнительном анализе региональной и международной практики.

**Ключевые слова:** защита иностранных инвестиций, двусторонние инвестиционные соглашения (BIT), инвестиционные контракты, стабилизационные оговорки, Международный центр по урегулированию инвестиционных споров (ICSID), прямые иностранные инвестиции (FDI), инвестиционное законодательство Узбекистана, оговорки об экономическом равновесии.

The global economy increasingly relies on foreign direct investment (FDI) to drive growth, particularly in developing nations where domestic capital may be insufficient. For countries like Uzbekistan, attracting FDI is a strategic priority to enhance economic development, create employment, and facilitate technology transfer. However, the stability and predictability of the legal environment are paramount to instill confidence among international investors. This study examines the legal foundations that underpin the protection of foreign investments in Uzbekistan, with a specific focus on clauses in international agreements such as BITs and



stabilization provisions in investment contracts. These mechanisms aim to mitigate political and economic risks, yet their implementation faces significant hurdles.

Using Uzbekistan as a case study, this research explores how international legal frameworks interact with domestic regulations to protect investor rights. It addresses key issues such as the scope of stabilization clauses, the role of dispute resolution mechanisms like ICSID, and the impact of frequent legislative changes. The objective is to identify deficiencies in the current system and propose reforms that balance the interests of foreign investors with the sovereign rights of the host state. Given the current date of August 23, 2025, the study reflects the latest legal and economic context, offering timely insights into Uzbekistan's evolving investment landscape.

The analysis reveals a robust yet imperfect legal framework for protecting foreign investments in Uzbekistan. Internationally, BITs provide general standards of treatment, including National Treatment and MFN, which ensure non-discriminatory treatment of foreign investors. Umbrella clauses elevate contractual commitments to treaty obligations, while ICSID offers a robust dispute resolution mechanism. Domestically, the 1998 Law on Guarantees and Measures to Protect Foreign Investors' Rights introduces a ten-year stabilization period, allowing investors to benefit from the legal regime in place at the time of investment, even if subsequent laws are less favorable.

However, implementation challenges are evident. The 2006 legislative amendment, which revoked tax exemptions previously granted to foreign investors, triggered significant disputes. The *Newmont v. Uzbekistan* case exemplifies this issue, where the cancellation of benefits led to the bankruptcy of the Zarafshan-Newmont joint venture and subsequent international arbitration. Similarly, the *Oxus Gold v. Uzbekistan* case highlighted a breach of Fair and Equitable Treatment (FET) due to the violation of a stabilization clause. These cases underscore the instability of Uzbekistan's legal environment, eroding investor trust.

Stabilization clauses, intended to mitigate such risks, present further complexities. Freezing clauses, which prohibit legislative changes, have been criticized for limiting state sovereignty, while economic equilibrium clauses, which allow compensation or renegotiation, offer a more flexible alternative. The ambiguity in Article 4 of the 1998 Law, which vaguely promises additional guarantees, exacerbates uncertainty, leaving investors unsure of their protections. Comparative analysis shows that Kazakhstan's broad stability guarantees and the Andean approach's defined scopes (e.g., tax stability in Colombia) provide more predictable frameworks. This suggests that Uzbekistan could benefit from adopting economic equilibrium clauses and clarifying the scope of stabilization provisions.

The legal foundations for protecting foreign investors in Uzbekistan are well-established but undermined by practical challenges, including legislative instability, vague guarantees, and sovereignty-investment conflicts. The frequent amendments to investment laws and the resultant breaches of stabilization clauses, as seen in high-profile cases, have damaged Uzbekistan's reputation as a reliable investment destination.

Drawing on the experiences of Kazakhstan and Andean countries, this study recommends several reforms: clarifying stabilization provisions through specific bylaws, neutralizing investments from adverse legal changes, and prioritizing economic equilibrium clauses in contracts. These measures would enhance legal predictability, balance investor rights with state sovereignty, and promote a sustainable inflow of FDI. As of August 23, 2025, implementing these changes is crucial for Uzbekistan to strengthen its economic position in the global market.

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