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Original article

Cuban bilateral investment treaties. Actuality and perspectives for local development

Los tratados bilaterales de inversión cubanos. Actualidad y perspectivas para el desarrollo local

Tratados bilaterais de investimento cubanos. Presente e perspectivas para o desenvolvimento local

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ABSTRACT

Bilateral investment treaties signed by the Cuban State contain a set of substantive and procedural standards of mandatory compliance for the contracting parties. Among these is the most favored nation clause, a commitment that obliges the States to grant, both to foreign investors and to their investments, the most favorable treatment fundamentally in material matters. From the analysis of this clause, the main theoretical and normative deficiencies were identified, which could place the State in a situation of vulnerability before an eventual investment arbitration, as well as hinder the management of any local development project with the presence of foreign investment. The objective of this paper is to formulate theoretical assumptions for the improvement of the most favored nation clause of the bilateral investment treaties concluded by Cuba. The methods used were analysis-synthesis, inductive-deductive, historical-legal analysis, theoretical-legal analysis and exegetical-legal analysis. The research was also carried out on the basis of the bibliographical review and the analysis of documents, which allowed the critical analysis and the taking of theoretical positions with

respect to the institution studied, which will favor a better management and application of these agreements.

Keywords: most favored nation clause; local development; theoretical assumptions; bilateral investment treaties.

RESUMEN

Los tratados bilaterales de inversión suscritos por el Estado Cubano son contentivos de un conjunto de estándares sustantivos y procesales de obligatorio cumplimiento para las partes contratantes. Entre estos se encuentra la cláusula de la nación más favorecida, compromiso que obliga a los Estados a otorgarle, tanto a los inversionistas extranjeros como a sus inversiones, el trato más favorable fundamentalmente en cuestiones materiales. Del análisis de esta cláusula se identificaron las principales deficiencias teóricas y normativas que pudieran colocar en situación de vulnerabilidad al Estado, ante un eventual arbitraje de inversión, así como dificultar la gestión de cualquier proyecto de desarrollo local con presencia de inversión extranjera. El objetivo del presente trabajo consiste en formular presupuestos teóricos para el perfeccionamiento de la cláusula de la nación más favorecida de los tratados bilaterales de inversión concertados por Cuba. Los métodos empleados fueron el análisis-síntesis, inductivo-deductivo, el análisis histórico-jurídico, análisis teórico-jurídico y el exegético-jurídico. La investigación se realizó, además, a partir de la revisión bibliográfica y el análisis de documentos, los que permitieron el análisis crítico y la toma de posiciones teóricas respecto a la institución estudiada, lo que favorecerá una mejor gestión y aplicación de estos acuerdos.

Palabras clave: cláusula de la nación más favorecida; desarrollo local; presupuestos teóricos; tratados bilaterales de inversión.

RESUMO

Os tratados bilaterais de investimento assinados pelo Estado cubano contêm um conjunto de normas substantivas e processuais que são obrigatórias para as partes contratantes. Entre elas está a cláusula da nação mais favorecida, um compromisso que obriga os Estados a conceder aos investidores estrangeiros e seus investimentos o tratamento mais favorável, fundamentalmente em

questões materiais. A análise dessa cláusula identificou as principais deficiências teóricas e normativas que poderiam colocar o Estado em uma situação de vulnerabilidade diante de uma possível arbitragem de investimento, bem como dificultar a gestão de qualquer projeto de desenvolvimento local que envolva investimento estrangeiro. O objetivo deste trabalho é formular pressupostos teóricos para o aprimoramento da cláusula da nação mais favorecida nos tratados bilaterais de investimento de Cuba. Os métodos utilizados foram análise-síntese, indutivo-dedutivo, análise histórico-jurídica, análise teórico-jurídica e análise exegético-jurídica. A pesquisa também se baseou em revisão bibliográfica e análise documental, o que permitiu a análise crítica e a adoção de posições teóricas a respeito da instituição estudada, o que favorecerá uma melhor gestão e aplicação desses acordos.

Palavras-chave: cláusula de nação mais favorecida; desenvolvimento local; pressupostos teóricos; tratados bilaterais de investimento.

INTRODUCTION

Research on the meaning and scope of bilateral investment treaties or agreements for the promotion and reciprocal protection of investments (APPRIs), as they are also known, is becoming increasingly necessary in the context of contemporary inter-State economic and trade relations. The complexity of these relations, particularly in the field of international investment law, requires the protection of both foreign investors and the interests of host states.

However, for a better understanding of these bilateral treaties, as well as their articulation with the State's claims in the area of local development, it is necessary to study their main standards, with emphasis on the most favored nation clause (MFNC) agreed therein.

Thus, the Cuban practice of signing this type of agreements began in the nineties of the last century (Suárez Rodríguez, 2022, p. 294), with the signing of the agreement for the promotion and reciprocal protection of investments between the government of the Italian Republic and the government of the Republic of Cuba, on May 7, 1993, followed by the signing of 62 more treaties, 52 of them concluded until the year 2000 and 11 after that date.

It is no coincidence that in this decade the State joined the movement of countries subscribing to this type of agreements, since the period was characterized by the enormous efforts made by the

government, with the objective of reinserting itself in the international market, after thirty years of close economic and financial ties with the disappeared socialist bloc and the former Union of Soviet Socialist Republics. That is why among the measures adopted was the gradual and selective submission to a process of opening to foreign direct investment in order to attract foreign financing and with this, the subscription of bilateral investment treaties, as an additional guarantee of protection to the foreign investor. To date, Cuba has signed 63 APPRIs, although a general analysis reveals that only 40 agreements are in force.

With respect to the structure, there are notorious differences in their architecture. This very different design, between one treaty and the other, could be due to the lack of experience, *ab origine*, of the protagonists involved in the gestation of the treaties.

As a result, the APPRIs signed by Cuba lack uniformity and, following Mendoza Díaz (2012), a Cuban model preceding their negotiation.

Neither is it possible to frame them in some of the existing models due to the atypicalities they present, although the first treaties signed with Italy and Russia denote a certain approach to the so-called European model of bilateral investment treaties. What is certain is that each agreement acquired the characteristics and interests proper to the historical moment in which they were concluded and true to their nature, they contain a considerable number of obligations for the host country and rights in favor of the investors.

The standards that can be identified in Cuban bilateral investment protection agreements are the following: the definition of foreign investment, national treatment, fair and equitable treatment, full protection and security, most favored nation treatment and dispute settlement mechanisms.

However, in some of these international instruments it is difficult to identify certain clauses, due to the different forms in which they can be expressed, as is the case of the most favored nation clause, which is the subject of this paper.

This standard consists, in a general sense, of a treaty provision by virtue of which the State undertakes, with respect to another State, the obligation to grant most-favored-nation treatment.

However, the multiple ways in which MFNCs can be drafted have opened a gap in the process of interpreting and determining their meaning and scope. Although these clauses were conceived for

substantive matters, it is now possible to extend them to the dispute settlement mechanisms of a third treaty.

Thus, an investor benefiting from this principle may gain access to a dispute settlement channel other than the one agreed upon by the contracting parties, circumventing the jurisdictional limits agreed upon by the States, which could place the latter in a situation of vulnerability before an eventual investment arbitration.

The above generated in International Law complex theoretical and practical disquisitions (Cole, 2012; Dolzer et al., 2022; Riquelme, 2018). Regarding Cuba, the study of this institution is scarce (Mendoza Díaz, 2020; Velázquez Pérez, 2015; Zaldivar Rodríguez, 2023), research has only been limited to the examination of the clause as a relative standard of protection, without sufficiently addressing the transcendence to dispute settlement mechanisms, an approach that is addressed in this material.

The foregoing motivates the examination of an aspect of this topic, which focuses on analyzing the most favored nation clause of the bilateral investment agreements signed by Cuba in order to, on the basis of the deficiencies detected, formulate theoretical assumptions that contribute to its improvement. In this way, it could contribute to a better articulation between the national and international regulatory framework, with respect to any local development project with the presence of foreign investment in order to foresee and avoid *ab initio* undesired results.

MATERIALS AND METHODS

This study used as fundamental methods, on the one hand, the general methods of science in theoretical research. Thus, the use of the analysis-synthesis and the inductive-deductive methods, used throughout the research, which made possible a theoretical assessment of the institution and the conformation of theoretical assumptions for the improvement of the most favored nation clause of the bilateral investment treaties signed by Cuba.

On the other hand, specific methods of legal research were used, such as the historical-legal analysis, necessary in the study of the main doctrinal positions and the normative evolution of the most favored nation clause.

The legal-theoretical analysis, on the other hand, made it possible to examine this standard, focusing on its operation and interpretation in order to achieve the conformation of the conceptual theoretical

basis for the purpose of constructing the theoretical assumptions that constitute the fundamental contribution of the research.

While the exegetical-legal method, typical of the Legal Sciences (Pavó Acosta, 2009), allowed the study of the clause and its regulation in Cuban bilateral investment agreements, achieving a diagnosis of the institution under analysis, which covered the quality of the language in which they are drafted, the scope of application and the identification of deficiencies.

Likewise, the research was carried out based on a bibliographic review, which made it possible to evaluate the bibliography consulted on the subject, as well as its main exponents.

In addition, the analysis of documents, especially reports and provisions relating to the most-favored-nation clause, issued by the International Law Commission of the United Nations, the United Nations Conference on Trade and Development, the United Nations Commission on International Trade Law and the Organization for Economic Cooperation and Development was taken into account.

Several arbitration awards in cases related to the object of the research were also analyzed, as well as all the agreements for the promotion and reciprocal protection of investments signed by the country.

RESULTS AND DISCUSSION

The most favored nation clause of the Cuban bilateral investment protection agreements is provided for in articles called "treatment of investments", "promotion and protection of investments", "national and most favored nation treatment", "most favored nation treatment", among others.

Despite the common obligation of most-favored-nation treatment in these agreements, the way it is expressed varies. In some treaties, the clause includes both the obligation to grant most-favored-nation treatment and the obligation to grant national treatment. Others link it to the commitment to fair and equitable treatment. In several agreements, the different types of obligation are mixed in a single clause, and only in a small group is it positioned as an autonomous standard.

This great variety in which the clause has been agreed upon is consistent with international practice (Zaldivar Rodríguez, 2023), however, it is necessary to analyze the terms used for its drafting, which will allow to define its conventional limits.

Of the 40 APPRIs in force, in several of them, the clause is worded as providing for "treatment no less favorable" to the investor and its investments, without specifying what can be understood by "treatment", according to the treaty.

The MFNCs also regulate, as exceptions to the obligation to grant most favored nation treatment, those benefits of any treatment, preference or privileges deriving from customs unions, free trade zones, common market, monetary union, double taxation treaties or other agreements on tax matters, as well as any other form of regional economic organization of which the Contracting Parties are members.

This standard was originally conceived to attract substantive benefits of reference treaties and eliminate discrimination among investors on the basis of nationality, and there is no doubt that it was agreed upon in the Cuban treaties under that prism, hence it is not questionable that among the exceptions to the most favorable treatment, there are no provisions related to dispute settlement.

After the emblematic Maffezini *vs* Spain case, which opened a new path in the interpretative analysis of this standard (González de Cossío, 2009), some arbitral tribunals in the presence of MFNC, with similar wording to the one analyzed, pronounced themselves in favor of the inclusion of dispute settlement procedures within the scope of application of the clause, based on the principle *expressio unius est exclusio alterius.*

By means of this principle, if the Parties agreed to exceptions to the use of the clause, all those matters that were not excepted are considered part of the scope of application of the clause, as is the case of dispute resolution mechanisms.

It is therefore important for the parties to the basic treaty to know exactly what the adopted concept of "treatment" is and to what extent they may or may not extend it.

In the Cuban case, it is considered that this form of wording, in which it is provided for "no less favorable treatment" to the investor and its investments, should be rethought in view of the current international arbitration scenario, in the sense of expressly and clearly excluding jurisdictional aspects from the most favorable treatment, thus eliminating any possibility of broadening its scope of application.

The aforementioned would be very healthy, if it is taken into consideration that some of these clauses include other qualifiers that could also generate an expansive analysis of the scope of the treatment granted.

Thus, the agreement with Qatar is included in this first group of treaties, even though the wording of the MFNC in the agreement in question presents some variations.

Its particularity consists in extending the "treatment" not only to the investment, but also to the "activities associated" with it, which implies a broadening of the scope of protection agreed by the States parties. This represents a loophole that could be used by arbitral jurisprudence to include procedural commitments.

Other types of obligation present in these clauses are those in which the deal has been agreed in relation to certain aspects of the investment process. Thus, they only operate in relation to the "management, maintenance, use, enjoyment or disposition of the investments".

This is the case of the APPRIs signed with Laos, Cape Verde, Barbados and Trinidad and Tobago, in which *prima facie*, it could be asserted that the scope of this standard is more precisely defined.

Contrary to what the ordinary meaning of the above expression suggests, some arbitral tribunals have interpreted similar clauses extensively, considering them sufficiently broad to cover dispute settlement mechanisms.

In addition to the above, in the specific case of the agreements with Cape Verde, Mongolia and Barbados, there is a particularity that deserves special attention in the analysis and that is the fact of including a paragraph in which, clearly and unequivocally, the parties agree to extend the scope of application of the MFNC to dispute settlement mechanisms. By way of example, Article 3, paragraphs 2 and 3 of the Cuba-Mongolia APPRI are cited, which refer to:

> 2nd. Neither Contracting Party shall subject, within its territory, natural or juridical persons of the other Contracting Party with respect to the management, maintenance, use, enjoyment or disposition of their investments, to treatment less favorable than that which it accords to its own natural or juridical persons or to natural or juridical persons of a third State.

> 3rd. For the avoidance of doubt, it is confirmed that the investments or profits of natural or juridical persons referred to in paragraphs (1) and (2) above are those governed by the national legislation covering the foreign investment and that the treatment stipulated in paragraphs (1) and (2) above is applicable to the provisions of Articles 1 to 11 of this Agreement.

As can be seen in the third paragraph of the aforementioned article, the parties clarify that the treatment granted in paragraphs 1 and 2 extends to articles 1 to 11 of the treaty, so that the conciliation of disputes between an investor and a Contracting Party, provided for in article 8 of this agreement, is implicit in the scope of application of the MFNC.

Then, there is no doubt that the wording of this type of clause is broader, there is also no room for misunderstanding about the consent of the parties to include the arbitration clause in the agreement and it is clear, finally, that this type of wording does not admit any problems of interpretation whatsoever.

Other agreements for the reciprocal promotion and protection of investments, which expressly and unequivocally extend the benefit of most-favored-nation treatment to the dispute settlement clause, are those concluded with South Africa and Turkey, even though the clause implicit therein does not qualify the treatment to be received with reference to the management, maintenance, use, enjoyment or disposition of the investments.

However, these clauses constitute an additional benefit for foreign investors (García Corona, 2013), since they allow them to import an arbitration forum other than the one agreed in the base treaty, circumventing the jurisdictional limits agreed by the States.

Moreover, at this point, foreign investors may be interested in attracting that part of the treaty's dispute settlement clause that most benefits them, rather than the entire dispute settlement regime. Continuing with the analysis, another way of drafting MFNCs is through their linkage to specific treaty obligations, such as fair and equitable treatment. In the agreements concluded with Malaysia and Laos, the signatory parties undertake to accord fair and equitable treatment to both investments and investors, treatment that must not be less favorable than that accorded to their own investors or that accorded to investors from a third State.

In these agreements, three substantive standards of particular importance are combined in the same clause: fair and equitable treatment, national treatment and most-favored-nation treatment, and the fact that an absolute standard such as fair and equitable treatment is made to depend on relative standards is striking.

Thus, a principle that in theory should not be affected by the treatment offered to other investors or their investments is subordinated to the above elements of comparison. Thus, although the analysis of the clause in general goes through fair and equitable treatment, most-favored-nation treatment constitutes a "basis" for the optimal application of this principle.

Finally, in some clauses there is an obligation to grant treatment to investors or investments that are in "like circumstances" or in "situations similar" to those of the comparison.

In line with international experience, the incorporation of this type of limiting expressions in the most favored nation clauses, to date, has not generated conflicts of interpretation regarding their possible application to dispute settlement provisions. Their basis may lie in the interpretation of the *ejusdem generis* principle; however, these expressions do shed some light when comparing investors and their investments, with respect to the scope of the rights they may claim under national treatment, which is useful in their relations with third parties.

As can be seen, the MFNCs of Cuban bilateral investment treaties do not assume a single model in their formulation; on the contrary, they adopt the most varied forms of wording.

The aforementioned is in full correspondence with international practice (UNCTAD, 2021, p. 21), and the same dangers and uncertainties for the interests of the States that would result from an abusive use of the referred standard can be glimpsed.

Local development projects involving foreign investment are not exempt from the above scenario. A general analysis of the subject will allow us to visualize their relationship.

In this sense, local development projects are a key element for local development in Cuba. They combine resources, efforts and actions with the objective of transforming a real, existing situation into a desired one, under the premise of contributing to the development of the territory where they operate and impacting on the quality of life of the population, recognizing their own identity for all legal purposes.

These projects find their legal instrumentation in guiding documents for the economic and social development of the country, such as the Constitution of the Republic of Cuba of 2019, the Conceptualization of the Cuban Economic and Social Model of Socialist Development, the National Plan for Economic and Social Development until the year 2030, the Guidelines of the Economic and Social Policy of the Party and the Revolution for the period 2016-2021, the Local Development Program and Law No. 148 "Food Sovereignty and Food and Nutritional Security Law", just to mention the most relevant ones.

While its legal seat is found in Decree No. 33 "For the Strategic Management of Territorial Development" of March 11, 2021, published in Official Gazette No. 40 of April 16, 2021 and its complementary norms. This legal instrument regulates the implementation of territorial development strategies and the management of local development projects, with the purpose of promoting territorial development, taking advantage of local resources and possibilities.

Chapter IV of Decree No. 33/2021 deserves special relevance for the purpose of this work, since it regulates the financing of local development projects.

Precisely, one of the recognized sources is the use of financial resources from foreign direct investment, after analysis by the Foreign Investment Business Evaluation Commission of the Ministry of Foreign Trade and Investment.

The fact that foreign investment is an important source for the economic and social development of the country cannot be ignored. It seeks, among others, advanced technologies, external financing, diversify and expand export markets, replace imports, create new sources of employment and promote productive linkages, as established by the legislation in force to date: Law No. 118 of 2014, "Foreign Investment Law" and its complementary rules.

However, the promotion and encouragement of foreign investment also involves the creation of an environment of legal certainty in favor of foreign investors, through a set of guarantees offered to them in the face of countless non-commercial risks. These guarantees are likewise endorsed in articles 3 to 10 of Law 118/2014 itself.

Likewise, with the approval of the Constitution of the Republic of Cuba of 2019, the importance of foreign investment for the country was reaffirmed, by enshrining in its Article 28 that: The State promotes and provides guarantees to foreign investment, as an important element for the economic

development of the country, based on the protection and rational use of human and natural resources, as well as respect for national sovereignty and independence.

On the other hand, Article 8 of the aforementioned body of law makes explicit the link of the Cuban State with its international commitments, by declaring that the provisions of international treaties are part of or, as the case may be, are integrated into the national legal system.

It is in this scenario where the bilateral investment treaties subscribed by the Cuban State become more important, since they constitute additional guarantees of protection to the foreign investor, due to the considerable number of obligations they create for the country receiving the investment and the rights in favor of the investors. The existence of a legal regulatory framework is not enough, but in addition there are these agreements that provide additional protection to foreign investors, through substantive and procedural standards of mandatory compliance for the contracting parties. Among these is the most favored nation clause previously analyzed.

The opening of local development projects to foreign direct investment also requires knowledge of this national and international legal framework. It is necessary to know the origin of the foreign investment, as well as the existence or not of APPRIs between the States that participate in these business schemes, since some countries protect their investments abroad through these agreements. Therefore, the training of the different local actors involved is a priority in order to successfully insert local development projects in this complex scenario.

Ignorance of the above would generate undesirable results because, if the investment is not correctly protected, an eventual investment arbitration could arise for the solution of the controversy which, as explained, could be developed before the arbitration tribunals agreed upon by the contracting parties in the base treaty or in others not foreseen, through the "game of the most favored nation clause", placing the Cuban State in a situation of vulnerability.

Then, the analysis of the general design of Cuban bilateral investment treaties, with special emphasis on the most favored nation clause, made it possible to identify their main theoretical and normative deficiencies.

These deficiencies have an unfavorable impact, not only on the way in which the standard operates in material matters, but also make it possible to expand the jurisdictional formulas of Cuban investment treaties.

For this reason, some theoretical assumptions are proposed that could contribute to the redesign of the clause, in order to delimit and perfect it, as follows:

- The original function of the most-favored-nation clause is to grant its beneficiary treatment no less favorable than that accorded to third parties, thus confirming its non-discriminatory nature.
- The most-favored-nation clause in Cuban bilateral investment treaties should be regulated as an autonomous standard, without links to other specific obligations (such as national treatment and fair and equitable treatment) assumed in the agreement by the contracting parties and in an article whose name specifically refers to "Most-Favored-Nation Treatment".
- The most favored nation clause of the Cuban agreements should adopt a unique model in its formulation.
- The terms used in the drafting of the analyzed institution must be clear, explicit and unequivocal. The foregoing will make it possible to determine with greater precision its conventional limits.
- The inclusion of the term "in like circumstances" in all MFNCs will make it possible to compare investors and investments with respect to the extent of the rights they may claim under most-favored-nation treatment in their dealings with third parties.
- The exclusion of those "activities associated" with the investment from the "treatment" to be accorded to the investors' investments will limit the scope of application of the clause to the specific commitment undertaken by the State.
- Agreeing to "most favorable treatment" in relation to certain aspects of the investment process (which could include the management, acquisition, maintenance, use, operation, administration, enjoyment, sale, liquidation or other disposition of investments), will allow for a more precise definition of the scope of the most-favored-nation clause.
- It is necessary to expressly agree on all areas to be excluded from the scope of the most favored nation provision.
- The dispute settlement channels provided for in the base treaty must be expressly and clearly excluded from the "most favorable treatment" granted to investors and their investments.
- The above exception may be drafted as part of the most favored nation clause or in a separate rule expressly delimiting the application and operation of the clause.

As can be seen, Cuba's bilateral investment treaties constitute an additional guarantee for the attraction of foreign direct investment to the country. These international agreements make available

to foreign investors a considerable number of rights, while reserving for the receiving State obligations.

Among these is the commitment to provide investors and their investments with the most favored nation treatment, a clause of apparent nobility with non-discriminatory purposes, but which scope of application could reach commitments not foreseen by the State in its agreement process.

This could place the country in a situation of vulnerability in the event of investment arbitration. Therefore, it is recommended to pay special attention to the national and international regulatory framework with respect to any local development project involving foreign investment, in order to foresee and avoid undesirable results.

From the legal point of view, the solution does not lie in dispensing with these international commitments through a process of denunciation, but in redesigning the most favored nation clause. The above theoretical assumptions are aimed at such ends, which could perfect this standard, delimiting its meaning and scope.

REFERENCES

Cole, T. (2012). The Boundaries of Most Favored Nation Treatment in International Investment Law. *Michigan Journal of International Law*, *33*(3), 537-586. https://repository.law.umich.edu/mjil/vol33/iss3/3

Dolzer, R., Kriebaum, U., & Schreuer, C. (2022). *Principles of International Investment Law*. Oxford University Press.

García Corona, I. G. (2013). *Arbitraje de inversión: La cláusula de la nación más favorecida en derechos adjetivos*. Universidad Nacional Autónoma de México. Instituto de Investigaciones Jurídicas. http://ru.juridicas.unam.mx:80/xmlui/handle/123456789/12236

González de Cossío, F. (2009). *Arbitraje de inversión*. Porrúa.

Mendoza Díaz, J. (2012). Arbitraje de inversión. Una mirada desde Cuba. *Revista Cubana de Derecho*, (39), 5-32. https://cuba.vlex.com/vid/arbitraje-mirada-cuba-437405738

Mendoza Díaz, J. (2020). Inversión directa de capital extranjero en Cuba y arbitraje de inversión. En C. Esplugues Mota, *Tratado de Inversiones Extranjeras y Arbitraje de Inversiones en Iberoamérica* (pp. 337-361). Tirant lo Blanch. https://dialnet.unirioja.es/servlet/articulo?codigo=7566806

Pavó Acosta, R. (2009). *La investigación científica del Derecho*. Universidad Inca Garcilaso de la Vega. https://fondoeditorialuigv.wordpress.com/2015/03/04/la-investigacion-cientifica-del-derecho/

Riquelme, C. (2018). Consolidando la política de inversiones por medio de la cláusula de nación más favorecida en los tratados internacionales de inversión. *Estudios Internacionales*, *50*(189), 121-148. https://doi.org/10.5354/0719-3769.2018.49063

Suárez Rodríguez, T. (2022). Los APPRI cubanos y la expropiación indirecta en las inversiones extranjeras. *Revista Cubana de Derecho*, *2*(2), 281-316. https://revista.unjc.cu/index.php/derecho/article/view/151

UNCTAD. (2021). *Informe sobre las Inversiones en el Mundo 2021. Invertir en la recuperación sostenible*. Conferencia de las Naciones Unidas sobre Comercio y Desarrollo. https://unctad.org/system/files/official-document/wir2021_overview_es.pdf

Velázquez Pérez, R. A. (2015). *Inversiones extranjeras sostenibles: Un análisis alternativo del derecho internacional de inversiones enfocado sobre Cuba*. Bosch. https://dialnet.unirioja.es/servlet/libro?codigo=753673

Zaldivar Rodríguez, Y. (2023). La cláusula de la nación más favorecida: Un análisis prospectivo. *Revista Santiago*, (160), 175-190. https://santiago.uo.edu.cu/index.php/stgo/article/view/5515

Conflict of interest

Author declares not to have any conflict of interest.

Authors' contribution

Yanitza Zaldivar Rodríguez wrote the manuscript and approves the version finally submitted.