表二

103 學年度 商 學院 英語授課課程大綱

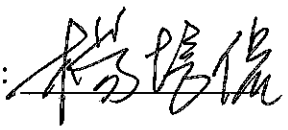
課程名稱 Course Title 模組 個別	(中文) WTO 專題研究:爭端解決 (英文) Advanced Seminar on WTO Law:dispute settlement
課程目標 Course Objectives	The dispute settlement system in the WTO has played a crucial role in solving international trade disputes among WTO Members at the multilateral level. This course analyzes how WTO Members use such multilateral dispute settlement system in settling trade disputes based on substantive trade rules agreed upon such as the General Agreement on Tariffs and Trade (GATT) or the General Agreement on Trade in Services (GATS). Instead of examining substantive international trade rules, this course focuses on addressing various aspects of procedural issues in the WTO dispute settlement at different stages of consultation, adjudication and implementation. The purpose of this course is to familiarize students with the unique WTO mechanism that underscores the rule-based approach for the solution of trade disputes among WTO Members.
課程大綱 Course Description	The dispute settlement system in the WTO has played a crucial role in solving international trade disputes among WTO Members at the multilateral level. This course analyzes how WTO Members use such multilateral dispute settlement system in settling trade disputes based on substantive trade rules agreed upon such as the General Agreement on Tariffs and Trade (GATT) or the General Agreement on Trade in Services (GATS). Instead of examining substantive international trade rules, this course focuses on addressing various aspects of procedural issues in the WTO dispute settlement at different stages of consultation, adjudication and implementation. The purpose of this course is to familiarize students with the unique WTO mechanism that underscores the rule-based approach for the solution of trade disputes among WTO Members.

上課進度
Weekly Course Schedule

Week	SUBJECT COVERED & ASSIGNED READINGS
01	**Topic 1: Introduction to WTO Dispute Settlement System** [1].*Introduction to the WTO Dispute Settlement System* and *Historic Development of the WTO Dispute Settlement System* in HANDBOOK, p. 1-16. [2].John H. Jackson, *Fragmentation or Unification among International Institutions: The World Trade Organization*, 31 J. INT'L L. & POLITICS 823 (1998), pp. 823-831. [3].Joost Pauwelyn, *The Transformation of World Trade*, 104 MICH. L. REV. 1 (2005), pp. 1-9.
02	**Topic 2: Stages and Process of WTO Dispute Settlement** [1].*The Process - Stages in a Typical WTO Dispute Settlement Case* in HANDBOOK, p. 43-75. [2].William J. Davey, *The WTO Dispute Settlement Mechanism* (2003), at http://papers.ssrn.com/abstract=419943
03	**Topic 3: Legal Basis and Types of WTO Complaints** [1].*Legal Basis for a Dispute* in HANDBOOK, p.28-37. [2].Jim Durling and Simon Lester, *Original Meanings and the Film Dispute: The Drafting History, Textual Evolution, and Application of the Non-Violation Nullification or Impairment Remedy*, 32 GEO. WASH. J. INT'L L. & ECON. 211 (1999), pp.211-214; pp.2401-269. [3].Joost Pauwelyn, *A Typology of Multilateral Treaty Obligations: Are WTO Obligation Bilateral or Collective in Nature?* 14 EUR. J. INT'L L. 907 (2003), p.907-9, p. 915-917, p. 941-945 [4].Understand on The Interpretation of GATT Article XXIV, para. 13-15 at http://www.wto.org/english/docs_e/legal_e/10-24.doc
04	**Topic 4: Jurisdiction and Possible Objects of a WTO Complaint** [1].*Possible Object of a Complaint – Jurisdiction of Panels and the Appellate Body* in HANDBOOK, pp. 38-42. [2].Alan Yanovich and Tania Voon, *What is the Measure at Issue?* in Andrew D. Mitchell, CHALLENGES AND PROSPECTS FOR THE WTO, Cameron May Ltd. (2005), pp. 115-131. [3].Gary N. Horlick & Glenn R. Butterton, *A Problem of Process in WTO Jurisprudence: Identifying Disputed Issues in Panels and Consultations*, 31 LAW & POL'Y INT'L BUS. 573 (2000), pp. 573-582.
05	**Topic 5: Sources of Law and Treaty Interpretation** [1].Dsavid Palmeter and Petros Mavroidis, *The WTO Legal System: Sources of Law*, 92 AM. J. INT'L L. 398 (1998), pp.398-413. [2].Michael Lennard, *Navigating by the Stars: Interpreting the WTO Agreements*, 5 J. INT'L ECON. L. 17 (2002), pp. 17-79. [3].Joost Pauwelyn, Reply to Joshua Meltzer, 25 MICH. J. INT'L L. 924 (2004).
06	**Topic 6: WTO Laws, National Laws and Other International Laws** [1].John H. Jackson, *Status of Treaties in Domestic Legal Systems: A Policy Analysis*, 86 AM. J. INT'L L. 310 (1992), pp.310-340. [2].Joost Pauwelyn, *How to Win a WTO Dispute Based on non-WTO Law*, 37:6 JOURNAL OF WORLD TRADE 997 (2003), p. 1005-1019. [3].Joel Trachtman, *The Domain of WTO Dispute Resolution*, 40 HARV. INT'L L.J. 333 (1999), p. 333-377. [4].Joost Pauwelyn, *The Role of Public International Law in the WTO: How Far Can We Go?*, 95 AM. J. INT'L L. 535 (2001), p.535-578. [5].Joost Pauwelyn, *Bridging Fragmentation and Unity: International Law as a Universe of Inter-connected Islands*, 25 MICH. J. INT'L L. 903 (2004), pp.913-916.
07	**Topic 7: Players in WTO Dispute Settlement (I): Dispute Settlement Body, Expert and Appellate Body** [1].*WTO Bodies Involved in the Dispute Settlement Process* in HANDBOOK, p. 17-27, 97-100. [2].Joost Pauwelyn, *The Use of Experts in WTO Dispute Settlement*, 51 INT'L & COMP. L. Q. 325 (2002), at http://www.hydro.duke.edu/solutions/documents/useofexperts.pdf, pp.325-364. [3].The Rules of Conduct for WTO Dispute Settlement. [4].James Bacchus, *Table Talk: Around the Table of the Appellate Body of the WTO*, 35 VAND. J. TRANSNAT'L L. 1021 (2002), pp.1021-1039. [5].John Kingery, *Commentary: Operation of Dispute Settlement Panels*, 31 LAW & POL'Y INT'L BUS. 665 (2000), pp.665-673.
08	**Topic 8: Players in WTO Dispute Settlement (II): Third Parties, NGOs and Private Attorney** [1].*Participation in Dispute Settlement Proceedings*, in HANDBOOK, p. 97-100. [2].Petros Mavroids, *Amicus Briefs before the WTO: Much ado About Nothing?* Jean Monnet Working Paper 2/01, at http://www.worldtradelaw.net/articles/mavroidisamicus.pdf, pp.1-17. [3].Joseph Weiler, *The Rule of Lawyers and the Ethos of Diplomats: Reflections on the Internal and External legitimacy of WTO Dispute Settlement*, 35 JOURNAL OF WORLD TRADE 191 (2001), p.193-200. [4].Jessica C. Pearlman, *Participation by Private Counsel in World Trade Organization Dispute Settlement Proceedings*, 30 LAW & POL'Y INT'L BUS. 399 (1999), pp.399-415. [5].Philip M. Nichols, *Extension of Standing in World Trade Organization Disputes to Nongovernment Parties*, 17 U. PA. J. INT'L ECON. L. 295 (1996), pp.295-329.
09	**Topic 9: Procedural Issues (I): Standing, Burden of Proof and Role of Precedent** [1].*Legal Issues Arising in WTO Dispute Settlement Proceedings* in HANDBOOK, p. 101-108. [2].Joost Pauwelyn, *Evidence, Proof and Persuasion in WTO Dispute Settlement, Who Bears the Burden?* 1 J. INT'L ECON. L. 227 (1998), pp.227-229, 233-235, 237-246, 252-258. [3].Philip M. Nichols, *Two Snowflakes are Alike: Assumptions Made in the Debate over Standing before the World Trade Organization Dispute Settlement Boards*, 24 FORDHAM INT'L L.J. 427 (2000), pp.427-443. [4].Adrian T. L. Chua, *Precedent and Principles of WTO Panel Jurisprudence*, 16 BERKELEY J. INT'L L. 171 (1998), pp.171-196.
10	**Topic 10: Procedural Issues (II): Judicial Economy and Standard of Review** [1].Steven Croley & John Jackson, *WTO Dispute Procedures, Standard of Review and Deference to National Governments*, 90 AM. J. INT'L L. 193 (1996), p.193-213. [2].Stefan Zleptnig, *The Standard of Review in WTO Law: A Analysis of Law, Legitimacy and the Distribution of Legal and Political Authority*, at http://eiop.or.at/eiop/pdf/2002-017.pdf [3].Mattthias Oesch, *Standards of Review in WTO Dispute Resolution*, 6 J. INT'L ECON. L. 635 (2003), pp.635-659.
11	**Topic 11: Remedies in WTO Dispute Settlement** [1].*Implementation by the "Losing" Member, Legal Effect of Panel and Appellate Body Reports and DSB Recommendations and Rulings* and *Dispute Settlement without Recourse to Panels and the Appellate Body* in HANDBOOK, p. 74-87, 88-91, 92-96. [2].Petros C. Mavroidis, *Remedies in the WTO Legal System: Between a Rock and a Hard Place*, 11:4 EUR. J. INT'L L. 763 (2000), p.763-766, 774-813. [3].Joost Pauwelyn, *Enforcement and Countermeasures in the WTO: Rules are Rules - Toward a More Collective Approach*, 94 AM. J. INT'L L. 335 (2000) p. 335-347. [4].Mark Movsesian, *Enforcement of WTO Rulings: An Interest Group Analysis*, 32 HOFSTRA L. REV. 1 (2003), p.1-21. [5].Steve Charnovitz & Jason Kearns, *Adjudicating Compliance in the WTO*, 5 J. INT'L ECON. L. 331 (2002), pp.331-352.
12	**Topic 12: Calculation and Selection of Trade Sanctions** [1].Marco Bronckers & Naboth van den Broeck, *Financial Compensation in the WTO: Improving the Remedies of WTO Dispute Settlement*, 8 J. INT'L ECON. L. 101 (2005), p.101-126. [2].Warren Schwartz & Alan Sykes, *The Economic Structure of Renegotiation and Dispute Resolution in the WTO*, 31 J. LEGAL STUD. 179 (2002), p.179-204. [3].EC-Hormone beef arbitration ; US-FSC arbitration; US-Byrd arbitration [4].Joost Pauwelyn, *How Binding Are WTO Rules? A Transatlantic Analysis of International Law*, at http://eprints.law.duke.edu/1315/1/wto_rules.pdf
13	**Topic 13: Proposed Reform of WTO Dispute Settlement System** [1].Select one of WTO Members' reform proposal on WTO website under the document title TN/DS/W/ and provide your written comment. [2].Judith Hippler Bello, *The WTO Dispute Settlement Understanding: Less is More*, 90 AM. J. INT'L L. 416 (1996), pp.416-418. [3].Kim Van der Borght, *The Review of the WTO Understanding on Dispute Settlement: Some Reflections on the Current Debate*, 14 AM. U. INT'L L. REV. 1223 (1999), pp.1223-1243. [4].Donald McRae, *What is the Future of WTO Dispute Settlement?* 7 J. INT'L ECON. L. 3 (2004).
14	**Case Study (I): China Currency Case** [1].Japan – Film (WT/DS44) [2].IMF Executive Board Concludes 2005 Article IV Consultation with the People's Republic of China, Public Information Notice (PIN) No. 05/122, September 12, 2005, at http://www.imf.org/external/np/sec/pn/2005/pn05122.htm.
15	**Case Study (II): Sweat Biscuits Case** [1].Canada – Dairy (WT/DS103, 113) [2].EC – Sugar (WT/DS265, 266, 283) [3].US – Cotton (WT/DS267)
16	**Case Study (III): Diamonds Case** [1].Section I, Definitions, of the Kimberley Process Certification Scheme, at http://www.kimberleyprocess.com. [2].Decision by the WTO Council for Trade in Goods recommending that the WTO General Council grants the waiver, see WTO news item at http://www.wto.org/english/news_e/news03_e/goods_council_26feb03_e.htm. WTO document G/C/W/432/Rev.1, dated 24 February 2003.
17	**In-Class Presentations and Discussions**
18	**In-Class Presentations and Discussions**

教學方式 Instructional Method	This class will be partially held in English. Each student is strongly encouraged to be well prepared in reading assigned materials before participating classes every week and to make substantive intellectual contribution to class discussion or dialogue. Students will be randomly called on answering questions, expressing ideas or briefing the main theme of assigned readings and cases. Failing to follow the rules will be subject to penalties either to deduct the grade or to submit a written paper on the topic concerned.
課程要求 Course Requirements	Grading will be based 20% on class participation and discussion, 40% on submission of five reaction papers on relevant topics, and 40% on an in-class presentation of an assigned or self-selected WTO case together with a completion of term paper. The paper should be an original work based on the assigned or selected WTO case in compliance with appropriate citation rules. Students may otherwise choose to join an in-class moot court competition based on assigned hypothetical cases instead of submitting a term paper.
評量方式 Evaluation	Grading will be based 20% on class participation and discussion, 40% on submission of five reaction papers on relevant topics, and 40% on an in-class presentation of an assigned or self-selected WTO case together with a completion of term paper. The paper should be an original work based on the assigned or selected WTO case in compliance with appropriate citation rules. Students may otherwise choose to join an in-class moot court competition based on assigned hypothetical cases instead of submitting a term paper.
教材及參考書目 Textbooks & Suggested Materials	A coursepack will contain all the required readings for this class and should be handy for every class. Additional readings including summarized version of WTO cases may be handed out in class if I find it is necessary for discussion. Students are encouraged to prepare following textbooks for further self-study: (1) A WTO Secretariat Publication, A HANDBOOK ON THE WTO DISPUTE SETTLEMENT SYSTEM, Cambridge University Press (2004); (2) David Palmeter and Petros C. Mavroidis, DISPUTE SETTLEMENT IN THE WORLD TRADE ORGANIZATION, PRACTICE AND PROCEDURE, Cambridge University Press, 2ed (2004); (3) Chang-fa Lo (羅昌發), International Trade Law (國際貿易法), Angel Publishing Ltd. (元照), 1999. (4) Tasi-yu Lin, (林彩瑜), WTO Law and Practice (WTO 制度與實務), Angel Publishing Ltd. (元照), 2011. ***Legal Texts (Textbook & References)*** WTO Secretariat, THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE Negotiations: THE LEGAL TEXTS, Cambridge University Press/WTO, available at http://www.wto.org/english/docs_e/legal_e/legal_e.htm.

課程相關 連結網址 Course Website	http://www.wto.org (official website of the World Trade Organization); http://www.worldtradelaw.net (case summaries); http://cweb.trade.gov.tw (Bureau of Foreign Trade, Taiwan, R.O.C.); http://www.ustr.gov (official US government trade website); http://ec.europa.eu/trade/index_en.htm (official trade site of the European Commission); http://www.law.duke.edu/lib/researchguides/gatt.html (Duke Law Library's own Research Guide to the GATT/WTO).
備註 Remarks	

申請教師簽章：  開課單位主管簽章：