

表二

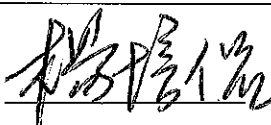
104 學年度 商 學院 英語授課課程大綱

<p>課程名稱 Course Title <input type="checkbox"/> 模組 <input type="checkbox"/> 個別</p>	<p>(中文)法學方法</p> <p>(英文) Legal Method</p>
<p>課程目標 Course Objectives</p>	<p>This course focuses on examining different legal methods that have been developed in the international legal society, such as law and economics, critical legal studies, and constitutionalism, etc. With basic understandings of these legal methodologies, students are expected to analyze relevant cases adjudicated under the World Trade Organization (WTO) from both a theoretical and practical perspective.</p> <p>Unlike general legal method courses offered by law schools, this course is especially designed for graduate students of the Department of International Business with the aim to equip them the necessary analytical tool for further study of international economic law. Therefore, this course places more emphases on the legal research and analysis of international economic law (especially the WTO regime) than those on general legal reasoning and interpretation methodologies covered by ordinary legal method courses.</p> <p>Moreover, this course provides students chances for hands-on exercises and practices of legal writing and research, the critical academic skills for the preparation and completion of master thesis. Therefore, this course aims to:</p> <ol style="list-style-type: none"> <li>(1) equip students with basic understandings of different legal methods that have emerged in international legal scholarship;</li> <li>(2) foster the ability to analyze relevant WTO cases through the lenses of different legal theories or methodologies;</li> <li>(3) familiarize students with basic structure of legal writing, skills of legal research and writing, and the knowledge of legal citations.</li> </ol>
<p>課程大綱 Course Description</p>	<p>This course focuses on examining different legal methods that have been developed in the international legal society, such as law and economics, critical legal studies, and constitutionalism, etc. With basic understandings of these legal methodologies, students are expected to analyze relevant cases adjudicated under the World Trade Organization (WTO) from both a theoretical and practical perspective.</p> <p>Unlike general legal method courses offered by law schools, this course is especially designed for graduate students of the Department of International Business with the aim to equip them the necessary analytical tool for further study of international economic law. Therefore, this course places more emphases on the legal research and analysis of international economic law (especially the WTO regime) than those on general legal reasoning and interpretation methodologies covered by ordinary legal method courses.</p> <p>Moreover, this course provides students chances for hands-on exercises and practices of legal writing and research, the critical academic skills for the preparation and completion of master thesis. Therefore, this course aims to:</p> <ol style="list-style-type: none"> <li>(1) equip students with basic understandings of different legal methods that have emerged in international legal scholarship;</li> <li>(2) foster the ability to analyze relevant WTO cases through the lenses of different legal methodologies;</li> <li>(3) familiarize students with basic structure of legal writing, skills of legal research and writing, and the knowledge of legal citations.</li> </ol>
<p>上課進度 Weekly Course Schedule</p>	<p>見附件大綱</p>
<p>教學方式 Instructional Method</p>	<p>This class will be 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.</p>

<p>課程要求 Course Requirements</p>	<p>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.</p>
<p>評量方式 Evaluation</p>	<p>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.</p>
<p>教材及參考書目 Textbooks &amp; Suggested Materials</p>	<p>A coursepack will contain all the required readings for this class and should be handy for every class. Selected WTO cases for further analysis will be handed out in class and can also be found in following books:</p> <p>(1) Henrik Horn &amp; Petro C. Mavroidis eds., THE AMERICAN LAW INSTITUTE REPORTERS' STUDIES ON WTO CASE LAW: LEGAL AND ECONOMIC ANALYSIS, Cambridge University Press, 2007.</p> <p>(2) Henrik Horn &amp; Petro C. Mavroidis eds., THE WTO CASE LAW OF 2004-2005: LEGAL AND ECONOMIC ANALYSIS, Cambridge University Press, 2008.</p> <p>(3) Henrik Horn &amp; Petro C. Mavroidis eds., THE WTO CASE LAW OF 2006-2007: LEGAL AND ECONOMIC ANALYSIS, Cambridge University Press, 2009.</p> <p>Students are encouraged to refer to following materials for the preparation and completion of writing assignments:</p> <p>(1) Darby Dickerson, ALWD Citation Manual - A Professional System of Citation, 2nd ed., 2003 (New York: Aspen).</p> <p>(2) Jeanne Rehberg, WTO/GATT Research (2003 revision), at <a href="http://www.llrx.com/node/131/print#II_C_4">http://www.llrx.com/node/131/print#II_C_4</a></p> <p>(3) Marci Hoffman, Revised Guide to International Trade Law Sources on the Internet (2002), at <a href="http://www.llrx.com/node/1274/print">http://www.llrx.com/node/1274/print</a>.</p> <p>(4) Georgetown Law Library, From the GATT to the WTO Research Guide, at <a href="http://www.ll.georgetown.edu/intl/guides/FromtheGATTtotheWTO.cfm">http://www.ll.georgetown.edu/intl/guides/FromtheGATTtotheWTO.cfm</a>.</p> <p>(5) NYU Law Library, WTO and GATT Research, at <a href="http://www.law.nyu.edu/library/wtoguide.html">http://www.law.nyu.edu/library/wtoguide.html</a></p> <p>(6) Writing Tutorial Services, How to Write a Thesis Statement? <a href="http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml">http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml</a></p> <p>Following materials are encouraged but not required for further readings:</p> <p>(1) Jagdeep S. Bhandari &amp; Alan O. Sykes eds., ECONOMIC DIMENSIONS IN INTERNATIONAL LAW: COMPARATIVE AND EMPIRICAL PERSPECTIVES, Cambridge University Press, 1997.</p> <p>(2) Joel P. Trachtman, THE ECONOMIC STRUCTURE OF INTERNATIONAL LAW, Harvard University Press, 2008.</p> <p>(3) Jack L. Goldsmith &amp; Eric A. Posner, THE LIMITS OF INTERNATIONAL LAW, Oxford University Press, 2005.</p> <p>(4) Eric A. Posner ed., ECONOMICS OF PUBLIC INTERNATIONAL LAW, Edward Elgar Publishing, 2010.</p> <p>(5) OonaA. Hathaway &amp; Harold Hongju Koh, FOUNDATIONS OF INTERNATIONAL LAW AND POLITICS, Foundation Press, 2005.</p> <p>(7) Darby Dickerson, ALWD Citation Manual - A Professional System of Citation, 2nd ed., 2003 (New York: Aspen).</p> <p>(8) Jeanne Rehberg, WTO/GATT Research (2003 revision), at <a href="http://www.llrx.com/node/131/print#II_C_4">http://www.llrx.com/node/131/print#II_C_4</a></p> <p>(9) Marci Hoffman, Revised Guide to International Trade Law Sources on the Internet (2002), at <a href="http://www.llrx.com/node/1274/print">http://www.llrx.com/node/1274/print</a>.</p> <p>(10) Georgetown Law Library, From the GATT to the WTO Research Guide, at <a href="http://www.ll.georgetown.edu/intl/guides/FromtheGATTtotheWTO.cfm">http://www.ll.georgetown.edu/intl/guides/FromtheGATTtotheWTO.cfm</a>.</p> <p>(11) NYU Law Library, WTO and GATT Research, at <a href="http://www.law.nyu.edu/library/wtoguide.html">http://www.law.nyu.edu/library/wtoguide.html</a></p> <p>(12) Writing Tutorial Services, How to Write a Thesis Statement? <a href="http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml">http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml</a></p> <p><b><u>Legal Texts (Textbook &amp; References)</u></b></p> <p>WTO Secretariat, THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE Negotiations: THE LEGAL TEXTS, Cambridge University Press/WTO, available at <a href="http://www.wto.org/english/docs_e/legal_e/legal_e.htm">http://www.wto.org/english/docs_e/legal_e/legal_e.htm</a>.</p>

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



# LEGAL METHOD

FALL 2015

## *Syllabus*

***Pei-kan Yang***

*Associate Professor*

*Department of International Business*

*National Chengchi University*

*Office: 261117; Ext: 81117; E-mail: pkyang@nccu.edu.tw*

### **Time & Venue**

Friday: 9am ~12am

### **Course Objectives**

This course focuses on examining different legal methods that have been developed in the international legal society, such as law and economics, critical legal studies, and constitutionalism, etc. With basic understandings of these legal methodologies, students are expected to analyze relevant cases adjudicated under the World Trade Organization (WTO) from both a theoretical and practical perspective.

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### **Reading Material (Textbook & References)**

A coursepack will contain all the required readings for this class and should be handy for every class. Selected WTO cases for further analysis will be handed out in class and can also be found in following books:

- (1) Henrik Horn & Petro C. Mavroidis eds., THE AMERICAN LAW INSTITUTE REPORTERS' STUDIES ON WTO CASE LAW: LEGAL AND ECONOMIC ANALYSIS, Cambridge University Press, 2007.
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- (3) Marci Hoffman, *Revised Guide to International Trade Law Sources on the Internet* (2002), at <http://www.llrx.com/node/1274/print>.
- (4) Georgetown Law Library, *From the GATT to the WTO Research Guide*, at <http://www.ll.georgetown.edu/intl/guides/FromtheGATTtotheWTO.cfm>.
- (5) NYU Law Library, *WTO and GATT Research*, at <http://www.law.nyu.edu/library/wtoguide.html>
- (6) Writing Tutorial Services, *How to Write a Thesis Statement?* [http://www.indiana.edu/~wts/pamphlets/thesis\\_statement.shtml](http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml)

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- (2) Joel P. Trachtman, *THE ECONOMIC STRUCTURE OF INTERNATIONAL LAW*, Harvard University Press, 2008.
- (3) Jack L. Goldsmith & Eric A. Posner, *THE LIMITS OF INTERNATIONAL LAW*, Oxford University Press, 2005.
- (4) Eric A. Posner ed., *ECONOMICS OF PUBLIC INTERNATIONAL LAW*, Edward Elgar Publishing, 2010.
- (5) Oona A. Hathaway & Harold Hongju Koh, *FOUNDATIONS OF INTERNATIONAL LAW AND POLITICS*, Foundation Press, 2005.

#### **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](http://www.wto.org/english/docs_e/legal_e/legal_e.htm).

#### **Websites (Related Links)**

<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](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).

#### **Assessment (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.

#### **Teaching Approach**

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**Course Description/Class Schedule (the schedule is subject to change)**

<b>Week</b>	<b>SUBJECT COVERED &amp; ASSIGNED READINGS</b>
<b>01</b>	<b>Topic 1: Introduction to Legal Methods in International Law</b> [1]. Guido Calabresi, <i>An Introduction to Legal Thought: Four Approaches to Law and to the Allocation of Body Parts</i> (2003), Faculty Scholarship Series, Paper 2022, Yale Law School, <a href="http://digitalcommons.law.yale.edu/fss_papers/2022">http://digitalcommons.law.yale.edu/fss_papers/2022</a> . (read Part I~V). [2]. Steven R. Ratner & Anne-Marie Slaughter, <i>Appraising the Methods of International Law: A Prospectus of Readers</i> , 93 AM. J. INT'L L. 291 (1999).
<b>02</b>	<b>Topic 2: Legal Methods in International Economic Law (I)</b> [1]. Gregory Shaffer, <i>A New Legal Realism: Method in International Economic Law Scholarship</i> , in INTERNATIONAL ECONOMIC LAW: THE STATE AND FUTURE OF THE DISCIPLINE, Colin B. Picker, Isabella Bunn & Douglas Arner (eds.), Hart Publishing (2008), <a href="http://works.bepress.com/gregory_shaffer/15">http://works.bepress.com/gregory_shaffer/15</a> . [2]. Joel P. Trachtman, <i>International Economic Law Research: A Taxonomy</i> , in INTERNATIONAL ECONOMIC LAW: THE STATE AND FUTURE OF THE DISCIPLINE, Colin B. Picker, Isabella Bunn & Douglas Arner (eds.), Hart Publishing (2008).
<b>03</b>	<b>Topic 3: Legal Methods in International Economic Law (II)</b> [1]. Andrew TF Lang, <i>Some Sociological Perspectives on International Institutions and the Trading System</i> , in INTERNATIONAL ECONOMIC LAW: THE STATE AND FUTURE OF THE DISCIPLINE, Colin B. Picker, Isabella Bunn & Douglas Arner (eds.), Hart Publishing (2008). [2]. Federico Ortino & Matteo Ortino, <i>Law of the Global Economy: In Need of a New Methodological Approach?</i> , in INTERNATIONAL ECONOMIC LAW: THE STATE AND FUTURE OF THE DISCIPLINE, Colin B. Picker, Isabella Bunn & Douglas Arner (eds.), Hart Publishing (2008).
<b>04</b>	<b>Topic 4: International Relations &amp; International Economic Law</b> [1]. Kenneth W. Abbott, <i>Modern International Relations Theory: A Prospectus or International Lawyers</i> , 14 YALE J. INT'L L. 335 (1989). [2]. Anne-Marie Slaughter Burley, <i>International Law and International Relations Theory: A Dual Agenda</i> , 87 AM. J. INT'L L. 205 (1993).
<b>05</b>	<b>Topic 5: Law &amp; Economics</b> [1]. R.H. Coase, <i>The Nature of the Firm</i> , 4 ECONOMICA 386 (1937). [2]. R.H. Coase, <i>The Problem of Social Cost</i> , 3 J. LAW & ECON. 1 (1960).
<b>06</b>	<b>Topic 6: Economics of International Law: General</b> [1]. Jeffrey L. Dunoff & Joel P. Trachtman, <i>Economic Analysis of International Law</i> , 24 YALE J. INT'L L. 1 (1999).

	<p>[2]. Ronald A. Cass, <i>Introduction: Economics and International law</i>, in ECONOMIC DIMENSIONS IN INTERNATIONAL LAW: COMPARATIVE AND EMPIRICAL PERSPECTIVES, Jagdeep S. Bhandari &amp; Alan O. Sykes (eds.), Cambridge University Press, 1997.</p>
07	<p><b>Topic 7: Jurisdiction &amp; Compliance</b></p> <p>[1]. Joel P. Trachtman, <i>Economic Analysis of Prescriptive Jurisdiction</i>, 42 VA. J. INT'L L. 1 (2001).</p> <p>[2]. Andrew T. Gruzman, <i>A Compliance-Based Theory of International Law</i>, 90 CAL. L. REV. 1823 (2002).</p>
08	<p><b>Topic 8: Customary International Law</b></p> <p>[1]. Jack L. Goldsmith &amp; Eric A. Posner, <i>A Theory of Customary International Law</i>, 66 U. CHI. L. REV. 1113 (1999).</p> <p>[2]. George Norman &amp; Joel P. Trachtman, <i>The Customary International Law Game</i>, The American Journal of International Law, Vol. 99, No. 3 (Jul., 2005), pp. 541-580.</p>
09	<p><b>Topic 9: Treaty</b></p> <p>[1]. Jack L. Goldsmith &amp; Eric A. Posner, <i>Chapter 3: A Theory of International Agreements &amp; Chapter 5: International Trade</i>, in The Limits of International Law, Oxford University Press, 2005.</p> <p>[2]. Joel P. Trachtman, <i>Chapter 4: Treaty</i>, in THE ECONOMIC STRUCTURE OF INTERNATIONAL LAW, Harvard University Press, 2008.</p>
10	<p><b>Topic 10: Institutions &amp; Organizations</b></p> <p>[1]. Joel P. Trachtman, <i>The Theory of Firm and the Theory of the International Economic Organization: Toward Comparative Institutional Analysis</i>, 17 NW. J. INT'L &amp; BUS. 470 (1997).</p> <p>[2]. Duncan Snidal, <i>Political Economy and International Institutions</i>, 16 INT'L REV. L. &amp; ECON. 121 (1996).</p>
11	<p><b>Topic 11: Adjudication &amp; Remedy</b></p> <p>[1]. Joel P. Trachtman, <i>Chapter 7: International Adjudication</i>, in THE ECONOMIC STRUCTURE OF INTERNATIONAL LAW, Harvard University Press, 2008.</p> <p>[2]. Alan O. Sykes, <i>Private versus Public Enforcement of International Economic Law: Standing and Remedy</i>, 34 J. LEGAL STUD. 631 (2005).</p>
12	<p><b>Topic 12: Linkage &amp; Fragmentations</b></p> <p>[1]. Robert Howse &amp; Michael J. Trebilcock, <i>The Free Trade-Fair Trade Debate: Trade, Labor, and the Environment</i>, in ECONOMIC DIMENSIONS IN INTERNATIONAL LAW: COMPARATIVE AND EMPIRICAL PERSPECTIVES, Jagdeep S. Bhandari &amp; Alan O. Sykes (eds.), Cambridge University Press (1997).</p> <p>[2]. Joel P. Trachtman, <i>Trade and ... Problems, Cost-Benefit Analysis and Subsidiarity</i>, 9 EUR. J. INT'L L. 32 (1998).</p>

13	<b>Topic 13: Legal Writing, Research and Citations</b> [1]. S. Joseph Levine, <i>Writing and Presenting Your Thesis or Dissertation</i> (Lulu, 2005), available at <a href="http://www.learnerassociates.net/dissthes/#7">http://www.learnerassociates.net/dissthes/#7</a> [2]. Peter W. Martin, <i>Introduction to Basic Legal Citation</i> (LII 2007 ed.), at <a href="http://www.law.cornell.edu/citation/index.htm">http://www.law.cornell.edu/citation/index.htm</a>
14	<b>WTO Case Study</b> [1]. Henrik Horn & Joseph H. H. Weiler, <i>EC – Asbestos: European Communities – Measures Affecting Asbestos and Asbestos-Containing Products</i> , in THE WTO CASE LAW [of 2001], pp. 27-53. [2]. Henrik Horn & Joseph H. H. Weiler, <i>European Communities – Trade description of Sardines</i> , in THE WTO CASE LAW [of 2002], pp. 551-578. [3]. Damien J. Neven & Joseph H. H. Weiler, <i>Japan – Measures Affecting the Importation of Apples: One Bad Apple?</i> , in THE WTO CASE LAW [of 2003], pp.850-880.
15	<b>WTO Case Study</b> [1]. Henrik Horn & Robert Howse, <i>EU – Customs Classification of Frozen Boneless Chicken Cuts</i> , in THE WTO CASE LAW OF 2004-2005, pp. 9-43. [2]. Douglas A. Irwin & Joseph H. H. Weiler, <i>Measures Affecting the Cross-Border Supply of Gambling and Betting Services</i> , in THE WTO CASE LAW OF 2004-2005, pp. 71-119. [3]. William J. Davey & Andre Sapir, <i>The Soft drinks Case: The WTO and Regional Agreements</i> , in THE WTO CASE LAW OF 2006-2007, pp. 5-30.
16	<b>WTO Case Study</b> [1]. Robert L. Howse & Henrik Horn, <i>European Communities – Measures Affecting the Approval and Marketing of Biotech Products</i> , in THE WTO CASE LAW OF 2006-2007, pp. 49-83. [2]. Chad P. Bown & Joel P. Trachtman, <i>Brazil - Measures Affecting Imports of Retreaded Tyres: A Balancing Act</i> in THE WTO CASE LAW OF 2006-2007, pp.85-144. [3]. Thomas J. Prusa & Edwin Vermulst, <i>A One-Two Punch on Zeroing: US-Zeroing (EC) and US-Zeroing (Japan)</i> , in THE WTO CASE LAW OF 2006-2007, pp. 187-257.
17	<b>In-Class Presentation and Writing Exercise</b> [1]. <i>United States - Certain Country of Origin Labelling (COOL) Requirements</i> (WT/DS384, 386) [2]. <i>United States - Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products</i> (WT/DS381) [3]. <i>United States - Measures Affecting the Production and Sale of Clove</i>



	<i>Cigarettes (WT/DS406)</i>
<b>18</b>	<b>In-Class Presentation and Writing Exercise</b>
	<p>[1]. <i>Australia - Measures Affecting the Importation of Apples from New Zealand (WT/DS367)</i></p> <p>[2]. <i>Canada - Certain Measures Affecting the Renewable Energy Generation Sector /Canada - Measures Relating to the Feed-In Tariff Program (WT/DS412, 426)</i></p>