

LEGAL METHOD

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Syllabus

Pei-kan Yang

Associate Professor

Department of International Business

National Chengchi University

Office: Research Building 726; Ext: 88111; E-mail: pkyang@nccu.edu.tw

Time & Venue

TBA

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.

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.

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:

- (1) equip students with basic understandings of different legal methods that have emerged in international legal scholarship;
- (2) foster the ability to analyze relevant WTO cases through the lenses of different legal methodologies;
- (3) familiarize students with basic structure of legal writing, skills of legal research and writing, and the knowledge of legal citations.

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) The American Law Institute Reporters' Studies on WTO Case Law: Legal and Economic Analysis (Henrik Horn & Petro C. Mavroidis, eds., 2007).
- (2) The WTO Case Law of 2004-2005: Legal and Economic Analysis (Henrik Horn & Petro C. Mavroidis, eds., 2008).
- (3) The WTO Case Law of 2006-2007: Legal and Economic Analysis (Henrik Horn & Petro C. Mavroidis, eds., 2009).

Students are encouraged to refer to following materials for the preparation and completion of writing assignments:

- (1) Darby Dickerson, *ALWD Citation Manual - A Professional System of Citation*, 2nd ed., 2003 (New York: Aspen).
- (2) Jeanne Rehberg, *WTO/GATT Research* (2003 revision), at http://www.llrx.com/node/131/print#II_C_4
- (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/wtguide.html>
- (6) Writing Tutorial Services, *How to Write a Thesis Statement?* http://www.indiana.edu/~wts/pamphlets/thesis_statement.shtml

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.

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 (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

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.

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

Week	SUBJECT COVERED & ASSIGNED READINGS
01	Topic 1: Introduction to Legal Methods and International law
	[1]. Anthony Carty, <i>What Place for Doctrine in a Time of Fragmentation?</i> in <i>Philosophy of International law</i> , Edinburgh University Press (2007). [2]. S.R. Ratner & A. M. Slaughter, <i>Appraising the Methods of International Law: A Prospectus of Readers</i> , 93 AJIL 291 (1999).
02	Topic 2: Legal Methods in International Economic Law
	[1]. Gregory Shaffer, <i>A New Legal Realism: Method in International Economic Law Scholarship</i> , in <i>International Economic Law: The</i>

	<p>State and Future of the Discipline (Colin B. Picker, Isabella Bunn & Douglas Arner, eds.), Hart Publishing (2008).</p> <p>[2]. Ernst-Ulrich Petersmann, <i>Methodological Pluralism and Its Critics in International Economic Law Research</i>, EUI Working Papers, LAW 2012/18 (2012), at http://cadmus.eui.eu/bitstream/handle/1814/22798/LAW_2012_18_Petersmann.pdf?sequence=1</p>
03	<p>Topic 3: Constitutionalism/Constitutional Theory</p> <p>[1]. Mattias Kumm, <i>The Legitimacy of International Law: A Constitutionalist Framework of Analysis</i>, 15 EJIL 907 (2004).</p> <p>[2]. Ernst-Ulrich Petersmann, <i>Constitutional Functions and Constitutional Problems of International Economic Law</i>, Fribourg University Press and Boulder Press (1991).</p>
04	<p>Topic 4: The New Haven School and Legal Process</p> <p>[1]. M. E. O'Connell, <i>New International Legal Process</i>, 93 AJIL 334 (1999).</p> <p>[2]. J. K. Levit, <i>Bottom-UP International Lawmaking: Reflections on the New Haven School of International Law</i>, 32 Yale Journal of International Law 393 (2007).</p>
05	<p>Topic 5: International Relations Theory and Critical Legal Studies</p> <p>[1]. A. M. Slaughter, A. Tulumello, S. Wood, <i>International Law and International Relations Theory: A New generation of interdisciplinary Scholarship</i>, 92 AM. J. INT'L L. 367 (1998).</p> <p>[2]. D. Cass, <i>Navigating the Newstream: Recent Critical Scholarship in International Law</i>, 65 Nordic Journal of International Law 341 (1996).</p>
06	<p>Topic 6: Legal Pluralism</p> <p>[1]. Paul Schiff Berman, <i>Global Legal Pluralism</i>, 80 S. Cal. L. Rev. 1155 (2007).</p> <p>[2]. A. Fischer-Lescano & G. Teubner, <i>Regime-Collision: The Vain Search for Legal Unity in the Fragmentation of Global Law</i>, 25 Michigan Journal of International Law 999 (2004).</p>
07	<p>Topic 7: Law and Economics/ Rational Choice Theory</p> <p>[1]. J. F. Dunoff & J. Trachtman, <i>Economic Analysis of International Law</i>, 224 Yale Journal of International Law 1 (1999).</p> <p>[2]. J. Keohane, <i>Rational Choice Theory and International Law: Insights and Limitations</i>, 31 Journal of Legal Studies, 115 (2002).</p>
08	<p>Topic 8: Economic Analysis of Law (Con'd)</p> <p>[1]. Louis Kaplow, <i>Rules Versus Standards: An Economic Analysis</i>, 42 Duke L. J. 557 (1992).</p> <p>[2]. Guido Calabresi & A. Douglas Melamed, <i>Property Rules, Liability Rules, And Inalienability: One View of The Cathedral</i>, 85 Harv. L. Rev. 1089 (1972).</p>

09	Topic 9: Legal Writing, Research and Citations
	<p>[1]. S. Joseph Levine, <i>Writing and Presenting Your Thesis or Dissertation</i> (Lulu, 2005), available at http://www.learnerassociates.net/dissthes/#7</p> <p>[2]. Peter W. Martin, <i>Introduction to Basic Legal Citation</i> (LII 2007 ed.), at http://www.law.cornell.edu/citation/index.htm</p>
10	Topic 10: WTO Case Study
	<p>[1]. Henrik Horn & Robert Howse, <i>EU-Customs Classification of Frozen Boneless Chicken Cuts</i>, in the ALI: The WTO Case Law of 2004-2005, 2006-2007.</p> <p>[2]. Bernard M. Hoekman & Petros C. Mavroidis, <i>Nothing Dramatic (... regarding administration of customs laws)</i>, in the ALI: The WTO Case Law of 2004-2005, 2006-2007.</p>
11	Topic 11: WTO Case Study
	<p>[1]. William Davey & Andre Sapir, <i>The Soft Drinks Case: The WTO and Regional Agreements</i>, in ALI: The WTO Case Law of 2006-2007 5-23.</p>
12	Topic 12: WTO Case Study
	<p>[1]. Chad P. Bown & Joel P. Trachtman, <i>Brazil - Measures Affecting Imports of Retreaded Tyres: A Balancing Act</i> in ALI: The WTO Case Law of 2006-2007 85-135.</p>
13	Topic 13: WTO Case Study
	<p>[1]. Jasper-Martijn Wauters & Hylke Vandenbussche, <i>China - Measures Affecting Imports of Automobile Parts</i>, WORLD TRADE REVIEW 9(1), 201-238 (2010).</p>
14	In-Class Presentation and Writing Exercise (I)
	<p>[1]. Canada - Certain Measures Affecting the Renewable Energy Generation Sector /Canada - Measures Relating to the Feed-In Tariff Program (WT/DS412; 426)</p>
15	In-Class Presentation and Writing Exercise (II)
	<p>[1]. United States - Certain Country of Origin Labelling (COOL) Requirements (WT/DS384, 386)</p>
16	In-Class Presentation and Writing Exercise (III)
	<p>[1]. United States - Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (WT/DS381)</p>
17	In-Class Presentation and Writing Exercise (IV)
	<p>[1]. Australia - Measures Affecting the Importation of Apples from New Zealand (WT/DS367)</p>
18	In-Class Presentation and Writing Exercise (V)
	<p>[1]. United States - Measures Affecting the Production and Sale of Clove Cigarettes (WT/DS406)</p>