

Teaching International Economic Law in China Law Schools: A Personal Experience

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Introduction

International economic law is the newest law discipline in China law schools. Since the discipline is not mature and developing very rapidly, the teaching of that discipline is quite challenging. The course is internationalized and may reflect whether the western ideology and norms can be accepted by Chinese professors and law school students.

In the presentation the author will explore the teaching in three aspects: concept and structure, basic ideas and teaching techniques.

I. Concept and Structure of International Economic Law

In China there are more than 30 kinds of international economic law textbooks. The mainstream concept about international economic law in China is much broader than that in Europe, United States and Japan, but similar to the concept of international business transactions in the United States.

Few professors among whom the author is have divided the international economic course into two distinctive parts: narrow international economic law and international business law.

In the narrow international economic law part the main contents include the law of WTO, IMF system, World Bank system, Basel accords, FTAs, bilateral investment treaties, bilateral taxation treaties and trade laws of main trade partners. The law of WTO may be half of teaching load in the part,

In the international business law part, we discuss the Unidroit Principles of International Commercial Contracts, CISG, Incoterms 2000, Hague Rules, Warsaw Convention, London Institute Cargo Clauses, URC, UCP, International factoring, international loan agreements, international business guarantee, Intellectual properties conventions, joint venture, etc.

The above-mentioned understanding and structuring of international economic law is helpful to my students. It conforms to the well-established conceptual division between public and private laws since the Roman times.

Normally the course only occupies 3 or 4 hours each week, 54 Or 72 hours in total, so the schedule is quite concentrated.

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II. Basic Ideas of International Economic Law

As usual every China law course has an introduction chapter. International economic law is not an exception. In the chapter we talk about the concept, structure, basic principles, sources and history of international economic law.

A. Basic ideas in narrow international economic law part

International economic law is a new branch of international law, emerging with the establishment of the Bretton Woods Institutions. It consists of a body of rules regulating economic relations between nations. Its basic principles include economic sovereignty, non-discrimination, reciprocity and mutual benefit and reasonable market access. Among its sources, domestic trade laws are elementary source, international conventions are mainstream one and international customs are marginal.

The basic ideas in international economic law are comparative advantages in economic perspective and free trade versus reasonable trade protection in political economic perspective. These ideas help understanding international economic norms. Since China has been benefiting from globalization and multilateral trading system, students can accept these ideas naturally.

Other basic ideas are concerned with sustainable development and developing country perspective. We talk about the harmonization of economic development and environmental protection. We defined China as a responsible stakeholder and developing country.

B. Basic ideas in international business law

International business law or new merchant law is an older separate branch of international law than international economic law. Although it originated in medieval *lex mercatoria*, modern *lex mercatoria* or new merchant law emerged during the end of 19th century and early period of 20th century. It regulates transnational business transactions between private individuals. Its basic principles are party autonomy, good faith, etc. international business usages are principal and central source, while international business treaties are important one, international restatement and model law are supplementary.

The basic ideas are uniform law and autonomous body of law. We emphasize the purpose and aim of international business law is to have a comprehensive, systematic body of law, which applies uniformly to international business transactions and separated from domestic business law. The body of uniform law should develop mainly by international business community by codifying usages and restatements by international businessmen themselves.

Since China is quite active in adopting international usages and conventions, students are easy to agree with these ideas. We also advocate China should revise Article 102 of the General Principles of Civil Law, and replace it by a new clause which is friendlier to international usages and practice.

III. Teaching techniques in international economic law

In the course I combined the conceptual analysis with case study.

A. Conceptual analysis

This approach is traditionally the main teaching style in China law schools. Teachers emphasize the concept and structure of the discipline, as mentioned before. When teaching concert legal issues, teachers always refer to concept, characteristics of certain legal relations, rights and obligations of parties, logic rationale of the rights and obligations.

Besides that I also make comparison with domestic business law and public international law when discussing specific legal issues. For example, when teaching the formation of international sale contracts, I refer to China Contract Law and require students find the differences and similarities between the CISG and China Contract Law.

B. Case study

In WTO system although panel and the Appellate Body reports only binds disputed parties, they can create reasonable expectations for WTO members and constitute de facto precedents, so the teaching can not neglect the huge case load of the WTO. Thanks to the website of the WTO, students can get the jurisprudence easily by access to internet.

In business law teaching we have to deal with some leading cases judged by courts in UK and the United States because these cases are so influential all over the world. For example we have to refer to the Liverpool case in teaching the Hague Rules, the Szejn case in discussing fraud exception of letter of credits.

Since China courts, including the Supreme Court already made lots of international business judgments and the CIETAC arbitrated many business cases, we also always make reference to these judgments and arbitral decisions.