

中国社会科学院大学国际投资仲裁课程大纲

课程基本信息 (Course Information)					
课程编号 (Course ID)		*学时 (Credit Hours)	32	*学分 (Credits)	2
*课程名称 (Course Name)	国际投资仲裁 International Investment Arbitration				
先修课程 (Prerequisite Courses)					
*课程简介 (Description)	<p>本课程以基于投资条约的外国投资者与东道国之间的投资仲裁争端为研究对象。课程教学坚持马克思主义与中国国情相结合，引导学生学习、掌握并探索国际投资仲裁领域的基本问题与前沿实践。</p> <p>根据联合国贸发会的不完全统计，公开可查的投资仲裁案已达上千起。经典判例在国际投资仲裁实践中被反复援引、补充和论证，逐渐发展成有关外资管理和保护的规则和国际标准，塑造了国际投资法的发展方向。随着我国经济实力和综合国力的增强，我国同时成为资本输出大国和资本输入大国。近年我国政府及投资者涉案的投资仲裁案呈明显上升趋势。</p> <p>本课程旨在培养谙熟国际投资仲裁规则与实践的涉外法律人才。课程内容涵盖三个主要部分。一是国际投资仲裁作为一项争议解决机制的运转；二是结合国际投资仲裁实践的专题讲述与探讨；三是国际投资仲裁机制的改革与未来。</p> <p>本课程注重培养学生运用基础理论、经典判例等分析和解决法律问题的综合能力；课程内容紧跟国际投资仲裁的前沿发展，特别是我国政府或投资者涉案的投资仲裁实践的最新发展，不时调整。</p> <p>教学采用课堂讲授与讨论，以及课下作业相结合的方式。</p>				
*课程简介 (Description)	<p>This course focuses on investment arbitration disputes between foreign investors and host countries. The curriculum adheres to the integration of Marxism with China's national conditions, guiding students to study, master and explore the basic issues and cutting-edge practices in the field of international investment arbitration.</p> <p>According to the incomplete statistics of UNCTAD, the number of publicly available investment arbitration cases has reached thousands. Classic cases have been repeatedly cited, supplemented and demonstrated in the practice of international investment arbitration, and have gradually developed into international rules and standards on the management and protection of foreign investment, shaping the future of international investment law. With the enhancement of China's economic strength and comprehensive national strength, China has become both a major capital exporter and a major capital importer. Consequently, investment arbitration disputes involving Chinese government and investors have shown a clear upward trend in recent years.</p> <p>This course aims to cultivate foreign-related legal talents who are proficient in the rules and practices of international investment arbitration. The course covers three main sections. First, the operation of international investment arbitration as a dispute settlement mechanism. Second, lectures and discussions on selected topics of international investment arbitration. Third, the reform and future of international</p>				

	investment arbitration mechanism. This course focuses on cultivating students' comprehensive ability to analyze and solve legal problems using basic theories and precedents. The selected topics and cases are to be adjusted from time to time to follow the latest development of international investment arbitration, especially those cases involving China government or Chinese investors. Teaching is based on a combination of classroom lectures and discussions, as well as homework after class.						
*教材 (Textbooks)	课程内容以案例研习为主，案例的选取将根据实践发展逐年调整，故主要使用自编讲义，并参考本领域的主流著述（如 Peter Muchlinski, Federico Ortino and Christoph Schreuer, The Oxford Handbook of International Investment Law, Oxford University Press, 2012; Rudolf Dolzer, Ursula Kriebaum and Christoph Schreuer, Principles of International Investment Law, Oxford University, third edition, 2022）。						
参考资料 (Other References)	龚柏华、伍穗龙：《涉华投资者—东道国仲裁案述评》，上海人民出版社 2020 年版等。						
*课程类别 (Course Category)	<input type="checkbox"/> 公共基础课/全校公共必修课 <input type="checkbox"/> 通识教育课 <input type="checkbox"/> 专业基础课 <input type="checkbox"/> 专业核心课/专业必修课 <input checked="" type="checkbox"/> 专业拓展课/专业选修课 <input type="checkbox"/> 其他_____						
*授课对象 (Target Students)	法学专业	*授课模式 (Mode of Instruction)		<input type="checkbox"/> 线上，教学平台_____ <input checked="" type="checkbox"/> 线下 <input type="checkbox"/> 混合式 <input type="checkbox"/> 其他 <input type="checkbox"/> 实践类（70%以上学时深入基层）_			
*开课院系 (School)	法学院	*授课语言 (Language of Instruction)		<input type="checkbox"/> 中文 全外语_____语种 <input checked="" type="checkbox"/> 双语：中文+ <u>英语</u> 语种（外语讲授不低于 50%）			
*授课教师信息 (Teacher Information)	课程负责人 姓名及简介	李晓玲 中国社会科学院大学法学院教授，法学博士。					
	团队成员 姓名及简介	无其他成员					
学习目标 (Learning Outcomes)	1、掌握国际投资仲裁作为一项争议解决机制的基本运作；掌握国际投资仲裁的基本程序性问题，以及核心实体性问题。 2、引导学生融会贯通国际法各个分支的所学知识，锻炼学生理论应用于实际案例，独立分析和解决实际问题的能力。 3、提高英文读、说、写能力，以及法律英语水平，培养学生成为能进行实务和研究工作的高素质涉外法律人才。						
*考核方式 (Grading)	开卷考试，其中平时成绩占总评成绩 30%。						
*课程教学计划 (Teaching Plan) 填写规范化要求见附件							
周次	周学时	其中					教学内容摘要 （必含章节名称、讲述的内容提要、实验的名称、教学方法、课堂讨论的题目、阅读文献参考书目及作业等）
		讲授	实验课	习题课	课程讨论	其他环节	

第一周	2	2				<p>Section 1 Introduction to Investor-state Investment Arbitration Main contents: 1. basic types of international investment disputes; 2. causes of action in investment arbitration; 3. an overview of cases involving the China government or Chinese investors as a party. Reading materials: 1. The 1965 Convention on the Settlement of Investment Disputes between States and Nationals of Other States; 2. Decision on Jurisdiction in <i>Salini v. Morocco</i>.</p>
第二周	2	2				<p>Section 2 Jurisdictional Issues Main contents: 1. consent to arbitration; 2. jurisdiction <i>ratione materiae</i>; 3. jurisdiction <i>ratione personae</i>. Reading materials: Decisions/awards rendered in <i>MHS v. Malaysia</i> and <i>Saipem v. Bangladesh</i></p>
第三周	2	1			1	<p>Section 2 Jurisdictional Issues Main contents: 4. jurisdiction <i>ratione temporis</i> Discussions: the definitions of investment; the “fork in the road” clause Reading materials: Decisions/awards rendered in <i>Zhongshan Fucheng Industrial Investment Co. Ltd v. Nigeria</i> and <i>Beijing Everyway Traffic v. Ghana</i>.</p>
第四周	2	2				<p>Section 3 Standard of Protection Main contents: 1. national treatment; 2. Most-favored-nation treatment; 3. fair and equitable treatment Reading materials: Decisions/awards rendered in <i>Tecmed v. Mexico</i> and <i>Mondev v. US</i>.</p>
第五周	2	2				<p>Section 3 Standard of Protection Main contents: 4. arbitrary or discriminatory measures Discussions: Decisions/awards rendered in <i>Tecmed v. Mexico</i> and <i>Mondev v. US</i>. Reading materials: Decisions/awards rendered in <i>Bernhard von Pezold and Others v. Zimbabwe</i> and <i>Maiman and others v. Egypt</i>.</p>
第六周	2	1			1	<p>Section 3 Standard of Protection Main contents: 5. full protection and security Discussions: Decisions/awards rendered in <i>Bernhard von Pezold and Others v. Zimbabwe</i> and <i>Maiman and others v. Egypt</i>.</p>
第七周	2	2				<p>Section 4 Expropriation Main contents: 1. the object of an expropriation; 2. expropriation as an act of government; 3. Indirect expropriation. Reading materials: Decisions/awards rendered in <i>Metalclad v. Mexico</i> and <i>S. D. Myers, Inc. v. Canada</i>.</p>
第八周	2	1			1	<p>Section 4 Expropriation Main contents: 4. The legality of an expropriation. Discussions: Decisions/awards rendered in <i>Metalclad v. Mexico</i> and <i>S. D. Myers, Inc. v. Canada</i>.</p>
第九周	2	2				<p>Section 5 Armed Conflicts and Compensation Main contents: 1. war clauses in international investment treaties(IIAS); 2. extended war clauses in IIAs; 3. necessity in Article 25 of the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) Reading materials: awards rendered in <i>Cengiz v. Libya</i> and <i>Strabag v. Syria</i></p>
第十周	2	1			1	<p>Section 5 Armed Conflicts and Compensation Discussions: awards rendered in <i>Cengiz v. Libya</i> and <i>Strabag v. Syria</i></p>

第十一周	2					<p>Section 6 The Umbrella Clause Main contents: 1. meaning and origin of the umbrella clause; 2. the application of umbrella clauses; 3. umbrella clauses and privity of contract; 4. Umbrella clauses and unilateral undertakings Reading materials: awards rendered in <i>SGS v. Pakistan</i>, <i>ESPF and others v. Italy</i> and <i>SGS v. Philippines</i></p>
第十二周	2	1			1	<p>Section 6 The Umbrella Clause Main contents: 4. umbrella clauses and unilateral undertakings Discussions: awards rendered in <i>SGS v. Pakistan</i>, <i>ESPF and others v. Italy</i> and <i>SGS v. Philippines</i></p>
第十三周	2	2				<p>Section 7 Essential Security Exception Main contents: 1. essential security exception clauses in IIAs; 2. the concept of “essential security”; 3. self-judging or not Reading materials: awards rendered in <i>Deutsche Telekom v India</i>, <i>LG&E v. Argentina</i>.</p>
第十四周	2	1			1	<p>Section 7 Essential Security Exception Main contents: 4. the issue of necessity Discussions: awards rendered in <i>Deutsche Telekom v India</i>, <i>LG&E v. Argentina</i>.</p>
第十五周	2	2				<p>Section 8 Remedies Main contents: 1. restitution; 2. compensation; 3. satisfaction Reading materials: Patrick Dumberry, “Satisfaction as a Form of Reparation for Moral Damages Suffered by Investors and Respondent States in Investor-State Arbitration Disputes”, <i>Journal of International Dispute Settlement</i>, Volume 3, Issue 1, 2012, pp.1-38.</p>
第十六周	2	2				<p>Section 9 Enforcement of Arbitral Awards Main contents: 1. the annulment of investment arbitration awards; 2. the enforcement of investment arbitration awards; 3. the issue of state immunity. Reading materials: John William Rowley et al., eds., <i>The Guide to Challenging and Enforcing Arbitration Awards</i>, Law Business Research Limited, 2021.</p>
总计	3 2	26			6	
备注 (Notes)						