

PROPOSED TRAINING: LAWYER TRAINING PROGRAM

培训建议：律师培训高级课程/基础课程

承办单位：美国国际法学会（International Law Institute）

承办主地点：华盛顿

中国培训渠道编号：120004

中方代表：王琨

联系方式：010-58816282

TOPICS（课题）：

At the time of this submittal no specific topics has been defined by interested parties. ILI tenders here a general list of pertinent subject matter which can be further defined based on subsequent discussions of needs by stakeholders. ILI herein offers the following broad list of topics to consider: 鉴于提交该项目时，客户各方尚未确定具体的培训课题，美国国际法学会在此提出一个相关题材的常规培训课程表，它可以根据需要在随后的讨论中做进一步调整与修改。下述课程仅供参考：

1. Advanced Courses 高级课程

1) Bilateral Investment Treaties 双边投资协定

There are close to 3000 bilateral investment treaties (BITs) worldwide. China has more BITs -- 130 - than any other country except Germany, and is currently negotiating one with the United States. A BIT gives substantive protection in the host country to investors from the other party, and allows investors who have been unfairly treated to recover damages against the host government through an arbitration process.

全世界存在近 3000 个双边投资协定（BIT）。中国已累计签署 130 多个双边投资协定，位居世界第二，仅次于德国，而且目前正在与美国进行一个 BIT 谈判。双边投资协定极大保护了外国投资者在东道主国家的利益，允许投资者在受到不公平待遇的情况下，通过仲裁向东道国的国家政府索取损害赔偿。

Syllabus 课程大纲

- | | |
|---------------------------------|--------------|
| • Overview of BITs | 双边投资协定介绍 |
| • Substantive provisions: | 实质性条款： |
| -- Most-favoured Nation Treat | 最惠国待遇 |
| -- National Treatment | 国民待遇 |
| -- Expropriation | 征收 |
| -- Fair and Equitable Treatment | 公平和公正的待遇 |
| -- Full Protection and Security | 全面保护和安全 |
| • Investor-State Arbitration | 投资者-东道国之间的仲裁 |

2) International Aspects of Intellectual Property Law 知识产权法的国际问题

An enormous proportion of international trade involves goods or services that incorporate intellectual property rights. These rights are governed by a number of bilateral and multilateral agreements, 大部分国际贸易所涉及的商品和服务都有知识产权。这些知识产权受一些列双边和多边协定的制约。

Syllabus 课程大纲

- Overview of intellectual property rights 知识产权简介
- Patents 专利
 - Trademarks 商标
 - Copyright 版权
 - Trade secrets 商业秘密
 - Other rights 其他权利
- The basic conventions 基本公约
 - Berne 伯尔尼公约
 - Paris 巴黎公约
- The role of the World Intellectual Property Organization 世界知识产权组织的作用
- The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights 世贸组织关于与贸易有关的知识产权协定
- Intellectual property rights provisions in regional trade agreements 区域贸易协定中的知识产权条款

3) Investor-State Arbitration under Bilateral Investment Treaties

双边投资协定下的投资者-东道国之间的仲裁

Because of the concern that local courts might disfavor foreign investors, bilateral investment treaties (BITs) typically allow disputes between the host country and an investor from the other party to be settled through international arbitration. Arbitration can be conducted through a number of different organizations, the most active of which is the International Centre for the Settlement of Investment Disputes (ICSID), which is part of the World Bank. ICSID has conducted nearly 500 BIT arbitrations.

由于担心东道国当地法庭会对外国投资者不利，双边投资协定通常允许通过国际仲裁手段来解决东道国与投资国的投资者之间的争端。能够进行仲裁的组织有很多，其中最活跃的是投资争端解决国际中心（ICSID），它是世界银行的一部分，已进行过近 500 次双边投资协定仲裁。

Syllabus 课程大纲

- Overview of arbitration under Bilateral Investment Treaties 双边投资协定下投资者-东道国之间的仲裁简介
- Arbitration institutions: ICSID, UNCITRAL, International Chamber of Commerce (Paris), London Court of International Arbitration 仲裁机构：投资争端解决国际中心（ICSID），联合国国际贸易法委员会（UNCITRAL），国际商会（巴黎），伦敦国际仲裁法庭
- Selection of forum and arbitrators 法庭及仲裁员的挑选
- Role of the tribunal and conduct of proceedings 仲裁法庭和进行的诉讼程序的作用
- Managing the arbitration 管理仲裁
- Choice of law 法律的选择
- State defenses to investor claims 对投资者索赔的国家辩护
- Calculation of damages 损失计算
- Enforcement of awards 仲裁判决的执行

4) Regional Trade Agreements 区域贸易协定

World trade is dominated by regional trade agreements (RTAs) (free trade agreements and custom unions). There are close to 350 trade agreements in effect today, and they govern considerably more trade than that covered by the WTO/GATT regime. Twelve Pacific Rim countries, including the United States and Japan, appear to be close to concluding the Trans Pacific Partnership (TPP), which will cover 40 percent of world trade. China is a party to thirteen free trade agreements, and negotiations have begun on the Regional Comprehensive Economic Partnership, that would include China, Korea, Japan, Australia, New Zealand and the ten ASEAN countries. Like the TPP, it would cover around 40 percent of world trade.

世界贸易受到区域贸易协定（RTA）的制约和支配（自由贸易协定和关税同盟）。目前已有将近 350 项贸易协定生效，相较世贸组织/关贸总协定而言，这些贸易协定所制约的贸易量要多很多。包括美国和日本在内的 12 个环太平洋国家似乎是要结束跨太平洋合作伙伴关系（TPP），TPP 将覆盖 40% 的世界贸易。中国已经签署了 13 个自由贸易协定，关于区域全面经济伙伴关系的谈判也已启动，参与国包括中国、朝鲜、日本、澳大利亚、新泽西和 10 个东盟国家。同 TPP 一样，区域全面经济伙伴关系将覆盖将近 40% 的世界贸易。

Syllabus 课程大纲

- Overview of Regional Trade Agreements 区域贸易协定简介
- Reasons for entering a Regional Trade Agreement 签署区域贸易协定的原因
 - Political 政治上的原因
 - Economic 经济上的原因
- Disadvantages of Regional Trade Agreements 区域贸易协定的不利面
 - Trade diversion 贸易转移
 - Rules of Origin 原产地规定
- The GATT/WTO rules governing Regional Trade Agreements 制约区域贸易协定的世贸组织/关贸总协定（GATT/WTO）规则
- Substantive provisions of Regional Trade Agreements 区域贸易协定的实质性条款
 - Trade in goods 商品贸易
 - Trade in services 服务贸易
 - Intellectual property 知识产权
 - Government procurement 政府采购
 - Competition 竞争
 - Investment 投资
 - Labor 劳工
 - Environment 环境
- Dispute settlement under Regional Trade Agreements 区域贸易协定下的争端解决

2. Basic Courses 基础课程

1) Introduction to International Trade Law 国际贸易法介绍

Syllabus 课程大纲

- History of the GATT and WTO 关贸总协定及世贸组织历史背景介绍
- Operation of the WTO 世贸组织的运作
- The Doha Round 多哈回合
- Substantive rules: 实质性条款:
 - The GATT rules 关贸总协定的规则
 - Nontariff barriers 非关税壁垒

- Trade Remedies 贸易救济措施
- Agriculture 农业
- Investment issues 投资问题
- Trade in services 服务贸易
- Intellectual property 知识产权
- Regional Trade Agreements 区域贸易协定
- Dispute settlement 争端解决

2) Introduction to International Commercial Transactions 国际商事交易介绍

Syllabus 课程大纲

- Commercial contracts 商业合同
- Banking law and practice 银行法及实践
- Tax issues 税收问题
- Investment law 投资法
- Competition law 竞争法
- Remedies 救济措施
 - Judicial 司法救济
 - Alternative dispute resolution 替代性争端解决

3) Alternative Dispute Resolution 替代性争端解决

Syllabus 课程大纲

- ADR vs. litigation 替代性争端解决 vs. 诉讼
- Mediation 调解
- Arbitration 仲裁
 - Drafting arbitration clauses 仲裁条款的起草
 - Choice of law and choice of forum 法律及法庭的选择
 - Conduct of arbitral proceedings 仲裁程序的进行
 - Enforcement of arbitral awards 仲裁裁决的执行

4) Private International Law (Conflict of Laws) 国家私法（法律的冲突）

Syllabus 课程大纲

- Choice of forum 法庭的选择
- Choice of law 法律的选择
- Conflict of law rules 法律规定的冲突
 - Contracts 合同
 - Torts 侵权
 - Family issues 家庭问题
 - Moveable property 动产
 - Immoveable property 不动产
 - Corporations 企业
- Enforcement of foreign judgments 国外判决的执行

5) Contract Drafting in English 英文合同的起草

Syllabus 课程大纲

- Overview of the U.S. Contract Law 美国合同法简介
 - Sources of Law 法律渊源
 - Contract Formation 合同订立
 - Contract Interpretation 合同解释
- Basic Drafting Topics 基本的起草话题
 - Definitions 定义
 - Warranties 担保
 - Termination Clauses 终止条款
 - Remedy Provisions 补救措施规定
 - Contingency Clauses 应急条款
- Boilerplate Language and Utilizing Templates 标准语言和使用模板
 - Choice of Law/Governing Law 法律/准据法的选择
 - Jurisdiction 司法权
 - Arbitration 仲裁
 - Force Majeure 不可抗力
 - Third Party Rights 第三方权利