

UDAYANA UNIVERSITY



Course Syllabus

BUSINESS LAW AND LEGAL TRADITION ON TRADE AND INVESTMENT

Credits: 3

1. Course Description

The course covers both general and particular issues on Indonesia's legal tradition relating to trade and investment, such as:

A. General Issues

(1) Indonesia's genuine legal tradition: trade and investment perspective; (2) Indonesia's new (imported) legal tradition: the influence of Civil Law and Common Law over Indonesia's legal tradition; (3) The fundamental (ideological, identity) and technical lag (dualism, unclearness, confusion, uncertainty, multi-practices, unjust); (4) The solution: (a) the legal policy; (b) the common practices: the principle of *konkordantie*; the agreement-based practices: the principle of the freedom of contract, the principle of *pacta sun servanda*; the legislation; (5) The Indonesia's legal tradition on trade activities: (a) the Civil Code, the Commercial Code; (6) The Indonesia's legal tradition on investment activities: The Law Number 25 of 2007 concerning on Investment.

B. Particular (Technical) Issues

(1) Property law: can foreigner obtain and hold property right over land in Indonesia; (2) Transaction and Contract law: how to set a valid and strong (legally-based) contract in Indonesia; (3) Leasing; (4) Investment law: how to invest safely (legally perspective) in Indonesia; (5) Settlement of dispute law: how to and where to go; (6) some more actual issues (practical issues-based).

2. Objectives

Upon the completion of the course the students are expected to have understanding over the issues, both theoretically and practically:

1. The students have a theoretical knowledge on Indonesia's legal tradition relating to trade and investment, including knowledge of Indonesia's constitutional law tradition, Indonesia's genuine legal tradition, Indonesia's civil law tradition, Indonesia's commercial law tradition, Indonesia's trade law tradition, Indonesia's Investment law tradition, and Indonesia's settlement of dispute law tradition;

2. The students have a practical skill (in general) of legal materials finding and using for legal practices such as for legal reasoning or argumentation, giving legal opinion, legal drafting, and legal proceedings.

3. Lecturing Methods

The course will be delivered under *Problem Based Learning* (PBL) method, covering: general overview, problem statement setting, issues setting, issues analyzing (presentation and discussion), concluding or summarizing.

4. Assessment Methods

Evaluations shall be based on: student comprehension understanding over the subject, individual and group assignment, student participation in the class discussion, and (if necessary) final examination.

5. Reference

- Glendon, Marry Ann, Gordon, Michael Wallace and Carroza, Paolo G., *Comparative Legal Traditions in A Nutshell*, West Group., St. Paul, Minn., USA, 1999.
- Klein, William A. and Coffee, Jr., John C., *Business Organization and Finance*, Fifth Edition, Foundation Press, Westbury, New York, 1993.
- Starke, J.G., and Higgins, P.F.P., *Law of Contract*, Butterworths, Sydney, 1969.
- Tan, Poh-Ling, *Asian Legal Systems*, Butterworths, Sydney, 1997.
- Wyasa Putra, Ida Bagus, *Indonesian Trade and Investment Law*, Lecturing Material, University of Technology Sydney, Sydney, 1996.

Legal Materials

- The Constitution of the Republic of Indonesia 1945
- The Government of Bali's Law Number 3 of 2003 Concerning on *Desa Pakraman*
- The Property Law: Law Number 5 of 1960
- The Civil Code
- The Commercial Code
- Investment Law: Law Number 25 of 2007
- Alternative Dispute Resolution Law: Law Number 30 of 1999
- The Law of Civil Court Proceedings

6. Lecturer

Ida Bagus Wyasa Putra, SH. MH.

7. Lesson Plan

Week	Topics of Study
1	Introduction 1, Understanding the method of lecturing and evaluating Introduction 2, Understanding the law; defining the law
2	Indonesia's legal tradition 1, the existing condition
3	Indonesia's legal tradition 2, the constitution
4	Indonesia's legal tradition 3, the genuine Indonesia's legal tradition
5	Indonesia's legal tradition 4, the civil law
6	MIDDLE SEMESTER TEST
7	Indonesia's legal tradition 5, the commercial law
8	Indonesia's legal tradition 6, the trade law (transaction/contract law)
9	Indonesia's legal tradition 7, the investment law
10	Indonesia's legal tradition 8, settlement of disputes (1), the court procedure
11	Indonesia's legal tradition 9, settlement of disputes (2), the Alternative Dispute Resolution (ADR)
12	FINAL SEMESTER TEST