та достовірною інформацією, відомостями з різних джерел, тому що швидкість отримання даних прямо впливає на швидкість адаптивної реакції підприємства.

Адаптація підприємства як інструмент і спосіб забезпечення економічної безпеки представляє собою багатоступеневий процес, який включає такі етапи:

- Моніторинг зовнішнього середовища
- Аналіз та оцінка інформації про стан навколишнього середовища
- Адаптивна реакція підприємства
- Визначення форми реалізації адаптивної реакції
- Визначення змісту процесу адаптації
- Формування бюджету адаптації
- Оцінка та аналіз ефективності адаптації [2, с.181].

Виходячи з ролі та значення адаптаційних процесів для підприємства виділяється три моделі їх поведінки:

Активна модель – пошук і встановлення нових господарських зв'язків, нові програми, нові підходи до управління підприємством, активна перебудова організаційної структури.

Консервативна модель – збереження традицій, незмінна структура випуску продукції, відсутня економія витрат, відсутність змін.

Змішана модель – підприємство діє за моделлю як активної, так і консервативної поведінки, але переважають традиційні господарські зв'язки [5,с.135].

Економічна складова адаптації до зовнішніх умов спрямована на забезпечення ефективності реалізації адаптаційних заходів. Об'єктом адаптації виступає сфера діяльності підприємства, у роботі якої проявилися негативні впливи кризових умов. Зокрема, В.М. Нижник під адаптаційними заходами розуміє сукупність інструментів, які застосовуються для трансформації об'єкта адаптаційного впливу у визначеному напрямі, і пропонує такі з них: ухиляння, локалізації, дисипації, компенсації [6, с.14]. Ухиляння передбачає тимчасову відмову від реалізації ризикованих бізнес-проектів. Другий захід – дисипація – розподіл негативних проявів кризових умов між діловими партнерами шляхом інтеграції економічних інтересів. Локалізація як адаптаційний захід виступає як обмежуючий чинник поширення негативних проявів зовнішнього середовища на діяльність підприємства. Компенсація призводить до створення резервів підприємства, формування альтернативних ринків сировини та збуту.

Тому, з огляду на адаптаційну складову, виділяють поняття економічної безпеки, під якою розуміють послідовну, заплановану, цілеспрямовану, комплексну діяльність підприємства щодо зміни кожного з елементів бізнесу, викликану попитом, обумовлену науково - технічним прогресом і спрямовану на діючу організаційну структуру, технологічні процеси, стиль і методи управління продукцією, що випускається, джерела сировини та матеріалів, ринки збуту, документообіг та інше [7].

Виходячи з даного дослідження, під адаптацією треба розуміти інструмент забезпечення економічної безпеки підприємства, який дозволяє своєчасно усувати внутрішні та зовнішні загрози шляхом проведення послідовних цілеспрямованих змін в діяльності підприємства.

Висновки та пропозиції. В процесі дослідження було розглянуто процес адаптації підприємства до нових умов економічного середовища, в ході чого визначено його ефективність та роль в забезпеченні і формуванні економічної безпеки підприємства через балансування інтересів з суб'єктами зовнішніх відносин, ефективного ресурсного забезпечення та утримання конкурентних позицій на ринку. Виділені основні елементи адаптації як інструменту забезпечення економічної безпеки підприємства. Розглянуто види адаптації підприємства, визначено етапи даного процесу. Зміни, які відбуваються в зовнішньому середовищі, впливають на підприємство, в результаті чого може виникати значна невідповідність внутрішнього середовища зовнішнім вимогам. Відсутність швидкої реакції підприємства на зовнішні зміни може призвести до серйозних негативних наслідків.

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EVOLUTION OF LAW AND ECONOMICS AND BIRTH OF ECONOMICS OF EQUITY AND JUSTICE

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Цуй Жентао. Еволюція дисципліни «Право та економіка» і народження економіки рівності і справедливості.

Право і економіка є однією зі сфер, що найбільш динамічно розвиваються, починаючи з 1970-х років. Вони також є одним з найважливіших наукових досягнень другої половини XX століття. У статті переосмислюється і аналізується походження, логічне обґрунтування і принципи теорії права та економіки, а надалі, які узагальнюються до внутрішнього закону, що регулює розвиток дисципліни. Тим часом, у статті розглядаються перспективи існування економіки рівності і справедливості і висуваються принципи міжнародної компенсації економічного нагляду. У статті також пропонується відповідні пропозиції щодо локалізації та структурі зазначеної дисципліни.

Ключові слова: право та економіка, перехресний імпульс, рівність і справедливість, компенсація нагляду

Цуй Жентао. Эволюция дисциплины «Право и экономика» и рождение экономики равенства и справедливости.

Право и экономика является одной из наиболее динамично развивающихся сфер, начиная с 1970-х годов. Они также является одним из самых важных научных достижений второй половины XX века. В статье переосмысляется и анализируется происхождение,

логическое обоснование и принципы теории права и экономики, а в дальнейшем, которые обобщаются до внутреннего закона, регулирующего развитие дисциплины. Между тем, в статье рассматриваются перспективы существования экономике равенства и справедливости и выдвигаются принципы международной компенсации экономического надзора. В статье также предлагается соответствующие предложения по локализации и структуре указанной дисциплины.

Ключевые слова: право и экономика, перекрестный импульс, равенство и справедливость, компенсация надзора.

Qu Zhentao. Evolution of Law and Economics and Birth of Economics of Equity and Justice.

Law and Economics is one of the fastest growing schools in both law and economic disciplines since the 1970s. It is also one of the most important academic achievements in the two circles during the second half of the 20th century. This paper re-combs and analyzes the origin, logic foundation and principle theories of Law and Economics, and further summarizes up the intrinsic law governing the development of the discipline. Meanwhile, the paper discusses the trend toward the Economics of Equity and Justice and puts forward principles for international economic supervision compensation. The paper also proposes relevant suggestion on the localization and discipline construction of the Law and Economics.

Keywords: Law and Economics, Cross Impetus, Equity and Justice, Supervision Compensation.

I Law and Economics: Origin, Development and Status Quo

Law and Economics is one of the fastest growing schools in both law and economic disciplines since 1970s. It is also one of the most important academic findings in the two circles during the second half of the 20th century. It reflects both the change in the research methodology of economics, and the recent major achievements of the inter- discipline of economics and law as a frontier, marginal and integrated fields of study. However, law and economics was not just begun in the 20th century. The study of law with the theory and method of economics can be dated back to Marchese di Beccaria, Jeremy Bentham, Adam Smith, Karl Marx, and Adolf Wagner or even earlier scholars, whose works were featured, to different extent, by the cross study of economics and law. Both economics and law are separated from the integrative discipline of ancient time due to the development of science. The birth of law study is much earlier than that of economics[3], and in its very beginning, the discipline includes in the study of many issues in the domain of economics, such as property relations. The birth of economics as an independent discipline is marked by the 1776 publication of Adam Smith' *An Inquiry into the Nature and Causes of the Wealth of Nations*. The separation of economics and law is both a mark for the prosperity of the two disciplines and a cause for their own deficiency. The deficiency of law lies in its negligence of efficiency and that of economics in the absence of equity. Nevertheless, the development of modern science this time serves as a powerful impetus for the merging of the two disciplines. For an instance, many new and important issues, such as modern communication, software technology, intellectual property right, indemnity for patent infringement, and disputes in contract, requires interpretation from the comprehensive viewpoint of both disciplines. The necessity of their combination is further increased by the newly emerging phenomena of "global village", "flattening", "global village", the "globalization" and "integration" of economy.

It can be seen from the above aspect that the current situation requires a new discipline to remedy the deficiency of economics and law and to bring the two in one. Law regulates people's behaviors to each other in a society, and economics studies the optimal allocation of resources. Inevitably, people's behaviors involve such issues as optimal allocation of resources and distribution of interests. However, Law alone often ignores economic efficiency, thus unable to reflect the clear target of maximization of social welfare; meanwhile, the society requires the optimal allocation of resources and distribution of social welfare among parties in the legal relation. Such a demand naturally requires the supply of law and economics. The movement of law and economics since the 1970's can be regarded as the direct and front fruits of the cross disciplinary studies. Increasingly seen as an indispensible school of economics, law and economics now enjoys its own journals that come forth on a large scale to exert their influences. [4] In the early period, theoretical analysis of law and economics on the regulation of monopoly played an important role in solving the problem of market failure. In recent years, the discipline has also made great achievements. Employing models and approaches of Macro/Micro Economics, the discipline provides comprehensive and detailed analyses in the fields of public goods regulation, antimonopoly law, corporate law, property right, family issues, crime and finance (Posner, 1997; Cooter & Ulen, 2003; LLSV, 1997, 1998, 2000; Beck, Demirguc-Kunt, & Levine, 2005).

In the development of classical economics, social institution, due to its origin and historical missions, has been the focus of the economists, which involves various issues of law. Many economists dealt with issues of law in their works, to name a few, the French Agrarian François Quesnay, English classical economists Adam Smith and David Ricardo. For example, David Ricardo's study of allocation system involved the establishment of the British Corn Law in the 19th century. From the end of the 19th century to the beginning of the 20th century, neoclassical economics, represented by Alfred Marshall's theory, emerged and gradually secured its dominant place worldwide. Thus, neoclassical economics took the place of political economics and resource allocation became the core issue of economic studies, laying aside that of social institutions as an exogenous premise of the study of resource allocation. However, even in the same period, there was a different picture in America and Germany. Institutional economists, such as Thorstein Veblen and John Commons in America and Wilhelm Roscher and Friedrich List in Germany, never forsook the tradition of classical economic study of social institutions and law issues. [5] Similarly, economists at the Department of Economics and Department of Law in Chicago University have been studying the issues of antimonopoly and industry regulation since the 1930's. In 1939, Herbert Simon from the Department of Economics was appointed to the first professor of economics in the Department of Law, who subsequently offered the course of "Economic Analysis of Public Policies". Later, Simon introduced Aaron Director into the Department of Law, who collaborated with Edward Levi to deliver a course on antitrust. These efforts gave a powerful boost to the merging of law and economics in Chicago University. Therefore, from the historical perspective, economics, in its origin, includes the study of issues of law. Law being an integrated part of the study of economic development, economics inevitably deals with the study of law as the condition of resource allocation and that as the solution to property right conflicts.

Ejan Mackaay (2000) mentioned two waves of law and economics movement. The first wave, mainly related to the German historical school, originated in Europe and then reached America owing to the major contributions of the old institutional school. [6] The first wave surged in the background of the early 1920's when the capitalist economy was in the transitional period from free competition to monopoly. Although the economic liberalism was advocated theoretically, there was state intervention in practice. Particularly during the 40 years between the 1970's to the outbreak of WWI, many capitalist countries suffered five economic crises, each of which brought serious damage to the capitalist production, worsened the social conflicts and increased the instability of the society, which urged the state to be more involved in the economic process. The intervention of the capitalist countries in the economy was embodied by law, which is to say, social economic legislations with nature of public law were implemented and put into wide use to regulate market economy. It was proved by facts that the influence of laws, especially economic laws was no longer just local or in individual cases, but comprehensive and delicate. Historical opportunity provided the American and German economists with possibility and necessity for the combination of law and economics, thus causing the first wave of law and economics study.

The second wave was generally accepted by modern law and economics circle. This wave was connected with the rise of New Institutional

[3] The western studies of law originated from ancient Greece. It is deeply influenced not only by the initial issues which concern the relationship between law, human, God and nature, the relationship between law and interests, justice, the rule by man and the rule by law, but also the expositions on these issues by Socrates, Plato, Aristotle, etc. The Chinese studies of law originated from the Hundred Schools of Thought during the Spring and Autumn Period and the Warring State Period(about 770 B. C. -221 B. C.).

[4] Examples are: *Economic Analysis of Law*, *Economic Approach to Law*, and *Journal of and Economics*.

[5] See Eric Roll's *A History of Economic Thought*, Faber & Faber: London, 2002. See also Shi, Jinchuan & Zhang, Farong's *Analysis of Comparative Economic Theory* (1993), Hangzhou: Hangzhou University Press.

[6] Scholars have divided opinions on the term "first wave". For instances, Duxbury (1995), Hovenkamp (1990), Medema (1998), and Mercuro & Medema (1997) expressed doubt on the term. See Ejan Mackaay, 2000, "History of Law and Economics".

Economics, which was represented by English economist Ronald Coase. In fact, Law and Economics was then separated from New Institutional Economics and became a relatively independent discipline. From the end of the 1960's to the early 70's, inflation and unemployment occurred together in America, and under Keynesianism, the state-regulated fiscal and monetary policy failed. Such social situation offered economists an opportunity to rethink Keynesian policy. As a result, Law and Economics rose. The foundation of *Journal of Law and Economics* by the Department of Law in Chicago University in 1958 was the milestone of Law and Economics movement. In 1960, Professor Ronald Coase published the *Problem of Social Cost*, marking the emergence and the independency of Law and Economics. In its start-up period, there were other two significant representatives—Guido Calabresi and Armen Alchian, whose masterpieces were *Some Thoughts on Risk Distribution and Law of Torts* and *The Property Right Paradigm* respectively. The two papers involved two fields, tort law and property law, which indicated that the analysis of Law and Economics stepped into the special areas of common law traditionally studied by jurists (Shi, 2003). Law and Economics flourished in the 1970's to the 1980's. Since the 80's, the discipline turned into a mature period, and it was the most influential school in both fields of economics and law at that time. It was testified by the fact that the Nobel Prizes for Economics were awarded to economists, all of whom specialized in this field, including Stigler, Becker, Buchanan, Coase, North, Amartya Sen, and Oliver Williamson, in 1984, 1989, 1991, 1992, 1994, 1998 and 2009 respectively. There are other manifestations. First, law and economics increasingly received attention from the Department of Law and Department of Economics in universities, and it was spread from northern America and Europe to all over the world, admitted by peer scholars as an international academic trend. Second, the cooperation between jurists and economists got closer and effective, laying a solid foundation for cultivating interdisciplinary talents, understanding both law and economics, making law and economics more rational and scientific. Third, it was widely accepted by government institutions and public organizations in the developed countries of Europe and America. For instance, Ronald Reagan appointed three jurists with economic study background, Richard Posner, Bock and Went as the judges of United States Counts of Appeals, and he issued Executive Order 12 291 requiring that all new government regulations must satisfy a cost-benefit analysis. Fourth, the law-economists had a great interest in modeling legal rules, legal procedures and mathematical analysis, and the yields were good.

I believe that the third wave of the Law and Economics movement is under the way worldwide. The third wave is marked by three major social and economic situations: there have been fierce disputes in international trade in recent years, which challenge the existing trade patterns, orders and rules, and escalate the trade barriers and frictions; new situation emerges in the diversification of currency; international economic environment becomes more fragile with the coexistence of conflict and dependency, friction and cooperation compounded by frequent financial crises.[7] Generally, challenge requires new methods and new thinking. Doha Round Negotiations organized by ITO are at a stalemate while the bilateral and multilateral trades between countries are in the ascendant. International trade supervisory regulations are in an adverse situation of absence or failure. Such issues as currency diversification and sovereign debt crisis have posed challenge to the existing law and regulations, requiring a sound explanation from economic theory.

Many facts have proved that the conclusion drawn by the American economics Roundtable[8] inadequate that Law and Economics had accomplished its historical mission of analyzing economic phenomena. It was not in accord with modern international economical status quo, nor did it take into consideration the current situation of countries of emerging market, let alone the anticipation of new changes in international economics and society. Hence, the characteristic of the third wave is seeking for order in fluctuation and for rule in challenge. New orders require new rules, and new economic rules call for new economic thinking. The foothold of the new thinking can only be widely accepted by the world when its base point and target is equity and justice. And the starting point and destination of law and economic theory and logic are exactly equity and justice on the basis of efficiency. This conjunction is not only the logic for thinking, but also the choice of history and reality. Therefore, law and economics has developed into the phase of Economics of Equity and Justice.

II Logic Foundation of Law and Economics and its Application

From the viewpoint of economics, Law and Economics studies how law system affects economy, improve economic efficiency and stabilize economy for the purpose of reforming and improving economic system; in relativity, from the viewpoint of law, Law and Economics takes the approach of economics to law system, aiming at its reforming and improvement. The former case under research emphasizes law system designing, innovation and transition in order to achieve high economic efficiency and rational resource allocation, in which, though, the research on law system reform and perfection plays an indispensible role. Law and economics targets the relationship between law system principles and economic efficiency as well as equity. By taking law system as an endogenetic element of economic operation, Law and Economics is interdisciplinary as involving the economic approach to the assessment and analysis of law system impact and economic effectiveness; however, a gap in between sets it apart from institutional economics. Law and Economics focuses on analyzing law system, especially the cost of legislation, execution and jurisdiction, related to economic effectiveness. It mainly accounts for defining law principles rather than amending concrete articles (Posner, 1997). For example, as to the clarification of responsibility in tortuous behavior, Law and Economics subjects legal provisions to law principles, with fault liability shifted into strict liability (Qu & Wang, 2002).

In essence Law and Economic analysis tries to resolve the "conformity" between law system and economic development, emphasizing the influence of legal provisions on economy. Law comprised in superstructure embodies and reflects concentration of man's will, but man's limited reason inevitably leads to the limited justice of law. The difference between "good law" and "evil law", or "good law" and "bad law" happens to illustrate such reasoning limitations (Qu Zhentao, 2005). The object of law is to realize "justice, equity and order", and Law and Economics seeks for efficiency and effectiveness by centering on law objectives. From "justice, equity and order" to "efficiency and effectiveness" shows a leap of the defining tasks on law system, representing the upgrading of man's limited reason. Since in market economy it is generally recognized as a law "the priority of efficiency and effectiveness while paying attention to equity", efficiency and effectiveness are likely to become the object of law. They maximize the equity scope in the economic sense and add new ideas to equity. Law and Economics covers the interdisciplinary area of both law and economics, which does not only change the single object of law for justice and equity, but also have it widened with new ideas of efficiency and effectiveness. This is what we believe to be the direct logic of Law and Economics.

After all, justice and equity both mean the natural and perpetual objectives for human society. Once laws or law principles break away from them, efficiency and effectiveness would lose their foundation of being as they would mean nothing to human society. Equity and efficiency must be concerned simultaneously because the latter case serves for the former case and any deviation between them would undermine themselves. In fact, they have fused into one for the best purpose in the society. This is not just a return that social ideals shift back from efficiency to justice and equity, but rather conjures up a new context, in which efficiency and justice and equity are endowed with new meanings. This process occurs with starting point and ending point seemingly alike, yet involves different premise, connotation and characteristics. This is so-called the fold-back logic of Law and Economics which realizes social ideals turning back from efficiency to justice and equity.

Limited justice of law is up to limited reason. The enlargement or maximization of limited justice may promote efficiency, which may, in turn, maintain justice and equity. The interdependence and interaction between reason and justice constitute the logic foundation of Law and Economics. (See Figure 1)

[7] In 1997, Asian Financial Crisis broke out, and later in 2007 out burst a global financial crisis; during that period Barings Crisis occurred.
[8] In 1997, American Economic Association announced that law and economics had accomplished its historical mission.

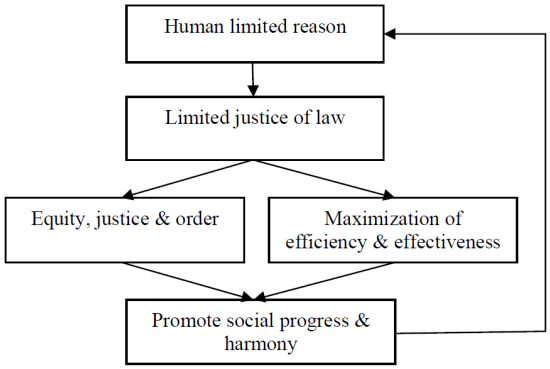


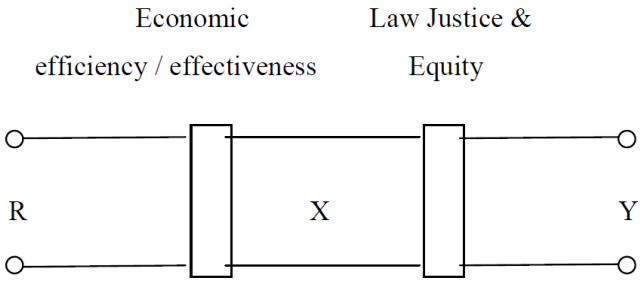
Figure 1 Logic Foundation of Law and Economics

Mathematical modeling as follows:

$X=\alpha+\beta R$ (1)

$Y=\theta+\gamma X$ (2)

Model (1) shows that economic efficiency (X) is decided by law maturity (α) plus the product of the ratio between economic efficiency and cost of law (β) and the impact of law on economy (R). Model (2) indicates that law justice and equity (Y) is related to the coefficient of harmony between law and society (γ) and the effectiveness of law (i.e. the level of public conformity to law) (θ). Just like the electrocircuit magnifying effect in physics (see figure 2), Law and Economics attaches importance to economic efficiency so as to consolidate the justification of seeking for justice and equity.



The limited view of the world and oneself brings about man's limited reason, which also causes limited justice and equity of law. However, under market economic conditions, such situation must be mended so that social progress can be pushed forward through the high efficiency of economy and vice versa. In a society where are valued democracy, justice and equity, honesty and fraternity, innovation and vitality, peace and orderliness, harmonious coexistence between man and nature, man can constantly improve his view of the world and oneself, and in the due course the limited reason gets expanded hereby expanding the limited justice and equity of law. Therefore, the logic foundation of Law and Economics relives an upward cycling process. Economic system and laws keep up complying and adjusting with each other as a result of over and again magnified efficiency and justice and equity in an overall manner. This can be regarded as the cycling logic of Law and Economics. Adam Smith (2000) once said, "By such maxims as these, however, nations have been taught that their interest consisted in beggaring all their neighbors[…]the nature of human affairs can scarce admit of a remedy: but the mean rapacity, the monopolizing spirit, of merchants and manufacturers, who neither are, nor ought to be, the rulers of mankind…"

In 2007 the US economy was hit by the subprime crisis which leads to global finance crisis since the US government gave loose to financial governance on derivative products and merchants' mean greedy supervision. The malfunction of the US financial governing laws concerned plunged the world into a serious economic crisis causing huge loss to many countries. Since the world is currently highly integrated, the error of any country may unbalance or even cause crisis to the world economy. Although President Barack Obama made the congress pass the bills to rescue the market, he rebuked those Wall Street bankers and dealers by claiming them to be greedy, selfish and shameless as they played with financial derivatives without following business rules or ethics. In case of such economic crisis, the US congress voted for "Volcker Rule" (Paul A. Volcker, Chairman of Federal Reserve, from 1979 to1987) in late 2013 and made it in operation in April, 2014, for which banks or the US government are prohibited from making investment bets with their own money or credit. Herein lays the necessity of making an exemplary rule to warn of those countries and governments defaulting governance and causing loss to other countries and regions. According to the rule, any country directly responsible for such loss ought to remit the victim countries' trade revenue for 1-3 years. This rule can be seen as an international governance compensation principle that definitely relies on setting up a series of international mechanisms of identification, punishment and execution. In nature it is somewhat like tradable emission charge for the purpose of pressing sovereign countries or governments into undertaking the responsibility for maintaining international market order.

Generally speaking, in reality, at the different stages of socio-economic development, whether justice and equity or efficiency chosen as the more direct or higher aim, is usually decided by the major contradiction during the course of development. Both of them are permanent goals, coexisting in the dualistic structure of social and economic development. The absence of either of them may wreck the object of Law and Economics that is intended to reveal how to attain to these interdependent goals. Moreover, the purposes of improving economic efficiency and founding harmonious society also supplement each other. The pursuit of maximum social well-being need precondition the harmonious and balanced development; the building of harmonious society also need precondition resolving the current problems through efficiency improvement. Development is the cardinal principle and reform means the way out of the existing difficulties. The clarification of such mutually preconditioned dualistic objects stands being the soul of Law and Economics. In this regard justice and efficiency make up the dualistic structure of Law and Economics. The joint pursuit of them will surely lead to the co-prosperity and concerted development of society in terms of corporate culture, social credit, law culture, political civilization, social governance and business ethics. This trend happens to make clear the genuine significance of the interdisciplinary Law and Economics.

III Law and Economics: Basic Theories and Paradigms

While Adam Smith conceived the term "invisible hand" to describe the importance of a free market, Carl Marx proposed the necessity of planned economy in socialist countries as the "visible hand." Both "hands" are strategies for regulation and distribution of social resources. Law and

Economics combines concepts of free market and planned economy and can be considered as "the third hand of justice and efficiency", which may provide a good reference for governments' macro-control over economy.

1. Marx's Determinism. The orthodox theory of neoclassical economics puts resource distribution and optimization as its core content, thus neglecting the factor of social system. However, legal systems and the alike, which are taken as external variables, pose enormous impacts on economy. Similar to the relationship between economic infrastructure and superstructure, law and economics not only feature abundant contents and broad explanations, but they interact each other in very important ways.

For the first time, Marx distinctly and systematically illuminated in his great work *On Capital* the theory of law from the historical materialist perspective that "No social order is ever destroyed before all the productive forces for which it is sufficient have been developed, and new superior relations of production never replace older ones before the material conditions for their existence have matured within the framework of the old society." Therefore, the impetus for the evolution of law as superstructure is the growth of productive force, that is, the economic infrastructure, which is to say, the economic infrastructure determines the formation and development of law, and law, in turn, reacts to and serves that infrastructure. Engels holds that "The reaction of the state power upon economic development can be one of three kinds: it can run in the same direction, and then development is more rapid; it can oppose the line of development, in which case nowadays state power in every great nation will go to pieces in the long run; or it can cut off the economic development from certain paths, and impose on it certain others." He meanwhile points out that "It is similar with law. As soon as the new division of labor which creates professional lawyers becomes necessary, another new and independent sphere is opened up which, for all its general dependence on production and trade, still has its own capacity for reacting upon these spheres as well. In a modern state, law must not only correspond to the general economic position and be its expression, but must also be an expression which is consistent in itself, and which does not, owing to inner contradictions, look glaringly inconsistent."[9] The statement explores the significances of state power, laws and regulations' reaction to economy and explains the forms and impacts of such a reaction. Law can accelerate and guard the development of economy, but it can also hinder or even destroy economic growth if the two are incompatible. From the late 1990's, representative scholars like LLSV (1997, 1998) have been researching on the relationship between legal system and the protection of investors, fiscal system and economic development, and conclusion has been proposed and proved by data analysis that the common law system promotes social development.

2. The core category—Transaction Cost Theory. Ronald Coase, one of the most significant figures of the early stage research of Law and Economics and a founder of the subject, proposed "Coase Theorem" based on his paper *The Problem of Social Cost*. "Coase Theorem" explains that costs incurred through economic exchange process, say, negotiation, signing contracts and supervising implementation are called transaction costs; the cost of the same transaction process can vary within different legal frames, and high transaction cost may be a hindrance to personal transaction, thus affecting the efficient of resource distribution. Then it is necessary to adapt the concept of transaction cost and the Coase Theorem into the analysis framework to explain the development of economy and the evolution of the system. An effective law may lower personal transaction cost and deduce the obstacle to an agreement after negotiation between individuals, which contributes to the improvement of resource allocation. Thus, Coase Theorem, with its core concept of "transaction cost", combines legal system with resource allocation and builds a theoretical basis for the study of legal issues with economic theories and methods (Shi, 2004).

According to Neoclassical economic theory, optimum efficiency occurs on the equilibrium point where marginal cost equals marginal revenue. Therefore, the decision of adopting a legal system should be made after comparing the costs and profits among various available solutions. All legal activities should aim to maximize the effective allocation and utilization of resoiurces, i.e., the wealth of society; all legal system and principle should be understood and interpreted as the efforts to facilitate the efficient resource allocation. The law of the market should intrinsically evolve into a legal logic to exert influence on every segment of legal system including legislation, judicature, law enforcement, and law's observations. The cost of law includes the cost occurred during the process of legislation, the implementation, innovation, enforcement of laws and the cost of opportunity. The profit of law includes community and individual profits. Meanwhile, the cost and profit varies in specific legal circumstances. Nevertheless, a cost-volume-profit analysis is necessary for making new laws or an amendment to the existing ones. The new one or the amendment can be regarded as feasible and effective only when it is in line with the Karldor-Hicks efficiency.

3. Supply and demand analysis—law market theory. In "*Economic Analysis of Law*" (1973) Richard Allen Posner systematically studies a series of issues about the relationship between law and market, such as law supply and demand, law price and law cost, etc. From the perspective of economics, market can be taken for a collection of buyer (demander) and seller (supplier) that interplay and make exchange possible. Market works as an effective mechanism of assessing the methods of utilizing all kinds of competitive resources. The core of market is the transaction between demander and supplier. (Wei, 1995) Law comes out of the economic growth and market results from production and transaction, so law proves the consequence of cooperation and exchange in the human society. (Feng, 2004) In the process of law making and running there is naturally the demand for supply of law, in which government（e.g. legislation, jurisdiction and execution） acts as the supplier of law while individuals and organizations the demander of law.

Compared with other things in general, law as a sort of public product, has its own distinctive features. (1) The approximate conformity of interests between demander and supplier of law. This is because in their transaction both sides usually get under way to guarantee the former's right by fully considering its will; whereas, the latter's benefits are also inevitably concerned though somewhat deviating from the public goals. (2) The instability of supply of law. The demand of law embodies the values of law, namely, the pursuit of liberty, justice, equity and efficiency / effectiveness, etc. symbolized and protected by law; nevertheless, supply of law is only a means of defining and gaining such values, functioning more of a frame of possibilities of approaching to the ultimate purposes of law. This is what so-called North Paradox means[10]. (3) The compulsiveness and monopoly of supply of law. It is monopolized by legislative sectors.

Demand of law also has some notable features. (1) The demander's purpose of making profits. In the marketplace products on sale bring satisfaction to demanders by purchasing and using them; similarly, demander of law also need make use of law to reduce loss or increase benefits. So the life of law lies in providing a kind of logic that demander expects to maximize his benefits by means of law. (2) The diversity of demand of law. Market economy，inclined to decentralized decision making, involves diversified participants and interests of theirs， so it is bound for them to have diversified demands of law. Even the same law may mean to different participants different "vested interests" and "potential interests". (3) The uncertainty of demand of law. This refers to the uncertainty as to the nature and quantity of law of demand. Being an intangible public intellectual product, law proves hard to be priced or assessed with its cost in a cost-income analysis of law products (barely workable within an anticipatory scope) because of the huge indirect cost and income.

4. The nature of transaction of law—property right theory. Of numerous property right theories, two popular perspectives are cited as follows:

The US economist, Douglas C. North believes that in the 17th century the rise of the European nations at a different rate owes to the different nature of the property right established in these countries. The Netherlands and England had the earliest reform on property right by founding the private ownership, which, consequently, offered a system encouragement and protection to the innovation in the field of economy and eventually led to the prosperity of both countries. In *Structure and Change in Economic History*, North points out that "in these two successful nations their new

[9] Engels (1968), "To Conrad Schmidt", translated by, Donna Torr *Marx and Engels Correspondence*, International Publishers; transcribed by S. Ryan, http://www.marxists.org/archive/marx/works/1890/letters/90_10_27.htm.

[10] North holds that in a nation behavioral norm is set up for two purposes: on the one hand, it is conducive to ruler's rent maximization by defining the fundamental rules of ownership structural competition and cooperation; on the other hand, it may lower transaction cost around the first purpose and maximize social productivity, which will surely boost economy and add national income. However, these two purposes are in persistent conflict with each other. The consequence of growth is that the nation may either maintain or undermine this efficient economic system, which will result in the national instability, i.e. the growth or decline of a nation. This is the so-called North Paradox.

property right system inspired the people to use resources more efficiently for innovation and invention, but in those unsuccessful nations the people were incited to the opposite by increased tax revenues" (quoted from Gao, 1999).

Robert Cooter & Thomas Ulen both hold property as a sort of right and analyze its incentive consequence. Property right becomes effective only when it brings about opportunities of creating wealth in a nation. Generally voluntary exchange makes resources handed over from the people with lower evaluation on them to the people with higher evaluation on them. Property right thus helps to achieve the wealth maximization through the protection and promotion of voluntary exchange. The efficiency of voluntary exchange is applicable to either legal rights or physical products. And besides, property right also leads owners to the wealth maximization with the income and cost of internalized use of resources. In brief, property right can optimize resource allocation through negotiation and improve productivity in an internal way. Property right is so important that it demands law protection. Law and Economics aims at revealing the impact of law and different law systems on property right protection as well as economy. Therefore, property right theory certainly constitutes Law and Economics as a vital reference. It is even safe to believe that in the modern era property right issues, especially those concerning intellectual property, serve as a direct occasion for Law and Economics.

5. Error Compensation

International regulatory compensation rules can be explained as follows: The range of application can only be applied to the consequence caused by subject economic activities, and cannot be adapted to extra scopes such as military actions, accidents and nature disasters. The rules of application must be applied in infringement acts conducted by a subject in propose, which refers to indulging infringement acts deliberately, taking zero remedial actions to protect other countries' interests and actions failed to inform people relevance timely. The strict liability must be strictly applied to applicable principles in both scenarios with and without contractual relationship. The compensation mechanism includes direct economic compensation, trade preference compensation, such as unilateral import, tariff concession or reaching bilateral agreements. The controversy arising should be brought to the international court of arbitration or the international court of justice, and sanctions rules can be applied when the trail decision failed and did not execute.

Every basic academic theory has its analysis paradigm of correspondence. As the academic scholar, Jian Wei, from mainland China claimed that a complete analysis paradigm of Law and Economics should include three levels: metaphysics, which means rational choice; sociology paradigm, which refers to the theory of transaction costs of Coase's, and construction paradigm—the bargaining theory.

The Rational Choice Theory is the Metaphysics paradigm of Laws and Economics. It regards law as the implicit price system and makes analogy analysis between action choice under law restraint and that under pricing structure, enabling the analysis paradigm and its concept has been applied to choice behaviors under a legal circumstance.

The Problem of Social Cost and its Coase Theorem constitute the important analysis paradigm of Laws and Economics. The conception of transaction cost combines laws and economics into a single field, and the method of transactional cost provides a measurement to analytical laws approach to economy. The birth of Coaes Theorem marks the beginning of Laws and Economics. Then it can be understood that the Theorem is the core of Laws and Economics and provides a major research method for its studies.

Bargaining theory is the construction paradigm of Laws and Economics. It claims the most effective approach to realize effective is cooperation of self-initiative. However, cooperation is interrupted by numerous reasons. The economic theory to facilitate cooperation and overcome obstacles makes up the theoretical basis, and includes "efficiency" in the theme. The game analysis of Laws concentrates on the countermeasure behaviors under laws and regulations and explores a trail of the possibility of abandon "priority the market", and raise a possibility of comprehending regulations according to rules themselves. The game theory is a subject using the bounded rationality and the Hypothesis of Utility Maximization as the premises. As a mathematical method, it breaks the limit of the boundary of information and serves as a strategy to express the idea of both parties in legal act. It is a tendency for the Game Theory to be adapted as a paradigm of researching Laws and Economics. The Game Theory provides fresh idea to legal research and insight for people who aim to discover how laws can affect human behavior, and serves as one of the most significant way of applications. Meanwhile game analysis has the edge of analyzing non-market systems and is involving as a new paradigm of Laws and Economics.

IV Localization and Discipline of Law and Economics

China is in a critical period of economic system transition. Reforming of state-owned enterprises and urbanization are the outstanding contradiction in China presently. In order to solve those contradictions we should improve the economic efficiency and the law and economics is one of the most important subjects in researching the economic efficiency. As mentioned in above, law and economics adds the economic efficiency factors to the law, which clarifies and magnifies justice and fairness, realizing the virtuous cycle between law and economic. There is no fairness, justice and order without efficiency, it is efficiency itself that lose the fair, and this phenomenon will lead the social economy and politics o unharmonious development, or even chaos. Thus, we shall emphasize on law and economics, to realize the localization of law and economics based on the situation in China and take great efforts to develop the discipline of law and economics of justice.

1. Localization of law and economics. Studying law and economics in China still in the primary stage and it is particularly important to create law and economics that adapt to China. Localization of law and economics not only brings the theory and methods of western economic of justice to China, but also create a system which adapt the situation in China including the development of economic, and legal reforming process, create a form that have the characters of China. It is not means that we create a kind of economic of justice only can be understood by Chinese but to create an economic of justice with the cultural characters and universal for China.

On the analysis method, it takes neoclassical economics; also, this kind of method is borderless. However, the new system economics has obvious nationality as one of important theoretical basis and it possess specificity of society, institution and culture as social science. As we all know, it is different between eastern and western society in history evolution, cultural tradition, humanistic character and thinking mode. Thus, the social science theory of eastern and western is not similar. We shall absorb and mirror the research result creatively on the basis of the practice of economic social development of China, using our own affluent practice and data to make contribute on the basis of the theory of economics and law locally. We should create law and economics system, which is planted in the soil of culture of China and is useful for solving and explaining the problems of significant economic realization, also, it has universal scientific significance. On the other side, the reach object of law and economics is complex from academic aspect of view, because different countries and regions exit their local law phenomenon, therefore, the localization of law and economics is becoming significant obviously.

Localization of Law and economics should promote the development and explanation of law and economics, solving the practical economic question as a point of departure. Discipline construction not focuses not only on the research of domestic significant economic and social phenomena, but also tracks after the development trend of world law and economics. We should use localization cases and data as much as possible; we also need to apply some domestic cases and dater when we teach law and economics theory, so that we can combine the theory and experience well. As a new rising economics construction and development, its theory model and logical system must explain the Chinese significant economic problems and become the theory rationale for policies.

2. The discipline construction of law and economics. As a developing country which is undergoing economic transition, there is space for law and economics development and prosperity, the localization of law and economics is imperative. One of the most important element effect localization is to popularize and apply law and economics, in order to make it popular among people and be accepted by people, we need to put effort on discipline construction. We have achieved in law and economics research. Some scholars such as Zhang wenxian, Zhang Naigen, Zhu suli, Shenghong etc have translated and published some very important documents. In some institutions of higher learning such as Shandong University, Zhejiang University, Zhongshan University and Harbin University of commerce, there are laws and economics teams have formed initially. The 11th Law and economics BBS in China has been successfully held. Meanwhile a batch of scholars are emerging, law and economics basic theory is

systematically studied by Professor Weijian and others; Tort problems is studied by Professor Shi Jinchuan and others; law and economics analysis and legislation advice for land contract and prize advertising; The law and economics research method researched by Professor Zhou Linbin and others.

For law education in China, the answer of the agent for teaching activities of law and economics of development could be found in our development of market economy. Because market economy is economy which ruled by law, whose law development must increase the demand for law talents especially economic law, for example, domestic and international civil and commercial law, economic law. The effective measure for satisfying social demands of the talents of economics and law is to cultivate the talents who master both economic and law urgently through teaching. For cultivating the nonlegal vocation and non-litigation of the students from law school, department of economic management, economics and law possess indispensable significance, especially spreading the economics and law for the staff, provincial-level leadership or above, legislation, administration of law, judicatory. Therefore, we shall break the discipline limitation; connect the knowledge of law and economics organically, which is used to cultivate the law quality for students by means of teaching of law and economics. Thus, focusing on the growing point of teaching of this new economics and law can not only promote the development of vocational talents' education in law and economics, but also fostering vocational quality. Hence, we need to design the subject of law and economics urgently, reform traditional teaching contents, also, updating learning concepts and teaching modes of teachers and students in the major of law and cultivating the method and ability of high efficient and usage of knowledge in market economic environment is more important. Simultaneously, because of the difference of the way of thinking and cultural knowledge, thus, the emphasis of teaching shall vary with each individual.

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РОЗВИТОК ЛІЗИНГУ В УКРАЇНІ В КОНТЕКСТІ ЄВРОІНТЕГРАЦІЇ ТА РОЗШИРЕННЯ МІЖНАРОДНОГО ЕКОНОМІЧНОГО СПІВРОБІТНИЦТВА

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Шевцова Я.А., Якименко Г.К. Розвиток лізингу в Україні в контексті євроінтеграції та розширення міжнародного економічного співробітництва.

У статті досліджено основні тенденції розвитку ринку лізингових послуг в Україні в порівнянні з країнами ЄС. Визначено ключові перешкоди розвитку лізингового ринку та запропоновано можливі шляхи їх вирішення в умовах євроінтеграції країни. На основі дослідженого матеріалу виокремлено основні конкурентні переваги вітчизняного ринку лізингових послуг для іноземних інвесторів з метою додаткового залучення капіталу та розширення міжнародного співробітництва. На основі розроблених заходів і механізмів розвитку ринку лізингових послуг запропоновано комплексну концепцію стратегічного розвитку українського лізингового ринку в умовах євроінтеграції та розширення міжнародного співробітництва.

Ключові слова: лізинг, євроінтеграція, міжнародне економічне співробітництво.

Шевцова Я.А., Якименко А.К. Развитие лизинга в Украине в контексте евроинтеграции и розширения международного экономического сотрудничества.

В статье исследованы основные тенденции развития рынка лизинговых услуг в Украине в сравнении со странами ЕС. Определены ключевые препятствия развития лизингового рынка и предложены возможные пути их решения в условиях евроинтеграции страны. На основе исследованного материала выделены основные конкурентные преимущества отечественного рынка лизинговых услуг для иностранных инвесторов с целью дополнительного привлечения капитала и расширения международного сотрудничества. На основе разработанных мер и механизмов развития рынка лизинговых услуг предложена комплексная концепция стратегического развития