

國 立 清 華 大 學 命 題 紙

九十二學年度 科技法律研究 (所) 甲 組碩士班研究生招生考試

科目 文獻評析 科號 5504 共 3 頁第 1 頁 \*請在試卷【答案卷】內作答

1. 請以中文說明下列敘述內容之重點並予以評論 (30%)

Similarly, Taiwan has the greater interest in having its law applied to determine whether FCFC, a Taiwanese company, acted tortiously in acquiring information in Taiwan from CPDC, another Taiwanese company, and, in particular, as to the circumstances under which a Taiwanese company's actions have created a duty of confidentiality in its employees. Again the law in this area reflects a delicate balance of competing interests that has the capacity to profoundly affect the Taiwanese economy, and any interest that New Jersey would have in protecting trade secret holders who export their intellectual property to Taiwan is greatly outweighed by Taiwan's interest in setting the standards that govern the conduct of its own citizens regarding intellectual property that is present within its borders. ... Equally applicable here is the conclusion that in such cases, "the place of injury does not play so important a role for choice-of-law purposes . . . as in the case of other kinds of torts and that instead, the principal location of the defendant's conduct is the contact that will usually be given the greatest weight in determining the state whose local law determines the rights and liabilities that arise."

The vast majority of the conduct that is relevant to these two issues occurred in Taiwan. BP licenced the trade secrets to CPDC in Taiwan. To the extent that BP and CPDC took measures to safeguard those secrets in CPDC's hands, those measures were taken in Taiwan. FCFC acquired whatever information it acquired in Taiwan, designed its plant in Taiwan, prepared the bid packages with the specifications for the equipment in Taiwan, and delivered those packages to Taiwanese agents of U.S. companies in Taiwan. ... Moreover, while neither BP nor JOC is Taiwanese, which by itself weighs against the application of Taiwanese law, both have established significant relationships with Taiwan, BP by licensing its technology to a Taiwanese company and JOC by maintaining agents in Taiwan for the purpose of soliciting Taiwanese business. These relationships are centered in Taiwan, and these relationships gave rise to the events that are at issue here. ... We hold that Taiwan has the greater interest in having its law govern the issues of whether BP had a protectable interest in the information licensed to CPDC and whether FCFC acted unlawfully in acquiring it. Therefore, to the extent that there is a conflict of law on these issues, Taiwanese law should govern.

2.  
**CANADIAN SENATE PANEL URGES LEGALIZATION OF POT**

September 4, 2002(<http://www.cnn.com/2002/WORLD>) OTTAWA, Canada (CNN) -- A Canadian Senate committee recommended Wednesday that marijuana be legalized.

"Cannabis should be, from here on, in legal and of restricted use, so that Canadians can choose whether to consume or not in security," said Sen. Pierre Claude Nolin, a Progressive Conservative Party member from Quebec province. He spoke at a news conference announcing the final report of the Special Committee on Illegal Drugs, which he chaired.

The government should give amnesty to anyone convicted of marijuana possession under current or past legislation and erase their records, Nolin said.

"Domestic and international experts and Canadians from every walk of life told us loud and clear that we should not be imposing criminal records on users or unduly prohibiting personal use of cannabis," Nolin said.

The committee's report will be considered by lawmakers.

Evidence indicates that cannabis is less harmful than alcohol, and undermines the idea that smoking pot leads to harder drugs, the committee said.

The report recommends the legal age for possession and consumption as 16, said Dave Newman, committee spokesman. It would be regulated similar to the way alcohol is.

Nolin said: "Make no mistake, we are not endorsing cannabis use for recreational consumption. Whether or not an individual uses marijuana should be a personal choice that is not subject to criminal penalties.

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"But we have come to the conclusion that, as a drug, it should be regulated by the state much as we do for wine and beer, hence our preference for legalization over decriminalization."

The report says the appropriate level of tetrahydrocannabinol -- THC -- in marijuana for recreational use would be 13 percent. THC is the main active component of cannabis.

Many of the products illegally on the market now have a much higher THC level, he said.

The committee also recommended a revision of the regulations regarding medicinal use of marijuana.

Legalization would ultimately result in less recreational use of marijuana, the panel believes. It also would take a load off the criminal justice system and hurt organized crime, the report says.

The panel also recommended that laws on driving under the influence of alcohol and drugs should be amended "to lower permitted alcohol levels to 40 milligrams of alcohol per 100 milliliters of blood, in the presence of other drugs, especially, but not exclusively cannabis; and to admit evidence from expert police officers trained in detecting persons operating vehicles under the influence of drugs."

Sen. Colin Kenny, a Liberal Party member from Ontario who is the panel's deputy chair, said no one on the committee wants to see an increase in drug use.

Newman said the nation's minister of justice, Martin Cauchon, will take a look at the report and determine whether the government wants to put it on its legislative agenda.

Other recommendations made in the 600-plus page report, which is the result of two years of study, include:

Canada "should adopt an integrated policy on the risks and harmful effects of psychoactive substances" covering a whole range of substances.

A Canadian Center on Psychoactive Substances and Dependency should be created, with "a strong, clear mandate."

The nation should seek amendments to U.N. conventions and treaties governing illegal drugs and back the development of a Drugs and Dependency Monitoring Agency for the Americas.

**Q: Please argue for or against Sen. Nolin's proposition. (Your answer should be written in English.) (30%)**

3.

**GLOBALIZATION ISSUES** by Frank Lechner et al. (<http://www.emory.edu/SOC/globalization>)

## ***What is globalization?***

Globalization broadly refers to the expansion of global linkages, the organization of social life on a global scale, and the growth of a global consciousness, hence to the consolidation of world society. Such an ecumenical definition captures much of what the term commonly means, but its meaning is disputed. It encompasses several large processes; definitions differ in what they emphasize. Globalization is historically complex; definitions vary in the particular driving force they identify. The meaning of the term is itself a topic in global discussion; it may refer to "real" processes, to ideas that justify them, or to a way of thinking about them. The term is not neutral; definitions express different assessments of global change. Among critics of capitalism and global inequality, globalization now has an especially pejorative ring... ..

### Competing Conceptions of Globalization

In this Journal of World-Systems Research article, Leslie Sklair argues that globalization encompasses a distinct set of changes, which can be studied from four perspectives he labels world-systems, global culture, global society and global capitalism.

### Globalisation

This brief OneWorld guide argues that globalization is a strategy of liberalization that becomes an economic nightmare for the poor.

### Globalization: A World-Systems Perspective

In this Journal of World-Systems Research article, Christopher Chase-Dunn outlines the main claims of world-systems theory and argues that global capitalism provokes socialist forms of resistance that can lead to a more just system.

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Globalization: Challenges and Opportunities

G.B. Madison, McMaster University, reviews economic, political, and cultural aspects of globalization to argue that a new form of capitalism is emerging.

The Globalization of Finance

Alan Greenspan, Chairman of the Federal Reserve (U.S. central bank), argues that the expansion of efficient global financial markets is largely beneficial but also presents new risks.

The Lexus and the Olive Tree

Book excerpts and columns by Thomas Friedman argue that the "new era of globalization became the dominant international system at the end of the twentieth century" in an irreversible process affecting everyone.

....

***Does globalization diminish cultural diversity?***

**There are many reasons to think that globalization might undermine cultural diversity:**

-multinational corporations promote a certain kind of consumerist culture, in which standard commodities, promoted by global marketing campaigns exploiting basic material desires, create similar lifestyles--"Coca-Colanization"

-backed by the power of certain states, Western ideals are falsely established as universal, overriding local traditions--"cultural imperialism"

-modern institutions have an inherently rationalizing thrust, making all human practices more efficient, controllable, and predictable, as exemplified by the spread of fast food--"McDonaldization"

-the United States exerts hegemonic influence in promoting its values and habits through popular culture and the news media--"Americanization"

**But there are also good reasons to think that globalization will foster diversity:**

-interaction across boundaries leads to the mixing of cultures in particular places and practice--pluralization

-cultural flows occur differently in different spheres and may originate in many places--differentiation

-integration and the spread of ideas and images provoke reactions and resistance--contestation

-global norms or practices are interpreted differently according to local tradition; the universal must take particular forms--glocalization

-diversity has itself become a global value, promoted through international organizations and movements, not to mention nation-states--institutionalization

請以中文回答以下問題：

1. 請在 50 字以內，定義「globalization」。(15%)

2. 關於「globalization v. cultural diversity」，本文提供了兩種思考方向。請選擇其中一立場申論之，並反駁另一立場之觀點。(25%)