



LAW 896

International Business Transactions

MQC S2 Day 2014

Dept of Law

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General Information

Unit convenor and teaching staff
Moderator
Professor Muhammad Rafiqul Islam

Unit Convenor
Afroza Begum
afroza.begum@mqc.edu.au
Contact via afroza.begum@mqc.edu.au
11:25am-12:25pm

Credit points
4

Prerequisites
Admission to MIntTrdeComLaw or PGDipIntTrdeComLaw or PGCertIntTrdeComLaw or MIntRelMIntTrdeComLaw or 42cp in LAW units at 400 or 500 level or (admission to JD and 32cp in LAW units at 800 level)

Corequisites

Co-badged status

Unit description
This unit examines the making, regulating and breaking of deals in the international business community. The unit will canvas the different legal forms of agreements (eg, direct foreign investment, international joint ventures); laws that influence the conduct of business internationally (eg, anti-trust laws, international financial regulation, international bankruptcy, international taxation laws); and the mechanisms available when disputes arise (eg, international arbitration, foreign litigation in domestic courts). Students will develop an understanding of key legal principles underpinning international business transactions from an international law perspective as well as in relation to selected jurisdictions.

Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

Learning Outcomes

On successful completion of this unit, you will be able to:

Comprehend the regulatory framework and standards that govern international business

transactions and relationships.

Demonstrate a sophisticated knowledge and understanding of relevant international agreements and principles that influence international business, domestic legal regime and parties involved in cross-border dealings, and develop an analytical ability to critically assess their application.

Evaluate the role of different institutions and organisations in guiding responsible business.

Investigate the relationship between international and domestic regulations and the way in which Australia has endorsed those international standards.

Identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions, and apply appropriate strategies to overcome these.

Recognise the importance of different approaches to and methods of resolving disputes and address the strengths and weaknesses of the different procedures.

Analyse the hypothetical international legal problem scenario via constructing and defending arguments in a well structured, reasoned, coherent and logical manner.

Assessment Tasks

| Name | Weighting | Due |
|---------------------------------|-----------|-----------------------|
| <u>Class Participation (CP)</u> | 10% | On-going |
| <u>Problem Question</u> | 30% | 7 October by 5:00pm |
| <u>Research Essay</u> | 60% | 12 November by 5:00pm |

Class Participation (CP)

Due: **On-going**

Weighting: **10%**

Face-to-face seminars and group discussion, which will focus on *inter alia* problem-solving methods in addressing relevant legal issues, ie, the application of appropriate laws and standards to the scenarios provided each week. Students are required to complete the prescribed readings for each week. Regular and active participation in discussion questions is one of requirements for successfully completing the subject. CP marks will be awarded based on the quality of performance and effective engagement in the group discussion. Attendance in itself is not enough to achieve a pass mark.

Internal students are required to attend 80% of the tutorials. External students must attend a two-day intensive (10am-4pm) to be held on 27 September (Saturday) and 4 October (Saturday). Exemption may be granted only in exceptional circumstances and subject to the provision of appropriate documentation. If exemption is granted, work in lieu will need to be submitted.

On successful completion you will be able to:

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- Evaluate the role of different institutions and organisations in guiding responsible business.
- Investigate the relationship between international and domestic regulations and the way in which Australia has endorsed those international standards.
- Identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions, and apply appropriate strategies to overcome these.
- Recognise the importance of different approaches to and methods of resolving disputes and address the strengths and weaknesses of the different procedures.
- Analyse the hypothetical international legal problem scenario via constructing and defending arguments in a well structured, reasoned, coherent and logical manner.

Problem Question

Due: **7 October by 5:00pm**

Weighting: **30%**

This written assignment is designed to enhance students' ability to examine a legal problem and provide information, explanation and critical analysis in a clear, concise and logical manner. The problem question will involve assessing a hypothetical scenario and identifying the factual and legal issues raised by the scenario and gives an opportunity to explain what further information is required to fully advise on the legal dimensions of the problem.

Word length 2500 words

The work must be submitted via turnitin.

The assessment guidelines will be released in Week 5.

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critically assess their application.

- Evaluate the role of different institutions and organisations in guiding responsible business.
- Investigate the relationship between international and domestic regulations and the way in which Australia has endorsed those international standards.
- Identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions, and apply appropriate strategies to overcome these.
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Research Essay

Due: **12 November by 5:00pm**

Weighting: **60%**

Students will be required to complete a research essay on a specific topic of the Unit. The paper should reflect an independent research that requires an in-depth analysis of relevant materials and application of appropriate laws and standards. The essay topic, the structure of the paper and guidelines will be discussed and released in week 9.

The word limit is 4000 words which must be strictly maintained.

The paper should be submitted via turnitin.

On successful completion you will be able to:

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and address the strengths and weaknesses of the different procedures.

- Analyse the hypothetical international legal problem scenario via constructing and defending arguments in a well structured, reasoned, coherent and logical manner.

Delivery and Resources

This unit will be delivered via seminar-format involving a combination of lecturing by the convener and active class discussion by students. Students will be required to participate in discussion based upon the readings, as well as any problem and discussion questions set by the convenor.

The prescribed text for this unit is *International Business Law* by Bryan Mercurio et al, (2010, Oxford University Press). Students should purchase the text from the Co-Op Bookshop.

Additional readings will be needed to supplement the textbook. Relevant resources including journal articles and judicial decisions will be posted in iLearn page each week. Students are expected to check iLearn on a regular basis. External students are encouraged to actively participate in each week's discussions on uploaded online topics.

Unit Schedule

The following schedule is for guidance only, refer to iLearn for updates:

Week 1 – (4/8) Introduction – History & Overview

Week 2 – (11/8) Role of International Institutions

Week 3 – (18/8) Agency, Distributorships, Licensing

Week 4 – (25/8) Franchising, Joint Ventures

Week 5 – (1/9) Foreign Direct Investment

Week 6 – (8/9) Financial Regulation

Week 7 – (15/9) Customs Law & Import Controls

Mid-Session Break – (20 September-6 October) On campus sessions for external students, only two consecutive Saturdays on 27 September and 4 October, 10am - 4pm, Room 213.

Week 8 – (6/10) Export Controls & National Security (Problem Question due 7 October Tuesday 2014 by 5:00pm)

Week 9 - (13/10) Corporate Social Responsibility & Human Rights

Week 10 – (20/10) International Anti-trust/Competition Laws

Week 11 – (27/10) Protection of Intellectual Property

Week 12 – (3/11) Dispute Resolution in National Courts

Week 13 - (10/11) International Dispute Resolution

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy http://mq.edu.au/policy/docs/academic_honesty/policy.html

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy http://mq.edu.au/policy/docs/grievance_management/policy.html

Disruption to Studies Policy http://www.mq.edu.au/policy/docs/disruption_studies/policy.html *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: https://students.mq.edu.au/support/student_conduct/

Grades

Macquarie University uses the following grades in coursework units of study:

- HD - High Distinction
- D - Distinction
- CR - Credit
- P - Pass
- F – Fail

Grade descriptors and other information concerning grading are contained in the Macquarie University Grading Policy which is available at:

<http://www.mq.edu.au/policy/docs/grading/policy.html>

For further information, please refer to page 71 of the 2013 Calendar of Governance, Legislation and Rules- Postgraduate Rules at

http://universitycouncil.mq.edu.au/pdfs/2013-Postgraduate_rules.pdf

Grade Appeals and Final Examination Script Viewing

If, at the conclusion of the unit, you have performed below expectations, and are considering lodging an appeal of grade and/or viewing your final exam script please refer to the following website which provides information about these processes and the cut off dates in the first instance. Please read the instructions provided concerning what constitutes a valid grounds for appeal before appealing your grade.

<http://www.city.mq.edu.au/reviews-appeals.html>

Special Consideration Policy

The University is committed to equity and fairness in all aspects of its learning and teaching. In stating this commitment, the University recognises that there may be circumstances where a student is prevented by unavoidable disruption from performing in accordance with their ability. A special consideration policy exists to support students who experience serious and unavoidable disruption such that they do not reach their usual demonstrated performance level. The policy is available at: http://www.mq.edu.au/policy/docs/special_consideration/policy.html

The University defines serious and unavoidable disruption to studies as resulting from an event or set of circumstances that:

- could not have reasonably been anticipated, avoided or guarded against by the student;
and
- was beyond the student's control; **and**
- caused substantial disruption to the student's capacity for effective study and/or the completion of required work; **and**
- substantially interfered with the otherwise satisfactory fulfilment of unit or course requirements; **and**
- was of at least three (3) consecutive days duration within a study period and/or

prevented completion of the final examination.

A Special Consideration application is deemed to be valid if all the following criteria have been satisfied:

- The Special Consideration application is completed by the student and submitted online through www.ask.mq.edu.au within five (5) working days after the due date of the associated assessment task / final examination.
- The application contains supporting evidence to demonstrate the severity of the circumstance(s) and that substantial disruption has been caused to the student's capacity for effective study. (The University will not follow up on outstanding evidence, nor contact any person or body on behalf of the student. The application will be considered as submitted.)
- The original supporting documentation has been sighted by MQC reception staff within five (5) working days after the due date of the associated assessment task.
- Where the particular circumstances are medical in nature, a *Professional Authority Form* including the health professional's Medicare Provider Number is included. (If a *Professional Authority Form* cannot be obtained, an original medical certificate indicating the severity (serious / not serious) and impact of the circumstances must be included with the application.)
- Where the particular circumstances are non-medical in nature, appropriate supporting evidence indicating the severity (serious / not serious) and impact of the circumstances is included with the application.
- The student was performing satisfactorily in the unit up to the date of the unavoidable disruption. (If a student's work in the unit was previously unsatisfactory, subsequent unavoidable disruption will not overcome the fact that the earlier work was unsatisfactory).

Unacceptable grounds for Special Consideration

The University has determined that some circumstances are not acceptable grounds for claiming Special Consideration. These grounds include, but are not limited, to:

- routine demands of employment
- routine family problems such as tension with or between parents, spouses, and other people closely involved with the student
- difficulties adjusting to university life, to the self-discipline needed to study effectively, and the demands of academic work
- stress or anxiety associated with examinations, required assignments or any aspect of academic work
- routine need for financial support
- routine demands of sport, clubs and social or extra-curricular activities.

Acute Problems

The University defines acute problems as those involving fewer than three (3) consecutive days within a study period. In these cases, students should not apply for special consideration via ask.mq.edu.au, but contact their Unit Convenor within 5 working days of the assessment due date so that a local solution may be discussed, except where the disruption affects completion of a final examination. (If a final examination is affected, the student should submit a special consideration application via ask.mq.edu.au.)

Prior Conditions Conditions existing prior to commencing a unit of study are not grounds for Special Consideration, except in the event of unavoidable deterioration of the condition. The student is responsible for managing their workload in light of any known or anticipated problems. Students with a pre-existing disability/ chronic health condition may contact the [Disability Service](#) for information on available support.

In submitting a request for Special Consideration, the student is acknowledging that they may be required to undertake additional work and agreeing to hold themselves available so that they can complete any extra work as required. The time and date, deadline or format of any required extra assessable work as a result of an application for Special Consideration is not negotiable.

Attendance

All Students are required to attend at least 80% of the scheduled course contact hours each Session. Additionally MQC monitors the course progress of international students to ensure that the student complies with the conditions of their visa relating to attendance.

This minimum level of attendance includes all lectures and tutorials. Tutorial attendance will be recorded weekly. If any scheduled class falls on a public holiday this will be rescheduled as advised by your Lecturer. Attendance at any mid-Session or in-class test is compulsory unless otherwise stated.

Unavoidable non-attendance due to illness or circumstances beyond your control must be supported by appropriate documentation to be considered for a supplementary test. Other non-attendance will obtain zero for the test. You should refer to the section below on Special Consideration for more details about this.

Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>

Learning Skills

Learning Skills (mq.edu.au/learningskills) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)
- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

Student Enquiries

For all student enquiries, visit Student Connect at ask.mq.edu.au

Student Support

Students who require assistance are encouraged to contact the Student Services Manager at Macquarie City Campus. Please see reception to book an appointment.

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at <http://students.mq.edu.au/support/>

At any time students (or groups of students) can book our Student Advising rooms on Level 6 by emailing info@city.mq.edu.au with a day and time and nominated contact person. There are additional student study spaces available on Level 1.

Macquarie University Campus Wellbeing also has a presence on the City Campus each week. If you would like to make an appointment, please email info@city.mq.edu.au or visit their website at: <http://www.campuslife.mq.edu.au/campuswellbeing>

StudyWISE provides:

- Online learning resources and academic skills workshops http://www.mq.edu.au/learning_skills

IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

IT Help

If you wish to receive IT help, we would be glad to assist you at <http://informatics.mq.edu.au/help/> or call 02 9850-4357.

When using the university's IT, you must adhere to the Acceptable Use Policy. The policy applies

to all who connect to the MQ network including students and it outlines what can be done.

Students must use their Macquarie University email addresses to communicate with staff as it is University policy that the University issued email account is used for official University communication.

Students are expected to act responsibly when utilising Macquarie City Campus IT facilities. The following regulations apply to the use of computing facilities and online services:

- Accessing inappropriate web sites or downloading inappropriate material is not permitted.
- Material that is not related to coursework for approved unit is deemed inappropriate.
- Downloading copyright material without permission from the copyright owner is illegal, and strictly prohibited. Students detected undertaking such activities will face disciplinary action, which may result in criminal proceedings.

Non-compliance with these conditions may result in disciplinary action without further notice.

If you would like to borrow headphones for use in the Macquarie City Campus computer labs (210, 307, 311, 608) at any point, please ask at Level 2 Reception. You will be required to provide your MQC Student ID card. This will be held as a deposit while using the equipment.

For assistance in the computer labs, please see a Lab Demonstrator (usually they can be found in Lab 311, otherwise ask at Level 2 Reception).

Graduate Capabilities

PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen fields.

This graduate capability is supported by:

Learning outcomes

- Comprehend the regulatory framework and standards that govern international business transactions and relationships.
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agreements and principles that influence international business, domestic legal regime and parties involved in cross-border dealings, and develop an analytical ability to critically assess their application.

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- Analyse the hypothetical international legal problem scenario via constructing and defending arguments in a well structured, reasoned, coherent and logical manner.

Assessment tasks

- Class Participation (CP)
- Problem Question
- Research Essay

PG - Critical, Analytical and Integrative Thinking

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

Learning outcomes

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Assessment tasks

- Class Participation (CP)
- Problem Question
- Research Essay

PG - Research and Problem Solving Capability

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

Learning outcomes

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Assessment tasks

- Class Participation (CP)
- Problem Question
- Research Essay

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

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Assessment tasks

- Class Participation (CP)
- Problem Question
- Research Essay

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in

relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Comprehend the regulatory framework and standards that govern international business transactions and relationships.
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Assessment tasks

- Class Participation (CP)
- Problem Question
- Research Essay

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcomes

- Comprehend the regulatory framework and standards that govern international business transactions and relationships.

- Demonstrate a sophisticated knowledge and understanding of relevant international agreements and principles that influence international business, domestic legal regime and parties involved in cross-border dealings, and develop an analytical ability to critically assess their application.
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Assessment tasks

- Class Participation (CP)
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- Research Essay