



# LAW 898

## International Commercial Law

MQC S1 Day 2014

*Dept of Law*

### Contents

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<a href="#"><u>General Information</u></a>	2
<a href="#"><u>Learning Outcomes</u></a>	2
<a href="#"><u>Assessment Tasks</u></a>	3
<a href="#"><u>Delivery and Resources</u></a>	5
<a href="#"><u>Unit Schedule</u></a>	5
<a href="#"><u>Policies and Procedures</u></a>	6
<a href="#"><u>Graduate Capabilities</u></a>	12

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Moderator

Shayne Davenport

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Unit Convenor

Harry Melkonian

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TBA

TBA

Credit points

4

Prerequisites

Admission to MIntTrdeComLaw or PGDiplIntTrdeComLaw 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

International Commercial Law examines contract law as it applies in an international context, addressing in particular concepts of the international sale of goods; contracts of sale under the Vienna Sales Convention; contracts for carriage of goods by sea, air and land; and bills of exchange and letters of credit in international trade. These studies incorporate analyses of different legal systems and relevant national jurisdictions, as well as key economic theories and political contexts underpinning the operation of this body of law. International commercial arbitration is highlighted as the key mode of dispute settlement.

## 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:

Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.

Explore the implications of electronic commerce to the traditional laws of contract.

Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.

Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.

Develop a solid understanding of the use of letters of credit in international commercial transactions.

Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.

Recognise the need for fighting corruption in international commercial transactions and how to take steps to prevent being a victim or unknowing participant.

## Assessment Tasks

Name	Weighting	Due
<a href="#">Quiz - 1</a>	5%	18/03/2014
<a href="#">Quiz - 2</a>	5%	08/04/2014
<a href="#">Essay Problems</a>	35%	29/04/2014
<a href="#">Quiz - 3</a>	5%	20/05/2014
<a href="#">Final Exam</a>	50%	24/06/2014

### Quiz - 1

Due: **18/03/2014**

Weighting: **5%**

This multiple choice quiz will require you to know the general principles of the CISG. The quiz is given during the tutorial hour and will be closed-book.

On successful completion you will be able to:

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.

## Quiz - 2

Due: **08/04/2014**

Weighting: **5%**

This multiple choice (closed-book) quiz will explore your knowledge of the various ocean shipping conventions. The quiz will be given during the tutorial hour.

On successful completion you will be able to:

- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.

## Essay Problems

Due: **29/04/2014**

Weighting: **35%**

This essay will comprise of several questions that each require an answer of approximately 1500 words. The essay project will be structured around a specific problem or issue and will require you to not only respond to the specific question but also develop policy and analytical reasoning to the situation.

On successful completion you will be able to:

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.
- Explore the implications of electronic commerce to the traditional laws of contract.
- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.

## Quiz - 3

Due: **20/05/2014**

Weighting: **5%**

This will be a quiz focusing on letters of credit. It will be multiple choice (OPEN-book) and will be given in the tutorial hour.

On successful completion you will be able to:

- Develop a solid understanding of the use of letters of credit in international commercial transactions.

## Final Exam

Due: **24/06/2014**

Weighting: **50%**

This examination will be a 3 hour take-home exam but you will be given 24 hours in which to complete it. There will be a word limit that will be strictly enforced. The exam will be posted on iLearn and you will send your responses 24 hours later as instructed.

The exam will consist of complex problems that will call upon you to apply various areas of knowledge you have acquired in this course.

On successful completion you will be able to:

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.
- Explore the implications of electronic commerce to the traditional laws of contract.
- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Develop a solid understanding of the use of letters of credit in international commercial transactions.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.
- Recognise the need for fighting corruption in international commercial transactions and how to take steps to prevent being a victim or unknowing participant.

## Delivery and Resources

This course will be delivered via live lectures (also available on iLearn) and through tutorials.

External students will take tutorials and quizzes during all-day on-campus sessions to be held on 22 - 23 April, 2014.

Our primary text will be the 5th Edition of International Trade Law by Indira Carr. There will also be supplementary material posted on iLearn.

The tutorials will consist of workshops and quizzes. The workshops will give us an opportunity to apply legal concepts to practical applications.

## Unit Schedule

Reading Assignments will be posted in iLearn.

Attendance will be taken at tutorials and MQC attendance policies apply.

The prescribed text is International Trade Law by Indira Carr (5th edition, 2013)

Additional readings may be posted on iLearn

Students should check iLearn on a regular basis

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

Week 1 - Introduction - Standard Trade Terms. Please note that there will NOT be a tutorial in Week 1 and that the lecture will be available through the iLearn system.

Week 2 - Contracts of Sale Under the CISG

Week 3 - Electronic Commerce; CISG Quiz

Week 4 - Transport of Goods by Sea and Bills of Lading

Week 5 - Transport of Goods by Sea: Hague - Visby Rules, Hamburg Rules and Recent Developments

Week 6 - Marine Insurance; Shipping Quiz, Essay Problems Distributed

Mid-Session Break - On campus sessions for external students only on 22-23 April, 10AM - 4 PM, Room 613

Week 7 - Intellectual Property in International Transactions; Essay Problems Due

Week 8 - Letters of Credit and Finance

Week 9 - Letters of Credit and Finance

Week 10 - Choice of Laws Concepts; Letters of Credit Quiz

Week 11 - International Commercial Arbitration

Week 12 - Enforcement of Arbitration Awards - The New York Convention

Week 13 - Fighting Corruption in International Commercial Transactions; Review

Take Home Exam: 24/06/2014

## **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](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](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](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/](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](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](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](http://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](http://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](http://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](http://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](http://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](mailto: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](mailto: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](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**

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.
- Explore the implications of electronic commerce to the traditional laws of contract.
- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Develop a solid understanding of the use of letters of credit in international commercial transactions.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.

### **Assessment tasks**

- Quiz - 1

- Quiz - 2
- Essay Problems
- Quiz - 3
- Final Exam

## 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

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.
- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Develop a solid understanding of the use of letters of credit in international commercial transactions.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.
- Recognise the need for fighting corruption in international commercial transactions and how to take steps to prevent being a victim or unknowing participant.

### Assessment tasks

- Quiz - 1
- Quiz - 2
- Essay Problems
- Quiz - 3
- Final Exam

## 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**

- Demonstrate a sound and comprehensive knowledge of the Convention for the International Sales of Goods and be able to apply this knowledge in the civil and common law environment.
- Explore the implications of electronic commerce to the traditional laws of contract.
- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Develop a solid understanding of the use of letters of credit in international commercial transactions.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.

### **Assessment tasks**

- Essay Problems
- Final Exam

## **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 outcome**

- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.

### **Assessment tasks**

- Essay Problems
- Final Exam

## **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**

- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.
- Recognise the need for fighting corruption in international commercial transactions and how to take steps to prevent being a victim or unknowing participant.

## **Assessment tasks**

- Essay Problems
- Final Exam

## **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**

- Develop a solid understanding of laws and conventions relating to international shipping by sea and by air.
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures.
- Be familiar with international commercial arbitration under different schemes. Develop a general understanding of choice of law issues.
- Recognise the need for fighting corruption in international commercial transactions and how to take steps to prevent being a victim or unknowing participant.

## **Assessment tasks**

- Essay Problems
- Final Exam