



BUSL388

China Trade and Investment Law

S2 Day 2016

Dept of Accounting & Corporate Governance

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Disclaimer

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General Information

Unit convenor and teaching staff

Co-convenor

Trish Blazey

trish.blazey@mq.edu.au

Contact via trish.blazey@mq.edu.au

E4A 240

Unless otherwise announced, Thursdays 2:00 p.m. - 4:00 p.m.

Co-convenor

Kay-Wah Chan

kay.chan@mq.edu.au

Contact via kay.chan@mq.edu.au

E4A 241

Unless otherwise announced, Thursdays 2:00 p.m. - 4:00 p.m.

Credit points

3

Prerequisites

39cp

Corequisites

Co-badged status

Unit description

This unit examines the laws of the People's Republic of China with a focus on commercial law from both an international and national perspective. China's Five Year Plans both past and present are crucial to understanding how China has developed and are explored in detail in this unit. Undertaking business in China by overseas individuals and entities is a complex and obstacle filled endeavour which this unit addresses in the various modules. It explores major changes to labour, company and foreign investment laws. China, the second largest economy in the world, has to address the downside of production exhibited through the environmental degradation of its air quality, water and waste. As these issues and that of energy production are the focus of China's development programmes for the twenty-first century they are examined in the latter part of this unit.

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:

Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.

Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.

Critique issues that arise in Chinese commercial law.

Carry out effective legal research relevant to the Chinese commercial legal system.

General Assessment Information

Class Participation

Due: **Ongoing**

Weighting: **20%**

Weekly attendance of tutorial classes is compulsory. A roll will be taken each week. A student who is absent for a tutorial will be considered as not participating in that tutorial. **Students must prepare in advance for the tutorials.**

Throughout this Unit, tutorial class activities (case studies, simulations and reflective activities) are based on a story called The Shanghai Story where different events occur and numerous characters are introduced. The Shanghai Story is split into episodes so that each week a new episode together with tutorial questions will be released on iLearn. The topic of each weekly episode corresponds with the topic taught in the lecture in the previous week (except for the tutorials in Week 13, and the tutorials in Week 8 which cover the topics of Week 6 and Week 7 lectures).

The main criteria upon which class participation is assessed are: students' preparation, understanding of the materials, depth of arguments, and presentation skills (detailed explanations are provided on the iLearn site of the unit).

Estimated Student Workload (outside class time)

On average, 1.5 - 2.5 hours per week from Week 1 to Week 13.

Class Test

Due: **15 September 2016**

Weighting: **30%**

Criteria for assessment are: students' understanding of the materials, knowledge, and ability to analyse and evaluate issues concerning the topics covered in the unit for the test (detailed explanations of the assessment criteria provided on the iLearn site of the unit).

It is an Open Book test. It is a test with short-answer questions. Information about the Class Test (including materials allowed to be brought to the Class Test and the syllabus of the Class Test) will be announced in the Lecture in Week 4 (25 August 2016).

The Class Test is a 60-minute test. It will be held during the time for the Lecture in Week 7 (on 15 September 2016 Thursday).

Students are expected to present for the Class Test at 2:30 p.m. on 15 September 2016 at the venue for the BUSL388 lecture or such another venue as announced on the iLearn site of this unit.

The only exception to not sitting the Class Test at the designated time is because of documented illness or unavoidable disruption. In these circumstances, students may wish to consider applying for Special Consideration under the University's Disruption to Studies Policy, which is available at: http://mq.edu.au/policy/docs/disruption_studies/policy.html. If a Supplementary Test is granted, the Supplementary Test will be scheduled by the Unit Convenors.

The marked Tests will be returned to the students in Week 8. Feedback will be provided on the marked tests, via iLearn and/or in Lecture(s).

Estimated Student Workload (outside class time)

On average, 2 hours per week from Week 1 to the date of the Class Test (15 September 2016) in Week 7.

Assignment

Due: **9 November 2016 (4:00 p.m.)**

Weighting: **50%**

The Assignment is research based. Students will not be able to rely simply on the required and/or recommended reading materials for classes. Students will be expected to conduct their own research. The Assignment is a task for each individual student. Collective or collaborative work is NOT ACCEPTABLE.

The word length (for the different parts of the Assignment, if any) will be stated in the Assignment.

The Assignment Instructions (containing the question(s) and/or topic(s)) will be posted on iLearn in Week 5.

Criteria upon which the Assignment is assessed are: the contents, structure, presentation, and (if required) referencing (footnoting and bibliography) of the Assignment which show the students'

understanding of the materials, the depth of arguments and critique, the thoroughness of legal research, and adequacy of referencing (detailed explanations are provided on the iLearn site of this Unit).

Students must hand in/submit the Assignment before 4:00 p.m. on 9 November 2016 to: **BOTH** the **BESS** (Business and Economics Student Services) at **E4B 106 AND** via **Turnitin** on the iLearn site of this unit.

In view of the time given to students to complete the Assignment, no extensions will be granted. There will be a deduction of 10% of the total available marks made from the total awarded mark for each 24 hour period or part thereof that the submission is late (for example, 25 hours late in submission – 20% penalty). For example, if the Assignment is worth 50 marks, a student is 23 hours late in submission and (before penalty) this student's mark is 30, the penalty will be a deduction of 5 marks (50 marks x 10% = 5 marks) (i.e. this student will obtain 25 marks for the Assignment). This penalty does not apply for cases in which an application for disruption of studies is made and approved.

Estimated Student Workload (outside class time)

On average, 3 - 4 hour per week from Week 5 to 9 November 2016.

Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	20%	Ongoing
<u>Class Test</u>	30%	15 September 2016
<u>Assignment</u>	50%	9 November 2016

Class Participation

Due: **Ongoing**

Weighting: **20%**

Tutorial Class Participation

On successful completion you will be able to:

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Class Test

Due: **15 September 2016**

Weighting: **30%**

Short-answer open-book class test.

On successful completion you will be able to:

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Assignment

Due: **9 November 2016**

Weighting: **50%**

Assignment

On successful completion you will be able to:

- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Delivery and Resources

Classes

3 hours face-to-face teaching per week consisting of 1 x 1.5-hour lecture and 1 x 1.5-hour tutorial.

The timetable for classes can be found on the University web site at: <http://www.timetables.mq.edu.au/>. Weekly attendance of tutorial classes is compulsory (assessment includes class discussions and activities). Details on the content of tutorial classes can be found on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

Part(s) of the lectures may be replaced by video-recording and/or audio-recording of lecture(s) available on the iLearn site of the unit, in which event prior announcement will be made via the iLearn site of the unit.

Prizes

Prizes for this unit (if applicable): The Macquarie University Accounting and Corporate Governance Prizes: https://www.mq.edu.au/undergraduate_degrees/prizes_scholarships.

Required and Recommended Texts and/or Materials

Required Texts

Patricia Blazey and Kay-Wah Chan, *Commercial Law of the People's Republic of China* (Sydney, Thomson Reuters, 2012). It can be purchased from the Macquarie University Co-op Bookshop.

Other Required Materials

Materials that students are required to bring to tutorial classes (as specified in the Class Activity Instructions available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>). These materials are available on the Internet or through database(s) subscribed by the Macquarie University Library (details to be specified in the Class Activity Instructions available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>).

Recommended Materials

- Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008).
- Recommended (not mandatory) readings as described in the Class Activity Instructions (available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>).

Technology Used and Required

Technology used: learning management system (iLearn: <https://ilearn.mq.edu.au/login/MQ/>).

Students have to frequently access this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>) for the Lecture Notes, Class Activity Instructions, announcements and detailed information regarding the unit.

Unit Web Page

Lecture notes (from the lectures' PowerPoint slides) are available on the learning management system (iLearn: <https://ilearn.mq.edu.au/login/MQ/>).

Teaching and Learning Strategy

The weekly classes will be a combination of one 1.5-hour lecture and one 1.5-hour tutorial (with

case studies, simulations and reflective activities).

As assessment includes class participation in the tutorials, students will be expected to complete the required reading prior to class and to contribute to class activities (in small groups).

Tutorials will commence in the second week of the semester: Week 2. Please see the schedule of the tutorials below. Detailed tutorial instructions are available on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

Part(s) of the lectures may be replaced by video-recording and/or audio-recording of lecture(s) available on the iLearn site of the unit, in which event prior announcement will be made via the iLearn site of the unit.

To pass the unit, the students need an overall mark of 50%.

Unit Schedule

LECTURE TOPICS

Week	Topics <small>(unless otherwise announced on the iLearn site of this unit)</small>	Prescribed Readings (for Lectures) <small>(unless otherwise announced on the iLearn site of this unit)</small>
Week 1 (4 August 2016) (PB)	Doing Business in China	Textbook Chapter 1 & lecture notes
Week 2 (11 August 2016) (KWC)	The Constitution, Governmental and Legal Systems	Textbook Chapters 3 and 4 & lecture notes
Week 3 (18 August 2016) (PB)	Five Year Plans and Civil Procedure	Textbook Chapter 2 & lecture notes
Week 4 (25 August 2016) (KWC)	Company Law	Textbook Chapters 12 and 13 & lecture notes
Week 5 (1 September 2016) (PB)	Contract and Agency	Textbook Chapters 6 and 7 & lecture notes
Week 6 (8 September 2016) (KWC)	Labour Law I	Textbook Chapter 11 & lecture notes
Week 7 (15 September 2016) (KWC)	Class Test Labour Law II (to be recorded and Echo recording to be available on iLearn)	<u>Labour Law II</u> Textbook Chapter 11 & lecture notes

MID TERM BREAK		
Week 8 (6 October 2016) (PB)	Property Law	Textbook Chapter 8 & lecture notes
Week 9 (13 October 2016) (KWC)	Foreign Investment Law I	Textbook Chapters 18 and 19 & lecture notes
Week 10 (20 October 2016) (PB)	Energy Law & Environmental Law	Textbook Chapter 22, 23, 24, 25 and 26 & lecture notes
Week 11 (27 October 2016) (KWC)	Foreign Investment Law II	Textbook Chapters 20 and 21 & lecture notes
Week 12 (3 November 2016) (PB)	Energy Law & Environmental Law	Textbook Chapter 22, 23, 24, 25 and 26 & lecture notes
Week 13 (10 November 2016) (PB & KWC)	Revision	

TUTORIAL TOPICS

Week	Topics <small>(unless otherwise announced on the iLearn site of this unit)</small>	Prescribed Readings (for Tutorials) <small>(unless otherwise announced on the iLearn site of this unit)</small>
Week 1 (4 August 2016)	No Tutorials	
Week 2 (11 August 2016) (PB)	Doing Business in China	Textbook Chapter 1 & lecture notes
Week 3 (18 August 2016) (KWC)	The Constitution, Governmental and Legal Systems	Textbook Chapters 3 and 4 & lecture notes
Week 4 (25 August 2016) (PB)	Five Year Plans and Civil Procedure	Textbook Chapter 2 & lecture notes

Week 5 (1 September 2016) (KWC)	Company Law	Textbook Chapters 12 and 13 & lecture notes
Week 6 (8 September 2016) (PB)	Contract and Agency	Textbook Chapters 6 and 7 & lecture notes
Week 7 (15 September 2016)	No Tutorials due to Class Test	
MID TERM BREAK		
Week 8 (6 October 2016) (KWC)	Labour Law	Textbook Chapter 11 & lecture notes
Week 9 (13 October 2016) (PB)	Property Law	Textbook Chapter 8 & lecture notes
Week 10 (20 October 2016) (KWC)	Foreign Investment Law I	Textbook Chapters 18 and 19 & lecture notes
Week 11 (27 October 2016) (PB)	Energy Law & Environmental Law	Textbook Chapter 22, 23, 24, 25 and 26 & lecture notes
Week 12 (3 November 2016) (KWC)	Foreign Investment Law II	Textbook Chapters 20 and 21 & lecture notes
Week 13 (10 November 2016) (PB & KWC)	Revision	

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

New Assessment Policy in effect from Session 2 2016 http://mq.edu.au/policy/docs/assessment/policy_2016.html. For more information visit http://students.mq.edu.au/events/2016/07/19/new_assessment_policy_in_place_from_session_2/

Assessment Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy prior to Session 2 2016 <http://mq.edu.au/policy/docs/grading/policy.html>

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

Complaint Management Procedure for Students and Members of the Public http://www.mq.edu.au/policy/docs/complaint_management/procedure.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/

Results

Results shown in *iLearn*, or released directly by your Unit Convenor, are not confirmed as they are subject to final approval by the University. Once approved, final results will be sent to your student email address and will be made available in [eStudent](#). For more information visit ask.mq.edu.au.

Academic Honesty

The nature of scholarly endeavour, dependent as it is on the work of others, binds all members of the University community to abide by the principles of academic honesty. Its fundamental principle is that all staff and students act with integrity in the creation, development, application and use of ideas and information. This means that:

- all academic work claimed as original is the work of the author making the claim
- all academic collaborations are acknowledged
- academic work is not falsified in any way
- when the ideas of others are used, these ideas are acknowledged appropriately.

Further information on the academic honesty can be found in the Macquarie University Academic Honesty Policy at: http://www.mq.edu.au/policy/docs/academic_honesty/policy.html.

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>.

All final grades in the Department of Accounting and Corporate Governance are determined by a grading committee and are not the sole responsibility of the Unit Coordinator.

Students will be awarded one of these grades. The final grade that is awarded reflects the corresponding grade descriptor in the Grading Policy.

To pass the unit, the students need an overall mark of 50%.

Grading 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 assignment 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.businessandconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals/.

Disruption to Studies Policy

The University is committed to equity and fairness in all aspects of its learning and teaching. It recognises that students may experience disruptions that adversely affect their academic performance in assessment activities. A Disruption to Studies policy exists to support students who experience serious and unavoidable disruption. The policy is available at: http://www.mq.edu.au/policy/docs/disruption_studies/policy.html.

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

IT Help

For help with University computer systems and technology, visit http://www.mq.edu.au/about_us/offices_and_units/information_technology/help/.

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

Access to all student computing facilities within the Faculty of Business and Economics is restricted to authorised coursework for approved units. Student ID cards must be displayed in the locations provided at all times.

Students are expected to act responsibly when using University 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 units 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.

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.

Consultation is not available via email or telephone.

Graduate Capabilities

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific

knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- Assignment

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Assessment tasks

- Class Participation
- Class Test
- Assignment

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- Assignment

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Assessment tasks

- Class Participation
- Assignment

Changes from Previous Offering

As compared with the offering in 2015, the main changes are:

1. Tutorials start from Week 2.
2. The assessment task of Reflective Journal has been removed, with adjustments made to the weight of the Class Test and the Assignment.
3. The weight of the Class Test has been increased from 20% to 30%. The length of the Class Test has been extended to be of 60 minutes.
4. The weight of the Assignment has been increased from 40% to 50%.
5. The order in which the topics are taught has been adjusted.
6. Assignments must be submitted both at BESS and via Turnitin.
7. Penalty for late submission of Assignments has been changed.

Research and Practice, Global and Sustainability

Research and Practice

1. This unit uses research by Macquarie University researchers:

- Patricia Blazey, "Will China's 12th Five Year Plan Allow for Sufficient Nuclear Power to Support its Booming Economy in the Next Twenty Years" (2012) *Pacific Rim Law & Policy Journal* 21(3): 461-484.
- Kay-Wah Chan, "The Global Financial Crisis and Labor Law in China" (2012) *The Chinese Economy* 45(3): 24-41.
- Patricia Blazey, "Approaches to Increasing Desertification in Northern China" (2012) *The Chinese Economy* 45(3): 88-101.
- Patricia Blazey and Kay-Wah Chan, *Commercial Law of the People's Republic of China* (Sydney, Thomson Reuters, 2012).
- Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008).
- Kay-Wah Chan, "China's Labour Law in Transition" in John Garrick (ed) *Law Wealth and Power in China: Commercial Law Reforms in Context*(Routledge, 2011) 163-181.
- Patricia Blazey and P Gillies, "China – Growth and Current Challenges" *Business Law Journal* June 2009.

- Patricia Blazey and P Gillies, "Recognition and Enforcement of Foreign Judgments in China" *International Journal of Private Law* November 2008.
- Patricia Blazey, "China's Rapid Economic Growth and Resultant Negative Externalities" *University of New South Wales Law Journal* November 2007.

2. This unit uses research from external sources:

See the Required Reading List above and Class Activity Instructions.

Global and Sustainability

This unit addresses global and sustainability issues as direct areas of study and/or as necessary implications arising from the materials, assessment and academic discussion and debate in classes. We promote sustainability by developing ability in students to research and locate information within the Chinese law discipline. We aim to provide students with an opportunity to obtain skills which will benefit them throughout their career. The global contexts of this unit are found in the contents of the unit (as it is a China Trade and Investment Law unit), including the contents of the lectures, the tutorials and its assessments tasks.