



BUSL388

China Trade and Investment Law

S2 Day 2014

Dept of Accounting & Corporate Governance

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General Information

Unit convenor and teaching staff

Co-convenor

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Unless otherwise announced on ILearn, Mondays 3 p.m. - 5 p.m.

Co-convenor

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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 of 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

No extensions of time will be granted in relation to completion (and, if applicable, submission) of any of the assessment tasks. Students who have not completed (and, if applicable, submitted) the assessment task prior to the deadline will be awarded a **mark of 0 (ZERO)** for the assessment task concerned, except for cases in which an application for special consideration is made and approved.

Assessment Tasks

Name	Weighting	Due
<u>Class Participation</u>	20%	Ongoing
<u>Assignment</u>	40%	10 October 2014 (4:00 p.m.)
<u>Final Examination</u>	40%	Examination Period

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 having no participation for that tutorial.

Throughout this Unit, tutorial class activities (on case studies, simulations and reflective activities) are based on a story called 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 of Chinese commercial law taught in the lecture in the previous week (except the topic of Week 10's lecture will be split into two tutorials: namely Week 11 and Week 12). As "Labour Law" is to be taught in two week's lectures (Weeks 11 and 12), this topic will be covered in the tutorials in Week 13.

Students must prepare in advance for the tutorials.

Assessment Criteria

Criteria upon which class participation is to be assessed are: students' preparation, understanding of the materials, depth of arguments, and presentation skill (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 2 to Week 13.

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.

Assignment

Due: **10 October 2014 (4:00 p.m.)**

Weighting: **40%**

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 questions) will be posted on iLearn in Week 4.

No extensions will be granted. Students who have not submitted the Assignment prior to the deadline will be awarded a mark of 0 for the Assignment, except for cases in which an application for special consideration is made and approved.

Marked Assignments (with feedback) will be returned to students in Week 10.

Assessment Criteria

Students' skills to find the correct answers to questions asked in the Assignment (detailed explanations are provided on the iLearn site of the unit).

Estimated Student Workload (outside class time)

On average, 3 - 4 hour per week from Week 4 to 10 October 2014.

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.

Final Examination

Due: **Examination Period**

Weighting: **40%**

A two-hour (plus 10 minutes reading time) final examination for this unit will be held during the University Examination period.

It is an Open Book formal examination. Information about the Final Examination (including materials allowed to be brought to the Final Examination) will be announced in Lecture in Week 11 (29 October 2014).

A final examination is included as an assessment task for this unit to provide assurance that:

1. the product belongs to the student; and
2. the student has attained the knowledge and skills tested in the exam.

Criteria for assessment are: students' legal research skills relevant to the Chinese commercial legal system and their understanding of the materials, knowledge, and ability to analyse and evaluate issues concerning the topics covered in the unit (detailed explanations are provided in the iLearn site of the unit).

Please check the University's webpage for the University Examination period in the Second Half Year 2014.

You are expected to present yourself for examination at the time and place designated in the University Examination Timetable. The timetable will be available in Draft form approximately eight weeks before the commencement of the examinations and in Final form approximately four weeks before the commencement of the examinations.

The only exception to not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In these circumstances you may wish to consider applying for Special Consideration. The University's Disruption to Studies Policy is available at: http://mq.edu.au/policy/docs/disruption_studies/policy.html.

If a Supplementary Examination is granted as a result of the Special Consideration process the examination will be scheduled after the conclusion of the official examination period. Individual Faculties may wish to signal when the Faculties' Supplementary Exams are normally scheduled.

The Supplementary Examination in the Faculty of Business and Economics for Session 2 in 2014 will be held in the period between 18-19 and 22 December 2014 (please see: http://www.businessandconomics.mq.edu.au/current_students/undergraduate/how_do_i/disruption_to_studies).

The Macquarie university Final Examination Policy details the principles and conduct of examinations at the University. The policy is available at: <http://www.mq.edu.au/policy/docs/examination/policy.html>.

Estimated Student Workload (outside class time)

On average, 3.5 - 4 hours per week from Week 1 to the Final Examination.

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.

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/>).

Prizes

Prizes for this unit (if applicable): The Macquarie University Accounting and Corporate Governance

Prizes: http://www.businessandconomics.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

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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. Detailed tutorial instructions are available on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

Unit Schedule

Lectures

Week	Topic(s)	Readings
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<p>Week 1 (6 August 2014) - (PB)</p>	<p>Introduction</p> <p>The Shanghai Story</p> <p>The importance of guanxi</p>	<p>Textbook Chapters 1 & lecture notes</p>
<p>Week 2 (13 August 2014) - (KWC)</p>	<p>The Constitution and Governmental System</p>	<p>Textbook Chapter 3 & lecture notes</p>
<p>Week 3 (20 August 2014) - (PB)</p>	<p>The Importance of China's Five Year Plans and the impact of China's GDP on China and globally</p> <p>Civil Procedure Law and Court System of the PRC</p>	<p>Textbook Chapter 2 & lecture notes</p>
<p>Week 4 (27 August 2014) - (KWC)</p>	<p>The Legal System</p>	<p>Textbook Chapters 4 and 5 & lecture notes</p>
<p>Week 5 (3 September 2014) - (PB)</p>	<p>Civil Law, Contract Law and Agency Law</p>	<p>Textbook Chapters 6 and 7 & lecture notes</p>
<p>Week 6 (10 September 2014) - (KWC)</p>	<p>Foreign Investment Law I</p>	<p>Textbook Chapters 18 and 19 & lecture notes</p>
<p>Week 7 (17 September 2014) - (PB)</p>	<p>Property Law</p> <p>Land Law</p> <p>Construction Law</p>	<p>Textbook Chapters 8 and 9 & lecture notes</p>
<p>MID TERM BREAK</p>		
<p>Week 8 (8 October 2014) - (KWC)</p>	<p>Company Law</p>	<p>Textbook Chapters 12 & 13 & lecture notes</p>
<p>Week 9 (15 October 2014) - (PB)</p>	<p>Energy Law – clean energy, renewable energy</p>	<p>Textbook Chapter 23 and lecture notes</p>

<p>Week 10 (22 October 2014) - (PB)</p>	<p>Environmental Laws</p> <p>Climate Change</p> <p>Air Pollution, Water Pollution</p>	<p>Textbook Chapters 22, 24, 25 & 26</p> <p>& lecture notes</p>
<p>Week 11 (29 October 2014) - (KWC)</p>	<p>Labour Law I</p>	<p>Textbook Chapter 11 & lecture notes</p>
<p>Week 12 (5 November 2014) - (KWC)</p>	<p>Labour Law II</p>	<p>Textbook Chapter 11 & lecture notes</p>
<p>Week 13 (12 November 2014) - (KWC)</p>	<p>Foreign Investment Law II</p>	<p>Textbook Chapters 20 and 21 & lecture notes</p>

Tutorials

Week	Topic(s)	Readings
<p>Week 1 (6 August 2014)</p>	<p>NO TUTORIALS</p>	
<p>Week 2 (13 August 2014) (PB)</p>	<p>Introduction</p> <p>The Shanghai Story</p> <p>The importance of guanxi</p>	<p>Textbook Chapters 1 & lecture notes</p>
<p>Week 3 (20 August 2014)- (KWC)</p>	<p>The Constitution and Governmental System</p>	<p>Textbook Chapter 3 & lecture notes</p>
<p>Week 4 (27 August 2014) - (PB)</p>	<p>The Importance of China's Five Year Plans and the impact of China's GDP on China and globally</p> <p>Civil Procedure Law and Court System of the PRC</p>	<p>Textbook Chapter 2 & lecture notes</p>

Week 5 (3 September 2014) – (KWC)	The Legal System	Textbook Chapters 4 and 5 & lecture notes
Week 6 (10 September 2014) - (PB)	Civil Law, Contract Law and Agency Law	Textbook Chapters 6 and 7 & lecture notes
Week 7 (17 September 2014) - (KWC)	Foreign Investment Law I	Textbook Chapters 18 and 19 & lecture notes
MID TERM BREAK		
Week 8 (8 October 2014) - (PB)	Property Law Land law Construction Law	Textbook Chapters 8 and 9 & lecture notes
Week 9 (15 October 2014) – (KWC)	Company Law	Textbook Chapters 12 & 13 & lecture notes
Week 10 (22 October 2014) - (PB)	Energy Law – clean energy, renewable energy	Textbook Chapter 23 and lecture notes
Week 11 (29 October 2014) - (PB)	Environmental Laws Climate Change	Textbook Chapters 22, 24, 25 & 26 & lecture notes
Week 12 (5 November 2014) - (PB)	Air Pollution, Water Pollution	Textbook Chapters 22, 24, 25 and 26 & lecture notes
Week 13 (12 November 2014) - (KWC)	Labour Law	Textbook Chapter 11 & lecture notes

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/

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 plus a Standardised Numerical Grade (SNG). The SNG is not necessarily a summation of the individual assessment components.

The final grade and SNG that are awarded reflect 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 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.businessandeconomics.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://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.

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
- Assignment
- Final Examination

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
- Assignment
- Final Examination

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
- Assignment
- Final Examination

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 task

- Class Participation

Changes from Previous Offering

As compared with the offering in 2013, the main changes are: 1. The weighting of the Class Participation has been reduced from 25% to 20%. 2. The Class Test (with a weighting of 35%) has been replaced by an Assignment, which has a weighting of 40%. 3. The mode of delivery has been changed from "2-hour lecture and 1-hour tutorial weekly" to "1.5-hour lecture and 1.5-hour tutorial weekly". 4. Topic to be covered in tutorials in each week follows the topic covered in the lecture in the previous week. 5. The order in which the topics are taught has been adjusted. 6. Instead of two textbooks, one textbook is used. This textbook has been used in the 2013 offering too. The other textbook is moved to the list of "Recommended Materials". 7. There are adjustments of the weekly topics as follows: -In Week 1's lecture (introduction), "History of Legal System" has been replaced by "The Shanghai Story", which is the set of weekly tutorial activities. - "Guanxi" is replaced by "The Importance of Guanxi". - "China's Five Year Plans" is replaced by "The Importance of China's Five Year Plans and the Impact of China's GDP on China and Globally". - "Civil Procedure Law and Court System of the PRC" is added ("Court System" was taught under "Legal System" in 2013 offering). - "Construction Law" is to be taught in the same week as "Property Law". "Land Law" is added to the same week while "Intellectual Property Law" is deleted. - "Energy Law - fossil fuel, nuclear and renewable" is replaced by "Energy Law - clean energy, renewable energy". - "Climate Change" and "Air Pollution, Water Pollution" are added to the week on Environmental Law. "Labour Law" is taught in two weeks instead of only one week, becoming "Labour Law I" and "Labour Law II".

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.