



BUSL377

Japanese Trade Law

S1 Day 2014

Dept of Accounting & Corporate Governance

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Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Kay Chan

kay.chan@mq.edu.au

Contact via kay.chan@mq.edu.au

E4A Room 241

Unless otherwise announced on iLearn, Mondays 2-4 pm (N.B. Consultation will not be available via email or telephone)

Credit points

3

Prerequisites

39cp

Corequisites

Co-badged status

Unit description

This unit provides an overview of trade and investment environment, business negotiation, and commerce-related laws in Japan. Topics include: constitution and governmental structure; legal system and its role in business relations; contract law; corporation law and corporate governance; the main types of financial institutions and the regulatory authority; labour law; intellectual property law; and taxation. Students having satisfactorily completed the unit will have basic knowledge and understanding about the characteristics and principal elements of the aforesaid topics. The contents of and the issues raised in the unit are of benefit to all students and particularly to those who intend to pursue careers involving business in or trade with Japan.

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 explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).

Identify and discuss the impact of cultural and social factors on the operation of Japanese law and legal system.

Identify and critique issues that arise in Japanese law and legal system.

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

Assessment Tasks

| Name | Weighting | Due |
|----------------------------|-----------|--------------------------------|
| <u>Class Participation</u> | 20% | Ongoing (every tutorial class) |
| <u>Class Test</u> | 30% | 7 April 2014 |
| <u>Final Examination</u> | 50% | University Examination Period |

Class Participation

Due: **Ongoing (every tutorial class)**

Weighting: **20%**

Weekly attendance of tutorial classes is compulsory (assessment includes class discussions and activities). A roll will be taken each week. A student who is absent for a tutorial will be considered as not having participated for that tutorial.

Details on the content of tutorial classes can be found on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

Assessment Criteria

Criteria upon which class participation is to be assessed are: students' understanding of the materials, depth of arguments, presentation skill, and legal research (detailed explanations are provided on the iLearn site of the unit).

Estimated Student Workload (outside class time)

On average, 1 hour per week from Week 1 to Week 11.

On successful completion you will be able to:

- Recognise and explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and discuss the impact of cultural and social factors on the operation of Japanese law and legal system.
- Identify and critique issues that arise in Japanese law and legal system.

- Carry out effective legal research relevant to the Japanese commercial legal system.

Class Test

Due: **7 April 2014**

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 prior to the test (detailed explanations provided on the iLearn site of the unit).

It is an Open Book test. It is a test with short-answer questions, multiple-choice questions, and true/false questions. Information about the Class Test (including materials allowed to be brought to the Class Test) will be announced in the Lecture in Week 3 (17 March 2014).

The Class Test is a 60-minute test. It will be held during the time for the Lecture in Week 6 (on 7 April 2014 Monday).

Students are expected to present for the Class Test at 4:00 p.m. at the venue for the BUSL377 lecture.

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 contact the Unit Convenor or consider applying for Special Consideration. If a Supplementary Test is granted, the Supplementary Test will be scheduled by the Unit Convenor. The University's policy on special consideration process is available at: http://www.mq.edu.au/policy/docs/special_consideration/policy.html.

Feedback to individual students is given in writing on the marked tests. In the Lecture in Week 7 (28 April 2014), the marked Tests will be returned to the students and feedback is also given to students verbally in the lecture in the form of an explanation on the correct answers, common mistakes, and the level of difficulty (low, medium and high) of each question.

Estimated Student Workload (outside class time)

On average, 2 hours per week from Week 1 to the date of the Class Test (7 April 2014) in Week 6.

On successful completion you will be able to:

- Recognise and explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and critique issues that arise in Japanese law and legal system.

Final Examination

Due: **University Examination Period**

Weighting: **50%**

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' 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).

A three-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 10 (19 May 2014).

Please check the University's webpage for the University Examination period in the First 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: <http://exams.mq.edu.au/exam>.

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 policy on special consideration process is available at: http://www.mq.edu.au/policy/docs/special_consideration/policy.html.

If a Supplementary Examination is granted as a result of the Special Consideration process, the examination will be scheduled as per the Supplementary Examination timetable of the Faculty. Please note that the Supplementary Examination will be of a similar format to the final examination.

The Macquarie university 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.htm>.

Estimated Student Workload (outside class time)

On average, 2 - 3 hours per week from Week 1 to the Final Examination.

On successful completion you will be able to:

- Recognise and explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).

- Identify and critique issues that arise in Japanese law and 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.businessandeconomics.mq.edu.au/undergraduate_degrees/prizes_scholarships.

Required and Recommended Texts and/or Materials

Required Text

Hiroshi Oda, *Japanese Law* (Third Edition) (Oxford, Oxford University Press, 2011) (ISBN: 978-0-19-964206-9).

It can be purchased from the Macquarie University Co-op Bookshop.

It is available in the Macquarie Library (Call Number: KNX68.O32 2009).

Other Required Materials

See the List of Weekly Topics and Prescribed Readings for Lectures and Tutorials in this Unit Guide.

They can be obtained from the Internet.

Recommended Materials

Recommended readings (if any) are as described in the Tutorial Instructions.

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, Tutorial 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/>).

Changes since the Last Offering of this Unit

As compared with the offering in 2013, the main changes are:

1. The mode of classes has been changed from weekly "2-hour lecture and 1-hour tutorial" to weekly "1.5-hour lecture and 1.5-hour tutorial".
2. There is no early low-risk diagnostic task.
3. Instead of having a Revision Test, there will be a guest lecture.
4. "Contract Law and Contractual Behaviour" has been changed to "Contract Law".
5. Other than the changes described above, there are no major changes to the topics to be covered but their order/sequence has been slightly changed.

Unit Schedule

LECTURES

| Week | Topics | Prescribed Readings (for Lectures) |
|------|--------|------------------------------------|
|------|--------|------------------------------------|

| | | |
|-----------------------|---|---|
| 1 (3/3/2014) | Introduction & Course Overview Understanding Japan Origin of the Japanese Legal System | 1. Textbook Chapter 1 2. Lecture Notes |
| 2 (10/3/2014) | Governmental Structure and the Constitution | 1. Textbook Chapter 2 (pp.26-38) 2. Lecture Notes 3. The <i>Constitution</i> (URL: please see iLearn site of the unit.) |
| 3 (17/3/2014) | Sources of Law Courts & the Judiciary | 1. Textbook: Chapter 2 (pp.35-52); Chapter 3 (pp.53-55 and 57-66); Chapter 4 (pp.73-76) 2. Lecture Notes |
| 4 (24/3/2014) | General Principles of Civil Law Contract Law | <u>General Principles of Civil Law</u> 1. Textbook Chapter 6 (except “(2) juridical persons” in pp.123-126 and “6. Prescription” in p.135) 2. Lecture Notes 3. Chapters I, II, V and VI of Part I of the <i>Civil Code</i> (Article 1 - Article 32-2 and Article 90 - Article 143) (URL: please see iLearn site of the unit.) <u>Contract Law</u> 1. Textbook Chapter 7 (pp.150-163) 2. Lecture Notes 3. Part III of the <i>Civil Code</i> (Article 412 - Article 432 and Article 521- Article 548) (URL: please see iLearn site of the unit.) |
| 5 (31/3/2014) | Prosecutors Lawyers & Quasi-Legal Professions Justice System Reform | 1. Textbook Chapter 3 (pp.55-57) 2. Textbook Chapter 4 (pp.76-85) 3. Lecture Notes |
| 6 (7/4/2014) | Class Test | |
| MID TERM BREAK | | |
| 7 (28/4/2014) | Corporation Law and Corporate Governance | 1. Textbook Chapter 11 (pp.217-220, 241-256) 2. Lecture Notes |
| 8 (5/5/2014) | Labour Law | 1. Textbook Chapter 16 2. Lecture Notes |

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|-----------------------|--|--|
| 9 (12/5/2014) | Intellectual Property Law | <ol style="list-style-type: none"> 1. Textbook Chapter 15 2. Lecture Notes |
| 10 (19/5/2014) | Banking and Finance | <ol style="list-style-type: none"> 1. Textbook Chapter 13 (pp.293-315 and pp.325-326) 2. Lecture Notes |
| 11 (26/5/2014) | Doing Business in/with Japan Taxation | <ol style="list-style-type: none"> 1. Textbook Chapter 11 (pp.220-225) 2. Lecture Notes |
| 12 (2/6/2014) | Guest Lecture | |
| 13 (9/6/2014) | Public Holiday | |

Tutorials

| | Topics | Readings |
|----------------------|--|--|
| 2 (10/3/2014) | Understanding Japan Origin of the Japanese Legal System | <ol style="list-style-type: none"> 1. Textbook Chapter 1 2. Lecture Notes |
| 3 (17/3/2014) | Governmental Structure and the Constitution | <ol style="list-style-type: none"> 1. Textbook Chapter 2 (pp.26-38) 2. Lecture Notes 3. <i>The Constitution</i> <p>(URL: please see iLearn site of the unit.)</p> |
| 4 (24/3/2014) | Sources of Law Courts & the Judiciary | <ol style="list-style-type: none"> 1. Textbook: Chapter 2 (pp.35-52); Chapter 3 (pp.53-55 and 57-66); Chapter 4 (pp.73-76) 2. Lecture Notes |

| | | |
|-----------------------|--|---|
| 5 (31/3/2014) | General Principles of Civil Law Contract Law | <u>General Principles of Civil Law</u> 1. Textbook Chapter 6 (except "(2) juridical persons" in pp.123-126 and "6. Prescription" in p.135) 2. Lecture Notes 3. Chapters I, II, V and VI of Part I of the <i>Civil Code</i> (Article 1 - Article 32-2 and Article 90 - Article 143) (URL: please see iLearn site of the unit.) <u>Contract Law</u> 1. Textbook Chapter 7 (pp.150-163) 2. Lecture Notes 3. Part III of the <i>Civil Code</i> (Article 412 - Article 432 and Article 521- Article 548) (URL: please see iLearn site of the unit.) |
| 6 (7/4/2014) | No Tutorials (due to Class Test in Lecture) | |
| MID TERM BREAK | | |
| 7 (28/4/2014) | Prosecutors Lawyers & Quasi-Legal Professions Justice System Reform | 1. Textbook Chapter 3 (pp.55-57) 2. Textbook Chapter 4 (pp.76-85) 3. Lecture Notes |
| 8 (5/5/2014) | Corporation Law and Corporate Governance | 1. Textbook Chapter 11 (pp.217-220, 241-256) 2. Lecture Notes |
| 9 (12/5/2014) | Labour Law | 1. Textbook Chapter 16 2. Lecture Notes |
| 10 (19/5/2014) | Intellectual Property Law | 1. Textbook Chapter 15 2. Lecture Notes |
| 11 (26/5/2014) | Banking and Finance | 1. Textbook Chapter 13 (pp.293-315 and pp.325-326) 2. Lecture Notes |
| 12 (2/6/2014) | No Tutorials (due to Guest Lecture) | |
| 13 (9/6/2014) | Public Holiday | |

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 ground for appeal before appealing your grade. http://www.businessandconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals/.

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.

For an application to be valid, the student must have been performing satisfactorily in the unit prior to experiencing serious and unavoidable disruption. Satisfactory performance in this respect

means achievement of 50% or above of the total marks in assessment task(s) that are prior to the aforesaid serious and unavoidable disruption.

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.

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 explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and discuss the impact of cultural and social factors on the operation of Japanese law and legal system.
- Identify and critique issues that arise in Japanese law and legal system.
- Carry out effective legal research relevant to the Japanese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- 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 explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and discuss the impact of cultural and social factors on the operation of Japanese law and legal system.
- Identify and critique issues that arise in Japanese law and legal system.
- Carry out effective legal research relevant to the Japanese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- 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 explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and critique issues that arise in Japanese law and legal system.
- Carry out effective legal research relevant to the Japanese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- 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 explain the underlying principles, characteristics and principal elements of the Japanese legal system and some main areas of Japanese commercial law (listed in the Unit Schedule below).
- Identify and discuss the impact of cultural and social factors on the operation of Japanese law and legal system.
- Identify and critique issues that arise in Japanese law and legal system.

Assessment task

- Class Participation

Research and Practice

1. This unit uses research by Macquarie University researcher:

- Kay-Wah Chan, "Setting the Limits: Who Controls the Size of the Legal Profession in Japan?" (2012) 19 (2-3) *International Journal of the Legal Profession* 321-337.
- Kay-Wah Chan, "Justice System Reform and Legal Ethics in Japan" (2011) 14 (1) *Legal Ethics* 73-108.
- Kay-Wah Chan "The Reform of the Profession of Lawyers in Japan and Its Impact on the Role of Law" in Yves Dezalay and Bryant Garth (eds) *Lawyers and the Rule of Law in an Era of Globalization* (Routledge, 2011; ISBN: 978-0-415-58117-2).
- Kay-Wah Chan, "The Emergence of Large Law Firms in Japan: Impact on Legal Professional Ethics" (2008) 11 (2) *Legal Ethics* 154-180.
- Kay-Wah Chan, "Foreign Law Firms: Implications for Professional Legal Education in Japan" (2005) 10 (20) *Zeitschrift für Japanisches Recht (Journal of Japanese Law)* 55-79.

2. This unit uses research from external sources:

- See the Required Reading List above and Tutorial Instructions.