



# ACCG970

## Chinese Trade and Investment Law

S2 Evening 2017

*Dept of Accounting & Corporate Governance*

### Contents

<u>General Information</u>	2
<u>Learning Outcomes</u>	3
<u>General Assessment Information</u>	3
<u>Assessment Tasks</u>	5
<u>Delivery and Resources</u>	6
<u>Unit Schedule</u>	7
<u>Policies and Procedures</u>	9
<u>Graduate Capabilities</u>	12
<u>Changes from Previous Offering</u>	13
<u>Research and Practice, Global and Sustainability</u>	13

#### Disclaimer

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## General Information

Unit convenor and teaching staff

Co-convenor, teaching staff and moderator

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E4A 241

Unless otherwise announced on iLearn, Wednesdays 2:30 pm - 4:30 pm

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E4A 240

Unless otherwise announced on iLearn, Thursdays 2 pm- 4 pm

Credit points

4

Prerequisites

ACCG614 or admission to MAdvProfAcc

Corequisites

Co-badged status

Unit description

This unit broadens students' understanding of contemporary China's commercial law system, from both international and national perspectives. As China's Five Year Plans are crucial to understanding how China has developed and continues its development, they will be explored in detail in this unit. It also explores major changes in law and policies regarding labour issues, company, Corporate Governance, and foreign investments. 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:

Explain the importance of guanxi and business culture as it operates in China.

Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.

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

## General Assessment Information

### Class Participation

Students are required to participate in weekly class seminar discussions and reflective activities.

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

Estimated Student Workload (outside class time): on average, 2 - 2.5 hours per week from Week 1 to Week 13.

### Presentation

Students will need to make an oral presentation in class on 4 or 5 October 2017 (Week 8) or on 11 or 12 October 2017 (Week 9). The order in which students will make their respective presentation (including the date, i.e. Week 8 or Week 9) will be determined by a draw to be conducted in class in Week 7. Students can use PowerPoint slides (not compulsory) to assist presentations.

Each student will need to submit a research topic and an abstract (for his/her presentation and Assignment) to the unit convenors via email by 7 August 2017. Students are strongly encouraged to submit the proposed topic and an abstract to the unit convenors as soon as possible. Each student will be informed whether his/her proposed topic is approved so that he/she can start to conduct research and prepare a verbal presentation to be made in class in Week 8 or Week 9.

Criteria upon which presentation is assessed are: students' preparation, understanding of the materials, depth of arguments and critique, presentation skills, and legal research (detailed explanations are provided on the iLearn site of this Unit).

Marks on the Presentation will be released via Gradebook on iLearn in or before Week 10.

**No extensions of time will be granted** in relation to the making of the presentation. Students who have not made the presentation in class in Week 8 or Week 9 will be awarded a **mark of 0 (ZERO)** for the presentation, except for cases in which an application for disruption to studies is made and approved.

Estimated Student Workload (outside class time): on average, 2.5 - 3 hours per week from Week 1 to the date of Class Presentation in Week 8 or Week 9.

## Assignment

Students will be required to submit an Assignment (excluding footnotes and bibliography: 3,800-4,000 words).

The topics will, as described under Presentation above, be chosen by the students (subject to the convenors' approval).

The Assignment is research based.

Criteria upon which assignment is assessed are: the contents, structure, presentation, and referencing (footnoting and bibliography) of the assignments 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).

Footnotes and bibliography (in Australian Guide to Legal Citation (3rd ed) style) are required.

Students must hand in the Assignment before 4:00 p.m. on 6 November 2017 via **Turnitin** on the iLearn site of this unit.

Do NOT submit via TURNITIN more than once. The Assignment must be submitted through Turnitin as per instructions provided in the Assignment Instructions (available on the iLearn site of this unit). It is the student's responsibility to ensure that work is submitted correctly prior to the due date. No hard copies of assessments will be accepted and only Turnitin records will be taken as records of submission. Multiple submissions via Turnitin are NOT POSSIBLE in this unit. Originality reports are NOT made available to students to view and check their work. Please refer to these instructions on how to submit your assignment through Turnitin. Should you have questions about Turnitin or experience issues submitting through the system, you must inform your unit coordinator immediately. If the issue is technical in nature, you may also lodge OneHelp Ticket or refer to the IT help page. It is the responsibility of the student to retain a copy of any work submitted. Students must produce these documents upon request. Copies should be retained until the end of the grade appeal period each term. In the event that a student is asked to produce another copy of work submitted and is unable to do so, they may be awarded zero (0) for that particular assessment task.

In view of the time given to students to complete the Assignment, **no extensions of time will be granted** for submission of the Assignment. 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 40, the penalty will be a deduction of 5 marks (50 marks x 10% = 5 marks) (i.e. this student will obtain 35 marks for the Assignment). This penalty does not apply for cases in which an application for disruption to studies is made and approved.

Estimated Student Workload (outside class time): on average 4 - 5 hours from Week 1 to 6 November 2017.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class Participation</u>	20%	No	ongoing
<u>Presentation</u>	30%	No	4, 5, 11 or 12 October 2017
<u>Assignment</u>	50%	No	6 November 2017

### Class Participation

Due: **ongoing**

Weighting: **20%**

Class Participation

On successful completion you will be able to:

- Explain the importance of guanxi and business culture as it operates in China.
- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

### Presentation

Due: **4, 5, 11 or 12 October 2017**

Weighting: **30%**

Presentation (Oral)

On successful completion you will be able to:

- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

### Assignment

Due: **6 November 2017**

Weighting: **50%**

Research-based Assignment

On successful completion you will be able to:

- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

## Delivery and Resources

### Classes

The unit is comprised of one 3 hour seminar per week.

The timetable for classes can be found on the University website at: <http://www.timetables.mq.edu.au/>.

Attendance at the seminar is required and a roll will be taken each week. Students are advised to prepare in advance for the seminar. The week-by-week list of the topics to be covered is set out below. All material inclusive of lecture notes, work to be undertaken in class (reflective activities and discussion forum), videos, reports and/or newspaper reports will be posted on iLearn.

### Required and Recommended Texts and/or Materials

#### Required Texts and Materials

- Textbook: Patricia Blazey and Kay-Wah Chan, *Commercial Law of the People's Republic of China* (Sydney, Thomson Lawbook, 2012). It can be purchased from the Macquarie University Coop Bookshop.
- Materials that students are required to bring to classes (as specified in the Seminar Instructions on the iLearn site). These materials are available on the Internet or through database(s) subscribed by the Macquarie University Library (details to be specified in the Seminar Instructions on the iLearn site).

#### Recommended Texts and/or Materials

- Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008). It can be purchased from the Macquarie University Co-op Bookshop.
- Recommended (not mandatory) readings as described in the Seminar Instructions (on the iLearn site).

### Technology Used and Required

Access to the Internet is required.

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

The Macquarie University library's Information and Technology Training Unit (ITTU) provides a range of computing and library research skills.

### Unit Web Page

The web page for this unit can be found on iLearn. The site contains all lecture notes, links to relevant legislation and links to other useful sites. It contains extracts from relevant articles and reports.

### Teaching and Learning Strategy

The weekly class is a 3-hour seminar. As assessment includes class participation, students will be expected to complete the required reading prior to class and to contribute to class discussions. Detailed seminar instructions are available on this Unit's iLearn site.

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

## Unit Schedule

### SEMINARS (ACCG970 S2, 2017)

Week	Topics (unless otherwise announced on the iLearn site of this unit)	Prescribed Readings (for Seminars) (unless otherwise announced on the iLearn site of this unit)
<b>Week 1</b> (2 & 3 August 2017) (KWC)	<b>The Constitution, Governmental System and Legal System</b>	1. <b>Textbook Chapters 3, 4 &amp; 5</b> 2. <b>Lecture Notes</b>
<b>Week 2</b> (9 & 10 August 2017) (PB)	<b>Doing Business in China</b>	1. <b>Textbook Chapter 1</b> 2. <b>Lecture Notes</b>
<b>Week 3</b> (16 & 17 August 2017) (KWC)	<b>Company Law</b>	1. <b>Textbook Chapters 12 &amp; 13</b> 2. <b>Lecture Notes</b>

<b>Week 4</b> (23 & 24 August 2017) (PB)	<b>Five Year Plans &amp; Bilateral Trade Agreements</b> <b>Civil Procedure Law</b>	1. <b>Textbook Chapter 2</b> 2. <b>Lecture Notes</b>
<b>Week 5</b> (30 & 31 August 2017) (KWC)	<b>Foreign Investment Law</b>	1. <b>Textbook Chapters 18, 19, 20 &amp; 21</b> 2. <b>Lecture Notes</b>
<b>Week 6</b> (6 & 7 September 2017) (PB)	<b>Contract and Agency Law</b>	1. <b>Textbook Chapters 6 &amp; 7</b> 2. <b>Lecture Notes</b>
<b>Week 7</b> (13 & 14 September 2017) (KWC)	<b>Essay Writing Workshop</b>	
<b>MID TERM BREAK</b>		
<b>Week 8</b> (4 & 5 October 2017) (PB & KWC)	<b>Students' Class Presentation</b>	
<b>Week 9</b> (11 & 12 October 2017) (PB & KWC)	<b>Students' Class Presentation</b>	
<b>Week 10</b> (18 & 19 October 2017) (PB)	<b>Property Law</b>	1. <b>Textbook Chapter 8</b> 2. <b>Lecture Notes</b>
<b>Week 11</b> (25 & 26 October 2017) (KWC)	<b>Labour Law</b>	1. <b>Textbook Chapter 11</b> 2. <b>Lecture Notes</b>
<b>Week 12</b> (1 & 2 November 2017) (PB)	<b>Energy Law and Environmental Law</b>	1. <b>Textbook Chapters 22,23, 24, 25 &amp; 26</b> 2. <b>Lecture Notes</b>
<b>Week 13</b> (8 & 9 November 2017)	<b>Revision</b>	



## 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\\_2016.html](http://mq.edu.au/policy/docs/assessment/policy_2016.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](http://www.mq.edu.au/policy/docs/complaint_management/procedure.html)

Disruption to Studies Policy (in effect until Dec 4th, 2017): [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html)

Special Consideration Policy (in effect from Dec 4th, 2017): <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>

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/)

## 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](http://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](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, students need an overall mark of 50%.**

## Grading Appeals

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/](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](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](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)

## IT Help

For help with University computer systems and technology, visit [http://www.mq.edu.au/about\\_us/offices\\_and\\_units/information\\_technology/help/](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.

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 through telephone.**

## 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

- Explain the importance of guanxi and business culture as it operates in China.
- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

#### Assessment tasks

- Class Participation
- Presentation
- Assignment

### 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

- Explain the importance of guanxi and business culture as it operates in China.
- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.

#### Assessment tasks

- Presentation
- Assignment

### 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

- Identify, explain and critique issues concerning the characteristics and principal elements of Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

## Assessment tasks

- Class Participation
- Presentation
- Assignment

## Changes from Previous Offering

The main changes since the last offering of this Unit (S1, 2017) are:

1. Bilateral Trade Agreements and Property Law have been added as topics to be covered.
2. There are adjustments in the order of the topics for the seminars.
3. Students' Class Presentation is after the mid-term break.

## Research and Practice, Global and Sustainability

### Research and Practice

1. This unit uses research by Macquarie University researchers:

- Patricia Blazey and Xiangbai He, "China's Past, Present and Future approach to Climate Change" in S. Miyazawa et al. (eds) *East Asia's Renewed Respect for the Rule of Law in the 21st Century: The Future of Legal and Judicial Landscapes in East Asia* (Brill, 2015) 213-242.
- 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 Chinese Trade and Investment Law unit), including the contents of the seminars and its assessments tasks.