



LAW 889

International Trade and Finance

S2 Day 2018

Dept of Law

Contents

<u>General Information</u>	2
<u>Learning Outcomes</u>	2
<u>General Assessment Information</u>	3
<u>Assessment Tasks</u>	6
<u>Delivery and Resources</u>	8
<u>Unit Schedule</u>	11
<u>Policies and Procedures</u>	11
<u>Graduate Capabilities</u>	13
<u>Changes from Previous Offering</u>	16
<u>Changes since First Published</u>	16

Disclaimer

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General Information

Unit convenor and teaching staff

Unit convenor and tutor

Baskaran Balasingham

baskaran.balasingham@mq.edu.au

Contact via email

6 First Walk, Room 517

Wednesdays, 2-3 pm, and by appointment

Credit points

4

Prerequisites

Admission to MIntLawGovPP or MIntEnvLaw or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or LLM or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 32cp in LAW or LAWS units at 800 level)

Corequisites

Co-badged status
LAWS510

Unit description

The unit deals with the international legal regime governing the multilateral exchange (imports and exports) of goods, services, capital, and technology within the legal framework of the World Trade Organisation (WTO); regional and bilateral free trade; the nexus between trade and the monetary system, and between trade and non-trade issues (the environment and human rights); the North-South dimensions of trade; the position of middle-sized developed countries (eg, Australia) and developing countries under the WTO; institutional, legislative, and transactional aspects of trade (sale and carriage of goods and international payment); dispute resolution; and future challenges for global trade liberalisation under the WTO.

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:

Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of

international regulation and relevant standards.

Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.

Apply logical, critical and creative thinking skills to resolve legal problems.

Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.

Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.

Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

General Assessment Information

Late Submission Penalty

Unless a Special Consideration request has been submitted and approved, (a) a penalty for lateness will apply – two (2) marks out of 100 will be deducted per day for assignments submitted after the due date – and (b) no assignment will be accepted more than seven (7) days (incl. weekends) after the original submission deadline. No late submissions will be accepted for timed assessments – e.g. quizzes, online tests.

Technology

All students need access to a secure and reliable server for access to iLearn and for submission of assessment tasks.

Word Limit

Word limits will be strictly applied and work above the word limits will not be marked.

Referencing

Students should use the Australian Guide to Legal Citation (AGLC) (3rd Edition) for the annotated bibliography, citations in their research paper and bibliography attached to the research paper.

Submission of Assessments

All substantive assessments (annotated bibliography and law reform research paper) are to be submitted electronically through Turnitin. Plagiarism detection software is used in this unit.

Moderation of Assessments

Detailed marking rubrics will be made available on iLearn. Markers in this unit undertake a process of 'blind marking' to establish a common marking standard and all Fail papers are

double marked.

EXPECTATIONS AND REQUIREMENTS OF ASSIGNMENTS

Active Participation

1. Substantive requirements: Students will be assessed on the basis of their knowledge, understanding and analytical ability to evaluate the issues raised in each weekly topic. Active participation in the class will require students to read and understand various issues scheduled for discussions on a regular basis. Students are also required to participate in discussions that extend beyond these set topics and readings through their own evaluation of the issues raised.

2. Formal requirements: Students are required to attend the tutorials in accordance with the schedule of classes/tutorials set out in this Unit Guide and complete the prescribed readings for each week. Exemptions may be granted only in exceptional circumstances and subject to the provision of appropriate documentation. If an exemption is granted, work in lieu will need to be submitted.

3. Marking criteria/rubrics:

1. Regular and timely presence in tutorials ;
2. Active and effective class participation;
3. Knowledge and understanding of the subject matter;
4. Ability to develop ideas and think critically;
5. Problem solving skills; and
6. Oral communication skills.

Problem Question

1. Substantive requirements: This assignment will be assessed based on the discipline specific knowledge, understanding and identification of the relevant legal issues, and their application to a given (real or hypothetical) fact situation/problem of contemporary trading relations. Students may be required to take their research beyond the prescribed books and course materials (the supplementary books and journals provide a starting point for further research). Clarity of expression, presentation of argument, responsiveness to question, and correct and consistent reference style will also be taken into account. Students are encouraged to consider a theoretical as well as applied dimension to the issues under consideration for a problem question subsumable in international trade law.

2. Marking criteria/rubrics:

1. Originality of the work;
2. Accurate identification and analyse of issues by using primary and secondary sources;
3. Theoretical discipline specific knowledge relevant and applicable to the problem;
4. Depth of legal research and critical analytical skill with innovative and interdisciplinary approach; and

5. Coherence of presentation, clarity of expression, responsiveness to the problem; and correct citation.

Research Paper

1. Substantive requirements: This assignment is meant to test the legal research and writing skill. Students will be assessed on the basis of their discipline specific knowledge, understanding and identification of the relevant legal issues, analysis and evaluation of the issues, quality and depth of research, critical, interdisciplinary, policy-oriented approach, and overall presentation. Research should extend beyond the prescribed books and course materials (recommended books and journals provide a starting point for research). Clarity of expression, presentation of argument, responsiveness to the issues raised, and correct, complete, and consistent reference/citation style will be taken into account.

2. Marking criteria/rubrics:

1. Extent of theoretical and applied knowledge and understanding of international trade/finance law relevant and applicable to the specific area of the research;
2. Depth of research and interdisciplinary approach;
3. Intellectually construct and defend arguments with scholarly support;
4. Free and innovative thinkers, a policy-oriented approach, and the ventilators of new ideas contributing to the progressive development of the international legal regime; and
5. Orderly presentation - clarity of expression, coherently addressing the issues raised, and correct, complete, and consistent reference/citation style.

Formal requirements for both written (problem question and research) assignments

The following requirements as to presentation of papers must be complied with:

- Both assignments are meant to be the independent works of individual student. Assignments are not group works or exercises. Students are strictly prohibited to use their social media (face books/twitters etc) in the preparation of assignments.
- Both assignments must be typed with 12 point font in the text and 10 point font in foot/end notes. Bibliography/reference must also be 12 point font.
- The word limit must be strictly maintained. The word limit does not include the footnotes and bibliography, although footnotes must not include any substantive content. The actual word length of your assignment must be stated on the cover sheet.
- Footnotes, bibliography and other referencing must be consistent with the *Australian Guide to Legal Citations*, which can be downloaded at <http://www.law.unimelb.edu.au/muir>
- Substantive and procedural requirements referred to are important and should be

followed in both assignments.

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Active Participation</u>	20%	No	Tutorials 2-13
<u>Problem Question</u>	25%	No	14 September by 5 pm
<u>Research Assignment</u>	35%	No	9 November by 5 pm
<u>Group Assignment</u>	20%	No	12 October by 5 pm

Active Participation

Due: **Tutorials 2-13**

Weighting: **20%**

Students must read, understand in advance (at least prior to their tutorials) various issues scheduled for discussions (see Unit Guide for week-by-week topics), and be prepared to actively participate in class discussions to enhance oral communication skill.

On successful completion you will be able to:

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of international regulation and relevant standards.
- Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.
- Apply logical, critical and creative thinking skills to resolve legal problems.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Problem Question

Due: **14 September by 5 pm**

Weighting: **25%**

The Problem Question is a take-home assignment on the applied aspects of international trade and finance. It is intended to provide students with an opportunity to critically

evaluate hypothetical legal problem scenarios and formulate and defend appropriate arguments in a clear, structured and logical manner with scholarly support.

Maximum word limit of 2500 words (to be posted on iLearn in Week 7). The work must be submitted via Turnitin.

This is a timed assessment and no late submissions will be accepted.

On successful completion you will be able to:

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of international regulation and relevant standards.
- Apply logical, critical and creative thinking skills to resolve legal problems.
- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Research Assignment

Due: **9 November by 5 pm**

Weighting: **35%**

The research paper is meant to give students an opportunity to write on a topic of their own choice from the limit/list given. Students are required to go deeper into it and to present it in a logically coherent manner. It is designed to develop and implement legal research skills and analytical abilities to examine relevant aspects of trade with academic support. This method of assignment enables the students to be free and innovative thinkers, adopt a policy-oriented approach, and the ventilators of new ideas, thereby contributing to the progressive development of the international legal regime.

Maximum word limit of 2500 words (to be posted on iLearn in Week 13). The assignment **MUST** be submitted via Turnitin.

On successful completion you will be able to:

- Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.
- Apply logical, critical and creative thinking skills to resolve legal problems.

- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Group Assignment

Due: **12 October by 5 pm**

Weighting: **20%**

Each team of students (4-5 students per team) will be required to prepare two written memoranda of a short moot court problem - for both the appellant and the appellee. The maximum word limit is 2,500 words per memorandum. Each team member is required to submit identical copies of the team's written memoranda via Turnitin by the relevant deadline. Half of the mark for the group assignment (10%) will be an individual mark which is based on peer feedback.

On successful completion you will be able to:

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of international regulation and relevant standards.
- Apply logical, critical and creative thinking skills to resolve legal problems.
- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Delivery and Resources

This course will be delivered via lectures (also available on iLearn) and through seminars/tutorials. Students will be required to actively participate in discussion based on the readings, as

well as any problem and discussion questions set by the convenor.

Tutor: Dr Baskaran Balasingham (baskaran.balasingham@mq.edu.au)

For lecture times and classrooms please consult the MQ Timetable website: <http://www.timetables.mq.edu.au>. This website will display up-to-date information on your classes and classroom locations.

Required and Recommended Readings

Prescribed Textbook

P. Van den Bossche and W. Zdouc, *The Law and Policy of the World Trade Organization: Text, Cases and Materials* (Cambridge University Press, 2017).

Prescribed Legislative Text

WTO, *The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations* (Cambridge University Press, 2000).

Recommended Readings

Students are also advised to consider and consult the following books and journal articles to supplement the text and materials.

M. Matsushita et al., *The World Trade Organization: Law, Practice and Policy* (Oxford University Press, 2017).

G. Marceau (ed), *A History of Law and Lawyers in the GATT/WTO The Development of the Rule of Law in the Multilateral Trading System* (Cambridge University Press, 2015).

C. Sieber-Gasser, *Developing Countries and Preferential Services Trade* (Cambridge University Press, 2016).

M. Klamert, *Services Liberalization in the EU and the WTO Concepts, Standards and Regulatory Approaches* (Cambridge University Press, 2014).

Y. Bonzon, *Public Participation and Legitimacy in the WTO* (Cambridge University Press, 2014).

B. Hoekman and M. Kostecki, *The Political Economy of the World Trading System: The WTO and Beyond* (Oxford University Press, 2013).

Y. Lee et al. (eds), *Law and Development Perspective on International Trade Law* (Cambridge University Press, 2011).

D. Rodrik, *The Globalization Paradox: Democracy and the Future of the World Economy* (Norton, 2011).

D. Alesandrini, *Developing Countries and the Multilateral Trading regime: The Failure and Promises of the WTO's Development Mission* (Hart, 2010).

P. Mavroidis, *Law and Economics of Contingent Protection in the WTO* (Edward Elgar, 2010).

S. Kroll et al. (eds), *The UN Convention on Contracts for the International Sale of Goods* (Hart,

2010).

K. Schefer, *Social Regulation in the WTO* (Edward Elgar, 2010).

H. Yamane, *Interpreting TRIPS: Globalisation of Intellectual Property Rights and Access to Medicines* (Hart, 2010).

F. Smith, *Agriculture and the WTO* (Edward Elgar, 2009).

D. Yigzaw, 'Where the Real Issue Lies: Normative Conflict between the WTO System and Human Rights' (2015) 18 *International Trade and Business Law Review* 31.

I. Matsumoto, 'Role of International Standards in Promoting Environmental Goods and Services - a New Approach to Reconciling Trade and Climate Change' (2016) 19 *International Trade and Business Law Review* 180.

A. Herwig, 'The WTO and the Doha Negotiation in Crisis?' (2013) 44 *Netherlands Yearbook of International Law* 161.

S. Tao, 'Potential Inconsistency between China's GATS Obligations and Relevant Domestic Legislation' (2015) 18 *International Trade and Business Law Review* 162.

C. Bown and M. Wu, 'Safeguards and the Perils of Preferential Trade Agreements: Dominican Republic–Safeguard Measures' (2014) 13 *World Trade Review* 179.

L. Ying, 'The Applicability of Environmental Protection Exceptions to WTO-Plus Obligations: In View of the China – Raw Materials and China – Rare Earths Cases' (2014) 27 *Leiden Journal of International Law* 113.

D. Ahn and P. Messerlin, 'United States – Anti-Dumping Measures on Certain Shrimp and Diamond Sawblades from China: Never Ending Zeroing in the WTO?' (2014) 13 *World Trade Review* 267.

A. Slade, 'Good Faith and the TRIPS Agreement: Putting Flesh on the Bones of the TRIPS Objectives' (2014) 63 *International and Comparative Law Quarterly* 353.

A. Johnston and M. Trebilcock, 'Fragmentation in International Trade Law: Insights from the Global Investment Regime' (2013) 12 *World Trade Review* 621.

This list is by no means exclusive and exhaustive. For additional resources students are encouraged to use the library catalogue and databases. The WTO website is an important source of primary materials and various WTO studies. The International Legal Materials (ILM) also compiles international trade documents and it is available in hard copies in the Library and can also be searched under Hein Online.

Unit webpage and technology used and required

Online units can be accessed at: <http://ilearn.mq.edu.au>

The unit has iLearn web page. iLectures will be available for downloading over the internet. Assignments, information, and announcements relating to the unit and will be posted on this iLearn site. Students must check this site regularly for any important information/announcement relating to the unit.

Unit Schedule

Week beginning on 31 July	Lecture Topic
Week 1	Globalisation, Trade and Finance
Week 2	International Trade Law and the WTO
Week 3	Regional and Bilateral Free Trade Agreements
Week 4	The WTO Dispute Settlement System
Week 5	Most-Favoured-Nation Treatment and National Treatment
Week 6	Tariff Barriers
Week 7	Non-Tariff Barriers and Technical Barriers to Trade
Week 8	Sanitary and Phytosanitary Measures
Week 9	Dumping
Week 10	Subsidies
Week 11	Exceptions
Week 12	The TRIPS Agreements
Week 13	Emerging Issues in International Trade and Finance

Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central>). Students should be aware of the following policies in particular with regard to Learning and Teaching:

- [Academic Appeals Policy](#)
- [Academic Integrity Policy](#)
- [Academic Progression Policy](#)
- [Assessment Policy](#)
- [Fitness to Practice Procedure](#)
- [Grade Appeal Policy](#)
- [Complaint Management Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#) (**Note:** *The Special Consideration Policy is effective from 4 December 2017 and replaces the Disruption to Studies Policy.*)

Undergraduate students seeking more policy resources can visit the [Student Policy Gateway](https://students.mq.edu.au/support/study/student-policy-gateway) (<https://students.mq.edu.au/support/study/student-policy-gateway>). It is your one-stop-shop for the

key policies you need to know about throughout your undergraduate student journey.

If you would like to see all the policies relevant to Learning and Teaching visit [Policy Central](https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/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/study/getting-started/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.

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.

Graduate Capabilities

PG - Capable of Professional and Personal Judgment and Initiative

Our postgraduates will demonstrate a high standard of discernment and common sense in their professional and personal judgment. They will have the ability to make informed choices and decisions that reflect both the nature of their professional work and their personal perspectives.

This graduate capability is supported by:

Learning outcome

- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Assessment tasks

- Active Participation
- Group Assignment

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

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of international regulation and relevant standards.
- Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.
- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.

Assessment tasks

- Active Participation

- Problem Question
- Research Assignment
- Group 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

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of international regulation and relevant standards.
- Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.
- Apply logical, critical and creative thinking skills to resolve legal problems.
- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.

Assessment tasks

- Problem Question
- Research Assignment
- Group 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 outcome

- Apply logical, critical and creative thinking skills to resolve legal problems.

Assessment tasks

- Problem Question
- Research Assignment
- Group Assignment

PG - Effective Communication

Our postgraduates will be able to communicate effectively and convey their views to different social, cultural, and professional audiences. They will be able to use a variety of technologically supported media to communicate with empathy using a range of written, spoken or visual formats.

This graduate capability is supported by:

Learning outcomes

- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Assessment tasks

- Active Participation
- Problem Question
- Research Assignment
- Group Assignment

PG - Engaged and Responsible, Active and Ethical Citizens

Our postgraduates will be ethically aware and capable of confident transformative action in relation to their professional responsibilities and the wider community. They will have a sense of connectedness with others and country and have a sense of mutual obligation. They will be able to appreciate the impact of their professional roles for social justice and inclusion related to national and global issues

This graduate capability is supported by:

Learning outcomes

- Appreciate the contextual nature of international trade by fostering a sound knowledge of the way the economic, political and ethical values shape the development of

international regulation and relevant standards.

- Identify and explore various multilateral, regional and free trade agreements and other legal principles embedded in international trade.
- Connect international trade law doctrine and theory to international trade, economic, and financial actors (trading nations, WTO, IMF, World Bank, MNCs, and NGOs/advocates of international economic affairs) to provide cross-border and multi-jurisdictional expertise and experience.
- Explain how international trade law impacts on national trading policy and practice, and confronts controversial and pressing issues of trade and finance in the contemporary era of economic globalisation.
- Display effective communication skills by verbally defending views in a respectful environment and developing reasoned and supported written argument.

Assessment tasks

- Active Participation
- Group Assignment

Changes from Previous Offering

Compared to the unit offering in 2017 the assessment, literature and topics have been modified. A group assignment has been added and the weighting of the different forms of assessment have been altered. The previously recommended reading P. Van den Bossche and W. Zdouc, *The Law and Policy of the World Trade Organization: Text, Cases and Materials* (4th edn, Cambridge University Press, 2017) is now the prescribed textbook. The weekly topics are more in accordance with the new textbook.

Changes since First Published

Date	Description
24/07/2018	minor change to assessment description
23/07/2018	changes to group assignment, topics 1 and 12
13/07/2018	hurdle requirement for group assignment removed; topics for weeks 1 and 2 swapped