



# LAWS8098

## International Commercial Law

Session 1, In person-scheduled-weekday, North Ryde 2023

*Macquarie Law School*

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## General Information

Unit convenor and teaching staff

Lisa Spagnolo

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Credit points

10

Prerequisites

Admission to LLM or MIntTrdeComLaw or (Admission to JD and LAWS600 or LAWS8001)

Corequisites

Co-badged status

Unit description

International Commercial Law examines contract law as it applies in an international context, addressing, in particular; the international sale of goods; Incoterms, contracts of sale under the Vienna Sales Convention; contracts for carriage of goods by sea, air and land; and bills of exchange, marine insurance and letters of credit in international trade. This unit incorporates analyses of different legal systems, an introduction to conflicts of law as well as political contexts underpinning the operation of this body of law. International commercial arbitration is highlighted as the key mode of dispute settlement for international contractual disputes.

## 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:

**ULO1:** Demonstrate comprehension of the regulatory framework and standards that govern International Sales of Goods.

**ULO2:** Understand the legal aspects of international commercial transactions, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions.

**ULO3:** Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence international commercial transactions by sea and air

**ULO4:** Explain the importance of risk in international commercial transactions and

demonstrate a working knowledge of international insurance process and procedures.

**ULO5:** Analyse hypothetical international legal problem scenarios via constructing and defending arguments in a well-structured, reasoned, coherent and logical manner.

**ULO6:** Demonstrate the ability to independently research contentious and timely issues in international commercial law.

## General Assessment Information

**Both internal & external students:** Attendance and participation will be recorded at every tutorial and will affect participation grades. Both internal and external students must book the 2 tutorial sessions when they will be **'On Call'** during the tutorials as soon as the semester commences. This can be done through contacting the Convenor by messaging via iLearn. Please note that availability of spots is limited so trying to book the last sessions in the semester often causes difficulties when it transpires that the student is unexpectedly unable to attend the nominated session. It is your responsibility to book these sessions, and only limited spots are available for each topic. It is therefore recommended that you book for as early as possible in the semester. You must nominate two tutorial topics across the semester. Your 'On Call' participation will be graded and will form the basis for your participation mark. Your consistency in attending and actively participating throughout the semester will be taken into account also, and your 'On Call' participation mark will be adjusted to reflect this.

Your 'On Call' tutorial participation is your opportunity to shine! You will be given a chance to address the tutorial questions first, before other students who are not on call are invited. As the 'On Call' tutorials account for much of your participation mark, you should make the most of the chance to prepare for those sessions.

Do you want to ensure that you receive recognition for your preparation by taking on the extra challenge of participating in a simulated arbitration? The tutorial topic on dispute resolution offers you a special opportunity to be extra prepared. We run a practice strategy session in the prior week, and you can consult with the Convenor about your preparation. Most students who take on the simulated moot achieve much higher scores than the average on call, and their extra effort is rewarded in that they only need do the one topic rather than two. You need not have mooted before, and I guarantee that, although challenging, you will find the experience rewarding. Please indicate early if you would like to do the moot session.

## Assessment Tasks

Name	Weighting	Hurdle	Due
<a href="#"><u>Early Feedback Quiz</u></a>	10%	No	17/3/23 anytime but once opened 30 mins to complete

Name	Weighting	Hurdle	Due
<a href="#">Tutorial Presentation</a>	20%	No	Weeks 2-12, including on-call (x2)
<a href="#">Preparation of legal advice</a>	30%	No	11:55pm (Sydney time) 6/4/23
<a href="#">Take Home Test</a>	40%	No	5/6/23 10am-1pm

## Early Feedback Quiz

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 5 hours

Due: **17/3/23 anytime but once opened 30 mins to complete**

Weighting: **10%**

Students will complete a brief quiz involving multiple choice questions on material covered in the first weeks of the Unit. The quiz is designed to provide students with early feedback on their aptitude for the unit.

On successful completion you will be able to:

- Demonstrate comprehension of the regulatory framework and standards that govern International Sales of Goods.

## Tutorial Presentation

Assessment Type <sup>1</sup>: Presentation

Indicative Time on Task <sup>2</sup>: 15 hours

Due: **Weeks 2-12, including on-call (x2)**

Weighting: **20%**

Students must contribute in class through an on call presentation and contributions across the semester. The time for this task will be covered in tutorials.

On successful completion you will be able to:

- Demonstrate comprehension of the regulatory framework and standards that govern International Sales of Goods.
- Understand the legal aspects of international commercial transactions, and identify legal issues, problems and risk factors that a business entity may encounter in operating

cross-border transactions.

- Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence international commercial transactions by sea and air
- Explain the importance of risk in international commercial transactions and demonstrate a working knowledge of international insurance process and procedures.

## Preparation of legal advice

Assessment Type <sup>1</sup>: Professional writing

Indicative Time on Task <sup>2</sup>: 35 hours

Due: **11:55pm (Sydney time) 6/4/23**

Weighting: **30%**

Students will advise a client on a contentious hypothetical international commercial sale scenario (or scenarios) assessing students' ability to independently research contentious issues, and to identify, analyse and appraise the legal issues covered throughout the first part of the course in a clear, concise and logical manner with reference to appropriate authorities. Students will be required to identify relevant factual issues and to research and apply appropriate law. This assessment and the feedback provided will assist student preparation for the final assessment.

On successful completion you will be able to:

- Demonstrate comprehension of the regulatory framework and standards that govern International Sales of Goods.
- Understand the legal aspects of international commercial transactions, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions.
- Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence international commercial transactions by sea and air
- Explain the importance of risk in international commercial transactions and demonstrate a working knowledge of international insurance process and procedures.
- Analyse hypothetical international legal problem scenarios via constructing and defending arguments in a well-structured, reasoned, coherent and logical manner.
- Demonstrate the ability to independently research contentious and timely issues in international commercial law.

## Take Home Test

Assessment Type <sup>1</sup>: Quiz/Test

Indicative Time on Task <sup>2</sup>: 15 hours

Due: **5/6/23 10am-1pm**

Weighting: **40%**

Timed assessment assessing students' ability to identify, analyse and appraise the legal issues covered throughout the course in a clear, concise and logical manner with reference to appropriate authorities. Students will be required to identify relevant factual issues and apply appropriate law

On successful completion you will be able to:

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- Understand the legal aspects of international commercial transactions, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions.
- Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence international commercial transactions by sea and air
- Explain the importance of risk in international commercial transactions and demonstrate a working knowledge of international insurance process and procedures.
- Analyse hypothetical international legal problem scenarios via constructing and defending arguments in a well-structured, reasoned, coherent and logical manner.

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<sup>1</sup> If you need help with your assignment, please contact:

- the academic teaching staff in your unit for guidance in understanding or completing this type of assessment
- the [Writing Centre](#) for academic skills support.

<sup>2</sup> Indicative time-on-task is an estimate of the time required for completion of the assessment task and is subject to individual variation

## **Delivery and Resources**

This course will be delivered via recorded lectures (Echo360 on iLearn) and live tutorials. Students will be assessed on their participation in the tutorial questions set out for each week in iLearn, particularly their nominated on-call tutorials. See 'Unit Schedule' below for details of tutorials, and see 'General Assessment' information below for details about 'On Call' participation.

### **Recommended Reading**

There is no compulsory text for this unit but students looking for a textbook which covers the topics addressed in this Unit can acquire a copy of:

Giovanni Di Lieto & David Treisman (eds), *International Trade Law* (Federation Press, 2018).

Weekly reading schedule/list including additional materials and readings will be posted on iLearn and through Leganto.

## Unit Schedule

**All Students:** Please note lectures will be available through Echo 360 on iLearn from the first week of semester. Weekly readings and tutorial questions will be available to enrolled students via iLearn.

**Internal students:** One hour tutorials will run on Wednesdays 3pm-4pm commencing in from the first week of the semester, then continue weekly.

**External students:** Your two hour tutorials from 7pm-9pm Mondays commencing 27/2/23, then continuing on 13/3/23, 27/3/23, 24/4/23, 8/5/23 & 22/5/23. Zoom links will be posted online for you to join the tutorials. Please ensure your camera is turned on.

### LECTURE SCHEDULE:

#### ***Part 1: Law for Buyers and Sellers in International Commercial Transactions***

Week 1 - Introduction - Standard Trade Terms and Electronic Commerce

Week 2 - Contracts of Sale Under the CISG

#### ***Part 2: Law for Interactions with Other Parties to International Commercial Transactions (Shippers/transporters, Insurers and Banks)***

Week 3 - Transport of Goods by Sea and Air

Week 4 - Transport of Goods by Sea and Air (cont)

Week 5 - Marine Insurance

Week 6 - Financing International Transactions; Letters of Credit

*Mid-Session Break – Includes first online day for external students*

#### ***Part 3: Resolving international commercial disputes between parties***

Week 7 -Conflicts of Law between Courts: Jurisdiction and Choice of Law

Week 8 - International Commercial Arbitration: Institutions and Agreements

Week 9 - International Commercial Arbitration and Courts: Enforcement

#### ***Part 4: State/Treaty Influence on International Commercial Transactions***

Week 10 - International, Multilateral and Bilateral Trade Related Treaties

Week 11 - Intellectual Property in International Transactions

Week 12 - Fighting Corruption in International Commercial Transactions

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au). 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](#)
- [Assessment Procedure](#)
- [Complaints Resolution Procedure for Students and Members of the Public](#)
- [Special Consideration Policy](#)

Students seeking more policy resources can visit [Student Policies \(https://students.mq.edu.au/support/study/policies\)](https://students.mq.edu.au/support/study/policies). It is your one-stop-shop for the key policies you need to know about throughout your undergraduate student journey.

To find other policies relating to Teaching and Learning, visit [Policy Central \(https://policies.mq.edu.au\)](https://policies.mq.edu.au) and use the [search tool](#).

## Student Code of Conduct

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: <https://students.mq.edu.au/admin/other-resources/student-conduct>

## Results

Results published on platform other than [eStudent](#), (eg. iLearn, Coursera etc.) 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](https://ask.mq.edu.au) or if you are a Global MBA student contact [globalmba.support@mq.edu.au](mailto:globalmba.support@mq.edu.au)

## Academic Integrity

At Macquarie, we believe [academic integrity](#) – honesty, respect, trust, responsibility, fairness and courage – is at the core of learning, teaching and research. We recognise that meeting the expectations required to complete your assessments can be challenging. So, we offer you a range of resources and services to help you reach your potential, including free [online writing and maths support](#), [academic skills development](#) and [wellbeing consultations](#).

## Student Support

Macquarie University provides a range of support services for students. For details, visit <http://students.mq.edu.au/support/>



## The Writing Centre

The [Writing Centre](#) provides resources to develop your English language proficiency, academic writing, and communication skills.

- [Workshops](#)
- [Chat with a WriteWISE peer writing leader](#)
- [Access StudyWISE](#)
- [Upload an assignment to Studiosity](#)
- [Complete the Academic Integrity Module](#)

The Library provides online and face to face support to help you find and use relevant information resources.

- [Subject and Research Guides](#)
- [Ask a Librarian](#)

## Student Services and Support

Macquarie University offers a range of [Student Support Services](#) including:

- [IT Support](#)
- [Accessibility and disability support](#) with study
- Mental health [support](#)
- [Safety support](#) to respond to bullying, harassment, sexual harassment and sexual assault
- [Social support including information about finances, tenancy and legal issues](#)
- [Student Advocacy](#) provides independent advice on MQ policies, procedures, and processes

## Student Enquiries

Got a question? Ask us via [AskMQ](#), or contact [Service Connect](#).

## 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.

## Changes from Previous Offering

The final take home test now may include problem questions and short answer questions.

## Late Penalty (applicable to Assignment only)

### *Late Assessment Submission Penalty*

*Unless a Special Consideration request has been submitted and approved, a 5% penalty (of the total possible mark) will be applied each day a written assessment is not submitted, up until the 7th day (including weekends). After the 7th day, a mark of, 0 (zero) will be awarded even if the assessment is submitted. Submission time for all written assessments is set at 11.55pm. A 1-hour grace period is provided to students who experience a technical issue.*

*This late penalty will apply to non-timed sensitive assessment (incl essays, reports, posters, portfolios, journals, recordings etc). Late submission of time sensitive tasks (such as tests/exams, performance assessments/presentations, scheduled practical assessments/labs etc) will only be addressed by the unit convenor in a Special consideration application. Special Consideration outcome may result in a new question or topic.*