LAW 898
International Commercial Law
S1 Day 2017
Dept of Law

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## General Information

<table>
<thead>
<tr>
<th>Unit convenor and teaching staff</th>
<th>Unit Convener and Lecturer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr Afroza Begum</td>
<td><a href="mailto:afroza.begum@mq.edu.au">afroza.begum@mq.edu.au</a></td>
</tr>
<tr>
<td>Contact via <a href="mailto:afroza.begum@mq.edu.au">afroza.begum@mq.edu.au</a></td>
<td>W3A 339</td>
</tr>
<tr>
<td>Friday 3pm – 4pm or by appointment</td>
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</tbody>
</table>

**Credit points**

4

**Prerequisites**

Admission to LLM or MIntTrdeComLaw or MIntRelMIntTrdeComLaw or 42cp in LAW or LAWS units at 400 or 500 level or (admission to JD and 24cp in LAW or LAWS units at 800 level)

**Corequisites**

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**Unit description**

International Commercial Law examines contract law as it applies in an international context, addressing in particular concepts of the international sale of goods; contracts of sale under the Vienna Sales Convention; contracts for carriage of goods by sea, air and land; and bills of exchange and letters of credit in international trade. These studies incorporate analyses of different legal systems and relevant national jurisdictions, as well as key economic theories and political contexts underpinning the operation of this body of law. International commercial arbitration is highlighted as the key mode of dispute settlement.

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## 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](https://www.mq.edu.au/study/calendar-of-dates)

## Learning Outcomes

On successful completion of this unit, you will be able to:

- Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
- Describe the implications of electronic commerce to the traditional laws of contract, 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 commercial transactions by sea and by air;
Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures;
Evaluate the role/use of letters of credit in international commercial transactions, and the Australasian trade relationship;
Analyse hypothetical international legal problem scenarios via constructing and defending arguments in a well structured, reasoned, coherent and logical manner;
Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

**General Assessment Information**

**1. Class Participation (in Tutorials and OCS) worth 10% mark**

Internal 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. External students must attend the two-day OCS from 9 am to 4 pm as a compulsory and substantive academic requirement. 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.

Class Participation marks will be awarded based on the quality of performance and effective engagement in the tutorials/seminars. 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.

**Assessment criteria:**

1. Regular and timely presence in tutorials or OCS;
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.

**2. Problem Solving worth 30% mark**

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 international transactions. 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.

Assessment criteria:

1. Originality of the work
2. Accurate identification and analysis of issues by using primary and secondary sources
3. Critical evaluation and efficient use of information
4. Concise and logical approach to address relevant aspects
5. Clear demonstration of knowledge and correct written expression
6. The degree of persuasion/depth of research evidenced from respective arguments
7. Coherent organisation of the paper/structured presentation of ideas
8. Proper referencing and acknowledgement of sources

3. Research Essay worth 60% mark

Students will be required to write a research essay on a specific topic of the Unit. This task aims to assess students’ independent research skills and critical analytical ability to examine relevant issues raised with adequate support and acknowledgement. Students will be assessed on the basis of their discipline specific knowledge, understanding and evaluation of the issues, quality and depth of research, critical, interdisciplinary, policy-oriented approach, and overall presentation.

Assessment criteria:

1. Identification and analysis of the relevant legal and theoretical issues;
2. Evidence of reflection and critical thinking in relation to the issues;
3. Delivery of a persuasive argument in relation to the issues raised by the topic including quality of evidence, reasoning, illustrations and examples;
4. Quality and thoroughness of research;
5. Logical structure and clear, concise written expression;
6. Accurate use of the Australian Guide to Legal Citation AGLC 3rd edition, including proper acknowledgment of all sources.

Detailed marking rubrics will be made available on iLearn.

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.

• Both assignments must be typed with 12 point font in the text and 10 point font in footnotes.

• The word limit must be strictly maintained. The word limit does not include the footnotes, although footnotes must not include any substantive content. The actual word length of your assignment must be stated on the cover sheet.

• Footnotes and other referencing must be consistent with the Australian Guide to Legal Citations, which can be downloaded at http://www.law.unimelb.edu.au/mulr

• Feedback prior to census date

• Feedback may be given in tutorials based on the course requirements and student’s contribution, the standards of preparation demonstrated, and timeliness. This should also include some specific approaches, eg, identifying students who experience difficulties in grasping various legal aspects of the unit and providing additional academic support and monitoring to facilitate their active and effective participation.

### Assessment Tasks

<table>
<thead>
<tr>
<th>Name</th>
<th>Weighting</th>
<th>Hurdle</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class Participation (CP)</td>
<td>10%</td>
<td>No</td>
<td>on going</td>
</tr>
<tr>
<td>Problem Question</td>
<td>30%</td>
<td>No</td>
<td>29 April 2017, 5 pm</td>
</tr>
<tr>
<td>Research Essay</td>
<td>60%</td>
<td>No</td>
<td>11 June, 2017 by 5:00pm</td>
</tr>
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</table>

### Class Participation (CP)

**Due: on going**

**Weighting: 10%**

Face-to-face-seminars/tutorials provide an important opportunity for the students to learn through interaction with the teacher and fellow students. This task is designed to develop the students' interpersonal skills and attitudes to work collaboratively and their critical analytical ability to appreciate relevant legal issues. Seminars will focus on, *inter alia*, group discussion and the problem-solving methods in evaluating various legal topics/aspects provided each week. Students are required to attend seminars for each of the weeks that the unit runs during the semester and complete the prescribed readings for each week. CP marks will be awarded based on the quality of performance and effective engagement in the seminars. Attendance in itself is not enough to achieve a pass mark. All applications for disruption should be made via [Unit guide LAW 898 International Commercial Law](https://unitguides.mq.edu.au/unit_offerings/74708/unit_guide/print).
External students must attend a two-day intensive on-campus session (9am-4pm) to be held on 18-19 April 2017. 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.

On successful completion you will be able to:

- Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
- Describe the implications of electronic commerce to the traditional laws of contract, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions;
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- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures;
- Evaluate the role/use of letters of credit in international commercial transactions, and the Australasian trade relationship;
- Analyse hypothetical international legal problem scenarios via constructing and defending arguments in a well structured, reasoned, coherent and logical manner;
- Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

**Problem Question**

**Due:** 29 April 2017, 5 pm  
**Weighting:** 30%

This written assignment aims to evaluate students' ability to identify, analyse and appraise relevant legal issues in a clear, concise and logical manner with scholarly support. It will involve examining a hypothetical problem by applying appropriate laws and judicial decisions to the scenario and by formulating and defending solutions.

**Word length 2000 words** The work must be submitted via turnitin. The assessment guidelines will be released in Week 6.

On successful completion you will be able to:

- Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

Research Essay
Due: 11 June, 2017 by 5:00pm
Weighting: 60%

Students will be required to complete a research essay on a specific topic of the Unit. The paper should reflect an independent research that requires an in-depth analysis of legal literature/materials and application of relevant laws and standards. The essay topic, the structure of the paper and guidelines will be discussed and released in week 9.

The word limit is 3000 words which must be strictly maintained.

On successful completion you will be able to:
• Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

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.

External students are required to attend two-day intensive (9am-4pm) on-campus sessions to be held on 18-19 April 2017.

Required and Recommended Readings

Required Textbook
Weekly reading schedule/list will be posted on iLearn.

**Recommended Readings**


Fiona Murraya et al, ‘Do formal intellectual property rights hinder the free flow of scientific knowledge?: An empirical test of the anti-commons hypothesis’, (2007) 63:4 Journal of


This reading list is by no means exclusive. For additional resources students are encouraged to use the library catalogue and databases.

Journals

• The Journal of International Business & Law
• Law & Policy in International Business
• Australian Journal of Maritime & Ocean Affairs
• International Business Review
• International Trade and Business Law Review
• Yale Journal of International Law
• Harvard Journal of International Law
• Journal of World economy
• Journal of World Trade
• World Trade Review
• Journal of International Business Studies
• Global Journal of International Business Research

Relevant Website

• https://www.wto.org/
• (http://www.uncitral.org; http://www.iccwbo.org; http://untreaty.un.org;
• http://www.worldtradelaw.net; http://www.wto.org;
Unit Schedule

Weekly reading schedule, assignment topics and guidelines will be posted on iLearn.

Attendance will be taken at seminars/tutorials and MQ attendance policies apply.

The following schedule is for guidance only, refer to iLearn for updates:

Week 1 - Introduction - Standard Trade Terms. Please note that there will be a tutorial in Week 1 and that the lecture will be available through the iLearn system.

Week 2 - Contracts of Sale Under the CISG

Week 3 - Electronic Commerce

Week 4 - Transport of Goods by Sea and Bills of Lading


Week 6 - Marine Insurance; Problem Question uploaded

Mid-Session Break - On campus sessions for external students only on 18-19 April 2017, 9am - 4pm; Problem Question Due

Week 7 - Intellectual Property in International Transactions
Week 8 - Letters of Credit and Finance
Week 9 - International and Australasian Treaty Regimes Relating to Investment
Week 10 - Choice of Laws Concepts
Week 11 - International Commercial Arbitration
Week 12 - Enforcement of Arbitration Awards - The New York Convention
Week 13 - Fighting Corruption in International Commercial Transactions
Final Research Essay Due: 11 June 2017 by 5:00pm.

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


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/

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.

In the absence of a successful application for special consideration due to a disruption to studies, any assessment task submitted after its published deadline will not be graded and will receive a mark of zero. Applications for a Disruption to Studies are made electronically via ask.mq.edu.au and should be accompanied by supporting documentation. Students should refer to the Disruption to Studies policy for complete details of the policy and a description of the
supporting documentation required.

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

All assessments in the unit are to be submitted electronically. Plagiarism detection software is used in this unit.

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 outcomes

• Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

Assessment tasks

• Class Participation (CP)
• Problem Question
• Research Essay

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

• Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
• Describe the implications of electronic commerce to the traditional laws of contract, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

**Assessment tasks**

• Class Participation (CP)
• Problem Question
• Research Essay

**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**

• Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
• Describe the implications of electronic commerce to the traditional laws of contract, and identify legal issues, problems and risk factors that a business entity may encounter in operating cross-border transactions;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

**Assessment tasks**

• Class Participation (CP)
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**

- Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
- Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence commercial transactions by sea and by air;
- Recognise the importance of marine insurance and develop a working knowledge of the insurance process and procedures;
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**Assessment tasks**

- Class Participation (CP)
- Problem Question
- Research Essay

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**

- Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
- Demonstrate a sophisticated knowledge and understanding of relevant laws and conventions that influence commercial transactions by sea and by air;
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• Develop a solid understanding of international commercial arbitration under different schemes and choice of law issues.

Assessment tasks
• Class Participation (CP)
• Problem Question
• Research Essay

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
• Comprehend the regulatory framework and standards that govern International Sales of Goods, and critically assess their application;
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- Research Essay