



BUSL388

China Trade and Investment Law

S2 Day 2018

Dept of Accounting & Corporate Governance

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General Information

Unit convenor and teaching staff

Convenor, teaching staff

Trish Blazey

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Contact via trish.blazey@mq.edu.au

E4A 240

Unless otherwise announced on iLearn, Thursdays 12 pm- 2 pm

Moderator - students should not contact Dr Selby at any time regarding this unit.

Dr John Selby

john.selby@mq.edu.au

Credit points

3

Prerequisites

39cp at 100 level or above

Corequisites

Co-badged status

Unit description

This unit examines the laws of the People's Republic of China with a focus on commercial law from both an international and national perspective. China's Five Year Plans both past and present are crucial to understanding how China has developed and are explored in detail in this unit. Undertaking business in China by overseas individuals and entities is a complex and obstacle filled endeavour which this unit addresses in the various modules. It explores major changes to labour, company and foreign investment laws. 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 programs 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:

Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.

Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.

Critique issues that arise in Chinese commercial law.

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

Assessment Tasks

Name	Weighting	Hurdle	Due
<u>Class Participation</u>	20%	No	Ongoing
<u>Class Test</u>	20%	No	Week 7
<u>Research Assignment</u>	60%	No	13 November 2018

Class Participation

Due: **Ongoing**

Weighting: **20%**

Class Participation

Due: **Ongoing**

Weighting: **20%**

Tutorials start in week 2 of the semester.

Weekly attendance at tutorial classes is compulsory. **Students must prepare in advance for the tutorials.** A roll will be taken each week documenting attendance. A student who is absent for a tutorial will be considered as not participating in that tutorial.

Throughout this Unit, tutorial class activities (case studies, simulations and reflective activities) are based on a story called the Shanghai Story where different events occur and numerous characters are introduced. The Shanghai Story is split into episodes so that each week a new episode together with tutorial questions will be released on iLearn.

The main criteria upon which class participation is assessed are: students' preparation, understanding of the materials, depth of arguments, and presentation skills (detailed explanations and a marking rubric are provided on the iLearn site of the unit).

Estimated Student Workload (outside class time)

On average, 1.5 - 2.5 hours per week from Week 2 to Week 13.

On successful completion you will be able to:

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Class Test

Due: **Week 7**

Weighting: **20%**

Class Test

To take place (Unless otherwise announced on iLearn) 13 September 2018

Weighting: 20%

Criteria for assessment are: students' understanding of the materials, knowledge, and ability to analyse and evaluate issues concerning the topics covered in the unit for the test (detailed explanations of the assessment criteria are provided on the iLearn site of the unit). The test is comprised of multiple choice and true/false questions. Further information about the content of the Class Test will be posted on iLearn.

The test is **Open Book** so students can bring in any paper materials except mobile phones and computers. The Class Test is of 45 minutes duration during the scheduled lecture time on Thursday 13 September 2018. It will take place towards the end of the lecture.

The only exception to not sitting the Class Test at the designated time is if special consideration has been granted. If a Supplementary Test is granted, the Supplementary Test time will be scheduled by the Unit Convenor.

Feedback on the test will be provided via iLearn and/or in Lecture(s).

Estimated Student Workload (outside class time)

On average, 2 hours per week from Week 1 to the date of the Class Test in Week 7.

On successful completion you will be able to:

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.

- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Research Assignment

Due: **13 November 2018**

Weighting: **60%**

Research Assignment

Due: **13 November 2018 (4:00 p.m.)**

Weighting: **60%**

The final assignment is research based. Students will not be able to rely simply on the required and/or recommended reading materials for classes and will be expected to conduct their own research. The assignment is a task for each individual student. Collective or collaborative work is NOT ACCEPTABLE.

The word length (for the different parts of the assignment, if any) will be stated in the Assignment Instructions posted on iLearn.

Criteria upon which the assignment is assessed are: the content, structure, presentation, and referencing (footnoting and bibliography) which demonstrate the students' understanding of the materials, the depth of arguments and critique, the thoroughness of the legal research, and the adequacy of referencing (detailed explanations are provided on the iLearn site of this Unit).

Students must hand in/submit the assignment before 4:00 p.m. on **13 November 2018**.

How to submit your work for this assignment

There are 2 requirements.

1. Students must submit their Assignment electronically via **TURNITIN** on the iLearn site of this unit before the deadline. **You CANNOT submit via TURNITIN more than once.** You cannot submit after the due date. Only Turnitin records will be taken as records of submission.
2. You are also required to submit a printed copy of your assignment to BESS by the due date. This is required because of problems experienced by students on the TURNITIN site in the past and for those who have received special consideration and cannot submit on TURNITIN by the due date.

Further information

- Originality reports are NOT made available to students to view and check their work.
Note: 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 a 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 will be granted. 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 30, the penalty will be a deduction of 5 marks (50 marks x 10% = 5 marks) (i.e. this student will obtain 25 marks for the Assignment). This penalty does not apply for cases in which an application for special consideration is made and approved.

Estimated Student Workload for this Assessment Task (outside class time)

On average, 5 to 5.5 hours per week to 13 November 2018. (Total 68.5 hours)

On successful completion you will be able to:

- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Delivery and Resources

Classes

3 hours face-to-face teaching per week consisting of 1 x 1.5-hour lecture and 1 x 1.5-hour tutorial.

The timetable for classes can be found on the University web site at: <http://www.timetables.mq.edu.au/>. Weekly attendance of tutorial classes is compulsory (assessment includes class discussions and activities). Details on the content of tutorial classes can be found on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

Prizes

Prizes for this unit (if applicable): The Macquarie University Accounting and Corporate Governance Prizes: https://www.mq.edu.au/undergraduate_degrees/prizes_scholarships.

Required and Recommended Texts and/or Materials

Required Texts

Patricia Blazey and Kay-Wah Chan, *Commercial Law of the People's Republic of China* (Sydney, Thomson Reuters, 2012). It can be purchased from the Macquarie University Co-op Bookshop.

Other Required Materials

Materials that students are required to bring to tutorial classes (as specified in the Class Activity Instructions available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>). These materials are available on the Internet or through database(s) subscribed by the Macquarie University Library (details to be specified in the Class Activity Instructions available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>).

Recommended Materials

- Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008).
- Recommended (not mandatory) readings as described in the Class Activity Instructions (available on this Unit's iLearn site: <https://ilearn.mq.edu.au/login/MQ/>).

Technology Used and Required

Technology used: learning management system (iLearn: <https://ilearn.mq.edu.au/login/MQ/>).

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

Students will need access to the internet, a personal computer, MS Word.

Unit Web Page

Lecture notes (from the lectures' PowerPoint slides) are available on the learningmanagement system (iLearn: <https://ilearn.mq.edu.au/login/MQ/>).

Teaching and Learning Strategy

The weekly classes will be a combination of one 1.5-hour lecture and one 1.5-hour tutorial (with case studies, simulations and reflective activities).

As assessment includes class participation in the tutorials, **students will be expected to complete the required reading prior to class and to contribute to class activities** (in small groups).

Tutorials will commence in the second week of the semester: Week 2. Please see the schedule of the tutorials below. Detailed tutorial instructions are available on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/MQ/>).

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

Unit Schedule

	LECTURE TOPICS	READINGS Textbook and notes
1 2 Aug	Doing Business in China Guanxi Chinese Culture	Chapter 1 Lecture notes
2 9 Aug	The Constitution and Governmental System	Chapter 3 Lecture notes
3 16 Aug	The Legal System , Civil Procedure Law	Chapter 4 and 5 Lecture notes
4 23 Aug	China's Five Year Plans, GDP , Australia China Trade Agreement	Chapter 2 Lecture notes
5 30 Aug	Contract Law	Chapters 6 and 7 lecture notes
6 6 Sept	Agency Law Property Law Land Law	Chapters 6 and 7 and 8 lecture notes
7 13 Sept	Property Law Land Law CLASS TEST COMPULSORY IN LECTURE duration 45 MINUTES AT END OF LECTURE	Chapters 8 lecture notes
	Mid term break	
8 27 Sept	Company Law	Textbook Chapters 12 13 Lecture notes
9 4 Oct	Foreign Investment Law	Textbook Chapters 18 19 Lecture notes
10 11 Oct	Labour law	Chapter 11 Lecture notes

11 18 Oct	Energy Law	Chapter 23 Lecture notes
12 and 13 25 Oct and 1 Nov	Environmental Law, Air Pollution, Water Pollution, Waste Management	Chapters 23, 24, 25 & 26 Lecture notes

	TUTORIAL TOPICS START IN WEEK 2.	READINGS
1 6 Aug	Introduction Guanxi Chinese Culture	Chapter1 lecture notes
2 13 Aug	The Constitution and Governmental System	Textbook Chapter 3 Lecture notes
3 20 Aug	The Legal System , Civil Procedure Law	Textbook Chapter 4 and 5 Lecture notes
4 27 Aug	China's Five Year Plans, GDP , Australia China Trade Agreement	Chapter 2 Lecture notes
5 3 Sept	Contract Law and Agency Law	Chapters 6 and 7 Lecture notes
6 10 Sept	Contract Law and Agency Law	Chapters 6 and 7 Lecture notes
	Mid Term Break	
7 1 Oct	Property Law Land law	Chapter 8 Lecture Notes

8 8 Oct	Company Law	Chapters 12 13 Lecture Notes
9 15 Oct	Foreign Investment Law	Chapters 18 19 Lecture notes
10 22 Oct	Labour Law	Chapter 11 Lecture notes
11 29 Oct	Energy Law	Chapter 23 Lecture notes
12 5 Nov	Environmental Law Air Pollution, Water Pollution, Waste Management	Textbook Chapters 23, 24, 25 & 26 Lecture notes

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

Discipline Specific Knowledge and Skills

Our graduates will take with them the intellectual development, depth and breadth of knowledge, scholarly understanding, and specific subject content in their chosen fields to make them competent and confident in their subject or profession. They will be able to demonstrate, where relevant, professional technical competence and meet professional standards. They will be able to articulate the structure of knowledge of their discipline, be able to adapt discipline-specific knowledge to novel situations, and be able to contribute from their discipline to inter-disciplinary solutions to problems.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- Research Assignment

Critical, Analytical and Integrative Thinking

We want our graduates to be capable of reasoning, questioning and analysing, and to integrate and synthesise learning and knowledge from a range of sources and environments; to be able to critique constraints, assumptions and limitations; to be able to think independently and systemically in relation to scholarly activity, in the workplace, and in the world. We want them to have a level of scientific and information technology literacy.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.

- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Assessment tasks

- Class Participation
- Class Test
- Research Assignment

Problem Solving and Research Capability

Our graduates should be capable of researching; of analysing, and interpreting and assessing data and information in various forms; of drawing connections across fields of knowledge; and they should be able to relate their knowledge to complex situations at work or in the world, in order to diagnose and solve problems. We want them to have the confidence to take the initiative in doing so, within an awareness of their own limitations.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.
- Carry out effective legal research relevant to the Chinese commercial legal system.

Assessment tasks

- Class Participation
- Class Test
- Research Assignment

Effective Communication

We want to develop in our students the ability to communicate and convey their views in forms effective with different audiences. We want our graduates to take with them the capability to read, listen, question, gather and evaluate information resources in a variety of formats, assess, write clearly, speak effectively, and to use visual communication and communication technologies as appropriate.

This graduate capability is supported by:

Learning outcomes

- Recognise and distinguish the link between China's Five Year Plans and its economic and legal direction and the importance of guanxi as it operates in Commercial Law in China.
- Identify and explain the characteristics and principal elements of Chinese commercial law as it operates in China's civil law system.
- Critique issues that arise in Chinese commercial law.

Assessment tasks

- Class Participation
- Research Assignment

Changes from Previous Offering

The class test is now worth 20% whereas the previous test was worth 30%. The final assignment is worth 60% whereas previously it was worth 50%.

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 China Trade and Investment Law unit), including the contents of the lectures, the tutorials and its assessments tasks.