



# ACCG970

## Chinese Trade and Investment Law

S2 Evening 2014

*Dept of Accounting & Corporate Governance*

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#### **Disclaimer**

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## General Information

Unit convenor and teaching staff

Unit convenor

Trish Blazey

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E4A Room 240

Unless otherwise announced on iLearn, Mondays 3 p.m. - 5 p.m.

Unit Convenor

Kay-Wah Chan

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E4A Room 241

Unless otherwise announced on iLearn, Wednesdays 3 p.m. - 5 p.m.

Credit points

4

Prerequisites

ACCG614 or admission to MAdvProfAcc or MCorpGvnce prior to 2013

Corequisites

Co-badged status

Unit description

This unit broadens students' understanding of contemporary China's commercial law system, from both international and national perspectives. As China's Five Year Plans are crucial to understanding how China has developed and continues its development, they will be explored in detail in this unit. It also explores major changes in law and policies regarding labour issues, company, corporate governance, and foreign investments. China, the second largest economy in the world, has to address the downside of production exhibited through the environmental degradation of its air quality, water and waste. As these issues and that of energy production are the focus of China's development programmes for the twenty-first century, they are examined in the latter part of this unit.

## Important Academic Dates

Information about important academic dates including deadlines for withdrawing from units are available at <https://www.mq.edu.au/study/calendar-of-dates>

## Learning Outcomes

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

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

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

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

## General Assessment Information

**No extensions of time will be granted** in relation to completion (and, if applicable, submission) of any of the assessment tasks. Students who have not completed (and, if applicable, submitted) the assessment task prior to the deadline will be awarded a **mark of 0 (ZERO)** for the assessment task concerned, except for cases in which an application for special consideration is made and approved.

## Assessment Tasks

Name	Weighting	Due	Groupwork/Individual	Short Extension	AI assisted?
<u>Class Participation</u>	20%	Ongoing Weekly		No	
<u>Presentation</u>	30%	15 September 2014		No	
<u>Assignment</u>	50%	13 November 2014 (4:00 p.m.)		No	

### Class Participation

Due: **Ongoing Weekly**

Weighting: **20%**

Groupwork/Individual:

Short extension <sup>3</sup>: No

AI assisted?:

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

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

On successful completion you will be able to:

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

## Presentation

Due: **15 September 2014**

Weighting: **30%**

Groupwork/Individual:

Short extension <sup>3</sup>: No

AI assisted?:

Students will need to make an oral presentation in class on 15 September 2014. Students can use PowerPoint slides (not compulsory) to assist presentations.

Each student will need to submit a research topic and an abstract (for his/her presentation and Assignment) to the unit convenors via email by 13 August 2014. Students are strongly encouraged to submit the proposed topic and an abstract to the unit convenors as soon as possible. By class time in Week 3 (18 August 2014), each student will be informed whether his/her proposed topic is approved so that he/she can start to conduct research and prepare a verbal presentation to be made in Class on 15 September 2014.

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

Marks on the Presentation will be released via Gradebook on iLearn in Week 8. As Monday in Week 8 is a public holiday, verbal feedback will be given in class in Week 9 (13 October 2014) to each student regarding his/her performance in the Presentation.

**No extensions of time will be granted** in relation to the making of the presentation. Students who have not made the presentation in class on 15 September 2014 will be awarded a **mark of 0 (ZERO)** for the presentation, except for cases in which an application for special consideration is made and approved.

On successful completion you will be able to:

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

of Chinese commercial law.

## Assignment

Due: **13 November 2014 (4:00 p.m.)**

Weighting: **50%**

Groupwork/Individual:

Short extension <sup>3</sup>: No

AI assisted?:

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

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

The Assignment is research based.

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

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

Students must hand in the Assignment before 4:00 p.m. on 13 November 2014 to: Business and Economics Graduate Centre (BEGC) E4A Level 2.

In view of the time given to students to complete the Assignment, **no extensions of time will be granted** for submission of the Assignment. Students who have not submitted the Assignment prior to the deadline will be awarded a **mark of 0 (ZERO)** for the Assignment, except for cases in which an application for special consideration is made and approved.

On successful completion you will be able to:

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

## Delivery and Resources

### Classes

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

The timetable for classes can be found on the University web site.

Attendance at the seminar is required and a roll will be taken each week. Students are advised to prepare in advance for the seminar. The week-by-week list of the topics to be covered is set

out below. All material inclusive of lecture notes, work to be undertaken in class (reflective activities and discussion forum), videos, reports, newspaper reports will be posted on iLearn.

## **Required and Recommended Texts and/or Materials**

### Required Texts and Materials

- Textbook 2008: Patricia Blazey and Kay-Wah Chan (ed), The Chinese Commercial Legal System (Sydney, Thomson Lawbook, 2008). It can be purchased from the Macquarie University Co-op Bookshop.
- Textbook 2012: Patricia Blazey and Kay-Wah Chan, Commercial Law of the People's Republic of China (Sydney, Thomson Lawbook, 2012). It can be purchased from the Macquarie University Coop Bookshop.
- Materials that students are required to bring to classes (as specified in the Seminar Instructions on the iLearn site). These materials are available on the Internet or through database(s) subscribed by the Macquarie University Library (details to be specified in the Seminar Instructions on the iLearn site).

### Recommended Texts and/or Materials

Recommended (not mandatory) readings as described in the Seminar Instructions (on the iLearn site).

## **Technology Used and Required**

Access to the Internet is required.

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

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

## **Unit Web Page**

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

## **Teaching and Learning Strategy**

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

## Unit Schedule

Week	Topic(s)	Readings
<b>Week 1 Seminar 1</b> (4 Aug 2014) - (PB)	Introduction  The Shanghai Story  The importance of guanxi  Business Culture	Textbook 2012 Chapter 1  & lecture notes
<b>Week 2 Seminar 2</b> (11 August 2014) - (KWC)	The Constitution  Governmental System  Legal System	Textbook 2008 Chapter 4, Textbook 2012 Chapters 3, 4 and 5,  & lecture notes
<b>Week 3 Seminar 3</b> (18 August 2014)- (PB)	The Importance of China's Five Year Plans and the impact of China's GDP on China and globally  Civil Procedure Law and Court System of the PRC	Chapter 2 Textbook 2012  & lecture notes
<b>Week 4 Seminar 4</b> (25 August 2014) - (KWC)	Foreign Investment Law I	Textbook 2012 Chapters 18 and 19  & lecture notes
<b>Week 5 Seminar 5</b>  Seminar 1 (1 September 2014) – (PB)	Civil Law, Contract Law and Agency Law	Textbook 2012 Chapters 6 and 7  & lecture notes
<b>Week 6 Seminar 6</b> (8 September 2014) - (PB)	Property Law  Land Law  Intellectual Property Law  Construction Law	Textbook 2012 Chapters 8 and 9  & lecture notes
<b>Week 7 Seminar 7</b> (15 September 2014) – (PB & KWC)	Students' Presentation	

MID TERM BREAK		
Week 8 (6 October 2014) -	PUBLIC HOLIDAY – NO CLASS	
Week 9 Seminar 8 (13 October 2014) – (KWC)	Foreign Investment Law II	Textbook 2012 Chapters 20 and 21 & lecture notes
Week 10 Seminar 9 (20 October 2014) - (PB)	Energy Law – clean energy, renewable energy  Environmental Law framework  Air Pollution, Water Pollution Land Degradation	Textbook 2012 Chapters 22, 23, 24, 25 and 26  & lecture notes
Week 11 Seminar 10 (27 October 2014) - (KWC)	Company Law	Textbook 2012 Chapters 12 and 13 & lecture notes
Week 12 Seminar 11 (3 November 2014) - (KWC)	Labour Law I	Textbook 2008 Chapter 13 Textbook 2012 Chapter 11 & lecture notes
Week 13 Seminar 12 (10 November 2014) -  (PB & KWC)	Climate Change  Labour Law II	Textbook 2012 Chapters 22, 24, 25 and 26 & lecture notes  Textbook 2008 Chapter 13 Textbook 2012 Chapter 11 & lecture notes

## Policies and Procedures

Macquarie University policies and procedures are accessible from [Policy Central](#). Students should be aware of the following policies in particular with regard to Learning and Teaching:

Academic Honesty Policy [http://mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://mq.edu.au/policy/docs/academic_honesty/policy.html)

Assessment Policy <http://mq.edu.au/policy/docs/assessment/policy.html>

Grading Policy <http://mq.edu.au/policy/docs/grading/policy.html>

Grade Appeal Policy <http://mq.edu.au/policy/docs/gradeappeal/policy.html>

Grievance Management Policy [http://mq.edu.au/policy/docs/grievance\\_management/policy.html](http://mq.edu.au/policy/docs/grievance_management/policy.html)

Disruption to Studies Policy [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html) *The Disruption to Studies Policy is effective from March 3 2014 and replaces the Special Consideration Policy.*

In addition, a number of other policies can be found in the [Learning and Teaching Category](#) of Policy Central.

## **Student Code of Conduct**

Macquarie University students have a responsibility to be familiar with the Student Code of Conduct: [https://students.mq.edu.au/support/student\\_conduct/](https://students.mq.edu.au/support/student_conduct/)

## **Academic Honesty**

The nature of scholarly endeavour, dependent as it is on the work of others, binds all members of the University community to abide by the principles of academic honesty. Its fundamental principle is that all staff and students act with integrity in the creation, development, application and use of ideas and information. This means that:

- all academic work claimed as original is the work of the author making the claim
- all academic collaborations are acknowledged
- academic work is not falsified in any way
- when the ideas of others are used, these ideas are acknowledged appropriately.

Further information on the academic honesty can be found in the Macquarie University Academic Honesty Policy at: [http://www.mq.edu.au/policy/docs/academic\\_honesty/policy.html](http://www.mq.edu.au/policy/docs/academic_honesty/policy.html).

## **Grades**

Macquarie University uses the following grades in coursework units of study:

- HD - High Distinction
- D - Distinction
- CR - Credit
- P - Pass
- F - Fail

Grade descriptors and other information concerning grading are contained in the Macquarie University Grading Policy which is available at: <http://www.mq.edu.au/policy/docs/grading/>

policy.html.

All final grades in the Department of Accounting and Corporate Governance are determined by a grading committee and are not the sole responsibility of the Unit Coordinator.

Students will be awarded one of these grades plus a Standardised Numerical Grade (SNG). The SNG is not necessarily a summation of the individual assessment components.

The final grade and SNG that are awarded reflect the corresponding grade descriptor in the Grading Policy.

In addition, there is a requirement to pass the Assignment to be awarded a final grade of a Pass or a higher grade.

## **Grading Appeals**

If, at the conclusion of the unit, you have performed below expectations, and are considering lodging an appeal of grade and/or viewing your final exam script please refer to the following website which provides information about these processes and the cut off dates in the first instance. Please read the instructions provided concerning what constitutes a valid grounds for appeal before appealing your grade.

[http://www.businessandeconomics.mq.edu.au/new\\_and\\_current\\_students/undergraduate\\_current\\_students/how\\_do\\_i/grade\\_appeals/](http://www.businessandeconomics.mq.edu.au/new_and_current_students/undergraduate_current_students/how_do_i/grade_appeals/).

## **Disruption to Studies Policy**

The University is committed to equity and fairness in all aspects of its learning and teaching. It recognises that students may experience disruptions that adversely affect their academic performance in assessment activities. A Disruption to Studies Policy exists to support students who experience serious and unavoidable disruption. The policy is available at: [http://www.mq.edu.au/policy/docs/disruption\\_studies/policy.html](http://www.mq.edu.au/policy/docs/disruption_studies/policy.html).

## **Student Support**

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

## **Learning Skills**

Learning Skills ([mq.edu.au/learningskills](http://mq.edu.au/learningskills)) provides academic writing resources and study strategies to improve your marks and take control of your study.

- [Workshops](#)
- [StudyWise](#)

- [Academic Integrity Module for Students](#)
- [Ask a Learning Adviser](#)

## Student Services and Support

Students with a disability are encouraged to contact the [Disability Service](#) who can provide appropriate help with any issues that arise during their studies.

## Student Enquiries

For all student enquiries, visit Student Connect at [ask.mq.edu.au](http://ask.mq.edu.au)

## IT Help

For help with University computer systems and technology, visit <http://informatics.mq.edu.au/help/>.

When using the University's IT, you must adhere to the [Acceptable Use Policy](#). The policy applies to all who connect to the MQ network including students.

Access to all student computing facilities within the Faculty of Business and Economics is restricted to authorised coursework for approved units. Student ID cards must be displayed in the locations provided at all times.

Students are expected to act responsibly when using University IT facilities. The following regulations apply to the use of computing facilities and online services:

- Accessing inappropriate web sites or downloading inappropriate material is not permitted.
- Material that is not related to coursework for approved units is deemed inappropriate.
- Downloading copyright material without permission from the copyright owner is illegal, and strictly prohibited. Students detected undertaking such activities will face disciplinary action, which may result in criminal proceedings.

Non-compliance with these conditions may result in disciplinary action without further notice.

Students must use their Macquarie University email addresses to communicate with staff as it is University policy that the University issued email account is used for official University communication.

Consultation is not available via email or through telephone.

## Graduate Capabilities

### PG - Discipline Knowledge and Skills

Our postgraduates will be able to demonstrate a significantly enhanced depth and breadth of knowledge, scholarly understanding, and specific subject content knowledge in their chosen

fields.

This graduate capability is supported by:

### **Learning outcomes**

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

### **Assessment tasks**

- Class Participation
- Presentation
- Assignment

## **PG - Critical, Analytical and Integrative Thinking**

Our postgraduates will be capable of utilising and reflecting on prior knowledge and experience, of applying higher level critical thinking skills, and of integrating and synthesising learning and knowledge from a range of sources and environments. A characteristic of this form of thinking is the generation of new, professionally oriented knowledge through personal or group-based critique of practice and theory.

This graduate capability is supported by:

### **Learning outcomes**

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

### **Assessment tasks**

- Presentation
- Assignment

## **PG - Research and Problem Solving Capability**

Our postgraduates will be capable of systematic enquiry; able to use research skills to create new knowledge that can be applied to real world issues, or contribute to a field of study or practice to enhance society. They will be capable of creative questioning, problem finding and problem solving.

This graduate capability is supported by:

### **Learning outcomes**

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

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

## Assessment tasks

- Class Participation
- Presentation
- Assignment

## Changes from Previous Offering

Changes since the last offering of this Unit (S2, 2013) are: 1. The order in which the topics are taught has been adjusted. 2. There are adjustments of the weekly topics as follows: - "History of Legal System" has been replaced by "The Shanghai Story" (which is the set of weekly class activities). - "Guanxi" is replaced by "The Importance of Guanxi" and "Business Culture". - "China's Five Year Plans" is replaced by "The Importance of China's Five Year Plans and the Impact of China's GDP on China and Globally". - "Civil Procedure Law and Court System of the PRC" is added ("Court System" was covered under "Legal System" in the S2, 2013 offering). - "Construction Law" is to be taught in the same week as "Property Law". "Land Law" is added to the same week. - "Energy Law - fossil fuel, nuclear and renewable" is replaced by "Energy Law - clean energy, renewable energy". - "Climate Change Law and emission trading" is changed to "Climate Change". - "Environmental Law" becomes "Environmental Law Framework". - "Air Pollution, Water Pollution Land Degradation" is added. - "Labour Law" becomes "Labour Law I" and "Labour Law II". - "Foreign Investment Law" becomes "Foreign Investment Law I" and "Foreign Investment II".

## Research and Practice

1. This unit uses research by Macquarie University researchers:

- 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.