



BUSL388

China Trade and Investment Law

S2 Day 2019

Dept of Accounting & Corporate Governance

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Disclaimer

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General Information

Unit convenor and teaching staff

Unit Convenor

Kay-Wah Chan

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Contact via kay.chan@mq.edu.au

E4A 241

See iLearn site of the Unit.

Moderator

Hope Ashiabor

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 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.

General Assessment Information

Class Participation

Due: **Ongoing**

Weighting: **20%**

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

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 are provided on the iLearn site of the unit).

Feedback will be provided to students in Week 8 via Gradebook on the iLearn site of this Unit with an indication of the students' performance on Class Participation from Week 2 to Week 7.

Estimated Student Workload (outside class time):

On average, 3.5 hours per week from Week 1 to Week 13.

Class Test

Due: **(Unless other wise announced on iLearn) 10 September 2019.**

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 and marking rubric are provided on the iLearn site of the unit).

It is an Open Book test. It is a test with short-answer questions. Information about the Class Test (including materials allowed to be brought to the Class Test and the syllabus of the Class Test) will be announced in the Lecture in Week 4 (20 August 2019).

The Class Test is a 45-minute test. It will be held in Week 7 (unless otherwise announced on iLearn, during the time for the Lecture on 10 September 2019 Tuesday).

Unless otherwise announced on the iLearn site of this unit, students are expected to present for the Class Test at 8:30 a.m. on 10 September 2019 at the venue for the BUSL388 lecture. The only exception to not sitting the Class Test at the designated time is because of documented illness or unavoidable disruption. In these circumstances, students may wish to consider applying for Special Consideration under the University's Special consideration Policy, which is available at: <https://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policies/special-consideration>. If a Supplementary Test is granted, the Supplementary Test will be scheduled by the Unit Convenor.

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

Because the University's policy stipulates that "all assessments worth 20% or more must be archived", the marked Class Test papers will now be kept by the University. If students want to view the test papers, please make arrangement with the administrative staff of the Department of Accounting and Corporate Governance.

Estimated Student Workload (outside class time):

On average, 5 hours per week from Week 1 to the date of the Class Test in Week 7.

Assignment

Due: **6 November 2019 (4:00 p.m.)**

Weighting: **60%**

The Assignment is research based. Students will not be able to rely simply on the required and/or recommended reading materials for classes. Students 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.

The Assignment Instructions (containing the question(s) and/or topic(s)) will be posted on iLearn in Week 6.

Criteria upon which the Assignment is assessed are: the contents, structure, presentation, and (if required) referencing (footnoting and bibliography) of the Assignment 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 of the assessment criteria and marking rubric are provided on the iLearn site of the Unit).

Students must before 4:00 p.m. on 6 November 2019 hand in BOTH an electronic version of the Assignment via TURNITIN on the iLearn site of this unit and a hard copy of the Assignment to BESS (Business and Economics Student Services).

For both BESS and TURNITIN: The first submission is final. Do NOT submit to BESS more

than once. Do NOT submit via TURNITIN more than once. It is the student's responsibility to ensure that work is submitted correctly prior to the due date.

No hard copies of assessments will be accepted alone and only Turnitin records will be taken as records of submission. Multiple submissions via Turnitin are NOT POSSIBLE in this unit. Originality reports are NOT made available to students to view and check their work. Please refer to these instructions on how to submit your assignment through Turnitin. 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 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.

Because the University's policy stipulates that "all assessments worth 20% or more must be archived" and the Assignment is the last assessment task, all the Assignments will be retained by the University. For viewing of the marked Assignments after the University has released the final results, please make arrangement with the administrative staff of the Department of Accounting and Corporate Governance. Feedback is provided on each of the marked Assignments.

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 60 marks, a student is 23 hours late in submission and (before penalty) this student's mark is 40, the penalty will be a deduction of 6 marks (60 marks x 10% = 6 marks) (i.e. this student will obtain 34 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 (outside class time):

On average, 6.5-7 hours per week from Week 6 to 6 November 2019.

Assessment Tasks

Name	Weighting	Hurdle	Due
Class Participation	20%	No	Ongoing
Class Test	20%	No	Week 7 (10 September 2019)

Name	Weighting	Hurdle	Due
Assignment	60%	No	6 November 2019

Class Participation

Due: **Ongoing**

Weighting: **20%**

Class Participation

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 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 (10 September 2019)**

Weighting: **20%**

In-Class Test.

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 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.

Assignment

Due: **6 November 2019**

Weighting: **60%**

Assignment

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: <https://timetables.mq.edu.au/2019/>.

There will be Echo recording of the lectures. There may be video-screening and/or class activities in the Lectures, which will not be recorded in the Echo lecture recording. Echo recording may also be stopped for copyright reason.

Weekly attendance of tutorial classes is required (assessment includes class activities and discussions).

Details on the content of tutorial classes can be found on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/index.php>).

Required and Recommended Texts and/or Materials

Required Text:

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/index.php>). 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/index.php>).

Recommended Materials:

- Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008).
- Recommended (not mandatory) readings (if any) as described in the Class Activity Instructions (available on this Unit's iLearn site).

Technology Used and Required

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

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

Unit Web Page

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

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 in this Unit Guide. Detailed tutorial instructions are available on this Unit's iLearn site (<https://ilearn.mq.edu.au/login/index.php>).

Unit Schedule

LECTURES

Week	Lecture Topics (unless otherwise announced on the iLearn site of this unit)	Prescribed Readings (unless otherwise announced on the iLearn site of this unit)
Week 1	Introduction and Course Overview Understanding China Doing Business in China	1. Textbook Chapter 1 2. Lecture Notes
Week 2	The Constitution and Governmental System	1. Textbook Chapter 3 2. Lecture Notes
Week 3	The Legal System	1. Textbook Chapters 4 and 5 2. Lecture Notes
Week 4	Five Year Plans	1. Textbook Chapter 2 2. Lecture Notes
Week 5	Company Law	1. Textbook Chapters 12 & 13 2. Lecture Notes

Week 6	Labour Law I	<ol style="list-style-type: none"> 1. Textbook Chapter 11 2. Lecture Notes
Week 7	Class Test	
MID-TERM BREAK		
Week 8	Labour Law II	<ol style="list-style-type: none"> 1. Textbook Chapter 11 2. Lecture Notes
Week 9	Contract Law Agency Law	<ol style="list-style-type: none"> 1. Textbook Chapters 6 & 7 2. Lecture Notes
Week 10	Foreign Investment Law I	<ol style="list-style-type: none"> 1. Textbook Chapters 18 & 19 2. Lecture Notes
Week 11	Foreign Investment Law II	<ol style="list-style-type: none"> 1. Textbook Chapters 20 & 21 2. Lecture Notes
Week 12	China-Australia Free Trade Agreement	<ol style="list-style-type: none"> 1. Lecture Notes
Week 13	Energy Law, Environmental Law, Air Pollution, Water Pollution, Waste Management	<ol style="list-style-type: none"> 1. Textbook Chapters 23-26 2. Lecture Notes

TUTORIALS

Week	Tutorial Topics (unless otherwise announced on the iLearn site of this unit)	Prescribed Readings (unless otherwise announced on the iLearn site of this unit)
Week 1	No tutorial class this week.	
Week 2	Understanding China Doing Business in China	<ol style="list-style-type: none"> 1. Textbook Chapter 1 2. Lecture Notes
Week 3	The Constitution and Governmental System	<ol style="list-style-type: none"> 1. Textbook Chapter 3 2. Lecture Notes
Week 4	The Legal System	<ol style="list-style-type: none"> 1. Textbook Chapters 4 and 5 2. Lecture Notes

Week 5	Five Year Plans	<ol style="list-style-type: none"> 1. Textbook Chapter 2 2. Lecture Notes
Week 6	Company Law	<ol style="list-style-type: none"> 1. Textbook Chapters 12 & 13 2. Lecture Notes
Week 7	Essay Writing Workshop	
MID-TERM BREAK		
Week 8	Labour Law I	<ol style="list-style-type: none"> 1. Textbook Chapter 11 2. Lecture Notes
Week 9	Labour Law II	<ol style="list-style-type: none"> 1. Textbook Chapter 11 2. Lecture Notes
Week 10	Contract Law Agency Law	<ol style="list-style-type: none"> 1. Textbook Chapters 6 & 7 2. Lecture Notes
Week 11	Foreign Investment Law I	<ol style="list-style-type: none"> 1. Textbook Chapters 18 & 19 2. Lecture Notes
Week 12	Foreign Investment Law II	<ol style="list-style-type: none"> 1. Textbook Chapters 20 & 21 2. Lecture Notes
Week 13	China-Australia Free Trade Agreement	<ol style="list-style-type: none"> 1. 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](http://staff.mq.edu.au/work/strategy-planning-and-governance/university-policies-and-procedures/policy-central) (<http://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 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 or if you are a Global MBA student contact globalmba.support@mq.edu.au

Grades

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

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

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.

The final grade that is awarded reflect the corresponding grade descriptor in the Grading Policy.

There is no hurdle assessment task in this unit.

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

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

If you are a Global MBA student contact globalmba.support@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.

Access to all student computing facilities within the Macquarie Business School 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 telephone.

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 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
- 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 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
- 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 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
- 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 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
- Assignment

Changes from Previous Offering

As compared with the offering in 2018, the main change(s) are:

1. "The importance of guanxi as it operates in Commercial Law" has been removed/deleted from the learning outcome "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".
2. The order/sequence of the topics to be covered has been adjusted.
3. The topic "Understanding China" has been added.
4. The topic "China-Australia Free Trade Agreement" has replaced "Australia China Trade Agreement".
5. The following topics have been removed/deleted: "Guanxi", "Chinese Culture", "Property Law", "Land Law" and "Civil Procedure Law".
6. An Essay Writing Workshop will be held in a tutorial.

Research and Practice, Global and Sustainability

Research and Practice

1. This unit uses research by Macquarie University researchers:

- Kay-Wah Chan, "The Global Financial Crisis and Labor Law in China" (2012) *The Chinese Economy* 45(3): 24-41.
- 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.

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.