ACCG952

INTERNATIONAL TRADE AND GOVERNANCE

Session 1, 2012

Department

Accounting and Corporate Governance

Year and Session: 2012, 1

Unit convenor: Professor Peter Gillies

[Prerequisites / Corequisites:] nil
Students in this unit should read this unit guide carefully at the start of session. It contains important information about the unit. If anything in it is unclear, please consult one of the teaching staff in the unit.

ABOUT THIS UNIT

The unit examines topics in international trade law and governance. It considers both public and private international trade law. Public international trade law deals with the global trading regimes such as the World Trade Organisation in conjunction with the General Agreement on Tariffs and Trade (WTO-GATT), which regime governs trade between nations. Private international trade law deals with the rules governing private party transactions, such as the content of an international contract for the sale of goods, or the methods available for paying for the international delivery of goods, or the rules governing transport of these goods.

Familiarity with these private and public international law and governance regimes will be of assistance to people in government and business whose agencies and enterprises are concerned with the regulation of or participation in international trade in services and goods and the protection of intellectual property within and beyond national borders.

TEACHING STAFF

• Convenor: Prof Peter Gillies E4A 324 9850 8460 peter.gillies@mq.edu.au

CONTACTING STAFF

• Consultation time: Monday 3-4pm E4A324 or by appointment.

You are encouraged to seek help at a time that is convenient to you from a staff member teaching on this unit during their regular consultation hours. In special circumstances, an appointment may be made outside regular consultation hours. You may consult by email. You may phone staff during their consultation hours.

In order to gain access to staff located at levels 1, 2 and 3 of building E4A during their consultation hours please ring the staff member from the phones available in the lobby (phone numbers of relevant staff members will be provided on Blackboard and are available next to the phones).

Students experiencing significant difficulties with any topic in the unit must seek assistance immediately.
CLASSES

- There will be a weekly face-to-face class on Monday 12-3pm, in E7B200 Theatrette
- The timetable for classes can be found on the University web site at: http://www.timetables.mq.edu.au/

Students are required to attend 70% of the classes.

PRIZES

- Not applicable

REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

Recommended textbooks:

(NB: not every textbook deals with all topics but on balance the Burnett and Bath text is the primary recommendation and will be available in the Coop Bookshop)


(abbrev BB)

OR


(abbrev MG)

OR


(abbrev M)

iLearning: some materials will be uploaded to iLearning.

Recommended References

(Later editions of some of these books may be available)


De Cruz, P, *Comparative Law in a Changing World*, Cavendish, 1999


**THOMSON**
Harris, *Cases and Materials on International Law*, 7ed 2008
Qureshi and Zeigler, *International Economic Law*, 2 ed 2007  (Sweet and Maxwell)
Schmitthoff’s *Export Trade*. 11 ed (Sweet and Maxwell)

**MARTINUS NIJHOFF**
Stoll, P, Schorkopf, F *WTO – World Economic Order*, World Trade Law, 2005
Wolfrum, R, ed, *WTO-Trade Remedies* 2008

**HART PUBLISHING**
Joerges, C and Petersmann, E, *Constitutionalism, Multilevel Trade Governance and Social Regulation*, 2006

**CAMBRIDGE UP**
Jackson, J *Sovereignty, the WTO and Changing Fundamentals of International Law*, 2006

**EDWARD ELGER PUBLISHING**

**ROUTLEDGE-CAVENDISH**

**Relevant Websites**
American Society for International Law – guide to internet resources
www.asil.org/resource

APEC – materials
www.apec.org.au

ASIL guide to Electronic Resources for International Law
http://www.asil.org/resource/pill.html

Australia – Australian material
www.dfat.gov.au

Australian Law Reform Commission 1996 Legal Risk in International Transactions

Update to Guide to International Trade Law Resources on the Internet
http://www.1lrx.com/features/trade2.htm

EU – material
www.europa.eu.net

Eye on International Business Law
http://www.laweye.de/

Georgetown University’s Institute of International Economic Law – on WTO
www.law.georgetown.edu/iiel/

GlobalEdge (Michigan State University) – trade links
http://globaledge.msu.edu

New York University – WTO/GATT links
www.law.nyu.edu/library/wto_gatt.html

OECD – materials
http://www.oecd.org

Pace University – International Trade Law and the CISG
http://cisg.law.pace.edu

International Trade Forum, Click on “Trade Law for Business”
http://www.tradeforum.org

International trade strategies – commentaries
www.tradestrategies.com.au

Juris International (Includes text of conventions, more than 160 model contracts, WTO Agreements etc)
http://www.jurisint.org
Lex Mercatoria – conventions, rules, links
www.lexmercatoria.org

NAFTA – materials
www.nafta-sec.alena.org

Transnational Law Database – bibliography, lex mercatoria
www.tldb.de

TMC Asser Institute – extensive coverage of international law topics
www.asser.nl

UNCITRAL – UNICITRAL materials
www.uncitral.org

UNIDROIT – private international law topics
www.unidroit.org

University of Chicago – links to topics
www.lib.uchicago.edu/llou/forintlaw.html

University of Kent – links
http://library.kent.ac.uk/library/lawlinks/

University of Western Australia – links
www.law.ecel.uwa.edu.au/intlaw/international_trade_law.htm

US Trade Rep – US trade policy, cases
www.ustr.gov/index.html

World Trade Law – international trade law links
www.worldtradelaw.net  NB  SUBSCRIPTION SERVICE AVAILABLE THROUGH LIBRARY LAW DATABASES

Worldlii – WTO material
www.worldlii.org

World Trade Organisation – WTO materials
www.wto.org

The online law databases available through the university homepage are very useful. These include:

Case Base facilitates searches for Australian legal materials, and provides links to these. (If a case is not available through one of the commercial reports try the parallel BC….. link.)

Hein Online is for searching journal articles.
**LexisNexis AU** is for searching local primary (cases, legislation) and secondary (articles) materials.

**LexisNexis** affords a facility for searching for primary and secondary materials from a number of jurisdictions. Although it focuses on US materials it is also a good source for materials from other jurisdictions.

**Westlaw international** also provides a trans-jurisdictional search facility for primary and secondary materials.

Some tips for using these databases – click the Natural Language option; key in fewer rather than more words, so as to provide a wider net for searches (for example, take one distinctive word in the title of a case, if the full title does not get a hit); use AND or & in order to narrow a search (for example, waiver & arbitration will ensure that documents retrieved contain both words).

**Worldtradelaw.net** – World Trade Organisation dispute resolution materials.

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**TECHNOLOGY USED AND REQUIRED**

- Internet access:
- Office applications including Word processing software

**UNIT WEB PAGE**

- Course material is available on the learning management system (iLearn) [https://ilearn.mq.edu.au/login/MQ/](https://ilearn.mq.edu.au/login/MQ/)

**LEARNING OUTCOMES**

This unit aims to develop an appreciation of the nature and role of international trade law and governance, an understanding of its legal framework, and the instruments and institutions that underpin its operations. It aims to develop an understanding of the interpretation of the international instruments and the domestic laws that adopt these, and of the interrelationship between international and domestic law. Students should be aware of legal problems arising from international trade and the principles relevant to their resolution and the dispute resolution mechanisms that are available to their resolution. Students should develop an understanding of strategies that can be taken by international traders to minimise the possibility of conflict arising. More generally the unit will conduce to an understanding of the competing policies and interests underlying the world trade system and its continuing evolution.

The learning outcomes of this unit may be summarised as follows:

1. Understanding of role, nature and legal framework of international trade and
governance and attendant policy issues

2. Skill at interpretation of relevant instruments

3. Understanding of legal problems arising in international trade and their resolution, by focusing on a hypothetical case

4. Critical, analytical and integrative thinking

5. Effective Communication skills

6. Problem solving and research capacity

**GRADUATE CAPABILITIES**

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop the capabilities the University's graduates will need to develop to address the challenges, and to be effective, engaged participants in their world.

This unit contributes to this by developing the following graduate capabilities:

1. Discipline Specific Knowledge and Skills*
2. Critical, Analytical and Integrative Thinking
3. Problem Solving and Research Capability
4. Creative and Innovative

**LEARNING AND TEACHING ACTIVITIES**

The class time will be spent reviewing and discussing the materials identified for reading, in light of unit objectives. Classes will take the form of interactive seminars. Students are encouraged to read ahead of class.

**SCHEDULE OF TOPICS**

1 **INTRODUCTION**

Concept of international law (including international trade law). Is international law really state law? Adoption of international rules models into state law. Scope of international trade law. Distinction between soft and hard rules regimes. UNIDROIT Principles of International Commercial Contracts, and the *lex mercatoria*.

**BB Introduction, MG Chap 2, M Chap 1**

2, 3 **THE WORLD TRADE ORGANISATION**

Examines World Trade Organisation (WTO) and the General Agreement on Tariffs and Trade (GATT), a regime known collectively as WTO-GATT.

**BB p261-, MG Chap 7**
4, 5  INTERNATIONAL COMMERCIAL CONTRACTS; INCOTERMS

4  International Commercial Contracts

UN Convention on Contracts for the International Sale of Goods ("CISG", also known as the Vienna Convention).

BB Chap 1, MG Chap 1, M Chaps 2

5  Incoterms 2010 – Interpretation of Trade Terms

Reviews the current edition of the International Chamber of Commerce’s Incoterms – the International Rules for the Interpretation of Trade Terms.

The texts deal with Incoterms 2000 – materials on Incoterms 2010 will be found in iLearning.

6  INTERNATIONAL CARRIAGE OF GOODS BY SEA

Reviews the regimes (such as The Hague Rules and the Hamburg Rules) governing the international transport of goods by sea.

BB Chap 2, MG Chap 4, M Chap 3

7  INTERNATIONAL CARRIAGE OF GOODS BY AIR AND LAND

Reviews the international transportation of goods by air (Warsaw Convention, Guadalajara Convention, Montreal Convention), rail and road.

BB Chap 2, MG Chap 5

8  FINANCING EXPORTS – LETTERS OF CREDIT AND OTHER FORMS OF PAYMENT

Reviews the financing of exports, focusing on letters of credit and UCP600 (current version of the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits).

BB Chap 3, MG Chap 6, M Chap 4

9,10  ANTI-DUMPING AND COUNTERVAILING MEASURES REGIMES
Examines the anti-dumping regime (pivoting on Art VI of GATT, in conjunction with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade) and the parallel subsidies and countervailing measures regime (Agreement on Subsidies and Countervailing Measures).

**BB Chap 4, MG Chap 8, M Chap 6**

### INTERNATIONAL COMMERCIAL DISPUTE RESOLUTION

Overviews litigation and arbitration as mechanisms for resolving international commercial disputes.

**BB Chap 7, MG Chap 10, M Chap 13**

### TRADE IN INTELLECTUAL PROPERTY


**BB p345-, MG Chap 9, M Chap 8,**

### REVISION LECTURE

**RESEARCH AND PRACTICE**

In addition to the course materials, students are encouraged to consult different sources and search for external reading materials. This will enhance their understanding of the unit concepts and support their learning process. All assessment tasks require students to support assertions, where students must include quality scholarly material to support their assignments. Access scholarly material via the databases web page within the university’s library webpage.

### RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OUTCOMES

The default assessment scheme is set out below.

Students may propose an alternative individual assessment scheme for approval – please consult the lecturer. This option will be discussed in the first class.

<table>
<thead>
<tr>
<th>Title/Name</th>
<th>Assessment Task 1</th>
<th>Assessment Task 2</th>
<th>Assessment Task 3</th>
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<tbody>
<tr>
<td><strong>Description (including length or similar if)</strong></td>
<td>Class participation/presentation</td>
<td>Problem-solving assignment</td>
<td>Critically reflective essay</td>
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| Participation in class discussion; and an opportunity will be given | 2500-3000 words | Task will involve | 2500-3000 words | Task will involve an
<table>
<thead>
<tr>
<th>Assessment Task 1</th>
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<td><strong>applicable)</strong></td>
<td>for making a short presentation (5-10 minutes) (optional)</td>
<td>consideration of a hypothetical case and the determination of key factual issues and the application of relevant law so as to assess the right and liabilities of parties.</td>
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<tr>
<td>Due date</td>
<td>5pm Monday 23 April</td>
<td>5pm Monday 18 June</td>
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<td>47.5</td>
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<tr>
<td>Grading method</td>
<td>Students' participation in class will be assessed by reference to the quality of contribution. This element of assessment is aimed at encouraging comprehensive reading and reflection upon the unit content and the testing of issues through discussion. Students may choose to give a class presentation.</td>
<td>See under Grades, below</td>
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<td>Use footnotes to indicate sources, and include a bibliography. The use of headings and subheadings as appropriate is recommended as this will assist organisation of the analysis.</td>
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<td>Submission method</td>
<td>BESS E4A106 Please also send a copy to <a href="mailto:peter.gillies@mq.edu.au">peter.gillies@mq.edu.au</a></td>
<td>BESS E4A106 Please also send a copy to <a href="mailto:peter.gillies@mq.edu.au">peter.gillies@mq.edu.au</a></td>
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<tr>
<td>Feedback (type, method, date)</td>
<td>After class participation</td>
<td>Essays will be returned to students within two weeks of submission with comments.</td>
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<td>Estimated student workload (hours)</td>
<td>Participation N/A. Presentation 4 hours</td>
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<td>Learning outcomes assessed</td>
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<td>Graduate capabilities assessed</td>
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Essay topics will be uploaded to iLearning.

Please send a copy of essays to peter.gillies@mq.edu.au as well as submitting them at BESS (above).
Requests for extensions of time for the submission of essays will need to be justified, for example by appropriate medical grounds.

Students must attend 70% of classes.

There is no examination in this unit.

**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](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 – if applicable - there is a requirement to pass the final examination to be awarded a final grade of a Pass or a higher grade.

**Grading Appeals and Final Examination Script Viewing**

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

**Special Consideration**

The University is committed to equity and fairness in all aspects of its learning and teaching. In stating this commitment, the University recognises that there may be circumstances where a student is prevented by unavoidable disruption from performing in accordance with their ability. A special consideration policy exists to support students who experience serious and unavoidable disruption such that they do not reach their usual demonstrated performance level. The policy is available at:

http://www.mq.edu.au/policy/docs/special_consideration/policy.html

**Student Support Services**

Macquarie University provides a range of Academic Support Services. Details of these and other services for students can be accessed at http://www.student.mq.edu.au.

**IT Conditions of Use**

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.