



DEPARTMENT OF BUSINESS LAW

STUDY GUIDE

Semester 2 2010

BUSL848

**INTERNATIONAL COMMERCIAL
ARBITRATION**

Credit points: 4

Unit Convenor: Mr Benedict Connors

Prerequisites/Corequisites: Nil

Students in this unit should read this study guide carefully at the start of semester. It contains important information about the unit. If anything in it is unclear, please consult the convenor.

The full version of the study guide will be available to students once enrolled.

1. ABOUT THIS UNIT

The unit examines topics in international commercial arbitration including the nature of mediation and arbitration, the advantages and disadvantages of international commercial arbitration, the role of the arbitration agreement and the significance of the arbitration award, arbitral procedures, the role of the arbitrator, enforcement of awards; and the legal and institutional framework including the role of national law and courts, the UNCITRAL Model Law on International Commercial Arbitration, the UN Convention on the Recognition and Enforcement of International Arbitral Awards, the London Court of International Commercial Arbitration, and the International Chamber of Commerce.

Commercial arbitration is one of the growth areas of legal practice and a widely used dispute resolution method in domestic and international business.

2. TEACHING STAFF

Convenor: Benedict Connors
Phone: 9850 4883
Email: Ben.Connors@mq.edu.au
Room: W3A 416

3. CLASSES AND STUDY TIMES

Classes will be held weekly during the semester.

The class time will be spent reviewing and discussing the materials identified for reading, within light of unit objectives.

Some fictional case-based problems may be considered, on the basis that the law is better understood in its application to factual situations. The review of the case decisions will reinforce this approach. Other materials in addition to the text may also be used.

The course is offered to internal and external students. External students will have weekend intensive classes, and internal students have weekly classes.

The weekend classes will run from 10.00am to 5.00 pm, on the stipulated days. The weekly classes will be 3 hour seminars consisting of a 2 hour lecture and 1 hour tutorial.

Weekly class: Tuesday 6.00 pm – 9.00 pm, W6B 315.

External students' classes: Saturday, 7 August; 10.00 am – 5.00 pm, E5A 119 and
Saturday, 28 August; 10.00am – 5.00 pm in E5A 119.

Attendance at classes is mandatory, see Assessment Section for more details. Students must check the Blackboard site for the unit weekly as class times, dates and locations may change. Students particularly enrolled externally should check before the weekend classes the location of the room.

4. REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

Margaret L Moses, *The Principles and Practice of International Commercial Arbitration*, Cambridge University Press, 2008.

BUSL848 – Reading Materials 2009 Readings. These will be available via CD and posted to external students and handed out in class to internal student

5. UNIT WEB PAGE

Study guides and information on this unit can be found at:
http://www.buslaw.mq.edu.au/postgraduate_programs/PG_units. Please follow the Blackboard sign-in for the unit.

6. LEARNING OBJECTIVES

The unit aims to develop an appreciation of the nature and role of arbitration in international commercial dispute resolution, an understanding of the legal framework, and the instruments and the institutions that may be resorted to in arbitrating disputes. It aims to develop an understanding of the operation of general and statutory law and of the respective roles of private dispute resolution processes and entities on the one hand, and the public courts on the other. It also aims to develop an understanding of the role of international commercial law instruments and their relationship with the domestic law of the state. The unit also proposes to lay a foundation for the acquisition of practical skills.

7. GENERIC SKILLS

The skills sought to be developed by the unit include critical analysis skills, and problem-solving skills, focused on the law and its institutions.

8. TEACHING AND LEARNING STRATEGY

The classes will take the form of a seminar. Students are encouraged to read ahead of class.

9. ASSESSMENT

Assessment for this unit will consist of 3 tasks.

Students should note the assessment tasks may change up to the first week of the course.

Students must check the Blackboard site for this unit weekly for any changes in this regard, until the end of the first week (8 August 2010).

Announcements generally regarding assessment tasks will be made on Blackboard.

Assessments for this unit will consist of the following:

1. Class attendance and participations: 20%
2. Legislation or case study: 30%
3. Essay: 50%

1. Class attendance and participation 20%

Students should note their class mark is based on attendance and participation. Accordingly the level of your participation in class will affect your mark.

A. Internal Students

Attendance of classes is mandatory. If students miss more than 2 classes, your mark will be reduced accordingly by the number of classes missed.

B. External Students

Attendance at both classes is mandatory. If students miss classes, your mark will be reduced accordingly.

2. Legislation or case study 30%

There will be 1 topic given for all students. Details of the study will be released during the course.

3. Essay 50%

There will be 1 topic given for all students. Details of the essay will be released during the course.

Essays submitted late will be subject to the following penalties:

2% for each day the essay is submitted late.

Essays submitted more than 10 days after the due date will not be marked.

All essays must be submitted in accordance with instructions which will be given during the course.

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

Assessment will foster the acquisition of knowledge specific to the subject matter of the unit, and the development of the more general skills of law-focused data searching, analysis, synthesis and written expression.

11. PLAGIARISM

THE DANGERS OF PLAGIARISM AND HOW TO AVOID IT

You will be guilty of Plagiarism

If you take and use the work of another person without clearly stating or acknowledging

your source, you are falsely claiming that material as your own work and committing an act of *PLAGIARISM*.

This is a very serious violation of good practice and an offence for which you will be penalised.

If you do any of the following in an assignment, or in any piece of work which is to be assessed, *without clearly acknowledging your source(s) for each quotation or piece of borrowed material you are guilty of PLAGIARISM*.

- a) Copy out part(s) of any document, including computer and web-based material;
- b) Use or extract someone else's concepts or experimental results or conclusions, even if you put them in your own words;
- c) Copy out or take ideas or summarise from the work of another student, even if you put the borrowed material in your own words;
- (d) Submit substantially the same final version of any material as a fellow student. On occasions, you may be encouraged to prepare your work with someone else, but the final form of the assignment you hand in must be your own independent endeavour.

There is nothing wrong in using the work of others as a basis for your own work, nor is it evidence of inadequacy on your part, provided you **do not attempt to pass off someone else's work as your own**.

All students should acquaint themselves with the University's policy on Plagiarism before commencing any assignments <http://www.student.mq.edu.au/plagiarism/>

12. UNIVERSITY POLICY ON GRADING

The University requires all Divisions to adhere to a policy relating to the distribution of grades across high distinction, distinction, credit and pass grades. This means that on occasion a student's raw mark for a unit (ie, the total of their marks for each assessment item) may not be the same as that which they receive on their transcript. This is because the total raw mark may be scaled up or down so that the grades of all students in each unit sit within the distribution bands set down by the University. The policy does not require that any number of students are to be failed in any unit.

13. LIBRARY SUPPORT FOR POSTGRADUATE STUDENTS IN LAW

Macquarie University Library offers a wide range of services and resources to postgraduate students. Go to the Library website <http://www.lib.mq.edu.au>.

Library services include information on borrowing periods, services to distance students, links to IT Help (the Library's IT support service), and links to training information and training course notes.

Postgraduate students are eligible for a number of additional services. These include the Liaison Librarians (LLs). The Liaison Librarians are the first point of contact for Postgraduate students. There is a Liaison Librarian appointed to each Division of the University.

Services offered by your LL include:

- Providing further information on the library services
- Providing individual and group library resource sessions for postgraduate students
- Advising on new database trials being held in the Library
- Advising on appropriate contacts for specific services, such as requesting items not held at the Library from the Document Supply Service
- Preparation of resource guides in print and on the web
- Reference advice (face-to-face, phone and email)

Further information about these services is available from the **Postgraduates** link, listed under **Additional Services** on the Library homepage.
