

**MACQUARIE
UNIVERSITY**



FACULTY OF BUSINESS AND ECONOMICS

DEPARTMENT OF BUSINESS LAW

**BUSL388/LAW437
CHINA TRADE & INVESTMENT LAW**

UNIT OUTLINE

**SECOND SEMESTER
2010**

MACQUARIE UNIVERSITY
FACULTY OF BUSINESS AND ECONOMICS
DEPARTMENT OF BUSINESS LAW
BUSL388 / LAW437 – CHINA TRADE AND INVESTMENT LAW
UNIT OUTLINE
Second Semester 2010

Unit convenors: Patricia Blazey and Dr Kay-Wah Chan
Prerequisites: BUSL388: (BUSL201 or BUSL250)
LAW437: 6 cp in 300-level LAW units (P)

Students in this unit should read this unit outline carefully at the start of semester. 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

Credit Points: 3 Credit Points (BUSL388); 4 Credit Points (LAW437)

Unit description:

Students will be given an overview of Chinese laws that are relevant to foreign trade and foreign investment in China and conduct a critical analysis of these laws. The global impact of these laws will also be analysed, along with how the law impacts on Australia.

Unit rationale:

The unit has two principal aims: (1) to introduce students to the current Chinese legal system; and (2) for students to study in detail some aspects of Chinese commercial law, particularly law in relation to foreign investment and foreign trade. We do this by moving from a brief introduction to Chinese legal history and investment environment in China to an examination of a number of important areas of foreign-related Chinese commercial law. Before we do this however, it is important to understand the culture of business in China. This underpins all the learning in this subject and will be dealt with in the first lecture. The unit covers the topics as listed in the Unit Overview below. After having completed the unit, students should have an understanding of the underlying principles of the Chinese legal system and some main areas of law relating to foreign investment and trade in China. Furthermore, students will have some exposure to the rules or principles, which affect commercial transactions with China.

TEACHING STAFF

Lecturers

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Email correspondence with the lecturers must be through students' email accounts provided by Macquarie University. Email sent from any other accounts will **NOT** be answered.

CLASSES

One 2-hour lecture and one compulsory 1-hour tutorial per week.

The timetable for classes can be found on the University web site at: <http://www.timetables.mq.edu.au/>.

REQUIRED TEXT

Patricia Blazey and Kay-Wah Chan (ed), *The Chinese Commercial Legal System* (Sydney, Thomson Lawbook, 2008)

UNIT WEB PAGE

The web page for this unit can be found at:

http://www.buslaw.mq.edu.au/undergraduate_programs/units/BUSL388.

LEARNING OBJECTIVES AND OUTCOMES

The **learning objective** of this unit is: (1) to introduce students to the current Chinese legal system; and (2) for students to study in detail some aspects of Chinese commercial law, particularly law in relation to foreign investment and foreign trade.

The **learning outcomes** of this unit are that:

1. Students will acquire knowledge and understanding about the characteristics and principal elements of the Covered Topics. The “Covered Topics” mean the topics listed in the Unit Overview below.
2. Students will acquire knowledge and understanding of how to search for materials in English about the characteristics and principal elements of the Covered Topics.

In addition to the discipline-based learning objectives, all academic programs at Macquarie seek to develop students’ generic skills in a range of areas. One of the aims of this unit is that students develop their skills in the following:

Communication and interpersonal skills - through:-

- participating in class discussions and class activities;
- writing a research paper.

Self-awareness – through:-

- self discipline and time management skills;
- identifying and setting targets.

Critical analysis skills – through:-

- participating in class discussions and class activities
- writing a research paper

TEACHING AND LEARNING STRATEGY

The weekly classes will be a combination of one two-hour lecture and one 1-hour tutorial (with class activities). As assessment includes class activities, students will be expected to complete the required reading prior to the tutorial class and to contribute to class activities.

* **Tutorials will commence in the first week of the semester: Week 1.**

* **Students are not allowed to switch lectures or tutorial classes. They must attend the weekly tutorial class that they enrolled in. When they attend lectures, they must attend the lectures that they enrolled in.**

Unit Overview (subject to change):

Lectures

Week	Topic(s)	Readings
Lecture Week 1 4 & 5 August 2010 (PB)	Overview of China's Economic Development; Guanxi; and Doing business in China	Textbook Chapters 1-3
Lecture Week 2 11 & 12 August 2010 (KWC)	The Constitution and Governmental System	Textbook Chapter 4
Lecture Week 3 18 & 19 August 2010 (PB)	Civil Law and Contract Law	Textbook Chapter 8
Lecture Week 4 25 & 26 August 2010 (KWC)	Legal System	Textbook Chapter 5
Lecture Week 5 1 & 2 September 2010 (PB)	Property Law	tba
Lecture Week 6 8 & 9 September 2010 (KWC)	EJV, CJV & WFOE	Textbook Chapter 10
Lecture Week 7 15 & 16 September 2010 (PB)	Intellectual Property	Textbook Chapter 15
MID TERM BREAK		
Lecture Week 8 6 & 7 October 2010 (KWC)	Company Law	Textbook Chapter 11
Lecture Week 9 13 & 14 October 2010 (PB)	Environmental Law	Textbook Chapter 20
Lecture Week 10 20 & 21 October 2010 (PB)	Foreign Trade Law and Dispute Resolution	Textbook Chapters 9, 18 and 21
Lecture Week 11 27 & 28 October 2010 (KWC)	Employment Law	Textbook Chapter 13
Lecture Week 12 3 & 4 November 2010 (KWC)	Other Investment Vehicles	tba
Lecture Week 13 10 & 11 November 2010	In-Class Test	

Tutorials

Week	Topic(s)	Readings
Tutorial Week 1 4 & 5 August	Introduction	
Tutorial Week 2 11 & 12 August	Overview of China's Economic Development; Guanxi; and Doing business in China	Textbook Chapters 1-3
Tutorial Week 3 18 & 19 August	The Constitution and Governmental System	Textbook Chapter 4
Tutorial Week 4 25 & 26 August	Civil Law and Contract Law	Textbook Chapter 8
Tutorial Week 5 1 & 2 September	Legal System	Textbook Chapter 5
Tutorial Week 6 8 & 9 September	Property Law	tba
Tutorial Week 7 15 & 16 September	EJV & CJV	Textbook Chapter 10
MID TERM BREAK		
Tutorial Week 8 6 & 7 October	Intellectual Property	Textbook Chapter 15
Tutorial Week 9 13 & 14 October	Company Law	Textbook Chapter 11
Tutorial Week 10 20 & 21 October	Environmental Law	Textbook Chapter 20
Tutorial Week 11 27 & 28 October	WFOE	Textbook Chapter 10
Tutorial Week 12 3 & 4 November	Employment Law	Textbook Chapter 13
Tutorial Week 13 10 & 11 November	Foreign Trade Law and Dispute Resolution	Textbook Chapters 9, 18 and 21

RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OUTCOMES

The assessment tasks (described in details below, namely class participation, early low risk diagnostic task, assignment, and in-class test) adopted in this unit will test the extent that the student achieves the learning outcomes (as stated above), i.e. the extent of his/her knowledge and understanding about (1) the characteristics and principal elements of the Covered Topics; and (2) how to search for materials in English about these characteristics and principal elements.

Assessment:

	<u>Full Marks</u>
1. Tutorial Class Participation ¹	20 marks
2. Legal Document Searching Task (<i>an early low risk diagnostic</i>) ²	3 marks
3. Assignment ³	45 marks
4. In-Class Test ⁴	32 marks

¹ Tutorial Class Participation:

- Tutorial attendance is required for all students and a roll will be taken at each tutorial class.
- Students are expected to do the required readings (if any), prepare for and actively participate in class activities.
- Class activities are designed to test students' understanding about (1) the characteristics and principal elements of the Covered Topics; and (2) how to search for materials in English about such characteristics and principal elements.
- Criteria upon which class participation is to be assessed are: frequency of participation, attitude towards participation, and quality of participation.
 - ***Excellent performance (17 marks or above out of 20 marks):*** detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Very good performance (15 – 16.9 marks out of 20 marks):*** detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Good performance (13 – 14.9 marks out of 20 marks):*** detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Satisfactory performance (10 – 12.9 marks out of 20 marks):*** detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Poor performance (0 – 9.9 marks out of 20 marks):*** failing to achieve the minimum requirements for satisfactory performance (see detailed explanations provided in the Blackboard site of the unit.).

The above are not definitive statements about marking and are not to be used as a basis for disputing the marks of Class Participation.

² Legal Document Searching Task:

It is a task of searching for a particular legal document (being an early low risk diagnostic task) (worth a total of 3 marks). The aim is to provide feedback for students to address likely learning challenges. Criteria for assessment are: students' skill in searching for and obtaining an English version of relevant legal documents of the People's Republic of China. Details will be released in the Blackboard site in Week 1. In tutorial class in **Week 3**, students have to hand in a copy of the legal document that the lecturers have designated. Feedback will be given to students when the marked copy legal documents are returned to the students in Week 4.

3 Assignment:

- Students will be required to submit **ONE (1) Assignment** (in **English**).
- The **topic** of the Assignment will be **announced** in this unit's Blackboard site by **Week 2**.
- Students must hand in the Assignment **before 5:00 p.m. on 5 October 2010** to:
B.E.S.S. - Business & Economics Student Services (formerly ERIC) at **E4B 106**
Phone: 9850 8450
Opening Hours (in semester): 9am - 7.30pm Monday – Thursday; 9am - 5pm Friday.
Out of hours, Assignments can be submitted in their secure overnight box.
- **Late submissions:**
 - **Late submissions will be penalised with a deduction of 3 marks for each day late.** Submission made on 5 October 2010 but after 5:00 p.m. is considered as one day late.
After 8 October 2010, submission of Assignments will not be accepted.
- **Word Length:**
 - **BUSL388:** The word length (for the different parts of the Assignment, if any) will be stated in the Assignment. Failure to comply with the word length requirement in each part will be subject to a **penalty** of a deduction of 10% of the marks for that part.
 - **LAW437:** The Assignment must have a length of **3800 – 4200 words** (not including footnotes and bibliography). Failure to comply with the above-mentioned word length requirement will be subject to **penalty** as follows:
 - Within 300 words below the minimum or above the maximum: Deduction of 3 marks;
 - With 301-600 words below the minimum or above the maximum: Deduction of 8 marks;
 - With 601-800 words below the minimum or above the maximum: Deduction of 13 marks;
 - With more than 800 words below the minimum or above the maximum: the Research Paper will not be marked and will receive zero marks.
- **Cover Sheet:**
 - The **Cover Sheet** (in the form as provided in the unit's Blackboard site) must be **completed, signed and stapled** to the top left-hand corner of each Assignment. It is students' responsibility to print and attach it to the front of the Assignment.
Assignment without coversheet will not be marked and will be returned to the student with a zero mark.
- **Format:**
 - Handwritten Assignments will **not** be accepted. All Assignments must be **typed**, in A4-sized white papers, in the following **format**:
 - ✧ **Font size:** 12 point
 - ✧ **Font:** Times New Roman
 - ✧ **Spacing:** One-and-a-half-line spacing
 - ✧ **Margins:** not less than 2.6 cm.
 - Failure to comply with any of the required format described above is subject to a **penalty of 4 marks**.
- **Referencing:**
 - All Assignments must have referencing by **footnotes** (NOT endnotes or in-text referencing); and detailed **bibliography** of all source materials.
- **Referencing Format:**
 - The required convention for providing references (i.e. footnotes) and bibliography is **the Australian Guide to Legal Citation**, which is available online (for viewing) at: <http://mulr.law.unimelb.edu.au/index.cfm?objectid=EC680959-CA26-5FED->

64377B996D86A395. More details about the Referencing Format can be found in the Blackboard site for this unit.

- **Return of Marked Research Papers:**

- From **29 October 2009**, students can collect the marked Assignments (except the Assignments submitted late) from the **B.E.S.S. - Business & Economics Student Services** (see above for address) by presenting their student identity card (or a form of photo identity such as driver license or passport). Students cannot collect Assignments for others UNLESS they have a signed letter from the student or a proxy form signed by the student.

Assignment Assessment Criteria

The Assignment is research based. Students will not be able to rely simply on the required and/or recommended reading materials for the unit. Students will be expected to conduct a research, provide his/her own reasoned answers, which shall demonstrate that he/she has thought about the task and not merely paraphrased materials. The Assignment is a task for each individual student. Collective or collaborative work is **NOT ACCEPTABLE** and will receive **ZERO MARK**. The Assignment will be marked according to the criteria for assessment described below. They are not definitive statements about marking and are not to be used as a basis for disputing the marks of an Assignment.

- ***Minimum requirements for 38.3 marks or above (out of a total of 45 marks):*** Excellent quality in contents, structure and presentation, and referencing (footnoting and bibliography) – detailed explanations provided in the Blackboard site of the unit.
- ***Minimum requirements for 33.8 – 38.2 marks (out of a total of 45 marks):*** Very good (but not excellent) quality in contents, structure and presentation, and referencing (footnoting and bibliography) – detailed explanations provided in the Blackboard site of the unit.
- ***Minimum requirements for 29.3 - 33.7 marks (out of a total of 45 marks):*** Good quality in contents, structure and presentation, and referencing (footnoting and bibliography) – detailed explanations provided in the Blackboard site of the unit.
- ***Minimum requirements for 22.5 - 29.2 marks (out of a total of 45 marks):*** Satisfactory quality in the contents, structure and presentation, and referencing (footnoting and bibliography) – detailed explanations provided in the Blackboard site of the unit.
- ***0 - 22.4 marks (out of a total of 45 marks):*** Failing to achieve the minimum requirements for 22.5 - 29.2 marks (out of a total of 45 marks) (see above for details).

Further information about the Assignment will be provided when the Assignment topic is announced.

⁴ In-Class Test

- The In-Class Test assesses students' knowledge and understanding about the topics covered in the unit and their problem-solving skills. The In-Class Test will be held in the time scheduled for lectures in **Week 13 (10 November 2010 Wednesday 2:00 – 4:00 p.m. and 11 November 2010 Thursday 5:00 – 7:00 p.m.)**.
- **All BUSL388 students must take the In-Class Test in the lecture class that they enrolled in.** In other words, BUSL388 students enrolled in the Wednesday lecture must take the In-Class Test on 10 November 2010 and are not allowed to take the In-Class Test on 11 November 2010. BUSL388 students enrolled in the Thursday lecture must take the

In-Class Test on 11 November 2010 and are not allowed to take the In-Class Test on 10 November 2010.

- **All LAW437 students must take the In-Class Test on 10 November 2010 Wednesday 2:00 – 4:00 p.m.**
- Information about the syllabus and format of the In-Class Test will be announced in lecture in Week 10.
- **Criteria for assessment** are: students' knowledge and understanding about the topics covered in the unit and their problem-solving skills.
 - ***Excellent performance (27.5 marks or above out of 32 marks)***: detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Very good performance (24 – 27 marks out of 32 marks)***: detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Good performance (21 – 23.5 marks out of 32 marks)***: detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Satisfactory performance (16 – 20.5 marks out of 32 marks)***: detailed explanations on minimum requirements provided in the Blackboard site of the unit.
 - ***Poor performance (0 – 15.5 marks out of 32 marks)***: failing to achieve the minimum requirements for satisfactory performance (see detailed explanations provided in the Blackboard site of the unit).

The above are not definitive statements about marking and are not to be used as a basis for disputing the marks of the In-Class Test. Since this is a term-end assessment, the In-Class Tests will not be returned to the students.

There is no final examination for this unit BUSL388/LAW437.

PLAGIARISM

The University defines plagiarism in its rules: "Plagiarism involves using the work of another person and presenting it as one's own." Plagiarism is a serious breach of the University's rules and carries significant penalties. You must read the University's practices and procedures on plagiarism. These can be found in the *Handbook of Undergraduate Studies* or on the web at: <http://www.student.mq.edu.au/plagiarism/>

The policies and procedures explain what plagiarism is, how to avoid it, the procedures that will be taken in cases of suspected plagiarism, and the penalties if you are found guilty. Penalties may include a deduction of marks, failure in the unit, and/or referral to the University Discipline Committee.

DETERMINATION OF OVERALL GRADE

The overall grade for the unit will be determined with regard to the student's performance in each of the assessment tasks described above (namely Class Participation, Legal Document Searching Task, Assignment, and In-Class Test).

STUDENT SUPPORT SERVICES

Macquarie University provides a range of Academic Student Support Services. Details of these services can be accessed at <http://www.student.mq.edu.au>.