MACQUARIE UNIVERSITY

FACULTY OF BUSINESS AND ECONOMICS

BUSL388 China Trade and Investment Law

Semester 2, 2011

Department of Accounting and Corporate Governance

MACQUARIE UNIVERSITY
FACULTY OF BUSINESS AND ECONOMICS
UNIT GUIDE

Year and Semester: **2011, Semester 2**

Unit convenors: **Patricia Blazey and Kay-Wah Chan**

Prerequisites: **BUSL201 or BUSL250**

Credit points: **3**

Students in this unit should read this unit guide 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

- **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.

- **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 and the Five-Year Plans 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 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:

Patricia Blazey
Office: E4A 240
Telephone: (02) 98507683
Email: patricia.blazey@law.mq.edu.au

Dr Kay-Wah Chan
Office: E4A 241
Telephone: (02) 9850 7088
Email: kay.chan@mq.edu.au

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.

CONSULTATION TIMES

Consultation Hours (unless otherwise advised):

Patricia Blazey:
Wednesdays 9am - 10am and 11 am – 12pm

Kay-Wah Chan:
Thursdays 11:00 a.m. – 12:00 p.m. and 4:00 p.m. – 5:00 p.m.

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. Staff will not conduct any consultations by email. You may, however, 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

- 3 hours face-to-face teaching per week consisting of 1 x 2-hour lecture + 1 x 1-hour tutorial
- The timetable for classes can be found on the University web site at: http://www.timetables.mq.edu.au/
- **Weekly attendance of tutorial classes is compulsory (assessment includes class discussions and activities).**

PRIZES

- Prizes for this unit (if applicable): The Macquarie University Accounting and Corporate Governance Prizes http://www.businessandeconomics.mq.edu.au/undergraduate_degrees/prizes_scholarships

REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS

Required Texts and Materials

- 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.

- Materials that students are required to bring to tutorial classes (as specified in the Class Activity Instructions). 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).

Recommended Texts and/or Materials

Recommended (not mandatory) readings as described in the Class Activity Instructions.

TECHNOLOGY USED AND REQUIRED

- Students have to frequently access the Blackboard site for the Lecture Notes, Class Activity Instructions, announcements and detailed information regarding the unit.

UNIT WEB PAGE

- Lecture notes (from the PowerPoint slides) are available on the learning management system (BlackBoard)

LEARNING OUTCOMES

Students' learning outcomes of this unit are to:

1. Recognise the link between China's Five Year Plans and its economic and legal directions
2. Recognise the importance of guanxi as it operates in China.
3. Undertake effective legal research relevant to the Chinese commercial legal system.
4. Critically analyse issues that arise in Chinese commercial law.
5. Identify and understand the characteristics and principal elements of Chinese commercial law, as it operates in China's civil law system.
6. Understand the operation of Chinese foreign investment and trade laws

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

5 Effective Communication
6 Engaged and Ethical Local and Global citizens
7 Socially and Environmentally Active and Responsible
8 Capable of Professional and Personal Judgement and Initiative
9 Commitment to Continuous Learning

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 class (see the list of Readings below and the Class Activity Instructions) and to contribute to class activities (in small groups).

*** Tutorials will commence in the second week of the semester: Week 2. Instructions for each tutorial will be released weekly on the Blackboard site.**

*** 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.**

Topics to be covered are:

Lectures

Week	Topic(s)	Readings
Lecture Week 1 3 & 4 August 2011 (PB)	Introduction: Five-Year Plans, Guanxi and Overview	Textbook Chapters 1-3 & lecture notes
Lecture Week 2 10 & 11 August 2011 (KWC)	The Constitution and Governmental System	Textbook Chapter 4
Lecture Week 3 17 & 18 August 2011 (KWC)	Legal System	Textbook Chapter 5
Lecture Week 4 24 & 25 August 2011 (PB)	Civil Law, Contract Law and Agency	Textbook Chapter 8
Lecture Week 5 31 August & 1 September 2011 (KWC)	Foreign Investment Law (I)	Textbook Chapter 10 & lecture notes
Lecture Week 6 7 & 8 September 2011 (KWC)	Foreign Investment Law (II)	Textbook Chapter 10 & lecture notes
Lecture Week 7 14 & 15 September 2011 (PB)	Property Law	Lecture notes
MID TERM BREAK		
Lecture Week 8 5 & 6 October 2010 (PB)	Intellectual Property Law	Textbook Chapter 15
Lecture Week 9 12 & 13 October 2011 (KWC)	Company Law	Textbook Chapter 11
Lecture Week 10 19 & 20 October 2011 (KWC)	Employment Law	Textbook Chapters 13

Lecture Week 11 26 & 27 October 2011 (PB)	**Energy Law – fossil fuel , nuclear and renewable**	**Lecture notes**
Lecture Week 12 2 & 3 November 2011 (PB)	**Environmental Law**	**Textbook Chapter 20**
Lecture Week 13 9 & 10 November 2011 (PB & KWC)	**Revision**	**All of the Above**

Tutorials

Week	**Topic(s)**	**Readings**
Tutorial Week 2 10 & 11 August 2011	**Introduction: Five-Year Plans, Guanxi and Overview**	**Textbook Chapters 1-3 & lecture notes**
Tutorial Week 3 17 & 18 August 2011	**The Constitution and Governmental System**	**Textbook Chapter 4**
Tutorial Week 4 24 & 25 August 2011	**Legal System**	**Textbook Chapter 5**
Tutorial Week 5 31 August & 1 September 2011	**Civil Law, Contract Law and Agency**	**Textbook Chapter 8**
Tutorial Week 6 7 & 8 September 2011	**Foreign Investment Law (I)**	**Textbook Chapter 10 & lecture notes**
Tutorial Week 7 14 & 15 September 2011	**Foreign Investment Law (II)**	**Textbook Chapter 10 & lecture notes**
	MID TERM BREAK	
Tutorial Week 8 5 & 6 October 2011	**Property Law**	**Lecture notes**
Tutorial Week 9 12 & 13 October 2011	**Intellectual Property Law**	**Textbook Chapter 15**
Tutorial Week 10 19 & 20 October 2011	**Company Law**	**Textbook Chapter 11**
Tutorial Week 11 26 & 27 October 2011	**Employment Law**	**Textbook Chapter 13**
Tutorial Week 12 2 & 3 November 2011	**Energy Law – fossil fuel , nuclear and renewable**	**Lecture notes**
Tutorial Week 13 9 & 10 November 2011	**Environmental Law**	**Textbook Chapter 20**

RESEARCH AND PRACTICE

- This unit uses research by Macquarie University researchers:
  - 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 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

- This unit uses research from external sources:
  1. See the Reading List above and the Class Activity Instructions.
- This unit gives you practice in applying research findings in your assignments.
- This unit gives you opportunities to conduct your own research.

RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OUTCOMES

	Assessment Task 1	**Assessment Task 2**	**Assessment Task 3**
Title/Name	Class Participation	Assignment	Final Examination
Description *(including length or similar if applicable)*	Students are required to participate in class activities in small groups. The class activities include mock trials and mock business negotiation. **Details are provided in the document titled "Tutorial Class Activities" released on the Blackboard site weekly.** Students are expected to do the required readings to prepare in order to actively participate in the class activities.	Students will be required to submit an Assignment. The word length (for the different parts of the Assignment, if any) will be stated in the Assignment. The Assignment will be posted on Blackboard in Week 2. 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	It is an Open Book Formal examination. Information about the Final Examination will be announced in Class in Week 13.

	Assessment Task 1	**Assessment Task 2**	**Assessment Task 3**
		NOT ACCEPTABLE.	
Due date	Every Class	5:00 p.m. on 12 September 2011 (Monday)	N/A
% Weighting	20%	20%	60%
Grading method - marking criteria/ standards - expectations in relation to presentation - referencing requirements	Criteria upon which class participation is to be assessed are: frequency of participation and quality of participation (detailed explanations are provided in the Blackboard site of the unit).	Criteria for assessment are: students' skills to find the correct answers to questions asked in the Assignment (detailed explanations are provided in the Blackboard site of the unit).	Criteria for assessment are: students' knowledge and understanding about the topics covered in the unit (detailed explanations are provided in the Blackboard site of the unit).
Submission method	N/A	Students must hand in the Assignment before 5:00 p.m. on 12 September 2011 to: **B.E.S.S.** - Business & Economics Student Services E4B 106.	N/A
Feedback *(type, method, date)*		Feedback will be marked on student's respective assignments. From the afternoon of 11 October 2011, students can collect the marked assignments from the B.E.S.S. - Business & Economics Student Services (see above for address) by presenting their student identity cards.	N/A
Estimated student workload (outside class time) (hours)	On average, 1 hour per week from Week 1 to Week13	On average, 1.5 - 2.5 hours per week from Week 2 to 12 September 2011	On average, 2-4 hours per week from Week 1 to the Final Examination
Learning outcomes assessed			
1			√
2	√		
3		√	
4	√	√	
5			√
6	√		√

	Assessment Task 1	Assessment Task 2	Assessment Task 3
Graduate capabilities assessed			
1			√
2	√		
3	√	√	
4			
5	√		√
6		√	
7		√	
8		√	
9			√

- In view of the time given to students to complete the Assignment, normally **no extension of time** will be given for submission of the Assignment.
- Late submissions: **Late submissions of Assignment will be penalised at 2 marks for each day late.** Submission made on the due date but after 5:00 p.m. is considered as one day late. **After 15 September 2011, submission of Assignment will not be accepted.**
- Attendance: **Attendance of tutorials is required for all students and a roll will be taken at each tutorial class.**
- **Because China's economy is developing, its commercial laws and the legal system are going through rapid transition. Therefore, attendance at lectures is important so that students keep up to date with recent changes.**

- **Examinations**

A final examination is included as an assessment task for this unit to provide assurance that:

i) the product belongs to the student and
ii) the student has attained the knowledge and skills tested in the exam.

A three-hour final examination for this unit will be held during the University Examination period.

The University Examination period in the Second Half Year 2011 is from 14 November 2011 to 2 December 2011.

You are expected to present yourself for examination at the time and place designated in the University Examination Timetable. The timetable will be available in Draft form approximately eight weeks before the commencement of the examinations and in Final form approximately four weeks before the commencement of the examinations.
http://www.timetables.mq.edu.au/exam

The only exception to not sitting an examination at the designated time is because of documented illness or unavoidable disruption. In these circumstances you may wish to consider applying for Special Consideration. The University's policy on special

consideration process is available at http://www.mq.edu.au/policy/docs/special_consideration/policy.html

If a Supplementary Examination is granted as a result of the Special Consideration process the examination will be scheduled after the conclusion of the official examination period. (Individual Faculties may wish to signal when the Faculties' Supplementary Exams are normally scheduled.)

The Macquarie university examination policy details the principles and conduct of examinations at the University. The policy is available at: http://www.mq.edu.au/policy/docs/examination/policy.htm

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

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 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/for/new_and_current_students/undergraduate/admin_central/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/procedure.html

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.

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 utilising 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 unit 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.