Unit code
851

International Trade Law

First semester, 2011

Department
Accounting and Corporate Governance
ABOUT THIS UNIT

The unit examines topics in international trade law. 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.

TEACHING STAFF

Convenor       Peter Gillies

Email: peter.gillies@mq.edu.au
98508460     W3A417

Postgraduate administrator  Alma Urbiztondo

Email: alma.urbiztondo@law.mq.edu.au
98508452     W3A438

CONSULTATION TIMES

W3A417  Tuesday 2-3, 6-6.30 or by appointment

CLASSES

•  There will be a weekly face-to-face class on Tuesday 3-6pm, in C5A310

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

• Not applicable

REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS.

Recomended textbooks:

(nb: not every textbook deals with all topics)


(Abbrev MG)

OR


(goof coverage of international business transactions)

(Abbrev BB)

OR


(Abbrev M)

Blackboard: some materials will be uploaded to Blackboard.

Recommended References

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


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


Hudec, RE, Essays on The Nature of International Trade Law, Cameron May, 1999

Islam, MR, International Trade Law, LBC, Sydney, 1999


Malbon, J, Exporting, Business Law Education Centre, Melbourne, 1994

Mercurio, B et al, International Business Law, OUP, Melbourne, 2010


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**
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](http://www.asil.org/resource)

APEC – materials
[www.apec.org.au](http://www.apec.org.au)

ASIL guide to Electronic Resources for International Law

Australia – Australian material
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 – UNCITRAL materials
www.uncitral.org

UNIDROIT – private international law topics
www.unidroit.org

University of Chicago – links to topics
www.lib.uchicago.edu/~lou/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.wordlii.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.

**TECHNOLOGY USED AND REQUIRED**

- Not applicable

**UNIT WEB PAGE**

- To be advised
- Material will be uploaded to Blackboard – which will be accessible from the unit webpage

**LEARNING OUTCOMES**

This unit aims to develop an appreciation of the nature and role of international trade law, 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.

**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
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*.

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.

MG Chap 7,

4 INTERNATIONAL COMMERCIAL CONTRACTS; INCOTERMS

4.1 International Commercial Contracts

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

MG Chap 1, BB Chap 2, M Chaps 2, 3

4.2 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.
5 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.

MG Chap 4, BB Chap 2, M Chap 3

6 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.

MG Chap 5, BB Chap 1,

7 FINANCING EXPORTS – LETTERS OF CREDIT
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).

MG Chap 6, BB Chap 3, M Chap 4

8 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).

MG Chap 8, BB Chap 4, M

9 INTERNATIONAL COMMERCIAL ARBITRATION
Overviews arbitration as a means for resolving international commercial disputes.

MG Chap 10, M Chap 13

10 TRADE IN INTELLECTUAL PROPERTY
**RESEARCH AND PRACTICE**

- This unit uses research by Macquarie University researchers (references)
- This unit uses research from external sources (references)
- 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**

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.

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<td>Class participation</td>
<td>Problem-solving assignment</td>
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<td><strong>Grading method</strong></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</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>discussion. Students may choose to give a class presentation.</td>
<td>Monday 25 April 2011</td>
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**Submission method**

Lecturer, or W3A438

Lecturer, or W3A438

**Feedback (type, method, date)**

After class participation

**Estimated student workload (hours)**

For participation, 4 hours

50

50

**Learning outcomes assessed**

1. Understanding of role and nature of international trade law

2. Understanding of the legal framework of international trade law

3. Skill at interpretation of relevant instruments

4. Understanding of legal problems arising in international trade

5. Understanding of dispute minimisation and resolution strategies and mechanisms

6. Understanding of policy issues underlying the international trade system

**Graduate capabilities assessed**

1. Knowledge and skills specific to the discipline

2. Critical and analytical
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Essay topics will be uploaded to Blackboard.

Requests for extensions of time for the submission of essays will need to be justified, for example by appropriate medical grounds.

**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
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

**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.


**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.