BUSL851 INTERNATIONAL TRADE LAW

Semester 1, 2009

Credit points: 4 cps

Unit convenor: Professor Peter Gillies
1. **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.

2. **STAFF**

**Convenor:** Peter Gillies  
**Email:** peter.gillies@mq.edu.au

**Postgraduate Administrator:** Sumi Pilkington  
**Email:** spilking@efs.mq.edu.au

3. **CLASSES AND STUDY TIMES**

This unit will be taught on a weekly basis. Classes will meet on Tuesdays at 3.00 - 6.00pm, in room X5B134.

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

4. **REQUIRED AND RECOMMENDED TEXTS AND/OR MATERIALS**

**Textbooks:**

(abbreviated MG)

Blackboard: other materials may be uploaded on Blackboard.

**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
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://cisd.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/forintl.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 – for example, the library does not subscribe to the Australian Law Reports in electronic format – 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.

5. UNIT WEB PAGE

Study guides and timetable information on this unit can be found at:

6. LEARNING OBJECTIVES

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.

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. Ideally, you will read ahead of class.

9. ASSESSMENT

Assessment will be based on an essay of 5,000 (to a maximum of 7,000) words.

You may choose your topic, subject to approval by the unit convenor.

Otherwise, the convenor will suggest a list of possible topics to be discussed in the first class. Assessment will take the form of an essay or essays.

Submission of essays:

Please submit a hardcopy to Peter Gillies or Sumi Pilkington in W3A Rm 341.
Due Date

5.00pm, Friday 19 June 2009

10. RELATIONSHIP BETWEEN ASSESSMENT AND LEARNING OBJECTIVES

Assessment is by way of an independent research project, which 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

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.

You will be guilty of Plagiarism if you:

(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 a 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. For a complete list of services and resources and for enrolling in Library orientation programs for Law see your Postgraduate Programs Administrator, spilking@efs.mq.edu.au (phone 9850 1056).

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 (LL). The LLs are the first point of contact for Postgraduate students. There is an LL appointed to each Faculty 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.

14. 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
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

4.2 Incoterms 2000 – 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.

MG Chap 3

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

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

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
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

9 TRADE IN INTELLECTUAL PROPERTY


MG Chap 9

10 INTERNATIONAL COMMERCIAL ARBITRATION

Overviews arbitration as a means for resolving international commercial disputes.

MG Chap 10
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<tr>
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<td>Date Due:</td>
<td>5pm Friday 19 June 09</td>
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“I certify that I am aware of the University’s policy on plagiarism (as stated in www.student.mq.edu.au/plagiarism/) and that this assignment meets those requirements and has not been previously submitted for assessment in any other course of study”

Signed ……………………………………………………………………………………..

MARKER’S COMMENTS