

LW6140E: CHINESE AND COMPARATIVE COMMERCIAL LAW

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Chinese and Comparative Commercial Law

Subject Code

LW - Law

Course Number

6140E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

LW6525 Chinese Foreign Economic Law (old course), LW6147C Advanced Business Law of China
LW5540 Chinese and Comparative Commercial Law

Exclusive Courses

LW6540E Chinese and Comparative Commercial Law

Part II Course Details

Abstract

The objective of this course is to study PRC contract and commercial law in comparison with the international rules of law on international contracts and commercial law. In addition to Chinese contract and commercial law and practice, this course examines fundamental principles of private international law against the rapid development of Chinese and international commercial law and practice. It raises issues relating to the harmonization of Chinese and international contract and commercial law and relevant problems of private international law. Chinese as well as international dispute settlement will be discussed during the course.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Identify, describe and synthesize the statutes, important legal concepts and institutions of Chinese and international contract and commercial law	20	x		
2	Apply the statutory provisions of Chinese contract and commercial laws to complex fact patterns at an advanced level; and discover and provide creative solutions to the relevant legal issues	30	x	x	x
3	Analyse, evaluate, and reflect critically on legal problems of Chinese contract and commercial law from the perspective of international rules of law on contract and the harmonisation of Chinese and international commercial law	40	x	x	x
4	Locate Chinese and English legal materials in databases and libraries; and creatively use them for further research and/or professional development	10	x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures and seminars	Primarily, the Socratic method will be relied upon and students are expected to study case law and materials in advance.	1, 2	30 hours in total

2	Lectures and seminars	Revision seminars, Case studies and Problems-based learning.	2, 3	9 hours in total towards the end of the semester
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Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Written coursework: an essay or a case analysis.	1, 2, 3, 4	25	The use of Generative AI tools is not allowed.
2	Oral presentation: an oral presentation based on their essays or case notes.	1, 2, 3, 4	25	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

9

Additional Information for ATs

Take-home exam: The use of Generative AI tools is not allowed.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

Assessment Rubrics (AR)**Assessment Task**

Written coursework (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Oral presentation (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Written coursework (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Oral presentation (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Knowledge and understanding of the subject;
Original thinking and analytical skills;
Organisation and writing skills.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Harmonisation of Chinese and International Commercial Law, Contract, Sale of Goods, Choice of Law, CISG in China, Commercial Dispute Resolution.

Detailed Syllabus

- a. Introduction to Chinese and International Commercial Law: Principles of party autonomy, multiplicity of contracts and the theories and practice of harmonisation of Chinese and international commercial law
- b. Chinese and International Contract Law: sources, characteristics and general principles of PRC Contract Law 1999 and the UNIDROIT (International Institute for the Unification of Private Law) Principles of International Commercial Contracts (2004) (UPICC)
- c. Chinese and International Sale of Goods: Contracts for Sales under PRC Contract Law 1999; the United Nations Convention on Contracts for the International Sale of Goods (CISG); and the Application and Interpretation of the CISG in China
- d. Chinese and International Private International Law: PRC contract law choice of law issues, the Law of the Application of Law for Foreign-related Civil Relations of the PRC, the EC Convention on the Law Applicable to Contractual Obligations (Rome Convention, 19 June 1980) (80/934/EEC) and the EC Regulation on the Law Applicable to Contractual Obligations (Rome I 2009)
- e. Chinese and International Commercial Dispute Resolution: Resolving commercial disputes in today's China and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention 1958)
- f. Revision

Reading List**Compulsory Readings**

Title	
1	Primary text books:
2	Fan YANG, Contracts for the international sale of goods in China, Wolters Kluwer Law & Business, [Hong Kong]: CCH Hong Kong, c2012 (ISBN: 978-988-15523-7-2)
3	Fan YANG, ICCA's Guide to the Interpretation of the 1958 New York Convention (Chinese-English bilingual version), International Council for Commercial Arbitration (ICCA), (ISBN: 978-908-17251-3-2)

Additional Readings

Title	
1	Krishnan Arjunan, Abdul Majid bin Nabi Baksh: Business Law in Hong Kong, 2nd LexisNexis, 2009)
2	Stephen Hall, Law of Contract in Hong Kong: Cases and Commentary - 3rd ed (LexisNexis, 2011)
3	Patricia Blazey/Kay-Wah Chan (eds.): The Chinese Commercial Legal System (Lawbook 2008)
4	Wang Guiguo: Wang's Business Law of China (LexisNexis 2003)
5	Kui Hua Wang: Chinese commercial law (Oxford 2000)
6	Mo Zhang: Chinese contract law: theory and practice (Martinus Nijhoff 2006)
7	Bing Ling: Contract law in China (Sweet & Maxwell Asia 2002)
8	Paul Vout, Ye Jing-Sheng and Yi Yi Wu: China contracts handbook, 2nd ed. (Sweet & Maxwell Asia 2000)
9	Lingyun Gao, Xiling Jia, Series on Contemporary Chinese Law Vol. 2 Chinese Business Law (Thomson/West 2008)
10	Jianfu Chan, Chinese Law: Context and Transformation, (Martinus Nijhoff 2008)
11	Albert Chen: An Introduction to the Legal System of the People's Republic of China (LexisNexis 2004)
12	Relevant articles from the Journal China Law & Practice
13	Online Resources
14	PRC Law: Chinalawinfo.com 北大法律信息網 / INFOBANK.cn/ 中國資訊行 / iSinoLaw / LawInfoChina / LEXIS.com
15	CISG:
16	http://www.cisg.law.pace.edu/
17	www.cisgac.com
18	UIPCC: http://www.unidroit.org/
19	ICC: www.iccwbo.org
20	EC:
21	http://europa.eu/index_en.htm
22	http://europa.eu/legislation_summaries/index_en.htm
23	http://eur-lex.europa.eu/en/index.htm
24	UNCITRAL:
25	http://www.uncitral.org/uncitral/en/uncitral_texts/transport_goods.html
26	http://www.uncitral.org/uncitral/en/uncitral_texts/sale_goods.html
27	http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration.html
28	http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce.html