

LAWS 5003 INTERNATIONAL COMMERCIAL CONFLICTS

Credit Points 10

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Description Students will explore real-world scenarios where international commercial disputes arise under the guidance of experts in the fields of building and construction practice. This subject is primarily concerned with how commercial disputes which have connections with more than one country are dealt with by Australian and international courts. Much of the law which provides the framework for the resolution of such disputes is derived from international instruments, including recent Conventions and Regulations which have significantly re-shaped the law in the European Union. This subject considers the jurisdiction of the Australian courts and the recognition and enforcement in Australia of judgments granted by the courts of other countries. Students will analyse both the Brussels I Regulation and the so-called traditional rules, jurisdiction in personam and in rem, anti-suit injunctions and provisional measures. The subject also examines the rules which determine whether Australian law or the law of another country is applicable to a given situation. This examination includes a discussion of choice of law in contract and tort, with particular attention being devoted to the recent Rome I and Rome II Regulations. The subject also includes consideration of international aspects of insolvency and an analysis of the legal aspects of international commercial arbitration. In particular, students will consider the powers of the Australian courts to support or supervise an arbitration; the effect of an arbitration agreement on the jurisdiction of the Australian courts; the law which governs an arbitration agreement and the parties' dispute; and the recognition and enforcement of foreign arbitration awards.

School Law

Student Contribution Band HECS Band 4 10cp

Check your fees via the Fees (https://www.westernsydney.edu.au/currentstudents/current_students/fees/) page.

Level Postgraduate Coursework Level 5 subject

Restrictions

Must be enrolled in a Post Graduate program

Learning Outcomes

1. Examine the role and functions in relation to construction projects involving international parties in differing jurisdictions.
2. Apply specialised cognitive and technical skills required to practise as interdisciplinary professionals in the construction industry in Australia and overseas.
3. Analyse the interaction between the technical, commercial and legal aspect of construction procurement in Australia and overseas.
4. Examine existing and emerging legal issues relating to construction projects in Australian and overseas.

Subject Content

1. Construction law in common law and civil law jurisdictions
2. Statute law and the construction site: mechanics' lien legislation, security for payment

3. Financing and delivery of international construction projects including alternative financing such as PPP
4. Procurement of projects
5. Standard form international contracts
6. Contracting models and standard-form contracts for international construction projects
7. International Federation of Consulting Engineers (FIDIC)
8. Contractual risk allocation including project security (bonds, letters of credit, guarantees), insurance, regulatory risks, political risks
9. Determination or resolution of international construction disputes
10. Enforcement of construction disputes through international arbitration
11. Contractual and extra-contractual alternative dispute resolution
12. Dispute avoidance procedures in the context of international construction

Assessment

The following table summarises the standard assessment tasks for this subject. Please note this is a guide only. Assessment tasks are regularly updated, where there is a difference your Learning Guide takes precedence.

Type	Length	Percent	Threshold	Individual/ Group Task	Mandatory
Quiz	3 x 10 minutes	20	N	Individual	N
Case Study	1000 words	40	N	Individual	N
Research Essay	2000 words	40	N	Individual	N