

City University of Hong Kong

Information on a Course offered by School of Law with effect from Semester B in 2008 / 2009

Part I

Course Title: Foreign Investment and Trade Law of China

Course Code: LW4628

Course Duration: 2 hrs lecture and 1 hr tutorial per week

Credit Units: 3

Level: 4B

Medium of Instruction: English

Prerequisites: Non-law students must have completed year 1 (degree level) before taking the course as an Out-of-Discipline option.

Precursors: LW4627 Economic Law of China

Equivalent Courses:

LW4128 Foreign Investment and Trade Law of China (LLB) (from the old curriculum)

LW4128A Foreign Investment and Trade Law of China (AMLLB) (from the old curriculum)

Exclusive Courses: Nil

Part II

Course Aims

This course aims to provide students with an overview of laws, rules and regulations concerning China's foreign direct investment and foreign related trade; to introduce students to major laws and regulations on foreign investment enterprises and Chinese trade laws and regulations, with particular emphasis on laws applying after China's accession to the WTO; and to teach students skills of applying those laws and regulations to technical issues arising in those fields.

Course Intended Learning Outcomes (CILOs)

Upon successful completion of this course, students should be able to:

No.	CILOs	Weighting (if applicable)	Number(s) of PILOs Contributed to
1.	have a practical understanding of some important aspects of Chinese legislation relating to foreign direct investments and foreign trade;		2,3
2.	develop research interest in China's commercial laws and regulations applying to foreign investors, and identify and study legal problems arising in these areas;		4
3.	provide general advice to potential clients on foreign investment and trade law of China.		5

Teaching and Learning Activities (TLAs)

(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	TLAs	Hours/week (if applicable)
CILO 1	<p>Lectures:</p> <ul style="list-style-type: none">• Students will be given guidance on their reading in order to prepare for the lectures• Students will be introduced aspects of related Chinese laws and regulations to issues and concerns that arise from those laws and regulations• Students will be given understanding as how legal problems are solved by applying the relevant Chinese laws and regulations	
CILO 2	<p>Tutorials:</p> <ul style="list-style-type: none">• Students will be requested to analyse and evaluate issues and concerns in the field of foreign investment and trade.• Students will be request to study and discuss relevant cases	

Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	Remarks
CILO 1	Course work: Students will be required to write one coursework assignment during the semester. They must be able to show their critical thinking, ability to do proper research and to organize their answers as if providing a legal advice. Upon completion of the assignment, students will be required to make an oral presentation to explain and substantiate their advice. Participation in the presentation will form part of the assessment.	30%	
CILO 2	Examination: The purpose of the examination is to test student's knowledge and understanding of the rules and principles and their ability to adequately apply those rules and principles to different situations. Students are required to cite proper legislation to support their arguments. Skills to answer questions will be taught during the tutorials.	70%	

Grading of Student Achievement

Standard (A+ A A- ... F)

To pass this course students must obtain an aggregate mark of 40% and a minimum of 30% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

The portion of the overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the study guide/course manual and will be further expanded upon by the course leader.

The duration of the examination may last for 2 to 3 hours and it will be at the discretion of the course leader. The course leader will announce the duration of the examination in the first week of the course. Similarly the course leader will announce whether the examination will be closed book or open book.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities.

Part III

Detailed Syllabus

The following topics are to be studied in detail:

- Introduction to the Course. General discussion on the development of foreign direct investments in China, as well as the current situation for foreign trade. Furthermore, discussion will also include the legal framework of foreign direct investments: domestic legislation, bilateral agreements and international treaties.
- Foreign Direct Investment policies. Introduction of current government policies regarding foreign investment guideline and catalogues. The focus will be on catalogue of encouraged foreign investment industries; catalogue of industries prohibited for foreign investment; and catalogue of restricted foreign investment industries.
- Foreign Investment Enterprise Laws and Regulations. Discussion on the legal characters of equity joint venture, contractual joint venture and wholly owned foreign enterprise, as well as other enterprise forms. Including the procedures of establishing foreign investment enterprises. Furthermore, discussion on the operational rules: capital contribution, foreign exchange regulation, land-use right, and labour dispute issue.
- Chinese Company Law and Law on Foreign Investment Enterprises. Discussion on the basic structure of the Company Law of PRC and foreign investment laws. In addition to three traditional foreign investment enterprises, this includes an introduction to branch of foreign company; representative office of foreign company; foreign investment holding company.
- Foreign Trade Law. Discussion on the evolution of foreign trade system, foreign trade operator, quota and license system, and service trade. In this part, there will be a brief introduction to China's accession to the WTO and the WTO structure.
- Antidumping, Anti-subsidy and Safe Guard Clause. Discussion on concepts and implementation of those measures, as well as obligations under the WTO agreements.
- Legal Protection of Foreign Direct Investment. Discussion on the legal framework of foreign investment protection: domestic legal protection and protection through bilateral or international treaties.
- Issues concerning Transfer of Technology. Discussion on regulations, contract for technology transfer and intellectual property protection.
- Foreign Related Taxation. Discussion of the taxation system of PRC: bilateral treaties; foreign enterprise income tax; foreign individual income tax; preferential tax treatment to foreign investors.

Recommended Reading

Text(s)

Because there is no suitable text book, a compiled manual will be provided by the Course Leader