

COURSE OUTLINE

INTERNATIONAL TRADE LAW

FEBRUARY 2010

LECTURER: ADV. C A RENAUD

INTRODUCTION

International Trade Law is an elective course offered to final-year LLB students. The objective of the course is to provide a broad overview of what is an extremely large and complex area of law, together with a more detailed consideration of certain key topics. The course follows the traditional format of lectures and class discussions and students are in addition expected to do a considerable amount of reading and research both in preparation for, and as follow-up to lectures.

Lecture attendance is compulsory, and a register will be taken at each lecture. If a student does, exceptionally, miss a lecture, that student must obtain a copy of the lecture notes and any handouts or references from a fellow student prior to the next lecture. It is every student's responsibility to sign the attendance register which is circulated during lectures.

ASSUMPTIONS OF PRIOR LEARNING

It is assumed that students entering the course are able to:

- understand and communicate effectively in both written and spoken English;
- locate, read, interpret and extract legal principles from international agreements, decisions of South African and foreign courts and tribunals, and various academic works;
- study autonomously;
- apply legal principles in order to solve practical problems.

OUTCOMES

By the end of the course, students should:

- have a broad understanding of the scope and importance of international trade law;
- have a general understanding of the main organisations (in particular the World Trade Organisation) international agreements and relationships which govern and enforce the terms of international commercial transactions;
- understand the nature of the legal relationship between international buyers and sellers of goods;
- understand the nature of the legal relationship which international buyers and sellers have with shippers and carriers of goods;

- have a general understanding of the various methods of financing and paying for goods which are the subject of international transactions.
- have a general understanding of the use of arbitration in resolving international trade disputes.

COURSE CONTENT

PART A

1. Introduction; the scope of international trade law; definition and nature of an international sale contract.
2. Formation of an international sale contract; history and overview of the regulation of such contracts.
3. The United Nations Convention on Contracts for the International Sale of Goods ('CISG').
4. The buyer's obligations and the seller's remedies.
5. The seller's obligations and the buyer's remedies.
6. Case studies.

PART B

7. An introduction to the carriage of goods by sea; maritime claims and jurisdiction; the Admiralty Jurisdiction Regulation Act (105 of 1983).
8. The Carriage of Goods by Sea Act (1 of 1986) and the Hague-Visby Rules.
9. Charterparties; the carrier's common law obligations.
10. Bills of lading; the carrier's obligations in terms of the Hague-Visby Rules.
11. Cargo claims and their defences.
12. Case studies.

PART C

13. Background to international commercial arbitration:
 - The New York Convention of 1958
 - The Washington Convention of 1965
14. South African arbitration legislation and the UNCITRAL Model Law on International Commercial Arbitration.
15. Various sources of arbitration rules.
16. The international arbitration process: the appointment of tribunals, the recognition and enforcement of international arbitration awards.

PART D

17. An introduction to the World Trade Organization.
18. The principles and rules of the World Trade Organization.
19. The WTO's trade dispute settlement mechanisms and procedures.

Note that although 19 topics are listed above, it is anticipated that the course will be covered in 24 lectures as certain topics will require two lecture periods.

RESOURCES

There is no prescribed textbook for this course, as no single textbook covers all of the material included in the course. Students will be provided with a separate reading list and will be referred during lectures to a range of journal articles and cases, some of which are available in the Law Library, some of which are available on the internet, and some of which will be distributed in the form of handouts during lectures. In addition, there are two general textbooks, both of which cover a large part of the course material. One copy of each will be held on short-loan in the Law Library. They are:

J C T Chuah; *Law of International Trade*; (2008) 4th ed.; Sweet & Maxwell, London

I Carr; *International Trade Law*; (2005) 3rd ed.; Routledge Cavendish, London.

Students should note that these are both British textbooks and students must therefore supplement their reading by consulting South African sources to which reference will be made during lectures. In addition, neither of the recommended books contains adequate coverage of the CISG.

ASSESSMENT

There will be one assignment (due date: Tuesday 23 March) and one test (on Tuesday 11 May), which together will comprise the class component of the course and account for 30% of the final mark. A two hour examination to be written in June comprises the remaining 70%. Students should note that the main focus of both the assignment and the examination will be to test whether students can identify and apply the theoretical principles covered by the course to practical situations of the kind which students are likely to encounter when they enter legal practice. The class test will focus on theoretical aspects of international trade law.

C Renaud
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