

**INTERNATIONAL  
BUSINESS TRANSACTIONS**

**CASES AND MATERIALS  
1999**

**Professor Janet Walker**

For Student Use Only  
Not for Commercial Sale

**Osgoode Hall Law School**  
**York University**  
**INTERNATIONAL BUSINESS TRANSACTIONS 1999**

Instructor: Professor Janet Walker  
Office: Room 230  
Hours: Wednesdays, 12:30 - 2:00 pm and by appointment  
Phone: 736-5580  
Email: jwalker@yorku.ca  
Secretary: Anne Oman (outside Room 232)

**Course Structure and Evaluation**

This course addresses the private law issues arising in international business transactions through a survey of the five main kinds of contracts involved: those for sales, carriage of goods, payment and financing (letters of credit), insurance, and arbitration. Focusing primarily on transactions in goods, we begin by examining the national and international legal regimes governing the contractual rights and obligations of buyers and sellers. Then we consider the multi-party legal relations between shippers and carriers of goods transported by sea, land and air, and the way in which they are governed by national and international legal regimes. Following this there is an introduction to documentary credits as a means of financing transactions and securing payment for the goods, and a summary of major issues arising in insuring the goods. Finally, we consider the role increasingly played by international commercial arbitration in the resolution of disputes, through an examination the arbitration agreement and the support given to it by treaties, statutes and the jurisprudence.

Particular topics include: International Sale of Goods Act/CISG, Incoterms, Unidroit Principles, choice of forum/choice of law provisions, proper law of the contract, Rome Convention, charterparties, bills of lading, Hague-Visby Rules, Warsaw Convention, UCP of Documentary Credits, Marine Insurance Act, International Commercial Arbitration Act and the Model Law. Specialists in key topics will be invited to visit the class to make presentations on current developments. Students who have not studied the conflict of laws should make arrangements with the instructor for additional assistance in this area.

**a) Lectures** will be held most of the hours scheduled for the course on Mondays 12:40-2:30 and Tuesdays 12:40-1:30. It is important to be prepared to participate in the discussions during the lectures. To do well on the final examination, you need to do the readings and come to the lectures.

**b) Group Questions** sessions will occur periodically throughout the term in which members of groups of 4-5 students will respond to questions assigned on specified topics. Some of these question sets have been included in the materials. These responses will form part of an overall assessment of class participation which, on a no downside risk basis, will provide guidance where necessary in exercising judgment on the margins of grade bands.

**c) Guest Speakers** will be invited from time to time to present on the practice of international business transactions. Their presentations and supporting materials will form part of the course materials for examination purposes.

**d) Final Examination** The final examination will constitute 100% of your final grade. The examination will be open book. You may bring into the examination room the course materials and any materials that you have prepared yourself. Examination questions may be drawn from material covered in the lectures, presentations, or the assigned readings. The examination will consist of two parts. Part I will consist of short answer questions. Part II will consist of an essay. There will be an option of writing an essay question for Part II in advance of the examination. Under this option, students may choose to prepare an answer to an essay question distributed approximately one week in advance of the examination. A strict word-limit will apply with additional material not being considered. No additional research would be required. On the day of the examination, during a brief recess, following Part I, the essays written in advance will be collected with Part I. Students who have not written an essay in advance will remain to write Part II.

**Required Course Materials** (Available at the Materials Distribution Centre)

a) Castel, *The Canadian Law and Practice of International Trade*, 2 ed. It is highly recommended that you purchase this book. Chapters 5, 8, 11, 7 and 21 are required reading.

b) Walker, *International Business Transactions, Cases and Materials 1999* and periodic handouts.

# INTERNATIONAL BUSINESS TRANSACTIONS

## CASES AND MATERIALS 1999

Professor Janet Walker\*

### PART I - SALES

International Sale of Goods Act .....	1
CISG Questions .....	19
Incoterms 1990 .....	20
Incoterms Questions .....	53
“Unidroit Principles of International Commercial Contracts: Why? What? How?” .....	54
Mackender v. Feldia AG .....	81
The “Angelic Grace” .....	86
The Brussels Convention .....	92a
Vita Food Products Inc v Unus Shipping Co Ltd .....	93
The “Star Texas” .....	100
Imperial Life Assurance Co. of Canada v Colmenares .....	104
Amin Rasheed Shipping Corporation v Kuwait Insurance Co .....	107
The “Kominos S” .....	110
The Rome Convention .....	117
Conflict of Laws Questions .....	124

### PART II - TRANSPORTATION

#### 1. Basic Rights and Obligations

Hongkong Fir Shipping Co, Ltd v Kawasaki Kisen Kaisha, Ltd. ....	125
Suisse Atlantique Societe D'armement Maritime S.A. v. N.V. Rotterdamsche Kolen Centrale	133
“The Heron II” .....	138
Hain Steamship Company Limited v Tate & Lyle, Limited .....	143
The “Berkshire” .....	151
Drew Brown Ltd. v. Orient Trader (The) .....	155
The “Chanda” .....	161
Universal Cargo Carriers Corporation v Citati .....	164

#### 2. Bills of Lading

Carriage of Goods by Water Act .....	175
Bills of Lading Act .....	181
ITO Ltd. and Mitsui O.S.K. Lines Ltd. v. Miida Electronics Inc. ....	182

#### 3. Evidence of the Contract

The Ardennes (Owner of Cargo) v. The Ardennes (Owners) .....	198
Pyrene Co., Ltd. v. Scindia Steam Navigation Co., Ltd. ....	201
“The Dunelmia” .....	206
The “Venezuela” .....	207
The “Henrik Sif” .....	210

---

\*© 1999 Janet Walker. Special thanks are due to Mr. Robert Tarantino (Osgoode Hall class of 1999) and Ms. Anne Oman for their able assistance in compiling and producing these materials.

The "Barranduna" and "Tarago" .....	214
The "Rewia" .....	216
<b>4. Receipt for the Goods</b>	
The Skarp .....	216
Heskell v. Continental Express, Ltd. ....	221
Brown Jenkinson & Co., Ltd. v. Percy Dalton (London), Ltd. ....	231
V/O Rasnoimport v. Guthrie & Co., Ltd. ....	238
Cremer v. General Carriers S.A. ....	241
The "Esmeralda I" .....	247
<b>5. Document of Title</b>	
J. Sewell v James Burdick .....	251
Kwei Tek Chao v British Traders and Shippers, Ltd., N.V. Handelsmaatschappij, J. Smits Import-Export .....	253
Leigh and Silavan Ltd. v Aliakmon Shipping Co. Ltd. ....	257
The "Sanix Ace" .....	263
The "Delfini" .....	267
<b>6. Freight</b>	
Dakin v. Oxley .....	279
Asfar & Co. v. Blundell .....	280
The "Brede" .....	282
Aries Tanker Corporation v. Total Transport Ltd. ....	285
Sample Charterparty .....	286
Charterparty Questions .....	292
Truck Transportation Act .....	293
Carriage by Air Act .....	296
<b>PART III - PAYMENT</b>	
Uniform Customs and Practice for Documentary Credits .....	304
JH Rayner & Co Ltd and Oilseeds Trading Co Ltd v Hambros Bank Ltd .....	313
E.D. & F. Man Ltd. v. Nigerian Sweets & Confectionery Co. Ltd. ....	317
Aspen Planners Ltd. v. Commerce Masonry and Forming Ltd. ....	320
Michael Doyle & Associates Ltd. v. Bank of Montreal .....	323
Bank of Nova Scotia v. Angelica-Whitewear Ltd. ....	330
Banco Nacional de Cuba v. Bank of Nova Scotia .....	341
Instituto Nacional De Comercializacion Agricola (Indeca) v. Continental Illinois National Bank and Trust Company .....	347
Edward Owen Engineering Ltd. v. Barclays Bank International Ltd. ....	349
<b>PART IV - INSURANCE</b>	
Marine Insurance Act .....	353
Zavarovalna Skupnost Triglav v. Terrasses Jewellers Inc. ....	370
<b>PART V - ARBITRATION</b>	
International Commercial Arbitration Act .....	378
Quintette Coal Ltd. v. Nippon Steel Corp. ....	388
Schreter v. Gasmac Inc. ....	391