Contents

	i L	Acknowledgements List of cases List of statutes List of statutory instruments List of conventions List of abbreviations	xv xvii xxxi xxxv xxxvii xli
	Ir	ntroduction	
	1.1 Ai	ms of this book	1
	1.2 H	ow to use this book	1
	1.3 Ho	ow to research the status of treaties and conven	2
	1.4 Int	roduction to international trade law	lions 2
		and de layy	3
	The	e International Sale Contract	
2		oduction to sale of goods	7
	2.1.		7
	2.1.2		7
	2.1.3		8
	2.1.4		9
	2.1.5	Passing of risk and frustration	11
	2.1.6		12
	2.1.7	Exclusion clauses	12
2.2	Intern	ational sale of goods and internation	13
		terms overview	13
	2.2.1	International trade terms	ڊ ء 13
	2.2.2	Most common terms of sale, derived from common law, Incoterms 2000 and Intraterms	
	2.2.3	Use of terms depends on transport device	14
	2.2.4	Use of terms depends on commercial considerations	19
2.3	Internat	ional trade terms: ex works	20
			20

2.4	Internati	onal trade terms: delivered duty paid	21
2.5	Internat	ional trade terms: cost, insurance and freight	22
	2.5.1	General rights and duties under cif	22
	2.5.2	Special features of a cif contract	24
	2.5.3	Notice of appropriation	25
	2.5.4	Transport documents	26
	2.5.5	Time of tender and recipient of documents	29
	2.5.6	Relationship with the carrier and insurer	30
	2.5.7	Risk and property	31
	2.5.8	Payment of price	32
2.6	Interna	tional trade terms: free on board	32
	2.6.1	Types of fob	32
	2.6.2	General rights and duties under fob	33
	2.6.3	Arrangement of carriage and insurance; relationship with the carrier and insurer	35
•	2.6.4	Export clearance	36
	2.6.5	Nomination of a suitable vessel	36
	2.6.6	Passing of risk and property	37
	2.6.7	Payment of price	38
	2.6.8	Examination and acceptance of the goods	39
2	.7 Stand	dard term contracts and common contractual ses	39
	2.7	.1 Allowances	40
	2.7	2 Notice of appropriation	40
		3 Default clauses	41
	2.7	.4 Laytime and demurrage clauses	41
		.5 Force majeure clauses	41
	2.7	.6 Retention of title clause/Romalpa clause	42
		.7 Certificate final clauses	42
	2.7	.8 Choice of law and jurisdiction clauses	42
	2.7	o Arbitration clause or <i>Scott v Avery</i> clause	42

	2.7.10	Exclusion of international conventions	43
	2.7.11	Contract guarantee	43
2.8	Conse	quences of breach of contractual obligations	43
	2.8.1	Introduction	43
	2.8.2	Different categories of contract terms: conditions and warranties, innominate terms	44
	2.8.3	Calculation of damages	47
2.9	Remed	lies of the buyer	49
	2.9.1	Rights of rejection	50
	2.9.2	Seller's right to retender conforming documents	50
	2.9.3	Damages for non-delivery	51
	2.9.4	Damages for breach of warranty	51
	2.9.5	Damages for late delivery	51
	2.9.6	Remedy seeking specific performance, s 52 of the SoGA 1979	51
	2.9.7	Action in tort	52
	2.9.8	Other damages	52
2.10	Remed	ies of the seller	52
	2.10.1	Remedies against the goods themselves	52
	2.10.2	Personal remedies against buyer	56
	2.10.3	Linking of the two groups of remedies	56
2.11		Nations Convention on Contracts for the tional Sale of Goods 1980	57
	2.11.1	General	57
	2.11.2	Sphere of application of the Vienna Convention	58
	2.11.3	Notable features of the Vienna Convention	58
2.12	Revisio	n and further reading	60
	2.12.1	Questions	60
	2.12.2	Further reading	61

3

	Paymen	t Methods in International Trade	63
3.1	General		63
	3.1.1	Payment mechanisms effected via banks	64
	3.1.2	Bills of exchange – an outline	64
	3.1.3	Direct payment	65
		Risk ladder	66
	3.1.5	Performance guarantees	67
3.2	Bills of	exchange in detail	67
	3.2.1	General	67
	3.2.2	Essential criteria	71
	3.2.3	The bill as a negotiable instrument	74
	3.2.4	The bill as an important tool in international	
		trade	76
	3.2.5	Bills of exchange and conflict of laws	77
3.3	3 Collec	ction arrangements	78
	3.3.1	General	78
	3.3.2	Functioning of collection arrangements	78
3.	4 Docu	mentary credits	80
	3.4.1	General	80
	3.4.2	Functioning of a letter of credit	82
	3.4.3	Fundamental principles	86
	3.4.	4 Other types of credit	89
3	.5 Star	dby credits and guarantees	91
	3.5.	1 Standby credits	91
	3.5.	2 Guarantees and performance bonds	92
3	.6 Forf	aiting and factoring	93
	3.6.	1 Forfaiting	94
	3.6.	2 Factoring	95
3	.7 Rev	ision and further reading	96
	3.7.	1 Questions	96
	27	2 Further reading	97

	Contra	acts of Affreightment	99
4.1	Introd	luction	99
4.2	Carria	ge of goods by sea	100
	4.2.1	General	100
	4.2.2	Types and nature of carriage documents	111
	4.2.3	Duties and liabilities of the carrier under the contract of carriage	119
	4.2.4	Duties and liabilities of the shipper under the contract of carriage	130
	4.2.5	Transfer of rights and liabilities under the transport documents – Carriage of Goods by Sea Act 1992	133
	4.2.6	The liability of the carrier in tort or in bailment	136
	4.2.7	Charterparties	137
	4.2.8	Hamburg Rules	141
	4.2.9	UNCITRAL draft instrument on the carriage of goods [wholly or partly] [by sea]	142
4.3	Aspec	ts of carriage of goods by air and land	143
	4.3.1	Carriage of goods by air	143
	4.3.2	Carriage of goods by road and rail	145
	4.3.3	Multimodal transport	147
4.4	Revisi	on and further reading	148
	4.4.1	Questions	148
	4.4.2	Further reading	150
	Marine	e Cargo Insurance	152
5.1	Introdu	uction	152
5.2	Makin	g the insurance contract	154
	5.2.1	Assured-insurer-broker relationship	154
	5.2.2	Insurable interest	155
	5 2 3	Assignment of policy	156

	5.2.4	General insurance principles	157
5.3	Kinds o	f insurance cover	162
	5.3.1	Types of policies	162
	5.3.2	Warranties	163
	5.3.3	Extent of cover	164
	5.3.4	General average	167
5.4	The ins	surance claim	168
	5.4.1	Liability and causation	168
	5.4.2	Burden of proof	169
	5.4.3	Total and partial loss	170
	5.4.4	Measure of indemnity	170
	5-4-5	Double insurance and underinsurance	171
	5.4.6	Subrogation	171
5.5	Revisi	on and further reading	171
	5.5.1	Questions	171
	5.5.2	Further reading	173
		national Dispute Resolution	175
6.		· · · · · · · · · · · · · · · · · · ·	175
6.	2 Juris	diction and enforcement of judgments	177
	6.2.1	General	177
	6.2.2	The European rules in overview	179
	6.2.	Jurisdiction under Council Regulation 44/2001/EC	180
	6.2.	4 Recognition and enforcement of judgments under Council Regulation 44/2001/EC	188
	6.2.	5 The European enforcement order	190
	6.2.	6 Jurisdiction under the traditional rules	190
	6.2.	7 Recognition and enforcement under the traditional rules	194
6.	.3 Arbi	tration as a form of alternative dispute resolution	196
	6.3.	1 General	196

	6.3.2	International arbitration	198
	6.3.3	Arbitration in England	199
	6.3.4	Enforcement of arbitral awards in overview	201
	6.3.5	Enforcement of New York Convention awards	203
	6.3.6	Enforcement under the Administration of Justic Act 1920, the Foreign Judgments (Reciprocal Enforcement) Act 1933 and the Civil Jurisdiction and Judgments Act 1982	ce 204
6.4	Applica	able law	204
	6.4.1	General	204
	6.4.2	Rome Convention	206
	6.4.3	Common law rules on contractual obligations	212
	6.4.4	Checklist for the applicable law to contractual obligations	212
	6.4.5	Applicable law to non-contractual obligations	213
6.5	Dispute	e resolution checklist	215
	6.5.1	Form of dispute resolution	215
	6.5.2	Applicable law	216
6.6	Revisio	on and further reading	216
	6.6.1	Questions	216
	6.6.2	Further reading	218
	The Big	gger Picture	221
7.1	Introdu	iction	221
	7.1.1	Identification of essential issues/relevance of the content of your advice	222
	7.1.2	Accuracy of the content and correct application of relevant legal principles	222
	7.1.3	Structured approach and presentation	222
	7.1.4	Clarity of expression	222
	7.1.5	Appropriate use of authority and level of research	222
7.2	Case st	udy 1 – Steel Girders	222
	7.2.1	Scenario	222

	7.2.2 Points of discussion	224
	Case study 2 – Didgeridoos	231
	7.3.1 Scenario	231
	7.3.2 Points of discussion	232
	A Guide to Further Reading	238
8.1	Textbooks and Cases and Materials Books in International Trade Law	238
8.2	Practitioner guides	239
	8.2.1 General	239
	8.2.2 Sale of goods	239
	8.2.3 Carriage of goods	240
	8.2.4 Payment methods	240
	8.2.5 Marine insurance	240
	8.2.6 Arbitration	241
	8.2.7 International dispute resolution	241
8.3	3 Statute books	241
8.	4 Journals and newsletters	242
8.	5 Online sources	243
Ą	ppendices	246
A)	Incoterms 2000 Overview	246
B) GAFTA 100	248
C) GAFTA 119	254
D) Invoice V5	258
E	Add. Copy Doc. Coll. with Bill of Exchange	259
F) Bills of Exchange	260
(6) Foreign Bill and/or Documents for Collection	261
F	d) Sample Letter of Credit Application Form	262
ľ		263
ľ		26/

K)	Standard Shipping Note for non-dangerous goods only	265
L)	Dangerous Goods Note	266
M)	House Air Waybill	268
N)	Shipper's Letter of Instructions for issuing Air Waybill	269
0)	Certificate of Insurance – Lloyd's	270
P)	GENCON Voyage Charter Party as revised in 1994	272
Q)	GENTIME Time Charter Party	276
R)	BARECON 2001 Standard Bareboat Charter	286
S)	CONGENBILL Bill of Lading, 1994 Edition	298
T)	CONLINEBILL 2000 Liner Bill of Lading as revised in November 2000	300
U)	LINEWAYBILL Non-negotiable Liner Sea Waybill	302
V)	COMBICONBILL Negotiable Transport Bill of Lading, as revised in 1995	304
W)	COMBICONWAYBILL Combined Transport Sea Waybill, issued in 1995	306
X)	MULTIDOC 95 Multimodal Transport Bill of Lading, issued in 1995	308
Y)	MULTIWAYBILL 95 Multimodal Transport Waybill, issued in 1995	311
Z)	CONLINEBOOKING 2000 (BIMCO Liner Booking note) and	313
AA)	VOYLAYRULES 93 (Voyage Charterparty Laytime Interpretation Rules 1993)	315
Inda	NY.	220