CONTENTS

Pref	Preface				
Tabl	e of Cases		xxiii		
Tabl	e of Statu	tes	xxxvii		
Tabl	Table of International Conventions				
List	List of Tables and Figures x				
Intro	oduction		xlix		
1	STAN	DARD TRADE TERMS	1		
1.1	INTRO	DUCTION	1		
1.2	EX WO	PRKS	2		
1.3	CIF CO	ONTRACTS	2		
	1.3.1	What is a CIF contract?	2		
	1.3.2	Judicial definition of a CIF contract	3		
	1.3.3	Is a CIF contract simply a sale of documents?	6		
	1.3.4	Duties of the seller under a CIF contract	8		
	1.3.5	Duty to procure and prepare documents	11		
	1.3.6	Invoice	11		
	1.3.7	Bill of lading	11		
	1.3.7	1.3.7.1 Delivery order – A good substitution?			
	1.3.8	Insurance	14		
	1.3.9	Kind of cover and amount of cover	14		
	1.3.10	Insurance to cover subject matter of sale and entire transit			
	1.3.11	Policy	15		
	1.3.12	Licences	17		
	1.3.13	Tender of documents	18		
	1.3.14	When must the documents be tendered?	19		
	1.3.15	Place of tender	19		
	1.3.16	Seller's remedies	20		
	1.3.17	Passing of property	20		
	1.3.18	Passing of risk	23		
	1.3.19	Duties of the buyer	23		
	1.3.20	Right of rejection	25		
	1.3.21	Damages for failure to tender valid documents or deliver goods	26		

	1.3.22 1.3.23	Damages for late shipment and late tender Damages for defective goods	27 28
1.4		NTS OF A CIF CONTRACT	28
1.1	1.4.1	CIF and arrival contracts	28
1 5		ONTRACTS	29
1.5			29
	1.5.1	C&F and INCOTERMS 1990	
1.6	CIF CC	NTRACTS UNDER INCOTERMS 1990	30
	1.6.1	Obligations of the seller	30
	1.6.2	Obligations of the buyer	32
1.7	FOB CO	ONTRACTS	33
	1.7.1	Duties of the seller under a classic FOB contract	35
	1.7.2	Seller's remedies	37
	1.7.3	Duties of the buyer	38
	1.7.4	Buyer's remedies	40
	1.7.5	Export and import licences	40
	1.7.6	Passing of property	41
	1.7.7	Passing of risk	41
1.8	VARIA	ANTS OF A FOB CONTRACT	42
	1.8.1	FOB with additional services	42
1.9	FAS C	CONTRACTS	42
1.1	0 FOB C	CONTRACTS UNDER INCOTERMS 1990	43
	1.10.1	Obligations of the seller	43
	1.10.2	Obligations of the buyer	45
1.1	1 INCC	TERMS 1990 – A BRIEF OVERVIEW	46
1.1	2 CON	CLUSION	48
SL	JMMAR	Y OF CHAPTER 1	53
2	TRA	NSPORTATION OF GOODS –	
~		ARTERPARTIES	61
2.1	INTR	ODUCTION	61

	m /DEC	OR CLIA PERPA A PERPA	
2.2		OF CHARTERPARTIES	62
	2.2.1	Voyage charterparty	62
	2.2.2	Time charterparty	63
	2.2.3	Demise charterparty	63
2.3		MON LAW IMPLIED OBLIGATIONS IN A GE CHARTERPARTY	63
	2.3.1	Nomination of a safe port	64
	2.3.2	Not to ship dangerous goods	68
2.4	COMN	MON LAW IMMUNITIES	68
2.5	USUA	L EXPRESS TERMS	68
2.6	CONC	LUSION	71
SUN	ИMARY	OF CHAPTER 2	73
3	BILLS	S OF LADING	77
3.1	INTRO	DUCTION	77
3.2	NATU	RE OF A BILL OF LADING	77
	3.2.1	Bill of lading as a receipt	78
	3.2.	1.1 Bills within the Carriage of Goods by Sea Act 1971	78
	3.2.	1.2 Bills outside the Carriage of Goods by Sea Act 1971	78
	3.2.	1.3 Enforceability of indemnity agreements for issuing clean bills of lading	80
	3.2.2	Bill of lading as evidence of contract of carriage	83
	3.2.3	Bill of lading as contract of carriage	84
	3.2.4	Bill of lading as document of title	85
	3.2.	4.1 Quality of title acquired by transferee	86
	3.2.	4.2 Delivery against bills of lading	86
3.3	RIGHT	S AND LIABILITIES OF CONSIGNEE/ENDORSEE	88
	3.3.1	Problems caused by the Bills of Lading Act 1855	88
	3.3.	1.1 Position of pledgees	89
	3.3.	1.2 Right to sue and bulk goods	90
	3.3.	1.3 The implied contract approach	90

	3.3.1.4	1 The special contract	90
	3.3.1.5	5 Liability in tort	91
	3.3.1.0	6 Endorsement of bill of lading after delivery	91
3.4	THE NE	W LAW – THE CARRIAGE OF GOODS BY SEA ACT 1992	92
	3.4.1	Rights of suit	92
	3.4.2	Imposition of liabilities	94
3.5	BILLS C	F LADING AND FRAUD	95
3.6		RONIC DATA INTERCHANGE (EDI) AND AGE OF GOODS BY SEA ACT 1992	98
	3.6.1 elect	Advantages and disadvantages of using ronic documents	99
	3.6.1	.1 Evidential issues	100
	3.6.2 CM	Electronic bills of lading – SEADOCS scheme, I Rules for Electronic Bills of Lading	101
3.7	CONC	LUSION	102
SU	MMARY	OF CHAPTER 3	103
4	BILLS	S OF LADING UNDER COMMON LAW	107
4.1	INTRO	DDUCTION	107
4.2	2 BILLS	OF LADING AND COMMON LAW	107
	4.2.1	Common law implied obligations – shipowner	107
	4.2.2	Seaworthiness	108
	4.2	2.2.1 Physical state of the ship	108
	4.2	2.2.2 Cargoworthiness	109
	4.2	2.2.3 Seaworthiness – an absolute undertaking	111
	4.2	2.2.4 Standard for establishing seaworthiness	111
	4.2	2.2.5 Burden of proof	111
	4.2	2.2.6 Seaworthiness and causation	112
	4.2	2.2.7 Remedies for breach of seaworthiness	112
	4.2	2.2.8 Excluding implied undertaking of seaworthiness	112
	4.2.3	Due dispatch	113
	4.2.4	Deviation	114

	4.2.4.1 Saving human lives	114
	4.2.4.2 For prosecution of the voyage or for safety	
	of the adventure	115
	4.2.4.3 Liberty to deviate clauses	115
	4.2.4.4 Effect of unjustified deviation	116
	4.2.5 Negligence	118
	4.2.6 Common law implied obligations – shipper	118
	4.2.6.1 Dangerous goods	118
	4.2.6.2 Nature of undertaking	119
4.3	SHIPOWNER'S IMMUNITIES	119
	4.3.1 Common law exceptions	120
	4.3.1.1 Act of God	120
	4.3.1.2 Act of Queen's enemies	120
	4.3.1.3 Inherent vice	120
	4.3.2 Contractual exceptions	120
	4.3.2.1 Perils of the sea	121
*	4.3.2.2 Arrest or restraint of princes	121
	4.3.2.3 Hostilities and riots	122
	4.3.2.4 Strikes	122
	4.3.2.5 Latent defect	123
	4.3.2.6 Fire	123
4.4	OTHER TERMS IN BILLS OF LADING	124
	4.4.1 Responsibility for loading	124
	4.4.2 Freight	124
	4.4.2.1 Bills of Lading Act 1855	127
	4.4.2.2 Carriage of Goods by Sea Act 1992	128
	4.4.3 Lien	128
4.5	CONCLUSION	129
SUN	MMARY OF CHAPTER 4	131
5	CARRIAGE OF GOODS BY SEA ACT 1971	137
5.1	INTRODUCTION – HISTORICAL BACKGROUND	137
5.2	INTERPRETATION OF THE HAGUE-VISBY RULES	138

5.3	CARRIE	R'S DUTIES AND LIABILITIES	139
	5.3.1	Who is the carrier?	139
	5.3.2	Seaworthiness	141
	5.3.2.1 Period of responsibility		
	5.3.2.	2 Delegation	142
	5.3.2.	3 Burden of proof	143
	5.3.3	Cargo management	144
	5.3.3.	1 Period of responsibility	144
	5.3.3	.2 Delegation	144
	5.3.3	.3 Burden of proof	145
	5.3.4	Documentary responsibilities	146
	5.3.5	Duty to pursue contract voyage	146
	5.3.5	5.1 Liberty to deviate clauses	148
	5.3.5	5.2 Effects of unjustified deviation	148
5.4	CARRI	ER'S IMMUNITIES	149
	5.4.1	Unseaworthiness	149
	5.4.2	Negligence in navigation or management of the ship	149
	5.4.3	Fire	150
	5.4.4	Perils of the sea	152
	5.4.5	Act of God	152
	5.4.6	Act of war, public enemies, riots	152
	5.4.7	Act of authorities, quarantine	153
	5.4.8	Act or omission of shipper	153
	5.4.9	Strikes, lockouts	153
	5.4.10	Saving life or property, deviation	154
	5.4.11	Wastage, inherent vice	154
	5.4.12	Defective packing and marking	154
	5.4.13	Latent defects	155
	5.4.14	Catch-all exception	155
5.	5 LIMIT	TATION OF LIABILITY	156
	5.5.1	Liability for 'loss or damage'	156
	5.5.2	Liability in contract and tort	156
	5.5.3	Availability of limitation	157
	5.5.4	Calculation of liability	158
	5.5	5.4.1 Package/unit/weight	158

	5.5.4	2 Container	158
	5.5.4	3 Monetary unit for calculation	159
	5.5.5	Loss of limitation	159
	5.5.5	1 Carrier	159
	5.5.5	2 Servant/agent of carrier	160
	5.5.6	Time limitation	160
5.6	CONTR	ACTING OUT	161
	5.6.1	Opting out	162
	5.6.2	Reducing liability	162
	5.6.3	Increasing responsibility/liability	164
5.7	SHIPPE	R'S DUTIES AND IMMUNITIES	164
	5.7.1	Delivery for loading	164
	5.7.2	Shipper's guarantee	164
	5.7.3	Dangerous goods	165
	5.7.4	No fault	166
5.8	GENER	AL AVERAGE	168
5.9	STATU	S OF TERMS NOT INCLUDED IN THE RULES	168
5.10	SCOPE	OF APPLICATION	169
	5.10.1	Documents affected by the Hague-Visby Rules	169
	5.10.	1.1 Charterparties	171
	5.10.	1.2 Incorporation of charterparty terms in bills of lading	172
	5.10.2	Kinds of carriage	173
	5.10.3	Kinds of cargo	175
	5.10.	3.1 Live animals	175
	5.10.	3.2 Deck cargo	175
	5.10.	3.3 Deck stowage and availability of immunities	176
	5.10.	3.4 Particular goods	178
	5.10.4	Period of coverage	178
		4.1 Transhipment	179
	5.10.	4.2 Lighterage operations	180
5.11	CONCI	LUSION	180
SUN	MARY	OF CHAPTER 5	181

6	THE HAMBURG RULES	189				
6.1	INTRODUCTION – THE NEED FOR THE HAMBURG RULES	189				
	6.1.1 Major objections to the Hague-Visby Rules	189				
6.2	INTERPRETATION OF THE CONVENTION	191				
6.3	SCOPE OF APPLICATION	191				
	6.3.1 Period of coverage	191				
	6.3.2 Contracts of carriage	192				
	6.3.2.1 Electronic bill of lading	192				
	6.3.2.2 Charterparties					
	6.3.2.3 'Volume' or 'tonnage' contracts					
	6.3.2.4 Lighterage	194				
	6.3.2.5 Transhipment	194				
	6.3.3 Kinds of cargo	194				
	6.3.3.1 Deck cargo	195				
	6.3.3.2 Live animals	195				
6	.4 CARRIER'S DUTIES AND LIABILITIES	196				
	6.4.1 Who is the carrier?	196				
	6.4.2 Carrier liability	196				
	6.4.2.1 Partial liability of carrier	197				
	6.4.3 Documentary responsibilities	198				
	6.4.3.1 Issue of bill of lading	198				
	6.4.3.2 Contents of bill of lading	198				
	6.4.3.3 Effect of omission of information on bill of lading	199				
	6.4.3.4 Reservations	199				
	6.4.3.5 Evidentiary value	200				
	6.4.3.6 Contents of other documents	200				
	6.5 BURDEN OF PROOF	201				
	6.6 CARRIER'S IMMUNITIES	201				
	6.6.1 Exceptions operating in carrier's favour	201				
	6.6.1.1 Live animals	201				
	6.6.1.2 Deviation	201				
	6.6.1.3 Fire	202				

6.7	CONTR	ACTING OUT	202
	6.7.1	Reducing liability	202
	6.7.2	Increasing responsibility	203
6.8	CARRIE	ER'S RIGHTS	204
	6.8.1	Freight	204
	6.8.2	Demurrage	204
	6.8.3	General average	204
6.9	LIMITA	TION OF LIABILITY	204
	6.9.1	Availability of limitation	205
	6.9.2	Limitation amount	205
	6.9.3	Calculation of liability - package or shipping unit	205
	6.9.4	Loss of right to limit liability	206
	6.9.5	Limitation period	206
6.10	SHIPPE	R'S RESPONSIBILITIES	206
	6.10.1	Accuracy of particulars	206
	6.10.2	Dangerous goods	207
6.11	SHIPPE	R'S UNDERTAKING TO INDEMNIFY CARRIER	207
6.12	CHOIC	E OF FORUM	208
	6.12.1	Judicial proceedings	208
	6.12.2	Arbitration	209
6.13	CONCI	LUSION	209
SUM	MARY (OF CHAPTER 6	219
7	MARI	NE INSURANCE	223
7.1	INTRO	DUCTION	223
7.2	SCOPE	AND NATURE OF MARINE INSURANCE CONTRACTS	224
	7.2.1	Obtaining marine insurance cover	224
	7.2.2	Payment of premium	225
	7.2.3	Different kinds of policies	225
	7.2.3	.1 Voyage policy and time policy	225

	7.2.3	.2 Valued policy and unvalued policy	226
	7.2.3	.3 Floating policy and open cover	227
7.3	PRINCI	IPLES OF MARINE INSURANCE LAW	228
	7.3.1	A contract of utmost good faith	228
	7.3.2	Insurable interest	232
	7.3.3	Subrogation	233
	7.3.4	Double insurance	235
7.4	ASSIG	NMENT	236
7.5	WARR	ANTIES ON THE PART OF THE INSURED –	
	IMPLII	ED AND EXPRESS	237
	7.5.1	Implied warranties (seaworthiness, legality)	237
	7.5.2	Express warranties	238
7.6	DEVIA	ATION	238
7.7	LIABII	LITY OF INSURER	239
	7.7.1	Doctrine of proximate causation	239
	7.7.2	Types of losses	241
	7.7	.2.1 Total loss	241
	7.7	2.2. Partial Loss	243
7.8	INSTI	TUTE CARGO CLAUSES (A), (B) AND (C)	243
	7.8.1	Historical background	243
	7.8.2	Institute Cargo Clauses (A)	245
	7.8.3	Institute Cargo Clauses (B)	247
	7.8.4	Institute Cargo Clauses (C)	248
7.9	ON CON	CLUSION	248
SU	JMMAR	Y OF CHAPTER 7	253
8	LET	TERS OF CREDIT	259
8.3	1 INTR	RODUCTION	259
8.2	2 OPE	N ACCOUNT	259
8.3	BILLS	S OF EXCHANGE	260

8.4	DOCUM	MENTARY BILL	264
8.5	LETTER	S OF CREDIT	265
	8.5.1	Law relating to letters of credit	266
	8.5.2	Letters of credit: their nature and advantages	267
	8.5.3	Stages in a documentary credit transaction	268
	8.5.4	Characteristics of letters of credit – autonomy and strict compliance	272
	8.5.4.	1 Autonomy of letters of credit	272
	8.5.4.	2 Doctrine of strict compliance	275
	8.5.5	Ambiguous instructions from buyer and linkage of documents	277
8.6	TYPES (OF LETTERS OF CREDIT	278
	8.6.1	Revocable credit	279
	8.6.2	Irrevocable unconfirmed credit	281
	8.6.3	Confirmed credit	283
	8.6.4	Back to back credits	285
	8.6.5	Transferable credits	285
	8.6.6	Revolving credits	286
	8.6.7	Red clause credits and green clause credits (also known as anticipatory credits)	286
8.7	THE OF	PENING OF LETTERS OF CREDIT	287
	8.7.1	When must the credit be opened?	288
	8.7.2	Failure to open a letter of credit	289
	8.7.3	Waiver and variation	289
8.8	TENDE	R OF DOCUMENTS BY SELLER (BENEFICIARY)	290
8.9	OBLIGA	ATIONS OF THE BANK(S) TO THE SELLER	293
	8.9.1	The fraud exception	297
8.10		RMANCE BONDS/GUARANTEES AND BY LETTERS OF CREDIT	298
	8.10.1	Performance bonds/guarantees	298
		Standby letters of credit	300
8.11	CONCL	LUSION	301
SUM	MARY (OF CHAPTER 8	303

9	DISPUTE	RESOLUTION	309
9.1	INTRODUC	ΓΙΟΝ	309
9.2	LITIGATION	J	310
	-	sdiction	310 310
		russels Convention	313
		ommon law ermining the proper law of the contract	314
		ne Rome Convention	314
		ommon law	316
9.3	ARBITRAT	ON	316
	9.3.1 Ar	oitration in international commercial contracts	318
	9.3.2 Ar	bitration under English law	321
	9.3.2.1 A	applicable substantive law	323
	9.3.2.2 S	tay of court proceedings	325
	9.3.2.3 J	udicial review of arbitration awards	326
	9.3.2.4 I	Enforcement of arbitral awards	328
9.4	4 CONCILIA	ATION (MEDIATION)	330
9.	5 CONCLUS	SION	332
SI	UMMARY OF	CHAPTER 9	333
Α	PPENDIX 1:	MARINE INSURANCE ACT 1906	341
A	PPENDIX 2:	CARRIAGE OF GOODS BY SEA ACT 1971	369
A	APPENDIX 3:	UNFAIR CONTRACT TERMS ACT 1977	379
A	APPENDIX 4:	SALE OF GOODS ACT 1979	383
A	APPENDIX 5:	CARRIAGE OF GOODS BY SEA ACT 1992	391
A	APPENDIX 6:	CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATION CARRIAGE BY AIR, WARSAW, 1929 (WARSAW CONVENTION)	NAL 397

APPENDIX 7:	HAGUE PROTOCOL TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER 1929 (THE HAGUE PROTOCOL) 1955	399
APPENDIX 8:	CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD, GENEVA, 1956	401
APPENDIX 9:	UNITED NATIONS CONVENTION ON THE CARRIAGE OF GOODS BY SEA, HAMBURG, 1978 (HAMBURG RULES)	403
APPENDIX 10:	UNCITRAL MODEL LAW ON ELECTRONIC COMMERCE (ADOPTED 1996)	419
APPENDIX 11:	CMI RULES FOR ELECTRONIC BILLS OF LADING	429
APPENDIX 12:	CMI RULES FOR SEA WAYBILLS	435
APPENDIX 13:	UNCITRAL CONCILIATION RULES (ADOPTED DECEMBER 1980)	439
APPENDIX 14:	INSTITUTE CARGO CLAUSES (A)	447
APPENDIX 15:	INSTITUTE CARGO CLAUSES (B)	449
APPENDIX 16:	INSTITUTE CARGO CLAUSES (C)	451
APPENDIX 17:	INSTITUTE STRIKES CLAUSES (CARGO)	453
APPENDIX 18:	INSTITUTE WAR CLAUSES (CARGO)	455
APPENDIX 19:	GENCON (AS REVISED 1922 AND 1976)	457
APPENDIX 20:	GENCON (AS REVISED 1922, 1976 AND 1994)	461
APPENDIX 21:	NYPE 93	465
APPENDIX 22:	CONGENBILL	481
Further Reading		483
Index		499