

INTERNATIONAL BUSINESS TRANSACTIONS

A Context and Practice Casebook

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Series Editor's Preface

Welcome to a new type of casebook. Designed by leading experts in law school teaching and learning, Context and Practice casebooks assist law professors and their students to work together to learn, minimize stress, and prepare for the rigors and joys of practicing law. Student learning and preparation for law practice are the guiding ethics of these books.

Why would we depart from the tried and true? Why have we abandoned the legal education model by which we were trained? Because legal education can and must improve.

In Spring 2007, the Carnegie Foundation published *Educating Lawyers: Preparation for the Practice of Law* and the Clinical Legal Education Association published *Best Practices for Legal Education*. Both works reflect in-depth efforts to assess the effectiveness of modern legal education, and both conclude that legal education, as presently practiced, falls quite short of what it can and should be. Both works criticize law professors' rigid adherence to a single teaching technique, the inadequacies of law school assessment mechanisms, and the dearth of law school instruction aimed at teaching law practice skills and inculcating professional values. Finally, the authors of both books express concern that legal education may be harming law students. Recent studies show that law students, in comparison to all other graduate students, have the highest levels of depression, anxiety and substance abuse.

The problems with traditional law school instruction begin with the textbooks law teachers use. Law professors cannot implement *Educating Lawyers* and *Best Practices* using texts designed for the traditional model of legal education. Moreover, even though our understanding of how people learn has grown exponentially in the past 100 years, no law school text to date even purports to have been designed with educational research in mind.

The Context and Practice Series is an effort to offer a genuine alternative. Grounded in learning theory and instructional design and written with *Educating Lawyers* and *Best Practices* in mind, Context and Practice casebooks make it easy for law professors to change.

I welcome reactions, criticisms, and suggestions; my e-mail address is michael.schwartz@washburn.edu. Knowing the author(s) of these books, I know they, too, would appreciate your input; we share a common commitment to student learning. In fact, students, if your professor cares enough about your learning to have adopted this book, I bet s/he would welcome your input, too!

Professor Michael Hunter Schwartz, Series Designer and Editor
Co-Director, Institute for Law Teaching and Learning
Associate Dean for Faculty and Academic Development

Preface and Acknowledgments

The Goals of the Casebook

International Business Transactions is designed to do two things:

- introduce you to global economic relations (the context of international business transactions), and
- teach you how to organize and execute the transactions themselves (the practice of international business transactions).

The book does not assume any prior knowledge of business or international law, and so concentrates on the basics. With the curricular and extracurricular demands of law school, it is possible that you will not have an opportunity to take many business or international law courses. In recognition of that, the book is careful with your time, explaining the basics but leaving in-depth treatment of some topics (for example, domestic intellectual property laws and international litigation) for more specialized courses.

International Business Transactions is divided into four parts.

- Part I: The International Context starts with the big picture. Chapters 1–4 provide an introduction to globalization, and to the history and institutions of international economic relations including the General Agreement on Tariffs and Trade (the GATT) and its successor, the World Trade Organization (WTO). These chapters also explain the basic concepts of international trade in goods and monetary systems.
- Part II: The Legal Context of International Trade and Business looks more closely at the public international legal structures developed to govern international business relations. Chapters 5–8 cover the settlement of trade disputes under the WTO system, regional trading arrangements including the North American Free Trade Agreement and the European Union, the development of international regulation of trade in services, and foreign direct investment.
- Part III: Trade Practice shifts the focus to what trade lawyers do. Chapters 9–12 look at trade practice, a largely regulatory practice in which lawyers assist their clients with the formalities, restrictions and requirements of moving goods across borders. This part begins with a discussion of trade remedies that a client may seek for foreign trading practices or administrative measures. Export and import (customs) regulation follows, including a discussion of economic sanctions or embargoes that may impose restrictions on certain international business transactions.

- Part IV: International Commercial Transactions covers international commercial practice. Chapters 13–16 set out the basics of documentary sales transactions and letters of credit, including a discussion of the increasing impact of anti-corruption measures such as the U.S. Foreign Corrupt Practices Act. The last chapter of the book is composed completely of documents for a variety of international business transactions, and provides an opportunity for you to practice the skills you have developed in the rest of the course.

At the end of the course, you should have a working knowledge of international trade law and many of the skills needed to represent your clients in that context, as well as in international sales and investment transactions. You should be prepared to practice, and understand the environment in which you are practicing.

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