

INTERNATIONAL TRADE LAW

FEBRUARY 2013

LECTURER: Ms Vicky Heideman

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;

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. Problems in international commercial transactions
4. The United Nations Convention on Contracts for the International Sale of Goods ('CISG').

5. The buyer's obligations and the seller's remedies.
6. The seller's obligations and the buyer's remedies.
7. Critical evaluation of the CISG.

PART B

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

PART C

14. An introduction to the World Trade Organization.
15. Trade Policy Instruments
16. The Most Favoured Nation principle. (MFN)
17. National Treatment.
18. The Agreement on Technical Barriers to Trade (TBT)
19. The Agreement on Sanitary and Phytosanitary Measures (SPS)
20. The Dispute Settlement Understanding (DSU)

Note that although 20 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. Instead, there are five textbooks which cover different parts of the course, all of which will be on short loan. These are:

PART A

- R Fentiman ***International Commercial Litigation***; (2010) Oxford University Press
- CF Forsyth ***Private International Law*** 5 ed (2012) Juta

PART B

- J Hare ***Shipping Law and Admiralty Jurisdiction in South Africa*** 2 ed (2009) Juta
- JCT Chuah ***Law of International Trade*** 4 ed (2008) Sweet & Maxwell: London.

PART C

- M Matsushita ***The World Trade Organization: Law, Policy, and Practice*** 2 ed. (2006) Oxford University Press
- P van den Bossche ***The Law and Policy of the World Trade Organization*** 2 ed (2008) Cambridge University Press

Students will further be provided with a separate reading list for each section during lectures which will refer to a range of journal articles and cases, some of which are available in the Law Library, others are available on the internet. In this regard, students are expected to

make frequent use of RUConnected where links to important readings for the course will be posted from time to time.

ASSESSMENT

There will be one assignment and one test, 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%.

V Heideman
January 2013