

## INTERNATIONAL BUSINESS TRANSACTIONS

B735

Fall 2009

### **Professor Lynch**

Room 251

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Office hours: Wednesdays 12:30-2:00.  
No appointment necessary.

### ***COURSE DESCRIPTION:***

This course will introduce students to the mechanics of international business transactions and to the commercial law environment in which those transactions are negotiated and executed. We will focus on the trade and investment activities of private entities, examining in a practical way the documentation necessary to execute various types of transactions and issues the international business lawyer is likely to encounter. Specifically, we will discuss the law of the international sales of goods, cross border technology transfers and foreign direct investment. We will also discuss certain procedures and legal regimes of international dispute resolution.

Although we will touch on certain issues regarding the regulation of international trade generally, this is not a course in international trade law and international trade regimes. A course dedicated to international trade law is offered in the spring semester.

### ***COURSE MATERIALS:***

1. *International Business Transactions: A Problem-Oriented Coursebook*, Tenth Edition, Folsom, *et al.* ("CB")
2. *2009 Documents Supplement for International Business Transactions*, Folsom, *et. al.* ("DS")
3. Additional material as assigned during the semester.

### ***CLASS STRUCTURE AND CLASS PARTICIPATION:***

The materials for this course are, for the most part, presented in the form of hypothetical problems followed by relevant commentaries, cases and statutory excerpts. Accordingly, class discussion will often focus on solving the assigned problems.

You are expected to bring your Coursebook and Supplement book to every class. We will often refer to text within each during class.

I will cold call students if students are not volunteering to answer questions or to comment. If you wish to excuse yourself from being cold called during a particular class, please ask me before the start of class to refrain from calling on you that day.

### ***EXAMINATION AND GRADING:***

The final examination will be an in-class exam held on Wednesday, December 9<sup>th</sup> starting at 1:00 p.m. The final grade will be largely based on this exam. The exam will be modified open book; you will be able to bring and consult with the Coursebook, the Documents Supplement, your class notes and any outlines you have prepared this semester. You may not use any commercial outlines or outlines prepared by students in previous semesters. Further details regarding the exam will be provided at a later date.

Exams grades will be curved in accordance with the law schools grading policy. In most cases, a student's grade on the exam will be his or her final grade for the class. However, I reserve the right to adjust a student's grade upward or downward by a half letter grade (e.g., from an A- to an A or a B+) on the basis of his or her participation in and contribution to the class.

Attendance is expected, required and will be checked. Frequent absences contribute to the likelihood of having your grade adjusted downward by a half letter grade. Very frequent absences may result in your exclusion from the final exam.

### ***READING ASSIGNMENTS***

Readings may be augmented throughout the semester with additional materials. I reserve the right to change the reading assignments. The reading assignment details for Parts II – V will be provided during the course of the semester.

## **Introduction**

### **Wednesday, August 26**

CB 2-11, 13-24, 44-49

## **Part I – International Sales of Goods**

### **Monday, August 31 – Basics of the Documentary Sale**

CB 52-79, 290-293

### **Tuesday, September 1 – Commercial Terms**

CB 112-136

UCC §§1-102, 2-319, 2-320 (DS 1052-1053, 1067-1072)

### **Wednesday, September 2 – Bills of Lading**

CB 225-237, 247-259

Harter Act and Carriage of Good by Sea Act (“COGSA”) (DS 1025-1028)

Federal Bills of Lading Act (aka “Pomerene Act”) (DS 1036-1041)

**Monday, September 7 – Bills of Lading (cont.), Carrier Liability**  
CB 136-139, 140-146

**Tuesday, September 8**  
No additional reading (Catch up day)

**Wednesday, September 9**  
No additional reading (Catch up day)

**Monday, September 14 -- Letters of Credit, Independence Principle and Strict Compliance Standard**  
CB 293-328  
UCC §§5-107, 5-108, 5-116 (DS 1088-1094, 1098-1100)

**Tuesday, September 15 – Letters of Credit (cont.), Fraud and Nonpayment**  
CB 341-358  
UCC §§5-109, 5-110 (DS 1094-1098)

**Wednesday, September 16 – Standby Letters of Credit**  
CB 380-386, 389-392, 398-408  
UN Convention on Independent Guarantees and Stand-By Letters of Credit (DS 52-59)

**Monday, September 21 – Choice of Law**  
CB 80-96  
UCC §§1-105, 2-207, 3-314, 2-316  
Convention on the Law to Contractual Obligations (ECC) (aka ‘Rome Convention’) DS 1182-1188) Skim

**Tuesday, September 22 – Choice of Law (cont.)**  
CB 96-112, 139-140  
UN Convention on Contracts for the International Sale of Goods (CISG), (DS 28-47) (Read Articles 1, 6, 18, 19, 35 and 36 carefully. Skim the rest.)

**Wednesday, September 23 – Sales Agent and Distributorship Agreements; Countertrade**  
CB 259-274, 280-283

**Monday, September 28 – Force Majeure**  
CB 146-161, 169-179  
UCC §2-615 (DS 176-179)  
CISG, Article 79 (DS 43-44)

**Tuesday, September 29 – Sales by Electronic Means**

CB 185-209, 237-243, 337-339

Quickly skim the following:

UN Convention on the Use of Electronic Communications in International Contracts (DS 72)

Electronic Signatures in Global and National Commerce Act (E-Sign) (DS 1029)

Uniform Electronic Transmission Act (DS 1142)

EU E-Commerce Directive (DS 1208)

**Part II – Technology Transfers**

**Wednesday, September 30**

No additional reading (Catch up day)

**Monday, October 5**

No additional reading (Catch up day)

**Tuesday October 6**

No additional reading (Catch up day)

**Wednesday, October 7**

No additional reading (Catch up day)

**Monday, October 12**

No additional reading (Catch up day)

**Part II – Technology Transfers**

**Tuesday, October 13 – Introduction to International Intellectual Property Law**

CB 912-924

**Wednesday, October 14 – Authorized Transfers: Franchising and Trademark Licensing**

CB 924-942, 944-948

TRIPS, (DS 348-374) (Read Introduction and Part I carefully and quickly skim the rest.)

**Monday, October 19 – Fall Break, No class**

**Tuesday, October 20 – Fall Break, No class**

**Wednesday, October 21 – Fall Break, No class**

**Monday, October 26 – Authorized Transfers: Patent and Knowhow Licensing**  
CB 1028-1045, 944-945

**Tuesday, October 27 – Unauthorized Transfers of Technology: Counterfeit Goods**  
CB 959-967, 970-976  
Section 1562 of the Tariff Act of 1930 (DS 537-539)  
TRIP, Part III, (DS 363-373) (Read Part 1 carefully. Skim the rest.)

**Wednesday, October 28– Unauthorized Transfers of Technology: The Gray Market**  
CB 976-991, 1005-1006

### **Part III – Foreign Direct Investment**

**Monday, November 2 – Considerations of Engaging in FDI**  
CB 1060-1082

**Tuesday, November 3 – Investing in the EU**  
CB 1082-1108

**Wednesday, November 4 – Investing in Mexico; NAFTA**  
CB 1276-1296  
Chapter 11, Section A of the North American Free Trade Agreement (DS 433-441) Skim  
Mexican Foreign Investment Law (DS 1226-1233) Skim

**Monday, November 9 – Investing in the United States; NAFTA**  
CB 1297-1307  
US Foreign Investment and National Security Act (“FINSA”) (DS 1042-1050) Skim

**Tuesday, November 10 – Currency Exchange Controls and Transfer Pricing**  
CB 1114-1123; 1126-1129

**Wednesday, November 11**  
No additional reading (Catch up day)

**Monday, November 16**  
No additional reading (Catch up day)  
(We will discuss project financing, but there is no assigned reading for this topic.)

**Tuesday, November 17 – Anti-Bribery Regimes**  
CB 851-877  
US Foreign Corrupt Practices Act (FCPA) (DS 1006-1012) Skim

**Wednesday, November 18 – Expropriation and Nationalization**  
CB 1244-1268

**Monday, November 23 – Third World Debt**  
CB 1144-1150; 1153-1155; 1157-1167

**Tuesday, November 24 – Human Rights and International Corporate Operations**  
CB 1215-1217; 1228-1242

**Wednesday, November 25 – Thanksgiving Break; No class**

### **Part IV – ADR and Culture**

**Monday, November 30 – Alternative Dispute Resolution and Enforcement of ADR Decisions**  
CB 1325-1337; 1470-1490  
UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (aka “New York Convention”) DS 47-51

**Tuesday, December 1 – Culture; An International Lawyer’s Role**  
No additional reading

**Wednesday, December 2 – Final class**  
No additional reading