

Understanding and Researching International Trade Law

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PART 1 - INTERNATIONAL TRADE LAW AND AUSTRALIAN LAW

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OVERVIEW

Part 1 of this paper presents an overview of the legal framework of international trade law and how it meshes with and derives from Australian law. After international trade law is defined, attention centres on the sources of international trade law and the approaches to be taken to international trade law from the perspective of the practising lawyer. This provides the backdrop for Part 2 which concentrates on the tools that can be used to locate international trade law materials.

DEFINING INTERNATIONAL TRADE LAW

International trade law may be defined as the body of laws that apply to cross-border transactions affecting the provision of goods and services between persons situated in different countries. There is another dimension to international trade law, and that is the regulatory or institutional dimension. This involves the creation and operation of inter-governmental institutions that are important stakeholders in the international trade law regime. Distilled to its essence, international trade law covers the regulation of international trade as well as international trade transactions themselves.

SOURCES OF INTERNATIONAL TRADE LAW

As a starting point, it is possible to isolate two principal sources of law as providing the foundations for international trade law. These are *public international law* and *private law*.

Although public international law did not come into existence simply to service international trade, there are many important instruments of public international law (in particular treaties and conventions) which have significantly influenced both the content and the trajectory of international trade law. These will be identified in Part 2 of this paper.

Private law is an umbrella term used to describe individual legal disciplines such as contract law, product liability law and business associations or organisations law. It is the legal regime that governs relations between the legal actors apart from the State.¹ Private law is

¹ Public legal actors such as States and government business enterprises do enter into transactions and relationships which depend on the operation of private law

jurisdiction-specific, that is, it is tied very much to the laws of individual nations. The application of different national laws to cross-border trade in goods and services can naturally lead to conflicts. This is one reason why private international law (or conflict of laws) is an important sub-discipline within international trade law, particularly as it affects international trade contracts.

APPROACHES TO INTERNATIONAL TRADE LAW

If we use the definition of international trade law crafted above as the platform, it follows that there are basically two approaches to take to international trade law. The first is the *institutional*, and the second is the *transactional*. We consider each briefly in turn.

Institutional

An institutional approach to international trade law is concerned with those institutions whose functions impact directly or indirectly upon international trade law transactions. The effect international trade institutions have upon international trade law is to either set the international trade law framework (such as when a treaty or convention is concluded, an example being the *United Nations Convention on Contracts for the International Sale of Goods*) or when international institutions are created which regulate international trade (such as the World Trade Organisation).

The next stage is to identify the key international trade law actors at an institutional level. These are:

- **World Trade Organisation (WTO)**
The World Trade Organisation was established under the *Marrakesh Agreement Establishing the World Trade Organisation* (Marrakesh, 15 April 1994; ATS 1995 No 8; 33 ILM 1125).
- **United Nations Commission on International Trade Law (UNCITRAL)**
UNCITRAL is an organ of the United Nations and functions as the core legal body within the United Nations system in the field of international trade law. Australia has been a member of UNCITRAL since 2 May 1995.
- **International Centre for the Settlement of Investment Disputes (ICSID)**
ICSID is established under the *Convention of the Settlement of Investment Disputes Between States and Nationals of Other States* (ICSID Convention) 1986 (Washington, 18 March 1965; UKTS 1967, No 25 (cMD 3255); Cmnd 2745; 575 UNTS 154; 4 ILM 532; NZTS 1980 No. 17) (the ICSID Convention is sometimes called the “Washington Convention”). The ICSID Convention is implemented in Australia by the *International Arbitration Act 1974* (Cth), Part IV. Only part of the ICSID Convention has the force of law within Australia, namely articles 25-63: see the *International Arbitration Act 1974* (Cth), s 32.
- **Multilateral Investment Guarantee Agency (MIGA)**
The MIGA was established by the *Convention Establishing the Multilateral Investment Guarantee Agency 1985* (Seoul, 11 October 1985; 1508 UNTS 99).

The MIGA Convention has been incorporated into domestic Australian law via the *Multilateral Investment Guarantee Agency Act 1997* (Cth).

- **International Chamber of Commerce (ICC)**

This is the peak private international body that acts as the umbrella for national chambers of commerce and industry. It is responsible for setting standards for some of the significant transactions affecting international trade, such as the Incoterms 1990 and the Uniform Customs and Practice 1993 and the Uniform Rules for Collections 1995. These instruments do not have independent legal obligatory force (like statutes and treaties). They enjoy widespread acceptance and use because of the stature and authority of the sponsoring body, the ICC. These types of instruments are one of the sources of the modern *lex mercatoria*.

- **UNIDROIT**

UNIDROIT is the International Institute for the Unification of Private Law. UNIDROIT is an inter-governmental body with headquarters in Rome that seeks to unify private law between its Member States. It has sponsored a number of Conventions which impact upon international trade, including the *1988 UNIDROIT Convention on International Financial Leasing*, the *1988 UNIDROIT Convention on International Factoring* and the *1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects*. UNIDROIT prepared the *Principles of International Commercial Contracts*, a type of authoritative compilation of ‘black letter’ rules that are considered normative in international commercial contracts. Its current work programme includes a second revision of the *Principles of International Commercial Contracts*, preparing a convention for Uniform Rules for International Interests in Mobile Equipment, and Model Laws on franchising and leasing. The future activities and work programs of UNIDROIT should impact more strongly on international trade through the development of unified legal regimes covering international trade transactions.

Besides the creation and operation of supra-national organisations which influence the content of international trade law as well as determining its trajectory, there are a number of agreements which affect international trade from an Australian perspective, but which do not create non-governmental organisations (NGOs). Four main treaties to which Australia is party are relevant:

- ***Australia New Zealand Closer Economic Relations Trade Agreement 1983 (ANZCERTA)***

ANZCERTA is a bilateral trade agreement between Australia and New Zealand created by treaty (*Australia New Zealand Closer Economic Relations Trade Agreement* Canberra, 28 March 1983; ATS 1983, No.2), which has been amended by many instruments and protocols²

² For details see *Halsbury's Laws of Australia Trade and Commerce* Butterworths. Para [420-2320], note 1

- **South Pacific Regional Trade and Economic Co-Operation Agreement 1980 (SPARTECA)**
SPARTECA is an agreement between the governments of Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, the Solomon Islands, Tonga, Tuvalu and Western Samoa and was entered into in 1980 (Tarawa (Kiribati), 14 July 1980; ATS 1982 No 31; 1240 UNTS 65; 28 ST 99; NZIS 1981 No.3)
- **Basic Treaty of Friendship and Co-Operation between Australia and Japan 1976 (the NARA Treaty)**
(Tokyo 16 June 1976; ATS 1977 No 19; 1103 UNTS 105), which entered into force on 21 August 1977
- **Bilateral Investment Treaties** Australia has concluded many bilateral investment treaties (BITs). The details of these BITs vary, but typically they make provision for matters such as the promotion and protection of investments, most favoured nation treatment, transparency of laws relating to investments, the transfer of investments and repatriation of returns from investments and the settlement of investment disputes³

Transactional

The second approach one can take to international trade law is to concentrate on the *transactions* that are the subject of international trade. It is transactions that are the point of entry for international trade lawyers in this field of law and practice. It is in the transactional approach to international trade law that its components start to spillover into other recognised or settled categories of law. This spillover effect becomes apparent when the main transactional components of international trade law are listed:

- cross-border sales of goods;
- cross-border provision of services;
- agency contracts;
- distributorship contracts;
- carriage of goods (by sea, air and, in some parts of the world, land);
- conflict of laws;
- dispute settlement;
- international trade finance;
- intellectual property (including technology transfers and licensing);
- cross-border investment;
- negotiable instruments;
- government procurement; and
- insurance (marine and non-marine).

Each of these topics is a specialist legal discipline in its own right. Yet to a greater or lesser extent, they are applicable to cross-border elements or transactions because of the very fact of cross-border economic activity. So in terms of understanding international trade law, it is important to recognise that many other areas of legal speciality impinge on what might be termed the 'bare bones' of international trade, namely a cross-border transaction involving

³ For more details, see *Halsbury's Laws of Australia Trade and Commerce* Butterworths Paras [420-2370]-[420-2380]

the supply of goods or services (or both). This implies that an international trade lawyer must be conversant with many fields of law besides the ostensible cross-border supply of goods and services. Another fact to note about each of the topics mentioned above is that each of them can be located both within private law (in the sense discussed above) and also within public international law (again, in the sense discussed above)

PART 2 - RESEARCHING INTERNATIONAL TRADE LAW

Dianne Kemp

This guide contains selected resources on international trade law and it also describes how international conventions are incorporated into Australian law. To adequately examine issues of researching international trade law it is necessary to address the following:

- print and electronic resources;
- treaties; and
- international trade terms

The purpose of this article is to provide resources which are useful for law librarians and practitioners who are entering this area of law for the first time as well as providing an update of Internet sites for more experienced practitioners in international trade law. The resources used for this article are a combination of hard copy items found in libraries as well as Australian and international Internet access points

PRINT AND ELECTRONIC RESOURCES

Monographs and Reports

Australian Law Reform Commission, *Legal Risk in International Transactions*, Report No. 80, Australian Government Publishing Service, 1996. Full text at <http://www.anu.edu.au/alrc/ALRCReports.html>

Blay, S., Piotrowicz, R. & Tsamenyi, M. *Public International Law - an Australian Perspective* Melbourne, Oxford University Press, 1997

Burnett, R. *The Law of International Business Transactions*. Sydney, Federation Press, 1994

Fisher, S. and Fisher, D. *Export Best Practice: Commercial and Legal Aspects* Sydney, Federation Press, 1998

Mo, J. *International Commercial Law* Sydney, Butterworths, 1997

Moens, G. & Gillies, P. (eds), *International Trade: Law, Policy and Ethics* Sydney, Cavendish Press (Australia) Pty Ltd, 1998.

Pryles, M. *International Trade Law: Commentary and Materials*. Sydney, LBC Information Services, 1996.

Sacks, P. & Malbon, J. (eds) *Australian Export Manual*. Melbourne, Longman Professional, 1992

Schmitthoff, C *Schmitthoff's Export Trade*, 9th ed. London, Stevens, 1990

Wilde, K.C D.M. (ed) *International Transactions: Trade and Investment Law and Finance* Sydney, Law Book, 1993

Looseleaf Services

Air Law

Martin, P. and de Montlaur, M. (eds) *Shawcross and Beaumont Air Law*, 4th ed London, Butterworths, 1997- (3 vols).

Contains text of treaties and information on civil administration, carriage by air, competition/EC.

Giemulla, E. and Schmid, R. (eds) *Warsaw Convention*, The Hague: Kluwer Law International, 1997- (1 vol)

Includes text of the Warsaw Convention, amending protocols and other instruments as well as commentary and case law

Sea Law

Contracts for the Carriage of Goods, Lloyd's Shipping Law Library, 1993 - (2 vols).

Includes material dealing with carriage of goods by sea, voyage charters, contracts of affreightment, time charters, demise charters, bills of lading, sea waybills and carriage of goods by inland waters, road, rail, air and multi modal transport

Multiple Transport Modes

Claringbould, M.H. & van der Val, I. (eds) *International Transport Treaties*, The Hague: Kluwer Law International, 1974 - (2 vols).

Includes the full text of treaties and protocols (in English and French) relating to maritime law, inland navigation, air law, road transport and transport by rail.

International Organisations

Law and Practice of the World Trade Organisation, Treaties and Commentary New York: Oceana Publications, 1995 -

Journals

This is a list of journals which contain articles relevant to international trade law even though this may not be the primary focus of the journal

Australian

Australian International Law Journal (1994 -)

Journal of the International and Commercial Centre, Faculty of Law and Legal Practice, University of Technology, Sydney. (Previously *Australian International Law News*)

International Law News (1988 -)

Journal of the International Law Section, Law Council of Australia

International Trade and Business Law (1995 -)

Journal of the Australian Institute of Foreign and Comparative Law, University of Queensland

International Trade Law Seminar Papers (1974 -)

Proceedings of the seminars organised by the International Trade and Environment Law Branch, Office of International Law, Attorney-General's Department.⁴

Overseas

American Journal of International Law

Documentary Credits Insight (ICC)

International Business Lawyer

*International Law Forum / Forum droit international*⁵

International Lawyer

International Legal Practitioner

Journal of International Trade and Economic Development

Journal of World Trade

Maryland Journal of International Law and Trade

North Carolina Journal of International Law and Commercial Regulation

Pace International Law Review

Virginia Journal of International Law

INTERNET AND ONLINE SITES

International Trade Law Monitor (Tronso, University of Norway, Law Faculty)

<http://ananse.irv.uit.no/>

Major Internet site for international trade law with extensive listings of treaties and trade law, other trade instruments, international organisations, country profiles, trade reports /groupings, links to related sites and subject index.

⁴ For information contact the Assistant Secretary, Mark Zanker on (02) 6250 6647. Proceedings from 1997 onwards will be made available at the Attorney-General's internet site: <http://law.gov.au> (Personal communication Mark Zanker)

⁵ The International Law Association has announced the commencement date for this new journal as September 1998 - see *ILA Newsletter* issue no. 9, Jan. 1998 (<http://www.ila-hq.org>)

International Commercial Law / Maritime and Transport Law

<http://uniserve.edu.au/law/pub/icl>

An excellent Australian site covering aspects of international trade including sale of goods, transport, payment, insurance, electronic commerce, aviation and maritime law issues.

American Society of International Law

<http://www.asil.org>

Includes a section devoted to international resources and international law

International Trade Law

http://www.law.ecl.uwa.edu.au/intlaw/international_trade_law.htm

Francis Auburn, University of Western Australia.

List of links to other sites, international trade organisations, treaties

Legal Research on International Law Issues Using the Internet (Lyonette Louis-Jacques)

<http://www.lib.uchicago.edu/~llou/forintl.html>

Magagni Research Guide to International Law on the Internet International Trade Law
(Political Science Faculty, Bologna University)

<http://www.spfo.unibo.it/spolfo/TRADE.htm>

Includes hypertext links to treaties and international trade law sites

International Commercial Arbitration resources in print and electronic format
(Lyonette Louis-Jacques)

<http://www.lib.uchicago.edu/~llou/intlarb.html>

Internet Guide to Global Trade Law (Hieros Gamos)

<http://www.hg.org/trade.html>

Large collection of links to treaties, United Nations, International organisations, and trade developments within individual countries

Jurist The Law Professors' Network

<http://law.anu.edu.au/jurist>

Includes a subject guide to international and comparative law

The U S House of Representatives Internet Law Library: Treaties and International law

<http://law.house.gov>

LEXIS - NEXIS

<http://www.lexis-nexis.com>

A commercial online legal, news and financial information database which includes a comprehensive international trade law database:

- NAFTA and GATT documents;
- Basic Documents of International Economic Law (BDIEL) publications;
- International Legal Materials (ILM) treaties;
- International Bureau of Fiscal Documentation (IBFD) tax treaties and international law news;

- Tax Analysts' Worldwide Tax Daily;
- European Commission decisions re. fair competition rules (COMDEC); and
- Business Guides to European Community initiatives.

LEXIS also provides for searching of Commonwealth, UK, Canadian, New Zealand, South-East Asian and US state and federal court decisions ⁶

Trade Organisations

Australian

Export Finance and Insurance Corporation (EFIC)

<http://www.efic.gov.au>

EFIC is an Australian government owned statutory corporation established under the *Export Finance and Insurance Corporation Act 1991* (Cth) and is specifically concerned with increasing the volume of Australian exports. EFIC's primary objective is to assist Australian companies in increasing international competitiveness and to achieve this it works together with other Commonwealth agencies such as AusIndustry and Austrade

AUSTRADE

<http://www.austrade.gov.au>

AUSTRADE is the short name for the Australian Trade Commission established under the *Australian Trade Commission Act 1985* (Cth). It acts as an export facilitation agency

International

World Trade Organisation (WTO)

<http://www.wto.org>

Documents, text of instruments, press releases, conference information, publications

United Nations Commission on International Trade Law (UNCITRAL)

<http://www.un.org/uncitral/en-main.htm>

Case law on UNCITRAL texts (CLOUT), status of conventions, texts, Arbitration and Conciliation Rules

International Chamber of Commerce (ICC)

<http://www.iccwbo.org>

Information on the ICC, publications, conferences, electronic magazine *Business World*

International Institute for the Unification of Private Law (UNIDROIT)

<http://www.unidroit.org>

Australia is a member of UNIDROIT which is an independent, international body composed of participating governments. Some of UNIDROIT'S' activities relate to international trade law ⁷

⁶ For further information contact: Francis Johns, Lexis Marketing Manager. Ph (02) 9422 2146 or email: francis.johns@butterworths.com.au

⁷ For example: UNIDROIT Convention on International Factoring 1988; UNIDROIT Convention on International Financial Leasing 1988

TREATIES

Accessing International Trade Treaties

One of the difficulties in international trade law is deciding when (or if) Australia is a party to an international trade treaty. Although Australia participates actively in the process of negotiating international treaties at fora such as the UN, those treaties are not self-executing and do not apply as Australian domestic law unless they are ratified or adopted. The usual means of adoption is via the Commonwealth Parliament enacting an Act of Parliament in reliance on s 51(xxix) of the Constitution (the external affairs power). Once an international trade law treaty is translated into domestic law it then becomes a mechanism by which traders can create legally enforceable rights and duties.

International Trade Treaties Incorporated into Australian Law

CONVENTION	AUSTRALIAN LAW
(a) International Sale of Goods	
Vienna Sales Convention - United Nations Convention on Contracts for the International Sale of Goods 1980	<i>Sale of Goods (Vienna Convention) Act 1986</i> (NSW, Qld, SA, WA) and 1987 (Vic, Tas, NT ACT)
(b) International Transport of Goods – Carriage of Goods by Air	
Warsaw Convention - Convention for the Unification of Certain Rules Relating to International Carriage by Air 1929	<i>Civil Aviation (Carriers Liability) Act 1959</i> (Cth), Schedule 1
Hague Protocol - Protocol to amend the Warsaw Convention 1955	<i>Civil Aviation (Carriers Liability) Act 1959</i> (Cth), Schedule 2
Guadalajara Convention - Convention Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person other than the Contracting Carrier 1961	<i>Civil Aviation (Carriers Liability) Act 1959</i> (Cth), Schedule 3
19 Montreal Protocol No 4 ⁸ amending the Warsaw Convention 1975	<i>Civil Aviation (Carriers Liability) Act 1959</i> (Cth), Schedule 5
– Carriage of Goods by Sea	
Hague-Visby Rules (The 1968 Brussels Protocol amending the Hague Rules relating to Bills of Lading)	<i>Carriage of Goods by Sea Act 1991</i> (Cth), Schedule 1
(c) International Commercial Arbitration	
New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958	<i>International Arbitration Act 1974</i> (Cth), Schedule 1

⁸ Commenced operation in Australia 14 June 1998

CONVENTION	AUSTRALIAN LAW
UNCITRAL Model Law on International Commercial Arbitration 1985	<i>International Arbitration Act 1974 (Cth), Schedule 2</i>
Washington Convention on the Settlement of Investment Disputes between States and Nationals of other States 1965 (Also known as ICSID Convention)	<i>International Arbitration Act 1974 (Cth) Schedule 3</i>
(d) Investments Convention Establishing the Multilateral Investment Guarantee Agency 1985 (MIGA Convention)	<i>Multilateral Investment Guarantee Act 1997 (Cth)</i>

A valuable resource for determining whether Australia has signed, acceded or ratified any given treaty is the Treaties Secretariat, Department of Foreign Affairs and Trade⁹. If legally acceptable proof of when Australia became a party to a treaty is required, then it is necessary to examine the relevant statute incorporating it into domestic law. For example, in the case of the *United Nations Convention on Contracts for the International Sale of Goods*, s7 of the *Sale of Goods (Vienna Convention) Act 1986 (Qld)* (and its counterparts in other states and territories) provides machinery for either the Minister for Foreign Affairs or another Federal Minister to publish a notice in the Commonwealth Gazette declaring that the Convention is in force. It is proof enough for a legal practitioner to certify that a true copy of such a notice has been made. If the treaty-implementing instrument does not prescribe a method of recognition within domestic law, then the default position is for the Minister for Foreign Affairs (or his/her delegate) to issue a certificate on the matter.

UNCITRAL Model Law on Electronic Commerce

In 1996 UNCITRAL completed work on a Model Law that supports the commercial use of international contracts in electronic commerce (e-commerce) ([http://anase.irvuit.no/trade_law/doc/UN Electronic Commerce Model Law 1996.html](http://anase.irvuit.no/trade_law/doc/UN_Electronic_Commerce_Model_Law_1996.html))

Key stakeholders in the field of electronic commerce support the introduction of international rules along the lines of the UNCITRAL Model Law, including the US Government in its 1997 *Framework for Global Electronic Commerce*. In Australia, the Electronic Commerce Expert Group to the Attorney-General (ECEG) in their report: *Electronic Commerce: Building the Legal Framework* dated 31 March 1998 (<http://law.gov.au/aghome/advisory/eceg/ecegreport.html>) considered the Model Law an important statement of the legal principles of electronic commerce.

At this point in time there is no draft Bill proposed by any Australian Parliament that seeks to regulate e-commerce. ECEG recommended that the Commonwealth government promulgate framework legislation to allow complementary state and territorial legislation on the subject of electronic commerce.

⁹ Phone: 02 6261 3509. or email: brian.slee@dfat.gov.au

Collections of Treaties

Australian Treaties Library¹⁰

Department of Foreign Affairs and Trade (DFAT)

<http://www.austlii.edu.au/dfat>

Contains full texts of treaties entered into by Australia as well as those under negotiation or consideration.

Also has National Interest Analyses for treaties tabled in Parliament from 1996

United Nations Treaty Collection

<http://www.un.org/Depts/Treaty>

This is the largest collection of treaties on the Internet and includes the *United Nations Treaty Series (UNTS)*, a collection of treaties published since 1946. UNTS contains over 30,000 treaties and related subsequent actions

Also provides access to *Multilateral Treaties deposited with the Secretary-General*, outlining the status of 486 major multilateral instruments covering a range of subjects. The English version has been available on the Internet since 1995 and is updated weekly.

Multilateral Treaties Project at Fletcher School of Law, Tufts University, Medford, Massachusetts

<http://www.tufts.edu/fletcher/multilaterals.html>

Offers full text of multilateral conventions and other instruments arranged by subject area and chronologically.

INTERNATIONAL TRADE TERMS

Incoterms

The International Chamber of Commerce (ICC) has established a set of standard international trading terms to aid in achieving uniform interpretation of cross-border sales of goods contracts. These are called 'Incoterms' and are incorporated in the ICC publication *Incoterms 1990*¹¹

There are thirteen standard 'incoterms' including 'FOB' and 'CIF'. These are two of the most common forms of international contracts for the sale of goods. They may be incorporated into an international sale of goods contract by the use of the phrase 'Incoterms 1990' and the particular trade term selected.

Importantly, 'incoterms' themselves have no obligatory or automatic operational force. As such, 'incoterms' are only incorporated into an international contract for the sale of goods when provided for by express mention or as a matter of implication from the terms of the contract. 'Incoterms' are, therefore, a private compilation of standard trade terms specifically designed to help standardise their interpretation in international trade contracts.

¹⁰ Includes a comprehensive 'Information Kit' on the treaty making process in Australia and lists treaties by subject area.

¹¹ Publication 460, ICC Publishing SA, Paris, 1990, and Ramberg, J. *Guide to incoterms 1990*, ICC Publishing SA, Paris, 1991.

Glossary of Terms

ACOS: Australian Chamber of Shipping - represents the interest of carrier members.

AEC: Australia to Europe Shipping Conference.

AIR: Amended Hague Rules consisting of the Hague Visby Rules and SAR Protocol as adopted by Australia and referred to in COGSA (*Carriage of Goods by Sea Act 1991* (Cth))

Bills of Lading: A consignment note that acts as not only a record of receipt of goods but also as a quasi document of title, so that a person named as consignee on a bill of lading is afforded many rights similar to an owner of goods, e.g. entitlement to order discharge and control delivery of the goods

CIF: Refers to the trade term 'Cost Insurance and Freight' Under such a contract the seller must pay the costs, insurance and freight necessary to bring goods to their destination.

Collections: Where an exporter forwards all necessary shipping documents together with its draft drawn on the importer to the exporter's bank and the exporter's bank forwards these to its branch or correspondent bank in the target market where the importer is situated

Consignments: A method of exporting goods which have not been sold, but are entrusted to the importer pending sub-sale and receipt of payment from a buyer who is 'downstream' from the importer

Documentary letter of credit (DL/C): A method of payment in which the importer's bank agrees to pay the exporter a specified sum if the exporter presents documents strictly in accordance with the terms laid down in the letter of credit

EDI: Electronic data interchange.

Electronic commerce: The application of technology toward the automation of business transactions and workflows

EMDG : Export Marketing Developments Grants Scheme. The Australian government's primary funding program to aid Australian exporters in developing business in overseas markets.

Export credit insurance: Specialised insurance covering exporters against commercial and political risks in overseas markets.

Factoring: A popular trade finance option where the exporter sells the rights of payment from the importer/buyer to a factoring house or other financial institution (known as the 'factor')

FDI: Foreign Direct Investment Where an investor in one country acquires an interest in an enterprise in another country

FOB: Free on Board - trade term under which a seller's duty to deliver is satisfied as soon as the goods pass over the ship's rail at the designated port.

Hamburg Rules: Refers to the *United Nations Convention on the Carriage of Goods by Sea* done at Hamburg on 31 March 1978.

ICSID: *Convention on the Settlement of Investment Disputes between States and National of Other States*

P & I Club: Protection and Indemnity club representing the mutual interests of its ship owning members.

SMART: Sydney Maritime Arbitration Rules and Terms

UCP 500: Uniform Customs and Practice for Documentary Credits, January 1994.

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