



REVIEWS

*Brett Williams**

INTERNATIONAL TRANSACTIONS

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LAW faculties have been and are still grappling with the problem of fitting international business into the legal curriculum. The scope of the subject is vast. It embraces rules of domestic commercial law of particular nations and rules of public international law; rules relating to the spectrum of international transactions ranging from the export/import sale of goods to the various means of doing business abroad. In addition, teachers of law are attempting to relate the law to its context of non-legal matters, which for international trade and investment has meant attempting to offer an understanding of foreign exchange and finance.

* LLB, BEc, GradDip (International Law); Barrister and Solicitor of the Supreme Court of South Australia; PhD student and tutor in the Faculty of Law at the University of Adelaide.

This book has been designed to form the basis of a course of the same name. It is a collection of essays on a diverse range of topics. It appears that, by the very breadth of their topic choices, the editors intended to make a new contribution to the study of international transactions.

The book begins with four essays on international trade in goods entitled "Carriage of Goods by Sea", "International Sale of Goods", "International Payments", and "Electronic Bills of Lading". Some later chapters cover some particular aspects of international trade: "International Countertrade" and "Tax Aspects of International Trade", and "Trade Insurance". Two non-legally technical chapters on "Foreign Exchange" and "Trade Finance" have been included. Some public international law aspects are covered in two essays each on GATT and on protection of foreign investments and one on International Economic Institutions. Some domestic law aspects of investment are dealt with in chapters on "Investment Incentives", "Taxation of Investment in Australia" and on "Intellectual Property Regimes Of Selected Asia-Pacific Jurisdictions". Additional chapters cover matters that straddle trade and investment: "Government Trade and Investment Finance and Insurance", "Double Taxation Agreements", "Investment Security in Asia and The Pacific" and "Bankruptcy and Insolvency in the Asia-Pacific Region".

The essays vary in their scope of coverage and their degree of detail. Some of them can only serve as springboards to further research. Generally the referencing is of a sufficiently high standard to facilitate further research.

The essay on the "International Sale of Goods" is a comprehensive expose of the Vienna Sales Convention and the way that it affects Australian law. *The Sale of Goods (Vienna Convention) Act 1986 (NSW)* with its appendix, the Convention itself, is reproduced as one of the book's appendices. In particular the article discusses some areas of difficulty that might arise in the overlap between specific provisions of the Convention and of the *Trade Practices Act*. The accompanying chapter on Carriage of Goods by sea is a very useful guide to ascertaining which of the various treaty regimes apply. It is appended by a useful table commenting on the corresponding provisions of different sets of rules including the Hamburg Rules, the Hague Rules, and the Hague Visby Rules. The chapter on "International Payments" is very readable but is clearly not a substitute for more detailed works on letters of credit and other instruments of payment. This more general chapter is followed by a specific one on "Electronic Bills of Lading". The legal effects of changing technology is an area of rapid

change and this contribution is a well focussed analysis of how the existing law is coping with this new technological development.

Some of the material covered beneficially brings within this field of study some areas of law that are not traditionally studied in the context of international trade law: intellectual property, securities, and insolvency. Generally, although much of these chapters is in the nature of a survey rather than an analysis, they would be useful in teaching an introduction to these areas and would facilitate further research. The chapter on "Investment Security In Asia And The Pacific" is an interesting and informative survey of the securities that can be taken in ten different jurisdictions. Although it does not detract from the usefulness of the content of the essay, given that commonly international transactions would involve fluctuating accounts, this reader was disappointed that the chapter did not deal with the problem of how priority of securities might be lost in the course of dealings.

The public international law essays embody a fairly obvious sympathy for the interests of developing countries. The two essays on GATT concentrate on the most favoured nation clause and on the dispute settlement system. Each is dominated by arguments in favour of special and differential treatment for developing countries. The chapter entitled "Nationalisation of Foreign Investment" would be a useful aid in teaching the law relating to expropriation and contains a well argued case for the way that the "appropriate compensation" standard should be interpreted. The chapter on Bilateral Investment Treaties contains a useful guide to the variables in such treaties.

An unavoidable consequence of the rapid developments in the subject matter of two of the essays (the coming into force of the Hamburg Rules on 31 October 1994, and the completion of the Uruguay round of GATT negotiations in the December following publication of the book) is that some aspects of them may "date" fairly quickly, although these chapters may continue to be useful references for a number of years. Despite the editors' intention to make the chapter headings a reasonably comprehensive list of topics for a course in International Transactions, the date of publication of the book just preceded the signing of the new General Agreement on Trade in Services which surely the editors would have liked to have included in their list of topics.

The essays in this book are a useful source of material: some mostly for teachers, and other more for practitioners. As a source for teachers, it

usefully collects a wide range of materials which with care could be used as the basis for a course. As a source for practitioners, the focus on the domestic law of Asian and Pacific countries enhances its relevance.