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**INTERNATIONAL BUSINESS AND TRADE:  
BOOKS RECEIVED**

**ADAPTATION AND RENEGOTIATION OF CONTRACTS IN INTERNATIONAL TRADE AND FINANCE.** Edited by Norbert Horn. Deventer, The Netherlands: Kluwer Law and Taxation Publishers, 1985, 421 pp.

Long-term international contracts are frequently modified and occasionally renegotiated. Disturbance in international financial markets, political changes, and natural disasters are often unpredictable and force parties to adapt a contract to new conditions. These events have traditionally been called *force majeure*. Ideally, long-term contracts should be flexible enough to adapt to unexpected events; however, the stability of contracts should not be destroyed.

*Adaptation and Renegotiation of Contracts in International Trade and Finance* is based on the proceedings of an international conference held at the Center for Interdisciplinary Research of the University of Bielefeld, June 20-22, 1983. American, Argentine, European, Philippine, African, and Arab methods for adapting and revising contracts are compared and contrasted. Standard clauses, variation and escalation clauses, hardship and special risks clauses are examined.

In addition, various adaptation and renegotiation procedures are compared. These include use of a third party intervener, or referee arbitral, ICC procedures for adaptation of contracts, UNCITRAL conciliation rules, and the procedures employed by the International Centre for the Settlement of Investment Disputes.

**FOREIGN TRADE, INVESTMENT AND THE LAW IN THE PEOPLE'S REPUBLIC OF CHINA.** Edited by Michael J. Moser. Hong Kong: Oxford University Press, 1984, 341 pp., \$34.50.

In 1978, China instituted an "open-door" economic policy and since then the foreign trade of the People's Republic has increased dramatically. In order to regulate the scope and content of China's increasing international economic contacts, hundreds of laws and regulations have been promulgated or reinstated; however, much of this legislation is not well known in the West. This book provides an introduction to the legal framework established by the People's Republic of China to regulate foreign commercial transactions and investment activity.

Eleven international lawyers, each actively engaged in advising clients with commercial dealings in China, address the issues of: "The Regulation of China's Foreign Trade," "China's Tax System: An Overview and Trans-

actional Analysis," "Technology Transfer to China: Policies, Law and Practice," "Foreign Investment in China: The Legal Framework," "Law and Investment in the Guangdong Special Economic Zone," "Offshore Oil Exploration and Development in China: The Current Regulatory Regime," "Contract Law in the People's Republic of China," "Banking and Finance in the China Trade," "Trade-mark Law in the People's Republic of China," "Representative Offices in China: Legal Aspects of Registration and Control," "The Role of Arbitration in Economic Co-operation with China," "China's New Patent Law." Additionally, the book includes a valuable appendix containing a list of China's most important foreign economic legislation.

The intention of the authors has not been to formulate a "manual" of Chinese trade or a collection of recipes guaranteeing business success. In fact, the book is not designed exclusively for foreign businessmen. *Foreign Trade, Investment and the Law* will also prove extremely useful to lawyers, accountants, scholars and other persons interested in the development of China's legal system.

**IMPORT PRACTICE: CUSTOMS AND INTERNATIONAL TRADE LAW.** By David Serko. New York, N.Y.: Practising Law Institute, 1985, 452 pp.

The author, a senior partner at the New York law firm of Serko & Simon which specializes in customs and international law, addresses the practical and legal aspects of dealing with the officials of those governmental agencies involved in the field of international trade. The agencies include the U.S. Customs Service, the International Trade Commission, the Treasury Department, the State Department, the Commerce Department, the Food and Drug Administration, and the Office of the U.S. Trade Representative. Mr. Serko emphasizes the need to understand the administrative process of these agencies for the issues and problems that arise in relation to foreign trade often are resolved at the administrative level of government.

In addition, Mr. Serko discusses major current issues in world trade, including the effect of quotas, countervailing duties, dumping, preferences for underdeveloped countries, and the changes associated with the Trade Acts of 1974 and 1979.

The book is divided into six parts: "The Tariff System," "Importation," "Special Services and Facilities," "Incentives to Import or Export," "Non-tariff Measures and Trade Regulation," and "Administration and Enforcement." The book includes an extensive list of sources.

**INTERNATIONAL ASPECTS OF TAX EXPENDITURES: A COMPARATIVE STUDY.** Edited by Paul R. McDaniel and Stanley S. Surrey. Deventer, The Netherlands: Kluwer Law and Taxation Publishers, 1985, 420 pp.

The tax expenditure concept was introduced formally in the 1968 Annual Report of the Secretary of the United States Treasury. In 1976 the concept was first given extensive consideration by international tax experts. *International Aspects of Tax Expenditures* is the published results of four years of research and analysis. The editors and a group of outstanding fiscal scholars examined the major tax systems of these six nations: Canada, France, the Netherlands, Sweden, the United Kingdom, and the United States. Using uniform criteria, they identified and quantified the tax expenditure provisions of each system. The material in this study will be useful in matters of budget policy, comparison of tax and direct spending, and in analyses of bilateral or multilateral economic relations.

The book has three parts. An introduction discusses the background and methodology of the study. Part II sets out the guidelines for identifying tax expenditures. The taxes examined in each country included: Income Tax, Value Added Tax and Wealth Taxes. In this section of the book the authors explain how the provisions of a country's legislation are to be tested to determine whether they constitute tax expenditures. There is also a discussion of the conceptual basis for each guideline position. Finally, Part III provides a separate tax expenditure list for each of the six nations studied. These lists are extremely useful to interested governments and scholars not only as models but also for the data contained in them.

**INTERNATIONAL CODES AND MULTINATIONAL BUSINESS.** By John M. Kline. Westport, Conn.: Quorum Books, 1985, 184 pp.

Abuses by governments and multinational corporations (MNCs) in the conduct of international business in the 1970s led to the development of voluntary codes of conduct. *International Codes and Multinational Business* examines these codes at both the corporate and intergovernmental levels to determine their impact on MNCs.

The book is divided into two major sections. The first section, Chapters Two through Five, addresses the emergence of intergovernmental accords to control the conduct of MNCs. Chapter Two places the intergovernmental codes in their proper historical perspective. Chapter Three explores the intergovernmental attempts to regulate the investment field. The chapter describes national, bilateral, and regional actions and the efforts to formulate international investment law. Chapter Four examines the major efforts

of governments to develop codes of conduct. Chapter Five describes the role of intergovernmental codes as law, levers, or guides.

The second section, Chapters Six and Seven, examines the emergence of conduct codes in the private business sector. Chapter Six explores both collective business codes and individual MNC codes. Chapter Seven takes an even closer look at individual MNC codes and discusses their purpose, form, application, and implementation.

The book concludes with a chapter that discusses the interface of intergovernmental and corporate codes. It explains how both nations and corporations will benefit if the two types of codes are used to compliment each other.

**MULTINATIONAL DISTRIBUTION: CHANNEL, TAX AND LEGAL STRATEGIES.** By R. Duane Hall and Ralph J. Gilbert. New York, N.Y.: Praeger Publishers, 1985, 147 pp.

Approximately seventy percent of U.S.-made goods are actively competing with foreign-made goods in U.S. markets. This book examines the framework of multinational distribution.

The authors, Dr. R. Duane Hall and Ralph J. Gilbert, Esquire, outline key factors in developing a global enterprise. Chapter One explores ways to enter a market and develop an export program. The authors reveal that at a minimum a product must not only fit the market needs, but be tested thoroughly for reliability in its home market to be successful internationally. Chapter Two attempts to define what an exporter needs to do to create a market. The exporter must first sell the concept, then, educate the market, and finally, promote the product. Chapter Three deals with the agreement between the distributor and the agent. Chapter Four assesses the effects of the U.S. Foreign Corrupt Practices Act on multinational distributions. The authors suggest that some countries, such as Nigeria and Indonesia, have a known reputation for corruption and bribery. Therefore, a U.S. principal should automatically be on guard. Chapter Five examines the Export Administration Act. Chapter Six discusses how the Foreign Sales Corporation provisions of the Tax Reform Act of 1984 curtail the benefits of a Domestic International Sales Corporation. Chapter Seven considers ways to finance exports. The final chapter, Chapter Eight, suggests that it is important that U.S. companies be sensitive and adaptable to foreign environments.

In addition, these topics are addressed: special tax and legal opportunities, and U.S. anti-boycott regulations.

**PUBLIC CONTROLS ON INTERNATIONAL TRADE. (VOLUME VI OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By Andreas F. Lowenfeld. New York, N.Y.: Matthew Bender, 1983, 457 pp.

Governments have adopted various internal devices including income taxes, fiscal policies, wage and price controls and regulation of competition to keep control of their nation's wealth. Volume VI, composed of eight sections, analyzes public controls on international trade.

Section One examines why people trade. Nations often specialize and produce goods in which they possess a comparative advantage.

Section Two reviews the history and substantive standards of the General Agreement on Tariffs and Trade (GATT). GATT became one of the most important world-wide agencies devoted to the regulation of international commerce. As Professor Lowenfeld points out, GATT rests on three essential principles: (1) non-discriminatory trade; (2) minimum governmental restraints; and (3) trade agreements should be discussed within a multilateral framework.

Section Three discusses the principal communities involved in the international trading system. Although well over one hundred nations at the end of the twentieth century conducted trade, the dominant forces include the European Community, Japan and the United States. Professor Lowenfeld looks at the interrelationships of these nations, focusing on the trade of steel.

Section Four focuses on the steel industry. The Soviet Union, the United States, and Japan together produce about three-fourths of the world's steel. Steel has proved to be one of the most useful metals. The steel industry is not, however, considered today to be a high technology industry in comparison to other industries. Research and development allocations in this industry have been relatively low. Consequently, trade in steel is price elastic and affected by trade barriers.

Section Five examines the voluntary restraint agreements from 1968 to 1974. In 1967 various bills were introduced in Congress imposing import quotas on several products. Professor Lowenfeld examines the bills relating to the following industries: textiles, meat, dairy products, glass and minerals. This section again examines the steel industry because it has been the object of voluntary restraint agreements.

Section Six looks at the U.S. and European steel crisis. In 1974 there was a world-wide boom in the demand for steel. In 1975, however, the situation changed during the oil shortage. Although there was only a mild economic downturn in the United States in 1975, Western Europe suffered a major downturn. This section analyzes the various U.S. and European measures taken to combat the economic effects on the steel industry.

Section Seven reviews the Multilateral Trade Negotiations (MTN) of

1973 to 1979. The collapse of the Bretton Woods arrangements and the dominance of the oil cartel led to a decline in the United States' role in the world economy. However, Japan was anxious to assume a role as a leader in the world economy and the European Community survived its internal crises. Multilateral trade negotiations were conducted discussing issues including dumping and trade subsidies. Professor Lowenfeld examines these negotiations and provides insight into the stages and rounds of the negotiations.

Section Eight provides an overview of old and new problems of international trade. Once again, Professor Lowenfeld focuses on the automobile and steel industries concerning the United States-European and United States-Japanese economies.

A 775 page comprehensive documentary supplement containing international agreements, documents of the European Community, Japan, and the United States and selected documents of the Multilateral Trade Negotiations is also provided.

**TAX ASPECTS OF INTERNATIONAL TRANSACTIONS. (VOLUME V OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By David R. Tillinghast. New York, N.Y.: Matthew Bender, 1984, 473 pp.

Taxes pervade international transactions. The question of jurisdiction and who may tax a business enterprise's profits often arises in international transactions. Double taxation or multiple taxation may occur if more than one nation's taxes are imposed. The role of international tax planning in international transactions is examined in this two chapter volume.

Chapter One is divided into ten sections. The first section looks at the concept of domiciliary jurisdiction. Factors to determine an individual's jurisdiction include the individual's place of citizenship, residence or domicile. Factors that determine a corporation's jurisdiction are determined by the place of incorporation, place of management and residence of the shareholders. Section Two examines U.S. manufacturing enterprises operating abroad with a summary of the basic U.S. tax scheme. The next two sections provide information on the organization and operation of a foreign branch of a U.S. corporation and the organization and operation of a domestic branch of a foreign corporation. Section Five discusses foreign indirect and direct tax credits. Direct foreign credits refer to the tax credit given a taxpayer who directly incurs a tax liability, while an indirect credit is given to a foreign subsidiary. The next section focuses on transactions between the domestic and foreign operations. Section Seven provides helpful information concerning the liquidation or sale of the foreign operation of a U.S. corporation. The following section analyzes the use of tax havens or base companies. Complex tax provisions specify the circumstances when a U.S. shareholder's dividend is taxable. Professor Lowenfeld also discusses changes in

currency exchange rates, another tax planning consideration. Section Ten reviews the tax aspects of the various joint ventures, which in developing countries may be in the form of partnerships or corporations.

Chapter Two deals with some of the same issues covered in Chapter One but from the perspective of the foreign enterprise doing business in or with the United States. Section Eleven looks at the concept of source jurisdiction. The nexus of the presence or activity of a foreign business enterprise in the United States determines the source jurisdiction for tax purposes. Section Twelve provides information on the foreign manufacturing enterprises entering the United States markets. Professor Lowenfeld discusses the licensing and technical assistance agreements which are often utilized when dealing with foreign enterprises in the United States. Several tax provisions and revenue rulings that address the tax consequences of direct sales through distributors or employees are also examined. The following section discusses the tax consequences of subsidiaries in sales, servicing and manufacturing. The final section analyzes the tax consequences of a joint venture with a U.S. enterprise.

**TRADE CONTROLS FOR POLITICAL ENDS. (VOLUME III OF INTERNATIONAL ECONOMIC LAW, 2d ed.).** By Andreas F. Lowenfeld. New York, N.Y.: Matthew Bender, 1983, 621 pp.

In a world of political tensions, trade controls are often imposed for political ends. Volume III, composed of four chapters, addresses this issue. Chapter One focuses on the United States' controls on trade with communist countries. Professor Lowenfeld reviews the Export Control Act of 1949 and the Trading with the Enemy Act of 1917. Import controls, another means by which the United States can achieve economic control, are also examined. While the executive branch essentially implements export controls, import controls are the result of congressional action.

Chapter Two examines East-West trade beginning in the 1970s. The Soviet Union and the United States have demonstrated progressively changing attitudes concerning trade patterns over the past few decades. The influence of politics over trade has been manifested in the U.S.-U.S.S.R. Trade Agreement of 1972, the Grain Embargo protesting the Soviet invasion of Afghanistan, and the U.S. boycott of the 1980 Olympic Games.

Chapter Three analyzes the Arab boycott of Israel. In 1954 the Council of the Arab League enacted the Arab League Boycott to promote and emphasize Israel's isolation in the Middle East. The United States took no official notice of the boycott until the enactment of the 1965 anti-boycott bill. This chapter analyzes the United States' efforts to combat the Arab boycott through U.S. tax, antitrust, corporate and state laws. The attitudes of Great Britain, France and Canada are also discussed.

Rhodesia was one of the last sections of Africa in which the Europeans settled. Chapter Four reviews the United Nations' sanctions against Rhodesia and the settlement in which the United Nations, the United Kingdom, and the United States played a role.

Chapter Five, an entirely new chapter in this edition, deals with the Iranian hostage crisis of 1979 to 1981, focusing on the issue of economic sanctions. Professor Lowenfeld explores the implications of President Carter's termination of the litigation in the United States against Iran in exchange for the hostages' release, the international response to the crisis, and the reaction of international arbitral tribunals.

The 910 page documentary supplement furnishes exhaustive materials relating to the U.S.-U.S.S.R. agreements, Arab boycott related documents, documents on the Rhodesian Question, and documents concerning the Iranian Hostage Settlement.

**YEARBOOK ON COMMERCIAL ARBITRATION, VOLUME X (1985).**  
Edited by Pieter Sanders. Deventer, The Netherlands: Kluwer Law and Taxation Publishers, 1985, 604 pp., \$38.00.

There is a wealth of documentation in the field of international commercial arbitration. The *Yearbook on Commercial Arbitration* is a collection of papers which includes international court decisions and extracts of arbitral awards.

Volume X of the *Yearbook*, the editor's last volume, is comprised of seven parts. Part One discusses Yugoslav law on international commercial arbitration. Part Two focuses on commercial and maritime arbitration awards. Part Three A lists new rules on arbitration as well as a Code of Ethics for Arbitrators. Part Three B contains a considerable number of extracts from the Iran-U.S. Claims Tribunal. There are no recent amendments which can be included in Part Four. Part Five examines court decisions on the New York Convention of 1958. Part Six continues a series on the training and development of commercial arbitrators. Part Seven includes a thorough bibliography of recent publications on arbitration.