# Table of Contents

D	face		V
	face		xiii
Tat	ole of Cases		xviii
Tal	ole of Legislation		xxiv
Ab	breviations		AAIV
	Methos F7		xxvi
Inti	roduction		AAVI
	Dort I		
	Part I		
	Goods		
EL	International Sale of Goods		2
1	Section 1 – Formation and performance of p	rincinal contract	_
	between buyer and seller	imerpar contract	2
	When does the Convention regime apply?		2 3
	Formation of the contract		8
		de la companya de la	12
	Rights and duties of the parties and passing of ris	OK.	12
	D		13
	Passing of risk		
	Transfer of property		16
	Conformity of the goods with the contract		19
	Remedies		21
	Fundamental breach		22
	Alternative remedies		23
			28
	Force majeure clause – doctrine of frustration		31
		ditions and trade	
			33
			34
			34
		g at the seller's	
			40
			41
		t	49
			56
	Multimodal transport terms developed by Inc		57
	"D" terms: Destination or "arrival" contracts	and the second	63
470	I-4		(0
4	International Carriage of Goods		68
	Introduction Section 1 Transport techniques		68
	Section 1 – Transport techniques		69
	Types of carriers	the state of the state of	71
	Shipowners – charterparties – liners and tran	nps	71
	Forwarders and freight forwarders		71
	Multimodal transport operators	the only the state of	. 72
	Section 2 – Sea transport including multimodal tran		72
	Legal elements of a contract of carriage of goods	by sea	73
	Freight arrangements in the contract of carriage		74

	Conference Line freight arrangements	76
	Types of transport documents used when main carriage is by sea	77
	Bill of lading	77
	Electronic bills of lading	87
	Through bill of lading	92
	Sea waybills	94
	Delivery orders	99
	Multimodal transport	102
	International conventions for carriage of goods by sea and	
	domestic legislation	107
	Application of the convention regimes	109
	Goods to which the Rules apply	113
	Period of contract of carriage for the purposes of the Hague	
	and Hague-Visby Rules	113
	Carrier's rights and liabilities	114
	Specific obligations of the carrier under Hague-Visby Rules	115
	Extent of liability for loss or damage	121
	The Hamburg Rules	122
	Claims against the carrier	123
	The 1855 Bills of Lading Act regime	123
	The Sea-Carriage Documents Act regime	124
	Who is the carrier for the purposes of exercising rights of suit	130
	Claims by shipper or consignee/endorsee of the goods against	
	non-carriers	132
	Charterparties	133
	Section 3 – Air transport of goods	136
	Document of carriage: air waybill	136
	International conventions for carriage of goods by air	136
	Liability of the carrier	138
	Extent of liability for loss or damage	139
	Section 4 – Transit insurance	139
	The legal regime	140
	Statutory requirements imposed on cargo owner	140
	The insurers	141
	Type of policy	142
	Examples of perils insured against	144
	Excepted perils	144
	Export credit risks insurance	145
	Insurable interests	145
	Claims and remedies	146
	General average principle	147
	Assignment	148
	Section 5 – P & I Clubs	148
3	Financing an International Transaction	150
	Introduction	150
	Section 1 – General	152
	Alternative methods for financing the contract of sale	152
	Open account sales	152
	Payment in advance	153
	Documentary collection	153

Documentary letter of credit	154
Role of the Uniform Customs and Practice for Documentary	
Credits (1993) Revision (UCP 500)	158
Section 2 – Documentary letters of credit	158
Characteristics of a documentary letter of credit	158
Types of documentary credits	162
Revocable/irrevocable credits	162
Confirmed/unconfirmed credits	163
Methods of payment under a credit	164
Sight drafts	165
Negotiation credits	166
Other types of credit arrangements recognised by UCP 500	167
Transferable credits	167
Standby credits (performance bonds)	168
"Red ink" clause credits	169
"Back to back" credits	169
Stages in the transaction	170
Reference to the terms of the credit in the contract of sale	170
Issuing the credit	171
Period within which credit to be opened	171
Expiry of the credit	172
Responsibility of the intermediary bank	173
Section 3 – Accomplishment of the credit under Uniform Customs	
and Practice for Documentary Credits (UCP) 1993	174
General	174
UCP Rules on documents	175
Transport document	175
Commercial invoice	180
Insurance document Articles 34, 35	181
Other documents	182
Section 4 – Duties of banks in relation to documents	183
Doctrine of strict compliance	183
Bank's duty to exercise reasonable care	184
Specific problems	186
Documents do not conform	186
Documents conform on their face	188
Clauses in a credit protecting the buyer/seller	190
Two rights to reject	190
	194
Section 5 – Alternatives to using the documentary credit system Countertrade	194 194
Section 5 – Alternatives to using the documentary credit system	
Section 5 – Alternatives to using the documentary credit system Countertrade	194
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase	194 196
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation)	194 196 199
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks	194 196 199 201
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks Bank guarantees	194 196 199 201 201
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks Bank guarantees Escrow accounts	194 196 199 201 201 201
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks Bank guarantees Escrow accounts Trust accounts	194 196 199 201 201 201 201
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks Bank guarantees Escrow accounts Trust accounts Evidence accounts	194 196 199 201 201 201 201 201
Section 5 – Alternatives to using the documentary credit system Countertrade Counterpurchase Buy-back (compensation) Role of banks Bank guarantees Escrow accounts Trust accounts Evidence accounts Crossed letters of credit	194 196 199 201 201 201 201 201 202

Government Regimes Impacting on International Sales of Goods	204
Introduction	204
Section 1 – Intergovernmental agreements	205
World Trade Organisation (WTO)	205
Most Favoured Nation clause (MFN)	206
National treatment obligation	207
General elimination of quantitative restrictions	208
Customs duties as a means of protection	208
Reciprocity	209
Dispute settlement	209
Related GATT agreements	210
Harmonised tariff	210
Bilateral agreements	211
Status of international trade agreements in domestic law	213
Section 2 - Domestic legislation and practices governing inter-	
national business transactions	214
The customs system	214
Procedure for customs clearance of imports and exports	214
Imports	215
Rules of origin	216
Classification of goods	217
Valuation of goods	218
Rates of duty	219
Concessional rates of duty	219
Tariff concession order (TCO)	219
Policy by-law system	222
Import and export controls	223
Export duties	224
Drawback	224
Securities	225
Anti-dumping and countervailing duties	225
Anti-dumping duties	225
Countervailing duties	225
Relevant international treaties	226
Special arrangements regarding goods traded in the area	226
Legislation	227
Elements of a dumping/countervailing complaint	229
Non-tariff barriers	237
Quantitative restrictions	237
Safeguard measures	238
Tariff quotas	238
Voluntary export restraints	238
Technical standards	239
Measures to assist local manufacturers	239
Australian Export, Finance & Insurance Corporation	241
Direct loans	241
Bank guarantees	242
Performance bonds	242
Export Credit Insurance	242
•	242
Controls over foreign investment Review of decisions	243
REVIEW OF DECISIONS	443

## Part II International Services Trade

5	The Framework of International Regulation	246
	Introduction	246
	Definition of "service" versus definition of "supply of a service"	248
	Governmental restrictions	250
	Government monopolies and government supervision of sensitive	
	service sectors	251
	Developing-country concerns	252
	International organisations	252
	Government tools for gaining increased share of the international	
	services market	252
	Bilateral treaties	252
	Multilateral treaties	254
	Unilateral trade retaliation	254
	Preferential trade agreements	254
6	International Agreements Dealing with Services Trade	257
	Section 1 – Services Trade in the European Union	257
	Introduction	257
	Free movement of workers and social security entitlements	261
	Right of nationals of one EC Member State to enter and	
	reside in another EC State	262
	Limitations on free movement of workers, rights of establish-	
	ment and rights of access	262
	Right of establishment and freedom to provide services	264
	Right of establishment	266
	Right of access	267
	Service users	269
	Freedom to pursue specific occupations	269
	Transport services	270
	Section 2 – Services trade under the North American Free Trade	
	Agreement	273
	Scope of the Agreement with respect to services	274
	Cross-border trade in services – general	275
	Standard of treatment	276
	Rules of origin	276
	Special sectoral treatment	277
	Professional services	277
	Temporary entry for business persons	278
	Telecommunications	279
	Transportation services	279
	Financial services	280
	Dispute resolution	283
	Conclusion	284
	Section 3 – Services trade between Australia and New Zealand	284
	Introduction	284
	Protocol on services	287
	Scope of the Protocol	287
	Services to which the Protocol applies	288
	betwiees to which the Flower applies	200

	Rules of origin	289
	Access	290
	Rights of establishment	291
	National treatment	292
	Excluded services	293
	Licensing and certification	294
	Non-discriminatory treatment	295
	Transparency	295
	Export subsidies and measures having a direct distorting	
	effect	296
	Sectoral services markets: aviation	297
	Harmonisation of business laws	298
	Dispute settlement	299
	Dispute settlement	
7	The Multilateral Agreement on Trade in Services	301
	Introduction	301
	Section 1 – General commitments	305
		305
	Scope Government measures	305
	Trade in services	306
	General obligations and disciplines	308
	Most favoured nation obligation (MFN)	308
		310
	Other generally applicable provisions	310
	Transparency	310
	Economic integration	311
	Domestic regulation	313
	General and security exceptions	
	Subsidies	314
	Section 2 – Specific commitments	314
	Market access	316
	National treatment	317
	Right of establishment	319
	Special sectoral treatment	319
	Annex on financial services	319
	Annexes on telecommunications	320
	Annex on maritime transport services	321
	Annex on air transport services	321
	Movement of people	322
	Remedies and dispute settlement	322
	Pera property of the company of the	
Sele	ect Bibliography	325
Inde	ex	331