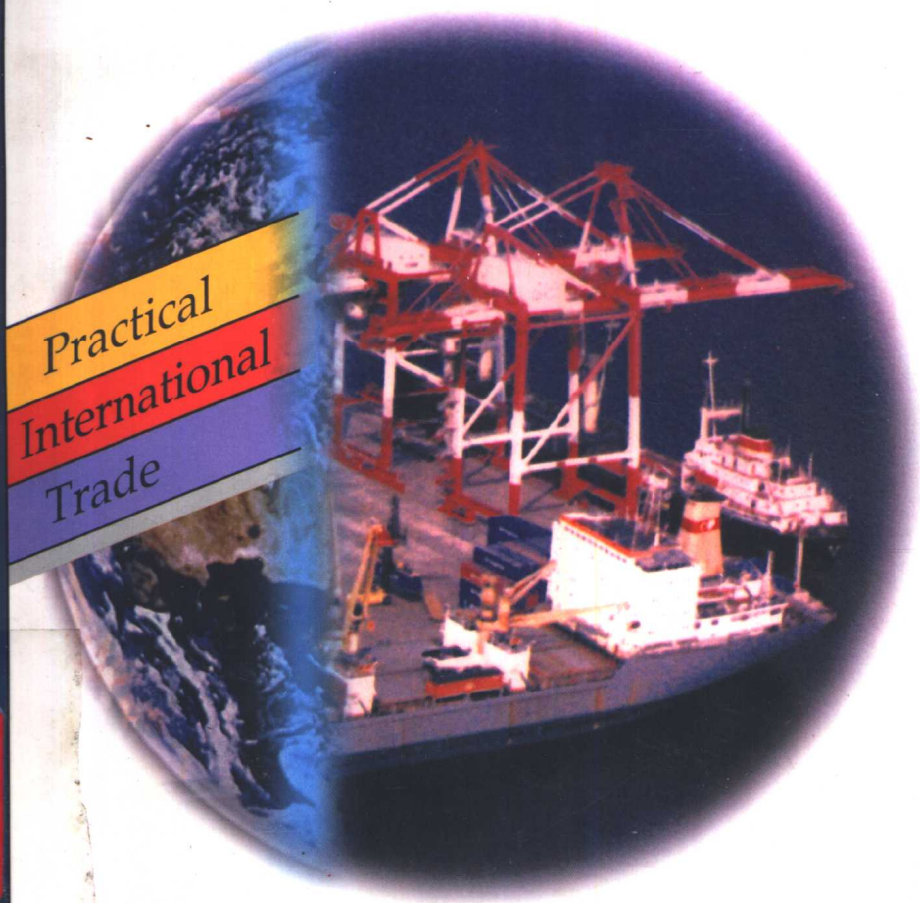


涉外经贸英语系列

实用国际贸易

主编 周振邦



青岛海洋大学出版社

涉外经贸英语系列

Practical International Trade

实用国际贸易

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出版者的话

我们为什么要组织编写《涉外经贸英语系列》丛书？其理由十分简单，因为涉外经贸业务，不论是国际贸易、国际金融，还是国际经济合作、国际市场营销、国际经贸通讯，无一例外地离不开英语这一工具；同时，毫无疑问，没有较高的经贸英语水平，也做不好涉外经贸工作。

《涉外经贸英语系列》丛书的主要特色是什么？我们试图从经贸专业和实务工作及英语语言的角度，比较全面地介绍涉外经贸的主要业务范畴、形式、特征和内涵以及在阅读、理解和翻译等方面的基

本知识和技巧,以便使我们中国人能够更加自如、更有信心地去迎接涉外经贸领域里的各种挑战与机遇。

《涉外经贸英语系列》丛书由周振邦同志主编,编辑委员会成员如下:

周振邦 陈永生 朱庆华 张淑静

前 言

当前,国际贸易正在经历着一场极其深刻的巨大变化。随着传统贸易内容的不断更新,许多新的贸易方式、法规、惯例等也应运而生。

为了适应国际贸易发展的需要,我们向国内对外经贸大专院校或其他有关教育培训等单位的师生、从事对外经贸工作的专业人员以及涉外工商企业集团或工厂的有关人士推出这一全新的《实用国际贸易》。

本书特别注重外贸专业知识、实际业务操作、专业英语运用三者之间的密切结合。全书的内容包括:贸易合同,商品的品质,商品的数量,商品的包装,商

品的价格,商品的交付、运输保险,商品的检验,货价的支付,争议、索赔、仲裁与不可抗力,出口贸易洽商与订立合同,出口合同的履行,进口贸易洽商与订立合同,技术转让,工业产权保护,工程承包与劳务合作,传统与新兴贸易方式等 17 章。每章后均附有中文注释。

在初稿编写和整理过程中,王卓同志参与了其中的一些工作,并输入电脑和打印。经修改和审定后的修正稿,由李丽娜同志负责软盘校正与打印工作。

限于作者的水平,本书可能有不少缺点或谬误,热望同行专家和广大读者予以批评指正。

编者

1997 年 8 月

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1

Business Contract

In international trade, the business contract normally refers to the agreement concluded by both parties and enforceable by law, by which they mutually promise to sell or buy some particular commodity, transfer^[1] or acquire a certain industrial property or know-how^[2], or render^[3] or accept a certain service. The business contract generally adopted in import or export business is usually the formal written contract, i. e. , the sales contract or

purchase contract, but in some cases, it may take the form of the sales confirmation^[4] or purchase confirmation.

The contract may be formal or informal, oral or written, sealed or unsealed, as is provided for^[5] in the United Nations Convention on Contracts for the International Sale of Goods^[6] "A contract of sale need not be concluded in or evidenced^[7] by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses^[8]." But as to the formation of the contract, stipulations vary from country to country in the world. However, in China, our Law of Economic Contracts Involving Foreign Interests^[9] expressly stipulates that the parties to the transaction shall enter into an agreement in writing on the contractual provisions and duly^[10] sign it as conclusion of the business.

A. Legal Foundation^[11]

To be enforceable by law, the business contract must at least take two steps, i. e., the offer and acceptance. While the contract is signed, the following principles should be followed:

- 1) The conclusion of the contract is regarded as the legal act of the parties thereto^[12], therefore, it must, without doubt, possess its basic legal characteristics.
- 2) The contract can only be entered into on condition that the parties thereto shall be in full agreement with each other as to the intention of the terms and conditions laid down^[13] in the contract.
- 3) The parties thereto are completely equal in position.
- 4) The valid contract^[14] shall be legal and in conformity with the

effective conditions^[15] for conclusion.

In order to guarantee that the contract is well-knit^[16] both in form and content required by law, the relative legal bases, especially those which exert a great influence over the international sales of goods, should be thoroughly studied and grasped. Of all, the United Nations Convention on Contracts for the International Sale of Goods (1980), the British Sales of Goods Act (1893)^[17], the Warsaw-Oxford Rules (1932)^[18], the Uniform Commercial Code in the United States (1977)^[19] are the most important. At the same time, our own Law of Economic Contracts Involving Foreign Interests (1985) should also be known well by our foreign trade workers.

B. Formation of Contract^[20]

Generally speaking, the business contract is usually made up of three parts, i. e., the preamble^[21], the body^[22] and the witness clause^[23].

1. *Preamble*

The preamble may take the following statement as the opening remark:

The contract concluded and made by and between ABC Co. (hereinafter^[24] called "the sellers") and XYZ Co. (hereinafter called "the buyers"), whereas^[25] the sellers are willing to sell the buyers the commodity listed hereunder^[26]. Now these presents witness^[27] that it is hereby agreed between the parties here-
to as follows.

2. *Body*

The body of the business contract mainly consists of the general terms and conditions^[28] as well as the basic terms and conditions^[29].

1) Basic terms and conditions

- ① Name of commodity and specification^[30]: Lithophone Zns content 28% min.
- ② Quantity: 900 M/T.
- ③ Unit price: USD 120 per M/T CFRC 5% Singapore.
- ④ Total amount: USD 108,000 with 5% more or less both in amount and quantity at the sellers' option^[31].
- ⑤ Packing: By paper-lined glass-fibre bags of 25 kg. each, gross for net.
- ⑥ Shipping marks: To be designated by the sellers.
- ⑦ Port of shipment and Port of Destination: From Qingtao to Singapore.
- ⑧ Time of shipment: During May/June/July, 1995, into three equal lots. Partial shipment to be allowed, transshipment not to be allowed.
- ⑨ Insurance: To be covered^[32] by the buyers.
- ⑩ Terms of payment: By irrevocable, transferable, and divisible banker's acceptance letter of credit^[33] to cover the total value of each monthly (or lot^[34] of) shipment as stipulated above, to be available by drafts, at ... days sight, to reach the sellers ... days before the respective time of shipment stipulated above (or within ... days after receipt of the sellers' advice) and to remain valid for negotiation^[35] in China until

the 15th day after the relative time of shipment.

⑪ Commodity inspection: It is mutually agreed that the certificate of quality and weight issued by the Chinese Import and Export Commodity Inspection Bureau at the port of shipment shall be taken as the basis for delivery^[36].

2) General terms and conditions

① Amendment of letter of credit: The buyers shall open L/C in accordance with the terms of the contract. If any discrepancy^[37] is found, amendments^[38] of L/C should be made immediately by the buyers upon receipt of the sellers' advice, failing which the buyers shall be responsible for any losses thus incurred^[39] as well as for late shipment thus caused.

② Shipping advice: The sellers or their branches shall notify the buyers or their agents by cable or telex of the number of L/C, quantity and name of vessel immediately after loading is completed.

③ Force majeure^[40]: Should the sellers fail to deliver the contracted goods or effect shipment in time by reason of force majeure beyond their control, the time of shipment might be duly extended, or alternatively a part or whole of the contract might be cancelled without liability^[41] attached^[42] to the sellers, but the sellers shall immediately notify the buyers by cable or telex of the accident and furnish^[43] the buyers within 15 days after the accident by registered airmail with a certificate issued by the competent government authority or the chamber of commerce which is located at the place where the accident occurs as evidence thereof.

④ Arbitration: All disputes in connection with the contract

or the execution thereof shall be amicably^[44] settled through negotiation. In case no amicable settlement can be reached between the two parties, the case under dispute shall be submitted to arbitration^[45], which shall be held in the country where the defendant^[46] resides, or in a third country agreed by both parties. The award^[47] of the arbitration shall be taken and accepted as final and binding^[48] upon both parties. The arbitration fees^[49] shall be borne by the losing party^[50] only.

⑤ Claims: Should the quality, quantity and/or weight be found not in conformity with those stipulated in this contract, aside from those usual natural changes of quality and weight in transit and losses within the responsibility of the shipping company and/or insurance company, the buyers shall have the right within 30 days after the arrival of the goods at the port of destination to lodge or file claims^[51] concerning the quality, quantity or weight of the goods (claims for perishable goods^[52] are to be put forward immediately after arrival of the goods at destination).

3) Witness clause

The business contract is usually ended with the following statement: The contract is made out in Chinese and English, both versions^[53] being equally authentic^[54].

[1] 转让

[2] 专有技术

[3] 提供

[4] 销售确认书

[5] 规定

[6] 联合国国际货物销售公约

[7] 证实

[8] 人证

[9] 涉外经济合同法

[10] 正式地

- | | |
|---------------------|-------------|
| [11] 法律依据 | 银行承兑信用证 |
| [12] 合约当事人 | [34] 一批(货物) |
| [13] 规定 | [35] 议付 |
| [14] 有效合同 | [36] 交货依据 |
| [15] 有效要件 | [37] 差异 |
| [16] 严谨 | [38] 修改 |
| [17] 英国 1893 年货物销售法 | [39] 招致 |
| [18] 1932 年华沙-牛津规则 | [40] 不可抗力 |
| [19] 美国统一商法典 | [41] 责任 |
| [20] 合同的构成 | [42] 附属于 |
| [21] 约首 | [43] 提供 |
| [22] 约文 | [44] 友好地 |
| [23] 约尾 | [45] 提交仲裁 |
| [24] 本合同后文 | [46] 被告 |
| [25] 鉴于 | [47] 裁决 |
| [26] 下述 | [48] 最终约束力 |
| [27] 兹特立约为据 | [49] 仲裁费用 |
| [28] 一般条款 | [50] 败诉方 |
| [29] 基本条款 | [51] 提出索赔 |
| [30] 规格 | [52] 腐货物 |
| [31] 由卖方决定 | [53] 文本 |
| [32] 承保 | [54] 同等效力 |
| [33] 不可撤销的可转让可分割的 | |

2

Quality of Goods

The quality of the goods refers to the outward appearance and the essential quality of the goods, such as shape, structure, colour, flavour as well as chemical composition^[1], physical and mechanical property^[2], biological feature^[3], etc.

In international trade, the quality of the goods not only concerns the value in use and the price of the goods, but also concerns the sales of the goods and credit standing^[4] of the manufac-