

INTERNATIONAL BUSINESS TRANSACTIONS

A PROBLEM-ORIENTED COURSEBOOK

Eighth Edition

Ralph H. Folsom
Michael Wallace Gordon
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We Dedicate This Book to:

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*

Preface to the Eighth Edition

Few lawyers engaged in commercial or corporate law, even those located in the most remote corners of the United States, are likely to pass their careers without confronting one or more issues of international business. A farm client in Iowa learns that the President has imposed export controls on grain, or that the European Union has established a substantial levy on grain imports for the year because of unexpectedly high European farm production. A Texas manufacturer of tennis racquets discovers the market is flooded with a patent-infringing copy made in the Far East. A New Hampshire grocery store chain, which wants to purchase a new line of chocolates directly from Belgium, is introduced to letters of credit in the international context. A North Carolina fast food franchisor is asked by a group of Canadians for the franchise rights for Canada. The list could go on.

Of particular importance is that clients may never be directly engaged in international commerce, but nevertheless may have a serious international business problem. The tennis racquet manufacturer was satisfied with the United States market. But it now confronts the pirating of its patents and must consider whether imports of those tennis racquets may be stopped, and if any action might be taken in the foreign nation where the racquets are being illegally made. A manufacturer of dictating machines discovers the market flooded with machines from abroad at a price which must be well below cost. Was that government subsidizing the production or was the company dumping its products in the United States?

After a brief introduction to the conduct of business in the world community, the book uses 37 hypothetical problems to present what we believe are some of the most important issues in international business transactions. There is an Appendix which introduces the European Union Legal System. Except for a few areas, such as documentary sales, letters of credit, sovereign immunity and act of state, there is a modest amount of case law which is useful in discussing these issues. Extracted materials thus come from a wide variety of sources, including treaties, conventions, statutes and regulations. The hypothetical problems provide comparatively brief situations which are intended to make the purpose and relevance of the readings clear. Our choice of problems will not be agreed to by all. But we hope that it will promote a useful teaching method and, with other assigned readings, fulfill many interests.

There is a Documents Supplement prepared especially for use with the book. References are made in each problem to those parts of the Documents Supplement which are necessary to an analysis of the problem. The Documents Supplement includes the principal United States trade acts, with successive amendments to earlier acts integrated into those earlier acts. There are also numerous other United States statutes governing exports, sovereign immunity, foreign corrupt practices, the Caribbean Basin and the enforcement of foreign judgments. International treaties, such as the Convention on Contracts for the International Sale of Goods (CISG), as well as excerpts from numerous World Trade Organization agreements are included. Several regional documents are presented, including parts of the North American Free Trade Agreement. Portions of other laws and rules are included in the text, such as

parts of the IMF rules, UCC, Incoterms, UCP, Restatements, CFR and the laws of Canada, Mexico, the United Kingdom and the European Union. It is essential that students use the Documents Supplement in many of the problems.

None of us has ever completely covered all of the book in a single semester. The book provides ample material for a single broad survey course, or separate offerings such as an “International Business Transactions” course focusing primarily upon sales, letters of credit and dispute settlement or an “International Trade and Economic Relations” course centered on governmental regulation of trade and investment. By design there are many other course variations that can be taught from this book. We expect some professors may wish to expand upon Part One, which is a very condensed introduction, and then allocate one class session per problem. Most of the problems could easily be extended to additional class sessions, and many have been divided into two (or more) parts which may help such allocation. This should permit faculty to omit problems which they feel are less relevant to their goals in teaching the course, and to enhance those problems which they feel are most important with other readings.

This coursebook has been used in well over 120 schools. We have received comments from faculty using prior editions suggesting ways to improve the book. We have incorporated many and are very thankful for these comments. We hope more suggestions will be forthcoming with this edition. The Teacher’s Manual will help faculty using this edition for the first time, and should assist previous users by comments in the initial paragraphs to each problem which explain changes made in each specific problem, hopefully helping in the preparation of new class notes where they are needed. Professors can obtain a looseleaf edition of this coursebook, which facilitates the transfer of teaching notes, from West Group.

This coursebook is designed to introduce law students to a wide range of problems that are sequenced in Parts: international sales and letters of credit, trade regulation, technology transfers, foreign investment and dispute settlement. We explore those problems in developed, developing, nonmarket and transition economies. Our focus is on lawyers, public and private, as problem solvers. None of us was interested in undertaking this project for the sake of producing a “casebook”. We believed rather that a problem-oriented approach and the sequence of our Parts would offer a different perspective for law faculty teaching in this area. Professors of international business law often have extremely diverse concepts of what the course should include. We do hope that we have been sufficiently diverse to satisfy many of those views.

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Table of Cases

The principal cases are in bold type. Cases cited or discussed in the text are roman type. References are to pages. Cases cited in principal cases and within other quoted materials are not included.

- Abrams v. Baylor College of Medicine, 581 F.Supp. 1570 (S.D.Tex.1984), 722
- Adams v. Lindsell, 295
- Adel Precision Products Corp. v. Grand Trunk Western R. Co., 332 Mich. 519, 51 N.W.2d 922 (Mich.1952), 218
- A.I. Credit Corp. v. Government of Jamaica, 666 F.Supp. 629 (S.D.N.Y.1987), 1042
- Alejandre v. Cuba, 996 F.Supp. 1239 (S.D.Fla. 1997), 1092
- Alejandre v. Republic of Cuba, 42 F.Supp.2d 1317 (S.D.Fla.1999), 1092
- Alejandre v. Telefonica Larga Distancia de Puerto Rico, 183 F.3d 1277 (11th Cir.1999), 1092
- Alfred Dunhill of London, Inc. v. Republic of Cuba, 425 U.S. 682, 96 S.Ct. 1854, 48 L.Ed.2d 301 (1976), 1133
- Allen v. Standard Trusts Company, 57 D.L.R. 105 (1920), 1336
- Allied Bank Intern. v. Banco Credito Agricola de Cartago, 757 F.2d 516 (2nd Cir.1985), 1042
- Allis-Chalmers Corp., Hydro-Turbine Division v. Friedkin**, 635 F.2d 248 (3rd Cir. 1980), 536, **537**, 544
- Aluminum Co. of America v. Essex Group, Inc.**, 499 F.Supp. 53 (W.D.Pa.1980), **1070**
- Alvarez-Machain v. United States, 107 F.3d 696 (9th Cir.1996), 1093
- American Bell Intern., Inc. v. Islamic Republic of Iran**, 474 F.Supp. 420 (S.D.N.Y. 1979), 324, **340**, 350, 352, 353
- American Coalition for Competitive Trade v. Clinton, 128 F.3d 761 (D.C.Cir.1997), 600
- American Construction Machinery & Equipment Corp. v. Mechanised Construction of Pakistan Ltd. (S.D.N.Y.1987), 1309
- American International Group, Inc. v. Iran, 4 Iran-U.S. C.T.R. 96 (1983), 1121
- Amoco Oil Co. v. United States**, 749 F.2d 1576 (Fed.Cir.1984), **403**, 407, 408
- Asahi Metal Industry Co. v. Superior Court of California, 480 U.S. 102, 107 S.Ct. 1026, 94 L.Ed.2d 92 (1987), 1210, 1211
- Ashland Oil Case, 748
- A. T. Cross Co. v. Sunil Trading Corp.**, 467 F.Supp. 47 (S.D.N.Y.1979), **841**, Atlantic Star, The, 3 W.L.R. 746 (C.A.1972), 1218
- Banco Espanol de Credito v. State St. Bank & Trust Co., 385 F.2d 230 (1st Cir.1967), 295
- Banco Nacional de Cuba v. Sabbatino**, 376 U.S. 398, 84 S.Ct. 923, 11 L.Ed.2d 804 (1964), **1127**
- Banco Santander SA v. Banque Paribus**, (Ct.App.2000), **315**
- Bankers Trust Co. v. Worldwide Transp. Services, Inc., 537 F.Supp. 1101 (E.D.Ark. 1982), 1126
- Bank of Nova Scotia v. Tschabold Equipment Ltd.**, 51 Wash.App. 749, 754 P.2d 1290 (Wash.App. Div. 1 1988), **1328**, 1334
- Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain), I.C.J.Rep. 3 (1970), 1216, 1217
- Beanal v. Freeport-McMoran, Inc.**, 197 F.3d 161 (5th Cir.1999), **1102**, 1108
- Beaver Lamb & Shearling Co. v. Sun Insurance Office of London England, 3 Dom.L.Rep. 470 (Ont.H.C.1951), 1219
- Beef Hormones Decision, 381, 382, 435, 466
- Bergesen v. Joseph Muller Corp., 548 F.Supp. 650 (S.D.N.Y.1982), 1309
- Berisford Metals Corp. v. S/S Salvador**, 779 F.2d 841 (2nd Cir.1985), **131**
- Bernstein v. N.V. Nederlandsche-Amerikaansche, Stoomvaart-Maatschappij, 210 F.2d 375 (2nd Cir.1954), 1128
- Better Home Plastics Corp. v. United States**, 916 F.Supp. 1265 (CIT 1996), **399**, 407, 408
- Biddell Bros. v. E. Clemens Horst Co., A.C. 18 (H.L.1911), 111
- Bonny v. Society of Lloyd's**, 3 F.3d 156 (7th Cir.1993), **1246**, 1253
- Boston Law Books Co. v. Canadian Law Books Co. Ltd., 43 Ont.L.Rep. 13 (1918), 1219
- BP Exploration Co. (Libya) Ltd. v. Hunt (No. 2), 1 All E.R. 978 (1982), 1318
- Brenner v. American Metal Co., 50 Ont.L.Rep. 25 (Ont.C.A.1921), 1219

- British Airways Board v. Laker Airways Ltd., 3 W.L.R. 413 (H.L.1984), 1284
- Broadcast Music, Inc. v. Columbia Broadcasting System, Inc., 441 U.S. 1, 99 S.Ct. 1551, 60 L.Ed.2d 1 (1979), 787
- Bulk Oil (ZUG) A.G. v. Sun Co., Inc., 583 F.Supp. 1134 (S.D.N.Y.1983), 722
- Burger King v. Rudzewicz, 471 U.S. 462, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985), 1211
- Butler v. Perry, 240 U.S. 328, 36 S.Ct. 258, 60 L.Ed. 672 (1916), 1108
- Caldas & Sons, Inc. v. Willingham, 17 F.3d 123 (5th Cir.1994), 1252
- Canadian International Marketing Distributing Ltd. v. Nitsuko Ltd., 68 Dom.L.R. (4th) 318 (B.C.C.A.1990), 1219
- Canadian Westinghouse Case, 1219
- Canevaro Case, 1216
- Carnival Cruise Lines, Inc. v. Shute, 499 U.S. 585, 111 S.Ct. 1522, 113 L.Ed.2d 622 (1991), 1229, 1251, 1252
- Carolina Power & Light Co. v. Uranex, 451 F.Supp. 1044 (N.D.Cal.1977), 1311
- Castle, United States v., 925 F.2d 831 (5th Cir.1991), 748
- Central National-Gottesman, Inc. v. M.V. Gertrude Oldendorff**, 204 F.Supp.2d 675 (S.D.N.Y.2002), 1242
- Certain Alkaline Batteries, In re, Inv. No. 337-TA-165 (1984), 877
- Certain Cube Puzzles, Inv. No. 337-TA-112, p. 877
- Certain Motor Vehicles and Certain Chassis and Bodies Therefor**, Inv. No. TA-201-44 (1984), 634, 641, 650
- Certain Personal Computers and Components Thereof**, Inv. No. 337-TA-140 (1984), 867, 877
- C.I.L.F.I.T. SRL v. Ministro Della Sanita**, 1982 Eur.Comm.Rep. 3415 (1982), 1378, 1381
- CIBC Bank & Trust Co. v. Banco Central do Brasil, 886 F.Supp. 1105 (S.D.N.Y.1995), 1034, 1042
- Coalition for Preservation of American Brake Drum and Rotor Aftermarket Manufacturers v. United States**, 15 F.Supp.2d 918 (CIT 1998), 612, 631
- Commission v. Federal Republic of Germany**, 1987 Eur.Comm.Rep. 1227 (1987), 478
- Commission v. United Kingdom**, 1982 Eur. Comm.Rep. 2601 (1987), 1367
- Compagnie Europeenne des Petroles, S.A. v. Sensor Nederland, B.V., Case 82/716 Rechtspraak van de Week 167 (Dist.Ct. Neth.1982), 682, 693
- Consumers Union of U.S., Inc. v. Kissinger, 506 F.2d 136 (D.C.Cir.1974), 643
- Consumers Union of U.S., Inc. v. Rogers, 352 F.Supp. 1319 (D.D.C.1973), 643
- Continental T.V., Inc. v. GTE Sylvania Inc., 433 U.S. 36, 97 S.Ct. 2549, 53 L.Ed.2d 568 (1977), 826
- Credit Industriel et Commercial v. China Merchants Bank, 2002 All E.R. (Comm.) 427 (Q.B.D.2002), 289
- Crosby v. National Foreign Trade Council, 530 U.S. 363, 120 S.Ct. 2288, 147 L.Ed.2d 352 (2000), 558
- C. Sharpe & Co. Ltd. v. Nosawa & Co., 2 K.B. 814 (K.B.D.1917), 164
- Curtis v. Curtis, Ont.W.N. 382 (Ont.H.C.1943), 1336
- D'Agostino v. Johnson & Johnson, Inc., 133 N.J. 516, 628 A.2d 305 (N.J.1993), 748
- Dame Cureau v. Cureau, 8 Clunet 146 (1957), 1337
- Davidson v. Anchorage Inc., 23 B.C.L.R. 352 (B.C.S.C.1980), 1219
- Delft Instruments, N.V., Matter of, (1991), 679, 693, 708
- DePuydt v. FMC Corp., 35 F.3d 570 (9th Cir. 1994), 748
- De Savoye v. Morguard Investments Ltd., 76 D.L.R.4th 256 (Can.1990), 1336
- Doe v. Unocal Corp., 2003 WL 359787 (9th Cir.2003), 1102
- Doe v. Unocal Corp.**, 2002 WL 31063976 (9th Cir.2002), 1099
- Doe v. Unocal Corp.**, 110 F.Supp.2d 1294 (C.D.Cal.2000), 1093, 1107, 1108
- Dooley v. United Technologies Corp., 803 F.Supp. 428 (D.D.C.1992), 748
- Dresser Industries, Inc. v. Baldrige, 549 F.Supp. 108 (D.D.C.1982), 681, 693, 708
- Dulles, United States ex rel. Keefe v., 222 F.2d 390 (D.C.Cir.1954), 1215
- Dynamics Corp. of America v. Citizens and Southern Nat. Bank, 356 F.Supp. 991 (N.D.Ga.1973), 322
- Earth Island Institute v. Secretary of State, 913 F.Supp. 559 (CIT 1995), 434
- Easton v. Strassburger, 152 Cal.App.3d 90, 199 Cal.Rptr. 383 (Cal.App. 1 Dist.1984), 322
- E.E.O.C. v. Arabian American Oil Co., 499 U.S. 244, 111 S.Ct. 1227, 113 L.Ed.2d 274 (1991), 1255
- Elettronica Sicula S.p.A. (ELST) Judgment (United States v. Italy), 1989 I.C.J.Rep. 15 (1989), 1111, 1121
- Environmental Tectonics v. W.S. Kirkpatrick, Inc., 847 F.2d 1052 (3rd Cir.1988), 747
- Erie R. Co. v. Tompkins, 304 U.S. 64, 58 S.Ct. 817, 82 L.Ed. 1188 (1938), 1314
- Ethiopian Spice Extraction Share Co. v. Kalamazoo Spice Extraction Co., 543 F.Supp. 1224 (W.D.Mich.1982), 1134
- European Steel Imports Case, 602
- Filartiga v. Pena-Irala**, 630 F.2d 876 (2nd Cir.1980), 1079, 1080, 1091, 1092
- Film Dispute, 776, 778
- Fireman's Fund Ins. Co. v. M.V. DSR Atlantic**, 131 F.3d 1336 (9th Cir.1997), 1240, 1252
- First National City Bank v. Banco Nacional de Cuba, 406 U.S. 759, 92 S.Ct. 1808, 32 L.Ed.2d 466 (1972), 1128
- Flatow v. Islamic Republic of Iran, 999 F.Supp. 1 (D.D.C.1998), 1092

- Florsheim Shoe Co., Div. of Interco, Inc. v. United States**, 744 F.2d 787 (Fed.Cir. 1984), **505**, 510
- Fracmaster, Ltd., In re, 237 B.R. 627 (Bkrcty. E.D.Tex.1999), 1008
- French v. Banco Nacional de Cuba, 295 N.Y.S.2d 433, 242 N.E.2d 704 (N.Y.1968), 1134
- Freuhauf Corp. v. Massardy, CA Paris, 14e ch., May 22, 1965, J.C.P. 1965, II 14274, pp. 683, 693, 708
- GEMA, In re, 11 Common Mkt.L.Rep. 694 (1972), 787
- GEMA, In re, 10 Common Mkt.L.Rep. D35 (1971), 787
- Gill & Duffus S.A. v. Berger & Co. Inc., 1 All E.R. 438 (H.L.1983), 112
- Glencore International AG v. Bank of China, 291
- Gyonyo v. Sanjenki, 23 D.L.R.3d 695 (Alta.S.C. 1971), 1336
- Hadley v. Baxendale, 156 Eng.Rep. 145 (1854), 104
- Hanil Bank v. Pt. Bank Negara Indonesia (Persero)**, 41 U.C.C.Rep.Serv.2d 618 (S.D.N.Y.2000), **279**, 294
- Harley-Davidson Case (Heavyweight Motorcycles, and Engines and Power Train Subassemblies Therefor), No. TA-201-44 (1983), 650
- Harris v. VAO Intourist, Moscow, 481 F.Supp. 1056 (E.D.N.Y.1979), 1126
- Harris Corp. v. National Iranian Radio and Television**, 691 F.2d 1344 (11th Cir. 1982), 324, **346**, 350
- Hartford Fire Ins. Co. v. California, 509 U.S. 764, 113 S.Ct. 2891, 125 L.Ed.2d 612 (1993), 1259
- Helicopteros Nacionales de Colombia, S.A. v. Hall (Helicol), 466 U.S. 408, 104 S.Ct. 1868, 80 L.Ed.2d 404 (1984), 1210
- Hilao v. Estate of Marcos, 103 F.3d 767 (9th Cir.1996), 1093
- Hilton v. Guyot, 159 U.S. 113, 16 S.Ct. 139, 40 L.Ed. 95 (1895), 1314, 1315, 1332, 1336
- Holloway v. Bristol-Myers Corp., 485 F.2d 986, 158 U.S.App.D.C. 207 (D.C.Cir.1973), 201
- Honda Case, 497
- Hunt v. BP Exploration Co. (Libya) Ltd.**, 492 F.Supp. 885 (N.D.Tex.1980), 1314, **1315**, 1332, 1333, 1334
- Hunt v. BP Exploration Co. (Libya) Ltd., 1 N.Z.R.L. 104 (1980), 1333
- Hutson v. Analytic Sciences Corp., 860 F.Supp. 6 (D.Mass.1994), 748
- INA Corp. v. Iran, 8 Iran-U.S. C.T.R. (1985), 1121
- Indussa Corp. v. S.S. Ranborg, 1252
- Industria Nacional Del Papel, CA. v. M/V Albert F**, 730 F.2d 622 (11th Cir.1984), **222**, 223
- Ingersoll Mill. Mach. Co. v. Granger, 833 F.2d 680 (7th Cir.1987), 1334
- In re (see name of party)**
- Instituto Nacional De Comercializacion Agricola (Indeca) v. Continental Illinois Nat. Bank and Trust Co., 858 F.2d 1264 (7th Cir. 1988), 322
- Interhandel Case (Switzerland v. United States of America) (Preliminary Objections), 1959 I.C.J. 6 (1959), 1121
- International Shoe Co. v. Washington, 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945), 1126
- Ipirtrade Intern., S. A. v. Federal Republic of Nigeria, 465 F.Supp. 824 (D.D.C.1978), 1287
- Island Territory of Curacao v. Solitron Devices, Inc., 489 F.2d 1313 (2nd Cir.1973), 1335
- Israel Aircraft Industries Ltd. v. Sanwa Business Credit Corp., 16 F.3d 198 (7th Cir. 1994), 722
- JH Rayner & Co. Ltd. v. Hambros Bank Ltd.**, 1 K.B. 37 (C.A.1942), **266**, 293, 294
- Johnson v. Davis, 480 So.2d 625 (Fla.1985), 322
- Johnston v. Compagnie Generale Transatlantique, 242 N.Y. 381, 152 N.E. 121 (N.Y. 1926), 1314
- John T. Brady & Co. v. United States, 693 F.2d 1380 (Fed.Cir.1982), 543
- Julen v. Larson, 25 Cal.App.3d 325, 101 Cal. Rptr. 796 (Cal.App. 2 Dist.1972), 1334
- Kay, United States v.**, 200 F.Supp.2d 681 (S.D.Tex.2002), **734**, 7499, 753
- Kearny, Town of v. Hudson Meadows Urban Renewal Corp., 829 F.2d 1263 (3rd Cir. 1987), 747
- Keck & Mithouard, Eur.Comm.Rep. I-6097 (E.C.J.1992), 497
- Keefe, United States ex rel. v. Dulles, 222 F.2d 390 (D.C.Cir.1954), 1215
- K Mart Corp. v. Cartier, Inc.**, 486 U.S. 281, 108 S.Ct. 1811, 100 L.Ed.2d 313 (1988), **847**, 860, 861
- Koster v. Automark Industries, Inc.**, 640 F.2d 77 (7th Cir.1981), **1325**, 13331, 1334
- K. S. B. Technical Sales Corp. v. North Jersey Dist. Water Supply Commission of State of N. J.**, 75 N.J. 272, 381 A.2d 774 (N.J.1977), **534**, **544**
- La Abra Silver Mining Co. v. United States, 175 U.S. 423, 20 S.Ct. 168, 44 L.Ed. 223 (1899), 1215
- Laker Airways Ltd. v. Sabena, Belgian World Airlines, 731 F.2d 909, 235 U.S.App.D.C. 207 (D.C.Cir.1984), 1284
- Lamb v. Phillip Morris, Inc., 915 F.2d 1024 (6th Cir.1990), 748
- Laminoirs-Trefileries-Cableries de Lens, S. A. v. Southwire Co.**, 484 F.Supp. 1063 (N.D.Ga.1980), **1306**
- La Societe Nationale Pour La Recherche, La Production, Le Transport, La Transformation et la Commercialisation Des Hydrocarbures v. Shaheen Natural Resources Co., Inc., 585 F.Supp. 57 (S.D.N.Y.1983), 1309
- Leigh Marine Services Ltd. v. Harburn Leasing Agency Ltd., 25 Dom.L.Rep.3d 604 (B.C.S.C.1972), 1218

- Lever Bros. Co. v. United States**, 981 F.2d 1330, 299 U.S.App.D.C. 128 (D.C.Cir.1993), **852**, 861
- Libyan American Oil Co. v. Socialist People's Libyan Arab Jamahiriya, 482 F.Supp. 1175 (D.D.C.1980), 1287
- Liebo, United States v.**, 923 F.2d 1308 (8th Cir.1991), **731**
- Looper v. Morgan, 1995 WL 499816 (S.D.Tex. 1995), 709
- Louisiana ex rel. Guste, State of v. Verity, 853 F.2d 322 (5th Cir.1988), 433
- Luciano Pisoni Fabbrica Accessori Instrumenti Musicali v. United States, 837 F.2d 465 (Fed.Cir.1988), 633
- Maize Seed Case (Nungesser v. Commission), Eur.Comm.Rep. 2015 (1982), 905
- Mareva Injunction, 9 N.Z.U.L.R. 279 (1981), 1333
- Matlack Systems, Inc., In re (Bank.D.Del. 2001), 1010
- Matter of (see name of party)**
- Maurice O'Meara Co. v. National Park Bank of New York, 239 N.Y. 386, 146 N.E. 636 (N.Y.1925), 297
- Mavrommatis Palestine Concessions (Jurisdiction), 1924 P.C.I.J., ser. A, No. 2, pp. 1213, 1214
- Maxwell Communication Corp. plc by Homan, In re, 93 F.3d 1036 (2nd Cir.1996), 1259
- McCreary Tire & Rubber Co. v. CEAT S.p.A., 501 F.2d 1032 (3rd Cir.1974), 1311
- McGee v. International Life Insurance Co., 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223 (1957), 1126
- McLean, United States v., 738 F.2d 655 (5th Cir.1984), 747
- Metro Industries, Inc. v. Sammi Corp., 82 F.3d 839 (9th Cir.1996), 1259
- Metropolitan Trust & Savings Co. v. Osborne, 14 Ont.W.R. 135 (Ont.H.C.1909), 1336
- Mexico Plantegen G.m.b.H., In re, German-American Claims Com'n, Ann.Dig. 265 (1930), 1217
- Meyer, United States v.**, 864 F.2d 214 (1st Cir.1988), **716**
- Mid-America Tire, Inc. v. PTZ Trading Ltd.**, 95 Ohio St.3d 367, 768 N.E.2d 619 (Ohio 2002), **297**, 322, 323
- Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.**, 473 U.S. 614, 105 S.Ct. 3346, 87 L.Ed.2d 444 (1985), 1253, 1285, **1293**, 1309, 1310
- M/S Bremen v. Zapata Off-Shore Co.**, 407 U.S. 1, 92 S.Ct. 1907, 32 L.Ed.2d 513 (1972), **1225**, 1229, 1251, 1252
- Nakata, Filanto, S.P.A. v. Chilewich Int'l Corp.**, 7 Transnat'l Law 141 (1994), **93**
- National Foreign Trade Council v. Baker, 26 F.Supp.2d 287 (D.Mass.1998), 710
- National Oil Corp. v. Libyan Sun Oil Co.**, 733 F.Supp. 800 (D.Del.1990), **1303**, 1311
- NEC Corp. v. Department of Commerce**, 36 F.Supp.2d 380 (CIT 1998), **607**, 631, 632
- Nippon Paper Industries Co., Ltd., United States v., 109 F.3d 1 (1st Cir.1997), 1259
- Nissho Iwai American Corp. v. United States**, 982 F.2d 505 (Fed.Cir.1992), **429**
- Nottebohm Case (Liechtenstein v. Guatemala), I.C.J. Rep. 4 (1955), 1216
- Occidental Petroleum Corp. v. Buttes Gas & Oil Co., 331 F.Supp. 92 (C.D.Cal.1971), 1134
- Ocean Tramp Tankers Corp. v. V/O Sovfracht (The Eugenia)**, 1 All E.R. 161 (C.A.1963), 140, **141**
- Ontario Power Co. of Niagara Falls v. Niagara, Lockport & Ontario Power Co., 52 Ont.L.R. 168 (Ont.C.A.1922), 1336
- Oxford Industries v. United States**, 517 F.Supp. 694 (CIT 1981), **520**
- Parfums Givenchy, Inc. v. Drug Emporium, Inc., 38 F.3d 477 (9th Cir.1994), 860
- Parsons & Whittemore Overseas Co., Inc. v. Societe Generale De L'Industrie Du Papier (RAKTA)**, 508 F.2d 969 (2nd Cir. 1974), 1287, **1288**, 1311
- Perkins v. Benguet Consolidated Mining Co., 342 U.S. 437, 72 S.Ct. 413, 96 L.Ed. 485 (1952), 1210
- Power Curber Int'l Ltd. v. National Bank of Kuwait (1981), 266
- Pravin Banker Assocs. Ltd. v. Banco Popular del Peru, 895 F.Supp. 660 (S.D.N.Y.1995), 1037, 1042
- Presbyterian Church of Sudan v. Talisman Energy, Inc., 244 F.Supp.2d 289 (S.D.N.Y. 2003), 1107, 1109
- Price v. Standard Oil Co.**, 55 N.Y.S.2d 890 (N.Y.Sup.1945), **990**, 993
- Procureur du Roi v. Dassonville, Eur. Comm.Rep. 837 (E.C.J.1974), 497
- Pronuptia de Paris GmbH v. Pronuptia de Paris Irmgard Schillgallis**, 1986 Eur. Comm.Rep. 353 (E.C.J.1985), **815**, 826
- PSINet Inc., In re (Bank.S.D.N.Y.2001), 1010
- Quality King Distributors, Inc. v. L'anza Research Intern., Inc.**, 523 U.S. 135, 118 S.Ct. 1125, 140 L.Ed.2d 254 (1998), **850**, 861
- Ramirez de Arellano v. Weinberger, 745 F.2d 1500, 240 U.S.App.D.C. 363 (D.C.Cir.1984), 1134, 1135
- Republic of Bolivia v. Philip Morris Companies, Inc.**, 39 F.Supp.2d 1008 (S.D.Tex. 1999), **1212**
- Rewe-Zentral AG v. Bundesmonopolverwaltung fur Branntwein (Cassis), Eur. Comm.Rep. 649 (E.C.J.1979), 497
- Roman Ceramics Corp. v. Peoples Nat. Bank, 714 F.2d 1207 (3rd Cir.1983), 353
- Roto-Lith Case, 90
- Rousillon v. Rousillon, 14 Ch.D. 351 (Ch.D. 1880), 1336
- Schaper Mfg. Co. v. United States Intern. Trade Com'n, 717 F.2d 1368 (Fed.Cir.1983), 877
- Scherk v. Alberto-Culver Co., 417 U.S. 506, 94 S.Ct. 2449, 41 L.Ed.2d 270 (1974), 1310

- Scotch Whiskey Ass'n v. Barton Distilling Co., 489 F.2d 809 (7th Cir.1973), 786
- Seaver v. Lindsay Light Co., 233 N.Y. 273, 135 N.E. 329 (N.Y.1922), 164
- Self-Powered Lighting, Ltd. v. United States**, 492 F.Supp. 1267 (S.D.N.Y.1980), 536, 543
- Shahin Shaine Ebrahimi v. Iran, AWD 560-44/46/47-3 (1994), 1121
- Shrimp-Turtles Decision, 436, 451, 452
- Silhouette International v. Hartlauer**, Case No. C-355/96 (E.C.J.1998), 840, 843
- Sneaker Circus, Inc. v. Carter, 566 F.2d 396 (2nd Cir.1977), 650, 857, 861
- Societe Nationale Industrielle Aerospatiale v. United States Dist. Court for Southern Dist. of Iowa**, 482 U.S. 522, 107 S.Ct. 2542, 96 L.Ed.2d 461 (1987), 1271
- Sosa v. Alvarez-Machain**, 124 S.Ct. 2739, 159 L.Ed.2d 718 (2004), 1079, 1085, 1091, 1092, 1093, 1108, 1109
- Sperry Intern. Trade, Inc. v. Government of Israel, 689 F.2d 301 (2nd Cir.1982), 353
- Sperry Intern. Trade, Inc. v. Government of Israel, 670 F.2d 8 (2nd Cir.1982), 353
- Spier v. Calzaturificio Tecnica S.p.A., 1988 WL 96839 (S.D.N.Y.1988), 1312
- Spier v. Calzaturificio Tecnica S.p.A., 663 F.Supp. 871 (S.D.N.Y.1987), 1311
- State of (see name of state)**
- Superior Wire, a Div. of Superior Products Co. v. United States**, 669 F.Supp. 472 (CIT 1987), 408, 420
- Sztejn v. J. Henry Schroder Banking Corp., 177 Misc. 719, 31 N.Y.S.2d 631 (N.Y.Sup. 1941), 297, 322
- Tel-Oren v. Libyan Arab Republic, 726 F.2d 774 (D.C.Cir.1984), 1091
- Texas Trading & Mill. Corp. v. Federal Republic of Nigeria, 647 F.2d 300 (2nd Cir.1981), 1126
- Timberlane Lumber Co. v. Bank of America, N.T. and S.A., 549 F.2d 597 (9th Cir.1976), 1283
- Town of (see name of town)**
- Trane Co. v. Baldrige**, 552 F.Supp. 1378 (W.D.Wis.1983), 714
- Tuna-Dolphin Decision, 359, 451, 452
- Uberseering BV v. Nordic Construction Company Baumanagement GmbH (NCC)**, 2002 WL 31624 (2002), 940, 944, 945, 951
- Underhill v. Hernandez, 168 U.S. 250, 18 S.Ct. 83, 42 L.Ed. 456 (1897), 1127
- United States v. _____ (see opposing party)**
- United States ex rel. v. _____ (see opposing party and relator)**
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- Verlinden B.V. v. Central Bank of Nigeria**, 461 U.S. 480, 103 S.Ct. 1962, 76 L.Ed.2d 81 (1983), 1123
- Vimar Seguros y Reaseguros, S.A. v. M/V Sky Reefer, 515 U.S. 528, 115 S.Ct. 2322, 132 L.Ed.2d 462 (1995), 1252, 1253
- Wood Pulp Cartel: A. Ahlstrom Oy, In re v. EC Commission, Joined Cases, E.C.R. 5193 (1988), 1283
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980), 1126, 1211, 1217
- W.S. Kirkpatrick & Co., Inc. v. Environmental Tectonics Corp., Intern.**, 493 U.S. 400, 110 S.Ct. 701, 107 L.Ed.2d 816 (1990), 748, 751, 1131
- Young & Rubicam, Inc., United States v., 741 F.Supp. 334 (D.Conn.1990), 747
- Zino Davidoff SA v. A&G Imports Ltd., 2001 E.C.R.I-8691, p. 861

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**A PROBLEM-ORIENTED
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Eighth Edition

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Summary of Contents

	Page
DEDICATION	iii
PREFACE	v
ACKNOWLEDGMENTS	vii
TABLE OF CASES	xxxvii

PART ONE. THE CONDUCT OF BUSINESS IN THE WORLD COMMUNITY

Chapter 1. Commerce or Isolation: The Decision to Trade	2
Chapter 2. The Actors: The Nations and Institutions of International Trade	12
Section 2.1 Who Are the Foreign Traders?	12
Section 2.2 Nonmarket Economies and State Trading Organizations	15
Section 2.3 Dependent, Developing and Advanced Developing Countries. The New International Economic Order and a Law of Development	16
Section 2.4 International Economic Institutions	18
Section 2.5 The Role of Counsel in International Business	22
Chapter 3. Forms of International Business	40
Section 3.1 Trading Goods Across Borders: Exports and Imports ..	40
Section 3.2 Licensing Production Abroad	42
Section 3.3 Foreign Investment	44

PART TWO. INTERNATIONAL TRADING OF GOODS

Chapter 4. Agreements for the International Trading of Goods	48
Introduction 4.0 The Basic Transaction—Toys to Greece	48
Problem 4.1 Formation of an International Transaction: Insulation to Germany	75
Problem 4.2 Commercial Terms, Bills of Lading and Insurance—Books to Bath	105
Problem 4.3 Wars and Other Frustrations: Oil From Araby	136
Problem 4.4 Electronic Commerce: Professor Pedro Buys a Book ...	169
Problem 4.5 The Bill of Lading: Computers to Caracas	201
Problem 4.6 Selling Through Distributorships/Agents and the Use of Countertrade: Growfast in Mexico and Russia	231
Chapter 5. Financing the International Sale of Goods	259
Introduction 5.0 Letters of Credit	259

	Page
Problem 5.1 The Letter of Credit and Electronic Communication: Gold Watch Pens For France	261
Problem 5.2 Enjoining Payment of Letters of Credit for Fraud: VCRS From Korea	296
Problem 5.3 Standby Letters of Credit: Electronics to Israel	324

PART THREE. REGULATION OF INTERNATIONAL TRADE

Chapter 6. Tariff and Nontariff Import Barriers	359
Introduction 6.0 An Overview	359
Problem 6.1 The World Trade Organization: Oxicorp Trades With Nonmarket and Transition Economies	360
Problem 6.2 Customs Classification and Valuation: Peanut Butter and Jelly Swirl From China	391
Problem 6.3 Nontariff Trade Barriers: Shrimp From India and Beef From Europe	433
Problem 6.4 Free Trade Areas and Customs Unions: Japan's Per- spective	467
Problem 6.5 Tariff Preferences for Developing Nations: Import World and Leather Goods	498
Problem 6.6 Contract Preferences for Local Producers: Govern- ment Procurement of Photocopiers	530
Chapter 7. Responses of Domestic Producers to Import Compe- tition	559
Introduction 7.0 Protection from and Adjustment to Imports	559
Problem 7.1 Subsidies and Countervailing Duties: Tires From Canada	569
Problem 7.2 Antidumping Duties: Supercomputers to the United States	600
Problem 7.3 Escape Clause Proceedings: Sneakers From Indonesia	633
Chapter 8. Exports	659
Introduction 8.0 Controlling and Promoting Exports	659
Problem 8.1 Export Controls: Roll-On Ball Bearings to Europe and the Middle East	664
Problem 8.2 International Economic Boycotts: Machine Lathes to Cuba and Qatar	694
Problem 8.3 Questionable Payments to Foreign Officials: Pro- cesses Foods in Nigeria	723
Problem 8.4 Trade in Services: Section 301 Proceedings, The GATS and U.S. Insurance Exports	754

PART FOUR. TRANSFERS OF TECHNOLOGY

Chapter 9. Licensing, Theft and Protection of Intellectual Property	780
Introduction 9.0 Intellectual Property and International Transactions..	780
Problem 9.1 Franchising and Trademark Licensing: Colonel Chick- en Goes Abroad	790
Problem 9.2 Protection of Intellectual Property: Pirated and Gray Market Rockers™ Tapes and CDs	827

	Page
Problem 9.3 Protection of Intellectual Property: Section 337 Proceedings, Special 301 Procedures, Trips and Pharmaceuticals from Thailand	861
Problem 9.4 Patent and Knowhow Licensing: Oil Drilling Bits in Germany and Mexico	889

PART FIVE. FOREIGN INVESTMENT

Chapter 10. Establishing and Operating a Foreign Investment ..	918
Introduction 10.0 The Decision and Ways to Invest Abroad—Domestic Goods in France	918
Problem 10.1 Choices Upon the Formation of the Foreign Investment: Member State Company or a <i>Societas Europaea</i> , “Greenfields” or Acquisition, Merger or Privatization: Domestic Goods Invest in Europe	937
Problem 10.2 Issues Confronting the Established Investment—Currency Controls, Transfer Pricing and Insolvency: Domestic Goods, Inc., Five Years Later	974
Problem 10.3 Third World Debt: The IMF, Amabank and Worlddebt in Asiana	1010
Problem 10.4 Project Financing—Mogul Liquefies Gas	1044
Problem 10.5 Foreign Investor is Sued: Domestic Goods is Sued by Indonesian Trade Union and Indigenous Peoples Under Alien Tort Claims Act and Torture Victims Protection Act for Human Rights, Cultural Genocide, and Environmental Law Violations	1078
Problem 10.6 The Taking of an Investment by a Third World Nation; Obstacles to Recovery; and Lump Sum Settlements, Claims Commissions, and Insurance: Fishing Rods in Marnesia	1109
Problem 10.7 Foreign Investment in NAFTA: Drill-Bit of the U.S. in Mexico and Munson of Canada in the U.S.	1139

PART SIX. DISPUTE SETTLEMENT

Chapter 11. The Resolution of International Disputes	1172
Introduction 11.0 Dispute Settlement Options	1172
Problem 11.1 Resolution of International Disputes: Televisions Everywhere	1187
Problem 11.2 Choice of Law and Choice of Forum Clauses: Dolls to Europe	1220
Problem 11.3 Extraterritorial Jurisdiction and Discovery: Antitrust, Air Travel and the North Atlantic	1254
Problem 11.4 International Enforcement of Foreign Arbitral Awards: Cars from Malaysia	1284
Problem 11.5 Enforcement of Foreign Judgments	1312
Appendix. The European Union	1355
Introduction to the EU Legal System	1355
INDEX	1383