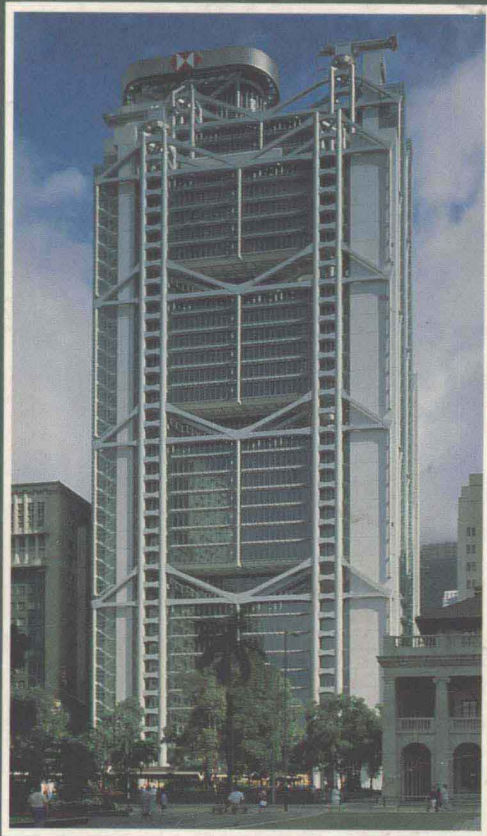


The
LAW & PRACTICE
of
**INTERNATIONAL
BANKING**



BANKING LAW VOLUME 2
G.A. PENN, A.M. SHEA
and A. ARORA

Sweet & Maxwell

THE LAW AND PRACTICE OF INTERNATIONAL BANKING

BANKING LAW VOLUME 2

by

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Preface

The idea for a two volume work in banking law, the first of which deals with domestic banking law and the second dealing with international banking law, arose out of a series of meetings between Graham Penn and Don Fiddes, a former Director of Studies at the Chartered Institute of Bankers, who were both concerned about the absence of an up-to-date text which covered the entire spectrum of banking law. It soon became clear that such a project would require the specialist knowledge of more than one individual, hence Tony Shea and Anu Arora were invited to “join the team” of authors.

This new work was originally conceived as being intended for degree and post-graduate students and for practitioners who regularly find themselves engaged in this complex area of law. The emphasis in both volumes is directed firmly towards the law in practice, and it is hoped that those who concern themselves with banking law, in its broadest sense, will find some of the answers to the often difficult questions which arise. Where the material fails to provide an answer we hope it will at least lead to other sources, and thus assist in solving practical banking law problems, hence the heavy referencing which is to be found throughout both volumes.

The original conception became slightly altered during production in order that the two volumes would cover the Chartered Institute of Bankers’ examinations in both Law Relating to Banking and Practice and Law of International Banking. This slight change in emphasis has led to the omission of some material but the addition of other new chapters, namely, the sizeable chapters on Securities and Insolvency, and the expansion of the original material dealing with Agency, Partnerships and Corporate Customers.

Anybody who writes a book of this sort could not possibly start without the benefit of the learning of others. We have relied heavily upon a number of articles (many of which are acknowledged in the footnotes), and upon the publications listed in the Table of Abbreviations. Special mention must be made, however, of Philip Wood’s excellent book, *Law and Practice of International Finance* and of the *Encyclopaedia of Banking Law* which provides the most comprehensive coverage of English Banking Law presently available.

In addition to published material we have placed considerable reliance on the knowledge and practical expertise of many lawyers and bankers, who have made helpful suggestions during the preparation of this work. Unfortunately, the individuals themselves are too numerous to mention. The authors would, however, wish to acknowledge the very considerable assistance given by the following people:

David Lewis of the Reserve bank of Australia (Volume 1, Chapter 1 on the Regulation of Banks); Maurice Allen of Clifford Chance (Volume 2, Chapter 8 on Transferability of Loans and Loan Participations); Stephen Edlmann of Linklaters and Paines (Volume 2, Chapter 10 on Notes and Commercial Paper); Arnel Cates, Robert Palache and Phillip Palmer of Clifford Chance (Volume 2, Chapter 11 on Swaps and Related Instru-

ments); Andrew McKnight of Cameron Markby (Volume 2, Chapter 16 on Legal Opinions). These experts are not, of course, responsible for any errors or omissions, which remain those of the authors alone.

The authors would also like to express their indebtedness to National Westminster Bank PLC for permission to reproduce their standard form documentation in Volume 2, Chapter 12 and for supplying copies.

The law is stated as at May 31, 1987.

London
May 31, 1987

G. A. Penn
A. M. Shea
A. Arora

Table of Abbreviations

Books

Cheshire and North	<i>Cheshire and North's Private International Law</i> (Butterworths, 10th ed., 1979)
Delaume	Delaume, <i>Transnational Contracts</i> (U.S.A., 1978)
Dicey and Morris	Dicey and Morris, <i>The Conflict of Laws</i> (Sweet & Maxwell, 10th ed., 1980)
Donaldson and Donaldson	Donaldson and Donaldson, <i>The Medium Term Loan Market</i> (Macmillan, 1982)
Encyclopaedia	<i>Encyclopaedia of Banking Law</i> , eds. Cresswell, Blaire, Hill, Wood (Butterworths, 1982)
Finn	Finn, <i>Fiduciary Obligations</i> (Law Book Company, 1977)
Gabriel	Gabriel, <i>Legal Aspects of Syndicated Loans</i> (Butterworths, 1986)
Goode	Goode, <i>Legal Problems of Credit and Security</i> (Sweet & Maxwell/CCLS, 1982)
Gruson	Gruson and Reisner, <i>Sovereign Lending Managing Legal Risk</i> (Longwood Publishing Group, 1984)
Kalderen and Siddiqi	Kalderen and Siddiqi, <i>Sovereign Borrowers</i> (Butterworths, 1984)
Macdonald	Macdonald, <i>International Syndicated Loans</i> (Euromoney Publications, 1983)
Mann	Mann, <i>The Legal Aspects of Money</i> (O.U.P., 4th ed., 1982)
Morris	Morris, <i>The Conflict of Laws</i> (Sweet & Maxwell, 3rd ed., 1984)
Rendell	Rendell (ed.), <i>International Financial Law</i> (Euromoney Publications, 2nd ed., 1983)
Suratgar	Suratgar (ed.), <i>Default and Rescheduling</i> (Euromoney Publications, 1984)
Wood	Wood, <i>The Law and Practice of International Finance</i> (Sweet & Maxwell, 1980)

Journals

I.F.L.R.	<i>International Financial Law Review</i> (Euromoney Publications)
J.I.B.L.	<i>Journal of International Banking Law</i> (ESC Publishers Ltd.)

Contents

Preface	v
Dedication	vii
Table of Abbreviations	ix
Table of Cases	xxi
Table of Statutes	xxxix
International Conventions	xxxiii
	para.
1. Governing Law	
Introduction	1.01
<i>CHOICE OF LAW</i>	
Factors influencing choice of law	1.03
Will an express choice of law be recognised?	1.04
The approach to party autonomy in New York	1.10
Proper law where no express choice is made	1.12
Conclusion	1.16
<i>WHAT DOES THE PROPER LAW ACTUALLY GOVERN?</i>	
Those matters governed by the proper law	1.18
Those matters not governed by the proper law	1.21
Public international law	1.25
2. Jurisdiction	
Introduction	2.01
<i>ORIGINAL JURISDICTION OF THE ENGLISH COURTS IN RESPECT OF ACTIONS IN PERSONAM WHERE THE DEFENDANT IS NOT "DOMICILED" IN THE UNITED KINGDOM OR IN ANY OTHER STATE WHICH IS NOT PARTY TO THE 1968 CONVENTION</i>	
The traditional bases of jurisdiction	2.03
A. Express submission	2.04
B. Presence	2.08
C. Extended/discretionary jurisdiction of the English courts	2.10
<i>JURISDICTION WHERE THE DEFENDANT IS "DOMICILED" IN A "CONTRACTING STATE" UNDER THE 1968 CONVENTION</i>	
Meaning of "domicile"	2.13
Bases of jurisdiction under the Convention where no jurisdiction clause is included in the agreement	2.15
A. General jurisdiction	2.16
B. Special jurisdiction	2.17
C. Exclusive jurisdiction	2.18

Jurisdiction clauses	2.19
The question of benefit	2.22
Submission before the courts of a Contracting State	2.23
<i>LEGAL RESTRICTIONS ON JURISDICTION</i>	
A. Lis alibi pendens	2.25
B. Where the Brussels Convention applies	2.26
C. Exclusive jurisdiction clauses	2.27
D. Floating jurisdiction clauses	2.29
E. Forum non conveniens	2.30
Arbitration	2.31
<i>ENFORCEMENT OF FOREIGN JUDGMENTS</i>	
Where judgment is obtained in a jurisdiction which is not party to the 1968 Convention	2.41
A. Enforcement at common law	2.43
B. Enforcement under statute	2.44
Requirements for recognition and enforcement	2.45
Where judgment is obtained from a court within a Contracting State under the 1968 Convention	2.52
Recognition	2.54
Conclusion	2.57

3. Sovereign Risk

<i>A. CHANGES IN THE LAW OF THE STATE IN QUESTION</i>	
Expropriations	3.04
Summary	3.13
Exceptions to the general rule	3.14
Availability of procedural remedies	3.17
Changes made to the capacity of an organisation to be sued	3.18
Statutes of limitation	3.20
Exchange controls	3.21
<i>B. SOVEREIGN IMMUNITY</i>	
1. The United Kingdom	3.23
States	3.26
State entities	3.30
Central banks	3.33
Constituent territories of federal states	3.34
Dependent territories and dominions	3.35
Procedure	3.36
2. The immunity legislation in the U.S.A.	3.37
Forms of clause waiving immunity	3.39
<i>C. RECOGNITION OF STATES</i>	
1. General U.K. position	3.40
2. De facto and de jure recognition: dual recognition	3.41
3. Can an unrecognised government sue in England?	3.42
4. Can an unrecognised government be sued in England?	3.43

5. Are any legislative, judicial or executive acts of the unrecognised government recognised in England?	3.44
6. Liability of one regime for debts of another: state continuity	3.46
7. General position in the U.S.A.	3.47
<i>D. STATE SUCCESSION</i>	3.48
 4. Exchange Controls	
Imposition of exchange controls	4.09
Types of exchange controls	4.10
Loan documentation and exchange controls	4.13
 5. Withholding Taxes	
A. Applicable law	5.02
B. Avoidance schemes	5.03
Double tax treaties	5.05
Contractual provisions	5.06
 6. International Term Loan Agreements	
Introduction	6.01
<i>THE NATURE AND MECHANICS OF EUROCURRENCY MEDIUM TERM LOAN AGREEMENTS</i>	6.02
Some problems caused by the flexible structures	6.05
The structure of a eurocurrency loan agreement	6.06
The "drawdown" period	6.07
Restrictions on the use or purpose of the loan	6.09
Fees	6.11
Other fees which may be payable	6.18
The importance of controlling the jurisdiction in which the loan is executed	6.21
<i>RESTRICTIONS IMPOSED UPON THE BORROWER WITHIN THE TERMS OF THE LOAN DOCUMENTATION</i>	6.22
A. Conditions precedent	6.23
B. Representations and warranties	6.27
C. Covenants	6.33
1. The financial covenants	6.34
2. Material adverse charge clause	6.36
3. The negative pledge	6.37
4. The pari passu covenant	6.45
Additional covenants commonly found in eurocurrency loans	
5. Use of proceeds	6.46
6. Anti-merger covenants	6.47
7. Anti-disposal covenants	6.48
Remedies for breach of covenant	6.49

7. Syndicated Loans

Introduction	7.01
<i>THE STEPS IN ARRANGING A SYNDICATED LOAN</i>	
A. Obtaining the mandate	7.03
B. The promotion stage	7.04
Will the information memorandum be construed as a regulated prospectus?	7.13
C. Negotiation of the loan documentation	7.14
Exculpatory Clauses	7.18
D. Execution of the agreement	7.19
<i>THE AGENT BANK</i>	
The duties of the agent	7.20
Protecting the agent bank within the loan agreement	7.25
Agent's responsibilities under the terms of the agreement	7.26
The relationship between the syndicate members	7.33
The impact of the sharing clause	7.36
Other important clauses covering the relationship between the syndicate members	7.39

8. Transferability of Loans and Loan Participations

Introduction	8.01
<i>METHODS OF SALE</i>	
1. Assignment	8.02
2. Novation	8.04
3. Participation	8.06
4. Other methods of sale	8.07
Comparison between sale methods	8.08
English Law considerations	8.10
Local law	8.20
Taxation	8.22
Regulation of asset sales	8.28
<i>DEVELOPMENT OF THE MARKET</i>	
Secondary market	8.32
Pooling	8.33
Corporate investors	8.34

9. Events of Default and Remedies

Introduction	9.01
The commercial and financial objectives of the clause	9.02
<i>CLAUSES COMMONLY FOUND IN</i>	
<i>INTERNATIONAL TERM LOAN AGREEMENTS</i>	
A. Failure to pay	9.05
B. Breach of representations and warranties	9.07
C. Breach of covenants	9.08
D. Cross default	9.10
E. Liquidation or Moratorium	9.16

F. Bankruptcy of sovereign borrowers	9.17
G. Charges in the control of the borrower	9.18
H. Disposal of assets	9.19
I. IMF membership	9.20
J. Material adverse charge	9.22
<i>REMEDIES</i>	
A. The internal remedies	9.24
B. External remedies	9.31
<i>RESTRUCTURING</i>	
Introduction	9.34
The restructuring process	9.36
Conclusion	9.49
 10. Euronotes and Commercial Paper	
Introduction	10.01
The Euronote market	10.02
The Euro-commercial paper market	10.05
Revolving underwriting facilities: documentation	10.07
Euro-commercial paper documentation	10.11
The Note	10.15
The regulatory and legal framework	10.21
Sterling Commercial Paper	10.30
<i>TAX ON SHORT-TERM INSTRUMENTS</i>	10.38
 11. Swaps and Related Instruments	
<i>CURRENCY AND INTEREST RATE SWAPS</i>	
Evolution of the currency swap/back-to-back and parallel loans	11.01
Currency swaps: basic structure	11.03
Arbitrage: the birth of the rate swap	11.04
Documentation and related issues	11.06
Master agreements: insolvency	11.26
<i>STANDARD DOCUMENTATION</i>	11.31
<i>TAXATION</i>	11.40
<i>FORWARD RATE AGREEMENTS</i>	
What are they?	11.43
The Gaming Act 1845	11.45
Section 63 of the Financial Services Act 1986	11.47
“FRABBA” terms	11.49
<i>“FLOOR/CEILING” AGREEMENTS</i>	11.52
Insurance law considerations	11.54
Taxation	11.59
Documentation for “collar” agreements	11.61
<i>CAPITAL ADEQUACY</i>	11.62

12. Contract Guarantees and Standby Letters of Credit

Introduction	12.01
<i>THE BONDS OR GUARANTEES WHICH MAY BE GIVEN UNDER ENGLISH LAW</i>	12.02
A. Bid or tender bonds	12.03
B. Performance bonds	12.04
C. Advance payment bonds	12.05
D. Retention money bonds	12.06
First demand or conditional?	12.07
Conditional bonds	12.08
The documentary bond	12.09
The legal position of banks issuing first demand bonds on behalf of their customer	12.11
The relationships created by first-demand bonds	12.14
The importance of private international law	12.15
Abusive calling	12.18
The question of fraud	12.19
Safeguarding the position of the issuing bank	12.22
Safeguarding the position of the seller/contractor	12.28
Correspondent banks	12.30
The position in the United States	12.31
The fraud exception	12.33
Conclusion	12.34

13. Commercial letters of Credit

GENERAL

Characteristics of letters of credit	13.01
Outline history of commercial documentary credits	13.03
<i>JUDICIAL BASIS OF THE LETTERS OF CREDIT</i>	
Revocable credits	13.05
Irrevocable credits	13.06
Offer and acceptance theory	13.07
1. Conclusion of a contract when the bank opens and notifies the credit to the beneficiary	13.08
2. Conclusion of a contract when the beneficiary notifies the issuing bank of his acceptance of the credit or acts on it	13.09
The guarantee theory	13.11
The estoppel or trustee theory	13.12
The assignment and novation theories	13.14
The theory that the buyer is the seller's agent	13.15
The seller's offer theory	13.16

VARIETIES OF LETTERS OF CREDIT

General and special credits	13.18
Clean (or open) and documentary credits	13.19

Revolving credit	13.20
Anticipatory credits	13.21
Negotiation credits	13.22
Confirmed and unconfirmed credits	13.23
Revocable or irrevocable credits	13.24
Transferable credits	13.25
Technical terms	13.26
Transfers of the benefit of credits	13.27
<i>THE RELATIONSHIP BETWEEN THE DEBTOR AND THE BENEFICIARY</i>	
The underlying contract	13.30
The payment of obligation	13.31
The time for opening the credit	13.32
The identity of the issuing bank	13.34
The requirement of an irrevocable credit	13.35
The requirement of a confirmed credit	13.36
Waiver by the creditor	13.37
Damages	13.38
The debtor's continuing liability for the debt	13.39
<i>THE RELATIONSHIP BETWEEN THE BENEFICIARY AND THE ISSUING AND CONFIRMING BANKS</i>	
The binding effect of the terms of the credit	13.42
Discretion to accept non-conforming documents	13.49
<i>SHIPPING DOCUMENTS: TECHNICAL RULES</i>	
Bills of lading, insurance policy and invoice	13.50
Rejection of documents tendered for extraneous reasons	13.57
The relationship between indorseees of a bill of exchange drawn under a credit and the issuing and confirming banks	13.62
Assignments	13.65
Assignment of the benefit of the credit	13.66
Assignment of the whole benefit of a credit	13.67
Measure of damages for breach—repudiation of a commercial credit	13.68
<i>THE RELATIONSHIP BETWEEN THE BUYER AND THE ISSUING AND CONFIRMING BANKS</i>	
The issuing bank's obligations to the buyer	13.69
The common law rules	13.70
The obligations of the issuing bank to the beneficiary of the credit under the UCP	13.73
The buyer's obligations to the issuing bank	13.74
Conditions not relating to the contents of the shipping documents	13.77
The relationship between the buyer and the confirming bank	13.79
The relationship between the issuing and confirming banks	13.81
<i>SECURITY INTERESTS UNDER LETTERS OF CREDIT</i>	
The banker's lien	13.84

Unpaid seller's right of stoppage in transit	13.87
Position between the vendor and the carrier	13.88
Unpaid seller's right of resale	13.89
The pledge	13.90
Letters of hypothecation, letters of trust and trust receipt	13.97
Registration of transactions	13.100
Appropriation of the bank's security in favour of the beneficiary	13.101
Indorsee of the draft under the credit	13.103
14. Security for Borrowing	
A. Conflicts of laws and securities	14.02
B. General legal problems of taking security	14.05
15. Guarantees in International Transactions	
<i>GUARANTEES</i>	
1. Purpose of guarantees	15.01
2. Forms of guarantee	15.02
3. Special terms of international guarantees	15.03
4. Legal problems with guarantees	15.04
5. Comfort letters	15.09
6. Legal problems with comfort letters	15.10
7. Standby credits	15.11
16. Legal Opinions	
Introduction	16.01
Conditions precedent	16.04
Opinions should cover matters of law only, not matters of fact	16.05
The jurisdictions in relation to which opinions should be obtained	16.06
From whom should the opinions be obtained?	16.08
Liabilities of the lawyer	16.09
Structure of a legal opinion	16.12
Qualifications	16.35
Conclusion	16.50
17. Specimen Syndicated Term Loan Agreement	
Contents	17.01
1. Definitions	17.03
2. Loans/Commitments	17.08
3. Purpose	17.09
4. Draw-down	17.10
5. Repayment	17.12
6. Prepayments	17.13
7. Interest Periods	17.14

8. Interest	17.15
9. Alternative Interest Rates and Non-Availability	17.16
10. Payments	17.18
11. Changes in Law	17.19
12. Conditions Precedent	17.21
13. Representations and Warranties	17.22
14. Covenants	17.25
15. Pari passu and Negative Pledge	17.26
16. Events of Default	17.27
17. Default Indemnity	17.29
18. Control Accounts	17.30
19. The Agents and the Managers	17.31
20. Fees	17.38
21. Expenses	17.39
22. Stamp Duties	17.40
23. Waivers, Remedies Cumulative	17.41
24. Notices	17.42
25. Assignments	17.43
26. Currency Indemnity	17.45
27. Redistribution of Payments	17.46
28. Governing Law	17.47
29. Waiver of Immunity and Jurisdiction	17.48
30. Language	17.49
31. Severability of Provisions	17.50
32. Counterparts	17.51
<i>EXHIBIT A</i>	
Part 1: Dollar Banks	17.52
Part 2: ECU Banks	17.53
<i>EXHIBIT B: Definition of the ECU</i>	17.54
<i>EXHIBIT C: Notice of Borrowing</i>	17.55
<i>EXHIBIT D: Legal Opinion</i>	17.56
<i>EXHIBIT E: English Legal Opinion</i>	17.60
<i>SIGNATORIES</i>	17.62

18. Specimen Euro-Commercial Paper Dealer Agreement

1. Interpretation	18.02
2. Appointment of Dealers	18.04
3. Conditions of Issue	18.05
4. Facility and Issue Requests	18.05
5. Notification to the Issue Agent and the Dealers	18.06
6. Purchase and Issue of Notes	18.07
7. Agreement of the Dealers	18.07
8. Payments	18.08
9. Fees and Expenses	18.09
10. Representations and Warranties	18.10

11. Indemnification	18.12
12. Communications	18.12
13. Amendment, Termination and Assignment	18.13
14. Counterparts	18.13
15. Governing Law	18.14
<i>SCHEDULE 1</i>	
Part I: Form of Definitive Note	18.16
Part II: Form of Global Note	18.17
<i>SCHEDULE 2: Conditions Precedent</i>	18.18
<i>SCHEDULE 3: Sales Restrictions</i>	18.19
<i>SCHEDULE 4: Deed of Guarantee</i>	18.20
<i>SCHEDULE 5: Deed of Covenant</i>	18.25
Index	page 467