

Chapter 10 - International Law in a Global Economy

International law

- If a nation violates international law and persuasive tactics fail, other countries have no recourse except coercive actions.
- Sources of International Law
 - International customs
 - Treaties and international agreements
 - International organizations
- International Principles and Doctrines
 - The principle of comity – one nation will defer to and give effect to the laws of another country, as long as they are consistent with the law of the accommodating nation
 - Nations comply because the legal procedures are compatible
 - The act of state doctrine provides that the judicial branch on one country will not examine the validity of public acts committed by a recognized foreign government within its own territory.
 - When a foreign government takes private property
 - Doctrine may immunize a foreign government's actions
 - Foreign Sovereign Immunities Act (FSIA)
 - A foreign state is not immune from the jurisdiction of U.S. courts when the foreign state:
 - Has waived its immunity either explicitly or by implication
 - Has engaged in commercial activity within the U.S. or in commercial activity outside the U.S. that has “a direct effect in the United States”
 - Has committed a tort in the U.S. or has violated certain international laws

Doing business internationally

- Exporting
 - Can take 2 forms: direct and indirect
 - Distributorships
 - The National Export Initiative (NEI) – effort to increase U.S. exports
 - Export Promotion Cabinet
 - Export-Import Bank of the United States increased financing available to small and medium-sized businesses by 50%
- Manufacturing Abroad
 - Alternative to direct or indirect exporting
 - Licensing
 - Subsidiaries

Regulation of specific business activities

- Nations impose laws to restrict or facilitate international business.
- Investment Protections
- Export Controls
 - Export quotas
 - Restrictions on technology exports
 - Incentives and subsidies

- All nations have restrictions on imports.
- Import Controls
 - Prohibited goods
 - Quotas and tariffs
 - Political factors
 - Antidumping duties
 - International Trade Commission (ITC)
 - International Trade Administration (ITA)
- Minimizing Trade Barriers
 - The European Union (EU)
 - The North American Free Trade Agreement (NAFTA)
 - The Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR)
 - The Republic of Korea-United States Free Trade Agreement (KORUS FTA)
 - Other free trade agreements

International contracts

- Contract Clauses
 - Choice-of-language clause
 - Forum-selection clause
 - Choice-of-law clause
 - *Force majeure* clause
- Civil Dispute Resolution
 - United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)
 - Court will compel parties to arbitrate if four conditions are met.

Payment methods

- Because international contracts involve greater financial risks, care should be taken in drafting contracts
- Monetary Systems
- Letters of Credit
 - Parties to a letter of credit
 - The value of a letter of credit

U.S. laws in a global context

- Extraterritorial application of certain U.S. laws
- U.S. Antitrust Laws
 - Sherman Act
- International Tort Claims
 - Alien Tort Claims Act (ATCA)
- Antidiscrimination Laws
 - Age Discrimination in Employment Act
 - Americans with Disabilities Act
 - Title VII of the Civil Rights Act