

INTERNATIONAL SALES & COMMERCIAL ARBITRATION

SUMMER 2019

3 CREDIT HOURS

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PART 1: COURSE DETAILS

CONTACT INFORMATION

INSTRUCTOR

Instructor: Jack Graves

Office Hours: I will have online office hours on Mondays and Fridays, from 3 to 5 PM, Eastern Time using the Zoom Video Conferencing tool.

Online Office Hours via Zoom Video Conferencing - We will use Zoom for office-hour sessions, accessible during posted or otherwise pre-arranged times at: <https://zoom.us/my/graves> (or just click “Zoom” on the course navigation bar in D2L).

E-mail: jgraves@tourolaw.edu

Best way to contact: Email

Reply policy: I will try and respond to emails within 24 hours. If you do not receive a reply to your email within a reasonable time, please send it again. Sometimes email is captured by SPAM filter, is addressed incorrectly, or just simply does not get sent.

TECH SUPPORT

For technical support, please contact the Helpdesk at:

Phone: 800-472-8899

Email: support@lawstudentonline.com

COURSE DESCRIPTION

In this course, you will learn the law and various commercial rules governing international sales of goods and the law and practice of international commercial arbitration. We will begin with an introduction to international trade, private international law, comparative commercial law, and dispute resolution, as well as an overview of the general nature of an international sales transaction. This introduction will also highlight the challenges presented by global variations in substantive contract law and the challenges in enforcing such cross-border contracts through adjudication in national courts. In this introductory session, we will at least briefly consider a variety of potential approaches to these challenges. The remainder of the course will then address two specific means of overcoming these challenges—a global sales law and a global means of private dispute resolution enforced by public national courts.

First, we will review and discuss the principles, scope, and substance of the CISG, as applied to basic contract issues of formation, performance, and remedies. We will also work with the rules of private international law in addressing “gaps” in the CISG. Following our discussion of substantive commercial law, we will introduce commercial arbitration as a contractual means of largely private dispute resolution. Our coverage of arbitration will also be addressed in an integrated manner along with the coverage of the substantive law.

COURSE LEARNING OUTCOMES

Upon completion of this course, students will be able to:

- Articulate, explain, and critique basic trade theory and describe the basic functions of the relevant international organizations that support global trade;
- Articulate the legal and practical challenges to international trade in goods and explain generally how these challenges are typically addressed with respect to: (1) substantive law; (2) dispute resolution; and (3) practical commercial considerations;
- Advise a future client regarding substantive legal questions arising from a cross-border transaction in goods, whether that advice arises in a transactional context or in the context of a dispute arising out of an existing contract, including:
 - o Identification of applicable substantive law, including both an effective choice of law at the contract formation stage and the determination of applicable law in the absence of an effective choice;
 - o A basic understanding of comparative commercial substantive law, including the key areas in which traditional common and civil law regimes differ;
 - o The proper interpretation and application of the CISG as substantive law, as well as the very limited role of otherwise applicable domestic or other law;
 - o The proper interpretation of the contractual intent of the parties;
 - o Issues of contract validity;
 - o Contract formation under the CISG;
 - o Default contract obligations under the CISG, Incoterms® 2010, and the parties' ability to vary those obligations by contract;
 - o Breach of contract and the full range of remedies available for breach under the CISG;
 - o Determination of damages for breach of contract under the CISG;
- Advise a future client as to the pros and cons of arbitration as a final and binding means of resolving commercial disputes, including disputes arising from contracts for the sale of goods;
- Draft an effective arbitration agreement, tailored to the unique needs of a client;
- Advise and advocate on behalf of a client engaged in the arbitration of a cross-border dispute, including:
 - o Issues involving the jurisdiction of an arbitral tribunal to decide the dispute, as well as the question of whether a court or arbitral tribunal is empowered to decide such issues at various points in the arbitral process;
 - o Requirements for a valid arbitration agreement;
 - o Selection of and challenges to the selected arbitrator(s);
 - o The law and rules governing arbitral procedure;
 - o Proper use of national courts in aid of the arbitral process;
 - o The enforcement of an arbitral award in national courts;
- Explain to a future client how uniform substantive law, the use of standard trade terms, and an effective agreement to arbitrate any disputes can help to facilitate and reduce the risks of international trade in goods; and
- Serve as an effective legal counselor to a future client engaged in cross-border sales of goods, whether advising at contract negotiation and drafting stage, after a potential breach has occurred, upon commencement of arbitration of a dispute, or in the process of enforcing an arbitral award in court (or appropriately resisting such enforcement).

PART 2: MATERIALS AND COURSE REQUIREMENTS

READINGS

REQUIRED TEXT

INTERNATIONAL SALES & COMMERCIAL ARBITRATION: SPECIAL EDITION, Jack Graves (a special edition edited solely for use in this online course).

You will also need a number supplemental texts, including various conventions, statutes, and private rules. The three most important statutory texts we will use are:

- the United Nations Convention on Contracts for the International Sale of Goods (1980) (the “CISG”),
- the UNCITRAL Model Law on International Commercial Arbitration (1985, as revised 2006) (the “Model Law”)
- the New York Convention on the Enforcement of Foreign Arbitration Awards (1958) (the “New York Convention”).

All course materials will be made available to you on D2L at no additional charge (they are each accessible via the navbar at the top of the D2L page). However, they are provided solely for your use in this course and may not be disseminated in any way.

TECHNOLOGY REQUIREMENTS

Students are expected to meet basic technology requirements to successfully participate in this online course. Failure to meet these requirements may cause problems accessing the course materials. It is the student's responsibility to ensure all requirements are met prior to the start of the course.

- Access to the Internet is required. While any browser can be used, Firefox and Chrome are recommended.
- Access to the Learning Management System – D2L. See [Part 3: Accessing the Course](#) for more details.
- You will need the capability to speak and hear so you can watch videos and participate in the live online office hours. Make sure that the device(s) you will be using have a microphone and speakers or that you have access to a headset. A webcam is optional but not required.
- **Zoom computer requirements** - I will use Zoom to conduct live office hours with students, when needed. To join my virtual office, you simply need to click on this link and follow instructions: <https://zoom.us/my/graves>

PART 3: ACCESSING THE COURSE

TIME ZONES

Please note that this course is setup to run in the Eastern Time zone. Check your syllabus for all assignments deadlines. Modules close on Sundays at 11:59 pm ET.

Eastern	Central	Mountain	Pacific
11:59pm	10:59pm	9:59pm	8:59pm

As a student in a distance education course, it is your responsibility to learn and observe the time deadlines for assignments. Late work will not be accepted due to time zone differences.

COURSE SITE (D2L)

The course will be taught entirely online in an asynchronous environment using the Learning Management System – Desire2Learn (D2L).

The course is designed to give students a dynamic online learning experience. Students will receive notice of a student orientation which will familiarize you with the basics of navigating this platform. Students will also receive their log in information (username and password) via email.

To access the course:

- Go to: <https://mycourses.lawonline.me>.
- Enter the username and password you have been provided.
- Locate and click on the course name under *My Courses*.

If you have trouble logging in, please contact the Helpdesk at 800-472-8899 or via email support@lawstudentonline.com

PART 4: COURSE STRUCTURE

OVERVIEW

This course will be delivered asynchronously on D2L. The course includes a casebook authored by the instructor, along with over 150 videos, and various supplemental texts. It is divided into 10 modules (each a chapter in the casebook). At the end of each module (chapter), you will be expected to complete one or more exercises, along with a brief quiz on D2L (5 to 10 multiple choice questions).

CONTENT DELIVERY

COURSE LECTURES

There will be about 10 to 20 videos to watch with each module (about one to two hours for most modules, with Modules 5 and 8 somewhat longer). These videos will be linked from the course site and are labeled for easy identification and access in the event you want to review anything viewed earlier.

READINGS

These will largely consist of readings from the primary course casebook, but will also include various supplemental material and, very occasionally, additional material.

ASSIGNMENTS AND ACTIVITIES

ASSIGNMENTS

The assignments include problems contained in the casebook at the end of each module (chapter), except Chapter 1, and you will be required to submit these on D2L. You are also required to complete a quiz at the end of each module (chapter).

DISCUSSION BOARD

The threaded discussions will require you to participate in discussions on a D2L bulletin board addressing current and/or challenging questions regarding the material we are covering.

FINAL EXAM

The final exam will consist of a traditional law school exam, including both multiple choice and essay questions.

PART 5: STUDENT RESPONSIBILITIES

MANAGING YOUR STUDIES

The following attributes will greatly contribute to your success in this course.

- *Be self-motivated.* You should be able to manage and direct your own learning environment and methods to fulfill course requirements and achieve individual academic success.
- *Be an independent learner.* Successful online students are self-starters. They work well with the flexibility that the 24/7 any time--any place format provides. You should be able to learn on your own and at an accelerated pace without direct supervision.
- *Have a minimum level of computer literacy.* Although it is not essential to have advanced computer skills, you should possess a working knowledge of email, the Internet, as well as basic keyboarding skills.
- *Manage your time well.* You must be able to organize and plan your own best "time to learn." There is no one best time for everyone, but the key to success is to make the time to learn.
- *Acquire effective communication skills.* You must use email and discussions to communicate with your peers and me. The ability to read and to write clearly in order to communicate ideas and assignments is essential. Also, sharing reflections - of your own work as well as your course mates' - is a crucial component of a successful experience. This method provides you with rapid feedback an opportunity to inform me of any concerns or problems that you may be experiencing.
- *Be personally committed to successfully completing this online course.* Because of the flexibility in scheduling in this course, you must have a strong desire to learn and acquire knowledge and skills via online courses. Making a commitment to learn in this manner is a very personal decision and requires a strong desire to perform in order to achieve academic success.

RESPECTING THE ACADEMIC COMMUNITY

Netiquette consists of the rules and guidelines for acceptable behavior in electronic communication. Remember, while working in an online course you are in an academic setting and should conduct yourself accordingly.

All students are expected to follow netiquette guidelines as outlined below:

- You are not text messaging friends. This means text message acronyms (such as LOL, IMHO, BCNU, etc.) are not acceptable. Express yourself with proper spelling, grammar, and punctuation.
- Out of respect for your fellow course mates' and instructor's time, keep your communications as clear, straightforward, and concise as possible.
- Use appropriate mixed case text; avoid using all lowercase or all uppercase text (SHOUTING).
- You are your words. Your communication in an online course represents you. Always review and edit your communication before submitting.
- Give respect to your classmates. Be courteous, respectful of others' opinions, sensitive to diversity, and polite.
- Respect the privacy of others. Do not share other individual's personal information (i.e., e-mail addresses, phone numbers, etc.) without permission.
- It's okay to disagree with someone's opinion or constructively criticize an idea. It is never okay to personally attack another student. Debate the idea; do not attack the person.
- Free speech is not an absolute right in an online course.
- Obey copyright laws and cite others' work appropriately.

INSTRUCTOR EXPECTATIONS OF STUDENTS

My expectation is that each student is interested in learning to assist clients in navigating the world of international commerce. This requires an interest in learning about comparative law, legal systems, and business cultures, as well as a largely private system of dispute resolution. In short, this course is best student to the student who wants to think like a global lawyer (an increasingly important perspective for any general business lawyer).

- Students are expected to keep up with the class and to submit assignments, complete quizzes, and participate in discussions.
- Students should log on to D2L at least every other day to check for announcements, tests, and the final exam.
- Students are expected to independently complete all activities, assignments, tests, and the final exam.
- Students are expected to read the required readings each week before reviewing the lectures and are encouraged to read the supplemental readings.
- To be successful in this course, students need to complete all required assignments, quizzes, and the final exam.

Assignments, quizzes, and exams are expected to be products of individual students. Students should not discuss any of the questions with each other before or during the actual assignments, activities, quizzes, and exams.

PART 6: GRADES AND GRADING POLICIES

GRADED COURSE ACTIVITIES

The final grade will be determined as follows:

- *Final exam = 60%*
- *Quizzes = 40%*

Weekly assignments and discussions will not directly count towards grade, provided they are completed in a manner reflecting a reasonable, good faith effort (however, a failure to complete exercises may negatively impact a student's grade or, in extreme cases, even preclude completion of the course). You will also find that the efforts you put into the weekly assignments and discussions will likely affect your performance on quizzes and the final exam.

GRADING SCALE

Your grade will conform to your school's grading policy as to whether +'s and -'s are given and to any applicable grading curve.

GRADING POLICIES

I strictly enforce time limits and deadlines on quizzes and exams, and penalize late submissions, absent an arrangement in advance to complete a quiz late under extraordinary circumstances. I also expect you to be timely in completing other non-graded assignments but will not penalize the occasional late submission of these exercises (however, I reserve the right to penalize habitually late assignments).

PART 7: OTHER COURSE POLICIES

See school policies on matters of Academic Integrity and Student Conduct. Matters involving integrity or Honor Code issues will be transmitted to school administration.

ATTENDANCE

This course is delivered asynchronously to accommodate students' other life obligations. Students must access each lecture for an appropriate amount of time, participate substantively in the Case Problem Assignments, and complete the Final Exam by set due dates. Students' attendance responsibilities follow school policy. Any questions will be referred to school's administration.

SPECIAL ACCOMMODATIONS

Contact school about requests for special accommodations and ask that they send granted accommodations to support@lawstudentonline.com

PART 8: COURSE TOPICS

The following is a list of topics which will be covered in the course. Please refer to the course schedule for details on topics, assignments, and due dates. Any change related to the course schedule will be communicated to the students through an announcement to all students or by modifying the course syllabus and notifying students of the modified syllabus.

Module	Topic
1	<i>Introduction to International Sales Law and Dispute Resolution</i>
2	<i>CISG Scope of Application and General Provisions</i>
3	<i>Contract Formation</i>
4	<i>Obligations of the Parties</i>
5	<i>Breach and Remedies</i>
6	<i>Damages</i>
7	<i>Arbitration as an Alternative to National Courts</i>
8	<i>Arbitration as Contract</i>
9	<i>Arbitration as Procedure</i>
10	<i>Arbitration as a Final Enforceable Award</i>