

Syllabus for International Commercial Transactions (245)
Fall 2022, Professor SALEEBY
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1. Summary

International Commercial Transactions is an advanced course in commercial law with emphasis on mechanisms of international payments, and in particular, letters of credit. It focuses on issues of private international commercial law as opposed to public commercial law which encompasses tariffs and customs issues.

This year the course will focus on standby letters of credit and demand guarantees and in particular the relationship between law, practice rules, and forms. It will consider current issues. We will also touch on commercial letters of credit, time permitting.

2. Materials:

a. Case Materials

The case materials will be contained in a text, Introduction to Guarantee and Standby Practice: A Case Book (James E. Byrne ed., Institute of International Banking Law and Practice 2012).

Required materials for the course will also include: (1) James E. Byrne, et al, Standby and Demand Guarantee Practice; (2) Byrne, The Official Commentary on ISP98; and (3) the ISP98 Model Forms located at www.iiblp.org. From time to time, various other forms and materials will be emailed to you or placed on reserve.

b. Statutes and Rules

It will also be necessary to have the following statutory textual materials: LC Rules & Laws: Critical Texts (James E. Byrne ed., Institute of International Banking Law & Practice, 6th ed. 2014)

c. Obtaining the Publications

Because of the limited availability of these publications, special arrangements have been made to enable students to obtain them directly without paying the tariff added by the bookstore. The cover price for these books without the GMU bookstore tariff would be USD 505.00. IIBLP is offering these publications at a discounted rate of USD 149.00, specifically for this course, through the Institute of International Banking Law & Practice at www.iiblp.org (301 869 9840). The books will be shipped to students. I will email students a link to the publications with a purchase code prior to the first class (please use the code in order to benefit from this deeply discounted price).

3. Objectives

This course will focus on standard international letter of credit law and banking practice as a source for rulemaking and self-regulation, and explore its advantages and limitations in the context of

actual cases and problems in the context of standby letters of credit and demand guarantees. The cases will not be limited to those resolved by U.S. courts but will also involve decisions of courts in other jurisdictions and opinions of the Commission on Banking Technique and Practice of the International Chamber of Commerce.

The course will consider rules of practice, including the Uniform Customs and Practice for Documentary Credits (UCP600) (effective 1 July 2007), the International Standard Banking Practice (ISBP), the International Standby Practices (ISP98), and the Uniform Rules for Demand Guarantees (URDG 758) (effective 1 July 2010).

The course will also study positive law contained in Revised UCC Article 5 (Letters of Credit), and the UN Convention on Independent Guarantees and Standby Letters of Credit, and the rules of the People's Supreme Court of the People's Republic of China.

Substantive topics to be treated include alternative methods of payment, the nature of the doctrine of independence, comparison with dependent undertakings, non documentary conditions, definitions and sources of the law of independent undertakings, obligations and correspondent relationships, examination and refusal of presentations, independent guarantees and standby letters of credit, fraud and exceptions to the independence principle, acceptances and deferred payment undertakings, and transfer and assignment.

In particular, the course will focus on inconsistencies between the three applicable rules of practice and students will be required to undertake drafting exercises related to harmonizing these inconsistencies.

Professor Saleeby will work with each student in selecting a paper topic of value to the student and relevant to the field.

4. Grades

The basis for grades will be class participation (10%), and the paper (90%). The course qualifies as a writing course. There is no final examination.

5. Class Participation, Assignments, & Outside Assignments

It is expected that students will be regularly prepared for class as part of the attendance requirements. Students are responsible for being present at the time of assigned drafting exercises barring a documented emergency. Reading assignments will be given in class and posted from time to time. Each student will be asked to orally brief a case for each class. The assignments will focus on the pages on which the cases appear, but students would be well advised to read accompanying textual material as well. Preparation includes the completion of class assignments. The failure to be prepared will result in a lowering of a grade to the extent permitted under the Academic Regulations.

6. Attendance

A seating chart will be circulated during the first class. Students are responsible for selecting a seat. Attendance will be taken at the beginning of each class based on this chart. Any student not seated in his/her selected seat at the time class is scheduled to begin will be marked absent. Anyone

coming to class after attendance has been taken is responsible after class for advising the instructor of his or her presence. At the discretion of the instructor, an attendance sheet may be circulated for signature in which case it is governed by the Honor Code and only the student named may indicate his or her presence by signing.

The maximum number of absences permitted under law school regulations will be allowed for this course. As it is assumed that all students will conduct themselves as professionals, there is no need to advise the instructor regarding an absence unless assistance is required.

Cancelled classes will be announced in advance in class whenever possible, and notices posted in accordance with University policies. To the extent possible, make-up classes will be scheduled as extensions of regularly scheduled classes. Please be prepared to discuss possible make-up classes at the first class session.

7. Notices

Notices will be posted in accordance with law school regulations. After the first class, TWEN will be used as a system of communication. All notices will be posted on TWEN, and students will be required to register for the course on TWEN. Unless a student requests otherwise in writing, all messages will be sent via email. Students are responsible for informing the instructor of functioning email addresses during the first class on the list provided and are responsible for giving written notice of any changes in them.

8. Office Hours and Individual Appointments

Professor Saleeby warmly welcomes any questions relating to the course or otherwise. He will be available regularly for office hours 30 minutes after class. Individual meetings are available by appointment. They can be scheduled directly with Prof. Saleeby - 313-585-4890 / rsaleeby@gmu.edu.

9. Topics to be studied:

Alternative Methods of Payment
Dependent and Independent Undertakings
Standby Letters of Credit
Demand Guarantees
Confirmations Counter Undertakings
The Role and Use of Private Rulemaking
The Role and Limit of Positive and Judicial Rulemaking
Obligations
Procedure
Examination of Documents
Standby Letters of Credits and Independent Guarantees
Chinese Guarantee Rules
Fraud and Abuse
Acceptances and Deferred Payment Undertakings

10. Pace of Class Reading Assignments

The class will be conducted with a view toward mastery of concepts and techniques rather than coverage of preset materials at a preordained pace. Assignments will be announced at least a week in advance.

11. Religious Holidays

In the event that a class is held on a religious holiday on which work is not permitted, assistance will be given to accommodate a student's observance. On written request, the class can be recorded or efforts made to provide notes. The instructor is also prepared to meet with students on their request in person or telephonically. If the student will miss classes in excess of 20% of the assigned classes, an additional 10% allowance can be granted in special circumstances such as religious holidays in consideration of doing substituted work on written request