



In His Name
Isfahan Sheikhbahaee University
English Department

B.A program: Translation Studies
Translation of Legal Correspondence & Deeds 2 (442119)
Instructor: P. Ahmadi

Module Description

This module is designed to provide students with advanced knowledge about theories, research and practice in the field of legal translation. Students will explore the theoretical foundations of the law, legal terminology and discourse, and the roles of various participants in legal system. This module requires students' current professional practice experiences in order to critically analyze and evaluate their skills development in translation. By the end of semester, students should expect to be able to:

- Identify appropriate translation techniques to be used with legal texts and contexts,
- Practice development of legal translation skills in both language directions, and
- Analyze linguistic, cultural and ethical challenges of translating legal documents and in legal setting.

Module Themes

- Issues in legal translation from Persian into English
- Contracts (continuation):
 - International contracts, Islamic principles of contracts & transaction in civil law of Iran
 - Basic principles of tenders,
 - Basics principles of leasing,
 - Corporations (continuation): Trading companies, debentures
 - Banking Documents: Documentary Credits (L/C), insurance, transport documents
 - Specialized terms: implied, semi-technical, and technical terms
 - Deeds: Abstract of title, title deed, mortgage deed
 - Power in Attorney
 - Commercial correspondence: Incoterms

Assessment Scheme

<u>Task Nature</u>	<u>Weight</u>
• Attendance & Active Participation	20%
• Practicum	30%
• Final Exam	50%

Policy on Absenteeism

In respect of individual courses, a student who, without permission to take leave, has been absent for a continuous period exceeding 2 weeks shall, subject to the Department Board's approval, be given a failure grade for the course(s) concerned. Attendance and class participation are of high importance for successful completion of this course. If a student is absent from more than 2 sessions within a semester, he or she will fail the class. Unauthorized late arrivals and early departures will be recorded as absence as well.

Active Participation

Your class score will be assessed in terms of 4-6 portfolios. They relate closely both to lectures and tutorials. They will be administered unexpectedly, but at regular time intervals. Note that the portfolios plus class attendance attract 20% of your total score.

Submission of Practicum

The students are required to translate 5-6 documents from Persian to English individually and submit it on the due date: The Last Week of May. 2013/Ordibehesht, 1392. As it mentioned, it attracts 30% of your total score. Late submission shall attract penalty; thus note the following important caveats:

1. Of the total score, 10% shall be deducted for every single day, with Thursday and Friday counting as two days, and 20% each week thereafter. If submission would be postponed to later week, your submission shall be considered for the final assessment.
2. Time pressure resulting from undertaking assignments for other courses does not constitute an acceptable excuse for lateness.
3. No request for incomplete score or time extension shall be considered.
4. The penalty may not apply where students are able to provide documentary evidence of illness or serious misadventure.
5. Attention is drawn to University policy and regulations on honesty in academic work, and to the disciplinary guidelines and procedures applicable to breaches of such policy and regulations. Thus, Plagiarism, intentional or unintentional, is considered academic dishonesty and all instances will be punished severely. The penalty includes failing the course. Knowingly permitting your work to be copied by another student may also be considered to be plagiarism.

Instructional Material

The material for this module embraces a selection of documents collected from the Ministries of Justice and Foreign Affairs and from related departments as well as texts from specialized books and periodicals.

1. Tavangar, H. (2007). *Translating Deeds & Documents* 2. PNU Publications.
2. Some materials will be given by the instructor.

Contract Basics

A contract is a legally binding agreement enforceable in a court of law. However, not every agreement between two parties is a legally binding contract. The law imposes certain requirements on contracts. The fundamental requirements for forming a binding contract are:

- Offer
- Acceptance
- Consideration

Offer

An offer is a proposal to make a deal. An offer must be communicated to another person and remain open until it is accepted, rejected, retracted, or has expired. A counter-offer closes the original offer. Some terms of an offer, like price, quantity, and description, must be specific and definite because the offer has to identify the basic obligation of the contract. For example, saying to a friend "I offer to sell you my house" ordinarily would not be a sufficient offer to give rise to a contract because it doesn't include any of the necessary details such as price and other terms required in a house sale transaction.

Acceptance

Acceptance is an acknowledgment by the person to whom the offer was made that the offer is accepted. The acceptance must comply with the terms of the offer and must be communicated to the person who proposed the deal. For example, a person sells a sofa for \$300 cash as is. The buyer, to accept the offer, has to accept that particular sofa, pay \$300 cash, and take the sofa in its existing condition.

Consideration

Consideration is the bargained for exchange. It is the legal benefit received by one person and the legal detriment imposed on the other person. Usually consideration takes the form of money, property, or services. Using the sofa example, there is consideration on both sides of the contract. The seller gives up the sofa and gets the \$300; the buyer gives up the \$300 and gets the sofa. An agreement without consideration is not a contract.

Other Requirements

Beside the fundamental elements of a contract (offer, acceptance, and consideration), there are other requirements:

- **Competence**
- **Consent**
- **Legality**

Competence

Competence to make a contract means the legal capacity to make a contract. Generally, people are ruled competent to make contracts if they are over 18 years of age and of sound mind.

A minor (usually, a person under 18 years of age) who makes a contract can rescind or void it, with one general exception. A minor contracting for "necessities" is bound to pay for their reasonable value. A "necessity" can be food or shelter but, depending upon the law of the particular state, it may also include a car or other item. A minor who rescinds a contract gets back whatever the other party received from the minor.

People who are of unsound mind, that is, those who are incompetent because of mental illness or disability, can rescind their contracts, but the standard is high. Usually, a person who is incompetent must have made the contract without understanding that they were making a contract and without realizing the consequences of their action.

Consent

Consent means that each party to the contract must agree to the terms of the contract. This requirement of consent fits the general idea of contract as a private law-making activity. However, consent does not mean that you have to know what the contract says. For example, when signing a rental car agreement at the airport counter, you don't know what the terms are in this contract but you agree to them by signing the contract. The law presumes you have consented to a contract by signing it or manifesting some other type of assent, such as mouse clicking on I accept buttons in dialog boxes on your computer screen.

Legality

Legal subject matter is required for a contract to be enforceable. The law does not enforce contracts based on illegal activity. For example, a winner of a poker game usually cannot go into court and enforce an IOU in a state in which that type of gambling is illegal.

Contract Types

Contracts can be described and categorized in a variety of ways, and some contracts will fall under more than one category. For example, an insurance policy may be categorized as any of the following contracts:

- An insurance contract, because it involves insurance.
- A third-party beneficiary contract because it benefits a person who isn't a party to it (the beneficiary of the policy).
- A standard form contract because the provisions in it are always the same.
- A contract of adhesion if a court determines that as a practical matter, a person seeking insurance is unable to obtain insurance on terms other than those provided in the contract.

Contract Categories

Following are more details on the various contract categories:

1. A negotiated contract is a contract resulting from dickering over the terms of the agreement.

The parties of a truly negotiated contract:

- Bargain for the terms
- Know and understand the provisions
- Consent to all provisions

Truly negotiated contracts are rare in modern commerce.

2. A contract of adhesion is a contract that is submitted to the other party on a take-it or leave-it basis. There is no bargaining of terms; either you accept the agreement or you do not accept it. Many consumer contracts are contracts of adhesion. Some contracts of adhesion contain onerous or unfair terms, which may not be enforceable. If a court determines that a contract is a contract of adhesion, then the court reviews the contract and may delete the unfair term or terms.

3. Third party beneficiary contracts are made specifically for the benefit of a person different from one of the two contracting parties. This other person is called a third party beneficiary of the contract. The simplest example is a life insurance contract. The two contracting parties are the insurance company and the insured person. The third party beneficiary is the person named in the insurance policy to receive the proceeds of the insurance policy on the death of the insured person. This third party beneficiary has rights in the contract and can sue on the insurance policy.

4. Unilateral and bilateral contracts are terms used to describe the way in which contracts arise. These terms are important because the unilateral or bilateral status of a contract may affect whether or not, and how, the contract is enforced. It is sometimes difficult to distinguish unilateral and bilateral contracts.

- A **unilateral contract** is one in which a person promises to do something on specified terms. Unilateral contracts often arise in an offer to sell an item to another person. If you tell another person "I'll sell you my car if you give me \$3000," you are unilaterally offering the car if the other person gives you that amount of money. The contract can be accepted only by the payment of the money, not by a promise to pay the money. Ordinarily, you have not bound yourself to sell the car unless and until the person hands you \$3000, and you can withdraw the offer to sell it at any time before the other person performs.

- A **bilateral contract** is an exchange of promises. If you tell another person "I'll sell you my car if you promise to pay me \$3000," and the other person agrees by saying "OK, I promise to give you the \$3000 next Tuesday," and you agree by saying "OK," then you have entered into a bilateral contract. Ordinarily, under these circumstances, you've bound yourself to sell the car at that price.

6. Express Contract: A contract in which the terms of the agreement are fully and explicitly stated orally or in writing.

7. Implied-in-Fact Contract: A contract formed in whole or in part by the conduct (as opposed to the words) of the parties. In order to establish an implied-in-fact contract:

1. The plaintiff must have furnished some service or property to the defendant,
2. The plaintiff must have reasonably expected to be paid and the defendant knew or should

have known that a reasonable person in the plaintiff's shoes would have expected to be paid for the service or property rendered by the plaintiff, and

3. The defendant must have had the opportunity to reject the services or property and failed to do so.

8. Quasi or Implied-in-Law Contract: A fictional contract imposed on parties by a court in the interests of fairness and justice, typically to prevent the unjust enrichment of one party at the expense of the other.

9. Formal & Informal Contracts

- **Formal Contract:** A contract that requires a special form or method of formation (creation) in order to be enforceable.
- **Contract Under Seal:** A formalized writing with a special seal attached.
- **Recognizance:** An acknowledgment in court by a person that he or she will perform some specified obligation or pay a certain sum if he or she fails to perform (e.g., personal recognizance bond).
- **Negotiable Instrument:** A check, note, draft, or certificate of deposit -- each of which requires certain formalities (to be discussed later).
- **Letter of Credit:** An agreement to pay that is contingent upon the receipt of documents (e.g., invoices and bills of lading) evidencing receipt of and title to goods shipped.
- **Informal Contract:** A contract that does not require a specified form or method of formation in order to be valid. The vast majority of contracts are informal (without a seal).

Terms of contract

Contracts can be in writing, made orally, or created through the actings of the parties. For clarity, most commercial contracts are in writing to maintain a proper record of the agreement. Oral contracts create a greater potential for disputes on the terms with the parties having problems evidencing their position.

Contracts can be formed through a course of dealing between the parties. Again, the terms and conditions may not be clear. Common terms are likely to be incorporated in these contracts but if they are not written down there are still evidential problems.

It is common for contracts to be on a company's standard terms and conditions. Problems can arise when both parties purport to contract on their own standard terms and conditions. Qualified acceptance of an offer while imposing your own standard terms and conditions are seen as a counter offer. Obviously being unaware of which terms and conditions the parties are contracting does not provide the desired clarity or certainty of the contract.

There are different tactics for those parties who wish to contract on their own terms and conditions including incorporating the terms into as many pre-contractual documents as possible and ensuring that the terms appear on the last document between the parties before the delivery of goods.

Essential Terms

In general the following terms should be included in any contract:

Parties – The names and addresses of all the contracting parties should be clearly stated.

Definitions and Interpretations – If there are any defined terms in the contract this section should provide specific and clear definitions. For example, a "Business Day" means any day which is not a Saturday or Sunday or public holiday in England or "Associate" has the meaning given to it in section 435 of the Insolvency Act 1986. Provisions dealing with general matters of interpretation should also be included where applicable, e.g. "unless the context otherwise requires the singular shall include the plural and vice versa and the words 'day', 'month' and 'year' shall mean calendar day, calendar month and calendar year."

Payment Provisions – The exact price to be paid for the goods or services provided and the date or dates for payment to be made should be clearly set out. It may be relevant to provide for adjustments to the price to be made upon the occurrence of certain events or at certain intervals (e.g. where there is a change in any relevant exchange rate or to take into account inflation). This section should also note any agreed rate of interest payable on overdue amounts and the consequences for failure to pay.

A specific description of the goods or services -- that will be provided under the contract including the level of service if the contract is for services. This section should also include who is responsible for supporting and maintaining any products throughout the term of the contract.

Term of contract – The length of the contract should be stated and it should also be noted whether there are any options to continue the contract. For example, 'This agreement will continue for another year unless otherwise notified to [other party] by 31 January each year'.

Timescale – The specific timescale for the project should be noted including any deadlines that have to be met. This section should include any pre-agreed payments (or liquidated damages) payable by the supplier if the deadlines are not met.

Limitation of liability – This section caps the liability of either party to the contract. For example, 'Neither party shall have any liability to the other party for a claim of loss of profits...'. In an ideal world both parties would be seeking to have no liability to the other side. However, in a commercial context this is unlikely to be agreed and so both parties should try and limit their liability during the negotiation stage to appropriate levels. It is worth noting that there are statutes in force (discussed below) that forbid exclusion of liability in certain circumstances.

Termination provisions – The circumstances under which the parties can terminate the contract should be stated clearly. The procedure for giving notice to the other party should be in the contract. For example, 'This agreement can be terminated by either party giving to the other not less than three months written notice...'.

Change of Control – During the course of a contract one party may change the structure of their company. In these circumstances the other party may wish to terminate the contract, for example if the first party transfers a controlling interest to a competitor of the other party. The procedure for this situation should be in the contract.

Dispute Resolution – The procedure to be followed if the parties have a dispute should be included. For example, if there is an option for arbitration or mediation where the issue cannot be resolved through internal escalation.

Confidentiality – Some contracts deal with commercially sensitive information and the parties are likely to want to keep this information confidential. There should be confidentiality clauses drafted in the contract which identify the information being protected and the circumstances in which it can be used or disclosed.

Intellectual Property Rights – Many commercial contracts include a clause stating who will own the intellectual property rights to any products provided under the contracts. This clause should specifically state who owns such rights. Particular attention should be given to the ownership of intellectual property rights in relation to products created specifically for or in connection with the contract.

Warranties – It is common for the party providing goods or services under a contract to provide certain warranties in relation to the delivery of the goods or services. For example, if the contract

is for provision of a licence the provider should warrant that it has the necessary rights to grant the licence. Warranties give the other party a contractual right to sue for damages if there is a breach of the warranty.

Indemnity – Indemnity clauses are an express obligation to compensate the indemnified party by making a money payment for some defined loss or damage. They provide for an immediate right to compensation, without the need for a lengthy dispute as to the circumstances giving rise to the specified loss or damage. For this reason careful attention should be given to the agreement of any indemnities. An example of a typical indemnity is in a software contract under which the supplier indemnifies the customer against any claims made by a third party that the normal use of the software is infringing the rights of the third party.

Force Majeure – This clause should cover situations where performance of the contract is impossible through no fault of either party. For example, if there is a natural disaster or civil unrest.

Assignment / Assignment – If there is an option for one party to transfer their contractual rights and responsibilities to another party this should be set out in the contract along with the procedure to be followed. If there is no right to assign the contract this should also be noted.

Applicable law – There should be a clause indicating which law governs the contract. For example, 'This Agreement shall be governed by and construed in accordance with the laws of England'.

Specific types of contracts will require specific terms, which are particular to the relevant type of contract. Examples of specific types of contracts where specific terms are required include software licence/development contracts, facilities management contracts (See: Facilities management contracts) and outsourcing contracts (See: Outsourcing).

Implied Terms

Certain terms may be implied into contracts by law, or by usage or custom. The Sale of Goods Act and the Sale of Goods and Services Act contain terms which are implied into all contracts for the sale of goods and services, primarily for the purpose of consumer protection. The supplier of goods or services must provide goods of a satisfactory quality which are fit for the consumer's purpose or perform the services with reasonable skill and care.

A more general statute to protect buyers is the Unfair Contract Terms Act. This Act seeks to prevent parties limiting or excluding their liability in contracts. Generally, any exclusion of liability must be reasonable.

Execution

Written contracts must be executed in accordance with specific requirements otherwise they will not be legally enforceable.

Executed Contract: A contract that has been completely performed by both (or all) parties. By contrast.

An **executory contract** is a contract that has not yet been fully performed by one or more parties.

Validity of Contracts

- **Valid Contract** A contract satisfying all of the requisites discussed earlier -- agreement, consideration, capacity, legal purpose, assent, and form. By contrast,
- A **void contract** is a contract having no legal force or binding effect (e.g., a contract entered into for an illegal purpose);
- A **voidable contract** is an otherwise valid contract that may be legally avoided, cancelled, or annulled at the option of one of the parties (e.g., a contract entered into under duress or under false pretenses); and,
- An **unenforceable contract** is an otherwise valid contract rendered unenforceable by some statute or law (e.g., an oral contract that, due to the passage of time, must be in writing to be enforceable).

Contract Interpretation

- The key to contract interpretation is to give effect to the intent of the parties as expressed in their agreement.

- **Intent** is generally to be ascertained objectively -- by looking at:
 1. The words used by the parties in the agreement,
 2. The actions of the parties pursuant to the agreement, and

3. The circumstances surrounding the agreement

As they would be interpreted by a reasonable person--rather than the parties' subjective intentions (usually expressed after the fact).

- The **Plain Meaning Rule**: When a contract is clear and unequivocal, a court will enforce it according to its plain terms, set forth on the face of the instrument, and there is no need for the court either to consider extrinsic evidence or to interpret the language of the contract.

Rules of Interpretation

Know these, they show up all the time...

- **Rules of Interpretation:**

When a contract contains ambiguous or unclear terms, a court will resort to one or more of the following rules in order to determine and give effect to the parties' intent.

- Insofar as possible, the contract's terms will be given a reasonable, lawful, and effective meaning.
- The contract will be interpreted as a whole various and its various provisions will be "harmonized" to yield consistent expression of intent.
- Negotiated terms will be given greater consideration than standard-form, or "boiler-plate," terms.
- A non-technical term will be given its ordinary, commonly-accepted meaning, and a technical term will be given its technical meaning, unless the parties clearly intended something else.
- Specific terms will prevail over general terms.
- Handwritten terms prevail over typewritten terms, which, in turn, prevail over printed terms.
- When the language used in a contract has more than one meaning, any ambiguity is construed against the drafting party.
- An ambiguous contract should be interpreted in light of pertinent usages of trade in the locale and/or industry, the course of prior dealing between the parties, and the parties' course of prior performance of the contract.
- Express terms are given preference over course of prior performance, which is given preference over course of dealing, which is given preference over usage of trade.
- Words are given preference over numbers or symbols.

General Principles of Contract Law

Contracts are everywhere. They are a part of modern life, and we enter into them, and perform them, every day. They are necessary to the acquisition of goods and services in the marketplace.

Legally, a contract is an agreement between two or more parties that creates duties and obligations.

- Some contracts are deliberately made, like a contract for the purchase of a house.
- Other contracts come into being because of conduct between parties that give rise to a contract, like contracts resulting from the purchase of goods and services. You make a contract with a store every time you purchase an item. You make a contract with the dry cleaner every time you drop off and pick up your dry cleaning from them.

Government Restrictions

The basic principle of contract law is the freedom of ordinary people to make contracts. This principle is also the bedrock principle of the US legal system and free enterprise. Through contracts, private parties make laws that govern their commercial relationships. The freedom of contract principle is:

- Flexible because parties may tailor contracts to their needs
- Innovative because parties may develop contracts to adapt to changes in the marketplace

However, the freedom of contract principle is not absolute and restricted by the government.

Examples of government restrictions on freedom of contract include:

- It's illegal to make a contract to commit a crime, and no court would enforce such a contract.
- It's illegal in many states for a man and woman to make a surrogate mother contract.
- In some states, usury laws limit a bank's rate of interest on credit. Usury laws make it illegal for you to enter into a contract with a bank under which they lend you money and you pay interest in excess of the usury rate.

Most restrictions on freedom of contract are justified on the grounds of consumer protection or public policy. Thus, there is constant tension between the freedom to make private law and the state's activity in protecting the consumer.

Limitations on Contract Obligations

A contract gives contracting parties an opportunity to reduce the risk of transactions.

Clauses

For example, most contracts used by businesses in commercial transactions contain clauses that limit the obligations of the business. A common limitation is the exclusion of consequential damages. This contract clause limits the liability of a business in case its product or service fails to comply with the contract. In the absence of such a clause, the financial liability of the business is theoretically unlimited.

Obligations

Everyone who has an insurance contract has had the experience of reading the long list of exclusions, limitations, and exceptions. Similarly, everyone who has purchased a product has had the experience of reading the exclusion of warranties. Generally, these exclusions and limitations are enforceable in a court of law. However, there are many limitations on the ability of parties to limit their obligations under contracts.

For example, consumer protection laws frequently impose obligations on businesses in consumer transactions, even if the businesses have tried to avoid those obligations. The law of product liability imposes obligations on manufacturers to produce safe products, and prohibits manufacturers from limiting their obligations to consumers injured by unsafe products.

Assignment of Contracts

An assignment is a transfer of contract obligations to another party. It is a method of getting out of the contract by getting somebody else to perform the obligations. The other party to the contract usually must permit an assignment if it is reasonable, meaning that the assignment will not jeopardize the security of the other party or increase its risks. Normally, an assignment requires the explicit approval of the other party. Often the original party to the contract remains liable for the performance of the contract, if the person to whom the contract is assigned (the assignee) breaches the contract.

Assignments are important in several types of contracts. Using a long-term car lease as an example, assume you lease a car for 36 months and then six months later are transferred abroad and no

longer need the car. What do you do? If you terminate the lease contract early, you may be subject to serious early termination penalties. Assigning the lease to someone else is an option if the lease contract permits it. In an assignment, your assignee assumes the remainder of your contract obligations. If everything works according to plan, you have terminated the contract for practical purposes.

Glossary 1

Proceeds

Plaintiff

Defendant

Authorized representatives

Procurement تدارك

Annex الحاقیه

Installation نصب

Optimum operations

Drawings نقشه ها

Maintenance تعمیر و نگهداری

Qualified واجد شرایط

Within the power conferred

Auxiliary units

Know-how دانش فنی

Affidavit سوگند نامه

Performance guarantees set out حسن انجام کار

Comes into force قابل اجرا

Procedure رویه

Subcontractors

As stipulated	مصرح ، تصریح شده
Prior approval	موافقت قبلی
To call for bids	به مزایده گذاشتن
Competent authorities	مراجع ذیصلاح
Respective authorities	مراجع مربوطه
Down-payment	پیش پرداخت
Documentation	اسناد و مدارک ، مستند سازی
Provisional	موقتی، مشروط
Operation	راه اندازی
Invoice	
To furnish	تهیه کردن
Stock	انبار
Seller's expense	به هزینه فروشنده
Implementation	اجرا
Come to an understanding	
Custom clearance	ترخیص کالا
Foreign nationals	اتباع خارجی
Expected special risks	
In the event of	
Notice of demand	
As foreseen	پیش بینی شده
Award	رای
Arbitration tribunal	
Jurisdiction	

Good faith	حسن نیت
Default in performance	قصور ورزیدن
Nominee	نماینده
Bring to a close	
Expeditiously	سریعا
Customs duty	عوارض گمرکی
Levy	عوارض
Termination	فسخ
From whatever cause arising	به هر دلیلی
Insurance claims	خسارت از بیمه
Administrators	مدیران
Executors	مجریان
Subsidiary	تابعه
Affiliates	شرکتهای وابسته
Assignees	انتقال گیرنده ها
Successors	جانشینان
Curators	متصدیان
Entirety of the contract	کلیت قرارداد

- **Introduction**
- **Parties to Letters of Credit**
- **Types of Letter of Credit**
- **Import Operations Under L/C**
- **Export Operations Under L/C**
- **Fees & Reimbursements**

- **Regulatory Requirements**
- **Trade Control Requirements**
- **Exchange Control Requirements**
- **UCPDC Guidelines**
- **ISBP 2002**
- **FEDAI Guidelines**
- **Fixing limits for Commercial Stand by Letter of Credit L/C**

Introduction

Letter of Credit L/C also known as Documentary Credit is a widely used term to make payment secure in domestic and international trade. The document is issued by a financial organization at the buyer request. Buyer also provides the necessary instructions in preparing the document.

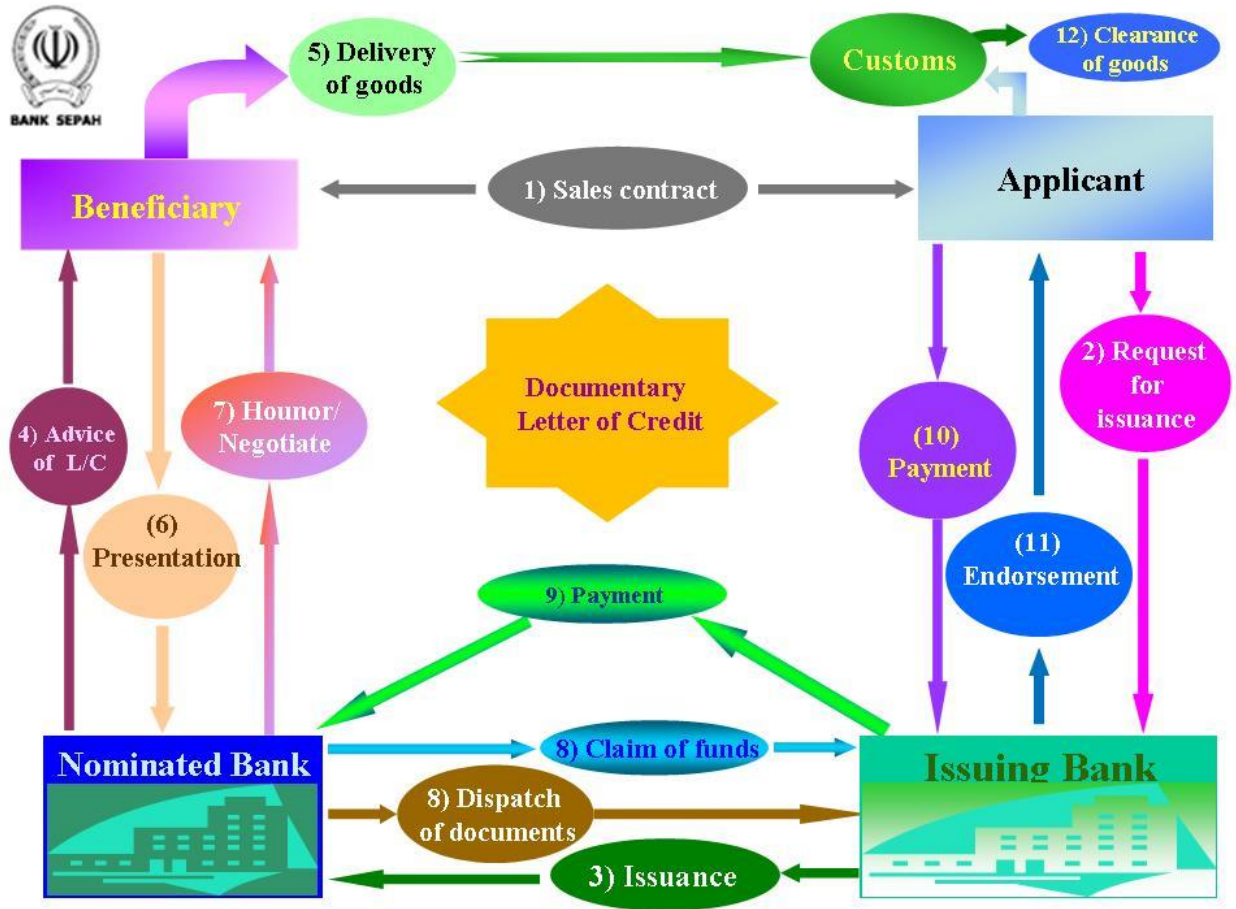
The International Chamber of Commerce (ICC) in the Uniform Custom and Practice for Documentary Credit (UCPDC) defines L/C as:

"An arrangement, however named or described, whereby a bank (the Issuing bank) acting at the request and on the instructions of a customer (the Applicant) or on its own behalf:

1. Is to make a payment to or to the order third party (the beneficiary) or is to accept bills of exchange (drafts) drawn by the beneficiary.
2. Authorized another bank to effect such payments or to accept and pay such bills of exchange (draft).
3. Authorized another bank to negotiate against stipulated documents provided that the terms are complied with.

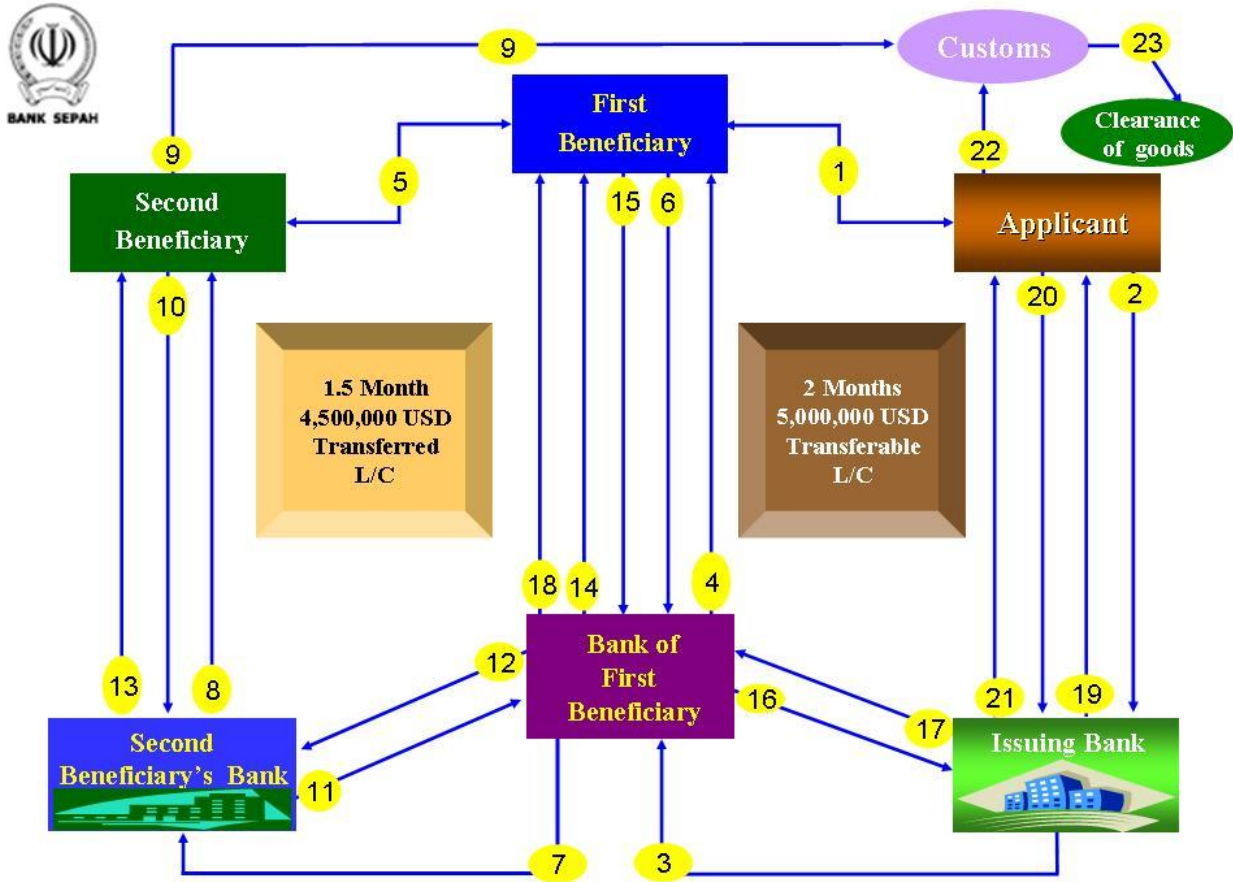
A key principle underlying letter of credit (L/C) is that banks deal only in documents and not in goods. The decision to pay under a letter of credit will be based entirely on whether the documents presented to the bank appear on their face to be in accordance with the terms and conditions of the letter of credit.

Parties to L/Cs



- **Applicant (Opener):** Applicant which is also referred to as account party is normally a buyer or customer of the goods, who has to make payment to beneficiary. LC is initiated and issued at his request and on the basis of his instructions.
- **Issuing Bank (Opening Bank) :** The issuing bank is the one which create a letter of credit and takes the responsibility to make the payments on receipt of the documents from the beneficiary or through their banker. The payments have to be made to the beneficiary within seven working days from the date of receipt of documents at their end, provided the documents are in accordance with the terms and conditions of the letter of credit. If the documents are discrepant one, the rejection thereof to be communicated within seven working days from the date of receipt of documents at their end.

- **Beneficiary :** Beneficiary is normally stands for a seller of the goods, who has to receive payment from the applicant. A credit is issued in his favor to enable him or his agent to obtain payment on surrender of stipulated document and comply with the term and conditions of the L/C.
If L/c is a transferable one and he transfers the credit to another party, then he is referred to as the first or original beneficiary.
- **Advising Bank:** An Advising Bank provides advice to the beneficiary and takes the responsibility for sending the documents to the issuing bank and is normally located in the country of the beneficiary.
- **Confirming Bank:** Confirming bank adds its guarantee to the credit opened by another bank, thereby undertaking the responsibility of payment/negotiation acceptance under the credit, in addition to that of the issuing bank.
Confirming bank play an important role where the exporter is not satisfied with the undertaking of only the issuing bank.
- **Negotiating Bank:** The Negotiating Bank is the bank who negotiates the documents submitted to them by the beneficiary under the credit either advised through them or restricted to them for negotiation. On negotiation of the documents they will claim the reimbursement under the credit and makes the payment to the beneficiary provided the documents submitted are in accordance with the terms and conditions of the letters of credit.
- **Reimbursing Bank:** Reimbursing Bank is the bank authorized to honor the reimbursement claim in settlement of negotiation/acceptance/payment lodged with it by the negotiating bank. It is normally the bank with which issuing bank has an account from which payment has to be made.
- **Second Beneficiary:** Second Beneficiary is the person who represents the first or original Beneficiary of credit in his absence. In this case, the credits belonging to the original beneficiary is transferable. The rights of the transferee are subject to terms of transfer.



Types of L/Cs

1. Revocable Letter of Credit L/C

A revocable letter of credit may be revoked or modified for any reason, at any time by the issuing bank without notification. It is rarely used in international trade and not considered satisfactory for the exporters but has an advantage over that of the importers and the issuing bank.

There is no provision for confirming revocable credits as per terms of UCPDC, Hence they cannot be confirmed. It should be indicated in LC that the credit is revocable. If there is no such indication the credit will be deemed as irrevocable.

2. Irrevocable L/C

In this case it is not possible to revoke or amended a credit without the agreement of the issuing bank, the confirming bank, and the beneficiary. Form an exporter's point of view it is believed to be more beneficial. An irrevocable letter of credit from the issuing bank insures the beneficiary that if the required documents are presented and the terms and conditions are complied with, payment will be made.

3. Confirmed L/C

Confirmed Letter of Credit is a special type of L/C in which another bank apart from the issuing bank has added its guarantee. Although, the cost of confirming by two banks makes it costlier, this type of L/C is more beneficial for the beneficiary as it doubles the guarantee.

4. Sight Credit

Sight credit states that the payments would be made by the issuing bank at sight, on demand or on presentation.

5. Usance L/C

In case of Usance credit, drafts are drawn on the issuing bank or the correspondent bank at specified Usance period. The credit will indicate whether the Usance drafts are to be drawn on the issuing bank or in the case of confirmed credit on the confirming bank.

6. Back to Back L/C

Back to Back Letter of Credit is also termed as Countervailing Credit. A credit is known as back-to-back credit when a L/C is opened with security of another L/C.

A back-to-back credit which can also be referred as credit and counter-credit is actually a method of financing both sides of a transaction in which a middleman buys goods from one customer and sells them to another.

The parties to a Back-to-Back Letter of Credit are:

1. The buyer and his bank as the issuer of the original Letter of Credit.
2. The seller/manufacturer and his bank,
3. The manufacturer's subcontractor and his bank.

The need for such credits arises mainly when:

1. The ultimate buyer not ready for a transferable credit
2. The Beneficiary do not want to disclose the source of supply to the openers.
3. The manufacturer demands on payment against documents for goods but the beneficiary of credit is short of the funds

7. Transferable L/C

A transferable documentary credit is a type of credit under which the first beneficiary which is usually a middleman may request the nominated bank to transfer credit in whole or in part to the second beneficiary.

The L/C does not clearly mention the margins of the first beneficiary and unless it is specified the L/C cannot be treated as transferable. It can only be used when the company is selling the product of a third party and the proper care has to be taken about the exit policy for the money transactions that take place.

This type of L/C is used in the companies that act as a middle man during the transaction but don't have large limit. In the transferable L/c there is a right to substitute the invoice and the whole value can be transferred to a second beneficiary.

The first beneficiary or middleman has rights to change the following terms and conditions of the letter of credit:

1. Reduce the amount of the credit.
2. Reduce unit price if it is stated
3. Make shorter the expiry date of the letter of credit.
4. Make shorter the last date for presentation of documents.
5. Make shorter the period for shipment of goods.
6. Increase the amount of the cover or percentage for which insurance cover must be effected.
7. Substitute the name of the applicant (the middleman) for that of the first beneficiary (the buyer).

8. Standby L/C

Initially used by the banks in the United States, the standby letter of credit is very much similar in nature to a bank guarantee. The main objective of issuing such a credit is to secure bank loans. Standby credits are usually issued by the applicant's bank in the applicant's country and advised to the beneficiary by a bank in the beneficiary's country.

Unlike a traditional letter of credit where the beneficiary obtains payment against documents evidencing performance, the standby letter of credit allow a beneficiary to obtains payment from a bank even when the applicant for the credit has failed to perform as per bond.

A standby letter of credit is subject to "Uniform Customs and Practice for Documentary Credit" (UCP), International Chamber of Commerce Publication No 500, 1993 Revision, or "International Standby Practices" (ISP), International Chamber of Commerce Publication No 590, 1998.

Import Operations Under L/C

The Import Letter of Credit guarantees an exporter payment for goods or services, provided the terms of the letter of credit have been met.

A bank issue an import letter of credit on the behalf of an importer or buyer under the following Circumstances

- When a importer is importing goods within its own country.
- When a trader is buying good from his own country and sells it to another country for the purpose of merchandizing trade.
- When an exporter who is executing a contract outside his own country requires importing goods from a third country to the country where he is executing the contract.

Fees & Reimbursements

The different charges/fees payable under import L/C is briefly as follows

1. The issuing bank charges the applicant fees for opening the letter of credit. The fee charged depends on the credit of the applicant, and primarily comprises of:

a. Opening Charges: This would comprise commitment charges and Usance charged to be charged upfront for the period of the L/c.

The fee charged by the L/C opening bank during the commitment period is referred to as commitment fees. Commitment period is the period from the opening of the letter of credit until the last date of negotiation of documents under the L/C or the expiry of the L/c, whichever is later.

Usance is the credit period agreed between the buyer and the seller under the letter of credit. This may vary from 7 days Usance (sight) to 90/180 days. The fee charged by

bank for the Usance period is referred to as Usance charges.

b. Retirement Charges

1. This would be payable at the time of retirement of LCs. LC opening bank scrutinizes the bills under the LCs according to UCPDC guidelines , and levies charges based on value of goods.
2. The advising bank charges an advising fee to the beneficiary unless stated otherwise. The fees could vary depending on the country of the beneficiary. The advising bank charges may be eventually borne by the issuing bank or reimbursed from the applicant.
3. The applicant is bounded and liable to indemnify banks against all obligations and responsibilities imposed by foreign laws and usage.
4. The confirming bank's fee depends on the credit of the issuing bank and would be borne by the beneficiary or the issuing bank (applicant eventually) depending on the terms of contract.
5. The reimbursing bank charges are to the account of the issuing bank.

Risk Associated with Opening Imports L/Cs

The basic risks associated with an issuing bank while opening an import L/C are:

1. **The financial standing of the importer**
As the bank is responsible to pay the money on the behalf of the importer, thereby the bank should make sure that it has the proper funds to pay.
2. **The goods**
Bankers need to do a detail analysis against the risks associated with perishability of the goods, possible obsolescence, import regulations packing and storage, etc. Price risk is another crucial factor associated with all modes of international trade.
3. **Exporter Risk**
There is always the risk of exporting inferior quality goods. Banks need to be protective by finding out as much possible about the exporter using status report and other confidential information.
4. **Country Risk**
These types of risks are mainly associated with the political and economic

scenario of a country. To solve this issue, most banks have specialized unit which control the level of exposure that that the bank will assumes for each country.

5. Foreign exchange risk

Foreign exchange risk is another most sensitive risk associated with the banks. As the transaction is done in foreign currency, the traders depend a lot on exchange rate fluctuations.

Export Operations under L/C

Export Letter of Credit is issued in for a trader for his native country for the purchase of goods and services. Such letters of credit may be received for following purpose:

1. For physical export of goods and services from one to a Foreign country.
2. For execution of projects outside one by its exporters by supply of goods and services from one country or partly from one country and partly from outside one country.
3. Towards deemed exports where there is no physical movements of goods from outside one country.
4. For sale of goods by its exporters with total procurement and supply from outside one country. In all the above cases there would be earning of Foreign Exchange or conservation of Foreign Exchange.

In every case the bank will be rendering services not only to the Issuing Bank as its agent correspondent bank but also to the exporter in advising and financing his export activity.

Regulatory Requirements

Opening of imports LCs involve compliance of the following main regulation:

1. Trade Control Requirements

The movement of good in one country is guided by a predefined set of rules and regulation. So, the banker needs to assure that make certain is whether the goods concerned can be physically brought in to one country.

2. Exchange Control Requirements

The main objective of a bank to open an Import LC is to effect settlement of payment due by the importer to the overseas supplier, so opening of LC automatically comes under the policies of exchange control regulations.

3. UCPDC Guidelines

Uniform Customs and Practice for Documentary Credit (UCPDC) is a set of predefined rules established by the International Chamber of Commerce (ICC) on Letters of Credit. The UCPDC is used by bankers and commercial parties in more than 200 countries to facilitate trade and payment through LC.

UCPDC was first published in 1933 and subsequently updating it throughout the years. In 1994, UCPDC 500 was released with only 7 chapters containing in all 49 articles.

The latest revision was approved by the Banking Commission of the ICC at its meeting in Paris on 25 October 2006. This latest version, called the UCPDC600, formally commenced on 1 July 2007. It contains a total of about 39 articles covering the following areas, which can be classified as 8 sections according to their functions and operational procedures.

4. ISBP 2002

The widely acclaimed International Standard Banking Practice (ISBP) for the Examination of Documents under Documentary Credits was selected in 2007 by the ICCs Banking Commission.

First introduced in 2002, the ISBP contains a list of guidelines that an examiner needs to check the documents presented under the Letter of Credit. Its main objective is to reduce the number of documentary credits rejected by banks.

Tenders

A tender is an offer. Tenders commonly arise where, for example, a corporation invites offers to supply goods or services. Two kinds of tenders must however, be distinguished:

1. Where the tender is an offer to supply a specified or definite quantity of goods or services;
2. Where the tender is a standing offer, i.e. an offer to supply goods and services periodically or as required.

Essential components of tenders:

1. Principal (owner)

Client who awards a contract to a contractor for completion of a job or project in accordance with terms of the contract.

2. Bidder (Tenderer)

Contractor, supplier, or vendor who responds to an invitation to bid (ITB). Also called offeror or quoter.

3. Tender Conditions

General and tender-specific rules that govern content of a tender, its submission, and evaluation and contract award process.

Related Concepts & Technical Terms

Invitation to bid (ITB)

Oral or written invitation to prospective suppliers to submit a bid on materials or services. ITB is only a solicitation, and does not qualify as an offer because the party making it does not wish to enter into a binding agreement without further negotiations. Also called request for bids (RFB).

Prequalification of Bidders

Screening of potential contractors, suppliers, or vendors (on the basis of factors such as experience, financial ability, managerial ability, reputation, work history, etc.) to develop a list of qualified bidders who will receive the invitation-to-bid (ITB) documents.

Bid Evaluation

After the submission deadline, the process of opening, examining, and evaluating bids to determine the bidders' responsibility, responsiveness, and other factors associated with selection of a bid for contract award.

Bid Date

Prescribed date and time by which a bid must be submitted (or lodged in the bid depository) to be considered. Also called bid time.

Bid Documents

Documents required to be submitted in response to an invitation to bid (ITB). These include the prescribed bid form, drawings, specifications, time lines, charts, **price breakdowns**, etc. Bids not accompanied by all the required documents are considered incomplete bids, and are usually automatically rejected.

Bid Opening

Stage in a bidding process where the received bid-envelopes are opened and examined by the advertiser (called buyer, client, customer, or owner) of an invitation-to-bid (ITB). In an open or public bid opening, the bidders (and other parties) are allowed to witness the process and inspect the bids, in a closed opening only the owner's staff is present.

Bid Price

Price offered by bidder (contractor, supplier, vendor) for a specific good, job, or service, and valid only for the specified period.

Bid Requirements

Written, minimum acceptable specifications, qualifications, conditions, terms, etc., set out by the principal (customer) in the invitation-to-bid (ITB) document.

Bid Solicitation

Process of notifying prospective or qualified bidders on the bid solicitor's wish to receive bids on the specified product or project. Solicitations include invitation-to-bid (ITB), request for proposals (RFP), request for quotations (RFQ), and request for sealed bids, which may be made public through advertising, mailings, or some other method of communication.

Bidding Requirements

Document that includes bid form, basic and supplementary instructions to bidders, and minimum acceptable standards set by the originator (owner) of the project for which bids are invited.

Bid and Proposal (B&D) Costs

Expenses incurred in purchasing bid form, and in preparing, submitting, and supporting a bid.

Non-Response Bid

Bid that does not fulfill the requirements of an invitation to bid, offers, proposals, tenders, etc.

Sealed Bid

Document enclosed in a glued (sealed) envelope and submitted in response to invitation-to-bid (ITB). Sealed bids received up to the deadline date are generally opened at a stated time and place (usually in the presence of anyone who may wish to be present) and evaluated for award of a contract.

Apparent Low Bidder

Respondent to an invitation to bid (ITB) who, on the cursory examination of the received bids, has submitted the lowest competitive bid.

Incoterms

The **Incoterms** rules or **International Commercial Terms** are a series of pre-defined commercial terms published by the [International Chamber of Commerce](#) (ICC) that are widely used in International [commercial transactions](#) or [procurement](#) processes. A series of three-letter trade terms related to common contractual sales practices, the Incoterms rules are intended primarily to clearly communicate the tasks, costs, and risks associated with the transportation and delivery of goods.

The Incoterms rules are accepted by governments, legal authorities, and practitioners worldwide for the interpretation of most commonly used terms in international trade. They are intended to reduce or remove altogether uncertainties arising from different interpretation of the rules in different countries. As such they are regularly incorporated into sales contracts^[1] worldwide.

First published in 1936, the Incoterms rules have been periodically updated, with the eighth version— **Incoterms® 2010** '—having been published on January 1, 2011. "Incoterms" is a registered [trademark](#) of the ICC.

- I. General Transport
 - 1 EXW – Ex Works (named place of delivery)
 - 2 FCA - Free Carrier (named place of delivery)
 - 3 CPT – Carriage Paid To (named place of destination)
 - 4 CIP – Carriage and Insurance Paid to (named place of destination)
 - 5 DAT – Delivered at Terminal (named terminal at port or place of destination)
 - 6 DAP – Delivered at Place (named place of destination)
 - 7 DDP – Delivered Duty Paid (named place of destination)
- II. Sea and Inland Waterway Transport
 - 1 FAS – Free Alongside Ship (named port of shipment)
 - .2 FOB – Free on Board (named port of shipment)
 - 3 CFR – Cost and Freight (named port of destination)
 - 4 CIF – Cost, Insurance and Freight (named port of destination)
- III. Previous terms from *Incoterms 2000* eliminated from *Incoterms 2010*
 - 1 DAF – Delivered at Frontier (named place of delivery)
 - 2 DES – Delivered Ex Ship
 - 3 DEQ – Delivered Ex Quay (named port of delivery)

- 4 DDU – Delivered Duty Unpaid (named place of destination)

I. General Transport

EXW – Ex Works

The Seller makes the goods available at his/her premises. This term places the maximum obligation on the buyer and minimum obligations on the seller. The Ex Works term is often used when making an initial quotation for the sale of goods without any costs included. EXW means that a buyer incurs the risks for bringing the goods to their final destination. The seller does not load the goods on collecting vehicles and does not clear them for export. If the seller does load the goods, he does so at buyer's risk and cost. If parties wish seller to be responsible for the loading of the goods on departure and to bear the risk and all costs of such loading, this must be made clear by adding explicit wording to this effect in the contract of sale.

The buyer arranges the pickup of the freight from the supplier's designated ship site, owns the in-transit freight, and is responsible for clearing the goods through Customs. The buyer is responsible for completing all the export documentation. Cost of goods sold transfers from the seller to the buyer.

FCA - Free Carrier

The seller to deliver goods to a named airport, terminal, or other place where the carrier operates. Costs for transportation and risk of loss transfer to the buyer after delivery to the carrier.

When used in trade terms, the word "free" means the seller has an obligation to deliver goods to a named place for transfer to a carrier. Contracts involving international transportation often contain abbreviated trade terms that describe matters such as the time and place of delivery and payment, when the risk of loss shifts from the seller to the buyer, and who pays the costs of freight and insurance.

CPT – Carriage Paid To

The seller pays for carriage. Risk transfers to buyer upon handing goods over to the first carrier at place of shipment in the country of Export. Buyer fully responsible for arranging carrier payment of freight for same Export clearance in Exporting country and Import clearance in Importing country, also responsible for buying Insurance. This term is used for all kind of shipments.

CIP – Carriage and Insurance Paid to

The containerized transport/multimodal equivalent of CIF. Seller pays for carriage and insurance to the named destination point, but risk passes when the goods are handed over to the first carrier. CIP is used for Air Mode & CIF is used for Sea Mode..

DAT – Delivered at Terminal

This term means that the seller covers all the costs of transport (export fees, carriage, insurance, and destination port charges) and assumes all risk until after the goods are unloaded at the terminal. “Terminal” includes any place, whether covered or not, such as a quay, warehouse, container yard or road, rail or air cargo terminal.[4] The buyer covers the cost of transporting the goods from the terminal or port to final destination and pays the import duty/taxes/customs costs.

DAP – Delivered at Place

Can be used for any transport mode, or where there is more than one transport mode. The seller is responsible for arranging carriage and for delivering the goods, ready for unloading from the arriving conveyance, at the named place. Duties are not paid under this term (An important difference from Delivered At Terminal DAT, where the buyer is responsible for unloading.)

DDP – Delivered Duty Paid

Seller is responsible for delivering the goods to the named place in the country of the buyer, and pays all costs in bringing the goods to the destination including import duties and taxes. The seller is not responsible for unloading. This term is often used in place of the non-Incoterms "Free In Store (FIS)". This term places the maximum obligations on the seller and minimum obligations on the buyer.

II. Sea & Inland Waterway Transport

To determine if a location qualifies for these four rules, please refer to 'United Nations Code for Trade and Transport Locations (UN/LOCODE)'. [Link below]

The four rules defined by Incoterms 2010 for international trade where transportation is entirely conducted by water are:

FAS – Free Alongside Ship

The seller delivers when the goods are placed alongside the buyer's vessel at the named port of shipment. This means that the buyer has to bear all costs and risks of loss of or damage to the goods from that moment. The FAS term requires the seller to clear the goods for export, which is

a reversal from previous Incoterms versions that required the buyer to arrange for export clearance. However, if the parties wish the buyer to clear the goods for export, this should be made clear by adding explicit wording to this effect in the contract of sale. This term can be used only for sea or inland waterway transport.^[5]

FOB – Free on Board

The buyer must advance government tax in the country of origin as commitment to load the goods on board a vessel designated by the buyer. Cost and risk are divided when the goods are actually on board of the vessel. The seller must clear the goods for export. The term is applicable for maritime and inland waterway transport only but **NOT** for multimodal sea transport in containers (see *Incoterms 2010*, ICC publication 715). The seller must instruct the buyer the details of the vessel and the port where the goods are to be loaded, and there is no reference to, or provision for, the use of a carrier or forwarder. This term has been greatly misused over the last three decades ever since *Incoterms 1980* explained that FCA should be used for container shipments.

It means the seller pays for transportation of goods to the port of shipment, loading cost. The buyer pays cost of marine freight transportation, insurance, unloading and transportation cost from the arrival port to destination. The passing of risk occurs when the goods are in buyer account. the buyer arranges for the vessel and the shipper has to load the goods and the named vessel at the named port of shipment with the dates stipulated in the contract of sale as informed by the buyer .

CFR – Cost and Freight

Seller must pay the costs and freight to bring the goods to the port of destination. However, risk is transferred to the buyer once the goods are loaded on the vessel. Insurance for the goods is **NOT** included. This term is formerly known as CNF (C&F, or C+F).

CIF – Cost, Insurance and Freight

Exactly the same as CFR except that the seller must in addition procure and pay for the insurance. Maritime transport only.

III. Previous terms from Incoterms 2000 eliminated from Incoterms 2010

DAF – Delivered at Frontier

This term can be used when the goods are transported by rail and road. The seller pays for transportation to the named place of delivery at the frontier. The buyer arranges for customs clearance and pays for transportation from the frontier to his factory. The passing of risk occurs at the frontier.

DES – Delivered Ex Ship

Where goods are delivered ex ship, the passing of risk does not occur until the ship has arrived at the named port of destination and the goods made available for unloading to the buyer. The seller pays the same freight and insurance costs as he would under a CIF arrangement. Unlike CFR and CIF terms, the seller has agreed to bear not just cost, but also Risk and Title up to the arrival of the vessel at the named port. Costs for unloading the goods and any duties, taxes, etc. are for the Buyer. A commonly used term in shipping bulk commodities, such as coal, grain, dry chemicals; and where the seller either owns or has chartered, their own vessel.

DEQ – Delivered Ex Quay (named port of delivery)

This is similar to DES, but the passing of risk does not occur until the goods have been unloaded at the port of discharge.

DDU – Delivered Duty Unpaid

place of destination in the contract of sale. A transaction in international trade where the seller is responsible for making a safe delivery of goods to a named destination, paying all transportation expenses but not the duty. The seller bears the risks and costs associated with supplying the goods to the delivery location, where the buyer becomes responsible for paying the duty and other customs clearing expenses.

Power of Attorney

Overview

- Definition
- Components
- Types
- Features
- Formalities
- Scopes of Attorney
- Who can be an attorney?
- Ending the power of attorney
- Obligations of an attorney-in-fact
- Choosing an attorney-in-fact
- Specimen

Power of attorney (POA) or Letter of Attorney

- is a written authorization to represent or act on another's behalf in private affairs, business, or some other legal matter, sometimes against the wishes of the other's.

Components

1. **Principal, Grantor, or Donor**

موكل

- The person authorizing the other to act

2. **Agent or attorney-in-fact**

وكيل

(attorney for short)

- one authorized to act

The attorney-in-fact

- The person named to handle your affairs is called the *attorney-in-fact*, or *agent*.

- When the power of attorney goes into effect, the attorney-in-fact takes on a legal responsibility (a fiduciary duty) to manage your affairs and to act on your behalf.

3. Powers or Scopes of Attorney

مورد وکالت

- Formerly, a power referred to an instrument under seal while a letter was an instrument **under hand**, but today both are signed by the grantor, & therefore there is no difference between the two.

Types of power of attorney

1. Special or limited

- one specified act or type of act

2. General

- whatever it defines as its scope or
- is what a court will enforce as being its scope.

3. Revocable

با عزل

- The client temporarily appoints a proxy to represent him in matters he deems necessary, & once those matters are resolved, his authorization is officially cancelled.

Example 1: Legwork

- Since you are not in the mood to follow a certain official procedure personally, you may appoint someone to represent you.

Example 2: Probate of estate

- An heir, who is away from the rest of inheritors, may allow them to follow the paperwork for him to speed up the legal or financial proceedings.

4. Irrevocable

بلا عزل

- The client constitutes the substitute as his eternal proxy & denies himself the right of cancellation.
- The scopes in such powers of attorney are usually predefined since it simply does not make sense to put a scope on something one never wants to deal with again.

5. Durable

- If you are considering a power of attorney because you worry that you might:

become incapacitated because of illness or a medical procedure, you will need to consider a durable power of attorney.

- A durable power of attorney typically grants the attorney-in-fact broad powers to handle any legal or financial matter that may come up during your incapacitation.

6. Springing

ارتفاقی

- Unlike the durable power of attorney, the springing power of attorney becomes effective at a later date, “springing” into effect only if you are declared incapacitated or incompetent.
- This is a determination that is usually made by a physician or by someone identified in the power-of-attorney document.

Features

- **1. Lexical**

Know all men by these presents that I

پوشیده نماد

2. Syntax

Run-on Sentences

- A run-on sentence is a very long compound sentence made up of a lot of simple sentences linked together by coordinate conjunctions (i.e., and, so, yet, but, or, nor).

Example

- *Hasan went to Tehran and he bought a house there and he painted the house and he lived in the house for several years and*

There is no end limit to this sentence. In English, **coordinate conjunctions** can only link two sentences together.

- Other sentences should be kept apart by the use of commas.

Example

- *Hasan went to Tehran, he bought a house there, he painted the house, and he lived in the house for several years.*

- You should notice that it is better not to connect more than three sentences in this way. Otherwise, your readers will become confused & bored; this type of writing is not reader-friendly.

Formalities

- The principal's signature on a power of attorney must be notarized.
- In some cases, the signature must also be witnessed, typically by two adults, & the witnesses cannot be people to whom the power of attorney is granted under the document.

Scopes of Attorney

- The principal determines the amount of power given to the attorney-in-fact, & this individual can be given the authority to deal with only one particular issue, or to handle most of the principal's personal & financial matters.
- Regardless of the type of power of attorney granted, the attorney-in-fact is responsible for keeping accurate records of all transactions that he or she makes on behalf of the principal.
- The attorney-in-fact also is responsible for distinguishing between the types of decisions he or she has the power to make and other decisions.
- There are multiple types of powers including the power to:
 - make financial decisions
 - make gifts of money
 - make health care decisions
 - recommend a guardian.

Who can be an attorney?

- The attorney-in-fact can be a:
 - spouse
 - adult
 - relative, or
 - trusted friend of the principal, as long as he or she acts in good faith on behalf of the principal at all times.
- It should be noted that the actions of an attorney-in-fact are legally considered those of the principal, so the principal should always choose a trustworthy individual.

Ending the power of attorney

- The power of attorney ends at your (the principal's) death or when one of three events occurs:
 1. The termination date arrives.
 2. You deliver written revocation.
- You can revoke the power of attorney at any time as long as you are competent.
 3. You become incapacitated.
- This is true unless the power of attorney is a durable or springing power of attorney.

Obligations

- An attorney-in-fact is obligated to act within the scope of the authority granted in the power-of-attorney document.
- An attorney-in-fact is also generally required to keep records of transactions, to avoid conflicts of interest, & to avoid mixing the principal's assets with those of someone else.
- Although in some situations, when one spouse has power-of-attorney for the other spouse & they have joint accounts or assets, this commingling may be appropriate.

Translation of Legal Correspondence & Deeds 2

Portfolio No. 2

Name: _____

Student No. _____

Date: _____

Translation of Legal Correspondence & Deeds 2

Portfolio No. 3

Name: _____

Student No. _____

Date: _____

Translation of Legal Correspondence & Deeds 2

Portfolio No. 4

Name: _____

Student No. _____

Date: _____

Translation of Legal Correspondence & Deeds 2

Portfolio No. 5

Name: _____

Student No. _____

Date: _____
