# Chapter 1　Introduction

## Learning Objectives

1. Know the nature and content of course.
2. Know the differences between international trade and domestic trade.
3. Be familiar with the relevant laws and practices applicable to international trade.
4. Get a general picture of import and export business of physical goods.

## Case & Analysis

**Case:** A Britain businessman(A)makes an offer to a Federal Germany businessman(B)on May 3 to sell a certain of goods. B is in the receipt of this offer on May 4, and makes a complete answer to accept the offer on the morning of May 4. After A sends the offer, he finds the commodity prices upward, hence he cabled B to withdraw the offer in the afternoon of May 5. It is in the morning of May 6 that A receives the acceptance from B. Question: (1) According to the Britain law, is it legal for A to withdraw the offer? (2) If the case is applied to the CISG, whether there is a contract relationship between both sides?

**Analysis:** (1) According to the Britain law, it is illegal for businessman A to withdraw the offer. According to the British law: an acceptance once sent out, it is effective immediately, and in this case B makes a promise on the morning of May 4, the contract between them has come into effect.

(2) According to the CISG, both of the parties have the contract relationship.Under CISG, an offer can be withdrawn before the offeree advises the commitment. However in this case B has made a commitment before A makes the withdrawal advice. So A cannot withdraw. The commitment made by B has come into effect when it reaches A in the afternoon of May 8. The contract is formed then.

## Section 1.1　Definition and Role of International Trade

International trade is the worldwide exchange of goods and services among nations. International trade is just like any other trade except that it crosses international boundary lines. To be more exact, it is the exchange of goods and services produced in one country for goods and services produced in another. Why is international trade necessary? Why can't people be self-sufficient, capable of living exclusively on the goods and services produced within their own countries? There are several reasons.

The distribution of natural resources in the world is uneven. Some nations of the world have natural deposit in excess of their own requirement while other nations possess none. For example, the Middle East countries have vast oil deposit but lack many minerals such as coal, nickel, copper, aluminum, etc. If a country has abundance of natural resources, it is common to find these resources being exported.

Different countries have their own different land, climate and general conditions for agriculture, forestry, husbandry, etc. Some countries can produce more relevant products than their own needs while other nations are unable to produce sufficient products to meet their large demand. For example, Colombia and Brazil have the year-round weather conditions to grow coffee beans, while the United States, with the exception of Hawaii, does not. As a result, the United States must import coffee.

With the different levels of the development of manufacturing and technology, there arose another incentive in producing certain industrial products which are better received by the customers in other nations. For instance, Japanese automobiles are more saleable than those made in some Asian countries.

International trade involves the use of two or more currencies. Overall, it produces a more efficient employment of the productive forces of the world. Hence it embraces two basic elements. First, it is carried out between two or more nations. Thus when trade is executed beyond national frontiers, it is invariably subject to political, social, economic and environmental policies introduced by nations from time to time. To a large extent, such policies have either somewhat encouraged or hampered the free flow of merchandise in international trade. The second factor is the use of different currencies with their inherent exchange rate differentials: the terms of trade, or alternatively the balance of trade. This produces a favorable result in some countries while it is unfavorable to others.

International trade increases competition and prevents the monopolistic control of the home market by local exporters. It also provides a stimulus to economic growth, developing technology and raising living standards. Overall, it provides wealth to the economy and extends opportunities to exchange ideas and develop the infrastructure of a country or region and its resources. Trade develops beneficial links between countries and encourages tourism and education. This brings both political and economic stability to a country or region.

There are more benefits for enterprises in the international trade, especially for export business.

(1) There is the potential for greatly increased company turnover;

(2) The product or service offered is more competitive. It reflects international market needs and conforms to a wider legal environment. So the company becomes more competitive in all areas of the business: product specification, management skill, and value added benefit transmitted to the buyer in both price and non-price areas – the latter featuring servicing warranty;

(3) Economies of scale are achieved through a larger order booking and better utilization of company resource, especially in the areas of production, design, administration and procurement;

(4) Company becomes more integrated with the market they serve. On the one hand it can

spread the risk and opportunities, on the other hand it can encourage the use of more high technology, which would not be obtained when serving only the domestic market which may be shielded through high import tariffs imposed to protect local manufacturers.

## Section 1.2 Differences between International Trade and Domestic Trade

The fundamental characteristic that makes international trade different from domestic trade is that international trade involves activities that take place across national borders. Thus when trade is executed beyond national frontiers, it is invariably subject to the political, social, economic and environmental policies of nations. Such policies have either encouraged or hampered the free flow of merchandise in international trade. Special problems that are not normally experienced when trading at home market may arise in international trade. In particular:

(1) Unlike domestic transactions in which only domestic currency is needed, international transactions might involve foreign currencies. As exchange rate fluctuations can be very great, this will create many problems and risks for international trade. A wise trader should have a good prediction of the fluctuation of exchange rate as well as a sound interpretation of its relation to currencies used for pricing and settlement.

(2) International trade brings together people with different languages and cultures. So a qualified trader must take into consideration different language habits, meanings and cultural differences so as to avoid unnecessary disputes when trading with other nations.

(3) In international trade, deals might have to be transacted under foreign laws, customs and regulations or subject to international rules. As these rules and regulations are largely different from country to country and international rules adopted by some countries may not be accepted by other countries. Before a specific transaction, it is wise for businessmen to be aware of these laws, customs or rules with a view to facilitating trading.

(4) Risk levels might be higher in foreign market than in domestic market. The risks include political risks of the imposition of restrictions on imports, etc.; commercial risks of market failure, products not appealing to foreign customers, etc.; financial risks of adverse movements in exchange rate, high rates of inflation reducing the value of a company’s working capital; and transportation risks. So a good trader needs to be sensitive to various risks in international trade and learn ways to minimize the negative impacts on his business.

(5) Compared to domestic trade, it is more difficult for dealers in international trade to get the necessary information of a particular firm in a foreign country. Control and communication systems are normally more complex for foreign trades than for domestic operations. It is also far more difficult to observe and monitor trends and activities in foreign countries. Therefore, managers engaged in international trade need a broader range of management skills than those involved only in domestic trade.

# Section 1.3 Laws and Practices Applicable to International Trade

To sign a sales contract, we need to base on the international trade practices, international treaties and related legislation. Therefore, to understand and be familiar with the relevant conventions, treaties and laws are significantly important for people who are dealing with international business.

## 1.3.1 Domestic Laws

National laws are binding on all companies who conduct business in the country. Companies dealing with both import and export can never excuse themselves from the laws of the sovereign state where they operate. There are some national laws related to the international sale of goods, such as Contract Law, Foreign Trade Law, Customs Law, Arbitration Law, Law on Negotiable Instruments, Law on Import and Export Commodity Inspection. As for the application of the law, China Contact Law Article 126 stipulates that parties to a contract involving foreign interests can choose the applicable law to process the contract dispute except as otherwise stipulated by law. If parties to a contract involving foreign interests have not made such a choice, the most connected country laws shall apply to the contract.

## 1.3.2 International Conventions

Conventions are legally binding agreements between states sponsored by international organizations, such as the United Nations. Treaties are legally binding agreements between two or more states. Both are binding on state members.

The most influential convention governing the international sale of goods is the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG). CISG was drafted with the participation of more than 62 states and 8 international organizations and adopted at a conference in Vienna on April 11, 1980. It incorporated rules from all the major legal systems, and accordingly received widespread support from both developed and developing countries. CISG came into force as a multilateral convention on January 1, 1988, after being ratified by 11 countries including Argentina, China, Egypt, France, Hungary, Italy, Lesotho, Syrian Arab Republic, the United States, Yugoslavia and Zambia. As of July 2017, it has been ratified by 89 states that account for a significant proportion of world trade, making it one of the most successful international uniform laws.

China approved CISG with two declarations on December 11, 1986. One of the declarations, the “Written Form” declaration, has been withdrawn since August 1, 2013. The other declaration that restricts the application of CISG only among contracting states is still valid.

### 1.3.3 International Rules

International trade customs are universally recognized as customary ways of doing business and explanation evolving in the long process of trade development. They have been compiled by relative international organizations into rules and regulations which are acquainted, recognized and adopted by many trading organizations in most countries, also revised to ensure rules remain consistent with changing international practices. The most influential and most important customs are INCOTERMS® 2020, URC 522 and Uniform Custom and Practice for Documentary Credits, 2007 Revision, I. C. C. Publication No. 600 (UCP600) set by ICC.

The most important difference between laws and rules is that rules have no legally binding effect unless they are integrated into contracts by concerned parties. The nature of international trade rules as follows:

(1) International trade customs are not compulsory since they are not legislations or laws for all countries, neither legislations nor laws of a certain country.

(2) When both parties cite one international custom, it becomes legally valid and both parties are subject to it.

(3) Even if the contract does not indicate which custom the contract is subject to, the custom still has binding force.

(4) If the contract clauses conflict with customs, the contract to be followed is as a basic principle.

(5) Both parties could make out some clauses different from customs when signing a contract on the principle first and contract freedom.

## Section 1.4 Procedures for International Trade

Among the various forms of international trade, export trade and import trade are the two most frequently referred trade forms in the world. They are actually two sides of the same transaction. The contract is the core element of international trade. Generally speaking, from the beginning to the end of a transaction, the whole operation undergoes five stages, namely the preparation of a transaction, the negotiation of the contract, contract signing, the performance of the contract and finally the settlement of disputes (if any). Most of the export transactions in our country are under CIF term with payment on L/C. For import transactions, they are usually under FOB term with payment by L/C.

An export/import transaction is very complicated and it may take quite a long time to complete it. Its operation covers many links that constitute part of the transaction. No matter what kind of commodity you deal with, generally, the whole operation usually undergoes four steps: preparation for exporting/importing, business negotiation, conclusion of a contract, and implementation of contract. Each step covers some specific links.

Briefly, the import and export procedures are indicated in Figure 1.1 and Figure 1.2 respectively. For more details, please see Chapter 12 performance of import and export contract.

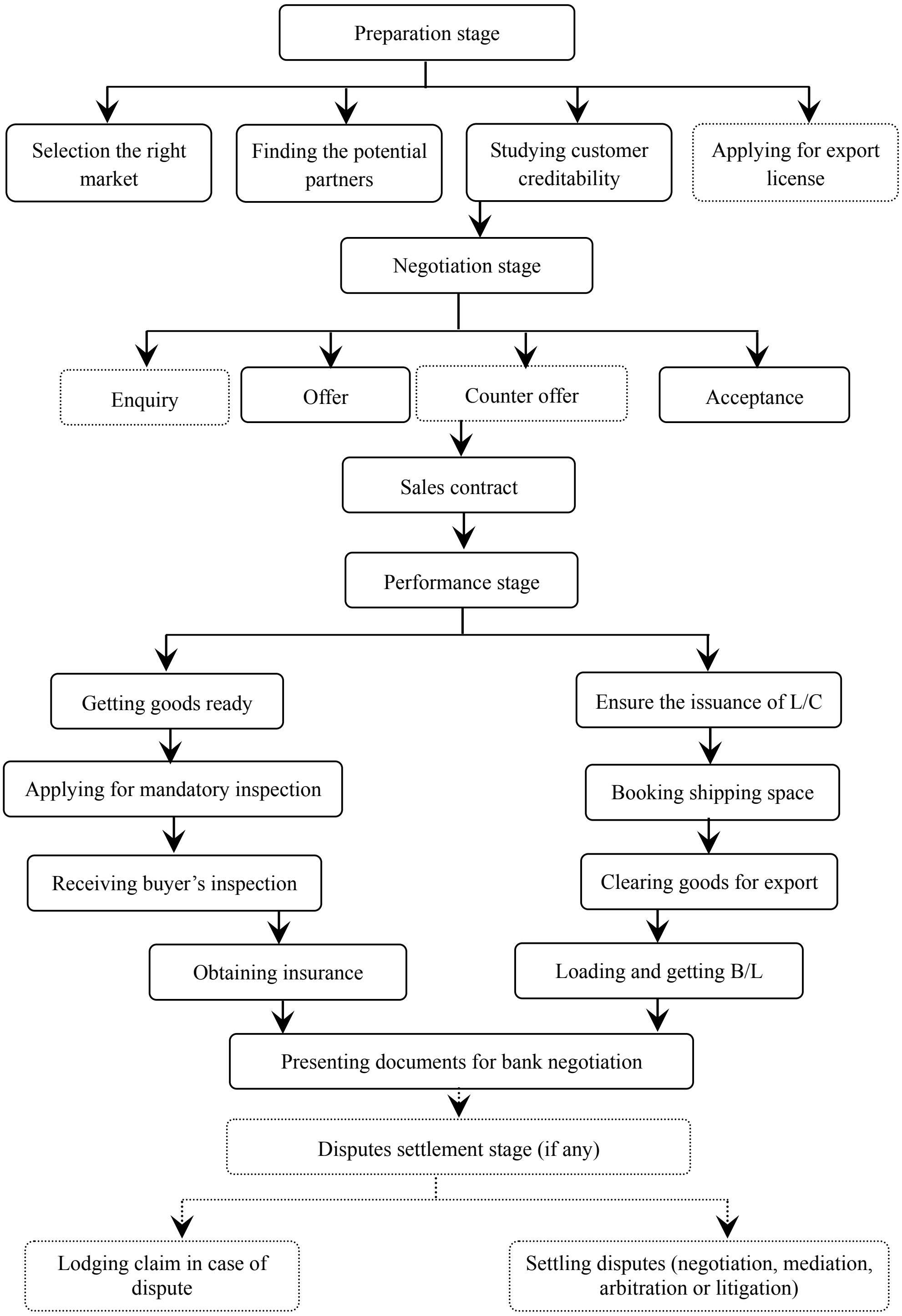


Figure 1.1 Flowchart of export procedure

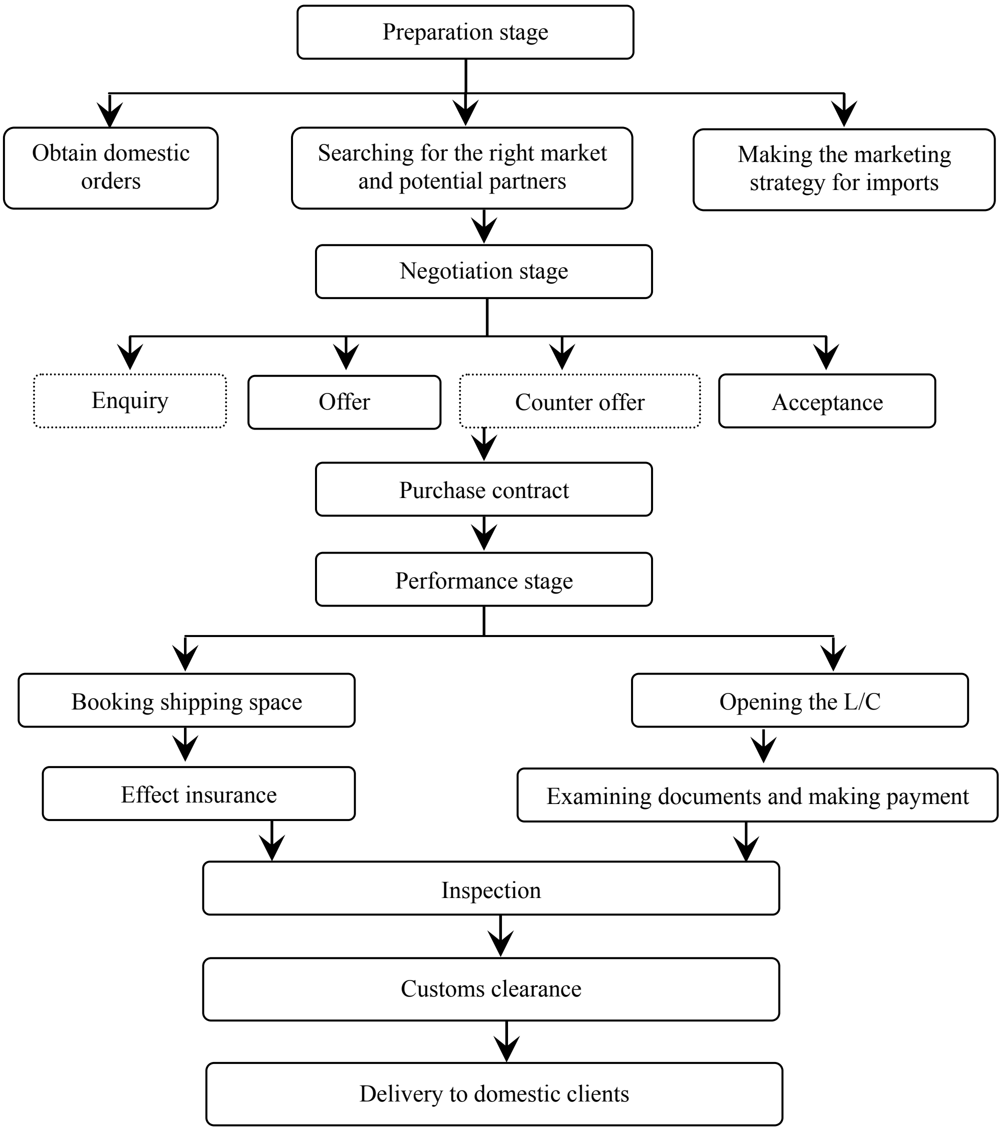


Figure 1.2 Flowchart of import procedure

## Summary

International trade procedure usually consists of the following steps: the preparation of a transaction, the negotiation of the contract, signing the contract, the performance of the contract and the settlement of disputes if applicable. International trade practice is a course with strong practicality. Other than introducing international trade theories, practices, and laws, it also emphasizes on practical skills and application. The objective of this course is to enable students to possess the practical skills for international trading business operation.

## Key Terms

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|---|---|
| trade terms | 贸易条件 |
| trade customs | 贸易惯例 |
| trade practice | 贸易实践 |
| import trade | 进口贸易 |
| export trade | 出口贸易 |
| sales contract | 销售合同 |
| export procedure | 出口程序 |
| import procedure | 进口程序 |

## Exercises

**I. Questions for comprehension**

1. What is international trade?
2. Explain the difference between international trade and domestic trade?
3. Why do nations conduct trade with one another?
4. What are the major benefits that result from international trade?
5. What are the procedures for both import and export trade?
6. What are the international trade customs?
7. What are the laws, rules and regulations related to the import and export of goods that should be paid attention to by Chinese companies?

**II. Fill in the following blanks with necessary information.**

1. It is common to find these resources being exported if a country has a natural deposit ________ its own requirement.

2. The parties to an international sales contract can choose________to process the contract dispute except as otherwise stipulated by law. If parties to a contract involving foreign interests have not made such a choice, ________laws shall apply to the contract.

3. The most influential and most important customs on L/C payment and trade terms are ________and________respectively.

4. International trade is different from domestic trade in that it is largely influenced by________, ________, ________ and________policies introduced by nations from time to time.

5. Apart from resources reasons, ________and________are also reasons for a nation to trade with other nations in the world.

6. Despite the difference between export trade and import trade, international trade procedures always fall into four main parts: ________, ________, and________.

**III. Please tell if the following statements are true or false and write T for True or F for False before each statement.**

1. ______Contract Law of PRC is the international convention that regulates the negotiation, conclusion and implementation of international sales contract.
2. ______International rules, such as UCP, have the same binding effect as laws.
3. ______Domestic laws could be ignored when we conduct business internationally.
4. ______There is no difference between domestic trade and international trade.
5. ______Import is an inverse process of export.

## Key to Exercises