

BOOK REVIEWS

International Commercial Law by John Mo (Butterworths, Sydney, 1997)
736pp. Price \$92.00 (soft cover). ISBN 0 409 31037 9.

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Overall, this book represents a thoughtful, industrious selection and presentation of the law in an eclectic, often technical area, and has many excellent features. Unfortunately, it suffers from serious writing problems, and one has to wonder if English is not the author's first language. This tends to detract unfairly from the intellectual worth of the writing and the readiness with which it can be absorbed.

Expressions such as 'literally means' (for 'means'), 'have good faith' (for 'act in ... '), 'guarantee the conformity of the goods' (for 'ensure conformity ... ') and 'means to define' (for 'means of defining') occur too frequently. So do inappropriate or missing prepositions, singular for plural expressions and others. This may cause confusion or irritation and, in isolated cases (such as the discussion of Liner Bills of Lading at p 235), it renders the text obscure.

Part One deals with preliminary issues. Chapter One contains a history of international commercial law, sampling trade and law in different eras and regions. This introduction is not quite as interesting, cohesive or useful as it might have been. For example, in reviewing the *lex mercatoria*, Dr Mo identifies three stages (medieval, 17-19th century and contemporary), then for no apparent reason chooses to review only the first. It might also have been appropriate in this context to refer to the claimed development of a new *lex mercatoria* during the last three decades.¹

The section examines the basic idea of international commercial law, and does a creditable job of defining it, and describes selected concepts and terms in relation to it, although some of the less important international organisations in the very comprehensive list provided might, with advantage, have been removed to an Appendix so as to focus the exposition. Chapter Three introduces conflict of laws effectively. The inclusion of so much discussion of a relatively arcane area of law in an introductory text may, however, be questioned. This is especially so when the important point is not made that parties to international contracts frequently can and should nominate their choices of forum and law so as to minimise the uncertainties of private international law.

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¹ See, for example, Mustill, 'The New Mercatoria: The First 25 Years' (1988) 4 *Arbitration International* 86.

Part Two, which deals with the international sale of goods, is comprehensive and helpful. The commentary on the provisions of the Vienna Sales Convention in Chapter Five is particularly well done, although it follows an excessively long description of some provisions of the *Sale of Goods Acts* that have been superseded by the Convention.

There are areas with which issue could be taken. The suggestion that UCP 400 art 25 (c) and UCP 500 art 26 treat the acceptance of charter parties differently is open to debate. Similarly, the treatment of 'actual carriers' under the Hamburg Convention in relation to through bills of lading appears to overlook the point that they are liable in addition to the carrier. These are matters of detail, however, which barely diminish an admirable treatment of contracts of sea carriage.

The book then moves on to finance, and deals with financial questions in a logically bifurcated way. It covers the means of financing international trade, commencing with a comprehensive, well located glossary, and then international banking and finance generally, before comprehensively summarising the law of international insurance.

Part Five deals with foreign investment. There is a good introduction to this, and the book discusses a number of well selected issues, such as the main forms of foreign investment and the significance of trade related investment measures. Chapter 12 brings this together well with a review of the relevant law in Australia, China, Taiwan and Japan.

Part Six Deals with the GATT. Chapter 13 contains basic terms and forms of international trade – a somewhat untidy mixture of two quite different concepts. Chapter 14 is headed 'GATT and Related Issues' but, again, it combines two different notions. Consideration of the GATT is followed by discussion of other issues like anti-trust law which are important but in fact unrelated to the GATT. The subject-matter is adequately covered, but this structure is a little puzzling. It seems that the treatment of the GATT is perhaps more detailed than its indirect effect on international commercial law justifies.

Part Seven describes the important issue of settling international commercial disputes. Apart from the inclusion of yet more analysis of conflict of laws, this is well presented.

The Appendices contain the Vienna Sales Convention, the *Carriage of Goods by Sea Act (1991)* (Cwlth), the OECD Guidelines for Multinational Enterprises and selected Provisions of GATT. The first two, of most importance, contain helpful boxed commentary.

The book makes good use of well chosen case summaries, although (for reasons already discussed) some are not abstracted to perfection.

Understandably perhaps, with a first edition, some revision and editing would improve matters. Nonetheless, *International Commercial Law* is well worth consideration as a teaching text, written from an Australian perspective. Although some traditional academic orthodoxy remains, its style is 'user-friendly' to a fair degree and some of the excitement of this area of law shines through.