

Table of contents

	<i>pag.</i>
Foreword	IX
Chapter 1	
What is an international contract?	
1.1. Contract: the legal instrument by which private parties enter and govern a business relationship between them	1
1.2. International contract	2
1.3. International trade contract	2
1.4. Private international law and international civil procedural law	3
1.5. The closest connection	4
1.6. Characterisation, qualification or classification	5
Chapter 2	
Applicable Law	
2.1. Parties' autonomy in assuming contractual undertakings	7
2.2. The principle of freedom of choice	8
2.3. <i>Lex mercatoria</i>	8
2.4. Drafting tips	9
2.5. Mandatory rules and public policy (" <i>ordre public</i> ")	10
2.6. Absence of choice by the parties	10
2.7. Harmonisation of private international law at international and European Union levels	11
2.8. Relationship between different sources of private international law	12
Chapter 3	
Negotiation of international contracts	
3.1. Contract formation	15
3.2. Negotiation	18
	V

3.3. Good faith	19
3.4. Pre-contractual documents: the letter of intent	21

Chapter 4

Drafting of international contracts

4.1. Introduction	25
4.2. The role of lawyers and law firms in cross border transactions	26
4.3. Drafting style and standards	26
4.4. The language of contracts	28
4.5. Well-drafted contracts	30
4.6. Introductory elements	31
4.7. The body of obligations: contractual clauses	33
4.7.1. (i) Typical clauses	34
4.7.2. (ii) Tailored common clauses	35
4.7.3. (iii) Validity and effectiveness clauses	36
4.7.4. (iv) Risk allocation clauses	39
4.7.5. (v) Dispute resolution and applicable law clauses	44

Chapter 5

Jurisdiction

5.1. Judicial settlement of contractual disputes	47
5.2. Jurisdiction clause (parties' freedom of choice)	48
5.3. Drafting tips	49
5.4. Harmonisation of civil procedural law in Europe	50

Chapter 6

International arbitration and alternative dispute resolution

6.1. Alternative (or amicable) dispute resolution: a definition	53
6.2. Arbitration	54
6.3. Legal framework and international arbitration institutions	56
6.4. Arbitration versus litigation	57
6.4.1. The pros	58
6.4.2. The cons	60

	<i>pag.</i>
6.5. The arbitration clause	62
6.5.1. Arbitration clause versus arbitration agreement	62
6.5.2. “Arbitrability” of the dispute	64
6.6. The place of arbitration	64
6.7. The arbitrators: one or more?	66
6.8. Recognition and enforcement of the arbitral award	67

Chapter 7

International sale of goods contracts

7.1. Basic features	71
7.2. The United Nations Convention on Contracts for the International Sale of Goods (CISG)	72
7.3. Key provisions of the CISG	73
7.4. CISG “opt-out” option	74
7.5. Incoterms	75

Chapter 8

Distribution contracts

8.1. The concept	83
8.2. Basic features	84

Chapter 9

Agency contracts

9.1. Concept and basic features	97
9.2. The Agent	98
9.3. The Principal	99
9.4. Additional key features characterising the Principal-Agent relationship	100
9.5. Applicable law	101
9.6. Main differences between agency and distribution contracts	101

Chapter 10

Franchise contracts

10.1. Concept and basic characteristics	113
10.2. Obligations of the franchisor	114
10.3. Obligations of the franchisee	114

	<i>pag.</i>
10.4. Other key provisions	115
10.5. Main differences between franchise, agency and distribution contracts	115

Chapter 11

Joint ventures

11.1. Basic features	129
11.2. Types and basic principles	130
11.2.1. Contractual JV	130
11.2.2. Incorporated/corporate/Equity JV	131
11.3. Common principles	132
11.3.1. The principle of personality (<i>intuitus personae</i>)	132
11.3.2. The principle of consensus	133
11.4. Governing law	133
11.5. Chinese-foreign equity joint ventures (EJV)	133

Annexes

United Nations Convention on contracts for the international sale of goods (1980) [CISG]	151
Regulation (EC) No 593/2008 of the European Parliament and of the Council	175
INCOTERMS® 2010 Chart – Who pays?	193
Regulation (EU) No 1215/2012 of the European Parliament and of the Council	195
United Nations Convention on the recognition and enforcement of foreign arbitral awards (New York, 10 June 1958)	225