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INTERNATIONAL BUSINESS LAW

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TABLE OF CONTENTS

TOPIC 1
FORMS OF INTERNATIONAL BUSINESS

Economic Interdependence and Globalization. Many economists and business experts realize that no business is purely domestic and that even the smallest local firms are affected by global competition and world events. The realities of the modern world make all business international. No longer can an economic or political change in one country occur without causing reverberations throughout world markets. A terrorist event in London, or in the Philippines, is reflected on international stock exchanges and brings entire economies to their knees. War in the Middle East brings international shipping to a standstill. A civil war on the African continent affects the price of commodities in London and New York. A change in interest rates in Germany affects investment flows and currency exchange rates in the U.S. Disruption anywhere in the supply chain of today's globally connected manufacturing plants brings distant assembly lines to a halt. The failure of China to safeguard American copyrights on films or software results in the United States imposing retaliatory tariffs and affects the price of Chinese-made clothing in American stores. Terrorist attacks not only affect business operations worldwide, but also affect the ability of managers to travel and live safely in foreign lands.

Perhaps nowhere is global economic interdependence more obvious than in the context of the spread of infectious disease. Whether it be "mad cow" affecting English cattle, or infectious respiratory disease affecting people from Toronto to rural China, the impact of infectious disease can now ripple through the world's economy within days. Indeed, in recent years the effects of terrorism and infectious disease has been felt by international business travel and tourism and affected the global operations of firms on all continents. The world today is more economically interdependent than at any other time in history, and this has led to the globalization of product, service, and capital markets.

Economic interdependence is the result of many factors. Precious natural resources and raw materials are located around the world. Technological advances in travel, shipping and communications, and the Internet have brought people closer together. Nations have moved away from protectionism and increasingly toward free trade, opening markets for goods and services that were once closed to foreign competition. The world has seen a steady movement toward economic integration and the development of free trade areas and "common markets" among nations. Greater political stability in the developing countries has led to increased foreign investment, industrialization, and the integration of those nations into the world economy. Economic interdependence also can be attributed to the sharing of technology and knowhow, with patents, copyrights, and trademarks now licensed for use around the globe as freely as goods and services are sold. The interrelatedness of financial markets, the worldwide flow of capital, and the coordination of economic policies between nations have had a tremendous impact on the global economy. Giant multinational corporations now move people, money, and technology across national borders in the blink of an eye.

Political changes in the last two decades have further increased economic interdependence. Throughout the world, countries are moving toward greater political freedom and democracy. The breakup of the Soviet Union in 1991 into independent republic opened those countries to opportunities for investment by Western companies. It also freed much of Eastern and Central Europe from communist oppression, leaving them open for foreign investment. As these nations converted from closed communist-dominated governments to a free-market economic system based on private enterprise, they became more economically integrated with the rest of the world. A similar phenomenon is now occurring in Latin America and parts of Asia. Many of these countries that were once ruled by military dictatorships have moved to democracy. This new freedom opens them up to foreign investors and helps to integrate them into the world's economic community.

With interdependence, nations realized the need to reach agreement on important legal issues. This led to the development of widely accepted legal norms and conventions to provide a stable and consistent legal environment for firms doing business across national borders. In summary, the factors that yet hold the greatest promise for change are the growth of democracy, the resurgence of market-oriented economies, and the decline of socialism. Perhaps the greatest challenges are those from international terrorism, entrenched poverty, declining natural resources, environmental degradation, and the risk of widespread infectious disease.

Forms of International Business. There are three main forms of doing business internationally: (a) trade, (b) licensing of technology and intellectual property rights (trademarks, patents, and copyrights), and (c) foreign direct investment. Each form represents a different level of commitment to a foreign market, a different level of involvement in the life of a foreign country, and a different set of managerial challenges. Each form exposes the firm to a different set of business and legal risks. Trade usually represents the least involvement, and thus the least political, economic, and legal risk, especially if the exporting firm is not soliciting business overseas or maintaining sales agents or inventories there. The ownership of a foreign firm carries with it the obligations of corporate citizenship and means the complete involvement in all aspects of life in the foreign country—economic, political, social, cultural, and legal. Considerable overlap occurs among these different forms of doing business. A business plan for the production and marketing of a single product may contain elements of each form. To illustrate, a U.S. firm might purchase the rights to a trademark for use on an article of high-fashion clothing made from fabric exported from China and assembled in offshore plants in the Caribbean for shipment to the United States and Europe. Here, a business strategy encompasses elements of trade, licensing, and investment. For firms just entering a new foreign market, the method of entry might depend on a host of considerations, including the sophistication of the firm, its overseas experience, the nature of its product or services, its commitment of capital resources, and the amount of risk it is willing to bear.

A. Trade

Trade consists of the import and export of goods and services. *Exporting* is the shipment of goods out of a country or the rendering of services to a foreign buyer located in a foreign country. *Importing* is the entering of goods into the customs territory of a country or the receipt of services from a foreign provider. Trade is as old as the oldest civilization. Throughout history, countries traded to obtain needed items that were not readily available in their country. The marketplaces of Europe, Africa, Asia, and the Middle East had been the scene of trade for hundreds of years before seaborne trade became established. By the sixteenth century, the first international sea trade routes were established by the Europeans. With the advent of great naval power, Portugal and Spain opened the Americas, India, and the Pacific to trade. Portuguese was the language of the ocean traders. Portugal purchased textiles from India and China with gold taken from Africa. They traded Chinese porcelain to Spain for gold that Spain had taken from Mexico. By the eighteenth century, the Dutch had created a great trading empire based on pepper and spices, and England relied on America for tobacco, corn, and cotton. For more than three hundred years, trade in horses, weapons, and slaves thrived.

1. Forms of Trade: Exporting and Importing

(a) *Exporting*. Exporting is often a firm's first step into international business. Compared to the other forms of international business, exporting is relatively uncomplicated. It may provide the inexperienced or smaller firm with an opportunity to reach new customers and to tap new markets. It usually requires only a modest capital investment, and the risks are generally manageable by most firms. It also permits a firm to explore its foreign market potential before venturing further. For many larger firms, including multinational corporations, exporting may be an important portion of their business operations. An export plan should especially consider the following: (i) assessing the firm's readiness for export markets by evaluating its success in domestic markets and its willingness to commit financial resources, human resources, and production output to export markets, (ii) making a long-term commitment to exporting and to foreign customers on the part of senior management and executives, (iii) identifying foreign-market potential of the firm's products, including economic, political, cultural, religious, and other factors, (iv) identifying the risks involved in exporting to that foreign market, including an evaluation of cost-effective shipping arrangements, banking arrangements for getting paid, and political risks, (v) evaluating the legal aspects of the firm's export plan for compliance with government rules and customs regulations, including identifying legal controls on exporting its products out of the country of origin as well as legal barriers to importing and selling its products in the foreign country, and whether there are any patents, copyrights, or trademarks that have to be protected abroad, (vi) determining the export readiness and suitability of the firm's products for the export market; whether the products meet the quality standards, technical regulations, and foreign language requirements of foreign countries, and whether any redesign, re-engineering, or relabeling of products is needed, (vii) identifying members of the "export team," comprising management, outside advisors, and trade specialists from banking, shipping, and Government, (viii) identifying possible financing arrangements to assist foreign buyers, (ix) establishing foreign market channels of distribution, including deciding whether to export directly to customers or indirectly through intermediaries, deciding whether to use a sales representative or foreign distributor, identifying potential buyers, and participating in foreign trade shows and (x) re-evaluating the firm's export performance over time, reconsidering its export plan, and determining whether the firm should increase its penetration of foreign markets beyond exporting.

Firms accept varying levels of responsibility for moving goods and money and for other export functions. The more experienced exporters can take greater responsibility for themselves and are more likely to export directly to their foreign customers. Firms that choose to accept less responsibility in dealing with foreign customers, or in making arrangements for shipping, for example, must delegate many export functions to someone else. As such, exporting is generally divided into two types: direct and indirect.

Direct exporting refers to a type of exporting where the exporter, often a manufacturer, assumes responsibility for most of the export functions, including marketing, export licensing, shipping, and collecting payment. At first glance, direct exporting seems similar to selling goods to a domestic buyer. A prospective foreign customer may have seen a firm's products at a trade show, located a particular company in an industrial directory, or been recommended by another customer. A firm that receives a request for product and pricing information from a foreign customer may be able to handle it routinely and export directly to the buyer. With some assistance, a firm can overcome most hurdles, get the goods properly packaged and shipped, comply with all legal requirements, and receive payment as anticipated. Although many of these one-time sales are turned into long-term business success stories, many more are not. A successful exporter will develop a regular business relationship with its new foreign customer. However, the problems that can be encountered even in direct exporting are considerable.

Many firms engaged in direct exporting on a regular basis reach the point at which they must hire their own full-time export managers and international sales specialists. These people participate in making export marketing decisions, including product development, pricing, packaging, and labeling for export. They deal with foreign buyers, attend foreign trade shows, and ensure compliance with government export and import regulations, for shipping and for handling the movement of goods and money in the transaction. Many direct exporters utilize the services of foreign sales representatives or foreign distributors.

Foreign sales representatives are independent sales agents that solicit orders on behalf of their principals and are compensated on a commission basis.

Typically, they sell at the wholesale level to customers for commercial resale. Sales agents do not take ownership or possession of the goods, or bear any risk in the transaction. They simply bring buyer and seller together. They have the advantage of knowing the foreign market, having established customer loyalty, and of carrying a range of complementary products. For instance, they may represent several different manufacturers of U.S. sporting goods in Japan—one that makes baseball bats, another than makes gloves, and a third that makes baseballs.

Foreign distributors are independent firms, usually located in the country to which a firm is exporting, that purchase and take delivery of goods for resale to their customers, often used when the products involved require service or a local supply of spare parts or are perishable or seasonal. They assume the risks of buying and warehousing goods in their market and provide additional product support services. The distributor usually services the products they sell, thus relieving the exporter of that responsibility. They often train end users to use the product, extend credit to their customers, and bear responsibility for local advertising and promotion.

Indirect exporting is used by companies that do not have the experience, personnel, or capital to tackle a foreign market by themselves. They may be unable to locate foreign buyers or are not yet ready to handle the mechanics of a transaction on their own. By indirect exporting, the firm can use specialized intermediaries that can take on many of the export functions—marketing, sales, finance, and shipping. Two types of intermediary include export trading companies and export management companies.

Export trading companies, commonly called ETCs, are companies that market the products of several manufacturers in foreign markets. They have extensive sales contacts overseas and experience in international finance and shipping. Large Japanese export trading companies are well known for their success in exporting the products of Japanese firms that are competitors in Japanese domestic markets. This has given the Japanese the competitive advantage of being able to penetrate overseas markets with a range of products from companies that are stiff competitors at home, and to do it in a way that takes advantage of economies of scale in exporting. There are many advantages in selling through an ETC: teaming up to bid on large foreign projects, filling large and complex foreign orders, joint marketing of complementary or competing products, division of foreign territories by competing firms, sharing of marketing and distribution costs, and reducing rivalry between national firms in dealing with foreign customers.

Export management companies, or EMCs, are independent firms that assume a range of export-related responsibilities for manufacturers, producers, or other exporters. They might do as little as render advice and training on how to export, or they might assume full responsibility for the entire export sales process. Many EMCs specialize in specific industries, products, or foreign markets. They are used by firms that cannot justify their own in-house export departments. They often engage in foreign market research, establish foreign channels of distribution, exhibit goods at foreign trade shows, work with foreign sales agents, prepare documentation for export, and handle language translations and shipping arrangements. As in direct exporting, all forms of indirect exporting can involve sales through agents or to distributors.

(b) *Importing*. Importing is the entering of goods into the customs territory of a country or the receipt of services from a foreign provider. Importing is not to be viewed in the isolated context of a single transaction. True, many importers do import only on a limited or one-time basis. However, for many firms, importing is a regular and necessary part of their business. *Global sourcing* is the term commonly used to describe the process by which a firm attempts to locate and purchase goods or services on a worldwide basis. These goods may include, for example, raw materials for manufacturing, component parts for assembly operations, commodities such as agricultural products or minerals, or merchandise for resale.

2. Government Controls over Trade: Tariffs and Non-tariff Barriers

Trade Law. Nations regulate trade for several important reasons, including collection of revenue, regulation of import competition, retaliation against foreign trade barriers, implementation of foreign policy or national economic policy, national defense, protection of natural resources and the environment, protection of public health and safety, and protection of cultural values or artifacts. Both importing and exporting are governed by the laws and regulations of the countries through which goods or services pass. The most common methods of trade regulation are tariffs and nontariff barriers.

Tariffs are import duties or taxes imposed on goods entering the customs territory of a nation. Tariffs are imposed for many reasons. They may include (1) the collection of revenue, (2) the protection of domestic industries from foreign competition, (3) retaliation against another country or countries for imposing tariffs higher than agreed or for placing other unfair restrictions on their imports, or (4) to impose political or national security controls. For example, some tariffs provide incentives to import products from politically friendly countries and discourage the importing of products from unfriendly countries. Most tariff rates today are determined by agreement between nations.

Non-tariff barriers are all barriers to importing or exporting other than tariffs. They generally take the form of laws or administrative regulations that have the effect, directly or indirectly, of restricting access of foreign goods or services to a domestic market. These regulations are not necessarily enacted for the explicit purpose of restricting trade—for keeping out foreign goods and services that compete with local firms—but they may have that effect. Many laws and regulations exist to protect the national economic and social well-being of a nation. These include health and safety regulations, environmental regulations, and industrial and agricultural standards, for example. Here are a few common examples: Some nations may permit the sale of certain genetically modified foods, while other nations may not. One nation may prohibit the sale of a certain pharmaceutical drug, even though it is considered safe and commonly sold in other countries. And virtually all nations require imported goods to be marked with the name of the foreign country of origin and labeled in their local language so that consumers know what they are buying. To the manufacturer with a global marketing strategy, these are examples of direct non-tariff barriers to foreign market entry.

Non-tariff barriers are generally a greater barrier to trade than are tariffs because they are more insidious. Unlike tariffs, which are published and easily understood, non-tariff barriers can be disguised in detailed administrative codes, written in the local language, and not generally made available to foreign firms. It has not been uncommon, especially in some developing countries, for the regulations to be available only to local customs inspectors who use these to deny or delay entry to foreign goods (after the goods have been made, labeled, packaged, and shipped to the foreign market's port of entry).

Both tariffs and non-tariff barriers have a tremendous influence on how firms make their trade and investment decisions. These decisions, in turn, are reflected in the patterns of world trade and the flows of investment capital. Consider this illustration. In 1992, the European nations virtually eliminated trade barriers among themselves. In the years prior to this event, companies from the United States, Canada, and Japan invested heavily in Europe. They purchased existing firms there and established new ones. If they had stayed on the "outside" and remained content to export to Europe, they would have lost competitiveness to firms within Europe. However, by manufacturing there, they could sell within Europe on the same basis as other European firms. Similar capital investment flows occurred in Mexico in the early 1990s as a result of the creation of a free trade area between Mexico, the United States, and Canada. For example, when Japanese firms learned that Mexican-made products could be shipped to the United States and Canada with few tariffs and non-tariff barriers, companies from Japan quickly sought to establish manufacturing facilities in Mexico to take advantage of changes in trade laws.

Other obvious non-tariff barriers include quotas, embargoes, and boycotts. A *quota* is a restriction imposed by law on the numbers or quantities of goods, or of a particular type of good, allowed to be imported. Unlike tariffs, quotas are not internationally accepted as a lawful means of regulating trade except in some special cases. The term *embargo* is generally used when referring to a total or near-total ban on trade with a foreign country or countries. Embargoes can include restrictions on imports or exports, on financial transactions with the foreign country, or on travel between the countries. Total or partial embargoes are often a response to countries that support terrorism, nuclear proliferation, or severe violations of human rights. Internationally orchestrated embargoes were used against Iraq after its invasion of Kuwait in 1990, and later when it was thought that Iraq was producing weapons of mass destruction. The United States has maintained an embargo on Cuba since the early 1960s. Since 2015, the two have reestablished diplomatic ties and travel restrictions have been eased. A *boycott* is a refusal to trade or do business with certain firms, usually from a particular country, on political or other grounds. Under certain circumstances, it can be illegal for a private firm or citizen to participate in a boycott. An example is the Arab boycott of Israeli products and firms.

An *export control* is a restriction on exports of goods, services, or technology to a country or group of countries imposed for reasons of national security or foreign policy. Licensing requirements can apply to exports of almost any type of goods or technology, although advanced technology items that can contribute to the military capability of a foreign nation are most strictly regulated. In some cases, the mere sharing of technological or scientific information with a foreign national, without an export license, can be illegal. Before signing a contract for the sale of certain products or technical know-how to a foreign customer, national exporters must consider whether they will be able to obtain national licensing for the shipment.

Trade liberalization refers to the efforts of governments to reduce tariffs and non-tariff barriers to trade. In the twentieth century, the most important effort to liberalize trade came with the international acceptance of the *General Agreement on Tariffs and Trade* (GATT). This is an agreement between nations, first signed in 1947, and continually expanded since that time, that sets the rules for how nations will regulate international trade in goods and services. In 1995, the Geneva-based *World Trade Organization* (WTO) was created to administer the rules and to assist in settling trade disputes among its member nations. All WTO nations are entitled to normal trade relations with one another. This is sometimes referred to as most favored nation (MFN) trading status. This means that a member country must charge the same tariff on imported goods, and not a higher one, as that charged on the same goods coming from other WTO member countries.

The GATT includes the original 1947 agreement, the 1994 agreement that founded the WTO, and many side agreements on specific trade issues. The original agreement only covered trade in goods. In 1994 a General Agreement on Trade in Services was added. GATT's major principles are a commitment to multilateral trade negotiations, tariff bindings, nondiscrimination, and unconditional MFN trade, national treatment, and the elimination of quotas and other non-tariff barriers. Through multilateral trade negotiations at the WTO, countries agree to reduced tariffs on individual items and become "bound" to those tariff rates. This is found in their "tariff binding," which is kept on record at the WTO. This rate then appears in that country's tariff schedules. The schedules are made available to all exporting and importing countries.

WTO dispute settlement procedures provide a legal forum for nations to resolve trade disputes. No single country can veto the decisions of a WTO panel. If a settlement is not reached, the WTO Dispute Settlement Body may authorize one country to impose retaliatory tariffs against another one that has violated a GATT agreement. The principles of most favored nation (MFN) trade mean that a nation must accord products imported from any country with which it has MFN trading status the most favorable treatment or the lowest tariff rates that it gives to similar products imported from other MFN countries. Unconditional MFN treatment means that if a country negotiates a lower tariff rate with one MFN country, that rate is automatically applicable to all MFN countries. Under the national treatment provisions of GATT, imported products must not be regulated, taxed, or otherwise treated differently from domestic goods once they enter a nation's stream of commerce. GATT outlaws most quantitative restrictions on imports, such as quotas. Quotas on imported products are permitted only in certain situations, such as when a nation has insufficient foreign exchange to meet its foreign payments obligations.

The Uruguay Round trade negotiations resulted in many important trade agreements designed to remove trade barriers and improve access to foreign markets, including agreements on technical barriers, import licensing, government procurement, trade in services, agriculture, and textiles.

The WTO Agreement on Technical Barriers to Trade does not set standards of its own for product performance, design, safety, or efficiency, but it guides nations in the application of their own regulations and standards through legal principles of nondiscrimination, transparency, and MFN trade. The agreement applies broadly to regulations imposed to protect the public health, safety, and welfare, including consumer and environmental protection. Health and safety regulations may not be used unless they are "trade neutral" and restrict trade no more than necessary, according to the principle of least restrictive trade.

Governments are some of the largest consumers of goods and services in the world. The WTO Agreement on Government Procurement requires that countries "free up" their procurement policies and practices by giving foreign firms equal access to bidding on government contracts and by providing transparent and easily obtained rules for submitting bids.

An increasingly important percentage of world trade is in services. The General Agreement on Trade in Services (1995) applied basic GATT principles to service industries for the first time since 1947. This agreement has already opened access to foreign markets in construction, engineering, health care, banking, insurance, securities, transportation, and the professions.

Dumping is the unfair trade practice of selling goods in a foreign country for less than the normal value of like products in the home market. It is a form of international price discrimination by exporters. National laws and practices on antidumping must follow the basic framework of the WTO Agreement on Antidumping. Antidumping duties can only be imposed on dumped products by the country of import where the dumping causes or threatens material injury to a domestic industry producing like products. Much of the litigation in this area involves determining normal value and the calculation of the dumping margin.

A *subsidy* is a financial contribution or benefit conferred by a government to a domestic firm or firms, directly or indirectly, to achieve some industrial, economic, or social objective. Subsidies that are prohibited include export subsidies, import substitution subsidies, and adverse effects subsidies. The WTO Agreement on Subsidies and Countervailing Measures permits the country of import to impose countervailing duties (CVDs) on illegally subsidized imports to offset the value of the benefit.

A *free trade area* (FTA) is created when a group of countries agrees to eliminate or phase out customs duties and other barriers to trade among the member countries as to goods originating in the FTA countries.

In a *customs union*, there is free trade of all goods that come through any of the union's members, even if they made it to a member through importation from outside the customs union. Because of this, a customs union can only function if all of its members agree to a common tariff on imports from outside the union and a common institution to negotiate such tariffs on behalf of the group.

A "*common market*" is a customs union that has reached a further state of integration. In addition to assuring the free movement of goods within the customs union, a common market seeks to further facilitate free competition within the union and protect the right of all enterprises and persons within the area to do business, invest capital, and sell their services within the area without discrimination on the basis of national origin. To achieve free economic competition in a common market, the members of the market establish common rules relating to anti-competitive behavior and subsidization of industry. Further, a court with jurisdiction and power to enforce its rulings is necessary to ensure compliance with the market's norms. The European Union (EU) is an example of a common market.

The provisions of the WTO Agreement do not prevent formation of a customs union or FTA. The WTO treats such a grouping as an economic actor and requires that tariffs against those outside the grouping not be increased as a consequence of the group's formation.

Free trade areas and customs unions are developing in many parts of the world. The success of these efforts has varied widely. The most successful have been NAFTA, CARICOM, the Gulf Cooperation Council, and the South African Customs Union, each of which have established customs unions and are moving toward integration as a common market.

Approaching this level of success are ASEAN and the Greater Arab Free Trade Area, which have established free trade areas and institutions that will negotiate tariff policy on behalf of all group members. A number of other country groups have achieved little economic integration to date. These include the African Economic Community, the Andean Community, APEC, COMESA, MERCOSUR, and the South African Development Community.

The North American Free Trade Agreement between Canada, Mexico, and the United States went into force in 1994. It created the world's largest free trade area, encompassing a market of about 445 million people and a combined gross domestic product of over $15 trillion. By 2008, all tariffs on goods originating and traded in Canada, Mexico, and the United States were eliminated. NAFTA tariff rates apply only to articles that originate in Canada, Mexico, or the United States. NAFTA's national treatment principle is similar to that found in GATT. It states that once goods arrive from another NAFTA country, they must be treated without discrimination and no differently than domestically made goods.

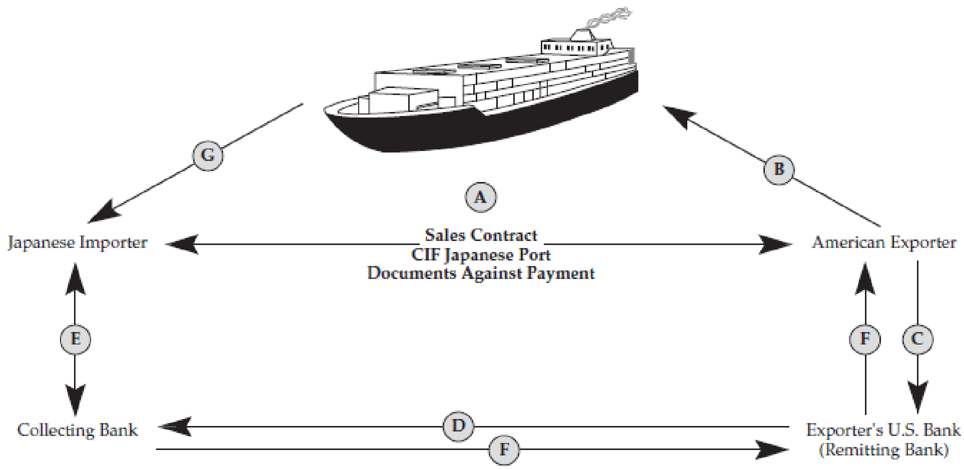
3. Documentary Sales, Transportation of Goods, Trade Finance

a. Documentary Sales

The *documentary sale* is one type of contract for the international sale of goods, utilizing ocean transport, in which the buyer is required to pay upon the presentation of a negotiable document of title by the seller. The parties might indicate their desire for a documentary sale by specifying in the contract that payment terms are "cash against documents" or "documents against payment." The documentary sale is critical to world trade because it allows the holder of the document of title to trade in the goods while they are still at sea. The documents may be bought and sold many times before they reach a final destination. In a documentary sale, the buyer is given no opportunity to inspect the goods. In essence, the buyer is not buying goods, but is buying documents that represent ownership of the goods. Cargo insurance is a key component of documentary sales.

A *bill of lading* is a document of title issued by an *ocean carrier* to a shipper upon receiving goods for transport. Bills of lading can be negotiable or non-negotiable. Non-negotiable bills are contracts of carriage and receipts for depositing goods with a carrier for shipment. Additionally, negotiable bills of lading serve as a document of title. Only negotiable bills of lading can be used in the documentary sale. In a documentary sale, the seller's basic obligation is to ship the goods in accordance with the contract and to tender a clean bill of lading to the buyer. The buyer's obligation is to purchase the *bill of lading* when presented by a bank in the buyer's country. A "clean" bill is one with no notations from the carrier or carrier's agent indicating that damage to the goods was observable at the time of loading.

The Documentary Sale



A. Sales contract calls for documentary sale.
B. Documents prepared—export licenses obtained—goods delivered to carrier.
C. Negotiable bill of lading, insurance policy, certificate of origin, invoice with draft attached presented to remitting bank.
D. Documents forwarded for collection through international banking system.
E. Documents presented for negotiation on payment.
F. Payment remitted and exporter's account credited.
G. Importer claims goods and makes entry.

A *bill of exchange* or *international draft* is a specialized type of *negotiable* instrument commonly used to expedite foreign money payments in many types of international transactions. When a draft is negotiated to a *holder in due course*, that party takes it free from most disputes that might arise between the drawer and drawee (the original parties to the underlying transaction). This protection for the holder in due course allows banks and other parties to purchase or accept drafts without fear of becoming embroiled in litigation over the original contract for which the draft was drawn. A draft that may be paid upon presentation or demand is known as a *sight draft* (payable "on sight"). The sight draft is prepared by the seller and presented with the shipping documents through banking channels, moving from the seller's bank in the country of export to a foreign correspondent bank in the buyer's country and city. The draft is thereby sent "for collection". The *documentary collection* is the process by which