



国际贸易实务

Chapter 3 Contracts for the International Sale of Goods

Chapter 3 Contracts for the Sale and Purchase of International Commodity

Teaching Plan

Teaching Contents

Section One Definition of a Contract

Section Two Formation of Contract

Section Three Performance of Contract

Teaching time: Two-class hour (90 minutes)

Learning Objectives

1. Master the definition, types of contract
2. Master the formation and main contents of a contract
3. Learn to draw up a contract
4. Understand how to perform contracts



Important Points:

1. Main contents of a contract
2. Draw up a contract

Difficult Points:

1. Main contents of a contract
2. Draw up a contract

Teaching Methodology:

Questions and Answers; Presentation; Group discussion; case analysis

Teaching Aids:

PPT, blackboard, multimedia classroom



Section One Definition of the Contract

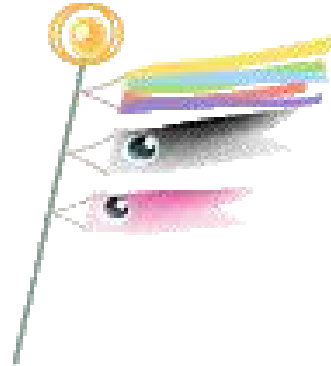
1. Definition of the Contract

A contract is an agreement between two or more competent parties in which an offer is made and accepted, and each party benefits.



2.Types of Contracts In Writing

- Contract
- Confirmation
- Agreement
- Memorandum
- Letter of Intent
- Order



(Please log into: <http://222.200.98.43/trade>)



Section 2: Formation and main contents of a contract

1. Formation of contract

- (1) Written contract
- (2) Oral form
- (3) Other forms



According to our country's stipulations, only written contracts are valid in international trade



Section 2: Formation and main contents of a contract

2. Main parts of a contract

1) Preamble

The preamble usually includes title, number, date and place of signing, signing parties, each party's authority, recitals whereas clause and so on.

2) Body

The body of a business contract usually includes definition clause, general terms and conditions, basic conditions, duration, termination, assignment, force majeure, government law, arbitration, jurisdiction, notice, entire agreement clause, amendment and so on.

3) Witness clause

The witness clause usually includes language validity, copies, in the presence of, annex, signature, seal and so on.



Section 2: Formation and main contents of a contract

4. Main contents of a business contract





中文

Body

Name of commodity

Quality

Quantity

Package

Price

Payment

Transport and insurance

The time limit and place
of performance

The prevention and
handling of dispute





NAME OF COMMODITY

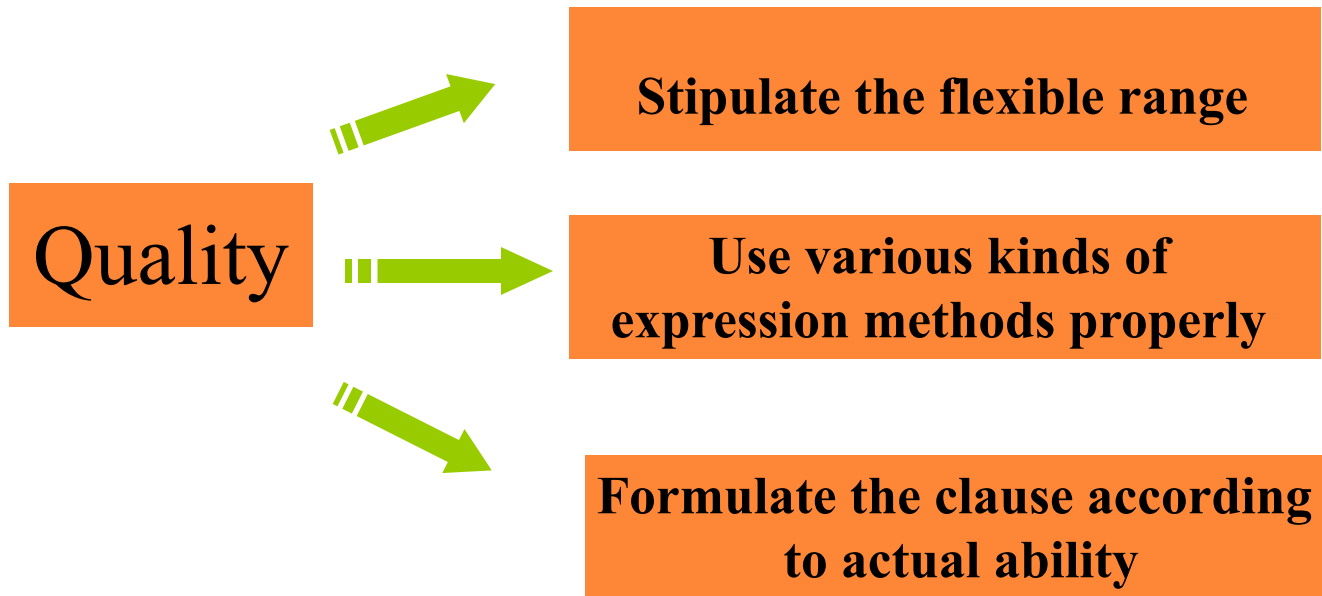
- Generally, this clause is relatively simple, we always list the names that in the offer or counter-offer under the article of **Name of Commodity**.

BACK





QUALITY





QUANTITY

- The quantity clause mainly includes the quantity and unit of commodity.
- To facilitate the performance of contract and avoid disputes, the quantity clause should be clear and detailed.
- In addition, it is improper to use those uncertain words like **about**、**circa**、**approximate** to define the quantity.





Packing material



Method of packing

Package



Specification of packing



Packing mark



Packing charges

BACK



PACKING MATERIAL

- The packing for sea need firm
- The packing for rail need not afraid of shaking
- The packing for air need light
- See the law of relative country





METHOD OF PACKING

- Single packing
- Set packing
- Generally, choose set packing



SPECIFICATION OF PACKING

- Involve such respects as every package putting, the piece and expenses packed, etc., should confirm according to the actual conditions.





PACKING MARK

- Packing mark includes shipping mark, indicative mark and warning mark
- Shipping mark can be chosen by us, or by the customer.

PACKING CHARGES

- Generally including in the price of goods
- Or not including in the price of goods, paid by buyer.





PRICE

Unit price and the total amount of payment are extremely important in a contract.

PAYMENT

- This clause mainly includes:
- The means of payment
- Time and place of payment and so on





TRANSPORT AND INSURANCE

- Shipment: different price terms must relate to different responsibility and risk.

- Insurance: different price terms, different person to fix insurance.





USE VARIOUS KINDS OF EXPRESSION METHODS PROPERLY

- Choose the way describe quality according to the character.
- If can describe in one way, don't use many ways.

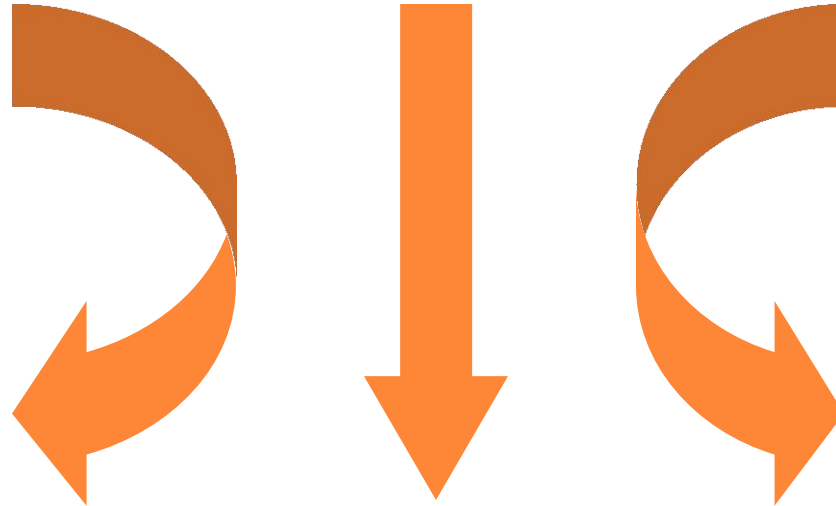
FORMULATE THE CLAUSE ACCORDING TO ACTUAL ABILITY

- Pay attention to the science and rationality. Avoid too high or too low. Pay attention to the inner link and relation between every quality index.





The prevention and handling of dispute



Inspection

Force majeure

Arbitration





INSPECTION

- The third party provides the inspection certificate.
- At present in our country, examine in the export country, re-inspects in import country.





FORCE MAJEURE

- After the contract is signed, it is not fault or carelessness of contracting parties, but because of the accident that can't be predicted, can't be prevented and avoided, so that the parties can't fulfill or can't fulfill the contract as scheduled, so the party that had the accident, can avoid the responsibility of fulfilling contract according to the stipulations of the contract or the law, or postpone fulfilling the contract.





ARBITRATION

- Mean both parties while disputing, according to the agreement between both sides, certain organization as the third part, judge the fact of the dispute or the rights and obligations, thus solve the dispute.



A BLANK SALES CONTRACT

销售合同

SALES CONTRACT

合同号

NO.:

日期

DATE:

地点

SIGNED AT:

卖方:

Seller:

地址:

Address:

电话:

传真:

Tel:

FAX:

邮箱地址:

E-mail:



买方:

Buyer:

地址:

Address:

电话:

传真:

Tel:

Fax :

邮箱地址:

E-mail:

兹经买卖双方同意成交下列商品订立条款如下:

The undersigned Sellers and Buyers have agreed to close the following transaction according to the terms and conditions stipulated below:

货物名称及规格 Name of Commodity and Specification	数量 Quantity	单价 Unit Price	金额 Amount
卖方有权在 %内多装或少装, 金额相应增减。Within % more or less both in quantity and amount at the sellers' option.		总金额 Total amount	



总值

Total value:

装运期限

Time of shipment:

装运口岸:

Port of shipment:

目的口岸:

Port of destination:

包装

Packing:

唛头

Marks & Nos.

保险:

Insurance:

付款条件:

Terms of Payment :

单据:

Documents:



品质与数量、重量的异议与索赔:

Quality/Quantity Discrepancy and Claim:

不可抗力:

Force Majeure:

仲裁:

Arbitration:

备注

Remarks:

卖方

The Sellers:

买方

The Buyers:



A COMPLETED SALES CONTRACT

销售合同

SALES CONTRACT

合同号: SHDS03027

NO.: SHDS03027

日期: 2015年3月8日

DATE: March 8, 2015

地点: 上海

SIGNED AT: SHANGHAI

卖方:世格国际贸易有限公司

Seller: Desun Trading Co. Ltd

地址: 中国上海市吉林路623号金仕达大厦29楼。

Address: 29th Floor Kingstar Manssion, 623 Jinlin Rd., Shanghai China

电话: 0086-21-62889794 传真:0086-21-62889795

Tel: 0086-21-62889794 FAX: 0086-21-62889795

邮箱地址: tonyluan@santaofood.com

E-mail: tonyluan@santaofood.com



买方: NEO贸易有限公司

Buyer: Neo General Trading Co.

地址: 加拿大多伦多珈蓝街362号。

Address: 362th Jalan Street, Toronto, Canada

电话: (1) 416-7708419

传真: (1) 416-7708423

Tel: (1) 416-7708419

Fax: (1) 416-7708423

邮箱地址: andy@neo.com

E-mail: andy@neo.com

兹经买卖双方同意成交下列商品订立条款如下:

The undersigned Sellers and Buyers have agreed to close the following transaction according to the terms and conditions stipulated below:

货物名称及规格 Name of Commodity and Specification	数量 Quantity	单价 Unit Price	金额 Amount
Chinese Ceramic Dinnerware		CIF Toronto	
1.DS1511 30-Pieces Dinnerware and Tea Set	542SETS	USD23.50/ set	USD12,737.00
2.DS2201 20-Pices Dinnerware Set	800SETS	USD20.40/set	USD 16,320.00
3.DS4504 45-Pieces Dinnerware Set	443SETS	USD23.20/set	USD 10,277.60
4.DS5120 95-Pices Dinnerware Set	254SETS	USD30.10/set	USD 7,645.40
买方有权在 10 %内多装或少装, 金额相应增减。 Within 10 % more or less both in quantity and amount at the sellers' option.		总金额: Total amount:	USD46,980.00



总值: 计肆万陆仟玖佰捌拾美元整。

Total value: Say US dollars forty six thousand nine hundred and eighty only.

装运期限: 2015年3月。

Time of shipment: To be effected in March 2015.

装运口岸: 上海

Port of shipment: Shanghai

目的口岸: 多伦多

Port of destination: Toronto

包装: 纸箱包装。DS2201每箱装2套, DS1151、DS4504、DS5120 每箱装1套, 共1639箱。

Packing: In cartons. For DS2201, each carton contains 2 sets; for DS1151, DS4504 and DS5120, each carton contains 1 set.

唛头: NEO

SHDS03027

TORONTO

CTN NOS:1-1639

Marks & Nos. NEO/SHDS03027/TORONTO/CTN NOS:1-1639

保险: 根据1981年1月1日中国保险公司条款按发票金额的110%投保一切险 险和战争险。

Insurance: To be effected by the sellers for 110 % of Invoice Value against All Risks and War Risk as per Ocean Marine Cargo and War Clauses of the People's Insurance Company of China 1/1/1981



付款条件: 凭保兑的、不可撤消的、不可转让的即期信用证在中国见票付款。信用证以买方为受益人, 并不允许分批装运和转运, 该信用证必须2015年3月20号以前开到卖方, 并在装船后在上述装港有效期15天。否则卖方无需通知即可有权撤消本合同, 并向买方索赔因此而发生的一切损失。

Terms of Payment : By confirmed, irrevocable, non-transferable Letter of Credit in favor of the Sellers payable at sight against Presentation of shipping documents in China, without partial shipments and transshipment. The covering Letter of Credit must reach the Sellers before March 20, 2015 and remain valid in the above loading port until the fifteenth days after shipment, failing which the Sellers reserve the right to cancel the contract without further notice and to claim against the Buyers for any loss resulting there from.

单据: 装船清洁提单、发票、进出境检验检疫局出具的品质证书、制造商出具的数量/重量证书; 保险单或保险凭证。

Documents: Clean On Board Bill of Lading, Invoice, Quality Certificate issued by CIQ , Certificate of Quantity/Weight issued by Manufacturers and Transferable Insurance Policy or Insurance Certificate。

品质与数量、重量的异议与索赔: 货到目的口岸后, 买方如发现货物品质及/或数量/重量与合同规定不符, 除属于保险公司及/或船公司的责任外, 买方可以凭双方同意的检验机构出具的检验证书向卖方提出异议。品质异议须于货到目的地口岸之日起30天内提出, 数量/重量异议须于货到目的口岸之日起20天内提出。卖方应于收到异议后10天内答复买方。

Quality/Quantity Discrepancy and Claim:

In case the quality and/or quantity/weight are found by the Buyers to be not in conformity with the Contract after arrival of the goods at the port of destination, the Buyers may lodge claim with the Sellers supported by survey report issued by an inspection organization agreed upon by both parties, with the exception, however, of those claims for which the insurance company and/or the shipping company are to be held responsible. Claim for quality discrepancy should be filed by the Buyers within 30 days after arrival of the goods at the port of destination, while for quantity/weight discrepancy claim should be filed by the Buyers within 20 days after arrival of the goods at the port of destination. The sellers shall, within 10 days after receipt of the notification of the claim, send reply to the Buyers.

不可抗力: 由于战争、地震、火灾、水灾、雪灾、暴风雨、或其他不可抗力事故, 致使卖方不能全部或部分装运或延迟装运合同货物, 卖方对于这种不能装运或延迟装运合同货物不负责任。但卖方必须立即以电报或传真通知买方, 并应在15天内航空挂号信件向买方提供由中国国际贸易促进委员会出具的证明此类事件的证明书。

Force Majeure: If the shipment of the contracted cargo is prevented or delayed in whole or in part by reason of war, earthquake, flood, fire, storm, heavy snow or other causes of Force Majeure, the Seller shall not be liable for non-shipment or late shipment of the goods or non-performance of this contract. However, the Seller shall inform the Buyer immediately by cable or fax and furnish the latter within 15 days by registered airmail with a certificate issued by China Council for the Promotion of International Trade attesting such event or events.

仲裁: 凡因本合同或与本合同有关事项所发生的一切争执, 应由双方通过友好协商解决。如果不能取得协议时, 则在被告国家根据被告仲裁程序规则进行仲裁。但仲裁是终局的, 对双方具有同等的效力。仲裁费用除非仲裁机构另有决定外, 均由败诉一方负担

Arbitration: All disputes in connection with this Contract or the execution thereof shall be settled by negotiation between two parties. If no settlement can be reached, the case in dispute shall then be submitted for arbitration in the country. The decision made by the arbitration organization shall be taken as final and binding upon both parties. The arbitration expenses shall be borne by the losing party unless otherwise awarded by the arbitration organization.

本合同用中文和英文写成, 两种文字具有同等效力。上述两种文字如有不符, 已中文文本为准。

The contract shall be written in Chinese and English. Both versions are equally authentic. In the event of any discrepancy between the two versions, the Chinese version shall prevail.

卖方: 世格贸易有限公司

The Sellers: Desun Trading Co., Ltd.

买方: NEO贸易有限公司

The Buyers: Neo General Trading Co.



5.The prerequisites required for a contract to be recognized and enforced

- (1) A Valid Offer and a Proper Acceptance
- (2) Sufficiency of Consideration (对价)
- (3) Absence of Fraud, Force, or Legal Loopholes
- (4) Legal Capacity



6. Establishment time of contract

7. The essential conditions of a contract come into effective:

- 1) contracting parties should have signing ability
- 2) the content of the contract should be legal
- 3) the contract should conform to legal formarity
- 4) contracting parties' meaning expresses should be true

8. Modification or termination of a contract

- A contract may be modified or terminated by the mere agreement of the parties.



9. THE LAWS AND PRACTICES ARE APPLICABLE TO INTERNATIONAL SALES CONTRACTS

◆ International Trade Practice

☆ International Rules for the Interpretation of Trade Terms 《国际贸易术语解释通则》

☆ Uniform Customs and Practice for Documentary Credit 《跟单信用证统一惯例》

◆ International Treaty

United Nations Convention on Contracts for the International Sale of Goods 《联合国国际货物销售合同公约》

◆ Domestic Laws

Contract law 《中华人民共和国合同法》



Section Three Performance of a Contract

A contract (a sales contract or a sales confirmation) is binding on both parties. Both of the seller and the buyer should perform the contract strictly and carefully.

The performance of a contract involves many working links, and the procedures are complicated. In order to ensure the smooth implementation of the contract, the scientific management of the contract must be strengthened and the management system that can reflect the process of execution of the contract should be established.

