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Mastery in English for Professional Development

**A Guide to Corporate and Financial
Law:**

**International contracts
Part 1**

*Навчальний посібник
з англійської мови
для студентів НаУКМА*

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Сергієнко Л. А. A Guide to Corporate and Financial Law: International contracts, 2025

Навчальний посібник «A Guide to Corporate and Financial Law: International contracts» призначений для студентів Національного університету «Києво-Могилянська академія», які вивчають корпоративне та фінансове право, а також буде корисним для всіх, хто прагне поглибити свої знання у сфері міжнародного комерційного права та укладання угод.

Посібник складається з розділів, які охоплюють ключові аспекти договірних відносин та відповідають вимогам до структури та логіки викладу міжнародних угод. Він детально розглядає норми міжнародного продажу товарів, включаючи Конвенцію ООН про договори міжнародної купівлі-продажу товарів (CISG) та міжнародні торговельні терміни Incoterms. Окремий розділ присвячений складнощам прав третіх сторін, включаючи цесію (Assignment) та делегування обов'язків (Delegation). Кожен розділ включає теоретичний матеріал, автентичні зразки документів та практичні завдання.

Посібник має на меті не лише допомогти студентам розвивати свої професійні комунікативні навички (читання, говоріння та письмо юридичних текстів), а й поглибити їхні знання з теорії контрактного права. Зокрема, у ньому пояснюється практичне застосування таких фундаментальних принципів, як принцип автономії волі сторін та принцип приватності контракту (Privity of Contract), що дозволяє студентам будувати міцні та переконливі правові аргументи.

Посібник розрахований як для аудиторної роботи зі студентами, так і для самостійного навчання. Отже, він надає студентам можливість не лише засвоїти норми міжнародного права, а й навчитися логічно та послідовно аналізувати юридичні казуси, що робить його актуальним інструментом для успішного навчання та професійного зростання у сфері міжнародної юриспруденції.

A Guide to Corporate and Financial Law: International contracts

Welcome to **A Guide to Corporate and Financial Law: International contracts** – your essential resource for mastering the intricacies of cross-border commerce. This book is more than a legal reference; it's a practical roadmap designed to navigate you through the critical legal frameworks governing global trade, specifically crafted for students at KMA and professionals seeking to fortify their contractual expertise.

Our guide is structured to take you from the fundamental formation of a contract to the nuanced complexity of international agreements. We will walk you through the essential components of international sales, offering a deep dive into the practical application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), which acts as the uniform law for global trade. You'll find dedicated chapters on the Incoterms (such as EXW, FOB, CIF, DDP), detailing precisely where risk and cost transfer between buyer and seller in shipping logistics. This clarity ensures your commercial transactions are watertight.

In addition to mastering the core sales frameworks, we will explore the critical areas of corporate agreements and financial obligations. We delve into the legal exceptions to the foundational Privity of Contract principle, focusing on the concepts of Assignment of Rights and Delegation of Duties, equipping you to manage third-party involvement in your contracts with confidence. These tools are crucial for structuring complex corporate financing and supply chain agreements effectively.

Our goal is not only to help you understand the law but to help you think and negotiate like an international legal counsel. By the time you complete this guide, you will be equipped with the knowledge and analytical skills to address any cross-border contractual challenge, whether it's for a course assignment at KMA or negotiating a multi-million-dollar deal in practice. Let's begin your journey toward becoming a confident and effective specialist in corporate and financial law.

Some tasks and texts in this manual were edited and refined with the assistance of ChatGPT (OpenAI). All results were verified and adapted by the author.

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CONTRACT FORMATION

Prereading Discussion Questions

1. What do you understand by the term “contract”? Can you give an example from daily life?
2. Why do you think some promises are legally binding while others are not?
3. What do you think makes an agreement fair or enforceable?
4. Have you ever made an agreement with someone that wasn’t written down? What happened?
5. Why might it be important for parties to agree on essential terms like price or subject matter?
6. Can you think of situations where behavior (rather than words) shows agreement?
7. Why do you think certain contracts must be in writing? What could go wrong if they weren’t?
8. Have you heard of cases where a contract was invalid because someone was too young, threatened, or deceived? How does that affect fairness?

How a Contract Is Formed Under Common Law

Under common law, a promise becomes a legally binding contract when three key elements are present: an offer, acceptance, and consideration. First, one party—known as the offeror—must make a clear offer to another party, referred to as the offeree. Next, the offeree must accept the offer without changing its terms.

Finally, both parties must exchange something of value, which is known in legal terms as **consideration**.

It's important to note that merely giving someone a gift does not count as consideration, since a valid contract requires a **mutual exchange**—each party must give and receive something of value. Law students often remember the basic formula like this:

Offer + Acceptance + Consideration = Contract.

For instance, if John offers to sell his bicycle to Lisa for \$100 and Lisa agrees to pay that amount, a contract is formed. However, if Lisa replies, "I'll pay \$80," she is not accepting the original offer but instead making a **counteroffer**. This legally cancels John's original offer and puts the decision back in his hands—he must now choose whether to accept or reject Lisa's new terms.

Agreement on Key Terms

For a contract to be enforceable, the parties must agree on the essential terms, such as the subject matter and the price. These are known as the **material terms** of the contract. However, even if some details are unclear or not fully spelled out, a court may still recognize the contract as valid if the parties' behavior shows that they acted as though they had reached an agreement.

Take, for example, a situation in which a farmer agrees to sell "some apples" to a grocery store. If the store accepts delivery and pays for the apples, a court may decide that a valid contract exists—even though the quantity was not specified—because the actions of both parties indicate mutual agreement.

Types of Contracts

Contracts come in different forms. The most straightforward type is an **express contract**, which is clearly communicated either in writing or spoken words. A good example is a signed lease for an apartment. On the other hand, an **implied**

contract is based not on explicit language but on the conduct of the parties. For example, when you walk into a hair salon, sit in a chair, and receive a haircut, your behavior implies that you agree to pay for the service—even if no specific words are exchanged.

However, there are exceptions. Under the **Statute of Frauds**, certain types of contracts must be in writing to be legally enforceable. These include contracts for the sale of land, agreements that cannot be performed within one year, and others specified by law.

Defenses That May Invalidate a Contract

Even when a contract appears valid, there are situations where one party can challenge its enforceability. These are known as **defenses to contract formation**. Common defenses include the contract being for an **illegal purpose** (such as selling banned substances), **fraud** (when one party was deceived), **duress** (when someone was threatened or forced into the agreement), or **lack of capacity** (when a person is too young or mentally unfit to enter into a contract).

For example, if a teenager signs a contract to purchase a car, they may later cancel the agreement because minors generally lack the legal capacity to enter binding contracts.

Rights of Third Parties

In some cases, individuals who are not directly involved in making a contract may still have rights under it. This usually happens in two scenarios. The first involves a **third-party beneficiary**, which is someone the contract was specifically intended to benefit. A typical case would be a father who buys a life insurance policy with his daughter named as the beneficiary; she can enforce the contract even though she didn't sign it.

The second scenario involves an **assignee** or **delegate**. These are people to whom the rights or obligations of a contract have been transferred. For instance, if a general contractor hires a subcontractor to perform part of a construction job, the subcontractor becomes a **delegate** who is now responsible for fulfilling that part **of the agreement**.

2. Mark the sentences as true or false.

True/False Questions

1. A contract is legally binding as soon as one party makes a promise.
2. Consideration means that each party must give and receive something of value.
3. If the offeree changes the terms of the offer, it is considered acceptance. Courts can recognize a contract even if some details, like quantity, are not specified.
4. Express contracts are based solely on the behavior of the parties.
5. Some contracts must be in writing according to the Statute of Frauds.
6. A contract for an illegal purpose can still be enforced by a court.
7. Minors usually have full capacity to enter binding contracts.
8. A third-party beneficiary can enforce a contract even if they did not sign it.

Subcontractors can be considered delegates responsible for part of a contract.

3. Solve Legal Dilemmas – What Makes a Contract Valid?

Instructions:

Read each of the two legal dilemmas below carefully. Each situation is followed by four possible answers. Only one answer is legally correct based on the principles of contract law under common law.

- a) **Choose the best answer for each dilemma.**
- b) **Be ready to explain why your choice is correct and why the other options are incorrect.**
- c) **(Optional) Work in pairs or small groups to discuss your reasoning before sharing with the class.**

Dilemma 1: The Discount Deal

Situation: Anna wants to buy a used laptop from Mark. Mark says, “I’ll sell it to you for \$300.” Anna replies, “How about \$250?” Mark says nothing and walks away. Later that day, Anna sends Mark a message saying she accepts the original \$300 offer.

Question: Is there a valid contract between Anna and Mark?

Choose the correct answer:

- A) Yes, because Anna eventually accepted the \$300 offer, which is all that’s needed.
- B) No, because Anna’s \$250 response was a counteroffer that legally canceled Mark’s original offer.
- C) Yes, because silence means acceptance if the offer was clear.
- D) No, because Mark’s original offer was not in writing and therefore not enforceable.

Dilemma 2: The Haircut Hassle

Situation: James walks into a barbershop, sits down in the chair, and gets a haircut. When the barber finishes and asks for payment, James refuses, saying, “We never agreed on a price, so I owe you nothing.”

Question: Is James legally required to pay for the haircut?

Choose the correct answer:

- A) Yes, because an implied contract was formed based on James’s actions.
- B) No, because no express contract was made in writing.
- C) No, because James did not verbally agree to any service.
- D) Yes, but only if there is a signed price list in the shop.

Basic Comprehension

1. What are the three essential elements required to form a contract under common law?
2. Why does giving a gift not qualify as a valid contract?

3. What is the difference between an offer and a counteroffer?

Application and Examples

4. In the example with John and Lisa, why does Lisa's response of offering \$80 not form a contract?
5. Can a contract be considered valid even if some terms are vague or missing? Give an example from the text.
6. How does a court determine whether an implied contract exists?

Analysis and Comparison

7. What distinguishes an express contract from an implied contract?
8. Why do you think the Statute of Frauds requires some contracts to be in writing? Can you think of a real-life situation where this might matter?
9. How might a person's behavior unintentionally create a legally binding agreement?

Critical Thinking

10. Do you agree that a minor should be able to cancel a contract? Why or why not?
11. What could be the risks of entering into an oral contract rather than a written one?
12. Should a third party, like a beneficiary, have the right to enforce a contract they didn't sign? Why?

Legal Vocabulary Practice

13. What is "consideration" in the context of a contract?
14. What are "material terms" in a contract, and why are they important?
15. What is the difference between a third-party beneficiary and a delegate?

4. Exploring Contract Law Through Discussion

Instructions:

Read the questions below carefully. Reflect on what you've learned about how contracts are formed under common law. Then, choose three questions to discuss in small groups or write short responses to all six. Use examples from the text or real-life situations to support your answers.

Discussion Questions:

1. Can a contract still be valid if it is made verbally, without anything written down? Why or why not?
2. In what situations might a court recognize a contract even if the terms are not completely clear or detailed?
3. Why is the concept of "consideration" so important in distinguishing a contract from a gift?
4. What kinds of actions might lead to the formation of an implied contract in everyday life?
5. How might someone use a defense like duress or fraud to get out of a contract? Can you think of a realistic example?
6. What is the difference between a third-party beneficiary and someone who is simply affected by a contract? Should both have rights under the agreement? Why or why not?

Listening

5. Discuss the questions.

1. Is it ethical to make a counter-offer knowing it will intentionally confuse or pressure the other party? Why or why not?

2. Should a business accept an offer even if it realizes the offeree may not fully understand the terms? What are the ethical implications?
3. When a contract can be voidable due to duress or undue influence, how should a company ensure fairness in negotiations?
4. Is it ethical to remain silent when silence might be interpreted as acceptance of a contract? Why or why not?
5. How should businesses handle situations where social or domestic agreements are treated as legally binding? Should legal enforceability override personal ethics?
6. If changing minor terms of an offer can legally turn it into a counter-offer, is it ethical to exploit this for unfair advantage?
7. In international contracts governed by CISG, is it ethical to take advantage of differences in legal rules regarding counter-offers?
8. Should companies prioritize legal strategy or ethical considerations when rejecting or negotiating counter-offers? Why?

Ethical Dilemmas in Contract Formation

6. Solve Legal Dilemmas – What Makes a Contract Valid?

Instructions:

Objective:

To develop students' critical thinking and ethical reasoning skills in contract law situations, and to discuss the balance between legal rules and ethical business behavior.

Steps:

1. **Read the scenario carefully** and identify:
 - The legal issue (e.g., counter-offer, duress, acceptance)
 - The ethical question or conflict
2. **Discuss in your group:**
 - What would be the legally correct action?

- What would be the ethically correct action?
 - Are there conflicts between legal correctness and ethics?
3. **Prepare a short response** (1–2 minutes) summarizing your group’s opinion. Consider practical solutions or compromises.
 4. **Share your group’s conclusions** with the class.
 5. **Class discussion:** Compare different groups’ opinions. Highlight cases where ethical behavior might differ from strict legal rules.
 6. **Reflection:** Individually, write one sentence about what you learned about ethics in contract law.

Optional Variation:

- Assign each group a **role** (buyer, seller, judge, third-party observer) to explore perspectives more deeply.
- Have students **vote on the most ethical solution** for each scenario.

1. **Counter-Offer Pressure**

A supplier sends an offer to a retailer. The retailer makes a counter-offer that is clearly intended to confuse the supplier and gain extra concessions.

Ethical question: Is it acceptable to use legal loopholes to pressure the other party, or should honesty guide negotiations?

2. **Silence as Acceptance**

A company sends an offer to a client. The client does not respond, but the company interprets this as acceptance and starts fulfilling the contract.

Ethical question: Is it ethical to assume acceptance when silence might indicate misunderstanding or lack of consent?

3. **Minor Changes as Counter-Offer**

A contractor changes a small delivery term in a response to an offer, turning it into a counter-offer.

Ethical question: Is it ethical to exploit technicalities in contract law for potential advantage, even if the change is minor?

4. Duress in Negotiation

A manager pressures an employee to sign a contract threatening job loss if they refuse.

Ethical question: How should businesses prevent coercion while ensuring agreements are legally valid?

5. International Contract Differences

A company exploits the CISG rules to make a counter-offer that would be invalid under local law but is enforceable internationally.

Ethical question: Is it fair to take advantage of differences in legal systems for business gain?

6. Benefiting from Misunderstanding

A seller notices the buyer misinterpreted a price term in an offer but proceeds without clarification.

Ethical question: Should the seller correct the misunderstanding, or is it acceptable to let the buyer benefit from their error?

7. Social/Personal Agreements in Business

Two business partners make a handshake agreement, expecting it to be informal, but one partner later claims legal enforcement.

Ethical question: Should personal trust override the legal perspective, or must legal enforceability prevail?

8. Counter-Offer Timing

A buyer delays responding to an offer, intending the original offer to expire and then re-negotiate better terms.

Ethical question: Is strategic delay ethical, or does it undermine trust and fairness in business relationships?

LISTENIG

7. Listening 1. Mark sentences as true or false

1. A counter-offer has the same legal effect as an acceptance.
2. Consideration must involve money to be valid in a contract.
3. Displaying products on a store shelf is an example of an offer.
4. A legally binding contract requires both parties to intend legal consequences.
5. Silence is usually treated as valid acceptance in contract law.
6. A unilateral contract involves a promise made in exchange for a completed act.
7. If an offeror dies before the offer is accepted, the contract can still be formed.
8. Duress or undue influence can make a contract voidable.
9. Acceptance must match the offer exactly for a contract to be formed.
10. Social and domestic agreements are always legally binding.

Listening 2. Mark sentences as true or false

1. A counter-offer keeps the original offer open for later acceptance.
2. A counter-offer acts both as a rejection and as a new offer.
3. If an offeree changes only a minor term of the offer, it is never considered a counter-offer under any law.
4. In *Hyde v. Wrench*, the court ruled that the offeree could still accept the original offer after making a counter-offer.
5. A question like “Would you consider a lower price?” is usually treated as a counter-offer.
6. Under the CISG, changing the delivery date in an acceptance can turn it into a counter-offer.

7. Once a counter-offer is made, the original offeror must accept or reject it for a contract to be formed.
8. A counter-offer has no legal significance unless it is accepted in writing.
9. In international sales contracts, the CISG provides rules for identifying whether a reply is a counter-offer.
10. In business practice, making a counter-offer is uncommon and often avoided.

Vocabulary tasks

Exercise 1: Matching Definitions

Match each term to the correct definition. Write the letter of the definition next to the term.

Terms

1. Consideration
2. Counter offer
3. Express contract
4. Real property
5. Fraud in the inducement
6. Offeree
7. Delegation of duties
8. Instrument

Definitions

1. The person who receives an offer.
2. An obligation that is passed from one person to another.
3. A response to an offer that changes the original terms.
4. Land and anything permanently built on it.

5. When someone is tricked or misled into agreeing to a contract.
 6. Something of value exchanged between parties in a contract.
 7. A clearly stated agreement, either written or spoken.
 8. A legal document, like a written contract or agreement.
-

Exercise 2: Fill in the Blanks

A. Use the words from the box to complete the sentences below:

common law, enforceable, assignee, duress, third-party beneficiary, price and subject matter, implied contract, lack of legal capacity

1. Every valid contract must include essential terms such as _____.
2. Under _____, court decisions help shape contract rules over time.
3. A contract signed under _____, such as threats, may be declared invalid.
4. An agreement formed through actions, not words, is called an _____.
5. A child signing a contract may be protected by the defense of _____.
6. If someone receives the rights under a contract from another, they are the _____.
7. A _____ can sometimes enforce a contract made for their benefit, even if they didn't sign it.
8. A contract becomes _____ if it meets legal requirements and can be upheld in court.

B. Use the words from the box to complete the sentences:

counter offer, Statute of Frauds, essential terms, express contract, indefinite, instrument, consideration, gift/donation

1. A contract missing _____, like price or subject matter, may not be legally binding.

2. Courts may not enforce a contract if its language is too _____ and unclear.
 3. The _____ requires that certain types of contracts—like those involving real estate—must be in writing.
 4. A formal written legal document, such as a contract or deed, is referred to as an _____.
 5. A valid contract requires _____, meaning something of value exchanged between the parties.
 6. A _____ does not count as consideration because it is not part of a mutual exchange.
 7. A _____ is a reply to an offer that changes the original terms and is legally treated as a rejection.
 8. A contract that clearly states the terms, either spoken or written, is called an _____.
-

Exercise 3: Multiple Choice

Choose the correct answer.

1. Which of the following is **not** valid consideration?
 - a) Money
 - b) Services
 - c) A gift
 - d) A product
2. The **Statute of Frauds** requires that contracts must be in writing for the sale of:
 - a) Food
 - b) Real property
 - c) Vehicles
 - d) Services

3. A **counter offer** is treated by law as:
 - a) Acceptance
 - b) A gift
 - c) Rejection
 - d) A final agreement

 4. Which term refers to a person who benefits from a contract but is not a party to it?
 - a) Delegate
 - b) Assignee
 - c) Third-party beneficiary
 - d) Offeree
-

✓ **Exercise 4: True or False**

Write **T** for true and **F** for false next to each statement.

1. ____ A donation can count as consideration in a contract.
2. ____ A person with mental illness may lack legal capacity to enter a contract.
3. ____ Under common law, written contracts are the only enforceable ones.
4. ____ An assignee receives duties, not rights.
5. ____ The subject matter of a contract refers to what the contract is about.
6. ____ An express contract must be written.
7. ____ Contracts involving illegal actions are still enforceable.
8. ____ A vague or indefinite agreement might still be enforced based on the parties' behavior.

SALE OF GOODS

Pre reading tasks

Objective: Focus on key points, understanding of terms, and main ideas while reading.

1. "Key Terminology Match-Up"

1. Instructions:

- As you read the text, underline or highlight the following terms:
 - *Goods*

- *CISG*
- *Incoterms*
- *Offer and Acceptance*
- *Breach of Contract*

○ After reading, match each term with its correct definition.

1. Standardized trade terms that define responsibilities in shipping.
2. Failure to fulfill the terms of the agreement.
3. The legal framework governing international sales contracts.
4. Tangible, movable items that are bought and sold.
5. The process by which a contract is formed.

2. Follow-Up:

- Discuss in pairs or groups why each term is important in the context of sales contracts.

2: "True or False Statements"

1. Instructions:

- **Read the text carefully and decide if the following statements are true or false.**
- **Discuss your answers in pairs or small groups, and then review them together.**

Statements:

1. The CISG applies to all domestic sales contracts, regardless of the country.
2. Incoterms only apply to international contracts.
3. A breach of contract can be resolved by seeking damages or terminating the agreement.

4. International sales contracts are usually governed by national laws, such as the UK Sale of Goods Act.
5. The seller must deliver goods that conform to the contract's specifications.

- **Follow-Up:**

Discuss any misconceptions.

Sale of goods and International Sales Contracts

A sale of goods is a legally binding agreement in which the seller transfers, or promises to transfer, the ownership of physical, movable items—commonly referred to as *goods*—to the buyer in exchange for a monetary price. This type of contract involves two main parties: a seller and a buyer. The essence of the sale lies in the transfer of ownership of the goods from one party to the other. For example, when a Ukrainian furniture manufacturer agrees to sell a batch of wooden chairs to a local store for a set price, this transaction is considered a domestic sale of goods. In such contracts, the delivery terms and payment methods are typically defined to avoid confusion and ensure the smooth execution of the agreement.

However, when goods are sold between parties located in different countries, the transaction is categorized as an international sales contract. These contracts are more complex, as they require careful planning and legal clarity due to differences in legal systems, languages, currencies, and trade practices. For instance, if the same Ukrainian furniture manufacturer signs a contract with a German retailer, this becomes an international sale. In this case, both parties must decide on the law governing the contract, the language used for communication (often English), and the currency in which payment will be made (perhaps euros or U.S. dollars).

To provide a uniform legal framework for such cross-border transactions, many countries follow the **United Nations Convention on Contracts for the International Sale of Goods (CISG)**. This convention aims to reduce legal barriers in international trade and is applicable when both parties are located in countries that have ratified the CISG, or when they specifically choose it as the governing law. For

example, if a seller in Italy and a buyer in Canada both operate under the CISG, their contract will be regulated by the rules of this convention unless they opt out.

The CISG contains comprehensive rules that regulate various aspects of international contracts. These include how contracts are formed—through offer and acceptance—as well as the obligations of the seller and the buyer. The seller must deliver goods that match the quality, quantity, and description required by the contract, while the buyer is expected to pay the price agreed upon and accept delivery. If either party fails to fulfill their obligations, the CISG provides remedies. These may include claiming damages for losses or, in more serious cases, terminating (or "avoiding") the contract. For instance, if a seller ships non-conforming goods and refuses to replace them, the buyer may seek compensation or refuse to accept the goods entirely.

Furthermore, international sales contracts often include **Incoterms**, which are standardized trade terms published by the International Chamber of Commerce.

These terms help define key aspects of the transaction, such as who is responsible for transportation, insurance, customs clearance, and risk during shipping. Common examples of Incoterms include **FOB** (Free on Board), where the seller delivers the goods to a ship chosen by the buyer, and **CIF** (Cost, Insurance, and Freight), where the seller pays for transport and insurance to the buyer's port.

There are also clear distinctions between **domestic** and **international** sales of goods. Domestic sales are governed by national legislation—for example, the Sale of Goods Act in the United Kingdom—and are usually handled by local courts in the event of a dispute. By contrast, international contracts may be settled through arbitration or international tribunals, especially when the parties wish to avoid lengthy and unfamiliar legal proceedings abroad. Domestic contracts also tend to use local currency and language, while international contracts require explicit agreement on both. For instance, a Ukrainian seller and a Japanese buyer may agree that all communication will be in English and payments will be made in U.S. dollars, even though neither is the native language or currency of either party.

In conclusion, while both domestic and international sales of goods share the same basic structure, international contracts demand more attention to detail. Parties must

consider not only the quality and price of the goods but also how legal rules, shipping responsibilities, and cross-cultural communication will be managed. This ensures that the transaction proceeds efficiently and that both parties are protected in case of a disagreement.

Post-Reading Tasks:

Objective: Check comprehension, practice application of concepts, and encourage critical thinking.

3. "Discussion Questions"

1. Instructions:

- Answer the following questions based on the text:
 1. What is the main purpose of the CISG in international sales contracts?
 2. How do Incoterms help facilitate international sales transactions?
 3. What are the key differences between domestic and international sales contracts?
 4. Why is it important to clearly define the delivery terms in an international contract?
 5. Imagine you're a seller in Ukraine and you're exporting goods to a buyer in the US. What would you need to consider when drafting a contract?

- **Follow-Up:**

- Have students discuss these questions in small groups and then present their answers to the class.

4. "Role-Play: Negotiating a Sales Contract"

1. Instructions:

- In pairs, one student will act as the seller, and the other as the buyer.

- Using the information from the text, negotiate a basic international sales contract. Focus on agreeing on the price, payment method, delivery terms (Incoterms), and governing law (CISG).
- You may also include details like the goods being sold, delivery time, and dispute resolution process.
- **Follow-Up:**
 - After the role-plays, have students reflect on the process. What challenges did they encounter during the negotiation? Did they include all the essential aspects of the contract?

5. "Create Your Own International Sales Contract"

1. Instructions:

- Imagine you are entering into an international sales agreement. Write a brief contract based on the information from the text. Include:
 - The names of the buyer and seller.
 - A description of the goods.
 - The agreed price and payment terms.
 - Delivery terms (use Incoterms).
 - The governing law (CISG or another system).
 - What will happen in case of a breach (penalties, damages, etc.).
- **Follow-Up:**
 - Share and compare your contracts with a classmate. How are they similar or different?

6. Solve Legal Dilemmas

Instructions:

Read each of the two legal dilemmas below carefully. Each situation is followed by four possible answers. Only one answer is legally correct based on the principles of contract law under common law.

- 1. Choose the best answer for each dilemma.**
- 2. Be ready to explain why your choice is correct and why the other options are incorrect.**
- 3. (Optional) Work in pairs or small groups to discuss your reasoning before sharing with the class.**

Dilemma 1: Delivery Terms Confusion

Scenario: You are a seller in Ukraine, and you've agreed to sell 100 pieces of furniture to a buyer in Germany. Both of you are unfamiliar with international trade terms, and you have not clearly discussed the delivery terms. The buyer asks you to confirm how the goods will be shipped and who will bear the shipping costs. You need to decide how to proceed.

Task: Choose the best solution for this dilemma. Only one solution is correct.

Solutions:

- A) You decide that you will pay for the shipping costs, and you will ship the goods to the buyer's address in Germany.
- B) You suggest that the buyer should pay for the shipping costs and handle the delivery, leaving the goods at your warehouse for them to collect.
- C) You recommend using Incoterms to clearly define the responsibilities of both parties, such as who will pay for shipping and where the goods will be delivered.
- D) You inform the buyer that you will send the goods to them for free and that delivery is their responsibility, regardless of where the goods are sent.

Dilemma 2: Breach of Contract in International Sale

Scenario: After shipping the goods to a buyer in the United States, you receive a complaint that the delivered furniture doesn't meet the specifications outlined in your

contract. The buyer threatens to cancel the contract and request damages. You need to decide how to handle the situation according to the CISG.

Task: Choose the best solution for this dilemma. Only one solution is correct.

Solutions:

- A) You deny the buyer's request because you believe that the goods were properly delivered and meet the contract's terms.
- B) You offer to send a replacement for the damaged goods and negotiate a new contract for future transactions.
- C) You inform the buyer that they can keep the goods, and you will not offer any compensation or refunds.
- D) You acknowledge the breach, apologize for the issue, and offer compensation or a solution as outlined by the CISG (such as returning the goods or providing a refund).

7. Discussion and Reflection on International Sales Contracts

Instructions:

After reading the text about the sale of goods and international sales contracts, answer the following questions in writing or discuss them in pairs or small groups. Be prepared to explain your answers and share examples where appropriate.

1. **What are the main differences between domestic and international sales contracts?**
How do these differences affect the terms and conditions of the contract?
2. **Why is it important for parties in an international sales contract to agree on the governing law (e.g., CISG) before proceeding with the contract?**
3. **How do Incoterms help clarify the responsibilities of the seller and buyer in international sales contracts?**
Can you provide an example of how Incoterms might be applied in a real-world situation?

4. What remedies are available to a buyer or seller if there is a breach of contract under the CISG?

How might these remedies differ from those in domestic contracts?

5. What role do delivery terms play in international sales contracts, and what are the potential consequences if they are not clearly defined?

6. Imagine you are the buyer in an international sales contract, and the goods you received are damaged.

What steps would you take to resolve the situation, and what are your rights under the CISG?

Follow-up Task: After discussing the questions, write a brief summary of the key points covered in the group discussion or your written answers. Focus on the practical implications of international sales contracts and the importance of clearly defined terms.

Listening

8. Discuss the following Questions

1. Is it ethical for parties to exclude the CISG in a contract if one party is less familiar with international law and might be disadvantaged? Why or why not?
2. When a buyer discovers defects in goods after delivery, is it ethical to delay notifying the seller to gain leverage in renegotiation?
3. Should sellers be ethically responsible to ensure goods meet quality standards even if the buyer did not explicitly inspect them before shipment?
4. Is it fair or ethical for a party to rely on complex Incoterms or legal clauses to shift risk entirely to the other party without clear explanation?
5. In international contracts, is it ethical to choose arbitration in a neutral country that is costly or inconvenient for the other party?
6. Should companies prioritize ethical fairness over strict legal remedies (like claiming damages or contract avoidance) when a breach occurs but the other party shows willingness to correct the issue?

Ethical Dilemmas – CISG & International Sales Contracts

9. Solve Legal Dilemmas – What Makes a Contract Valid?

Instructions:

Objective:

To develop students' critical thinking and ethical reasoning skills in contract law situations, and to discuss the balance between legal rules and ethical business behavior.

Steps:

1. **Read the scenario carefully** and identify:
 - a. The legal issue (e.g., counter-offer, duress, acceptance)
 - b. The ethical question or conflict
2. **Discuss in your group:**
 - a. What would be the legally correct action?
 - b. What would be the ethically correct action?
 - c. Are there conflicts between legal correctness and ethics?
3. **Prepare a short response** (1–2 minutes) summarizing your group's opinion. Consider practical solutions or compromises.
4. **Share your group's conclusions** with the class.
5. **Class discussion:** Compare different groups' opinions. Highlight cases where ethical behavior might differ from strict legal rules.
6. **Reflection:** Individually, write one sentence about what you learned about ethics in contract law.

Optional Variation:

- Assign each group **a role** (buyer, seller, judge, third-party observer) to explore perspectives more deeply.
- Have students **vote on the most ethical solution** for each scenario.

1. **Excluding CISG Knowledgeably**

A seller from Germany knows the CISG favors certain contract rules, while the buyer from a developing country is unfamiliar with it. The seller excludes CISG in the contract to rely on local law.

Ethical question: Is it fair to exclude a legal framework when one party may be at a disadvantage due to lack of knowledge?

2. **Delayed Defect Notification**

A buyer receives machinery from a supplier abroad but discovers minor defects. The buyer waits several weeks before notifying the seller, hoping to negotiate a lower price.

Ethical question: Is it ethical to delay reporting defects to gain financial advantage?

3. **Non-Conforming Goods**

A supplier ships goods that slightly differ from contract specifications, knowing the buyer may accept them without inspection.

Ethical question: Should the seller proactively inform the buyer about discrepancies, or is it acceptable to rely on the buyer noticing?

4. **Unbalanced Incoterms**

A contract uses CIF terms favoring the seller, making the buyer bear most shipping risks. The buyer did not fully understand the terms.

Ethical question: Is it ethical to take advantage of complex shipping terms without ensuring the other party understands them?

5. **Arbitration in a Neutral but Costly Location**

An Italian seller and a South African buyer agree that all disputes will be handled via arbitration in Geneva, which is very expensive for the buyer.

Ethical question: Should the seller prioritize fairness over convenience and cost for the other party when selecting dispute resolution?

6. **Minor Breach – Strict Legal Action vs. Cooperation**

A South Korean buyer receives a shipment of steel that is slightly below the agreed standard but still usable. The buyer considers canceling the contract and

claiming damages.

Ethical question: Should the buyer pursue strict legal remedies, or ethically cooperate with the supplier to resolve the issue fairly?

10. Listening. Mark the following statements as true or false.

True/False Statements:

- 1. The CISG applies only if both parties are located in countries that have ratified the convention, unless they agree to exclude it.**
- 2. Incoterms are optional and non-binding, so they are rarely used in international contracts.**
- 3. Domestic sales contracts are usually more complex than international ones because they require dealing with multiple legal systems.**
- 4. FOB and CIF are examples of Incoterms that define when the risk and cost of transporting goods pass from seller to buyer.**
- 5. One of the main purposes of the CISG is to provide a consistent legal framework for international sales of goods.**

The CISG: A Key Instrument in International Sales Contracts The United Nations Convention on Contracts for the International Sale of Goods (CISG) is a vital legal instrument that governs international sales contracts. Adopted in 1980 in Vienna and effective since 1988, the CISG was created to facilitate international trade by removing legal obstacles and harmonizing sales law across different countries. It currently binds over 90 countries, which together represent more than two-thirds of global trade. Therefore, it is one of the most influential legal texts in international commerce.

Unlike domestic sales law, which varies from country to country, the CISG provides a neutral and consistent framework. This is especially important when two companies from different legal systems enter into a contract. For example, if a company from Japan sells electronics to a company in Argentina, and both countries are parties to

the CISG, then the contract is automatically governed by CISG rules—unless both parties explicitly agree otherwise.

Scope and Applicability The CISG applies to contracts for the sale of movable goods between parties whose places of business are in different countries that have adopted the convention. However, it does not apply to sales of consumer goods, services, stocks and securities, or ships and aircraft. For instance, the sale of software services or shares in a company would not fall under CISG, whereas the sale of 500 industrial machines would.

In addition, the CISG applies only if the parties have not excluded it. Parties are free to opt out of the CISG in their contract by stating that national law will apply instead. Consequently, it's essential for parties to clarify which legal system governs their contract in the choice-of-law clause.

Formation of the Contract Under the CISG, a contract is formed through offer and acceptance. The offer must be specific and indicate the intent to be bound if accepted. The acceptance must be unconditional and timely. Moreover, silence is not considered acceptance unless agreed upon in advance.

For instance A Dutch company sends an offer to an Australian buyer to sell 1,000 bicycles for \$50,000. If the Australian buyer replies within a reasonable time accepting all the terms, a valid contract is formed under the CISG. But if the buyer makes changes (e.g., requests 1,200 bicycles instead), it counts as a counter-offer, not an acceptance.

Obligations of the Seller and Buyer Under the CISG, the seller must:

Deliver the goods.

Transfer property and related documents.

Ensure the goods conform to the contract in terms of quantity, quality, and packaging.

The buyer, in turn, must:

Pay the price.

Take delivery of the goods.

Inspect the goods and notify the seller of any defects within a reasonable time.

For Example: A German supplier sends textiles to a retailer in Mexico. Upon delivery, the retailer must inspect the fabrics. If there is damage, the retailer must inform the supplier quickly. Failure to do so may result in the loss of the right to claim remedies.

Remedies for Breach of Contract The CISG provides balanced remedies for both parties. These include:

Specific performance (e.g., requiring the seller to deliver replacement goods).

Price reduction (if goods are non-conforming but still usable).

Damages (to compensate for financial loss).

Contract avoidance (termination), if the breach is fundamental.

For instance: A South Korean company contracts to buy high-quality steel from a Polish supplier. However, the supplier ships substandard steel that cannot be used in production. This would likely be considered a fundamental breach, allowing the buyer to reject the goods and claim damages or cancel the contract.

Use of Incoterms Alongside the CISG Although the CISG governs many aspects of the contract, it does not cover the transfer of risk or delivery terms in detail.

Therefore, parties often include Incoterms (International Commercial Terms) published by the International Chamber of Commerce (ICC) to clarify responsibilities during shipping.

For example, if a contract uses FOB (Free on Board) Shanghai, the seller delivers the goods to the port and the buyer bears the cost and risk from that point onward. If CIF (Cost, Insurance, Freight) is used, the seller covers transport and insurance up to the buyer's destination port.

Dispute Resolution and Legal Language The CISG encourages out-of-court settlement through negotiation or arbitration, though litigation is also possible. Many contracts include arbitration clauses to resolve disputes efficiently and avoid unfamiliar foreign courts. Furthermore, because the CISG allows flexibility, parties may tailor the contract to fit their needs, including selecting the language of communication and currency.

For instance An Italian seller and a South African buyer agree that all disputes will be handled through arbitration in Geneva and that English will be the contract language. These terms coexist with CISG provisions and help create legal certainty.

In summary, the CISG promotes fairness, efficiency, and clarity in international trade. Because it standardizes contract rules, it reduces the risk of misunderstandings and legal conflicts. Thus, businesses engaged in cross-border transactions benefit greatly from understanding the CISG and using it wisely in their contracts. Whether selling olive oil from Spain to India or exporting electronics from China to Brazil, the CISG provides a dependable legal foundation.

Vocabulary Exercises

Exercise 1: Matching Definitions

Instructions: Match each term to the correct definition. Write the letter of the definition next to the term.

Terms	Definitions
1. CISG	A. A legal agreement between a seller and a buyer to transfer ownership of goods for a price.
2. Goods	B. A process by which a seller and buyer agree on the terms of a sale, including price, quantity, and delivery.
3. Incoterms	C. A breach of the terms of the contract by either the buyer or the seller, leading to potential legal action.
4. Sale of Goods Contract	D. Internationally recognized trade terms that clarify the responsibilities of sellers and buyers regarding delivery and shipping.
5. Breach of Contract	E. The United Nations framework that governs international contracts for the sale of goods.
6. Offer and Acceptance	F. Tangible, movable items that are bought and sold in a contract.

Exercise 2: Fill in the Blanks

Instructions: Use the words from the box to complete the sentences below.

Words to use: *goods, delivery, sale of goods contract, CISG, breach, Incoterms*

1. The _____ provides a standardized legal framework for international sales contracts between parties from different countries.
 2. A _____ of contract occurs when one party does not fulfill their obligations under the agreement.
 3. Before entering into a contract, both the seller and buyer must agree on the _____ terms, such as who will cover the shipping costs.
 4. A _____ is an agreement where the ownership of _____ is transferred from the seller to the buyer for a price.
 5. Clear terms on _____ are important to ensure both parties understand when and where the goods will be handed over.
-

Exercise 3: Multiple Choice

Instructions: Choose the correct answer.

1. **Which of the following best describes the CISG?**
 - a) A contract for the sale of goods within one country
 - b) A framework for regulating domestic sales only
 - c) A legal convention governing international sales contracts
 - d) A guideline for setting prices in international sales
2. **What do Incoterms help define in an international sales contract?**
 - a) The price of goods
 - b) The shipping and delivery responsibilities
 - c) The payment method
 - d) The quality of the goods being sold
3. **If a seller delivers goods that do not conform to the contract, this is considered:**

- a) A breach of contract
 - b) An offer and acceptance
 - c) A sale of goods contract
 - d) An Incoterms violation
4. **Which of the following is NOT typically covered in a sale of goods contract?**
- a) The names of the buyer and seller
 - b) The type of goods being sold
 - c) The government regulations in the buyer's country
 - d) The price and payment terms
5. **Which term refers to the tangible items that are bought and sold in a sale contract?**
- a) Goods
 - b) Payment terms
 - c) Delivery terms
 - d) Offer and acceptance

Exercise 4: True or False

Instructions: Write T for true and F for false next to each statement.

1. The CISG applies only to domestic sales contracts between parties in the same country.
2. Incoterms are used to clarify shipping responsibilities in international contracts.
3. A sale of goods contract does not need to specify the delivery terms, as they are implied by law.
4. A breach of contract can lead to legal remedies, including compensation or contract termination.

5. The buyer is responsible for ensuring the goods meet the agreed-upon specifications in a contract.

INTERNATIONAL SALES CONTRACTS: ADVANCED TOPICS

While-Reading Tasks:

Objective: Focus on understanding the roles, risks, and characteristics of specialized international trade agreements and common Incoterms.

1. "International Contract Match-Up"

Instructions: As you read the text, underline or highlight the following four contract types. After reading, match each term (1-4) with its correct definition (A-D).

Terms to Highlight:

1. Consignment Sales Contract
2. Distribution Agreement
3. Agency Agreement
4. Barter or Countertrade Contracts

Definitions:

- A. A contract where one party (the supplier) allows another (the distributor) to sell its products, often within a specific territory or market.
- B. Agreements where goods or services are exchanged directly for other goods or services, without using money as a medium.
- C. An agreement where the seller delivers goods to the buyer, who sells them on the seller's behalf and pays only after the goods are sold.
- D. A legal arrangement where one party (the agent) is authorized to act on behalf of another (the principal) to promote or sell goods/services.

2. "Key Concept Multiple Choice"

Instructions: Read the text carefully and select the best answer for each question.

1. What is the role of the seller in an Ex Works (EXW) contract?

- a) The seller handles all shipping, insurance, and customs duties.
- b) The seller is responsible until the goods are loaded onto the vessel.
- c) The seller's responsibility is minimized, simply making the goods available at their premises (e.g., works, factory). D
-) The seller pays for freight and insurance, but the risk transfers upon loading.

2. Which statement accurately describes the risk transfer in a Cost, Insurance and Freight (CIF) contract?

- a) The buyer assumes the risk of loss only when the goods reach their final destination.
- b) The risk of loss transfers to the buyer after the goods are loaded onto the ship, even though the seller pays for insurance and freight.
- c) The seller retains all risk until the insurance claim is filed.
- d) The risk is determined by the buyer's choice of carrier.

3. What is the fundamental difference between a CIF and a CFR (Cost and Freight) Incoterm?

- a) In CFR, the seller does not pay the freight costs.
- b) In CIF, the buyer is not obligated to pay for import duties.
- c) The main difference is that the seller is **not** obligated to arrange insurance in a CFR contract.
- d) CFR is only used for air transport, while CIF is for sea transport.

4. Under a Delivered Duty Paid (DDP) contract, who handles the logistics and bears the risk?

- a) The buyer handles all delivery aspects, including import duties.
- b) The buyer and seller split the risk evenly from the point of shipment.
- c) The seller handles all aspects of delivery and bears all risks until the goods reach the final destination.
- d) The seller is only responsible for delivery to the border.

5. Which statement regarding the United Nations Convention on Contracts for the International Sale of Goods (CISG) is generally false?

- a) It provides a uniform law for the international sale of goods.
- b) It is sometimes known as the Vienna Convention.
- c) The CISG is only applicable if one of the parties explicitly opts into it.
- d) It governs the formation of the contract and the rights and obligations of the seller and buyer.

International sales contracts are critical tools that allow companies to expand into foreign markets under terms that suit their specific strategic, legal, and financial needs. While standard contracts such as those governed by the CISG or based on Incoterms dominate the field, alternative contract types offer specialized structures that can be highly effective in particular situations. Among these, **consignment sales contracts, distribution agreements, agency agreements, and barter or countertrade contracts** provide flexible solutions for businesses dealing with uncertainty, regulation, and unique market conditions. Each of these arrangements requires careful planning, clear legal documentation, and a deep understanding of both the risks and benefits they involve.

To begin with, the **consignment sales contract** is particularly useful when the seller wishes to maintain control over their products while testing a new or volatile market. Under this type of contract, the seller ships goods to the buyer or a third-party consignee but retains legal ownership until the goods are sold to the final consumer. The consignee typically acts as a sales agent, earning a portion of the revenue generated from sales. For instance, a Spanish ceramic tile manufacturer may enter into a consignment agreement with a home improvement store chain in Brazil. The manufacturer ships a container of tiles to Brazil, where they are displayed and marketed by the retailer. As tiles are sold to Brazilian customers, the retailer remits payment to the Spanish manufacturer, deducting their agreed commission or service fee.

Such contracts reduce the financial burden on the consignee and allow the consignor to retain more control over pricing, branding, and market entry strategy. However, this comes at a cost. The consignor bears the risk of unsold inventory and potential

losses from damage, theft, or mismanagement. In legal terms, the consignor may also face difficulties reclaiming goods in the event of the consignee's bankruptcy, especially in jurisdictions where property rights are unclear. Therefore, these contracts often include detailed inventory tracking provisions, insurance requirements, and rights of audit or inspection to protect the seller's interests.

In contrast, a **distribution agreement** offers a more autonomous structure. The distributor buys goods directly from the exporter and resells them in a designated territory. Because the distributor assumes ownership of the goods upon purchase, they also bear the risk of resale and inventory management. This model is attractive for manufacturers that wish to offload some operational burden while still benefiting from increased sales abroad. For example, a German machine tool company may enter into an exclusive distribution agreement with a distributor in Turkey. The Turkish distributor purchases the equipment at wholesale prices, manages local marketing campaigns, offers customer support, and handles installation and warranty claims. In return, the distributor keeps the profits from resale, often charging a markup that reflects their local market knowledge and service costs.

Distribution agreements can be structured with or without territorial exclusivity. In exclusive agreements, the distributor becomes the sole authorized seller in a region, which can incentivize greater investment in promotion and service infrastructure. However, exclusivity may also create dependency and limit the manufacturer's flexibility. To mitigate these risks, contracts typically include minimum performance targets, compliance requirements, and termination clauses tied to sales volume or service quality. Intellectual property protection and branding guidelines are also crucial, as misuse by distributors can damage the manufacturer's global reputation. Meanwhile, the **agency agreement** establishes a relationship that is more advisory and less capital-intensive than distribution. Here, the agent does not purchase goods but facilitates sales on behalf of the principal (the exporter), typically earning a commission on transactions. This structure is especially effective when the exporter wants to retain tighter control over pricing, customer relations, and branding, yet lacks a physical presence in the foreign market. An example might involve a Swedish

furniture company appointing a commercial agent in the United Arab Emirates to identify potential business clients, arrange meetings, and forward orders directly to Sweden. The agent does not store inventory or handle delivery logistics; instead, they act as an intermediary, providing market insights and generating leads.

From a legal perspective, agency agreements often fall under national laws that grant agents certain protections, particularly in the European Union. For instance, agents may be entitled to compensation upon termination if they have developed a client base that continues to generate revenue for the exporter. Therefore, agency contracts must clearly define the scope of the agent's authority, the structure of commissions, non-compete clauses, and procedures for contract termination. Unlike distributors, agents do not assume financial risk for unsold goods, but their role in representing the exporter's brand makes it essential to choose agents who are trustworthy and culturally aligned with the company's image.

Finally, **barter or countertrade contracts** are distinct in that they do not involve the exchange of money. Instead, goods or services are traded directly. This type of contract is particularly prevalent in trade relationships involving developing countries, state-owned enterprises, or economies facing currency shortages or restrictions on foreign exchange. For example, a Chinese construction firm might agree to build a railway in Angola in exchange for long-term shipments of crude oil. In another scenario, a European technology company may accept agricultural products from a Central Asian country as partial payment for industrial machinery. Countertrade can take several forms, including simple barter (direct exchange), buy-back arrangements (where the seller is repaid through the output of the equipment sold), and offset deals (in which the seller agrees to invest in the buyer's country as part of the sale). While countertrade allows trade to proceed despite liquidity issues, it introduces complexities in valuation, delivery coordination, and contract enforcement. Additionally, mismatches in quality expectations, perishability, and transportation infrastructure can present logistical and legal challenges.

In conclusion, the diversity of international sales contracts reflects the wide range of commercial needs and legal environments that global traders must navigate. Whether

a business chooses to operate through consignment, distribution, agency, or countertrade depends on its risk tolerance, financial goals, and strategic vision. Each model has its strengths: consignment minimizes upfront costs for buyers, distribution scales reach through local partners, agency allows precision in branding, and countertrade opens markets otherwise inaccessible due to monetary constraints. However, all require well-drafted agreements, strong due diligence, and a firm understanding of the legal systems involved to avoid disputes and ensure successful international partnerships.

Post-reading tasks

3. "True or False Statements"

Instructions: Write **T** for true and **F** for false next to each statement.

- _____ In a consignment contract, the consignee takes full legal ownership of the goods upon delivery.
- _____ A distribution agreement allows the seller to retain full control over pricing and branding.
- _____ In agency agreements, the agent earns a commission and does not usually handle inventory.
- _____ Countertrade is often used in countries with strong, stable currencies.
- _____ Consignment contracts shift the risk of unsold goods to the buyer.
- _____ Exclusive distribution agreements may require distributors to meet sales targets.
- _____ Agents are sometimes legally entitled to compensation after termination of their agreement.

4. Follow-Up:

Discuss with a partner why **Incoterms** are visually helpful (e.g., using a chart or graphic) for quickly identifying the point of cost and risk transfer between the buyer and seller in contracts like **FOB** and **DDP**.

5. Vocabulary exercises

Exercise 1: Match Each Term to the Correct Definition

Write the letter of the correct definition next to each term.

Terms:

1. Audit
2. Reclaim
3. Countertrade
4. Inventory
5. Wholesaler
6. Warranty claims
7. Consignment
8. Barter
9. Market entry
10. Termination
11. Valuation

Definitions:

- A. A trade system in which goods or services are exchanged directly without using money.
- B. The process of ending a contract or agreement formally.
- C. A business that buys goods in large quantities and sells them to retailers.
- D. A company's stored goods ready for sale or distribution.
- E. Entering a new region or country with products or services.
- F. The act of demanding or receiving compensation for defective goods under a product guarantee.
- G. A detailed review of financial records or inventory to ensure accuracy and compliance.

- H. A sales arrangement where goods are delivered but ownership remains with the seller until sold.
- I. The process of calculating the worth or price of goods, services, or assets.
- J. Returning or recovering possession of something, usually after a default or breach.
- K. A broader system where goods or services are exchanged in structured forms, such as buy-back or offset agreements.

Exercise 2: Use the Words from the Box to Complete the Sentences

Word Box:

wholesaler, ination, valuation, reclaim, warranty claims, barter, audit, inventory, countertrade, market entry, termconsignment

1. The company had to conduct an internal _____ to resolve discrepancies in their stock records.
2. After the contract's _____, the distributor was no longer authorized to sell the products.
3. The goods were shipped on _____, meaning the seller still owned them until they were sold.
4. When the machine broke down, the buyer filed two _____ with the manufacturer.
5. Due to a foreign currency shortage, the two nations agreed to use _____ instead of cash.
6. Before negotiating the sale, an independent firm performed a _____ of the machinery.
7. The company's _____ strategy included hiring a local sales team and adapting the packaging.
8. The exporter had to _____ the remaining unsold goods after the distributor went bankrupt.

9. The local business prefers to buy from a _____ to avoid the hassle of importing directly.
10. In rural regions, many transactions still rely on _____, especially in agricultural markets.
11. Some governments promote _____ deals to balance trade deficits and encourage exports.

Exercise 3: Multiple Choice

Choose the correct answer.

1. **What does a consignment arrangement imply about ownership of goods?**
 - A. The buyer owns the goods upon shipment
 - B. The government regulates the transfer
 - C. The seller retains ownership until sale
 - D. The distributor becomes the manufacturer
2. **Which of the following best defines countertrade?**
 - A. Trading services for tax credits
 - B. Buying stock options with foreign currency
 - C. A structured exchange of goods or services without cash
 - D. Discounting prices during market crashes
3. **A warranty claim is typically made when:**
 - A. A customer wants a refund before delivery
 - B. A product is damaged under guarantee
 - C. A supplier raises prices unexpectedly
 - D. An invoice is unpaid for 60 days
4. **What is the primary purpose of an audit?**
 - A. To increase inventory
 - B. To verify compliance and accuracy

- C. To cancel long-term contracts
 - D. To assess customer satisfaction
5. **Which term refers to the act of recovering unsold goods or assets?**
- A. Reclaim
 - B. Valuation
 - C. Consignment
 - D. Barter

Exercise 4: True or False

Write T (true) or F (false) next to each statement.

1. ____ In consignment sales, the buyer takes ownership as soon as the goods are delivered.
2. ____ Barter and countertrade both involve exchanging goods or services without using money.
3. ____ A wholesaler sells goods primarily to individual consumers.
4. ____ Termination of a contract always means that both parties agree to end the deal.
5. ____ A market entry strategy may include adapting a product to meet local demand.
6. ____ Valuation is necessary only for intangible assets like patents.
7. ____ An audit ensures transparency and checks for compliance in records.
8. ____ If a product fails during the warranty period, a customer may file a warranty claim.
9. ____ Reclaiming goods is common when distributors fail to meet sales targets.
10. ____ Countertrade requires payment in hard currency backed by a bank.

6. Discussion Questions

Discuss the questions in small groups and report to the class.

1. Why might a company choose a consignment sales contract when entering a new market?
2. What are the advantages and disadvantages of giving a distributor exclusive rights to a territory?
3. How do agency agreements help companies maintain control over branding and customer relations?
4. In what situations is countertrade a more practical solution than cash-based trade?
5. How can legal risks in consignment agreements be minimized?
6. What role do minimum performance targets play in distribution contracts?
7. Why is cultural alignment important when appointing a foreign agent?
8. How do different types of international sales contracts reflect a company's level of risk tolerance?

7. Dilemmas

Solve Legal Dilemmas

Instructions:

Read each of the two legal dilemmas below carefully. Each situation is followed by four possible answers. Only one answer is legally correct based on the principles of contract law under common law.

- a) **Choose the best answer for each dilemma.**
- b) **Be ready to explain why your choice is correct and why the other options are incorrect.**

c) (Optional) Work in pairs or small groups to discuss your reasoning before sharing with the class.

Dilemma 1:

A Ukrainian wine producer wants to test demand in a volatile African market but doesn't want to lose ownership of its stock. What contract type best suits this scenario?

- A. Distribution Agreement
- B. Agency Agreement
- C. Consignment Sales Contract
- D. Countertrade Contract

Dilemma 2:

A South Korean electronics firm wants to expand into Brazil and prefers to sell its goods outright to a local partner who will handle marketing, logistics, and customer service. Which model should they choose?

- A. Consignment
- B. Agency
- C. Franchise
- D. Distribution Agreement

Dilemma 3:

An exporter has no physical presence in the Gulf region but wants someone local to represent its brand, gather leads, and pass orders along without assuming financial risk. What's the best contractual relationship?

- A. Agency Agreement
- B. Barter Contract
- C. Licensing Deal
- D. Joint Venture

Dilemma 4:

A construction firm agrees to build infrastructure in a country that cannot pay in cash but offers natural resources instead. What form of contract are they using?

- A. Lease Agreement

- B. Distribution Contract
- C. Countertrade Contract
- D. Agency Agreement

8. Ethical Discussion Questions

- 1. To what extent is it ethically acceptable for exporters to retain ownership of goods in consignment contracts while passing most operational risk to local sellers in economically unstable regions?**

→ Should the legal protection of the consignor outweigh the financial vulnerability of the consignee?

- 2. Is it ethical for manufacturers to demand exclusivity in distribution agreements if the local distributor depends heavily on a single foreign partner for revenue?**

→ How do exclusivity clauses balance commercial ambition with local economic dependency?

- 3. How should exporters ethically respond if an agent has built a loyal customer base, but the contract is terminated for strategic reasons?**

→ Is financial compensation enough, or should reputation and local impact be considered?

- 4. Should there be stricter ethical standards when using countertrade agreements with developing countries, especially where goods like food or medicine are exchanged for industrial goods or services?**

→ Could such arrangements be seen as exploitative if the goods traded are of unequal value?

- 5. Is it ethically responsible for a company to enter a foreign market through local intermediaries (agents or distributors) without understanding the cultural and legal norms of that market?**

→ What duty does a company have to educate itself before forming such partnerships?

6. **In barter or countertrade deals, where enforcement and valuation are complex, how can businesses ensure that ethical standards of fairness and transparency are upheld for both sides?**
→ What safeguards should be in place to avoid power imbalances or hidden coercion?

9. DEBATES

Ethical Issues in International Contracts

DEBATE INSTRUCTIONS:

General Guidelines (for all debates)

1. **Divide the class** into two groups: **Proposition (For the motion)** and **Opposition (Against the motion)**.
2. Each debate should last about **25–30 minutes**.
3. Each speaker or team presents **one main argument**, supported by **evidence, real or hypothetical examples, and ethical reasoning**.
4. Use **rebuttals** to directly respond to the opposing team's arguments.
5. End with **closing statements** summarizing your side's ethical position.
6. The audience or teacher acts as **judge or moderator**, evaluating clarity, logic, persuasiveness, and ethical awareness.
7. Use the **Opening Question** to begin discussion and encourage brainstorming before formal speeches.

Debate 1: Ethical Risk Allocation in Consignment Contracts

Motion: “This house believes that consignment contracts unfairly shift financial risk to local sellers and should be more strictly regulated in emerging markets.”

Proposition:

Argue that consignors, while protecting their interests, exploit the weaker bargaining position of local sellers.

Opposition:

Argue that consignment contracts offer access to international goods without large upfront investment, creating shared opportunities.

Opening Question:

Who should bear more responsibility — the owner of the goods or the local seller trying to survive in a volatile market?

Suggested structure:

- Proposition: Define “consignment contract” and illustrate risks for consignees.
- Opposition: Emphasize benefits for small retailers and local economies.
- Rebuttals: Focus on fairness and proportionality of risk.
- Closing: Ethical balance between profit and protection.

Debate 2: Exclusivity in Distribution Contracts

Motion: “Exclusive distribution agreements are ethically unjustified when they create economic dependency.”

Proposition:

Claim that exclusivity can trap distributors, forcing them to overinvest and lose freedom to compete.

Opposition:

Defend exclusivity as a fair business strategy rewarding loyalty, investment, and brand consistency.

Opening Question:

Can exclusivity ever be fair when one party holds more power and options than the other?

Suggested structure:

- Proposition: Highlight cases where suppliers abuse dominance.
- Opposition: Present examples where exclusivity ensures quality and stability.
- Rebuttals: Discuss freedom vs. security in ethical trade.
- Closing: Define conditions for “fair exclusivity.”

Debate 3: Compensation for Terminated Agents

Motion: “Exporters have an ethical duty to offer more than financial compensation when terminating long-standing agency agreements.”

Proposition:

Emphasize loyalty, relationship-building, and moral gratitude beyond the written contract.

Opposition:

Argue that legal compensation meets ethical requirements if agreed upon in advance.

Opening Question:

Should ethical duties go beyond what is written in the contract?

Suggested structure:

- Proposition: Focus on moral obligations, not just legal terms.
- Opposition: Stress contract clarity and predictability.
- Rebuttals: Discuss long-term relationships in global trade.
- Closing: Ethical vs. contractual fairness.

Debate 4: Countertrade with Developing Countries

Motion: “Countertrade agreements between wealthy exporters and developing nations are inherently exploitative.”

Proposition:

Argue that valuation discrepancies and economic pressure make the system unjust.

Opposition:

Argue that countertrade can promote inclusion and market access for developing nations.

Opening Question:

Is it better to trade imperfectly or not to trade at all?

Suggested structure:

- Proposition: Give examples of unequal exchanges and lost value.

- **Opposition:** Highlight successful or necessary countertrade deals.
- **Rebuttals:** Discuss ethics vs. pragmatism.
- **Closing:** Define what “fair trade” means in unequal economies.

Debate 5: Cultural Awareness in Market Entry

Motion: “Companies entering foreign markets through intermediaries have an ethical obligation to understand local legal and cultural norms.”

Proposition:

Argue that ignorance may lead to cultural insensitivity, corruption, or exploitation.

Opposition:

Maintain that local partners, not foreign investors, are responsible for compliance.

Opening Question:

Is ‘not knowing’ a valid excuse in cross-border partnerships?

Suggested structure:

- **Proposition:** Provide cases where cultural ignorance caused harm.
- **Opposition:** Highlight efficiency and local autonomy.
- **Rebuttals:** Discuss shared vs. delegated responsibility.
- **Closing:** Ethical literacy in globalization.

Debate 6: Ethical Safeguards in Countertrade

Motion: “There should be international ethical standards for countertrade to protect against abuse and imbalance.”

Proposition:

Support creating transparent ethical guidelines and international oversight.

Opposition:

Argue that such standards restrict freedom of negotiation and ignore cultural diversity.

Opening Question:

Who decides what's "fair" in a trade where values are culturally and economically relative?

Suggested structure:

- Proposition: Explain why voluntary ethics codes could prevent exploitation.
- Opposition: Defend the principle of contractual autonomy.
- Rebuttals: Compare regulation vs. trust.
- Closing: Ethical pluralism in trade polic

Listening

9. Listening

Listen to the text and mark sentences as true or false.

1. **True or False:** The United Nations Convention on Contracts for the International Sale of Goods (CISG) is only applicable if one of the parties explicitly opts into it.
2. **True or False:** Under a Free on Board (FOB) contract, the seller is responsible for the goods until they reach the buyer's final destination.
3. **True or False:** In a Cost, Insurance and Freight (CIF) contract, the buyer assumes the risk of loss *after* the goods are loaded onto the ship, even though the seller pays for insurance and freight.
4. **True or False:** The main difference between a CIF and a CFR contract is that the seller is not obligated to arrange insurance in a CFR contract.
5. **True or False:** An Ex Works (EXW) contract places the most responsibility on the seller, including customs duties.
6. **True or False:** In a Delivered Duty Paid (DDP) contract, the seller handles all aspects of delivery and bears all risks until the goods reach the final destination.

7. **True or False:** In a Consignment Sales Contract, the buyer takes ownership of the goods immediately upon receiving them from the seller.
8. **True or False:** A Distribution Agreement is generally narrower in scope than a typical sales contract.
9. **True or False:** An agent in an Agency Agreement typically takes title to the goods they are selling on behalf of the exporter.
10. **True or False:** Barter or Countertrade Contracts are primarily used in countries with strong, stable currencies.

RIGHTS OF THIRD PARTIES: CONTRACT ENFORCEMENT AND ASSIGNMENT

While-Reading Tasks:

Objective: Focus on key legal concepts, understanding of terms, and main ideas concerning third-party involvement in contracts.

1. "Key Terminology Match-Up"

Instructions: As you read the text, underline or highlight the following terms. After reading, match each term with its correct definition.

Terms to Highlight:

1. Privity of Contract
2. Third-Party Beneficiary
3. Assignment of Rights
4. Delegation of Duties
5. Incidental Beneficiary

Definitions:

- A. A person or entity who is not a party to the contract but who is intended by the parties to benefit from the contract and may enforce it.
- B. The legal relationship that exists only between the parties to a contract.
- C. A transfer of contractual rights from the original party (assignor) to a new party (assignee).
- D. A person who benefits from a contract between two others but was not intended to and therefore cannot sue to enforce it.
- E. A transfer of contractual obligations (duties) from the original party (delegator) to a new party (delegatee).

Follow-Up:

2. **Discuss in pairs or groups why the principle of Privity of Contract makes the exceptions of Third-Party Beneficiary and Assignment necessary in modern business.**

3. **"True or False Statements"**

Instructions: Read the text carefully and decide if the following statements are true or false.

1. _____ The principle of **Privity of Contract** is absolute and has no exceptions in modern law.
2. _____ An **Incidental Beneficiary** has the same right to sue for breach of contract as an **Intended Beneficiary**.
3. _____ **Assignment of Rights** always requires the consent of the other contracting party (the obligor).
4. _____ A party who **delegates** a duty under a contract is automatically relieved of that duty if the delegatee fails to perform.
5. _____ For a third party to enforce a contract, the contract must clearly show an **intent to benefit** that specific third party.
6. _____ Contractual rights related to **personal services** are generally not assignable.

Follow-Up:

4. **Discuss any misconceptions you had about the transfer of rights versus the transfer of duties.**

Third-party Beneficiaries

In contract law, a fundamental principle is **privity of contract**, which holds that only the parties who have entered into a contract are entitled to enforce its terms or be held liable under it. However, like many legal principles, this rule has evolved over time to accommodate the complexities of modern commercial and personal arrangements. As a result, **third parties**—individuals or entities who were not direct signatories to a contract—may, under certain circumstances, acquire legal rights or responsibilities in relation to that contract. This typically happens in two primary ways: when someone is named as a **third-party beneficiary** or when **rights and obligations are transferred** through **assignment** or **delegation**.

To begin with, the most straightforward situation in which a third party gains enforceable rights is as an **intended third-party beneficiary**. This occurs when the

parties to the contract explicitly intend to confer a benefit on a third person. A classic and commonly cited example involves **life insurance contracts**. Suppose a father enters into a life insurance agreement with a company and names his daughter as the sole beneficiary. Although the daughter is not a party to the agreement, she is the one the contract is designed to benefit. Upon the father's death, she has the legal right to claim the insurance payout and can sue the insurance company if it fails to honor the terms. In this context, the daughter is an **intended** beneficiary because the contract was made with her benefit in mind.

It is important to distinguish **intended beneficiaries** from **incidental beneficiaries**. An incidental beneficiary is someone who may benefit from a contract's performance, but whose benefit was not a central concern of the contracting parties. For instance, imagine a city hires a contractor to build a public park near a café. The café owner may expect more customers due to increased foot traffic. However, if the contractor fails to complete the park, the café owner cannot sue for lost business, because the contract was not designed to benefit him directly. Courts often make this distinction by looking at contract language and context to determine whether the third party's benefit was deliberate and substantial.

Another type of third-party involvement arises through **assignment** and **delegation**, two mechanisms that allow parties to transfer their rights or duties under a contract to others. An **assignment** refers to the transfer of **contractual rights**, such as the right to receive payment. Suppose Anna rents out her apartment to Bella under a lease that includes monthly rent. Anna then sells the building to Carla and assigns the right to collect rent to Carla. From that point forward, Bella must pay Carla instead of Anna, and Carla, as the assignee, has the legal right to enforce payment.

In contrast, **delegation** involves the transfer of **contractual obligations**. Consider a construction company hired to build a school, which delegates the roofing portion of the project to a subcontractor. The subcontractor, now the **delegate**, is responsible for completing the roofing. However, delegation does not automatically release the original party from liability. If the subcontractor performs poorly or fails to complete the work, the school board may still hold the original construction company

accountable. Thus, delegation can add a third party to the performance chain without removing the primary contractor's responsibilities.

Notably, there are **limits** to assignment and delegation. In contracts involving **personal skills or unique services**, delegation is usually prohibited unless the other party consents. For example, if a famous artist is contracted to paint a portrait, they cannot delegate the task to a student, even if the student is competent, because the contract was formed based on the unique talents of the artist. Similarly, if the performance of duties under a contract requires personal trust or confidentiality—such as legal representation or medical treatment—the duties are generally **non-delegable**.

Legal systems across jurisdictions may treat the rights of third parties differently, but many have adopted statutes or judicial doctrines to clarify the issue. In the **United States**, for instance, the **Restatement (Second) of Contracts** recognizes the enforceability of rights by intended beneficiaries. Similarly, in **England and Wales**, the **Contracts (Rights of Third Parties) Act 1999** significantly modified the traditional privity rule by allowing a third party to enforce a contract if the contract expressly provides for it, or if it confers a benefit on them and the contracting parties intended this.

Courts resolving disputes involving third-party rights often engage in **interpretive analysis**. They examine the wording of the contract, communications between the parties, and surrounding circumstances to determine whether the third party was truly intended to benefit. Additionally, courts consider whether the third party **relied** on the contract to their detriment. In certain cases, even if the third party is not named, their reliance may be enough to establish enforceable rights under doctrines such as **promissory estoppel**.

Furthermore, questions of **consent and notification** also arise. For an assignment to be enforceable, the non-assigning party typically must be **notified**. Without such notice, confusion may occur regarding who is entitled to performance. Likewise, for a delegation to be valid, especially in service contracts, the delegator may need the **consent** of the other party. This helps ensure that duties are performed by someone

with the appropriate qualifications and maintains the trust upon which the contract was formed.

Lastly, it is worth considering the **policy implications** of allowing third parties to enforce contracts. On one hand, recognizing the rights of intended beneficiaries promotes fairness and prevents injustice, especially in familial or insurance arrangements. On the other hand, unlimited third-party enforcement could burden the original contracting parties with unintended liabilities. For this reason, many legal systems strive for a **balanced approach**, granting rights to third parties in carefully defined circumstances while upholding the core principle that contracts are primarily between the parties who made them.

In conclusion, although third parties are generally not bound by or entitled to enforce contracts, exceptions to the privity rule have developed to reflect practical realities. Third-party beneficiaries, assignees, and delegates can acquire rights or responsibilities under a contract when the law recognizes their involvement as intentional and appropriate. By clearly stating the roles and rights of third parties in the contract, parties can avoid ambiguity and litigation. Understanding these doctrines is crucial not only for lawyers and contract drafters but also for anyone entering into legally binding agreements in a modern, interconnected society.

Post-Reading Tasks: Application and Analysis

Objective: Apply the knowledge of third-party rights to practical scenarios and legal arguments.

5. "Key Concept Multiple Choice"

Instructions: Read the text carefully and select the best answer for each question.

1. What is the fundamental principle that prevents a non-contracting party from enforcing an agreement?

- a) Delegation of Duties
- b) Assignment of Rights
- c) Third-Party Beneficiary Rule

d) Privity of Contract

2. A painting company contracts with a hotel to paint all its rooms. A nearby café owner sees the contract as a benefit because more tourists might stay at the newly renovated hotel. The café owner is most likely a(n):

a) Assignee

b) Intended Beneficiary

c) Incidental Beneficiary

d) Delegatee

3. When a party assigns their rights under a contract, the original party (the assignor):

a) Is also relieved of all their duties under the contract.

b) Transfers their right to receive performance (e.g., payment) to the assignee.

c) Must get consent from the third-party beneficiary.

d) Can still sue the obligor even after the assignment is complete.

4. Under a Delegation of Duties, which statement is true?

a) The delegatee assumes the entire risk of non-performance, and the delegator is always released.

b) The delegator remains liable for the performance of the duty if the delegatee fails to perform.

c) Delegation is prohibited in all circumstances.

d) Delegation requires the delegatee to become a party to the original contract.

5. What is the primary factor courts look for when determining if a third party is an Intended Beneficiary?

a) Whether the third party knew about the contract.

b) The amount of money the third party is set to receive.

c) Whether the original contracting parties clearly expressed an intent to benefit the third party.

d) The third party's relationship to the assignor.

6. "Discussion and Application"

Instructions: Answer the following discussion questions based on the text.

1. **Enforcement:** In what situations can a third party enforce a contract they did not sign?
2. **Assignee vs. Delegatee:** How do the roles of an **assignee** and a **delegatee** differ in terms of what they receive/take on in contract law?
3. **Control:** Should parties to a contract have full control over assigning or delegating their rights and duties? Why or why not?
4. **Dispute Resolution:** How do courts typically resolve disputes involving third-party rights in contracts, especially when the contract is ambiguous about intent?

6. "Concept Matching: Third Party Roles"

Instructions: Match the questions (1-5) to the role (A-E) that best fits the description.

Questions:

1. Who is authorized to receive the **benefit** (like a payment) of the contract from the original party?
2. Who must **perform** a contractual obligation (like a service) in place of the original party?
3. Who is the non-contracting party who **cannot** sue for breach of contract, even if the breach negatively affects them?
4. Who is the non-contracting party who **can** sue for breach of contract because the original parties specifically intended to make them the recipient of a performance?
5. Who is the original party who transfers a contractual **obligation**?

Third-Party Roles:

- A. Assignee
- B. Delegatee

C. Incidental Beneficiary

D. Intended Beneficiary

E. Delegator

7. Discuss the following questions in pairs. Prepare a report for your class.

1. In what situations can a third party enforce a contract they did not sign?
2. What distinguishes a third-party beneficiary from a party to the original contract?
3. Why is it important that a contract clearly states who the intended beneficiary is?
4. How does the law determine whether a third party is an intended or incidental beneficiary?
5. What rights does an intended third-party beneficiary have if the contract is breached?
6. How do the roles of assignee and delegate differ in contract law?
7. Under what circumstances can an assignee enforce rights under a contract?
8. What responsibilities does a delegate assume when taking over contractual obligations?
9. Should parties to a contract have full control over assigning or delegating their rights and duties? Why or why not?
10. How do courts typically resolve disputes involving third-party rights in contracts?

8. Mark the following statements as true or false.

1. An intended third-party beneficiary can enforce a contract even if they did not sign it.
2. Incidental beneficiaries have the same legal rights as intended beneficiaries under contract law.

3. Assignment refers to the transfer of contractual rights, such as the right to receive payment.
4. Delegation always removes the original party's responsibility for contract performance.
5. Courts often analyze contract language and context to determine if a third party was meant to benefit.
6. In many jurisdictions, contracts involving personal skill or trust cannot be delegated without consent.
7. Third-party rights always require that the third party be named specifically in the contract.
8. Notification is generally required for an assignment to be enforceable.
9. The Contracts (Rights of Third Parties) Act 1999 in England and Wales limits all third-party claims.
10. Courts may deny third-party enforcement if there is no clear intent to benefit the third party.

9. Solve Legal Dilemmas

Instructions:

Read each of the two legal dilemmas below carefully. Each situation is followed by four possible answers. Only one answer is legally correct based on the principles of contract law under common law.

- a) Choose the best answer for each dilemma.**
- b) Be ready to explain why your choice is correct and why the other options are incorrect.**
- c) (Optional) Work in pairs or small groups to discuss your reasoning before sharing with the class.**

Dilemma 1:

Emma contracts with a florist to deliver flowers every Friday to her grandmother. The grandmother is not part of the contract. One day, the florist fails to deliver the flowers, and the grandmother wants to sue. Can she?

- A. No, because she did not pay for the flowers.
- B. Yes, because she is an intended third-party beneficiary.
- C. No, because the florist fulfilled other deliveries that day.
- D. Yes, because she is related to Emma.

Dilemma 2:

A law firm hires a named partner to argue a high-profile case. The partner assigns the case to a junior associate without telling the client. The client sues, claiming breach of contract.

- A. The partner had the right to delegate the case freely.
- B. The junior associate automatically becomes responsible and is protected.
- C. The client has no say in delegation decisions.
- D. The client is correct because delegation of personal skill without consent is not allowed.

10. Vocabulary exercises**Exercise 1: Matching Definitions**

Match each term to the correct definition. Write the letter of the definition next to the term.

Terms

1. Assignee
2. Assignment
3. Delegate
4. Incidental beneficiary

5. Contracts (Rights of Third Parties) Act 1999
6. Privity of contract
7. Intended beneficiary
8. Promissory estoppel
9. Restatement (Second) of Contracts
10. Delegation

Definitions

- A. A legal doctrine preventing a party from denying a promise if another has relied on it to their detriment
- B. A person who benefits from a contract unintentionally and without legal rights to enforce it
- C. A legal reform in England and Wales allowing certain third parties to enforce contractual terms
- D. A person to whom duties under a contract have been transferred
- E. A U.S. legal authority that allows third-party enforcement if they were intended beneficiaries
- F. The transfer of obligations under a contract to another party
- G. A person who gains legal rights under a contract made for their benefit
- H. The concept that only parties to a contract can enforce or be bound by it
- I. The transfer of rights under a contract to a third party
- J. The person who receives rights under an assignment

Exercise 2: Fill in the Blanks

Use the words from the box to complete the sentences. Not all words will be used.

Word Box:

third-party beneficiary, assignee, unique services, assignment, personal skill, incidental, enforceable, delegation, subcontractor, consent

1. A contract that names someone to receive the benefit, such as a life insurance policy, creates a _____.
2. A(n) _____ is someone who takes over duties in a contract but doesn't automatically eliminate the original party's responsibility.
3. If a painter is hired because of their _____, they cannot delegate the task to someone else without consent.
4. The café owner near a new park is an _____ beneficiary and cannot sue if the park is not completed.
5. Without proper notification, an _____ may not be able to claim the transferred rights.
6. An _____ allows rights under a contract—like the right to collect rent—to be transferred to a third party.
7. _____ of duties is not allowed in contracts that rely on trust or special skills.

Exercise 3: Multiple Choice

Choose the correct answer for each question.

1. Which of the following best describes an intended third-party beneficiary?
 - A. Someone who negotiates the contract terms but isn't bound
 - B. Someone who signs the contract but doesn't perform
 - C. Someone who was meant to benefit from the contract and can enforce it
 - D. Someone who incidentally benefits from a contract
2. Which party receives duties under a delegation?
 - A. Delegate
 - B. Promisor
 - C. Beneficiary
 - D. Assignee

3. In which case would delegation *not* be allowed without consent?
 - A. A company cleaning an office hires another cleaner
 - B. A celebrity chef is hired to cook at a private event
 - C. A bank transfers a loan servicing contract
 - D. A delivery company contracts out weekend routes

4. What is the main legal issue in distinguishing intended from incidental beneficiaries?
 - A. Whether the third party paid for the benefit
 - B. Whether the third party is related to the contract signers
 - C. Whether the third party was named as a co-signer
 - D. Whether the contract intended to benefit the third party directly

Which legal reform allows some third parties to enforce contract terms in England and Wales?

- A. Restatement (Second) of Contracts
- B. Uniform Commercial Code
- C. Contracts (Rights of Third Parties) Act 1999
- D. Common Law Doctrine of Necessity

11.Exploring Contract Law Through Discussion

Discussion and Reflection

Instructions:

Answer the following questions in writing or discuss them in pairs or small groups.

Be prepared to explain your answers and share examples where appropriate.

Choose 3 of the following questions to discuss in groups or answer them all in writing. Use examples from the text or real-life scenarios.

1. Why is it important to distinguish between intended and incidental beneficiaries?

2. In what kinds of contracts should delegation of duties be strictly prohibited, and why?

3. How does the principle of privity of contract protect the original parties to a contract?
4. Should courts allow more third-party claims in modern contracts, or does that risk opening too many legal loopholes?
5. What are the potential problems if the assignee is not notified properly in an assignment?
6. How can clearer contract drafting prevent disputes about third-party rights?

12. Reading 2

Activity: *Agree or Disagree Line Debate*

1. Read the statements aloud one by one.
2. Students have to *agree*, or *disagree*, or neutral or undecided

Zoom Reactions

Students click 👍 for “Agree”

👎 for “Disagree”

🤔 for “Not sure” or “It depends”

Statements

1. Only people who sign a contract should have the right to enforce it.
2. Once a contract is made to benefit a third party, the original parties can never change it.
3. If a construction project benefits a neighboring business, the neighbor can sue to ensure the work is completed.
4. The person who performs a duty under a contract is the same as the person who receives a right under a contract.
5. All legal systems around the world treat third-party rights in contracts the exact same way.

Rights of Third-Party Beneficiaries in Contract Law

Third-party beneficiaries occupy a unique space in contract law, standing outside the original agreement yet sometimes holding the power to enforce its terms. Generally,

contract law follows the principle of privity, meaning only parties directly involved in the agreement can sue to enforce it. However, exceptions arise when the contract is made for the benefit of a third party. Two main categories of third-party involvement are third-party beneficiaries and assignees or delegates. The legal treatment of these individuals reveals much about fairness, enforcement, and the evolution of modern contract doctrine.

A **third-party beneficiary** is someone for whom a contract was intentionally created to benefit. A classic example is a father who purchases a life insurance policy and names his daughter as the beneficiary. Even though she did not participate in forming the contract, she has a clear right to receive its benefits. Once certain legal conditions are met, such as reliance or legal action, her rights become vested. At that point, neither of the original parties can revoke or alter her benefits without her consent.

Vesting of rights is crucial because it marks the moment when a beneficiary can legally enforce the contract. There are generally three scenarios where vesting occurs: when the beneficiary reasonably relies on the promise, when they express agreement with the benefit, or when they initiate legal action to claim the benefit. Courts will typically look for evidence that the beneficiary has made decisions based on their expected benefit. For instance, if the daughter above organizes her finances around the anticipated life insurance payout, her reliance may be enough to vest her rights. Before vesting, the original parties to a contract may retain the freedom to cancel or revise the third-party's benefit. After vesting, however, this **revocability of benefits** disappears. This creates a legal threshold with serious consequences, particularly in high-stakes contracts such as retirement plans, construction projects, or business transactions.

In addition to intended beneficiaries, contracts may involve **assignees** or **delegates**. An assignee is someone to whom a party's contractual rights have been transferred. A delegate, meanwhile, is someone who assumes contractual duties. For example, if a general contractor hires a subcontractor to complete the roofing on a building, the subcontractor is a delegate who becomes responsible for fulfilling that part of the

original agreement. Importantly, this does not necessarily give them the right to sue unless they are also considered third-party beneficiaries.

Another issue worth analyzing is **standing to sue**. Not every third-party beneficiary can bring a lawsuit. Courts often distinguish between *intended* beneficiaries—those who were meant to benefit directly—and *incidental* beneficiaries, who happen to gain from a contract but were not its focus. Incidental beneficiaries typically cannot enforce a contract. For instance, a neighbor who benefits because a homeowner installs a new fence is not likely to have standing to enforce the fence contract.

Comparative legal perspectives offer further insight. In the United States, the Restatement (Second) of Contracts outlines when a third party may enforce a contract. In the UK, the Contracts (Rights of Third Parties) Act 1999 provides statutory support for enforcement rights. In Ukraine and other civil law systems, contract and trust principles apply, though without the same detailed codification seen in common law jurisdictions. This comparative view is useful for international students and professionals who must navigate differing legal frameworks.

Finally, it is important to consider **public policy implications**. Expanding third-party rights can promote fairness, especially in family or insurance settings. At the same time, it may introduce uncertainty into the legal system, as it broadens the field of potential litigants. Courts are often called to balance the original intent of the contract with the evolving interests of those indirectly affected.

In conclusion, while privity remains a central concept in contract law, exceptions for third-party beneficiaries highlight the law's flexibility in achieving just outcomes. Through the principles of vesting, revocability, assignment, and legal standing, the system attempts to protect reasonable expectations while preserving the integrity of private agreements.

13. Mark the statements as true or false.

True or False Statements

1. A third-party beneficiary must always sign the contract to enforce it.

2. Rights of third-party beneficiaries can become legally enforceable before vesting.
3. Delegates are individuals to whom contractual rights are transferred.
4. The daughter named in a life insurance policy is an intended beneficiary.
5. Incidental beneficiaries generally have the right to sue to enforce a contract.
6. Vesting occurs when a third party relies on the promised benefit.
7. In common law, privity means only contract signers can enforce it.
8. The UK has a statutory act that gives rights to third-party beneficiaries.
9. The concept of third-party enforcement is identical in all legal systems.
10. Courts never enforce benefits for third parties in business contracts.

Post-Reading Task (Concept Mapping & Analysis)

The goal of this task is to solidify understanding of key concepts, distinguish between complex terms, and apply the information to new scenarios.

14. Key Term Differentiation

Use the text to explain the difference between the following pairs of terms:

- **Intended Beneficiary vs. Incidental Beneficiary:**
- **Assignee vs. Delegate:**
- **Vested Rights vs. Revocability of Benefits:**

15. The Crux of Vesting

Based on the text, what is the **central importance** of a third-party beneficiary's rights becoming **vested**? (What legal effect does vesting have on the original contract parties?)

16. Application Scenario (Standing to Sue)

Read the scenario and decide who, if anyone, has standing to sue (the legal right to enforce the contract). Justify your answer using concepts from the reading.

Scenario: A city signs a contract with a utility company to upgrade the electrical grid in a specific district to prevent future power outages. Due to the new grid, a local hospital avoids a major power failure that would have cost them hundreds of thousands of dollars. Later, the utility company fails to complete the final phase of the upgrade. Can the **hospital** sue the utility company to force them to complete the work?

Answer and Justification:

17. Comparative Legal Analysis 🌐

The text mentions that the **UK** uses the *Contracts (Rights of Third Parties) Act 1999*, while the **US** relies on the *Restatement (Second) of Contracts*. What does this difference (statutory law vs. restatement/common law) imply about the *certainty* or *predictability* of third-party rights in each country?

18. Vocabulary Exercises

Exercise 1: Matching Definitions

Match each term to the correct definition. Write the letter of the definition next to the term.

1. Standing to sue
2. Assignee
3. Delegate
4. Revocation
5. Third-party beneficiary
6. Vesting
7. Incidental beneficiary
8. Assignment
9. Delegation

10. Intended beneficiary

Definitions:

- A. The legal transfer of contractual rights from one party to another.
- B. A person who assumes the duties of a contract without being one of the original signers.
- C. Someone a contract was created to benefit.
- D. The withdrawal or cancellation of a promise or contractual benefit before it becomes legally enforceable.
- E. A person who receives transferred rights under a contract.
- F. Someone who benefits from a contract unintentionally and has no legal right to enforce it.
- G. The legal right to bring a lawsuit in court.
- H. The act of transferring a contractual obligation to another party.
- I. The moment a third party's rights become enforceable under contract law.
- J. A person whom the parties to the contract clearly intended to benefit and who has legal rights once those rights vest.

Exercise 2: Fill in the Blanks

Use the words from the box to complete the sentences:

standing, beneficiary, enforce, obligation, delegate, assignment, revocation, incidental, modification, vesting

1. A third-party _____ is someone for whom the contract was specifically intended to create a benefit.
2. The court may refuse to _____ a contract on behalf of someone who was only an _____ beneficiary.
3. Rights usually _____ when the beneficiary sues, relies on the promise, or expresses clear approval.
4. A _____ is a person to whom duties are transferred but who did not originally sign the contract.

5. The _____ of rights means legally transferring them from one party to another.
6. The original parties may change the contract through _____ if the rights have not yet vested.
7. Once rights are vested, _____ of the benefit is typically no longer allowed.
8. If the beneficiary has _____ to sue, they may file a legal claim in court.
9. An _____ in a contract is a duty or responsibility that must be fulfilled.
10. Courts often distinguish between intended and _____ beneficiaries to determine legal rights.

Exercise 3: Multiple Choice Choose the correct answer.

1. Which of the following is true about third-party beneficiaries?
 - A. They must co-sign the original contract
 - B. They can enforce rights if the contract was meant to benefit them
 - C. They always have to notify the court before vesting
 - D. They must be related to the promisor
2. What is vesting in contract law?
 - A. Granting legal ownership of property
 - B. The moment a contract becomes signed
 - C. The point when a third-party beneficiary gains enforceable rights
 - D. Cancellation of a benefit
3. Which party generally has no legal rights in a contract?
 - A. Delegate
 - B. Assignee
 - C. Intended beneficiary
 - D. Incidental beneficiary

4. Which law allows third-party enforcement in the UK?

- A. Contracts (Rights of Third Parties) Act 1999
- B. Statute of Frauds
- C. Uniform Commercial Code
- D. Privity of Contract Act

19. Solve Legal Dilemmas

Instructions:

Read each of the two legal dilemmas below carefully. Each situation is followed by four possible answers. Only one answer is legally correct based on the principles of contract law under common law.

- a) **Choose the best answer for each dilemma.**
- b) **Be ready to explain why your choice is correct and why the other options are incorrect.**
- c) **(Optional) Work in pairs or small groups to discuss your reasoning before sharing with the class.**

Dilemma 1: A man agrees with a funeral home to provide a pre-paid burial for his mother. The contract names the mother as the beneficiary. After a dispute, the son wants to cancel the arrangement. The mother sues to enforce it.

- A. She cannot sue because she was not a signer.
- B. She can sue because her rights have vested as an intended beneficiary.
- C. She can sue only if her son agrees.
- D. She cannot sue unless she paid for the service.

Dilemma 2: A software company contracts with a distributor to supply updates to its clients. One client tries to sue the software company directly after missing an update.

- A. The client can sue as an incidental beneficiary.
- B. The client can sue as an intended beneficiary.
- C. The client cannot sue because it was not mentioned in the contract.

D. The client can sue because of general consumer protection laws.

20. Discussion and Reflection on Contract Law

Instructions:

After reading the text about the sale of goods and international sales contracts, answer the following questions in writing or discuss them in pairs or small groups. Be prepared to explain your answers and share examples where appropriate.

1. Why do you think the law allows third-party beneficiaries to enforce contracts?
2. What are the risks of allowing too many people to enforce a private contract?
3. Should incidental beneficiaries ever be allowed to sue? Why or why not?
4. How might cultural or legal differences affect the interpretation of third-party rights?
5. Can you think of a real-life example where a third party should or should not have had enforcement rights?
6. How can careful contract drafting help avoid unwanted third-party claims?

Listening

21. Listening 1. Discuss the questions and check your answers after reading the text.

1. Why is the doctrine of privity of contract considered a foundational principle in contract law, and how has it evolved in modern legal systems?
2. What are the legal and practical differences between assignment and delegation, and how do the examples of Tech Solutions and Gourmet Events help clarify these concepts?

3. Why are certain contracts, such as those involving personal skills or trust (e.g. a concert pianist or legal advisor), generally considered non-delegable?

In the realm of contract law, the doctrine of **privity of contract** traditionally dictates that only the individuals or entities directly involved in forming a legally binding agreement possess the authority to enforce its terms or incur obligations under it. This foundational principle emphasizes the bilateral nature of contractual relationships. However, legal frameworks are dynamic, and this traditional rule has undergone significant evolution to accommodate the intricate demands of contemporary commercial dealings and personal arrangements. Consequently, **third parties**—defined as individuals or organizations not initially party to the contract—can, under specific conditions, acquire legally enforceable rights or responsibilities stemming from that agreement. This expansion of contractual reach primarily manifests through two distinct avenues: the establishment of a third-party beneficiary relationship, or the transfer of existing rights and duties via assignment or delegation.

The most direct scenario in which a non-signatory party obtains actionable rights is as an **intended third-party beneficiary**. This status arises when the original contracting parties explicitly articulate their intention to bestow a direct and enforceable benefit upon a third individual or entity. A prime illustration of this concept is found in the sphere of financial planning, particularly with **retirement savings accounts or trusts**. Imagine a grandparent establishing a trust fund for their grandchild. The grandparent enters into an agreement with a financial institution to manage these assets, stipulating that the grandchild will receive the funds upon reaching a certain age. Even though the grandchild was not a direct party to the trust agreement, they are the precisely identified recipient of its benefits. Should the financial institution fail to disburse the funds as specified, the grandchild would possess the legal standing to initiate action against the institution to compel performance. In this instance, the grandchild is an intended beneficiary because their specific financial well-being was a deliberate and central objective of the trust's creation.

It is crucial to distinguish this from the position of an **incidental beneficiary**. An incidental beneficiary is someone who may indirectly benefit from a contract's execution, but whose advantage was not the primary or deliberate aim of the parties involved. For example, consider a property developer who contracts with a construction company to erect a new luxury apartment complex. A nearby local bookstore might anticipate an increase in business due to the influx of new residents. However, if the construction project is delayed or abandoned, the bookstore owner generally has no legal recourse to sue the developer or construction company for anticipated lost revenue. The contract for the apartment complex was not conceived with the specific intent of boosting the bookstore's sales; any benefit to the bookstore is merely an unintended consequence of the contract's performance. Courts meticulously scrutinize the contractual language and the surrounding circumstances to ascertain whether the third party's expected benefit was a targeted and material component of the agreement.

Another significant mechanism for third-party involvement revolves around **assignment and delegation**, which are legal tools allowing original parties to transfer their vested rights or assumed duties to other parties. **Assignment** specifically refers to the transfer of contractual *rights*, such as the entitlement to receive a payment or a service. For instance, suppose a small business, "Tech Solutions," provides IT support to a client, "Global Corp," under a contract specifying monthly service fees. Tech Solutions then secures a significant investment and decides to sell its receivables (the right to collect payments) to a factoring company, "CashAdvance Inc." Tech Solutions assigns its right to receive future monthly payments from Global Corp to CashAdvance Inc. Moving forward, Global Corp must remit its monthly service fees directly to CashAdvance Inc., and CashAdvance Inc., as the assignee, possesses the legal authority to enforce these payments if Global Corp defaults.

Conversely, **delegation** involves the transfer of contractual *obligations* or duties. Imagine a large catering company, "Gourmet Events," that secures a contract to provide all meals for a major corporate conference. Gourmet Events, facing a tight

schedule, delegates the preparation of all desserts to a specialized pastry chef, "Sweet Delights." Sweet Delights, now the delegate, is responsible for fulfilling the dessert portion of the catering contract. Critically, delegation does not automatically absolve the original contracting party (Gourmet Events) from liability. If Sweet Delights delivers substandard desserts or fails to provide them as agreed, the corporate client can still hold Gourmet Events accountable for the breach. Thus, delegation can introduce a third party into the performance chain without necessarily releasing the primary contractor from their ultimate responsibilities.

It is noteworthy that the ability to assign rights or delegate duties is not absolute; certain **limitations** exist. Contracts involving highly personal skills, specialized expertise, or unique services are typically non-delegable unless expressly agreed upon by all parties. For example, if a celebrated concert pianist is commissioned to perform at an exclusive gala, they cannot delegate the performance to an equally talented, but less renowned, protege. The contract was formed specifically in reliance on the unique artistry and reputation of the original pianist. Similarly, duties arising from contracts that necessitate personal trust, such as legal counsel-client relationships or medical treatment, are generally considered non-delegable, as the very essence of these agreements is predicated on a confidential and personal connection.

Legal systems across different jurisdictions approach the rights and obligations of third parties with varying specific rules, yet many have universally adopted legislative provisions or established judicial doctrines to bring clarity to this area. Within the **United States**, the influential **Restatement (Second) of Contracts** provides a foundational framework, clearly acknowledging the enforceability of rights by intended beneficiaries. Similarly, in **England and Wales**, the enactment of the **Contracts (Rights of Third Parties) Act 1999** marked a pivotal shift, significantly amending the traditional privity rule. This Act permits a third party to enforce a contractual term if the contract explicitly grants them this right, or if the term purports to confer a benefit upon them and it was the contracting parties' clear intention that the third party should be able to enforce it.

When adjudicating disputes involving third-party rights, courts routinely undertake a detailed **interpretive analysis**. They meticulously review the specific language embedded within the contract, scrutinize communications exchanged between the original parties, and assess the broader surrounding circumstances to discern whether the third party's benefit was genuinely intended rather than merely incidental.

Furthermore, courts often evaluate whether the third party acted in **reliance** on the contract to their detriment. In certain compelling situations, even if a third party is not explicitly named as a beneficiary, their demonstrable and reasonable reliance on the contract's expected performance may be sufficient to establish enforceable rights under equitable doctrines such as **promissory estoppel**.

Beyond the question of intent, **consent and notification** frequently emerge as critical considerations. For a contractual right to be effectively assigned, the party obligated to perform (the "obligor") typically requires appropriate notification of the assignment. Without such notice, confusion can easily arise regarding to whom performance is owed, potentially leading to incorrect payments or deliveries.

Likewise, for a delegation of duties to be considered valid, especially in service-oriented contracts, the party delegating the duty (the "delegator") often needs to secure the explicit consent of the other original contracting party. This requirement ensures that duties are transferred to individuals or entities possessing the necessary qualifications and helps preserve the foundational trust upon which the original contract was established.

Finally, it's essential to consider the broader **policy implications** of extending contractual enforceability to third parties. On one hand, recognizing the rights of intended beneficiaries aligns with principles of fairness and prevents potential injustices, particularly in crucial arrangements like family settlements or insurance policies, where the recipient's well-being is paramount. On the other hand, an overly expansive allowance for third-party enforcement could inadvertently burden the original contracting parties with unforeseen liabilities or obligations, potentially undermining the stability and predictability of agreements. Consequently, most sophisticated legal systems strive for a **balanced approach**, carefully delineating the

circumstances under which third parties acquire rights while steadfastly upholding the core tenet that contracts primarily govern the relationship between their direct creators.

In sum, while the general rule of privity of contract confines legal enforceability to the direct parties of an agreement, modern legal developments have carved out vital exceptions reflecting practical necessities. Third-party beneficiaries, assignees of rights, and delegates of duties can lawfully acquire rights or assume responsibilities under a contract when their involvement is recognized by law as deliberate and appropriate. For those drafting or entering into agreements, clearly defining the roles and rights of any relevant third parties within the contract's terms is paramount to mitigate ambiguity and prevent future litigation. A thorough understanding of these doctrines is therefore indispensable, not only for legal professionals and contract architects but for anyone navigating the intricate landscape of legally binding agreements in our increasingly interconnected world.

22. Discuss the following questions in groups.

1. What are the key differences between an intended beneficiary and an incidental beneficiary, and why does this distinction matter in legal disputes?
2. How does the example of a grandparent setting up a trust for a grandchild illustrate the concept of an intended third-party beneficiary?
3. In what situations might a court use promissory estoppel to grant rights to a third party, even if they are not explicitly named in a contract?
4. How do legal systems in the U.S. and the U.K. address third-party rights differently, and what role do the *Restatement (Second) of Contracts* and the *Contracts (Rights of Third Parties) Act 1999* play in this?
5. What potential risks or policy concerns arise from allowing third parties to enforce contracts, and how do legal systems try to balance fairness with predictability in contract enforcement?

23. Mark the following sentences as true or false.

1. **True/False:** Under the traditional principle of privity of contract, only the parties who signed the contract can enforce its terms.
2. **True/False:** An incidental beneficiary can sue for lost business if a contract they indirectly benefited from is not completed.
3. **True/False:** In a life insurance contract where a daughter is named as the beneficiary, the daughter is considered an incidental beneficiary.
4. **True/False:** Delegation of contractual duties automatically releases the original party from all liability for that duty.
5. **True/False:** An assignment involves the transfer of contractual obligations, while delegation involves the transfer of contractual rights.
6. **True/False:** A famous artist can usually delegate the task of painting a contracted portrait to a competent student without needing consent from the other party.
7. **True/False:** The Contracts (Rights of Third Parties) Act 1999 in England and Wales strengthened the traditional privity rule by making it harder for third parties to enforce contracts.
8. **True/False:** When courts analyze third-party rights, they only consider the explicit wording of the contract and do not look at communications between the parties.
9. **True/False:** For an assignment of rights to be enforceable, the non-assigning party typically must be notified.
10. **True/False:** Recognizing rights for intended beneficiaries is generally seen as promoting fairness, but unlimited third-party enforcement could lead to unintended liabilities for original contracting parties.

Promissory Estoppel

24. Mark the following sentences as true or false. Listen to the text and check your answers.

1. Promissory estoppel requires a signed, formal contract to be enforceable.
2. The doctrine of promissory estoppel is used to prevent injustice when a party relies on a clear promise.
3. In sales contracts, promissory estoppel can apply when a retailer suffers loss due to a supplier's broken promise.
4. A promise must always be written to be considered legally binding under promissory estoppel.
5. Promissory estoppel and equitable estoppel are exactly the same and can be used interchangeably.
6. The smaller supplier in the production contract example may be protected under promissory estoppel after investing in tooling and labor.
7. Promissory estoppel encourages accountability for promises made during early business negotiations.
8. Promissory estoppel applies only in private, non-commercial agreements.

Promissory estoppel is a legal doctrine grounded in equity that enables a party to enforce a promise, even in the absence of a formal contract, when the promisee has relied on that promise to their detriment. Unlike traditional contract law, which requires mutual consideration and agreement, promissory estoppel focuses on fairness and the prevention of injustice. It serves as an exception to the strict rule of **privity of contract**, allowing enforcement when one party's word causes another to act to their own disadvantage. This principle is particularly relevant in commercial contexts, such as sale and production contracts, where business planning often relies on trust and informal commitments before formal agreements are signed.

In the field of **sales contracts**, promissory estoppel can protect a party who has made business decisions in reliance on a supplier's promise. For example, imagine a wholesale distributor promises a retail chain that it will supply a certain quantity of electronics at a fixed price to support a seasonal promotion. The retailer, relying on this promise, launches a marketing campaign, prints promotional materials, and cancels negotiations with other suppliers. However, a week before the scheduled delivery, the distributor withdraws the offer, claiming a change in market conditions. Despite the lack of a written contract, the retailer could invoke promissory estoppel. Since the promise was clear, the reliance was reasonable, and the harm was foreseeable, a court may require the distributor to fulfill the original promise or compensate the retailer for losses incurred.

In **production contracts**, the stakes can be even higher. Consider a scenario where a large manufacturing company informs a parts supplier—often a smaller business—that they will be awarded a subcontract for producing components used in a new product line. The supplier, acting on the verbal assurance, invests heavily in raw materials, custom tooling, and workforce expansion. Weeks later, the manufacturer unexpectedly awards the contract to a different supplier offering a slightly lower price. Although no binding contract had been signed, the smaller supplier might successfully argue that the manufacturer's promise was sufficiently definite and that the reliance was not only reasonable but necessary in the competitive bidding process. A court applying promissory estoppel could rule that the larger company cannot simply walk away from the consequences of its promise, especially when the smaller party made substantial investments and suffered financial loss.

These examples illustrate that promissory estoppel acts as a **shield against unfair withdrawal** of promises that induce reliance. In commercial practice, negotiations often involve stages of informal agreement before final contracts are executed. During these preliminary stages, businesses make operational and financial commitments based on assurances they expect to be honored. Without the doctrine of promissory estoppel, many small or mid-sized enterprises would be left vulnerable to larger entities that could otherwise withdraw promises without legal consequences.

It is important to distinguish promissory estoppel from related concepts such as **equitable estoppel**, which deals more broadly with misrepresentation, or **contract formation**, which focuses on offer, acceptance, and consideration. Promissory estoppel is specifically concerned with enforcing promises made with the expectation that they will induce reliance. While the doctrine varies slightly by jurisdiction, its purpose remains the same: to ensure that promises are not made and then broken when doing so would result in significant harm to a trusting party.

In summary, promissory estoppel reinforces the ethical underpinnings of contract law by preventing opportunistic behavior. In sale and production contexts, it ensures that businesses can make forward-looking decisions with some measure of security, even before formal contracts are finalized. Courts apply this principle to strike a balance between the need for flexibility in negotiations and the importance of holding parties accountable for the promises they make. For students and professionals involved in contract drafting, negotiation, or enforcement, understanding promissory estoppel is essential—not only for legal compliance but also for maintaining trust and credibility in business relationships.

Student Worksheet: Promissory Estoppel

Name: _____

Date: _____

Objective:

Understand the conditions of promissory estoppel and apply them to practical examples.

Part 1: Match the Examples (10 points)

Instructions:

Match each example (1–10) with the most relevant **condition of promissory estoppel** from the list below. Write the **letter** of the condition next to the number.

Conditions:

- A. Clear and Unambiguous Promise
- B. Reasonable and Foreseeable Reliance
- C. Detrimental Change of Position
- D. Inequity if Promise Not Enforced
- E. Defensive Use (“Shield, not a sword”)

Examples:

1. A company assures a supplier that payment will be delayed but not reduced. The supplier continues deliveries as agreed. _____
2. A tenant, after being promised a 50% rent reduction during building repairs, uses the money to repair her own damaged property. _____
3. A friend vaguely says, “Maybe I’ll lend you the money,” but the other person treats it as a firm promise. _____
4. A man declines a job offer because his current employer promised to promote him within two months. _____
5. A person sues to gain money based on a promise, even though no formal contract exists. _____
6. A small business, after being promised a loan from a local investor, buys expensive equipment and ends up in debt when the money doesn't come. _____
7. A contractor is told they will be paid in full, so they order materials in advance and turn down other jobs. _____
8. A landlord tries to charge full rent retroactively, after clearly stating earlier that the rent would be lowered during renovations. _____
9. A retired employee relies on an employer’s clear statement that health insurance benefits will continue for life and doesn't buy private insurance. _____
10. A woman relied on her partner's promise to jointly buy a house, sold her own flat, and contributed to the deposit—but the partner later denied any agreement. _____

Part 2: Explain Your Reasoning (10 points)

Instructions:

Choose **three examples** from Part 1. Write 2–3 sentences for each, explaining:

1. Which condition of promissory estoppel applies
2. Why that condition is met

Example:

Example 2 → Condition C: Detrimental Change of Position. The tenant used the reduced rent to repair her property, which caused her to act to her detriment based on the landlord's promise.

Your answers:

1. Example _____ → _____

2. Example _____ → _____

3. Example _____ → _____

Part 3: Case Application – High Trees (5 points)

Summary:

The landlord agreed to reduce rent during WWII. The tenant relied on that promise. After the war, the landlord tried to claim the full rent retroactively. The court held that the reduced rent applied for the war years due to promissory estoppel.

Questions:

1. Which **conditions of promissory estoppel** were satisfied in this case?

2. Why did the court decide **not to allow the landlord to claim full rent retroactively**?

Optional Challenge: Your Own Example (5 points)

Think of a **real-life scenario** (workplace, family, business, or school) where promissory estoppel could apply. Describe:

- The promise made: _____
- The reliance by the promisee: _____
- Any detriment or unfairness if the promise is not enforced: _____

Total points: 30