

<<国际商法>>

图书基本信息

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前言

随着中国改革开放的深入与全球化趋势的加强，中国的相关法律也不断推向国际。有人认为商法只在英美法以及大陆法的国家存在，在我国的法律框架内还没有构建地位。实际不然，在2003年后的历年国家司法考试中，我国已将商法单独列为一个单元，可见商法已经在我国法律体系中占领一席之地。

《国际商法》这本书，用英文编写，主要原因有三个：一是为了适应国内双语教学的需求。多年来，我国高校的法律双语教学往往使用国外的原版教材。但是原版书常常内容庞杂，重点不够突出，最重要的是原版书基本不会涉及中国法律，更不会将中国的相关法律与英美法以及大陆法进行比较，而我们面对的是中国的学生，学生只学国外的法律，而根本不知中国法律在这些方面的规定，显然没有办法学以致用。即使老师上课加上相关内容，书本上没有，学生学习也不方便。所以，迫切需要一本有中国商事法律内容的国际商法教材，让学生在学后对国际商事法律有一个全面的了解。

二是原汁原味。

从理论上讲，商法主要从欧洲大陆产生并发展起来，在讲课时引用相关的原文，对学生理解某些商事规则的产生比较直观，同时也能让学生更加理解这些规则在中国是如何被引用和发展的。

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内容概要

《国际商法（英文教材）》用英文编写，主要原因有三个：一是为了适应国内双语教学的需求。多年来，我国高校的法律双语教学往往使用国外的原版教材。但是原版书常常内容庞杂，重点不够突出，最重要的是原版书基本不会涉及中国法律，更不会将中国的相关法律与英美法以及大陆法进行比较，而我们面对的是中国的学生，学生只学国外的法律，而根本不知中国法律在这些方面的规定，显然没有办法学以致用。

即使老师上课加上相关内容，书本上没有，学生学习也不方便。

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从理论上讲，商法主要从欧洲大陆产生并发展起来，在讲课时引用相关的原文，对学生理解某些商事规则的产生比较直观，同时也能让学生更加理解这些规则在中国是如何被引用和发展的。

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章节摘录

2.2.2.2.2 Duty of Loyalty Each partner shall bear a liability of “ absolute truth ” to any other partners when acting for the partnership business. A partner has a duty to provide the true account and circumstances about partnership. A partner may not engage in any business in competition with the business of the partnership or conduct any transaction with the partnership privately. Otherwise , the profit that he made belongs to the partnership.

2.2.2.2.3 Duty of Care Those partners in charge of operation and management of the partnership have a duty to exercise reasonable care in carrying on partnership business. Partners shall be liable for their negligence while acting for the partnership but not for the honest errors of judgment.

2.2.2.2.4 Duty of Not Transferring His Capital Contributions Discretionarily A partner shall not transfer his capital contributions and other relevant rights to a person other than a partner without unanimous consent by all the partners.

2.2.3 External Relation of a Partnership External relation of partnership refers to the relation between partnership and the third party. Almost every country has stipulated in partnership law that each partner is an agent for the partnership and for every other partner within the scope of partnership business. Such a stipulation determines the following characteristics in the relationship between partnership and the third party.

Firstly , any act of a partner , for carrying on the partnership business in the ordinary course , binds the partnership and the other partners. Unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

Secondly , any restriction imposed by the partnership on a partner in dealing with outside parties may not be asserted as a defense against a third person who is in good faith and without knowledge of such restrictions.

Thirdly , the partnership shall be liable for the wrongful acts committed by partners acting in the ordinary course of business. However, the partnership has right to claim compensation for the losses arising from the intentional misconducts or gross negligence of partners.

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