

Contracts and dispute resolution

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What is a contract?

*A business agreement for supply of goods or performance of work at a fixed price, which is enforceable by **law**.*

What should the contract define?

Product/service specification: *an accurate description of the goods or services being supplied.*

General terms and conditions: *details of documentation, delivery and payment.*

Dispute resolution: *What happens when things go wrong?*

Contracts in the wool industry

- Specifications
- Price basis
- Payment arrangements
- Documentary requirements
- Shipping/delivery details
- Claims procedures
- Dispute resolution process
- Applicable law

Dispute resolution

- Courts of law
- Arbitration

Role of the International Wool Textile Organisation (IWTO)

- IWTO rules and regulations – the Blue Book
- IWTO agreements – the IWTO Arbitration Agreement
 - IWTO model clause:
'Any dispute or difference arising out of this contract shall be settled by arbitration in accordance with the IWTO Arbitration Agreement and the competent body to conduct the arbitration pursuant to its Arbitration Regulations shall be . . . ('X')
 - *'X' = the relevant IWTO National Committee, Chamber of Commerce or other competent body of the country of the seller.*

Model contracts

- Australia - New Zealand - China Model Wool Contract (2000)
- International Chamber of Commerce (ICC)

Background to Australia China wool industry dispute case study

- 1996 disputed contracts totalled nearly \$100 million
- Poorly described goods.
- Many intermediaries involved (traders rather than producers and users).
- Buyers claimed quality disputes.
- Suppliers claimed renegeing when prices fell post contract or in case quota was unavailable.
- Suppliers retaliated by covering price risk through 'lower quality' deliveries.

Australia - New Zealand - China Model Wool Contract

Features

1. Simple one-page contract.
2. Structure:
 - contract
 - terms and conditions (reference doc.)
 - specification guidelines (reference doc.).
3. Greatly improved product specifications (and reduced quality disputes) based on objective measurements.
4. Arbitration:
 - international 'expert' panels
 - CIETAC based.

International Chamber of Commerce (ICC)

- Set up in 1919 – Arbitration Court in 1923.
- International Court of Arbitration.
- UCP (Uniform Customs and Practice for Documentary Credits)
 - eUCP in 2002
 - New procedures for D/Cs with China 2006.
- Incoterms (e.g. CIF, FOB)
 - Incoterms 2000 basis for China Model Wool Contract.

ICC Standard Arbitration Clause

'All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules.'