

2003 年华东政法学院国际经济法（国际法）考研试题

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Read the following questions carefully and answer them in CHINESE.

I. Translate into Chinese and explain briefly the following terms: (15 marks)

1. Doha Agenda
2. the principle of exhaustion of local remedies
3. priority (as in intellectual property)
4. jurisdiction of source of income
5. pari passu Covenant

II. Answer the following questions. (21 marks, 7 marks each)

1. Briefly describe the provision of the UN Convention on Contracts on International Sales of Goods on late acceptance.
2. Briefly describe the differences between “geographical indication” and “mark of origin”.
3. Briefly describe the principle, period and limitation of liability for carriers provided for by the Hamburg Rules.

III. Analyze the following case. (14 marks)

Company B and Company S, companies established in countries B and S respectively, signed a contract in January 2002. The contract provided that Company S would sell and Company B would buy 5000 tons of product G. The price and other terms were agreed upon by the parties and the goods were to be shipped in 5 installments from May 1, 2002 to June 10, with 2 weeks interval and 1000 tons for each shipment. It was provided that the payment will be in 5 separate L/C, each time matching the shipment. It was also provided that the buyer would pay for a shipment after inspection that the goods met the quality standard of the contract. Two shipments were accepted without any problem. When inspecting the third shipment, Company B found that the about 40% of the packaging of the goods were seriously broken. The L/C for the second shipment was already issued but Company B learned that the negotiating bank had not paid Company S. Company B asked the bank to stop payment and asked Company S to enter into negotiation.

Company B asked Company S to reduce the price of the goods. Company S argued that the broken packages did not affect the quality of the goods and refused to reduce the price. Company B declared that the contract was terminated because Company S breached the contract. Company S insisted that it did not breach the contract and the contract should be performed in full.

Country B is a member of the UN Convention on Contracts for the International Sales of Goods (CISG) while Country S is not.

1. Does CISG apply to this case? Why?
2. Should the bank stop payment of the second L/C? Why?
3. Should Company B issue the third L/C for the third shipment? Why?
4. Was Company B correct in what it did for the third shipment of the goods?
What should Company B have done?
5. What can Company S do facing this situation?

