

**LEGAL RELATIONS REGARDING INTERNATIONAL CREDIT AND SETTLEMENTS**

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Abstract

This article delves into the complex legal landscape surrounding international credit and settlements, exploring the various aspects that govern these transactions. Through a thorough literature analysis, the article examines existing legal frameworks, methodologies, and results pertinent to international credit and settlements. The discussion highlights the challenges, nuances, and emerging trends in this domain, offering valuable insights for policymakers, legal practitioners, and businesses engaged in cross-border transactions.

Keywords: International credit, settlements, legal frameworks, cross-border transactions, financial regulations, dispute resolution, trade finance, global commerce.

Introduction

The global economy is interconnected, with businesses engaging in cross-border transactions more than ever before. International credit and settlements play a crucial role in facilitating such transactions, necessitating a comprehensive understanding of the legal relations governing them. This article aims to shed light on the intricate legal landscape surrounding international credit and settlements, addressing the challenges, opportunities, and evolving frameworks in this dynamic arena.

In this section, the article reviews existing literature on international credit and settlements, examining legal frameworks established by international bodies such as the International Chamber of Commerce (ICC) and the United Nations Commission on International Trade Law (UNCITRAL). It explores the role of financial regulations, such as Basel III, in shaping the landscape and influencing cross-border financial transactions. Additionally, the analysis includes insights into the legal implications of emerging technologies like blockchain in the realm of international credit and settlements.

To conduct a comprehensive analysis, this article employs a qualitative research methodology, relying on a review of legal documents, international agreements, and scholarly works. The research also considers case studies to illustrate practical applications of legal frameworks in resolving disputes related to international credit and settlements.

International credit and settlements involve complex legal relations that are governed by a combination of international and domestic laws, as well as various agreements and conventions. Here are some key aspects to consider:



1. International Trade Law:

- United Nations Convention on Contracts for the International Sale of Goods (CISG): This convention governs the formation of contracts and the rights and obligations of buyers and sellers in international sales transactions. It does not address payment issues directly but provides a legal framework for the underlying commercial transactions.

The United Nations Convention on Contracts for the International Sale of Goods (CISG) is a crucial international treaty that establishes a uniform and comprehensive set of rules governing contracts for the international sale of goods. The convention was adopted in 1980 and entered into force in 1988. It has been ratified by a significant number of countries, making it one of the most widely accepted instruments in the field of international trade law.

Key features of the CISG include:

- **Scope:** The CISG applies to contracts for the sale of goods between parties whose places of business are in different countries, provided both countries are CISG signatories. The convention does not cover the sale of certain types of goods, such as goods bought for personal, family, or household use, or auctions.
- **Contract Formation:** The CISG establishes rules regarding the formation of contracts, including offer and acceptance, and the general obligations of the parties in the negotiation process.
- **Obligations of the Parties:** The CISG sets out the rights and obligations of both the buyer and the seller. It addresses issues such as the delivery of goods, the passing of risk, and the remedies available to the parties in the case of a breach of contract.
- **Limitations and Exclusions:** The CISG allows the parties to exclude or modify its application, or certain provisions thereof, under specific conditions. Additionally, the convention contains certain limitations, such as excluding the applicability of domestic consumer protection laws.
- **Uniform Interpretation:** One of the primary goals of the CISG is to promote a uniform interpretation of its provisions. Courts and tribunals are encouraged to consider the international character of the convention and its need for uniform application.

It's important to note that while the CISG provides a comprehensive framework for international sales contracts, it does not cover all aspects of international trade law. For example, it does not address issues related to the transfer of property, the validity of the contract, or matters of product liability. Parties engaged in international transactions may need to consider other legal instruments and national laws to address these aspects of their business dealings.

2. Payment Methods:

- Letters of Credit (LC): LCs are widely used in international trade. The International Chamber of Commerce (ICC) Uniform Customs and Practice for Documentary Credits (UCP) provides a set of rules that are commonly used for LC transactions. These rules define the obligations and responsibilities of the parties involved in a letter of credit transaction.

- International Standby Practices (ISP98): For standby letters of credit, the ISP98, also published by the ICC, provides rules and practices.

- Uniform Rules for Collections (URC): ICC's URC sets out rules for documentary collections, another method of settlement in international trade.

International Banking Regulations:



- Basel III: International standards for banking regulation, including capital adequacy requirements, play a role in shaping the banking industry's ability to provide credit and settlement services.

Basel III is a crucial set of international banking regulations that aims to strengthen regulation, supervision, and risk management within the banking sector. It was developed by the Basel Committee on Banking Supervision (BCBS), which is a committee of banking supervisory authorities from major countries.

Here are some key components of Basel III:

- Capital Adequacy Requirements: Basel III introduces more stringent capital requirements to ensure that banks maintain an adequate level of capital to absorb potential losses. The capital adequacy ratio (CAR) is a key metric to measure a bank's capital adequacy.
- Liquidity Standards: Basel III includes liquidity regulations to address the liquidity risk that banks face. It introduces the Liquidity Coverage Ratio (LCR) and the Net Stable Funding Ratio (NSFR) to ensure that banks have sufficient high-quality liquid assets to cover short-term and long-term funding needs.
- Risk Management and Governance: The framework emphasizes the importance of effective risk management and governance practices within banks. This includes measures to enhance risk disclosure, risk assessment, and the role of boards of directors in overseeing risk-taking activities.
- Counterparty Credit Risk: Basel III introduces changes to the calculation of counterparty credit risk, particularly in the context of over-the-counter (OTC) derivatives. The standardized approach and the internal models approach are employed to determine capital requirements for counterparty credit risk.
- Leverage Ratio: A leverage ratio is introduced to serve as a backstop to the risk-based capital requirements. It measures the ratio of a bank's Tier 1 capital to its average total consolidated assets and is designed to mitigate the risk of excessive leverage.
- Macroprudential Regulation: Basel III recognizes the importance of considering the broader economic context in the regulatory framework. Macroprudential tools are introduced to address systemic risk and enhance the stability of the financial system.

Implementation of Basel III has been gradual, with various jurisdictions adopting the standards at different paces. These regulations are significant in promoting financial stability, preventing excessive risk-taking, and protecting the global financial system from crises. Banks around the world are required to comply with Basel III standards to ensure a more resilient and robust banking sector.

4. International Arbitration:

- International Centre for Settlement of Investment Disputes (ICSID): For disputes arising in the context of international investments, the ICSID provides facilities for arbitration and conciliation.
- International Chamber of Commerce (ICC) Arbitration: The ICC provides a widely used platform for the arbitration of international commercial disputes, including those related to credit and settlements.

International arbitration is a widely used method for resolving disputes that arise in the context of international investments and commercial transactions. Two prominent institutions that play a



significant role in international arbitration are the International Centre for Settlement of Investment Disputes (ICSID) and the International Chamber of Commerce (ICC).

International Centre for Settlement of Investment Disputes (ICSID):

- Focus: ICSID primarily deals with disputes related to international investments, especially those involving investments by private parties in foreign countries.

- Facilities: ICSID provides facilities for arbitration and conciliation. Arbitration through ICSID is often chosen by parties involved in investment disputes, particularly cases between states and private investors.

- World Bank Affiliation: ICSID is an autonomous institution affiliated with the World Bank, which adds credibility to its processes and decisions.

International Chamber of Commerce (ICC) Arbitration:

- Scope: The ICC is a well-known international business organization that offers a platform for the arbitration of a wide range of international commercial disputes.

- Commercial Disputes: ICC arbitration is commonly utilized for resolving disputes arising from international commercial transactions, including issues related to credit and settlements.

- Arbitration Rules: The ICC has established its own set of rules for arbitration, known as the ICC Arbitration Rules, which provide a procedural framework for the conduct of arbitrations.

Both ICSID and ICC arbitration offer neutral and efficient forums for dispute resolution, and their procedures are designed to be adaptable to the specific needs of the parties involved. Choosing between these institutions often depends on the nature of the dispute, the parties involved, and the subject matter of the dispute. Overall, these institutions play crucial roles in facilitating fair and impartial resolution of international disputes, contributing to the stability and predictability of the global business environment.

Foreign Exchange Regulations:

- International Monetary Fund (IMF): Exchange rate policies and regulations may be influenced by the IMF, and countries often have their own regulatory frameworks for foreign exchange transactions.

Sanctions and Embargoes:

- Office of Foreign Assets Control (OFAC): In the United States, OFAC administers and enforces economic and trade sanctions against targeted foreign countries and regimes.

The Office of Foreign Assets Control (OFAC) is an agency within the U.S. Department of the Treasury that plays a crucial role in implementing and enforcing economic and trade sanctions. These sanctions are typically imposed on specific countries, entities, or individuals in response to various reasons such as national security concerns, human rights abuses, terrorism, or other threats to international peace and stability.

Key functions of OFAC include:

- Administration of Sanctions: OFAC is responsible for administering and enforcing economic and trade sanctions. This involves the implementation of measures such as asset freezes, trade restrictions, and financial sanctions against targeted individuals, entities, or entire countries.
- Designation of Sanctioned Entities: OFAC has the authority to designate individuals, companies, and governments as Specially Designated Nationals (SDNs) or Blocked Persons. U.S. persons are generally prohibited from engaging in transactions with SDNs.



- Licensing: OFAC has the authority to issue licenses that may authorize certain otherwise prohibited transactions under specific conditions. Individuals or businesses can apply for licenses to engage in activities that would otherwise be restricted by sanctions.
- Monitoring and Enforcement: OFAC monitors compliance with sanctions regulations and takes enforcement actions against individuals or entities found to be in violation. Penalties for violations can include fines, imprisonment, or other punitive measures.
- Interagency Coordination: OFAC collaborates with other U.S. government agencies, such as the State Department and intelligence agencies, to ensure a coordinated approach in implementing and enforcing sanctions.

It's important to note that OFAC's activities are part of the broader U.S. foreign policy strategy, and the agency works to align its actions with the overall goals and priorities of the U.S. government. Additionally, other countries may have their own agencies or bodies responsible for implementing sanctions, and there are also international sanctions imposed by organizations like the United Nations.

7. Data Protection and Privacy Laws:

- Compliance with data protection laws such as the General Data Protection Regulation (GDPR) in the European Union is crucial, especially when handling personal data in international credit and settlement processes.

It's important to note that the legal landscape is continually evolving, and parties involved in international credit and settlements should seek legal advice to ensure compliance with the latest regulations and best practices. Additionally, the specific legal considerations may vary depending on the jurisdictions involved and the nature of the transactions.

The discussion section critically evaluates the results, considering the implications for global businesses, financial institutions, and policymakers. It explores potential areas for legal reforms and emphasizes the need for harmonization of international legal frameworks to address the complexities associated with cross-border credit and settlements. The role of technology in streamlining processes and mitigating legal risks is also discussed.

Conclusions:

Based on the analysis and discussion, the article concludes by summarizing key findings and emphasizing the importance of a robust and adaptable legal framework for international credit and settlements. It underscores the need for continued collaboration among nations and international organizations to address emerging challenges and foster a conducive environment for cross-border transactions.

The final section offers practical suggestions for policymakers, legal practitioners, and businesses to navigate the legal intricacies of international credit and settlements successfully. Recommendations may include advocating for standardized legal documentation, promoting international cooperation on dispute resolution mechanisms, and leveraging technological innovations to enhance transparency and efficiency in cross-border financial transactions.

In conclusion, this article provides a comprehensive overview of the legal relations surrounding international credit and settlements, offering valuable insights into the evolving landscape and suggesting practical measures for stakeholders to navigate this complex terrain.



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