

International Defence Contracts





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 - ❖ The global economy
 - ❖ International Laws of commercial transactions
 - ❖ Discussions
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Overview

- Inadequate manufacturing capabilities
- Role of State in contracts with private parties
- Applicability of laws

Stages of procurement

- Perspective planning
- Request for Information (RFI)
- Service Qualitative Requirements (SQRs)
- Acceptance of Necessity (AoN)
- Request for Proposals (RFP)
- Evaluation of offers – Technical, field and financial

Stages of procurement

- Technical Oversight Committee
- Contract Negotiation Committee
- Competent Financial Authority approval
- Contract/ Work Order/Supply Order

Procurement strategies

- Buy (Indian IDDM) – Indigenous design and IC $\geq 50\%$
- Buy (Indian) – In case of Indigenous design $\geq 50\%$, otherwise $\geq 60\%$
- Buy – Make (Indian) – Initially assembled procurement and then local manufacture
- Buy (Global – Manufacture in India)
- Buy (Global)

Procurement strategies

- Make & Innovation – Internal agencies
- Design & Development – State agencies
- Strategic Partnership Model – Indian firms with OEMS under “Make in India”
- Leasing – Operating and Finance
- Repairs and maintenance

The Global Economy

- Geo political developments in the last decade
- Economic development roadmap of the nation
- State tacit support to defence industry
- Arm twisting by nations

International Laws of Commercial Transactions



- UNCITRAL Contracts for the International Sale of Goods
- The UNIDROIT Principles of International Commercial Contracts
- The EU & European Contracts Law
- International Commercial Terms (INCOTERMS)
- UNCITRAL Model Law on Electronic Commerce
- The UN Centre for Trade Facilitation & Electronic Business (UNCEFACT)
- ICC Model of Commercial Agency Contract
- ICC Model of International Franchise Contract
- FIDIC
- Transport related laws
- Liability related laws

UNCITRAL Contracts for the International Sale of Goods

- United Nations Commission on International Trade Law's Convention on Contracts for The International Sale of Goods was accepted in 1980
- Ratified by 11 countries and came into effect in 194
- As of 2022, 195 countries have ratified the framework
- Applies to sale of goods between parties in different states
- Ambiguity on application to defence products and software
- India not a signatory to the CISG

The UNIDROIT Principles of International Commercial Contracts

- International Institute for the Unification of Private Law (UNIDROIT) passed the Principles of International Commercial Contracts in 1994 and latest version is of 2016
- Soft Law instrument with 211 rules. Optional to adopt in transactional contracts
- Harmonizes provisions of international commercial laws by supplementing them including national laws
- Generic provisions which parties to contract can build upon

International Chamber of Commerce

- Founded in 1919, with over 100 member nations, supporting UN and WTO
- Rule setting, dispute resolution & policy advocacy
- [International Commercial Terms](#) (INCOTERMS). Nine revisions and the latest being 2020.

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The International Federation of Consulting Engineers (FIDIC)

- Fair application of conditions on all parties to the contract
 - Owners
 - Engineers
 - Contractors
 - Sub Contractors
- Settle disputes amicably, and if not possible, track disputes from start to end

The International Federation of Consulting Engineers (FIDIC)

- Model Contract document created in 1999
- Revised in 2017, following models available
 - Conditions of Contract for Construction, 2nd Edition 2017 (Red Book),
 - Conditions of Contract for Plant and Design Build, 2nd Edition 2017 (Yellow Book),
 - Conditions of Contract for EPC/Turnkey Projects , 2nd Edition 2017 (Silver Book),
 - Conditions of Contract for Underground Works, 2019, (Emerald Book).

Transport Related Laws

- International Civil Aviation Organization (IACO)
- UN Convention on the Carriage of Goods by Sea, 1978
- UN Convention on the Liability of Operators of Transport Terminals in International Trade
- United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008) (the "Rotterdam Rules")
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Liability Related Laws

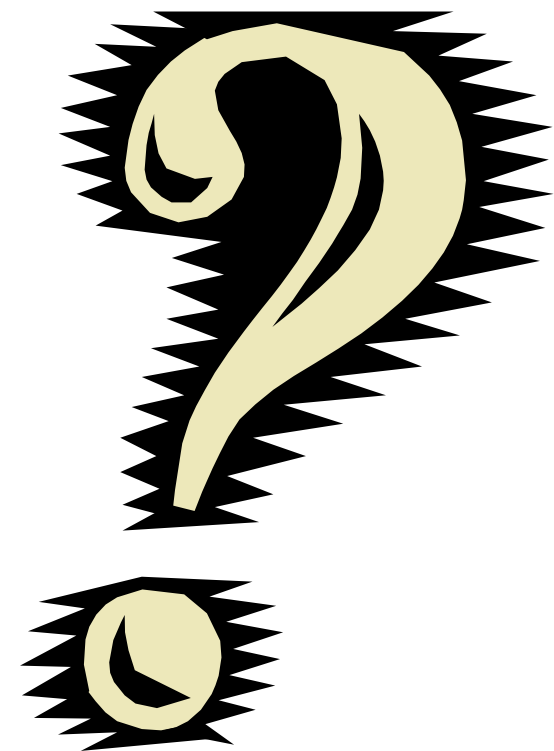
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Drafting International Contracts

- Applicability of laws
- Choice of Remedy, venue and Arbitral Institutions
- Prices & Terms of payment
- Terms of delivery, Inspection and claims
- Force Majeure
- Termination of contracts

Challenges

- Legal competency
- Documentation lapses
- Negotiating Contracts
- Institutional Support





धन्यवाद



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