

Contract and Legal Aspects

Objectives

This module is part of the EIPM Certifying Courses Level 1. This module explores the ways as to how to deal effectively with various types of national/international sourcing situations. Reference is made throughout the module to “real life” examples and appropriate conditions of standard contracts.

It uses a logical framework, tackling major problems areas in turn and offering practical advice on how best to handle them.

Following this module, participants shall be able to:

- To provide an overview of the contractual and legal framework
- Understanding the mutual obligations and their effect
- To understand risks and possible ways of covering them

Target group

- This course is suitable for buyers and sourcing staff at all levels.

Duration and location

- 2 days on the Archamps Campus (France).

Methods and tools

- A two-day programme using lectures, visual aids and case study to give participants a substantial body of information and the opportunity to discuss matters with which they are particularly concerned.
- The seminar explores the numerous practices and conceptual developments in international operations, as well as risk allocation, constraints and opportunities in the contractual and legal areas.

Content

PHASE	CONTENT
DAY 1	<p>Legal basics common to all contracts</p> <ul style="list-style-type: none"> • Fundamental elements and formation of contracts • Applicable law and concept of precedence • Legal families, choice of governing law, ruling language • Dispute resolution (state courts/arbitration) • International Conventions (New York Convention – Brussels Convention) • Severability clause/Entire agreement clause • Contract performance • Assignment/sub-contracting • Defective/delayed performance • Monetary compensations (penalties/liquidated damages) • Force majeure/ Frustration/Hardship clause • Rescission of the contract/anticipated termination • Contractual documents/ Order of priority • Definitions and interpretations
DAY 2	<p>The contract of sale</p> <ul style="list-style-type: none"> • Formation of contract and applicable law/The Vienna Convention • Duties of the seller and the buyer • Conflicting clauses/the battle of forms (general conditions of sale vs. general conditions of purchase) • Description of goods • Acceptance/rejection of goods • Contract price/price revisions • ICC ‘Incoterms ‘ • Delivery terms • Transfer in ownership, passing of risks • Seller’s liabilities • Payment terms (clean/documentary) <p>Supply of services</p> <ul style="list-style-type: none"> • Description and scope of services • Result based contracts vs. resources based contracts • Terms in respect of care and skill • Obligation to cure, remedy, make good • Terms in respect of time for performance <p>The coverage of buyers’ risks</p> <ul style="list-style-type: none"> • Guarantees and other sureties (Bank guarantees, bonds, insurance, standby letters of credit)