CONTENTS

Preface to the Fifth Edition	xxxi
Acknowledgments	xxxiii
Chapter 1 Introduction	1
I. Background Considerations	1
A. Scope and Approach of This Book	1
B. Role of Counsel in International Business	2
1. Issues Faced by Lawyers	2
2. Role of Counsel for an MNE	3
3. Challenges for the International Lawyer	5
Notes and Questions	6
Problem 1-1	7
Problem 1-2	7
C. Cultural Concerns	8
Notes and Questions	9
Problem 1-3	10
Problem 1-4	11
II. The Growth of International Business Since the Second World	War 11
III. Modern Patterns of International Business and Commerce	13
A. Trade in Goods	13
B. Trade in Services	15
C. Foreign Direct Investment	16
D. Technology Transfer	17
E. Digital Trade	18
IV. Some Important New Developments	19
A. The Rise of China and East and South Asia	19
B. Multinational Enterprises	23
C. Globalization	24
Notes and Questions	25
Problem 1-5	96

xii		Contents
V.	The Legal Framework for International Business Transactions	26
	A. Introductory Considerations	26
	B. International Conflicts of Law and Choice of Law	27
	C. The New Lex Mercatoria ("Law Merchant")	28
	D. Sources of Law for International Business Transactions	29
	E. International Forums and Institutions	30
	1. UNCITRAL	30
	2. UNIDROIT	31
	3. The International Chamber of Commerce	32
	F. Major Categories of International Business Law	33
	1. Public International Law	33
	2. Regional Supranational Law	34
	3. Uniform Codes and Other Harmonizing Measures	34
	4. Domestic Law	35
	Problem 1-6	35
	G. Relationship of Sources of International Law to Domestic Law	35
	Problem 1-7	37
	Problem 1-8	38
VI.	Tax Considerations	39
	A. U.S Based Enterprises	39
	1. Tax Strategies Under Prior Law	39
	2. The Tax Cut and Jobs Act (TCJA)	42
	B. Foreign Companies Doing Business in the United States	46
	Problem 1-9	47
VII.	Trade Agreements and Trade Policy	48
	A. Trade Policy in the United States	48
	B. The World Trade Organization	50
	C. The Organization for Economic Cooperation and Development	53
	D. The Generalized System of Preferences, UNCTAD, and	F 4
	Developing Countries	54
	E. Preferential Trade Agreements	55 50
	F. United States-Mexico-Canada Agreement (USMCA)	56
	1. Trade in Goods	57
	2. Services	58
	3. Intellectual Property	58 50
	4. Investment	58
	5. Trade Remedies	59

Cont	ents			xiii
		6.	Dispute Settlement	59
		7.	Environment	60
		8.	Labor	60
		9.	Sunset	61
			Notes and Questions	61
Cha	ptei	2	International Sale of Goods	63
I.	Ov	erv	riew of the International Sales Transaction	63
	A.	Ex	spectations of the Parties	63
	В.	Tł	ne International Context	64
			Note on Trade Financing	65
		1.	The Sales Contract	67
			Form 2-1 Letter of Inquiry	68
			Form 2-2 Pro Forma Invoice	69
			Form 2-3 Purchase Order	70
			Notes and Questions	71
		2.	Letter of Credit	71
			Notes and Questions	72
			Form 2-4 Commercial Letter of Credit	73
		3.	The Bill of Lading and the Contract of Affreightment	74
			Form 2-5 Bill of Lading	76
			Notes and Questions	77
		4.	Overview of the Entire Documentary Sale Transaction	77
			Notes and Questions	80
			Note on International E-Trade	80
			Problem 2-1	80
	C.	Co	ommercial Terms Under the ICC Incoterms	81
			INCOTERMS 2020: Rules for Any Mode or Modes	
			of Transport	85
			Problem 2-2	85
			INCOTERMS 2020: ICC Rules for Use of Domestic and International Trade Terms	86
			Problem 2-3	89
			Incoterms 2020: CIF Cost Insurance and Freight	89
	D.	In	terpretation of Commercial Terms	93
			Problem 2-4	93
			Biddell Brothers v. E. Clemens Horst Company	93
			E. Clemens Horst Company v. Biddell Brothers	97

xiv	Contents

		Notes and Questions	97
	E.	Documents of Title	98
		Problem 2-5	98
		Comptoir d'Achat et de Vente Du Boerenbond Belge S/A v. Luis de	
		Ridder Limitada (The Julia)	98
		Notes and Questions	103
		Problem 2-6	107
	F.	Contracts of Affreightment, Bills of Lading, and Insurance	107
		1. The Contract of Affreightment and the Bill of Lading	107
		Hague-Visby Rules	110
		2. COGSA: A Thumbnail Sketch	113
		3. Multimodal Carriage in Import and Export Transactions	114
		Norfolk Southern Railway Co. v. Kirby	115
		Notes and Questions	120
		Kawasaki Kisen Kaisha Ltd. v. Regal-Beloit Corp. (The "K" Line Case)	120
		Notes and Questions	126
		4. Liability Standards Under COGSA	129
		Steel Coils, Inc. v. M/V Lake Marion	129
		Notes and Questions	136
		Anvil Knitwear v. Crowley American Transport, Inc.	138
		Note and Questions	140
		Problem 2-7	140
		Problem 2-8	142
		5. Marine Insurance	142
		American National Fire Insurance Co. v. Mirasco, Inc.	143
		Notes and Questions	148
		Problem 2-9	149
II.	Th	e International Sales Contract and International Trade	
	La	w Considerations	149
	A.	Export Trade Matters	150
		Problem 2-10	150
		Problem 2-11	150
		Problem 2-12	150
		U.S. Regulation of Exports: The Export Administration Act, The Office of Foreign Assets Control, Anti-boycott Laws, The Economic Espionage Act, and The Foreign Corrupt	
		Practices Act	151
		Notes and Questions	155
	В.	Import Trade Matters	155
		Problem 2-13	157

		Problem 2-14	158
		Problem 2-15	158
		U.S. Regulation of Imported Goods: Classification, Valuation, Rules of Origin, Marking, Free Trades Areas and Customs Unions, and Other Import Restrictions	158
		Notes and Questions	167
	1.	Classification Issues	169
		North American Processing Co. v. United States	169
		JVC Co. of America v. United States	171
		Better Home Plastics Corp. v. United States	173
		Notes and Questions	175
		Problem 2-16	175
	2.	Valuation Issues	175
		Century Importers, Inc. v. United States	175
		Notes and Questions	178
		Problem 2-17	179
	3.	Rules of Origin	179
		Zuniga v. United States	179
		Notes and Questions	181
		Problem 2-18	181
	4.	Marking	182
		Bestfoods v. United States	182
		Notes and Questions	184
		Problem 2-19	185
Cha	pter 3	The Sales Contract	187
I.	Choic	e of Law	187
		Kristinus v. H. Stern Com. e Ind. S.A.	187
		Notes and Questions	189
II.	~ •	Inited Nations Convention on Contracts for the International f Goods	192
	A. Ba	sic Features of the CISG	193
	B. Hi	storical Origins	193
	C. Ca	ises on the CISG	194
		Note on the UNIDROIT Principles	194
	D. Sp	here of Application of the CISG: Articles 1–6	195
	1.	Article 1(1)(a) and the Test of Internationality	195
		Problem 3-1	196
	2.	Article 1(1)(b)	196

xvi	Contents
-----	----------

	Prime Start Ltd. v. Maher Forest Products Ltd.	197
	Notes and Questions	199
	Problem 3-2	200
3.	Other Issues Relating to Scope	201
	Problem 3-3	200
	Problem 3-4	201
	Amco Ukrservice & Prompriladamco v. American Meter Co.	202
	UNCITRAL CLOUT Case 131	206
	UNCITRAL CLOUT Case 122	206
	Notes and Questions	206
4.	Interpreting the CISG: Articles 7–13	208
	Notes and Questions	210
	Problem 3-5	211
	UNCITRAL CLOUT Case 137: GPL Treatment, Ltd. v. Louisiana-	
	Pacific Corp.	211
	Notes and Questions	212
	Forestal Guarani S.A. v. Daros International Inc.	212
5.	Part II of the CISG: Formation of the Contract	215
	a. The Offer	216
	b. Acceptance, Withdrawal, and Revocation of an Offer	216
	Problem 3-6	218
	Problem 3-7	218
	c. Acceptance	218
	Problem 3-8	221
	Filanto, S.p.A. v. Chilewich International Corp.	222
	Notes and Questions	225
	Problem 3-9	226
	Notes and Questions	227
	d. Formation of the Complex Sales Contract Under the CISG	229
	Problem 3-10	229
	United Technologies International Pratt & Whitney Commercial	
	Engine Business v. Malev Hungarian Airlines	230
	Notes and Questions	232
6.	Performance of the Contract	234
	a. Delivery by Seller	234
	Problem 3-11	234
	Notes and Questions	234
	b. Conforming Goods	235

Contents		xvii
	Problem 3-12	236
	Problem 3-13	236
	Medical Marketing International, Inc. v. Internazionale Medico Scientifica, S.r.l.	237
	BP Oil International, Ltd. v. Empresa Estatal Petroleos de Ecuador	238
	Note and Questions	241
	c. Payment by Buyer	241
	Problem 3-14	241
	Problem 3-15	241
	Unilex, D. 1995-1	242
	Problem 3-16	242
	d. Excused Performance	242
	Article 79	243
	Problem 3-17	244
	Tsakiroglou & Co. Ltd. v. Noblee Thorl G.m.b.H.	244
	Performance Delegated to a Third Party	247
	Problem 3-18	248
	Unilex, D. 1996-3.21	248
	Notes and Questions	249
7	. Remedies	249
	a. Remedies of the Seller	249
	Dingxi Longhai Dairy, Ltd. v. Becwood Technology Group, LLC	250
	Problem 3-19	250
	Notes and Questions	251
	Problem 3-20	251
	Problem 3-21	252
	b. Remedies of the Buyer	252
	Problem 3-22	252
	Problem 3-23	253
	Problem 3-24	253
	Problem 3-25	253
	c. Anticipatory Breach and Installment Contracts	253
	Problem 3-26	254
	Problem 3-27	254

Notes and Questions

254

xvii	i	Contents	
Cha	Chapter 4 Letters of Credit		
I.	Sources of Letter of Credit Law	255	
II.	Letter of Credit Basics	256	
	Problem 4-1	261	
	Problem 4-2	261	
	Problem 4-3	261	
	Problem 4-4	262	
	Problem 4-5	262	
	Problem 4-6	262	
	Note on Status of Banks	263	
III.	Basic Principles of Letter of Credit Law	263	
	A. The Independence Principle	263	
	Problem 4-7	264	
	Urquhart Lindsay and Company, Ltd. v. Eastern Bank, Ltd.	265	
	Notes and Questions	266	
	Maurice O'Meara Co. v. National Park Bank of New York	267	
	Notes and Questions	271	
	B. Strict Compliance	272	
	Problem 4-8	273	
	J.H. Rayner and Company, Ltd. v. Hambro's Bank, Ltd.	273	
	Hanil Bank v. PT. Bank Negara Indonesia	277	
	Notes and Questions	281	
	Problem 4-9	282	
	Problem 4-10	283	
	Note on Electronic Communications	283	
	Problem 4-11	285	
	C. The Fraud Exception to the Independence Principle and		
	Enjoining the Letter of Credit	285	
	1. The Problem of Fraud	285	
	2. Sources of Law	287	
	3. Different Types of Innocent Parties	289	
	4. Fraud Cases Not Involving Innocent Third Parties	290	
	Problem 4-12	290	
	Mid-America Tire, Inc. v. PTZ Trading Ltd.	291	
	Notes and Questions	298	
	5. Enjoining the Standby Letter of Credit 282	299	
	a. The Standby Letter of Credit	300	
	b. Sources of Law for the Standby Letter of Credit	301	

Notes and Questions	302
rotes and Sucstions	
Problem 4-13	303
American Bell International, Inc. v. Islamic Republic of Iran	304
Harris Corporation v. National Iranian Radio & Television	310
Notes and Questions	315
Problem 4-14	316
Chapter 5 Non-Establishment Forms of International Business: Agency and Distributorships, Technology Transfer, Contract Manufacturing, and Franchising	317
	317
,	318
	319
8 / · · · · · · · · · · · · · · · · ·	320
	321
•	322
	323
* ,	324
	325
Problem 5-2	326
Problem 5-3	326
Distribution Agreement	326
Local and Regional Legal Requirements	332
a. German Law	332
Problem 5-4	332
German Statutes Relating to Agency Agreements	333
b. The European Union	335
Problem 5-5	337
Problem 5-6	338
Treaty on the Functioning of the European Union	339
Commission Regulation (EC) No. 330/2010 on the Application of Article 101(3) of the Treaty to Categories of Vertical	940
	340
,	342
	344
0,	346347
7	347

XX				Contents
		1.	Technology Transfer in International Business	348
		2.	Intellectual Property and World Economic Development	349
		3.	Intellectual Property and Related Topics	349
			Notes and Questions	350
	B.	Th	e International Intellectual Property Legal System	351
		1.	Patents	352
			International Patent Treaties	353
		2.	Trademarks	356
			International Trademark Treaties	357
		3.	Copyright	358
			International Copyright Treaties	359
		4.	Know-How and Trade Secrets	360
			International Treaties	361
			Notes and Questions	361
III.	Sel	ect	ed Issues in Licensing: The Patent License Agreement	362
			Problem 5-7	363
			Problem 5-8	363
			Problem 5-9	363
			Problem 5-10	364
			Patent License Agreement	364
			Commission Regulation (EU) No. 316/2014 of 21 March 2014 on the Application of Article 101(3) of the Treaty to Categories of Technology Transfer Agreements	371
			Notes and Questions	374
IV.	Bus	sine	ess Format Franchising	375
			Notes and Questions	377
			Problem 5-11	377
			Franchise Agreement	<i>378</i>
			Problem 5-12	384
			Pronuptia de Paris GmbH v. Pronuptia de Paris	385
			Notes and Questions	388
Cha	pter	6	Foreign Direct Investment	391
I.	Int	roc	luction	391
	A.	Th	ne Decision to Invest: Medtech Reaches a Crossroads	391
		1.	Market Penetration	393
		2.	Management and Control	393
		3.	Intellectual Property	394

Cont	ents		xxi
		4. Research and Development Abroad 370	394
		5. Global Competition	395
	В.	Mergers and Acquisitions (M&A)	396
		Note on the U.S. Foreign Investment in the U.S.	397
II.	Glo	bal Trends in Foreign Direct Investment	399
	A. 1	Recent Growth	399
	В.	Role of FDI in Economic Development	400
		Notes and Questions	401
		Problem 6-1	401
III.	Inte	rnational Investment Law	402
		The Traditional Framework for Protecting FDI: The International Court of Justice	403
		Anglo-Iranian Oil Co. Case (U.K. v. Iran)	403
		Case Concerning Barcelona Traction, Light and Power Company (The Barcelona Traction Case) (Belgium v. Spain), Second Phase	404
		Case Concerning Elettronica Sicula S.p.A. (The ELSI Case) (U.S. v. Italy)	404
		Notes and Questions	405
	B. 1	Multilateral and Bilateral Treaties	407
	,	Modern International Investment Law: Bilateral Investment Treaties, Free Trade Agreements and Customs Unions, and the Convention on the Settlement of Disputes Between States and Nationals of Other States (the ICSID Convention)	407
		1. Bilateral Investment Treaties	407
		2. Free Trade Agreements and Customs Unions	409
		3. The ICSID Convention	410
		4. Investor State Dispute Settlement (ISDS)	411
		Notes and Questions	413
		Problem 6-2	415
		Lanco International, Inc. v. Argentine Republic	416
		Notes and Questions	422
		Wena Hotels, Ltd. v. Arab Republic of Egypt (May 25, 1999)	422
		Wena Hotels, Ltd. v. Arab Republic of Egypt (December 8, 2000)	429
		Notes and Questions	434
		Note on Reform of Investor-State Dispute Settlement	437
		Note on Investment Law, Human Rights, and Sustainable	
		Development	439
		LG&E Energy Corp., et al. v. Argentine Republic	440
		Notes and Questions	446

xxii		Contents
	Note on Enforcement of ICSID Awards	447
	C. An Example of a Regional Trade Agreement: USMCA	449
	Marvin Feldman v. Mexico	451
	Notes and Questions	454
	Problem 6-3	455
	D. Investment and the World Trade Organization	455
	Notes and Questions	458
IV.	Limits on Corporate Conduct in International Investment: The Foreign Corrupt Practices Act	458
	Problem 6-4	459
	Problem 6-5	460
	Problem 6-6	460
	A. Overview of the FCPA	460
	1. Persons Subject to the FCPA	461
	2. Nexus with Interstate Commerce	462
	3. Corrupt Intent	462
	4. Proscribed Payments	462
	5. Persons to Whom Payments Are Made	462
	6. Purpose of the Payment	463
	Note on the OECD Bribery Convention and Other International Treaties	463
	Notes and Questions	464
	B. Basic Issues Under the FCPA	464
	Problem 6-7	465
	United States v. Kay	465
	Stichting Ter behartiging Van de Belangen Van Oudaandeelhouders in Het Kapitaal Van Saybolt International B.V. v. Schreiber	473
	Problem 6-8	480
	United States v. Kozeny	480
	Notes and Questions	483
V.	The Transactional Aspects of FDI: Establishment in the European Union, China, and Brazil	484
	A. Introduction	484
	Conceptual Outline and Checklist of Foreign Direct Investment Issues	486
	B. Foreign Investment in the European Union	488
	1. Access to the Internal Market of the EU: The Four Freedoms	489
	Problem 6-9	489
	Rewe-Zentral AG v. Bundesmonopolverwaltung für Branntwein	489

Contents	xxiii
Notes and Questions	491
Problem 6-10	492
Centros Ltd. v. Erhvervs-og Selskabsstyrelsen	492
Notes and Questions	494
Note on Protection of Intellectual Property in the EU	494
2. Establishment in the EU	495
Problem 6-11	495
An Overview of Company Establishment in Three European Legal Systems: The United Kingdom, France, and German	ny 496
Note on Employee Co-determination in Management Issues France and Germany	in 499
Notes and Questions	499
3. EU Competition Law Affecting Foreign Direct Investment	501
a. Abuse of a Dominant Position	501
Problem 6-12	503
United Brands Company v. Commission of the European Community	ties 504
Microsoft Corp. v. Commission of the European Communities	508
Notes and Questions	513
b. The EC Merger Regulation	514
Tetra Laval BV v. Commission of the European Communities	514
Notes and Questions	518
Note on the Extraterritorial Application of EU Competition	Law 519
C. Foreign Direct Investment in China	520
1. China's Economic System	520
Daniel C. K. Chow, The Legal System of the People's Republiof China in a Nutshell	ic 521
Notes and Questions	527
2. China's FDI Legal Regime and Foreign Investment Business Vehicles	527
a. The Joint Venture	529
b. The Wholly Foreign-Owned Enterprise	530
Notes and Questions	530
Note on a Gamble by an MNE That Paid Off	531
3. Establishing the Joint Venture	532
a. Approval Process	532
Problem 6-13	533
b. Capital Investment	533
c. Management Structure	534
Problem 6-14	534

xxiv	Contents

Problem 6-15	535
Problem 6-16	535
Problem 6-17	536
Problem 6-18	537
PRC Equity Joint Venture Law (2001)	537
Equity Joint Venture Law Implementing Regulations	538
Joint Venture Contract Between Beijing Seagull Detergent Group Corp and Acme (China), Ltd.	o. 539
Notes and Questions	555
D. Foreign Direct Investment in Brazil	556
Poreign Briece investment in Brazil Brazil's Approach to FDI	557
a. Policy Objectives	558
b. Some Background Economic History and Considerations	559
c. The Enactment of the Profits Remittance Law	561
2. The Business Climate in Brazil	562
Problem 6-19	562
Brazil's Environment for Doing Business and for Foreign Direct Investment	562
3. Brazilian Laws Relating to Foreign Direct Investment and Business Organizations	574
a. Brazilian Business Organizations	575
Problem 6-20	575
Overview of Business Entities Available for Use in Foreign Direct Investment in Brazil	575
b. Brazilian Laws Applicable to Foreign Direct Investment	579
Problem 6-21	579
Problem 6-22	580
Profits Remittance Law	580
Notes and Questions	585
Note on Sovereign Debt Collection	586
Chapter 7 Protecting Intellectual Property Rights	589
I. Overview of Commercial Piracy	590
A. Rise in Commercial Piracy	590
Problem 7-1	592
B. Categories of Commercial Piracy	593
1. Copyright Piracy	593
Notes and Questions	595

Cont	ents	XXV
	2. Trademark Counterfeiting	597
	Notes and Questions	599
	3. Patent Infringements	599
	Notes and Questions	602
	C. Protection of Intellectual Property Rights in China	602
	1. Commercial Piracy	602
	Daniel Chow, Statement of Professor Daniel Chow Before the U.S. Senate Government Oversight and Management Subcommittee	602
	Notes and Questions	604
	Problem 7-2	606
	Problem 7-3	608
	Problem 7-4	608
	Daniel C. K. Chow, Organized Crime, Local Protectionism, and the Trade in Counterfeit Goods in China	609
	Notes and Questions	617
	Note on Responses by MNEs and Foreign Governments	618
	Problem 7-5	619
	Note on Counterfeiting and the Internet	619
	2. Forced Transfer of Technology	619
II.	TRIPs and the Protection of Intellectual Property Rights	622
	A. Intellectual Property, TRIPs, and the WTO	622
	Notes and Questions	624
	B. Enforcement Obligations Under TRIPs Against Commercial Piracy	624
	1. General Enforcement Obligations	624
	Notes and Questions	626
	2. Provisional Measures	626
	Problem 7-6	628
	C. TRIPs and the Access to Medicines Debate	628
	Notes and Questions	634
	Problem 7-7	635
	D. TRIPs and the Biopiracy Debate	636
	Problem 7-8	638
	Problem 7-9	638
III.	Gray-Market Goods and Parallel Imports	639
	A. What Are Gray-Market Goods and Parallel Imports?	639
	Notes and Questions	640
	B. Gray- Market Goods Under U.S. Law	641

xxvi		Contents
	Problem 7-10	643
	K- Mart Corp. v. Cartier, Inc.	644
	Lever Brothers Co. v. United States	647
	Notes and Questions	649
	Problem 7-11	650
	Quality King Distributors, Inc. v. L'anza Research International, Inc.	651
	Kirtsaeng v. John Wiley & Sons, Inc.	654
	Notes and Questions	658
Chapter 8	B Dispute Resolution	661
I. Intro	oduction	661
Over	view of International Business Dispute Resolution Issues	661
P	reliminary Issues	662
C	Choice of Forum	662
C	Choice of Law	663
Jı	urisdiction	663
S	overeign Immunity and the Act of State Doctrine	664
R	esolving Preliminary Issues by Agreement	664
D	Dispute Resolution Other Than by Litigation	665
C	Other Issues	666
II. Arbit	tration	666
A. C	Choosing Arbitration	666
	Susan Karamanian, The Road to the Tribunal and Beyond: International Commercial Arbitration and the United States Courts	667
	Note on Expanding Grounds to Vacate Arbitration Awards	670
	Negotiating and Structuring International Arbitration Transactions, Using Model Arbitration Clauses, and	
	Practical Matters in Arbitration	671
	Notes and Questions	674
В. Е	Inforcing the Agreement to Arbitrate	675
	Problem 8-1	675
	Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc.	676
· ·	Notes and Questions	681
C. Ji	adicial Review and Enforcement of the Award	681
	Problem 8-2	681
	Problem 8-3	682
	Polytek Engineering Co., Ltd. v. Jacobson Companies	682

Cont	ents		xxvii
		Stolt-Nielsen SA v. AnimalFeeds Int'l Corp.	687
		Stolt-Nielsen SA v. AnimalFeeds International Corporation	692
		Notes and Questions	694
III.	Lit	igation	695
	A.	Brussels Regime and Arbitration	696
	В.	Brussels Regime and Direct Actions against Insurers	697
	C.	Choice of Forum	698
		Problem 8-4	698
		M/S Bremen v. Zapata Off-Shore Co.	699
		Gita Sports Ltd. v. SG Sensortechnik GmbH & Co. KG	704
		Notes and Questions	708
		Problem 8-5	709
		Problem 8-6	709
		Problem 8-7	709
		Note on the Hague Convention on Choice of Court Agreements	710
	D.	Choice of Law	712
		1. Choice of Law Approaches	712
		Amco Ukrservice v. American Meter Co.	713
		Notes and Questions	717
		2. Choice of Law Clauses	718
		Problem 8-8	718
		Problem 8-9	718
		The Restatement (Second) of Conflict of Laws (1971)	719
		Notes and Questions	719
	E.	Jurisdiction	720
		1. International Law	720
		Note	720
		Kathleen Hixson, Extraterritorial Jurisdiction Under the Third	
		Restatement of Foreign Relations Law of the United States	721
		Notes and Questions	723
		2. Domestic Adjudicative Jurisdiction: Subject Matter and	
		Personal Jurisdiction	724
		Problem 8-10	726
		Asahi Metal Indus. Co., Ltd. v. Superior Court	727
		Note on Personal Jurisdiction Over a Foreign Business Entity	732
		Goodyear Dunlop Tires Operations, S.A. v. Brown	733
		Note on J. McIntyre Machinery Case	735
		Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarain Co.	736
		Notes and Questions	740

xviii			Contents
	3.	Sovereign Immunity	740
		Problem 8-11	741
		In re Arbitration Between: Trans Chem. Ltd. & China Nat'l Mach.	7.41
		Import & Export Corp.	741
	4	Note on "Agency or Instrumentality"	744
	4.	The Act of State Doctrine	744
		Problem 8-12	744
		Optopics Lab. Corp. v. Savannah Bank of Nigeria, Ltd.	745
		FOGADE v. ENB Revocable Trust	749
		Notes and Questions	752
		Problem 8-13	752
	5.	International Comity and Forum Non Conveniens	752
		DeYoung v. Beddome	753
		Notes and Questions	756
	6.	Service of Process	758
		Conax Florida Corp. v. Astrium Ltd.	758
		Notes and Questions	761
	7.	Jurisdiction over Parent and Affiliated Companies	763
		Problem 8-14	763
		Itel Containers Int'l Corp. v. Atlanttrafik Express Serv. Ltd.	764
		Notes and Questions	768
		Problem 8-15	768
	8.	Conflicts of Jurisdiction: Multiple Proceedings in Different Forums	769
			769
		Goss International Corp. v. Man Roland Druckmachinen AG	709 772
		Notes and Questions Fingure A.C. Zamish at Page 25 Francisco S. A.	772
		Finanz AG Zurich v. Banco Economico S.A.	
		Ibeto Petrochemical Indus. Ltd. v. M/T Beffen	776
Е	E	Notes and Questions	780
F.		ridence and Discovery	781
	1.	Obtaining Evidence Abroad	781
		Problem 8-16	781
		Tulip Computers Int'l B.V. v. Dell Computer Corp.	782
		Notes and Questions	785
	2.	Obtaining Evidence in the United States for Use in	700
		Foreign Courts	786
		In re Clerici	786
		Notes and Questions	790

G. Recognition and Foreign Enforcement of Foreign Judgments

Problem 8-17

791

791

Contents		xxix
	Somportex Ltd. v. Philadelphia Chewing Gum Corp.	792
	Society of Lloyd's v. Siemon-Netto	796
	Notes and Questions	800
Chapte	r 9 Corporate Social Responsibility	803
I. In	troduction	803
	Problem 9-1	804
	Problem 9-2	804
	Jonathan I. Charney, Transnational Corporations and Developing Public International Law	805
	Jordan J. Paust, Human Rights Responsibilities of Private	
	Corporations	806
	Doe I v. Wal-Mart Stores, Inc.	810
	Notes and Questions	813
	Problem 9-3	815
II. Co	odes and Standards of Conduct	815
	Problem 9-4	815
	Problem 9-5	815
	Organization for Economic Cooperation and Development, The OECD Guidelines for Multinational Enterprises, 2011	816
	Note on Implementation of the OECD Guidelines for Multinational Enterprises	821
	Note on the "Polluter Pays Principle" as the Basis of Encouraging Multinational Companies to Engage in Sustainable Development	822
	Problem 9-6	824
	Instituting a Corporate Environmental and Safety	- ,
	Management System	824
	Environmental Liability Disclosure Obligations of Public	
	Companies	827
	Notes and Questions	828
	A Guide for the Perplexed: Creating a CSR Program for Your Company	829
III. Ex	sporting Hazard: Legal and Ethical Considerations	830
	Problem 9-7	830
	Jeffrey Leonard, Confronting Industrial Pollution in Rapidly Industrializing Countries: Myths, Pitfalls, and Opportunities	831
	Maureen A. Bent, Exporting Hazardous Industries: Should American Standards Apply?	832
	Treaties Restricting Trade in Hazardous Materials	833

XXX	Content
XXX	Conte

Organization for Economic Cooperation and Development: Council Recommendation on the Application of the Polluter-Pays Principle to Accidental	
Pollution	834
Note on U.S. Controls on Exports of Hazardous Wastes	835
Notes and Questions	836
IV. Liability for Industrial Accidents	836
Problem 9-8	836
Stephen C. McCaffrey, Accidents Do Happen: Hazardous Technology and International Tort Litigation	837
Problem 9-9	838
In re Union Carbide Corp. Gas Plant Disaster at Bhopal, India in December 1984	839
Shyam Divan and Armin Rosencranz, The Bhopal Settlement	842
Note on the Bhopal Settlement and Its Tortuous Aftermath	846
Notes and Questions	847
V. The U.S. Alien Tort Statute	848
Abdullahi v. Pfizer, Inc.	850
Kiobel v. Royal Dutch Petroleum Company	858
Notes and Questions	860
Table of Cases	863
Index	871