Chapter 8

LEGAL AGREEMENTS AROUND THE WORLD

8-1 International Legal Systems and Liability

8-2 Property and Contracts

8-3 Resolving Legal Differences
Trademarks, Brand Names, and International Trade

Apple, Dove, Windows.

To some people, these are a fruit, a bird, and a part of a house. To others, these are a computer, a soap, and computer software.

Trademarks and brand names are an important part of a company’s identity. These emblems and words allow customers to quickly know what they are buying and from whom. The process of registering a trademark or brand name requires an application with the U.S. Patent and Trademark Office (www.uspto.gov).

In 1999, the Trademark Law Treaty and Implementation Act (TLTIA) took effect. This law simplifies the process for obtaining a trademark. TLTIA also coordinates U.S. trademark laws with those of other countries participating in this agreement.

When doing business in other countries, trademarks may not be protected. A local company may use a well-known name to attract customers. In South America, Asia, and other regions, small business owners often use this practice. Some have been known to use names such as “Fantasyland,” which is a part of Disney, and “Macdonalds” instead of “McDonald’s.”

The translation of brand names may also cause problems. Chevrolet once had a car called the Nova, which when translated into Spanish could mean “doesn’t go,” not necessarily an appropriate name for a car. Also, a brand name, when translated into another language, may have an inappropriate meaning.

Think Critically

1. Name some other examples of common words that have become trademarks or registered brand names.
2. What problems might be encountered when a company uses a brand name while doing business in other countries?
3. Conduct an Internet search to obtain information on trademarks and brand names used in different countries.
BUSINESSpeople of all nations must be familiar with the laws of their own countries. They must obey all laws affecting the ownership and operation of their companies. If they do not, they are subject to legal action, which could result in large losses to the companies.

When people conduct business in a country other than their own, they must observe the laws of the host country as well as the laws of their own country. They must first assess the internal political situation of the host country. Then they must decide whether profits will outweigh any risks. These risks include political instability, war, or hostilities between the business’ native country and the host country. Once a country enters into business in or with a foreign country, business relationships are often guided by treaties and trade agreements.

People involved in international business are guided by the principles of international law as well as by trade agreements. Unlike the domestic laws of individual countries, there are few effective ways of enforcing international law. Nevertheless, there is a growing body of international law that many countries respect.

International law is largely based on the legal principles of western civilization. This is a result of the continuous dominance by the West in world affairs since the time of the Roman Empire. The main legal systems around the world are civil law, common law, and statutory law.
CIVIL LAW

Civil law, also called code law, is a complete set of rules enacted as a single written system or code. When a government enacts a civil code, it attempts to write down all of the laws and rights that govern every aspect of its society.

Hammurabi, a Babylonian king, enacted the first civil laws in the seventeenth century B.C. Modern civil law is based on the Justinian Code and the Napoleonic Code. Justinian was the leader of the Byzantine Empire, which had conquered almost the entire world known to the West. To maintain an orderly administration of this empire, in 529 A.D. Justinian codified the law in a complete system of rules to govern the empire’s citizens. The Justinian Code was based on the traditions of the Roman Empire that had preceded the Byzantine Empire and described in detail the rights of Byzantine citizens, including rights to private property.

In 1804, Napoleon Bonaparte became emperor of France and established a civil code, also based on the Roman model. The Napoleonic Code established as law many of the changes that occurred in the aftermath of the French Revolution, including rights to a jury trial and civil equality. Currently, the majority of countries are governed by civil law, including many that were once a part of the Roman Empire, such as Italy, Spain, Germany, and France.

COMMON LAW

England is the only western European country that did not develop a comprehensive set of rules at one time. Instead, England approached the establishment of law on a case-by-case basis. This approach came to be known as common law, which is a legal system that relies on the accumulation of decisions made in prior cases.

English common laws grew out of the deterioration of the feudal system. In medieval times, feudal lords were the supreme rulers of their castles, lands, and the serfs who lived within their territory. Disputes between lords were settled mainly in battle, and serfs had very few rights. Thus, there were few laws.

As serfs began to attain some rights as tenant farmers, disputes between them needed to be resolved. At first, the feudal lords and later judges or magistrates would simply listen to both sides of the dispute and then make a judgment. Since there were no laws to guide these early magistrates in their decisions, they began to write down their decisions so they and others had something to refer to when similar cases arose.

After the conquest of England in 1066 by William the Conqueror, who was also the Duke of Normandy,
English kings established a legal system alongside the developing common law. In this system, the king was the highest legal authority. Because most kings were not knowledgeable about common law, they based their decisions on common sense and the principle of fairness, or equity. The king's courts were, therefore, referred to as the *equity courts*. Equity courts had exclusive jurisdiction over contracts. Gradually, the equity courts merged into the common law system.

England is still governed by common law, as is the United States. In modern common law, also referred to as *case law*, judges make their decisions guided by rulings in previous cases. The principle of equity, or fairness, is often cited. It retains particular influence in business law, where the concept of fairness is very important.

**STATUTORY LAW**

*Statutes* are those laws that have been enacted by a body of lawmakers. The German Reichstag, the British Parliament, the Chinese National People's Congress, and the United States Congress, for example, were all formed to pass laws to govern their citizens. Statutes are most often enacted to add to or change existing laws and to define laws for new situations that arise. Figure 8-1 highlights the differences among civil law, common law, and statutory law.

**LEGAL SYSTEMS AROUND THE WORLD**

- **Civil Law**
  - An entire body of decisions is made, all at one time by a government for all of its citizens.

- **Common Law**
  - Individual decisions are made in various circumstances. As time goes on, the decision makers refer to the decisions from previous situations and apply those decisions to other similar situations. As new situations arise, new decisions are made. In time, a formal set of decisions, or rules, is developed to which decision makers refer.

- **Statutory Law**
  - Laws are made by a set of decision makers whose specific purpose is to make laws. The decisions, or laws, made by this body often change or are added to previous decisions.

**Checkpoint**

What are the main types of legal systems in operation around the world?
LIABILITY

Liability is a broad legal term referring to almost every kind of responsibility, duty, or obligation. In business law, these responsibilities can relate to debt, loss, or burden.

Liability for Debt, Loss, and Injury  Liability for debt generally includes such claims against a company as wages owed to employees, dividends owed to stockholders, taxes owed to government, and loans owed to banks. Business owners are also responsible for the condition and contents of their facilities and must ensure that their work procedures are safe. Thus, if an employee experiences any loss or burden as a result of unsafe conditions, the company could be declared negligent and, therefore, liable for that loss or injury.

Product Liability  The specific responsibility that both manufacturers and sellers have for the safety of their products is called product liability. A person can hold a company and its officers responsible for product defects that cause injury, damage, or death to buyers, users, or even bystanders. If a manufacturer does not use “due care” in designing and making a product, it may be guilty of either intentional or negligent harmful action.

Intent to cause harm by a manufacturer or seller is rarely proven. Negligence, which is the failure of a responsible party to follow standards of due care, can also be difficult to prove. Thus, modern law has developed the concept of strict liability to help consumers who have suffered a loss due to a defective product to prove the manufacturer’s liability.
Strict liability imposes responsibility on a manufacturer or seller for intentionally or unintentionally causing injury to another. For a manufacturer to be held liable for damages under strict liability laws, all of the following six conditions must be met.

1. The product was sold in a defective condition.
2. The seller is in the business of routinely selling the product.
3. The product reached the user without having been substantially changed.
4. The product was unreasonably dangerous to the user.
5. The user of the product or a bystander suffered harm or injury by using the product.
6. The defect was the primary cause of the injury.

Product liability laws vary from country to country. Many countries, such as the United States and members of the European Union, enforce strict liability on manufacturers, sellers, and importers of defective products. International law recognizes the general principle that a responsible party owes just compensation to the injured party.

Diplomatic immunity refers to the practices and institutions by which nations conduct their relations with one another. The privilege of diplomatic immunity, with some freedom from arrest or legal action, is intended to help speed the legal process and to avoid causing political disputes between countries.

Think Critically
1. Why do countries with normal political relations provide immunity for diplomats?
2. When might diplomatic immunity not be appropriate?
3. Conduct an Internet search to obtain additional information about diplomatic immunity.

CheckPoint
How are manufacturers and sellers legally responsible for the safety of their products?
REVIEW GLOBAL BUSINESS TERMS

Define each of the following terms.
1. civil law 5. product liability
2. common law 6. negligence
3. statutes 7. strict liability
4. liability

REVIEW GLOBAL BUSINESS CONCEPTS

8. The justice systems for most countries in the world are based on what kind of law?
9. How did common law develop?
10. Does negligence have to be proven in a successful strict liability case? Why or why not?

SOLVE GLOBAL BUSINESS PROBLEMS

For each of the following situations, explain why the manufacturer of the product can be held liable for damages under strict liability laws.

11. A driver is injured after the car’s transmission fails on the highway; the driver had used motor oil instead of transmission fluid.
12. A baby chokes on a small piece of metal that broke off of a toy.
13. You are injured pushing a lawnmower up and down a steep hill.
14. You are hospitalized after eating a salad dressing that contains an ingredient, not listed on the label, to which you are allergic.

THINK CRITICALLY

15. Why might a country prefer code law to a common law system?
16. In the United States, new drugs require FDA (Food and Drug Administration) approval before they can be released. Do you think FDA approval should relieve the manufacturer of product liability?

MAKE CONNECTIONS

17. COMMUNICATIONS Select a consumer product that has extensive instructions and other text on or in the package. List the sentences you think attempt to protect the manufacturer from product liability lawsuits.
18. LAW Use the Internet or library to research a product liability case. Write a summary of the case, and give your opinion on the verdict.
19. CULTURAL STUDIES Use the Internet to research the legal system of a country.
PROPERTY AND CONTRACTS

GOALS

- Explain laws and international trade agreements that protect property rights.
- Describe when an agreement has all of the components of a contract.

PROPERTY RIGHTS AND RESPONSIBILITIES

Property includes everything that can be owned. Property includes land, money, stocks and bonds, buildings, factories, and other goods. There are three main categories of property. Land and whatever is built on or attached to that land is real property. Property that is tangible but does not have a permanent location is personal property. Property based on ideas (such as patented inventions, trademarks, and copyrights for literary, musical, and artistic works) is intellectual property.

PROPERTY LAW

All democratic countries recognize the individual's right to private property. The law protects these rights. Property rights are the exclusive rights to possess and use property and its profits, to exclude everyone else from interfering with it, and to dispose of it in any legal way.

A number of international agreements protect the rights of individuals and businesses to own property. These agreements were designed to ensure that individuals and corporations living or located in foreign countries were not deprived of their property except under due process of law or when just compensation had been made. For example, the 1883 Paris Convention of Industrial Property, to which more than 95 countries are members, provides international protection for copyrights, patents, and trademarks.
At different times in history, some countries have rejected individuals’ rights to own private property. For example, Communist countries, especially when they were newly formed, subjected both domestic- and foreign-owned property to controls that amounted to a complete loss of property.

Developing countries, particularly those that are former colonies, sometimes expropriate, or confiscate, the property of foreigners. Often this expropriation is made in the name of nationalism or for the developing countries’ best interests. As these countries enter into the mainstream of international relations, however, they tend to submit to international laws that recognize the rights of both individuals and businesses to private property. For example, the People’s Republic of China, a Communist country, adopted a new constitution in 1982 that included assurances to foreigners engaged in business relationships with China that agreements and contracts will be honored and that violations by Chinese businesses will not be allowed. This new constitution was a direct result of leader Deng Xiaoping’s far-reaching changes to move China into the international marketplace.

**INTELLECTUAL PROPERTY**

Often the greatest asset of a business is its intellectual property. **Intellectual property** is the technical knowledge or creative work that an individual or company has developed. This type of situation is especially true for computer software companies, clothing designers, film companies, writers, inventors, and many others. When intellectual property rights are not protected, dishonest competitors can steal knowledge to make products similar to the original product and deceive consumers into buying them.

The World Intellectual Property Organization (WIPO) is part of the United Nations. This agency, with over 170 nations as members, coordinates various international treaties designed to protect patents, trademarks, copyrights, and other intellectual property. **Piracy**, the illegal use of intellectual property, is a great concern for the companies that first developed these products. As trade becomes more global, the protection of intellectual rights will be a major focus of international law.

**Patents** The grant of an exclusive right of an inventor to make, sell, and use a product or process is called a **patent**. To be protected, a product or process must be new and useful. Once a patent expires in the United States, it cannot be renewed unless a new improvement or design is incorporated into the idea or product.

Patent rights are only available for a limited time, ranging from five to twenty years in different countries. Patent rights granted in one country do not necessarily extend to other countries. To be protected, a company must apply for patent rights in each country in which it plans to do business. There are, however, international agreements that coordinate and streamline this process.

The Patent Cooperation Treaty also makes the international patent process simpler and more efficient. More than 40 countries—including the United States, Japan, Russia, and members of the European Union—are parties to this treaty. A company can file a single patent application in which it names the countries in which it seeks patent coverage. The application will then be filed in each of those countries.
Other regional treaties provide similar coordination of patent rights. The Inter-American Convention serves the United States and Latin American countries, and the European Patent Organization coordinates protection among European Union members. The United Nations also works to coordinate intellectual property agreements among countries.

**Trademarks** A distinctive name, symbol, word, picture, or combination of these that is used by a business to identify its services or products is called a **trademark**. Trademark protection was designed to protect the good reputation of businesses’ services and goods. It prevents competitors from representing their products as being those of another business. Such misrepresentation deceives the public and unfairly takes business away from reputable companies.

The symbol ® indicates that a name is a registered trademark in the United States. Most labels of brand-name products include the symbol identifying the name as a registered trademark. To remain protected, a trademark must be in continual use and must continue to be identified with the original business. Once a term becomes accepted to mean all things of that kind, it is no longer protected. For example, T-shirt and aspirin were once trademarks, but they are no longer protected by trademark because they have become everyday terms.

Trademark protection is covered by several international agreements. The

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**A Question of Ethics**

**COUNTERFEIT PRODUCTS**

- "Mickey" and "Donald" characters not authorized by the Disney Company appearing in a local park
- NBA Championship T-shirts printed illegally
- A Seiko watch that doesn’t look just right
- A music CD costing $5 on the street that costs about $15 in a shop

These are just a few of the many examples of counterfeit products and piracy occurring around the world. Each year it is estimated that financial losses from counterfeiting amount to 5 to 7 percent of world trade—over $300 billion.

Violations of trademarks and copyrights are very common in some countries, including Turkey, China, and Thailand. In Italy, vendors selling pirated products control 25 percent of the music CD market. At the same time, unlicensed software in the country accounts for over 40 percent of that market.

While these pirated products give consumers lower prices, sales income is taken away from lawful companies. Efforts to prevent production, distribution, and sales of counterfeit products must involve local and international agencies as well as consumers.

**Think Critically**

1. Use the three guidelines for ethical analysis presented in Chapter 1 to examine the above situation.
2. How do counterfeit products affect businesses and consumers?
Paris Convention of Industrial Property covers trademarks as well as patents. The Madrid Agreement of 1891 concerning the International Registration of Marks enables member countries to submit a single application for protection in all of its member countries. The European Union has a trademark office that is responsible for the recognition and protection of trademarks used in all EU countries, including those belonging to companies based in countries outside of Europe.

**Copyrights** A legal right that protects the original works of authors, music composers, playwrights, artists, and publishers is called a *copyright*. A copyright gives the originator exclusive rights to publish, sell, and exhibit his or her creative work for his or her lifetime plus 70 years. For a copyright to be valid, the copyrighted item must be an original and fixed expression. For an item to be fixed, it must be set down in a permanent fashion in a way that others can understand—written words, standard computer codes, or blueprints. The copyright is only extended to the fixed original expression, not to the ideas behind it. The copyright notice © followed by the name of the copyright owner and the date of publication must be prominently displayed on the publication. Anyone who uses work protected by copyright without the creator’s permission can be subject to legal action.

The Berne Convention of 1886 established the International Union for the Protection of Literary and Artistic Works. Today, more than 90 countries, including all members of the European Union, participate in this agreement. The Berne Union extends copyright protection in all member countries to its members as long as the first publication takes place in one of those countries. The International Copyright Convention of 1955 also provides international copyright protection based on the agreement that each member country will offer the same protection to foreign works that it does to domestic works.

**Checkpoint**

What do the Patent Cooperation Treaty, the Paris Convention of Industrial Property, and the International Copyright Convention protect?
A contract is a legally enforceable agreement between two or more persons either to do or not to do a certain thing or things. A contract encourages competent parties to abide by an agreed-upon set of items. Contracts are the basis for almost all business arrangements.

Contracts can be either implied or express. An implied contract is one that is not explicitly agreed to by the parties but is inferred either from the parties’ conduct or from the law. An express contract is one whose terms are openly declared, either orally or in writing. Businesses nearly always enter into express contracts because it is wise for parties to agree to and set forth very clearly what is expected of everyone. However, both implied and express contracts are binding on both parties, and neither party can withdraw without the agreement of the other party.

**COMPONENTS OF A CONTRACT**

For a contract to be considered valid, it must contain the following four essential components.

1. **Capacity** All parties must be competent, of legal age, and mentally capable.
2. **Mutual agreement** One party offers valid terms and the other party accepts.
3. **Consideration** Something of value must be given by both parties.
4. **Legal purpose** The terms of the contract must be in agreement with the law.

For a contract to be enforceable, the contract must be valid—that is, it must meet all four of the conditions. Either party can enforce a valid contract. A contract that fails to meet one of those four requirements is unenforceable by either party.

Businesspeople in the international arena frequently enter into contracts with representatives of companies from other countries and with the governments of other countries. Such agreements are most often made according to the rules of international law.

**TREATIES AND TRADE AGREEMENTS**

Treaties and trade agreements between countries are examples of contracts that have a tremendous effect on global business activities. These agreements impose a degree of stability and uniformity for trade relations where members have different cultures and customs. Since contracts are the basis of business relationships, many trade agreements provide guidelines for the enforcement of contracts.

Some of the most far-reaching international trade agreements in force today include the following.

- The World Trade Organization with more than 140 member countries
- The European Union which allows the free flow of goods, services, labor, and capital between the member countries of the EU
- The North American Free Trade Agreement, designed to ensure open markets and fair competition between companies in Canada, Mexico, and the United States
 WHEN IS A CONTRACT NOT A CONTRACT?

When doing business in Japan, it is important to realize that the communication known as a contract may not have the same meaning to Japanese businesspersons as it does to U.S. businesspersons. The Japanese often aren’t eager to sign contracts, although they will do so because they know most Western businesspersons require them. Because Japanese businesspersons consider agreements based on personal promises to be binding, they discount the importance of contracts, which are agreements based on written words that are flexible in meaning. As a result, Japanese businesspersons view signed contracts as a point from which to begin negotiations when circumstances change or disputes arise, not as the absolute rules for business transactions, as U.S. businesspersons view them.

Think Critically

1. Why do you think Japanese businesspersons consider written words and contracts to be flexible in meaning?
2. How do Japanese businesspersons benefit by valuing personal promises over written contracts?

What is necessary for a trade agreement to be an enforceable contract?
Chapter 8

LEGAL AGREEMENTS AROUND THE WORLD

REVIEW GLOBAL BUSINESS TERMS

Define each of the following terms.

1. property
2. property rights
3. intellectual property
4. patent
5. trademark
6. copyright
7. contract

REVIEW GLOBAL BUSINESS CONCEPTS

8. What are the three types of property?
9. What four elements must be present for a contract to be valid?

SOLVE GLOBAL BUSINESS PROBLEMS

For each of the following intellectual properties, decide if the item would be protected by a patent, trademark, or copyright.

10. The brand name of a packaged food product
11. A musical composition
12. A process for sending photos over the Internet
13. A logo for a sports team
14. This book

THINK CRITICALLY

15. What actions could be taken to protect intellectual property in a country?
16. Why are persons of a certain age not allowed to enter into a legally binding contract?

MAKE CONNECTIONS

17. TECHNOLOGY How do the Internet and other technology make protection of patents, trademarks, and copyrights more difficult?
18. GEOGRAPHY How might the climate and terrain of a country affect contracts?
RESOLVING LEGAL DIFFERENCES WITHOUT COURT ACTION

Throughout the world, most legal disputes are resolved without the parties ever going to court. This is true of disputes between individuals, businesses, and nations.

There are many reasons why businesses, particularly those in the international arena, are willing to settle conflicts out of court. The time and expense involved in lawsuits, the need for a quick resolution, the concern about bad publicity, the uncertainty of outcomes, and the desire to maintain a good relationship with the other party all must be considered. Businesses also may fear that they will receive discriminatory treatment in a foreign court. Moreover, the complexity involved in determining which country’s laws to use and the location of the trial contributes to companies’ preference for dispute resolution outside of the courtroom. The two major means of alternate dispute settlement used by businesses in the international arena are mediation and arbitration.

**MEDICATION**

Mediation is a dispute resolution method that makes use of a neutral third party, or mediator. A mediator attempts to reconcile the viewpoints of the disputing parties. A mediator is involved with the substance of the dispute and makes suggestions and proposals. Therefore, the mediator is often an attorney or expert in the disputed matter. Mediators cannot make binding decisions. Only when the disputing parties voluntarily agree to a mediator’s decision is a settlement reached. Thus, mediation is most successful when both parties are willing to compromise.
Some cultures have a strong tradition of using mediation to settle disputes. In Japan, for example, it is a point of honor to settle disputes without having to go to court. In the People’s Republic of China, approximately 90 percent of all civil disputes are settled by mediation. More than 800,000 Mediation Committees exist throughout China, each composed of a group of knowledgeable people on various topics.

**GLOBAL BUSINESS**

**LEGAL DIFFERENCES IN OTHER SOCIETIES**

The criminal procedures used in France are different from those used in the United States and Great Britain. For example, a person accused of a crime is not presumed innocent until proven guilty. Victims and their families may become part of the investigation. In addition, persons accused of crimes have no protection from self-incrimination.

In the People’s Republic of China, two systems of contract law exist. One is for domestic transactions, and another is for foreign contracts. In 1981, the Economic Contract Law code was enacted for domestic business transactions. The Foreign Economic Contract Law, created in 1985, was designed to attract foreign buyers for Chinese products.

**Think Critically**

1. Conduct an Internet search to locate examples of different legal systems in other countries.
2. What factors might influence the different legal systems used in various countries?

**WORK AS A GROUP**

Describe a trade difference that might occur between countries. Present both sides of the situation. Have a group member serve as a mediator or an arbitrator for the situation.

**ARBITRATION**

**Arbitration** is a method of conflict resolution that uses a neutral third party to make a binding decision. Unlike a mediator, an arbitrator's decision is legal and binding on both parties. An arbitrator acts as a private judge at a location of the disputing parties’ choice and establishes procedures and rules of evidence. The parties specify the issues to be decided by the arbitrator. In this way, they avoid receiving a decision based on legal technicalities or other reasons that are not central to the issue being decided.

Arbitration is particularly well suited to settling disputes involving international business. Such disputes normally do not involve serious or complicated legal issues. So most businesses prefer to resolve disputes in a speedy, economical, and private way. Most often a dispute comes to arbitration because a contract either requires it or allows a party to demand it. Such provisions are common in union contracts.

In the international business arena, a contract will frequently include a requirement of arbitration. An intermediary, a person both parties agree is impartial, also may be provided for in the original contract. A representative from the international business community is often chosen to be an arbitrator. A typical choice is an officer in a chamber of commerce or a trade association from a third country.

**Checkpoint**

Why would a company want to avoid court action to settle a dispute?
RESOLVING LEGAL DIFFERENCES

Two parties may decide on litigation when they are unable or unwilling to resolve their differences through mediation or arbitration or through their own agreements or compromises.

Litigation is a lawsuit brought about to enforce the rights of a person or an organization or to seek a remedy to the violation of their rights. Litigation involves many complex procedural rules. These rules vary widely from country to country and even among courts within a given country. Most countries have a federal or national court. Many also have state or provincial courts, as well as even more localized courts. Nearly all legal systems have separate rules for criminal and civil cases.

People living in or doing business in a foreign country are usually subject to the laws of that country. Thus, if a dispute arises between a business and someone in the host country, the matter must be settled in the host country’s courts. When a conflict arises between two companies of different countries, the conflict may be settled either in the courts of the country in which the agreement was made or in the courts of the country in which the contract will be fulfilled. Figure 8-2 provides a brief outline of dispute settlement methods and options.

If a government violates the terms of a contract with a foreign company, the company is expected to pursue a remedy within that host country. If the company is unable to obtain a resolution, it may present its claim to its own government, which may then press an international claim against the foreign country on behalf of the company. However, many governments are unwilling to press such claims for two reasons. First, the company is presumed to have had a clear conception of the risks involved in entering into such an agreement. Second, pressing such a claim may interfere with the delicate political balance that might exist between the two countries.
The International Court of Justice was established in 1946 by the Charter of the United Nations. It sits in The Hague in the Netherlands. The **International Court of Justice** is a court that settles disputes between nations when both nations request that it do so and also advises the United Nations on matters of international law. The decisions of the Court are binding for all parties.

Many of the procedures of the International Court of Justice are derived from Western civil law systems. For example, the International Court primarily uses documentary evidence to decide a case. It also has the power to request additional evidence as it wishes.

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**Figure 8-2** There are several means of settling disputes between companies in different countries.

<table>
<thead>
<tr>
<th>Dispute Arises</th>
<th>No contract involved.</th>
<th>No arbitration clause in contract.</th>
<th>Contract calls for arbitration and sets forth the terms of arbitration as well as designating an arbitrator.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dispute is settled in the courts of the country in which the dispute arises.</td>
<td>Parties agree to arbitration.</td>
<td>Decision of the arbitrator is binding on all parties.</td>
</tr>
<tr>
<td></td>
<td>Dispute is settled in the courts of the country in which the contract was drawn up.</td>
<td>Parties agree to mediation.</td>
<td>Decision of the arbitrator is binding on all parties.</td>
</tr>
<tr>
<td></td>
<td>Both parties must agree to a settlement.</td>
<td>May or may not be an appeal of the court’s decision.</td>
<td></td>
</tr>
</tbody>
</table>

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**CheckPoint**

When might litigation be appropriate?
The International Court does not use procedures that are routine under common law. There is no jury, and for that reason, oral testimony is rarely heard. Evidence is rarely removed from the record, and false testimony and documents are simply ignored.

While Western principles of law are predominant in the International Court, some non-Western principles have been incorporated into international law. Islamic law has contributed to the division of law into primary and secondary sources. The primary source corresponds to the Islamic concept of certain, or definite, proof. The secondary source corresponds to the Islamic concept of reasoned proof. The great majority of international rules of war, as well as many rules regarding treaties, are also based on Islamic law. The reliance of the International Court on negotiation and mediation as means of dispute settlement are derived primarily from Asian customs.

Because of the dominance of Western principles, some newly developed states have found that international law is in conflict with their interests. Communist and developing nations, for example, do not accept many of the legal principles of the older developed states that form the basis of international law. Because of the past and continuing dominance of the West, the effect of these newer countries on international law has been slight.

Since law must change to adapt to emerging situations, some principles not in harmony with Western ideas have been integrated into international law. As the world becomes more interdependent, the needs of developing countries receive increased attention. As a result, these developing countries become more willing to abide by international law and offer new concepts to it.

Only nations can be parties before the International Court of Justice. Individuals and organizations, including businesses, are specifically excluded. Thus, very few commercial cases are heard by the Court. Such cases are heard only when a government presses an international claim on behalf of a company.

What then is the importance of the International Court of Justice to the world of international business? The answer is that it provides guidelines for acceptable ways of doing business around the world.

The continuation and expansion of world trade requires that businesses in foreign environments be treated in a consistent manner. Businesspeople in all countries want to engage in profitable relationships. As long as international principles of law are observed—particularly property rights and responsibilities and enforcement of contracts—international business will bring countries of the world closer together.
Chapter 8  LEGAL AGREEMENTS AROUND THE WORLD

HISTORY: TAIWAN

Taiwan, officially called the Republic of China, is an island nation off the southeast coast of mainland China between the East and South China Seas. Mountains form the backbone of the country, but the western slopes are fertile and well cultivated. Most of Taiwan's people live in the lowlands on the western side of the island.

Chinese immigrants came to the island in the seventeenth century. After a brief period of Dutch rule (1620–1662), Taiwan experienced about 160 years of Chinese control. Japan ruled from 1895–1945, using the island for farming and military operations. After World War II, civil war between the Nationalist and Communist factions broke out in China. The leader of the Chinese Nationalist party, Chiang Kai-shek, fled to Taiwan. He proclaimed Taipei the provisional capital of China, renamed Taiwan the Republic of China, and took control of the island. Both the People’s Republic of China on the mainland and the Nationalist Chinese government in Taiwan continued to claim sovereignty over Taiwan.

The conflict regarding whether the Communist government, which was based on mainland China, or the Nationalist government, which was based in Taiwan, was the legitimate government of China was the source of bitterness, international tension, and armed clashes throughout the 1950s and 1960s. By the late 1980s, however, there had been a gradual decrease in the hostilities. In 1986, the mainland Chinese government announced that the principle of “one country, two systems” would be applied to Taiwan. This policy retains Taiwan's economic independence and army but submits it to China in matters of foreign policy.

After World War II, Taiwan enjoyed rapid industrial growth and now has one of the strongest economies in Asia. The country’s strong educational system is one of the main influences on Taiwan’s economic success. Taiwan is one of the most literate countries in the world, with a literacy rate of 94 percent. Most of its people work in industry or service jobs. Less than 15 percent work in agriculture. Taiwan particularly promotes high-tech industries, such as those that produce computers and electronic items. Taiwan’s economy is largely based on exports, which account for more than half of its gross domestic product.

Think Critically
1. Conduct a web search for additional information about the current cultural, political, and economic situation of Taiwan.
2. What factors contributed to the economic development of Taiwan?
REVIEW GLOBAL BUSINESS TERMS

Define each of the following terms.

1. mediation
2. arbitration
3. litigation
4. International Court of Justice

REVIEW GLOBAL BUSINESS CONCEPTS

5. What is the difference between mediation and arbitration?
6. What are some of the reasons why two businesses from different countries might prefer to resolve a dispute through mediation or arbitration rather than litigation?
7. What is the importance of international law to businesses engaged in international trade?

SOLVE GLOBAL BUSINESS PROBLEMS

For each of the following situations, decide if the dispute should be resolved using mediation, arbitration, or litigation.

8. After years of negotiation, a company is unable to collect for the value of property lost by a shipping company.
9. A company and a supplier in another country have slight differences about a recent business transaction.
10. Mediation between two companies has not been successful. The businesses want a third party to decide a legally binding settlement.
11. A labor union and management want a third party to recommend a possible settlement for the differences in their contract negotiations.

THINK CRITICALLY

12. Why is the International Court of Justice important to international business?
13. While not legally binding, why is the mediation process sometimes effective for settling disputes?

MAKE CONNECTIONS

14. TECHNOLOGY What are some international legal concerns that could result from increased use of technology in business?
15. LAW Write a contract to use when doing a job for a neighbor, such as taking care of pets, mowing a lawn, installing a computer, or babysitting.
16. LAW Use the Internet to research the International Court of Justice and some of its recent cases and decisions.
Chapter 8 ASSESSMENT

CHAPTER SUMMARY

8-1 INTERNATIONAL LEGAL SYSTEMS AND LIABILITY

A The main legal systems of the world are civil law, common law, and statutory law.

B Manufacturers and sellers are responsible for the safety of their products. Intent to cause harm and negligence are difficult to prove, so the principles of strict liability apply in product negligence in many countries.

8-2 PROPERTY AND CONTRACTS

A Property rights are protected through government actions such as patents, trademarks, and copyrights.

B Contracts are the basis for almost all business arrangements. A valid contract must have four components: capacity, mutual agreement, consideration, and legal purpose.

8-3 RESOLVING LEGAL DIFFERENCES

A International legal disputes may be resolved without court action through mediation or arbitration.

B Litigation is court action used to resolve global business disputes.

C The International Court of Justice settles legal disputes between nations when both nations request that it do so. This court also advises the United Nations on matters of international law.

GLOBAL REFOCUS

Read the Global Focus at the beginning of this chapter, and answer the following questions.

1. What actions might a company take to plan, implement, and protect its international brand names and trademarks?

2. How might a joint venture help a company protect its trademarks?

3. Go to the web site of the World Intellectual Property Organization (www.wipo.org) to obtain current information related to trademarks and brand names.
REVIEW GLOBAL BUSINESS TERMS

Match the terms listed with the definitions. Some terms may not be used.

1. A legal system that relies on the accumulation of decisions made in prior cases.
2. A legal right that protects the original works of authors, music composers, playwrights, artists, and publishers.
3. A legally enforceable agreement between two or more persons either to do or not to do a certain thing or things.
4. Everything that can be owned.
5. A court that settles disputes between nations when both nations request that it do so and also advises the United Nations on matters of international law.
6. The specific responsibility that both manufacturers and sellers have for the safety of their products.
7. Those laws that have been enacted by a body of lawmakers.
8. The failure of a responsible party to follow standards of due care.
9. A distinctive name, symbol, word, picture, or combination of these that is used by a business to identify its services or products.
10. A dispute resolution method that makes use of a neutral third party.
11. The exclusive right of an inventor to make, sell, and use a product or process.
12. A method of conflict resolution that uses a neutral third party to make a binding decision.

MAKE GLOBAL BUSINESS DECISIONS

13. If you were creating the laws for a country, what would some examples of those laws be?
14. Describe a situation in which a person or an organization might be held negligent for injury or property damage.
15. Some people believe patents, copyrights, and trademarks create monopolies. Describe the advantages and disadvantages of protecting intellectual property.
16. List examples of contracts commonly entered into by individuals and companies.
Chapter 8  ASSESSMENT

17. Describe a situation in which a company might use mediation or arbitration in an international business situation.

18. Jean Claude Nallet, an eight-year-old French boy, received a model fire engine as a present. While playing with the toy, a sharp tip on the toy ladder punctured Jean Claude’s finger, and he required medical treatment. Later the family found out that the fire engine was defective and had been recalled by the manufacturer.

a. In your opinion, do Jean Claude’s parents have a legitimate reason to file a product liability claim?

b. Under the guidelines of strict liability, which elements apply to Jean Claude’s case?

GLOBAL CONNECTIONS

19. COMMUNICATIONS Write a letter to a publishing company or a music video production company requesting permission to copy an artist’s work. Save a copy of your letter, and summarize the response you receive in a short written report.

20. VISUAL ART Look for examples of trademarks on products sold around the world. Based on these examples, create a picture for a trademark and brand that might be used for international business.

21. COMMUNICATIONS Create a logo or package design for a product that could be used in many countries around the world.

22. LAW Create a legal system for a new country that just became independent from another country that had controlled its political and legal activities in the past.

23. CULTURAL STUDIES How might the culture of a country affect the format and conditions of a contract?

24. SCIENCE Research a patent on a product. Identify the inventor, the year the patent was granted, and the product’s function. Prepare a summary report of your findings.

25. CAREER PLANNING Find out what types of legal agreements a person would encounter when applying for a job with and working for a multinational company.
LAWS AROUND THE WORLD

Research the legal system of a foreign country. Focus your research on cultural issues and political influences on legal agreements and business regulations in that country. Obtain information for the following questions.

1. What are the basic components of the country’s legal system?
2. How does the culture of the country affect its legal system?
3. What are the issues that affect legal agreements in the country?
4. What legal restrictions affect international trade with the country?
5. What sort of out-of-court resolution process might be used in the country to settle legal differences?

Sources of information for your research may include the following.

- reference books such as encyclopedia, almanacs, and atlases
- current newspaper and magazine articles
- web sites for the CIA Factbook and other country information
- materials from companies, airlines, travel bureaus, government agencies, and other organizations involved in international business
- interviews with people who have lived in, worked in, or traveled to the country

Prepare a written summary or present a short oral report (two or three minutes) of your findings.