

АНГЛИЙСКИЙ ЯЗЫК
ДЛЯ СТУДЕНТОВ
3 КУРСА
ДНЕВНОГО ФАКУЛЬТЕТА

5 СЕМЕСТР

Рекомендовано
кафедрой иностранных языков и
редакционным советом
Оренбургского института (филиала) МГЮА

Попов Е.Б. Английский язык для студентов 3-го курса:
Учебное пособие для студентов-юристов: пятый
семестр. - Оренбург: ОИ МГЮА, 2009. - 78 с.

Учебное пособие предназначается для студентов третьего курса дневного и вечернего факультетов ОИ МГЮА. Цель пособия – последовательное освоение правовой лексики и лексики делового английского на основе образовательных текстов, адаптированных для студентов-юристов. Данное пособие состоит из языкового материала, изучаемого студентами в пятом семестре.

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Предисловие

Настоящее пособие предназначается для студентов третьего курса (пятый семестр) дневного и вечернего факультетов ОИ МГЮА. Цель данного пособия – последовательное изучение грамматики и правовой лексики на основе образовательных текстов, объединенных в четыре тематических блока: "организационные формы бизнеса", "договоры и соглашения", "трудовые правоотношения" и "деловое общение".

Виды заданий, предлагаемых в учебном пособии:

BEFORE READING - задание выполняется до прочтения тематического текста

SCANNING - подробное изучение текста

LEXIS - лексический минимум, который необходимо усвоить при изучении текста

QUESTIONS - вопросы к прочитанному тексту

EXPLAIN THE SENTENCES FROM THE TEXT - толкование студентами отдельных предложений из тематического текста

MATCH - задание предполагает парный подбор лексических единиц, имеющих сходное значение

PREPARE YOUR OWN QUESTIONS – студентам необходимо письменно составить дополнительные вопросы к прочитанному тексту

AGREE OR DISAGREE - оценка соответствия предложений содержанию изученного материала; если предложение не соответствует действительности, то следует внести необходимые изменения и дать исправленный вариант предложения

EXERCISE - задание предполагает применение студентами знаний, полученных из тематического текста

KEY WORDS - ключевые слова по изученной теме; необходимо дать толкование каждого из них, используя материал прочитанных текстов

Unit 1. Forms of Business Organization



1.1. BEFORE READING learn the following words and phrases which are essential on the topic:

articles of incorporation = memorandum of association - договор об учреждении акционерного общества, меморандум, устав юридического лица, официальный акт о регистрации компании/акционерного общества; устав акционерного общества (документ, определяющий внешние отношения компании и представляемый к регистрации)

business entity - организационно-правовая форма хозяйствования, фирма, компания, коммерческая организация, хозяйственная единица; юридическое лицо, занимающееся экономической деятельностью ради получения прибыли (форма образования субъекта предпринимательской деятельности (напр. общество с ограниченной ответственностью, частный предприниматель, акционерное общество, кооператив и т. п.)

close company = closed company = private company - частная, частично-правовая компания (не имеющая права на публичную продажу акций); корпорация закрытого типа (компания с ограниченным числом участников, не имеющих права продавать свои акции без согласия других акционеров и непосредственно участвующих в управлении компанией; акции таких корпораций не обращаются на открытом рынке)

company = corporation (Corp.) - компания, фирма, корпорация, юридическое лицо (собрательное понятие; применяется, как правило, к формам организации бизнеса, имеющим в основе своей деятельности объединение капиталов: корпорации, товариществу и т. п.; не применяется по отношению к такой форме, как индивидуальное предпринимательство)

dissolution of a company - ликвидация, роспуск компании

distinct legal entity - юридический субъект, самостоятельное юридическое лицо

general partnership - полное товарищество, товарищество с неограниченной ответственностью (члены такого товарищества несут как индивидуальную, так и солидарную ответственность по обязательствам товарищества, т. е. третьи лица могут направить имущественный иск в адрес одного из партнеров, который переадресует его, за вычетом своей доли, другому партнеру)

incorporator - учредитель корпорации

joint venture - совместное предприятие, смешанное предприятие, временное товарищество

limited liability company (в сокращённой форме Ltd.) - акционерное общество с ограниченной ответственностью (компания с ограниченной ответственностью по обязательствам (в пределах акционерного или паевого капитала); отвечает только по своим обязательствам и только принадлежащим ей имуществом и не несет ответственности по обязательствам акционеров, равно как и акционеры не несут ответственности по обязательствам компании; объединяет преимущества налогообложения товарищества и ограниченную ответственность корпорации, хотя последней не является; по закону обязательно входит в официальное название акционерного общества с ограниченной ответственностью)

limited liability partnership = limited partnership (в сокращённой форме LP.) - партнёрство с ограниченной ответственностью, товарищество на вере, коммандитное товарищество (объединение физических и/или юридических лиц с целью создания коммерческого предприятия, включающее по крайней мере одного партнера с полной ответственностью и по крайней мере одного партнера с ограниченной ответственностью (отвечающего по обязательствам предприятия только в рамках своего пая)

open joint-stock company - открытое акционерное общество; акционерная компания открытого типа

ordinary shares - обыкновенные акции, акции с нефиксированным дивидендом

partnership - товарищество (форма предпринимательства, представляющая собой объединение двух или более лиц (партнеров), совместно осуществляющих коммерческую деятельность; для организации этой формы требуется устное или письменное соглашение партнеров об их вкладах, участии в прибыли, ответственности и т. п.; партнерство не образует юридического лица)

preference shares - привилегированные акции (с фиксированным дивидендом и правом первоочередной оплаты)

public company = open-end company - открытая/публичная акционерная компания; открытое/публичное акционерное общество (имеет право продажи акций на рынке ценных бумаг)

share - 1) пай (участие в капитале компании, т. е. доля собственности в компании, напр., доля в капитале взаимного инвестиционного фонда, кооператива и т. п.) 2) акция (ценная бумага, свидетельствующая о внесении определенной суммы в собственный капитал компании и подтверждающая право своего владельца на определенную часть прибыли данной компании и остатка активов при ликвидации, а обычно

также и право на участие в управлении компании путем голосования на собраниях акционеров)

shareholder - акционер, владелец акций, держатель акций (юридическое или физическое лицо, являющееся собственником акций акционерного общества, т. е. части акционерного капитала)

sole proprietorship = private enterprise = sole tradership - фирма в индивидуальной особенности, единоличное хозяйство, индивидуальное предприятие (компания, которая находится в собственности и управлении одного человека, отвечающего по обязательствам данной компании личным имуществом; такая юридическая форма предпринимательства избирается для мелких предприятий)

sole trader = sole proprietor = individual entrepreneur = private entrepreneur - частный (индивидуальный) предприниматель; человек, имеющий собственное дело



1.2. SCANNING

Business Organizations: Private Enterprise and Partnerships

1. There are three basic types of business organizations:

(i) The private enterprise is the simplest form. The sole owner and his/her business are not legally distinct entities. The owner has unlimited liability for debts of the business.

(ii) The partnership: two or more individuals are the owners, having expressly or implicitly agreed to establish and run a business for profit.

(iii) The corporation: a distinct legal entity which is created under Company law and has an existence separate from its shareholders. A business entity is deemed to be a corporation only if the entity has at least three of the following four traits: limited liability, centralized management, continuity of life, and free transferability of interests.

2. There are also some other organizational forms which are not strictly classified as either partnerships or corporations - for instance, syndicates, business trusts, associations, joint ventures and cooperatives.

3. Private enterprise or individual proprietorship is the form of organization where the owner is in sole charge of the business and is responsible for its success or failure. Although advantages for the small business exist in this form, certain drawbacks make it undesirable for larger concerns. In the first place the single owner is sel-

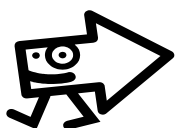
dom able to invest as much capital as can be secured by a partnership or a corporation. If single owners are able to invest large amounts of capital, they run great risk of losing it all because they are personally liable for all the debts of their businesses. This is called unlimited liability. Only in agriculture is the individual owner still a predominant figure.

4. Partnership is an association of two or more persons who have agreed to combine their labor, property, and skill, or some or all of them, for the purpose of engaging in lawful business and sharing profits and losses between them; in this definition the term business includes every trade, occupation, and profession. The parties forming such an association are known as partners. Partners may adopt a fictitious name or use a real family name. The agreement to form a partnership is known as a partnership contract, the most important provision of which spells out the manner in which profits are to be distributed.

5. There are two types of partnership: general and limited. General partnership is an ordinary partnership in which each partner is personally liable for the acts of every other partner in the conduct of the business and has unlimited personal liability for the debts of the partnership, and usually all partners participate in the management and conduct of the business.

6. A limited partnership is a partnership consisting of one or more general partners and one or more limited partners. General partners manage the business and are personally liable for its debts and obligations. Limited partners invest money or other property in the business, but are not liable for the debts or obligations of the partnership.

7. A partnership can be formed only by contract. Any number of persons may contract to form a partnership, and firms of partners may enter into partnership with one another. New members may be admitted into an existing partnership only with the consent of all the partners. The agreement of partnership generally is for a definite term of years; if no duration is specified, it is said to be a partnership at will and can be terminated at any time by any partner. By agreement of the members, a partnership may be dissolved or terminated and the terms of the partnership agreement modified at any time. Death or bankruptcy of a partner, the insanity or misconduct of a partner, and the end of the period fixed for the duration of the partnership also operate to terminate the partnership.



1.3. LEXIS

transferability of interests - перемещаемость, передаваемость доли участия в компании

syndicate - синдикат, консорциум а) любое объединение банков, страховых компаний, подрядчиков, товаропроизводителей или других фирм с целью осуществления общего проекта б) объединение товаропроизводителей с целью сбыта и осуществления единой ценовой политики

business trust - деловой доверительный паевой фонд; деловой траст (форма неакционерного предприятия с ограниченной ответственностью без образования юридического лица; состоит в объединении лиц, передающих титул собственности и управление собственностью одному или нескольким доверительным собственникам, которые осуществляют распределение полученной прибыли в пользу участников (бенефициаров) траста)

in sole charge of - полностью, единолично ответственный

drawback - недостаток, отрицательная сторона

larger concern - более серьезное предприятие, более крупная фирма

secure - гарантировать, обеспечивать, защищать; оберегать (от чего-л.), страховать

run risk - идти на определенный риск

unlimited liability - неограниченная ответственность (акционера) по обязательствам компании

fictitious name - вымышленное название

spell out - объяснять точно и обстоятельно, разъяснять, растолковывать

general partnership - полное товарищество, товарищество с неограниченной ответственностью (члены такого товарищества несут как индивидуальную, так и солидарную ответственность по обязательствам товарищества)

general partner - главный партнер с неограниченной (имущественной) ответственностью

limited partner - компаньон-вкладчик, компаньон с ограниченной ответственностью

at will - бессрочный, по усмотрению партнеров

dissolve - ликвидировать (прекращать деятельность компании, товарищества и. п.)

terminate - 1) прекращать действие, кончать 2) ограничивать

modify - видоизменять, модифицировать; подправлять, корректировать, вносить поправки



1.4. QUESTIONS

1. What are three basic types of business organizations? Are there advantages and disadvantages peculiar to each of them?

2. What is the legal meaning of terms "limited liability" or "unlimited liability"?
3. What is a difference between partnership and corporation?
4. How can a partnership be established?
5. What two main types of partnership are there? Describe them.
6. What is said to be "a partnership at will"?
7. How may a partnership be dissolved or terminated?



1.5. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



1.6. AGREE OR DISAGREE

1. Partnership is the simplest form of business organizations.
2. Individual proprietorship is the form of organization where a legal entity is separate from its partners.
3. Partnerships may have only real family names.
4. No new members may be admitted into an existing partnership.
5. The legal status of general and limited partners is almost the same



1.7. SCANNING

Business Organizations: Companies

1. According to the classic definition "A company is an artificial being, invisible, intangible, and existing only in contemplation of law." A company is a legal entity that comes into existence when the authorized governmental body issues a certificate of incorporation which is applied for by one or more persons known as incorporators.

2. As a rule two or more natural persons may form a company, provided that memorandum of association specifies:

- (i) the purpose of the company and its duration;
- (ii) its location and the post office address of its registered office;
- (iii) the amount of paid-in-capital with which the company will begin business and the total number of shares;
- (iv) the name and post office address of each of the incorporators and a statement of the number of shares for which each has subscribed.

3. When the articles of incorporation are filed, the incorporators hold a meeting, adopt bylaws, and approve the initial steps to be taken by the company.

4. In general all companies may be classified:

o **as to their type:**

(i) public companies are those created by the people, or government for public purposes. As a rule they are open joint-stock companies. A company must satisfy three conditions before it can be a public limited company:

- to be limited by shares and have a share capital;
- to state in its memorandum of association that it is to be a public limited company; and
- to meet specified minimum capital requirements;

(ii) private corporations are close companies where the stock is usually not sold publicly and may be held by one person, a family, or a small group;

(iii) professional companies are organized for the purpose of conducting a profession. However, professional people cannot avoid personal liability by incorporation;

(iv) nonprofit companies are corporations formed for religious, charitable, social, educational purposes on a nonprofit basis.

o **as to their location:**

(i) a domestic company is created by the laws of a state or country in which it does business;

(ii) a foreign company is created in a state or country other than the one in which it is doing business;

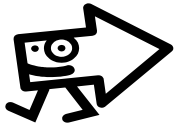
(iii) multinational corporations are the companies maintaining extensive business activities and large-scale production facilities throughout the world, and their revenues sometimes exceed the total revenues of some countries in which they operate.

5. Companies may be reorganized by merger, consolidation or sale of assets. Merger is the absorption of one corporation by another. For example, DOG Ltd. buys out CAT Ltd. and merges CAT into DOG, with DOG Ltd. continuing as the surviving corporation and CAT Ltd. going out of existence.

6. Where there is a consolidation, two or more companies cease to exist and a new one is formed. For example, ABC Ltd. and ORN Ltd. combine into a new LMN Ltd. which emerges as a result of the consolidation and both ABC and ORN now cease to exist.

7. The terms "merger" and "consolidation" are often confused and inaccurately used. A true consolidation is brought about when a new company comes into existence to take over the assets and liabilities of two or more former companies, which are then dissolved. A merger, on the other hand, is brought about when one existing company is continued and one or more others are merged into it without the formation of a new company.

8. Companies may be terminated either by reorganization or by dissolution. Dissolution of a company may be by voluntary or involuntary action. Voluntary: shareholders may vote to dissolve the company voluntarily. Involuntary, or forced dissolution, may be caused by the creditors, by the petition of the required number of shareholders, or by governmental action.



1.8. LEXIS

artificial being - искусственный объект, юридическое лицо

invisible - незримый, то что нельзя увидеть

intangible - нематериальный

in contemplation of law - с точки зрения закона

authorized - уполномоченный, наделенный полномочиями [правами]

issue a certificate of incorporation - выдавать сертификат инкорпорации (свидетельство регистрации); выдавать разрешение государственного органа на создание компании

apply for - подавать заявление, ходатайствовать о

natural person - физическое лицо (правовое понятие, призванное отличить человека (индивида) как субъекта права от другой категории субъектов права - юридических лиц)

paid-in-capital = joint-stock = share capital - акционерный капитал, оплачиваемая доля акционерного капитала

professional company - профессиональная корпорация, ассоциация, сообщество

domestic company - местная корпорация (основная деятельность которой осуществляется в стране, где она создана и зарегистрирована)

foreign company - иностранная корпорация (зарегистрированная в ином государстве)

multinational corporation - многонациональная корпорация, транснациональная компания

large-scale production facilities - материальная база для серийного, массового производства

revenue - доход, доходы, доходные статьи

merger - поглощение, слияние, объединение

consolidation - укрепление, объединение [консолидация] компаний (соединение в одно целое двух или нескольких компаний)

absorption - поглощение, присоединение

cease - прекращать, останавливать; приостанавливать

governmental action - 1) правительственная мера 2) иск или преследование, возбужденные органом государственной власти



1.9. QUESTIONS

1. What do incorporators apply to the authorized governmental body for?
2. What requirements should be met in order to form a corporation?
3. What conditions should a corporation satisfy to become a public limited company (plc)?
4. How are corporations classified as to their location?
5. What is a difference between merger and consolidation?
6. When does involuntary dissolution of a company take place?



1.10. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



1.11. AGREE OR DISAGREE

1. Not less than five natural persons may form a corporation.
2. Public corporations are either open joint-stock companies or close companies.
3. As a rule, professional people avoid personal liability by establishing professional corporations.
4. Multinational corporations are created on a nonprofit basis for religious, charitable, social or educational purposes.
5. The terms "merger" and "consolidation" have the same meaning - "reorganization".
6. Only shareholders may decide whether to dissolve the corporation voluntarily or there should be a forced dissolution.



1.12. SCANNING

Companies in the UK

1. The British company is a legal entity, whose regulation is governed by the Companies Acts 1948 and 1967. Companies may be created by royal charter, by a specific act of Parliament, or may be registered with the Registrar of Companies under one of the Companies Acts.

2. In the case of companies dealt with under the 1948 Act, the liability of members may be limited by shares, or by guarantees, or may be unlimited. The commonest type of company in existence in the UK is one limited by shares, where the liability of the company is limited to the nominal value of the shares.

3. Companies may also be public or private. About 97 per cent of the limited companies registered in Great Britain are private companies. A private company is one which restricts the right to transfer its shares, limits its members to fifty (but has a minimum of two), and cannot invite the public subscribe for shares.

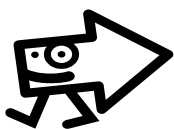
4. A company may have any name provided that the board of trade does not think it undesirable. The last word must be 'Limited' except in the case of certain non-profit-making companies formed to promote the arts, science, etc. The name must be fixed or painted outside every office or place of business and must be conspicuous and easily legible. It must also appear on all business letters, notices, cheques, advertisements, bills, etc. If the word 'Limited' is omitted the consequences could be serious. The names of directors must also appear on catalogues, circulars, etc.

5. Undesirable names are those too much like the names of other companies. At one time words like 'royal' and 'imperial' were prohibited. They may still be disallowed by the Board of Trade.

6. The objects of a company must be stated in its memorandum of association. Anything inconsistent with these objects would be ultra vires. For this reason the powers or objects of the company tend to be stated in very broad terms.

7. If the main object of the company disappears, the company may be wound up. Objects must not be illegal. Objects or powers may be changed by altering the memorandum by special resolution. This alteration must enable the company to achieve its objects more effectively, to carry on some other business that can be conveniently combined with its own, to restrict or abandon some of its objects, to sell the business, or to amalgamate with another company.

8. Application to the court to have the alteration cancelled may be made by holders of at least 15 per cent of issued share capital or debentures. The application must be made within twenty-one days of the resolution. The court may confirm or cancel the alteration or may order the interests of the objectors to be purchased. Whatever the alteration, the court can do nothing if application is not made within the specified time. No alteration can be made which increases the liability of any member.



1.13. LEXIS

royal charter - королевская грамота; дарованная короной привилегия

Registrar of Companies - бюро по регистрации акционерных компаний

board of trade - министерство торговли

conspicuous - видный, заметный, бросающийся в глаза

easily legible - прочитываемый без труда, разборчиво написанный

circular - реклама; проспект, объявление, рекламное объявление

inconsistent - несовместимый, несообразный (с чем-л.)

ultra vires - принцип "ультра вирес"; внеуставной, вне компетенции; с превышением полномочий

wind up - ликвидировать, закрывать (предприятие и т. п.)

alteration - изменение, переделка; перемена, модификация

conveniently - легко, просто, без труда

abandon - отказываться (от чего-л.), прекращать (что-л., делать что-л.)

debenture - 1) долговое обязательство, долговая расписка 2) облигация акционерного общества, компании

cancel - аннулировать, отменять

objector - несогласный; возражающий; лицо, выдвигающее возражение



1.14. QUESTIONS

1. What norms regulate formation and activities of British companies?
2. What may the liability of company members be limited by?
3. What restrictions does a private company have?
4. Where should the company name be fixed and printed?
5. What is stated in a memorandum of association? In what terms does it tend to be?
6. How can objects of the company be changed?



1.15. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



1.16. AGREE OR DISAGREE

1. A company in Great Britain may have any name.
2. All companies in Great Britain are created by royal charters.
3. Any alterations of objects of the company are possible if they are in the interests of share holders.
4. There is no statute of limitation for applications to the court concerning the alteration of the memorandum of association.



1.17. SCANNING

Company Structure

1. According to the global internationalization many countries although having different cultural, social, economic and political customs have worked out similar principles of running business and making companies in different spheres of life.

2. Most companies are made up of three groups of people: shareholders (who provide the capital), the management (who run the process of producing some goods or services) and the workforce (who practically produce these goods or services).

3. At the top of the company hierarchy is the Board of Directors, who are usually the main investors to the business, and it is headed by the Chairman or President. Then comes a Managing Director (MD) or a Chief Executive Officer (CEO) who may be hired or chosen from the Board and has overall responsibility for running the business. Senior managers or company officers head the various departments within the company and report to the CEO about the production process, which is carried out by the people who are hired for the concrete job or service.

4. Typical company may have the following departments within itself:

- a. Marketing
- b. Public Relations (PR)
- c. Information Technology (or IT)
- d. Personnel and Human Resources (or HR)
- e. Finance
- f. Production
- g. Research and Development (or R&D)

Every department is engaged in its particular round of duties and responsible for the concrete function in the process of providing goods or services.

5. Very special place in this scheme is occupied by the in-house Legal Department which provides legal strategy of the company, integrating legal considerations into business planning, presents the interests of the company in different kinds of prosecution and reduces legal costs in handling such unexpected problems as embargoes, boycotts and strikes.

6. The inside lawyer is expected to have general training and professional skills that equip him for various specialized tasks. The counselor should help the company as his sole client to avoid possible legal problems, be imaginative, offer alternative actions and

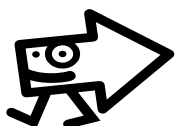
foresee the probable legal consequences. To do this the business lawyer must be experienced in all aspects of company activities.

7. The other role of the in-house lawyer is a kind of investigator, which means that he accumulates potentially useful information and then uses his data for the particular task. It concerns possible competitors, former clients, mass media information and so on. He has «to keep his hand on the pulse» in his special branch and to be ready to use his knowledge for the exact task.

8. Besides the lawyer must be a drafter. He drafts documents for the firm. Contracts, corporate deeds, corporate instruments are just a few of the documents that are commonly prepared by lawyers. Good drafting is important to avoid problems for the company.

9. A business lawyer must possess negotiating skills. The role of the negotiator is very like that of the advocate. The lawyer presents the client's strongest arguments in order to achieve the best result. Successful negotiation often avoids costly suits, work stoppages, and other undesirable economic consequences.

10. Being an advocate, the lawyer is to represent the company's interests. This may take place in a court, administrative or legislative body, or in another arena. The lawyer's duty, as an advocate, is to present the facts and the law in the light most favorable to the client. Of course, the opponent's lawyer will do the same. This is the adversary system which helps the judge and other members of the court to consider all the arguments before arriving at a reasonable decision.



1.18. LEXIS

worked out - разрабатывать, создавать

run business - вести дело, управлять предприятием

make up - составлять; комплектовать

workforce - рабочая сила; трудовые ресурсы

Managing Director - директор-распорядитель, управляющий,
главный менеджер

Chief Executive Officer - главный исполнительный директор кор-
порации, управляющий предприятием

overall - полный, общий; всеобъемлющий

head - руководить; возглавлять

Marketing Department - отдел маркетинга, управление реализа-
ции

Public Relations Department - отдел по связям с общественно-
стью; отдел общественных коммуникаций

Personnel and Human Resources - отдел кадров

Production Department - производственный участок, производственный отдел

Research and Development Department - отдел исследований и разработок (отдел компании, занимающийся разработкой новой продукции или новых технологий)

round of duties - круг обязанностей

in-house Legal Department - юридический отдел в структуре компании (внутренний, собственный отдел)

embargo - правительственный или юридический запрет на осуществление торговой деятельности

boycott - бойкот (полное или частичное прекращение отношений с кем-либо в знак протеста против чего-либо)

strike - забастовка, стачка

inside lawyer - собственный юрист, штатный юрист

foresee - предвидеть, предвосхищать, предсказывать

competitor - конкурент; соперник

drafter - составитель документа

corporate deed - скреплённое подписями и печатью соглашение от имени компании

instrument - (финансовый) инструмент

negotiating skills - навыки по ведению переговоров

work stoppage - прекращение [остановка, приостановка] работы

adversary system - система состязательности в суде



1.19. QUESTIONS

1. What three groups of people are most companies composed of?
2. Whom is the board of directors usually headed by?
3. What do these abbreviations stand for: CEO, HR, MD, R&D, PR, IT?
4. What are the duties of an in-house legal department?
5. Work with your partner and discuss the questions:
 - i. If you are a businessman which form of legal service will you prefer and why?
 - ii. If you are a lawyer, which work will you prefer to do and which one will you dislike and why?
 - iii. Make up a list of responsibilities for the in-house counsel working for your firm.



1.20. AGREE OR DISAGREE

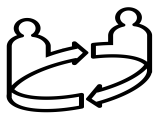
1. As far as different countries have different cultural, social, economic and political customs it is impossible to work out common principles of running business.

2. Shareholders have overall responsibility for running the company.
3. There is a rigid hierarchy of departments within each company.



1.21. MATCH the responsibilities with the people mentioned below (different opinions are possible):

- | | |
|---------------------------------------|--|
| a) outside lawyer | 1. to foresee possible legal problems |
| b) in-house lawyer | 2. to be a diplomat and good orator |
| c) advocate | 3. to be competitive at the professional interview |
| d) counselor | 4. to consult on one concrete legal case |
| e) investigator | 5. to make documents to be submitted to the boss |
| f) drafter | 6. to advise alternative course of action |
| g) negotiator | 7. to find out the important information |
| h) applicant for the post of a lawyer | 8. to defend the interests of the company in court |



1.22. SPEAK in pairs and give a widened differentiation of functions of an in-house counsel and an out-side lawyer.

1.23. KEY WORDS

Chief Executive Officer	multinational corporation
close corporation	open joint-stock company
domestic company	ordinary shares
foreign company	paid-in-capital
general partnership	partnership
incorporator	preference shares
in-house Legal Department	private company
inside lawyer	public company
legal entity	revenue
limited liability company	share
limited partnership	shareholder
Managing Director	sole proprietorship
memorandum of association	unlimited liability
merger	

Unit 2. Contracts



2.1. BEFORE READING learn the following words and phrases which are essential on the topic:

capacity of the parties - правоспособность сторон договора

consideration - встречное удовлетворение, компенсация, вознаграждение, возмещение, оплата (нечто ценное, предлагаемое одной стороной в обмен на определенное обещание или действие другой стороны)

contracting party - договаривающаяся сторона, контрагент, участник договора

contractual relationship - договорные отношения, контрактные отношения

counteroffer - встречное предложение, контрферта

express agreement - точно сформулированное соглашение, положительно выраженное соглашение

implied agreement - подразумеваемое соглашение; соглашение, выводимое из направленных на заключение договора действий; квазидоговор

Incoterms - Инкотермс, "Международные коммерческие условия"

legally enforceable agreement - соглашение, имеющее исковую силу; договор, могущий быть принудительно осуществленным в судебном порядке; соглашение, обеспеченное правовой санкцией

mutual promises - взаимные обязательства, обоюдные обещания

offer - оферта (предложение одного лица другому, сообщающее о желании заключить с ним договор)

standard contract - стандартное соглашение, типовой договор

subject matter - содержание, предмет, существо, предмет договора

terms of contract - условия контракта, договорные условия, срок исполнения договора

valid contract - юридически действительный, имеющий силу; правомерный контракт; договор, достаточный с правовой точки зрения; неоспоримый контракт; надлежаще оформленный, надлежаще совершённый контракт

void - ничтожный; не имеющий юридической силы

voidable - оспоримый; могущий быть аннулированным, не обязательный к исполнению



2.2. SCANNING

Nature of Contracts

1. Contract law is a foundation upon which many other areas of business law are built, such as activity of corporations and partnerships, employment, agency, commercial papers, and secured transactions. The law of contracts is a framework to ensure that lawful expectations are met or that remedies are provided.

2. A contract is a legally enforceable agreement, express or implied, which gives rise to certain rights and obligations. Thus in case of a breach of contract the injured party may go to court to sue for money damages, or for rescission, or for specific performance if money damages would not compensate for the breach. But these rights and obligations cannot arise except between the parties to the contract.

3. Most people make a number of contracts during each day. Every cab ride, purchase of a grocery item, use of a soft drink machine, or appointment with a doctor involves a contractual relationship. It does not matter that these contracts are oral, or are based on gestures or even on a course of conduct. Mere informality does not render a contract less binding. Though certain contracts shall not be enforceable unless they are in writing and are signed by the party to be charged; for example, contracts concerning real property.

4. There are four essential elements of a valid contract:

- i) capacity of the parties;
- ii) legality of subject matter;
- iii) consideration (something of value given in exchange for a promise);
- iv) mutual agreement (assent) or meeting of the minds (a valid offer and acceptance).

Each of the four essential requirements must be met in the formation of a valid contract.

- **Capacity of the Parties**

5. Under the law, only a person who is legally competent has the power to make a binding contract and can be held to any promises contained therein. Persons who may be considered to be legally incompetent include minors, insane persons, and, sometimes under specified circumstances, intoxicated persons.

- **Legality of Subject Matter**

6. If the subject matter of an agreement is not legal, the agreement is not enforceable in a court of law. In this respect, we do not use the expression "void" or "voidable"; the illegal agreement simply

has no existence in contemplation of law. Generally, neither party has access to a court for the assistance of law with respect to any aspect of the agreement.

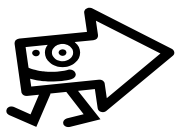
7. There are two reasons why the subject matter of a contract may be illegal: statute and public policy. Statutes are legislative acts; public policy is a judicial determination of prevailing morality.

- **Consideration**

8. Consideration is something of value that is given in exchange for a promise. It is based on the idea of quid pro quo ("something for something"). In almost all contracts, consideration is required for enforceability.

9. A contract cannot be one-sided; it exists only if there is a promise or an action (or nonaction) on each side. Thus contracts usually consist of mutual promises. A promise creates for the promisor (the person making the promise) a future obligation. For the promisee (the person to whom the promise is made) it creates an expectation that the promise will be fulfilled. Furthermore, the promisee will often rely on the promise.

10. It is not necessary that the thing promised be affirmative; it may be refraining from acting or promising not to act. A promise made to give \$1,000 to a friend if she does not smoke (a negative unilateral contract) is mutual and binding.



2.3. LEXIS

employment - наем, прием на работу, трудоустройство
agency - посредничество, деятельность (в качестве посредника)

commercial papers - кредитно-денежные документы

secured transaction - обеспеченная сделка, обеспеченная ипотека

are met - осуществляются, учитываются

remedy - средство правовой судебной защиты, средство защиты права; право на возмещение

breach of contract - нарушение условий договора

injured party - сторона, понёсшая ущерб

sue for money damages - обращаться в суд с иском о денежной компенсации убытков

rescission – расторжение договора

specific performance - реальное исполнение, исполнение (обязательств) в натуре

soft drink machine - автомат по продаже безалкогольных напитков

course of conduct - линия поведения, образ действия

meeting of minds - совпадение воли и желаний сторон (в процессе заключения договора)

binding - принудительный, обязательный, обязывающий

minor - несовершеннолетний; лицо, не достигшее совершеннолетия
 public policy - общественное мнение, публичный порядок
 quid pro quo - лат. услуга за услугу, встречное удовлетворение
 promisor - лицо, дающее обещание; должник по договору
 promisee - лицо, которому дают обещание; кредитор по договору
 rely on - полагаться, надеяться; доверять, быть уверенным
 affirmative - позитивный, положительный, утвердительный
 refrain - сдерживаться, воздерживаться (от чего-либо); не совершать (что-либо)
 negative unilateral contract - односторонний контракт о вознаграждении другой стороны в случае несовершения той стороной какого-л. действия



2.4. QUESTIONS

1. What branches of law are associated with Contract Law?
2. Give an exhaustive definition of a contract.
3. What is the meaning of the phrase "a legally competent person" in this text?
4. Who is usually considered to be legally incompetent?
5. Is a contract void or voidable if its subject matter occurs to be illegal?
6. If they say that the subject matter of a contract is against public policy what do they mean?
7. What is the role of consideration in contractual relations?
8. How do they call a person to whom the promise is made? What does the promise create for him?
9. What is a difference between affirmative and negative promises?



2.5. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview your group mates.



2.6. AGREE OR DISAGREE

1. A contract is legally enforceable only if it is based on an express agreement of the parties.
2. For a contract to be enforceable it is not necessary to be in writing.
3. A contract is treated as valid even in the absence of any one of its four essential elements.
4. Intoxicated persons by no means are considered legally incompetent.
5. If the subject matter of a contract is against law they say that it is a negative contract.
6. In contractual relations consideration is an equivalent to promise.



2.7. SCANNING

Mutual Agreement: Offer and Acceptance

1. As defined in the previous text, a contract is a legally enforceable agreement; an agreement is a meeting of the minds. Since courts and juries are not mind readers, the existence of this mental condition must be manifest in words, oral or written, or in actions. "Verbal" is not a synonym for "oral"; "verbal" includes all words, written as well as oral.

2. To reach an agreement, one party (called the offerer) makes an offer (a proposal) to another party (called the offeree) to enter into a legal agreement. If the offeree assents to the terms of the offer, an acceptance occurs and a contract comes into existence. If the offeree accepts the offer, he is also called an acceptor.

The mutual assent of the parties to a contract is manifested in two legal concepts, the offer and the acceptance.

3. **The offer.** The simplest way to form an express contract begins with a formal offer. There are two requirements of an offer: a) it must indicate a clear, definite intent to make a contract and b) it must be communicated to the other party.

4. If an offer does not specify a period of time during which it is to remain open, it expires after the passage of a reasonable time. What constitutes a reasonable time depends on the implied intention of the offerer and the property or goods offered, customs of the trade or business, and the like. An offer to sell or buy perishable goods, such as fresh fruit or vegetables, or goods having an unstable or fluctuating market, such as stock or other securities, is generally held not to remain open as long as an offer to sell or buy real estate, a far more stable item.

5. When the time during which the offer is to remain open is specified, that time then becomes the expiration date. An offer may expire at an earlier time than stated, however, because of rejection, counteroffer, or the death or incompetency of either offerer or offeree.

6. One may revoke a simple offer at any time before it is accepted, and in order that it may become binding it must be accepted as made and not with variations or conditions.

7. **The acceptance.** Acceptance of the offer clinches the contract. However, the acceptance must meet certain standards:

- o first, the acceptance must be clear and unqualified; an acceptance that modifies the original offer is treated in the law as a counteroffer, that is, a rejection of the original offer and the making of a new offer;

o second, the offeree must accept in any manner required by the offer. If the offer states, "I must have your answer by 1 P.M. on December 1," then failure to have the answer in the hands of the offerer by that time is fatal to the contract.

9. **Reality of the contract**. As explained earlier, a meeting of the minds - mutual assent or agreement - is a necessary element of a contract. Without it, the contract may be void or voidable. There are several reasons why mutual assent may be lacking: mistake, fraud, innocent misrepresentation, undue influence, and duress:

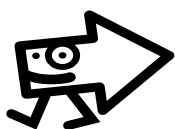
o the error annuls the contract with the exception of cases when the contracting party would have been equally willing to enter into a contract with any other person; as there is mutual mistake as to the existence of the subject matter, the defendant can rescind the contract;

o fraud is such intentional perversion of the truth which prejudices the rights of another; though a fraudulent contract is void against any party intended to be defrauded, the party committing the fraud, cannot avoid the contract;

o undue influence is the improper or wrongful persuasion of a person to do something which without such persuasion he would not do; it usually consists in taking unfair advantage of another's mental, emotional or physical weakness;

o duress to avoid a contract must be proved to be either actual violence or a threat which negatives consent on the part of the party under duress;

o the misrepresentation will cancel the contract, and if the misrepresentation is fraudulent the party making it will be held responsible to the other for damages; if an infant misrepresents his age, he is usually liable for the deception.



2.8. LEXIS

mind reader - тот, кто читает чужие мысли

mental condition - психическое состояние, осознаваемое условие

verbal - словесный; относящийся к словам

offerer - лицо, которое делает предложение; offerent

offeree - адресат оферты; лицо, которому делается предложение

acceptor - акцептор, получатель

expire - закончиться, истечь (о сроках), потерять силу (о требованиях)

customs of the trade - торговый обычай

perishable goods - скоропортящиеся товары

fluctuating market - рынок с колеблющимися ценами; нестабильный рынок

stock - акционерный капитал
 expiration date - дата истечения срока; срок действия
 counteroffer - встречное предложение
 incompetency - недееспособность, неправопособность
 revoke - отменять, аннулировать; отзываться, объявлять недействительным
 clinch - урегулировать, окончательно решать, улаживать
 unqualified - абсолютный, безоговорочный, безусловный, неограниченный
 in the hands - в распоряжении, в интересах (кого-либо)
 reality - действительность, истинность; неподдельность
 lacking - недостающий, отсутствующий, недостаточный
 innocent misrepresentation - ненамеренное введение в заблуждение
 rescind - аннулировать, расторгать, отменять (договор и т. п.)
 perversion - извращение; искажение; ложное толкование
 prejudice - наносить ущерб, причинять вред
 defraud - мошенничать, обманывать; обманом лишать собственности, прибыли или недвижимости
 avoid - аннулировать, отменять, делать недействительным
 undue influence - злоупотребление влиянием, неподобающее влияние
 persuasion - увещание, убеждение (процесс уверения кого-либо в чем-либо или уговаривания кого-либо сделать что-либо)
 negative - отрицать; отвергать; не подтверждать; отменять
 cancel - аннулировать, отменять; отказываться (от обязательств)
 deception - обман, жульничество; ложь; измышления, хитрость



2.9. QUESTIONS

1. How may a mutual agreement of contracting parties be manifested?
2. What are the requirements of an offer?
3. What does an expiration date signify in connection with the offer?
4. May an offer expire at an earlier time than its expiration date?
5. Under what conditions can an offerer revoke his or her offer?
6. What is treated as an acceptance in contractual relations?
7. What are legal consequences of mistake, fraud, misrepresentation, duress and undue influence from the point of view of enforceability of a contract?
8. Which of the following agreements will be enforced by the courts:
 - a. John agrees to sell his car to Peter for \$500.
 - b. John agrees, as favour, to take Peter on holiday with him.
 - c. John agrees to give Peter, as favour, a valuable painting and signs a deed to this effect which is sealed and delivered to Peter.



2.10. AGREE OR DISAGREE

1. A contract is based on an oral agreement of two or more parties.
2. Sometimes, even in an apparently valid contract, consent to the agreement does not express the true intention of the consenting party.
3. Any offer expires after the passage of a reasonable time.
4. Rejection in contractual relations is synonymous to counteroffer.
5. An offerer can revoke his or her offer only in cases stipulated by law.
6. Mistake makes any contract void.
7. In a case of fraud the offeree can not avoid the contract.



2.11. DISTINGUISH between liability in tort and liability in contract. Pay attention to prerequisites, judicial proceedings and legal remedies.



2.12. SCANNING



Kinds of Contracts

1. Contracts may be classified in three ways: by type of formation (express or implied), by performance (unilateral or bilateral, executed or executory), or by enforceability (valid, unenforceable, void or voidable).

2. By type of formation:

An **express contract** is one in which the terms of the contract are stated by the parties, either orally or in writing. The example of a written one is a contract under seal which is generally called a specialty contract, a covenant or a deed. Three things are essential to a deed - writing, sealing and delivery.

3. An **implied contract** is one in which the terms of the contract are not stated by the parties. There are two types of implied contracts: those implied in fact and those implied in law.

4. The existence and the terms of an implied-in-fact contract are manifested in conduct, rather than words. The proof of the contract lies in the conduct of the parties; it means that a reasonable person, being aware of this conduct, would infer that a contract exists.

5. An implied-in-law or quasi contract is created by operation of law (i.e., a court implies a contract) in order to avoid unjust enrichment of one party at the expense of another. There is no agreement, no meeting of the minds, one party has rendered a benefit to another.

er under such circumstances that fairness and equity require compensation.

6. **By type of performance:**

- **bilateral versus unilateral**

A bilateral contract is based on an exchange of promises - a promise for a promise. Thus there is a mutual engagement.

A unilateral contract involves a promise by one party and an act by the other. If, however, the person receiving the offer promises to act before doing so, the contract may become bilateral.

- **executed versus executory**

An executed contract is one that has been fully performed by both parties; all promises have been fulfilled.

In an executory contract something remains to be done by one or both parties at some future date.

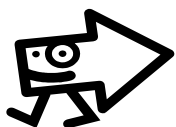
7. **By enforceability:**

A **valid contract** meets all legal requirements and can be enforced by either party.

An **unenforceable contract** is one that is valid in itself but not capable of being proved in a court of law because this contract does not meet one or more legal requirements and cannot be enforced by either party. Examples are promises to make a gift (no consideration), promises made in jest (no contractual intent), and past breaches of contract now beyond the statute of limitations.

A **voidable contract** is binding on only one of the parties. The other party has the option to withdraw from the contract or enforce it. Examples are contracts made by minors and contracts made under mental duress.

A **void contract** is a contract that has no legal effect and cannot be enforced by either party. Examples are illegal agreements made under threat of physical force.



2.13. LEXIS

enforceability - обладание исковой силой; возможность принудительного осуществления в судебном порядке; обеспеченность правовой санкцией

contract under seal - договор за печатью (договор, скрепленный печатью, в отличие от устного договора или письменного договора без печати)

specialty contract - контракт в виде договора, скрепленного печатью

covenant - 1) договор или акт за печатью 2) обязательство (из договора за печатью)

deed - документ с подписями и печатью

implied-in-fact contract - подразумеваемый договор (договор, условия которого по умолчанию вытекают из поведения сторон)

infer - заключать; делать (ЛОГИЧЕСКИЙ) вывод; выводить (заключение, следствие; из чего-л.)

implied-in-law - следующий из предписаний закона, подразумеваемый в силу закона

unjust enrichment - неосновательное обогащение, неправомерное обогащение

at the expense - за счёт

render a benefit - оказывать содействие, предоставлять помощь, создавать выгоду

bilateral contract - 1) контракт, заключенный между двумя сторонами, накладывающий какие-либо обязательства на каждую из сторон 2) двусторонний договор

unilateral contract - односторонний контракт; контракт, перед заключением которого одна из сторон уже выполнила почти все свои обязательства (такой контракт обязательно должен быть скреплен печатью)

executed contract - контракт, условия которого выполнены обеими сторонами; договор с исполнением в момент заключения

executory contract - контракт, подлежащий исполнению в будущем

unenforceable contract - контракт, претензии по которому не могут быть заявлены в суде

jest - шутка, проказа, розыгрыш

past breach - нарушение договора, срок действия которого уже истёк

withdraw from the contract - денонсировать договор, выйти из договора



2.14. QUESTIONS

1. What are possible grounds for the classification of contracts?
2. What is a difference between express and implied contracts?
3. What are the two types of implied contracts? Define them.
4. What kind of contracts does not require the existence of mutual promises?
5. Is an unenforceable contract valid or void? Explain your choice.
6. Give the examples of unenforceable contracts.
7. What is a difference between voidable and void contracts? Give examples.



2.15. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



2.16. AGREE OR DISAGREE

1. There are three general kinds of contracts: a deed, a specialty contract and an implied-in-law contract.
2. Gifts and jests are the examples of voidable contracts.
3. Sometimes it is difficult to define whether there is an executed or executory contract.
4. A quasi contract is created directly by the conduct of the parties rather than words.



2.17. READ the text and prepare 6-8 questions to discuss it.



What Should Be Included in a Contract?

1. Most attorneys begin *drafting* contracts by referring to contract forms or *samples* that have proved legally binding. Attorneys and students reading older sample contracts should know that a movement *is under way* in law schools in the United States to simplify legal language and to make contracts and other documents more *readable*. Deleting a few "*hereafters*" or "*hereinaboves*" will not diminish the validity or effectiveness of a contract; the *deletions* will simply make the contract more understandable.

2. Although no particular form is required when drafting a contract, many contracts consist of seven parts.

3. The ***heading*** is a title for the agreement.

Examples: Bill of Sale. Employee Noncompetition Agreement. Exclusive License. Client Services Contract.

4. The ***exordium*** names the parties and the action.

Example: Agency agreement made on 15 June 1998 between Dominican Manufacturing, Inc., *Principal*, and Singh Engineering, Inc., *Agent*.

5. Although this information is not necessary, you will often find *items* such as business address, country of incorporation, and principal place of business in the exordium.

6. The ***recitals*** are designed to give additional information about the parties involved. This can include background information about *prior contracts* or the *premises*, i.e. important points upon which the contract is based.

Example: WHEREAS, the Principal has developed products specific for different types of mining operations, Exports of the Equipment to countries other than those included in the Territory can lead to problems with *usability* of the Equipment. Therefore, it is the intention of the parties that the Agent be limited to sales and marketing operations solely within the territory included in the Agreement.

7. Some contracts include in the recitals what is more properly termed a **representation**, i.e. statement of fact important to acceptance of a contract. For example, the fact that a corporation is incorporated under the laws of the state of Delaware is a representation.

8. The **transition** contains the words of agreement.

Example: The Parties agree as follows: ...

9. Often, however, the transition is not that simple. Many contracts include language such as WITNESSETH or KNOW MEN BY THESE PRESENTS or NOW, THEREFORE that is old-fashioned and unnecessary.

10. The **definitions** are given of any terms that the parties feel should be explained in detail. Some contracts don't include a definitions section but simply define terms if necessary in the body of the contract.

Example: In this agreement, the term Products shall include all items listed in Appendix One.

11. The body of the contract, what is better known as the **operative provisions**, is the section containing the language of the parties' agreement.

Example: The Agent shall have no right to solicit or negotiate contracts for sale of the Products outside of the Territory.

12. The **testimonium** or closing indicates agreement to the terms of the contract by the parties who sign the contract.

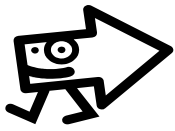
Example: IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first above written.

13. The language used in the example is old-fashioned and unnecessary. The parties can also simply sign their names. If the addresses weren't included in any other part of the contract, they should be included here.

Principal
35 Town Road – Anytown – AT65 Y66

Agent
42 Smalltown Road - Midshire MRT 5EW

14. Although looking at reliable forms is an excellent way to begin writing, you must always be careful to review the facts of your particular case and review the contractual language. Specific terms and conditions will vary from contract to contract and should be drafted to reflect what the parties have agreed to. The language of the contract should also be as precise as possible. Certain verbs imply particular rights or duties: for example, "shall" imposes a duty and is entitled to grants a right.



2.18. LEXIS

drafting - составление проекта документа

sample - шаблон; модель, образец

be under way - происходить

readable - удобочитаемый, чёткий, разборчивый

hereafter - затем, впредь, в дальнейшем, в будущем

hereinabove - выше (в документах), вышеупомянутый, вышеназванный

deletion - устранение, удаление, исключение

heading - заголовок; рубрика; "шапка"

exordium - введение, вступление

principal - принципал (лицо, уполномочивающее другое лицо действовать в качестве агента)

agent - агент, представитель, посредник, доверенное лицо

item - пункт, статья, вопрос

recitals - перечисление фактов (в вводной части документа); декларативная часть (документа)

prior contracts - ранее заключенный соглашения

premises - исходные условия

usability - применимость, удобство в эксплуатации

representation - представление фактов, сведений; заявление, описывающее фактическое положение вещей

transition - связующее звено (слово, абзац, связывающий предыдущую тему и последующую)

definitions - определения, дефиниции

Appendix - приложение

operative provisions - нормоустанавливающие положения договора; резолютивные положения, выражающие суть соглашения

language - текст, формулировка

testimonium - заключительная формула документа

parties hereto - стороны этого (соглашения)

executed - оформленный, составленный

old-fashioned - старомодный, устарелый, вышедший из употребления

reliable form - заслуживающий доверия типовой документ

particular case - частный случай, конкретный пример

precise - точный, определённый



2.19. HAVE A LOOK at the questions a lawyer should ask before beginning to draft a contract. Translate them:

1. Are the roles of the parties clear?

2. What terms and conditions do you consider to be most important?

3. Are all of the terms consistent? Do you have both general and specific clauses that relate to the same thing? Are these terms contradictory? If terms are contradictory, the more specific contract terms are more binding than the general terms and conditions.
4. Are exhibits and annexes part of the contract? In the event of a discrepancy, normally the body of the contract takes precedence over exhibits or annexes. The court, however, looks to find what reflects the agreement of the parties.
5. Do you want an arbitration clause?
6. Which language (e.g., English or Russian) version of the contract should take precedence in the event of a dispute if the contract is drafted in more than one language?
7. Do you need a liquidated damages clause in the event of a breach of contract?
8. Do you need to agree upon a jurisdiction for resolution of a dispute? It may make a major difference if your courts or the courts of the other party are used.
9. Do you need a force majeure clause? Also referred to as an Act of God, this clause normally relieves a party of liability for a breach of contract for forces of nature (tornadoes, hurricanes, snowstorms, etc.) or other acts outside his or her control.
10. Have you specified the duration of the contract?
11. Have you specified what happens in the event of partial invalidity or nonenforceability?



2.20. SCANNING

Business Contracts

1. Legislation lays down fundamental norms about the structure and content which all business contracts must comply with. For sales contracts, supply agreements and contract of service these norms are as follows:

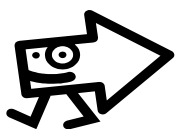
- goods/services must be of merchantable quality;
- the seller/contracting party must have title;
- goods/services must be fit for a particular purpose;
- goods/services must be as described;
- there must be no misrepresentations.

2. In a more detailed way the terms and conditions of a contract for sale of goods are as follows:

- a) description of the parties;
- b) description of the goods (quantity, quality and manner of selection);

- c) warranties and disclaimer of warranties;
- d) risk of loss and insurance;
- e) seller's obligation to tender delivery of the goods (time, place and manner of delivery);
- f) buyer's obligation to accept goods:
 - o buyer's right to inspect the goods before acceptance;
 - o buyer's right to reject goods:
 - (i) manner of rejection;
 - (ii) obligation to state reasons for rejection;
 - (iii) obligation to care for rejected goods;
 - o buyer's obligation to notify seller of breach discovered after acceptance;
- g) buyer's right to revoke his acceptance;
- h) buyer's obligation to pay for goods:
 - o price;
 - o medium of payment;
 - o time of payment;
 - o obligation to pay before inspection of the goods;
- i) remedies of seller;
- j) remedies of buyer;
- k) signature of parties;
- l) miscellaneous provisions:
 - o duration and termination of contract terms;
 - o provision forbidding parol modification;
 - o delegation of performance;
 - o assignment of rights;
 - o seller's rights on buyer's insolvency;
 - o buyer's rights on seller's insolvency;
 - o preservation of goods in dispute;
 - o force majeure;
 - o liquidated damages;
 - o proof of market price;
 - o acceleration clauses;
 - o choice of law clause.

The contract is to stipulate all these different things in good time. This is very important, as otherwise large sums can be spent on litigation.



2.21. LEXIS

sales contract - договор купли-продажи

supply agreement - договор на поставку

contract of service - контракт на обслуживание, дого-

вор об оказании услуг

merchantable quality - (хорошее) рыночное качество; коммерческое качество (оговорка в договорах купли-продажи, означающая, что товар должен отвечать всем целям, для которых он обычно употребляется, и соответствовать контрактному описанию)

title - право собственности; право на имущество; основание права на имущество

misrepresentation - введение в заблуждение; искажение фактов

terms - условия соглашения, договора

manner of selection - порядок подбора ассортимента

warranty - гарантийное обязательство

disclaimer of warranties - отказ от обязательств; заявление об ограничении ответственности

risk of loss - коммерческий риск, риск потерь

tender delivery - выполнить условия поставки, осуществить доставку

reject - браковать, забраковывать; отсортировывать, признавать негодным

state reasons - обосновать причины

revoke - отменять, аннулировать; отзываться, объявлять недействительным

medium of payment - средство платежа, платежное средство

remedies of seller - средства судебной защиты продавца

miscellaneous provisions - прочие положения

parol modification - устное (не содержащееся в документе за печатью) изменение условий контракта

performance - исполнение договора

assignment of rights - переуступка прав

insolvency - неплатежеспособность (неспособность выполнять денежные обязательства; может привести к признанию банкротом); несостоятельность

preservation - законсервирование, консервация, сохранение, сохранность

force majeure - форс-мажор, форс-мажорные обстоятельства, непреодолимая сила

liquidated damages - ликвидные (заранее оцененные) убытки, оценочная неустойка

acceleration clause - оговорка об ускорении, условие о сокращении срока исполнения обязательства,

choice of law clause - условие контракта о выборе применяемого права

stipulate - обуславливать, оговаривать в качестве особого условия

in good time - заранее, вперед; заблаговременно



2.22. QUESTIONS

1. What are fundamental terms and conditions of a contract for sale of goods?
2. What should be written in the description of the goods?
3. What seller's and buyer's obligations may be defined in the contract for sale of goods?
4. Give the examples of miscellaneous provisions in such contracts and explain them if possible.



2.23. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



2.24. EXERCISE. Read and translate the example of a contract for consulting services. Be ready to discuss the particulars of this agreement.

Contract № 0123 for Consulting Services

Orenburg

31 December 2008

Perov Brothers Ltd., hereinafter referred to as the Service Provider, represented by its Director General Dmitry Perov, acting pursuant to the Charter, on the one hand, and Building Construction Ltd., hereinafter referred to as the Client, represented by its Director General Natalie Sedova, acting under power of attorney, on the other hand, have hereby agreed as follows:

1. Subject of the Contract

The Client consents and the Service Provider undertakes to render legal consulting services on the following issues: taxation, exchange regulation, corporate law, intellectual property, etc., and to advocate the Client's interests in various governmental and judicial bodies.

2. Rights and Obligations of the Parties

2.1. The Service Provider undertakes:

2.1.1. To consult the Client on the issues specified in Clause 1 and clearly formulated by the Client on the basis of documents, reference information provided by the Client and also on the basis of explanations and clarifications given by the Client's specialists and/or management.

2.1.2. To provide services or advice within a reasonable period of time.

2.1.3. To represent the interests of the Client before various

authorities, including judicial bodies, as the Client may request from time to time.

2.2. The Service Provider is entitled to sub-contract any of its obligations under this Contract to appropriate specialists (experts).

2.3. The Service Provider shall submit to the Client a written report on the services provided and the time consumed.

2.4. The Client may request and obtain from the Service Provider information about the legal acts underlying the recommendations, conclusions and opinions expressed by the Service Provider in pursuit of rendering services under this Contract.

3. Fees

3.1. The Client shall pay remuneration to the Service Provider computed on the basis of the rates multiplied by the time spent by the individual specialist. The specialist's hourly rate depends on his/her status based on his/her experience and professional knowledge.

3.2. The cost of services rendered hereunder by the Service Provider shall be increased by the amount of the expenses incurred by the Service Provider while performing its obligations under the Contract.

3.3. After a service has been rendered or on expiry of the period of time (month) during which advice was provided to the Client, the Service Provider shall prepare an Acceptance Certificate for services rendered (hereinafter referred to as the Acceptance Certificate) and send the Client a Report on services rendered (hereinafter referred to as the Report) and an Invoice for services rendered (hereinafter referred to as the Invoice).

3.4. Competent and timely performance by the Service Provider of its obligations shall be deemed proved on either of the following dates, whichever occurs earlier: the payment date of the Invoice on the expiration of 5 (five) working days following the receipt of the Report by the Client, provided there are no objections to the Report.

3.5. All payments under this Contract shall be made directly to the Service Provider's bank account in US dollars.

4. Confidentiality Clause

The Parties shall keep confidential any information and data reported by the other Party concerning the present agreement.

5. Miscellaneous.

5.1. The Parties shall advise each other in a timely manner of any potential conflicts of interest.

5.2. This Contract shall commence on its signing date and continue in full force and effect until the Parties have completely fulfilled their obligations.

5.3. The Contract and other written documents signed by the Parties and sent via facsimile shall be legally valid.

Addresses of the parties:

Service Provider

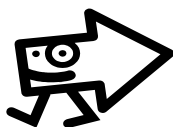
Client

Dmitry Perov

Natalie Sedova

Title: Director General

Title: Director General



2.25. LEXIS

hereinafter referred to as - в дальнейшем именуемый
Service Provider - поставщик услуг

pursuant to - в соответствии с, согласно

under power of attorney - по доверенности

hereby - сим, этим, настоящим; таким образом

undertake - брать на себя ответственность, гарантировать

reference information - справочные сведения

sub-contract - заключать субдоговор, передоверять договорные
права и обязанности

in pursuit - в ходе, при достижении

remuneration - вознаграждение, оплата, компенсация

multiply - умножать, множить, увеличиваться

hourly rate - ставка почасовой заработной платы

hereunder - в силу настоящего договора, в соответствии с на-
стоящим договором

Acceptance Certificate - акт приёмки, приёмочный акт

Invoice - счет-фактура, коммерческий (товарный) счет

whichever - какой бы ни; независимо от того, какой; какой угодно

on the expiration - по окончании

provided - при условии, если только; в том случае, если

advise - извещать, информировать, объявлять, сообщать, уве-
домлять

timely manner - своевременно

commence - начинать(ся)

in full force - действующий в полную силу



2.26. SCANNING

Incoterms

1. Incoterms - short for "International Commercial Terms"
- are standard trade definitions most commonly used in interna-
tional sales contracts. Devised and published by the International
Chamber of Commerce (ICC), they are at the heart of world trade.

They are used to divide transaction costs and responsibilities between buyer and seller and reflect state-of-the-art transportation practices.

2. Incoterms deal with questions related to the delivery of the products from the seller to the buyer. This includes the carriage of products, export and import clearance responsibilities, who pays for what, and who has risk for the condition of the products at different locations within the transport process.

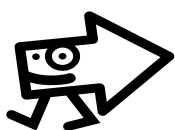
3. ICC introduced the first version of Incoterms in 1936. Since then, ICC expert lawyers and trade practitioners have updated them six times to keep pace with the development of international trade. Most contracts made after 1 January 2000 will refer to the latest edition of Incoterms, which came into force on that date. The correct reference is to "Incoterms 2000".

4. For ease of understanding, the terms are grouped in four basically different categories; namely starting with the term whereby the seller only makes the goods available to the buyer at the seller's own premises (the "E" term); followed by the second group - the "F" terms - whereby the seller is called upon to deliver the goods to a carrier appointed by the buyer; continuing with the "C" terms where the seller has to contract for carriage, but without assuming that risk of loss of or damage to the goods or additional costs due to events occurring after shipment and dispatch and, finally the "D" terms whereby the seller has to bear all costs and risks needed to bring the goods to the place of destination.

5. The following chart sets out this classification of the trade terms:

- **Group E** - Departure:
 - o **EXW**. Ex Works (named place): the seller makes the goods available at his premises.
- **Group F** - Main Carriage Unpaid:
 - o **FCA**. Free Carrier (named place): the seller hands over the goods, cleared for export, into the custody of the first carrier (named by the buyer) at the named place. This term is suitable for all modes of transport, including carriage by air, rail, road, and containerised/multi-modal transport.
 - o **FAS**. Free Alongside Ship (named loading port): the seller must place the goods alongside the ship at the named port. The seller must clear the goods for export.
 - o **FOB**. Free On Board (named loading port): the classic maritime trade term: seller must load the goods on board the ship nominated by the buyer, cost and risk being divided at ship's rail. The seller must clear the goods for export. Maritime transport only.
- **Group C** - Main Carriage Paid:

- o **CFR.** Cost and Freight (named destination port): seller must pay the costs and freight to bring the goods to the port of destination. However, risk is transferred to the buyer once the goods have crossed the ship's rail. Maritime transport only.
- o **CIF.** Cost, Insurance and Freight (named destination port): exactly the same as CFR except that the seller must in addition procure and pay for insurance for the buyer. Maritime transport only.
- o **CPT.** Carriage Paid To (named place of destination): the general/containerised/multimodal equivalent of CFR. The seller pays for carriage to the named point of destination, but risk passes when the goods are handed over to the first carrier.
- o **CIP.** Carriage and Insurance Paid to (named place of destination): the containerised transport/multimodal equivalent of CIF. Seller pays for carriage and insurance to the named destination point, but risk passes when the goods are handed over to the first carrier.
 - **Group D** - Arrival:
 - o **DAF.** Delivered At Frontier (named place)
 - o **DES.** Delivered Ex Ship (named port)
 - o **DEQ.** Delivered Ex Quay (named port)
 - o **DDU.** Delivered Duty Unpaid (named destination place)
 - o **DDP.** Delivered Duty Paid (named destination place)



2.27. LEXIS

International Chamber of Commerce - Международная торговая палата, МТП (международная организация, основной целью которой является содействие развитию международного экономического сотрудничества, свободе передвижения рабочей силы, товаров и услуг; создана в Париже в 1920 г.)

state-of-the-art - текущее (современное) состояние (соответствующее последним достижениям)

clearance - таможенная очистка, растаможивание, уплата пошлин

keep pace - идти в ногу, не отставать

whereby - посредством чего, при помощи чего; в соответствии с чем

dispatch - отправка, отправление

place of destination - место назначения

Ex Works - франко-завод, франко-предприятие, с завода (склада), самовывоз (условие договора купли-продажи, при котором обязанностью продавца является предоставление товара в распоряжение покупателя на своем предприятии или складе, при этом покупатель несет ответственность за погрузку и транспортировку груза; после термина, как правило, ставят название места нахождения товара)

Free Carrier - франко-перевозчик (условие в торговом контракте, означающее, что продавец несет ответственность за товары и оплачивает все расходы по транспортировке и страхованию товаров до тех пор, пока товары не перейдут в распоряжение выбранного покупателем перевозчика; после самого термина обычно идет название порта, указание на склад продавца или другое место, где перевозчик должен принять товары)

containerised - контейнерный

Free Alongside Ship - франко (свободно) вдоль борта судна, фас (условие торгового контракта, согласно которому продавец несет все расходы по страхованию и транспортировке груза вплоть до доставки товара к борту судна; покупатель самостоятельно организует погрузку и транспортировку товара до места назначения)

Free On Board - свободно на борту, франко-борт, франко-вагон (условие внешнеторгового контракта, означающее, что транспортные, страховые и погрузочные расходы вплоть до завершения погрузки товара несет экспортер (продавец), т. е. они включаются в цену; право собственности переходит к покупателю с момента завершения погрузки)

rail - перила, поручни; ограда, ограждение

Cost and Freight - стоимость и фрахт (условие внешнеторгового контракта, по которому расходы по доставке товара в порт отгрузки, погрузке и фрахту до порта назначения несет экспортер, а импортер оплачивает страхование груза)

Cost, Insurance and Freight - стоимость, страхование и фрахт

procure - обеспечивать

Carriage Paid To - "доставка оплачена до" (используется с указанием места прибытия груза; продавец обязан оплатить стоимость перевозки груза до указанного места; с момента доставки товара на склад перевозчика (если в поставке используются несколько перевозчиков, то на склад первого перевозчика) ответственность за порчу и потерю товара, а также различные расходы несет покупатель, до этого момента - продавец; продавец обязан подготовить товар к экспорту)

Carriage and Insurance Paid to - "доставка и страховка оплачены до" (используется с указанием места прибытия груза; ответственность продавца та же, что при "доставка оплачена до", однако продавец обязан также застраховать товар на время его перевозки и подготовить товар к экспорту)

Delivered At Frontier - доставка до границы (термин, обозначающий, что ответственность поставщика распространяется

только на доставку до таможенной "границы" страны назначения)

Delivered Ex Ship - доставлено с корабля, поставлено франко-корабль (ответственность продавца заканчивается, когда корабль с товаром на борту прибыл в указанный порт (товар не разгружен); все расходы по доставке груза, ответственность за порчу и потерю товара до этого момента несет продавец; используется только при поставках морем или по рекам; после термина указывается наименование порта назначения)

Delivered Ex Quay - поставлено с пристани (причала), поставлено (доставлено) франко-причал (ответственность продавца заканчивается после того, как товар по прибытии в указанный порт разгружен и подготовлен к ввозу; все расходы по доставке груза (налоги, пошлины и т. д.), ответственность за порчу и потерю товара до этого момента несет продавец)

Delivered Duty Unpaid - "доставлено, пошлина не оплачена" (условие в торговом контракте, означающее, что ответственность продавца заканчивается после того, как товар доставлен в указанное место в стране покупателя, и что все риски, все расходы по доставке груза, за исключением пошлин и прочих выплат, выплачиваемых при импорте, до прибытия товара в указанное место несет продавец; растаможиванием груза занимается покупатель; после термина указывается название места прибытия)

Delivered Duty Paid - "доставлено, пошлина оплачена" (условие в торговом контракте, означающее, что ответственность продавца заканчивается после того, как товар доставлен в указанное место в стране покупателя, и что все риски и ответственность за порчу и потерю товара, а также расходы по транспортировке и уплате импортных таможенных пошлин и т. п. до прибытия товара в указанное место несет продавец; после термина указывается место прибытия)



2.28. QUESTIONS

1. What institution were Incoterms devised by?
2. What are Incoterms used for?
3. How many times were Incoterms revised and amended?
4. What edition of Incoterms is used nowadays?
5. What four main groups are Incoterms divided into?
6. Which terms apply the greater level of responsibility upon the seller?



2.29. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the dents in your group.



2.30. EXPLAIN the following sentences from the text above:

1. Incoterms are at the heart of world trade.
2. Incoterms define responsibilities of the seller and the buyer and prescribe who pays for what.
3. For ease of understanding, Incoterms are grouped in four basically different categories.



2.31. EXERCISE

Translate the following sentences:

1. DELIVERY TERMS: CPT Sochi.
2. DELIVERY TERMS: CIF Philadelphia.
3. TERMS OF DELIVERY: DAF frontier of Ukraine (according to INCOTERMS 2000).
4. The GOODS are to be sold on terms FCA German-French border.
5. The SELLER has sold and the BUYER has bought on the terms CIP Moscow (according to INCOTERMS 2000) the goods in accordance with the SPECIFICATION # 1 which is attached to the present CONTRACT.
6. The SELLER has sold and the BUYER has bought on the terms CIF Hong Kong the GOODS in accordance with the SPECIFICATIONS attached hereto and being an integral part hereof.
7. The Sellers have sold and the Buyers have bought on the terms FOB Dublin (according to INCOTERMS 2000) Training Literature in the quantity, assortment and at the prices, stated in Exhibits which constitute an integral part of this Contract.
8. The Sellers have sold and the Buyers have bought the following equipment on FOB Anapa: launches, diving equipment and harpoon guns.
9. DELIVERY TERMS: The goods hereunder shall be delivered CIP Saint-Petersburg. The period of delivery of the goods shall be as stated in Exhibit #. 1 hereto. The date of Bill of Lading is considered the date of delivery. The total weight of the goods stated in Para #1 hereof may vary by +/- 10% depending on container's capacity. The Seller shall inform the Buyer by fax after dispatch of the goods of the following:
 - dispatch date;
 - name of vessel;
 - Contract # & Exhibit #;
 - quantity and cost of consignment.



2.32. SCANNING

Negotiating and Drafting of Contracts

1. A contract is only as good as the relationship with the other party in the contract. Many lawyers see contracts as a legal end-all if you have it signed and in writing, you are legally protected. Legal textbooks would call them correct. From a business perspective, however, they could not be more wrong. A contract only gives you the right to sue, but how expensive and time-consuming suing can be! Furthermore, even a successful suit may not solve your problems.

2. Thus the best legal strategy for contracts is to negotiate everything up front. You also need to have a good understanding of your business and that of the other party so that the contract is appropriately written, addresses the needs of both parties, and anticipates the types of problems that can arise because of the nature of both businesses. The signing of the contract should be the end of a great deal work, not the beginning of the relationship. Poor investigation and negotiation result in ambiguities, disputes, and, frequently, litigation.

3. Regardless of the type of contract, certain basic steps should be followed in its preparation. These steps are often overlooked, but paying attention to them can help greatly in avoiding confrontation later.

4. No major contract should rely on forms. Forms for minor, routine contracts such as customer retail contract and small supplier contracts may be perfectly acceptable. However, for major transactions, it is risky business to use sample contracts for protection.

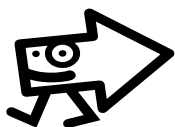
5. Granted, some language should be boiler-plate - the attorney's fees clause, the state where trials will be held, and what law applies - but there should be direct language governing the transaction itself.

6. The best question the parties can ask when choosing the language for the contract is "What if?" This question anticipates all the difficulties that may arise that are peculiar to the contract, the business, or the industry. For example, in the case of an installment contract, what if the buyer has financial problems during the period the contract covers? In the case of a construction contract, what if a supplier puts a lien on the project for nonpayment by a subcontractor? What if a contract payment is late? The contract should reflect the parties' working knowledge of the industry and the business and anticipate the types of difficulties encountered in their areas.

7. One simple, yet very important part of a contract is the signature on the bottom line. Both sides should be assured that the party signing the contract has the authority to enter the contract. For example, a firm accepted the signature of another company's bookkeeper on a promise of his authorization. Since bookkeepers generally do not have the authority to perform such a transaction, the contract should have been cleared with an officer of the corporation. The best contract in the world is not valid if it is not signed by someone who has the authority to agree to it.

8. In some firms, certain employees can negotiate, but do not have the authority to sign contracts. When this is the case, the limit and the scope of the negotiating parties' authority should be established early on, and draft should be reviewed by those who will actually sign the completed contract.

9. The signature section of a contract should identify the capacity of the person who signs the agreement. The title should appear after the name so it is clear that the signer is acting on behalf of the firm and intends to bind firm. In many cases, a copy of a board resolution authorizing the transaction is also necessary. For example, in land transactions, a title company will not go through with a sale until a copy of the approving resolution from the corporate board is obtained.



2.33. LEXIS

end-all - развязка, окончательное решение

time-consuming - требующий больших затрат времени

suing - преследование в судебном порядке

up front - заблаговременно, предварительно

anticipate - предвосхищать, предугадывать, предупреждать

ambiguity - неопределённость, неясность; двусмысленность

regardless - безотносительно (к чему-либо), невзирая на

overlook - не обращать внимания, не придавать значения, игнорировать

form - бланк, образец, типовой документ

retail - розничная продажа

major transaction - крупная сделка, контракт на крупную сумму

sample contract - типовой договор, сделанный по шаблону

granted - допустим, что

boiler-plate - шаблон, стереотип

attorney's fees clause - условие контракта о сумме вознаграждения услуг юриста

direct language - специально подобранные формулировки

peculiar to - характерный для

installment contract - договор о продаже в рассрочку

construction contract - договор на производство строительных работ

subcontractor - субподрядчик, субконтрагент (лицо, которому передается часть или весь контракт)

encounter - наталкиваться на (трудности), столкнуться с (трудностями)

bottom line - нижняя, итоговая строка в документе

enter the contract - заключать договор, соглашение; принимать на себя обязательство; вступать в договорные отношения

bookkeeper - бухгалтер, счетовод

authorization - предоставление полномочий, наделение правами

clear - подтверждать; одобрять, разрешать; успешно пройти какие-либо инстанции, получить одобрение

officer of corporation - высшее должностное лицо корпорации

title - титул, звание, должность в компании

signer - подписавшийся, нижеподписавшийся

board resolution - решение совета директоров

title company - компания-владелец объекта купли-продажи

corporate board - правление корпорации



2.34. IDENTIFY the main points of the text "Negotiating and Drafting of Contracts", give suitable headings for its paragraphs. Reformulate the content of the text in the form of a summary.



2.35. QUESTIONS

1. Does a contract give you full legal protection? What does it give you instead?
2. What is the best legal strategy for contracts?
3. What can poor investigation and negotiation result in?
4. For what kind of transactions are form contracts acceptable?
5. What law usually applies for contracts made in Russia?
6. What is the best question the parties can ask when choosing the wording for a contract?
7. Why is it necessary to check whether the person or persons signing the contract have the authority to enter into the contract?
8. By whom should drafts be reviewed before being signed?
9. What should the signature on the contract be followed by?



2.36. AGREE OR DISAGREE

1. The best legal strategy is to rely on boiler-plate contracts.
2. For the validity of a contract a signature of one of the parties is sufficient.

3. Only those who participate in negotiating have the authority to sign the contract.
4. A signer of the contract binds by his/her signature only him- or herself personally.



EXERCISE 2.37.

With a partner make a dialogue to illustrate the topic “Law of Contract. Theory and Practice”.

2.38. KEY WORDS

acceptance	EXW
acceptor	FAS
assent	FCA
bilateral contract	FOB
capacity of the party	implied contract
CFR	Incoterms
CIF	law of contracts
CIP	money damages
consideration	offer
contracting party	offeree
counteroffer	offerer
CPT	promisee
DAF	promisor
DDP	specific performance
DDU	terms of contract
DEQ	unenforceable contract
DES	unilateral contract
executed contract	valid
executory contract	void
expiration date	voidable
express contract	

Unit 3. Labour Relations



3.1. BEFORE READING learn the following words and phrases which are essential on the topic:

collective bargaining - переговоры между предпринимателями и профсоюзами о заключении коллективного договора

collective labour law - коллективное трудовое законодательство

conditions of employment - условия работы по найму

contract of employment - договор личного найма, трудовое соглашение

dismiss = discharge from employment = fire = fire out = dehire = lay off = pay off = sack - увольнять

educational leave - отпуск для получения образования

employee - работник по найму, лицо наёмного труда

employer - работодатель, наниматель

fringe benefits - неденежные выплаты, сопутствующие льготы; доплаты к заработной плате, оговоренные в коллективном договоре

individual labour law - трудовое законодательство найма на работу

job security - гарантия занятости, обеспечение работой

labour law = labour relations law = fair employment practices law = employment law - трудовое право

labour union = trade union = union - профессиональный союз

maternity leave = child-care leave - декретный отпуск, отпуск по уходу за ребёнком

minimum wage - минимальный размер оплаты труда

remuneration - денежное содержание, заработная плата

retire = resign = quit = vacate a post = leave - увольняться

safety regulations - техника безопасности

sick leave - "больничный лист", денежное пособие по болезни

unemployment compensation - пособие по безработице

wage - заработная плата, жалование

working hours - продолжительность рабочего времени



3.2. SCANNING

Labour Law

1. Labour law is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organisations. As such, it mediates

many aspects of the relationship between trade unions, employers and employees.

2. In general, there are two broad categories of labour law. First, collective labour law relates to the *three-party* relationship between employee, employer and union. It mostly concerns the inequality of bargaining power between employers and workers. Second, individual labour law concerns employees' rights at work and conditions and terms of employment.

3. The basic feature of **individual labour law** is that the rights and obligations of the worker and the employer between one another are mediated through the contract of employment between the two. Many terms and conditions of the contract are however implied by legislation or common law, in such a way as to restrict the freedom of people to agree to certain things in order to protect employees, and *facilitate a fluid labour market*.

4. Thus employees have certain rights *enforceable by law*:

- the right of *fair treatment regardless of* age, race, religion, *gender, or disabilities*;
- the right to *equal treatment*, also with regard to *wages*;
- the right not to be dismissed without *proper cause* and the correct procedures;
- the right not to be dismissed for *giving birth to* a child;
- the right for compensation when employees are *retrenched*.

5. The central concept in **collective labour law** is "collective bargaining" which means negotiations between employers and employees (who are usually represented by a labor union) about terms and conditions of employment. The bargaining process is concerned with matters relating to working conditions: i.e. wages, working hours, job security, safety regulations, *extended vacations*, educational and maternity leave, *housing*, health insurance, unemployment compensation, and perhaps most important, carefully monitored *grievance procedures* to protect workers against any *arbitrary* action. Any or all of these may be the subject of consideration. When agreement cannot be reached, a union may *conduct a strike* against the employer.

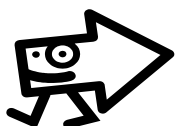
6. According to collective labour law a trade union may be defined as a *combination of workmen* whose *principal object* is collective bargaining. As everyone knows, the legal control of trade unions is the subject of political debate. The *pivotal questions* are concerned with creation, recognition and *de-recognition* of a trade union.

7. Legal immunities of trade unions currently include:

- protection against *action for conspiracy*;
- protection for *peaceful picketing*;

- o provision prohibiting any court from ordering someone to work;
- o protection for persons *inducing* breaches of contracts of employment in *contemplation* or *furtherance* of a trade dispute.

8. Besides representatives of management and trade unions, private mediators and government officials sometimes participate in collective bargaining, especially when a *major or vital industry* is involved. Collective bargaining, which began in Great Britain in the 19th century, is now a *crucial* part of the labor union movement and an accepted practice in many *industrial nations*.



3.3. LEXIS

address – называть, адресоваться

mediate - содействовать соглашению или сделке между сторонами, служить связующим звеном

three-party - трёхсторонний

facilitate – оказать содействие, содействовать

fluid labour market - постоянно меняющийся спрос и предложение труда

enforceable by law - обеспеченный правовой защитой

fair treatment- справедливое отношение

regardless of – независимо от

gender – пол (мужской/женский)

disabilities - ограничения дееспособности

equal treatment - равенство обращения

wages - заработная плата

proper cause - истинная причина

giving birth to - рождать

retrench - сокращать

extended vacations – бессрочный отпуск

housing - обеспечение жильём, жилищные условия

grievance procedures - порядок разрешения трудовых споров

arbitrary – самовольный, произвольный

conduct a strike - проводить забастовку

combination of workmen – объединение работников

principal object - основная цель

pivotal question - ключевой вопрос

de-recognition - прекращение признания

action for conspiracy - иск об убытках, причинённых тайным сговором

peaceful picketing - пикетирование без нарушения общественного порядка

induce – побудить, склонять, убедить

contemplation – цель, намерение

furtherance – содействие, поддержка, способствование

major or vital industry - ведущая или важнейшая отрасль промышленности

crucial – принципиальный, важный

industrial nations - промышленно развитые страны



3.4. QUESTIONS

1. What does labour law deal with?
2. What are two subdivisions of labour law? How do they differ?
3. What are the parties to a contract of employment?
4. What employee's rights are guaranteed by law?
5. Who usually participates in collective bargaining?
6. What matters is collective bargaining concerned with?
7. Why are trade unions treated as an indispensable element of social life in industrialized nations?



3.5. AGREE OR DISAGREE

1. There are four broad categories of labour law: collective labour law, individual labour law, labor union law and employment law.
2. Employment means negotiations between employers and employees about terms and conditions of their relations.
3. Government officials may not participate in collective bargaining.
4. There is no any legal control of trade unions in industrial countries.
5. Collective bargaining began in the USA at the beginning of the 19th century.



3.6. SCANNING

Defining the Employment Contract

1. The employment contract regulates the work relationship between the employer and employee. It stipulates the remuneration for work done by the employee. An agreement is signed after the work offer is accepted. The employer and employee both have rights and expectations that are stipulated in the contract.

2. Such contract is legally binding and enforceable by law even if it is an oral agreement. It is however safer to get a written employment contract. The information that should be included in the contract is:

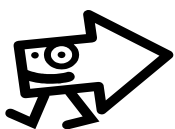
- name of company;
- full names of the employee;
- proper work description;
- commencement of employment date;
- work address;
- remuneration;
- minimum and maximum working hours;
- fringe benefit package, including a retirement plan, employee stock options, holiday pay, and health insurance benefits;
- sick leave stipulations;
- pension regulations;
- termination of employment;
- minimum notice time;
- procedures for complaints;
- disciplinary procedures;
- collective bargaining procedures.

3. Some employers also use non-disclosure and non-compete clauses to protect their trade secrets from being dispersed when employees leave.

4. The above terms and regulations are direct terms. Indirect terms (or assumed, unspoken terms) refer to terms not stipulated, but are indirectly referred to by signing the agreement. All contracts contain the following terms regardless of stipulation in the contract:

- trust and confidence in terms of work and payment to be done;
- ensuring a safe employment place.

5. The duty to provide written particulars of employment aims to allow the employee to know concretely what to expect and is expected. There are certain terms and conditions that people may simply not agree to because they are deemed categorically unfair. Thus an employer may not legally offer a contract in which the employer pays the worker less than a minimum wage. An employee may not for instance agree to a contract which allows an employer to dismiss them unfairly. However, this depends entirely on the particular legislation of the country in which the work is.



3.7. LEXIS

work offer – предложение работы

expectations - ожидания

stipulate – оговаривать, предусматривать

proper work description – точное описание работ, полная характеристика занятости

commencement of employment date – дата начала трудовой деятельности по контракту

fringe benefit package – пакет льгот и доплат к заработной плате
 retirement plan - порядок выхода на пенсию
 employee stock options - право сотрудника купить акции по льготной цене, поощрение служащих продажей акций
 holiday pay - плата за работу в праздничный день
 health insurance benefits - медицинское страховое пособие
 termination of employment - окончание срока работы по найму
 notice time – срок предварительного уведомления
 non-disclosure clause - условие контракта о неразглашении конфиденциальной информации
 non-compete clause - условие контракта о добровольном отказе сотрудника наниматься на работу в конкурирующие организации
 disperse – разносить, распространять
 leave – увольняться, прекращать работу
 direct terms – однозначные, непосредственно обозначенные условия
 assumed - предполагаемый
 trust and confidence - доверительные отношения
 particulars - подробные данные
 unfairly – нечестно, несправедливо



3.8. QUESTIONS

1. Whose rights and duties does the employment contract stipulate?
2. What information should the employment contract contain?
3. Can you explain the difference between such terms of an employment contract as sick leave stipulations and health insurance benefits?
4. What is the purpose of a non-disclosure clause?
5. Give examples of indirect terms of employment.
6. What is the legal meaning of a minimum wage?



3.9. AGREE OR DISAGREE

1. The employment contract is a quasi-agreement which is not enforceable by law.
2. The employment contract is legally binding even if it is in oral form.
3. Direct terms and regulations of a contract are so called "assumed" or "unspoken" terms.
4. No employer may offer a contract in which he pays the worker more than a minimum wage.

5. The terms and conditions of employment are unified and do not depend on the particular legislation of the country in which the work is.



3.10. PREPARE a list of six additional questions to ask about the previous texts "Labour law" and "Defining the Employment Contract". Be ready to interview the students in your group.



3.11. MATCH the following words with their definitions:

bargaining; dismissal; educational leave; employee; employer; employment; maternity leave; minimum wage; safety regulations; remuneration; sick leave; trade union; unemployment; working conditions

1. an act of sacking somebody from their job
2. a period of time when a woman temporarily leaves her job to have a baby
3. a person or company that pays people to work for them
4. a person who is paid to work for somebody
5. accident-prevention rules; laws that protect the health of people at work
6. an amount of money that is paid to somebody for the work they have done
7. an organization of workers, usually in a particular industry, that exists to protect their interests, improve conditions of work, etc.
8. discussion of prices, conditions, etc. with the aim of reaching an agreement that is acceptable
9. permission to be away from work because of illness
10. the circumstances or situation in which people work
11. the fact of a number of people not having a job; the number of people without a job; the state of not having a job
12. the lowest money compensation that an employer is allowed to pay by law
13. the period of time spent away from work in order to complete a course of training
14. work, especially when it is done to earn money; the situation in which people have work



3.12. EXERCISE. Read and translate the example of an employment contract given below. In order to ask the students of your group about the details of this agreement make at least five questions to the text.

Contract of Employment

1. Names of the contracting parties.

Between: ACME ACE LIMITED (the "Employer")
15 Town Road – Anytown – AT65 Y66
And: JOHN SMITH (the "Employee")
12 Smalltown Road - Midshire MRT 5EW.

2. Commencement of employment date.

Employment Start Date: 1st September 2009

3. Job title and description.

The Employee's job title is: Production Controller.
The Employee's main task is to assist the Production Manager in maintaining a consistent flow of production.

4. Address of the workplace.

The Employee will work from: 453 High Street, Newtown NEW12.

5. Salary.

The Employee's salary is £17,000 per annum. Payments are monthly by BACS directly in to the Employee's bank account.

6. Hours of work.

The Employee's working week will consist of 40 hours, from Monday to Friday and from 9 a.m. to 6 p.m. There is an hour lunch break: timing to be agreed with immediate supervisor.

From time to time, the Employee may be asked to work outside of the contracted hours. An hourly rate of 1.5 times the normal hourly rate will be paid.

7. Holiday entitlement.

The Employee is entitled to 4 weeks (20 days) paid holiday per annum. At the end of 5 years service an extra days holiday entitlement is given – followed by a further 1 day holiday entitlement for each of the next 4 years service: bringing maximum holiday entitlement to 5 weeks (25 days).

8. Sickness entitlement.

Contractual Sick Pay: the Employee will receive his normal salary for a period of 4 weeks, in any 12 month period where a doctor's certificate is produced after 7 consecutive days sickness.

9. Grievance procedure.

In all but one instance, the Employee must report any grievance to his immediate supervisor. Where, and only where, the grievance is

with the immediate supervisor, the Employee can make his grievance known to the immediate supervisor of the Employee's supervisor.

10. Disciplinary procedure.

Where the Employer believes that the Employee has acted in an unfit way in the course of carrying out his duty, or the Employee brings the Employers business in to disrepute, the Employee will face a disciplinary inquiry.

If the Employee is found to have committed a minor misconduct, the Employer has the option of a verbal warning, or a written warning depending on the severity of the misconduct.

If the Employee is found to have committed gross misconduct, the Employer has the option of a verbal warning, a written warning, a final written warning, or instant dismissal. The Employer also has the option to suspend the Employee where the Employer needs to make an inquiry into the misconduct.

11. Notice periods required from both the Employee and the Employer.

The minimum notice periods are as follows:

<i>Time in Employment</i>	<i>Minimum Notice</i>
Under 1 month	No Notice
Over 1 month	1 Week
2 years' service	2 Weeks
3 to 12 years' service	One week for each year to a maximum of 12 Weeks.

The Employee must send a copy of his notice to the company's address, as 1 above.

The Employer will send a copy of the notice to the Employee's address, as 1 above.

In the case of the Employee being dismissed for gross misconduct, the Employer will decide if any notice period will be applied.

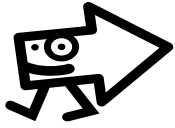
I agree to the above terms and confirm I have received a copy of this Contract.

Signed by the Employee

Dated

Signed by or on behalf of the Employer

Dated



3.13. LEXIS

job title - название должности

consistent flow of production – постоянный процесс производства продукции

per annum – ежегодно, в год

BACS - Bankers' Automated Clearing Services - Банковская автоматическая клиринговая система

timing - выбор определённого времени

immediate supervisor - непосредственный начальник

outside of the contracted hours - сверх обусловленных договором часов работы

hourly rate of 1.5 times the normal hourly rate – полуторный почасовой тариф от базового тарифа

holiday entitlement – право на оплачиваемый отпуск

extra day - дополнительный день

sickness entitlement - право на получение социальной помощи в случае болезни

Contractual Sick Pay - договорная оплата больничного листа

doctor's certificate – больничный лист, справка от врача

grievance procedure - порядок разрешения трудовых споров

in an unfit way – неприемлемым образом

in the course of carrying out – в процессе выполнения

disrepute - плохая репутация

face a disciplinary inquiry - подвергнуть дисциплинарному расследованию

minor misconduct - незначительный проступок

warning - предупреждение

severity – опасность, тяжесть

gross misconduct - злостное неправомерное поведение

instant dismissal - незамедлительное увольнение

suspend - временно отстранять от должности

notice period - промежуток времени на уведомление; срок для предупреждения, информирования

3.14. KEY WORDS

collective bargaining

contract of employment

dismissal

employee

employer

employment

fringe benefit package

grievance procedure

labour law

maternity leave

minimum wage

notice period

remuneration

safety regulations

sick leave

trade union

unemployment compensation

working conditions

Unit 4. Business Communication



4.1. BEFORE READING learn the following words and phrases which are essential on the topic:

business communication - деловое общение

complementary close - вежливая фраза в завершении

ПИСЬМА

destination address - адрес назначения

electronic mail = computer mail - электронная почта

enclosure = encl. - приложение; вложение

facsimile - факсимильное сообщение, факс

interlocutor - собеседник

letterhead - печатный фирменный бланк, "шапка" фирменного бланка

medium - носитель (информации), редство; способ; материал

memorandum = memo - служебная записка, докладная записка, краткое сообщение

message - сообщение (передаваемое по почте, телефону, Интернету или иному средству связи); донесение; извещение; письмо, послание; обращение

press release - официальное сообщение, заявление, коммюнике и т.п. розданные журналистам

reference = Re: = Ref: - сноска, ссылка, упоминание; отсылка (к предыдущему сообщению или источнику информации), уточнение темы сообщения

return address - обратный адрес

salutation - обращение (в письме), приветствие; фраза приветствия (в начале business communication письма)

telephone answering machine - автоответчик

voice mail message - сообщение на автоответчике



4.2. SCANNING

Essentials of Business Communication

1. Business communication is the interaction between the subjects of information system while solving the tasks of business. In this case, the interaction means communication based on information exchange.

2. There are five maxims of successful business communication:

- structure;
- clarity;
- consistency;

- medium;
- psychological rule of 7±2.

If you are going to communicate effectively in business it is essential that you have a solid grasp of these five elements. So let's look at each in turn...

3. **Structure.** How you structure your communication is fundamental to how easily it is absorbed and understood by your audience. Every good communication should have these three structural elements:

- an Opening;
- a Body;
- a Close.

This structural rule holds true no matter what your communication is - a memo, a phone call, a voice mail message, a personal presentation, a speech, an email, a webpage, or a multi-media presentation.

4. An Opening allows your communication's audience to quickly understand what the purpose of your message is.

It is in the Body of the message that you communicate all of your facts and figures relative to the action you want your communication's audience to take after receiving your message.

The Close is where you sum up your communication, remind your audience of your key points, and leave them with a clear understanding of what you want them to do next. The more powerfully you can end your communication, the more easily remembered it will be by your audience.

5. **Clarity.** Be clear about the message you want to deliver, as giving a confused message to your audience only ends up with them being confused and your message being ignored.

6. **Consistency.** Nothing more upsets a regular reader of, say, your newsletter than inconsistency of your message.

Taking different positions on an issue only breeds distrust in your message. And distrust in you! People who distrust you are exceedingly unlikely to take the action you wish them to take. They are also highly unlikely to pay any attention to your future messages.

7. As well as consistency amongst multiple messages, be aware that inconsistency within your message can be just as deadly to audience comprehension. Thus, please make sure, firstly, that your grammar is correct, e.g.: tenses remain the same, your viewpoint doesn't wander between the 1st and 3rd person and back again; and ultimately that your overall 'theme' or message doesn't change.

8. **Medium.** If the only tool you have in your tool bag is a hammer, pretty soon everything starts to look like a nail. Be aware that

there are a *myriad* of ways you can deliver your message - the *trick* is to use the right one.

Which is the right one? The one that communicates your message:

- with the greatest accuracy;
- with the largest likelihood of audience comprehension;
- at the lowest *fiscal cost*;
- at the lowest time cost.

11. So what media are available? You have a choice from any one or combination of the following:

* paper-based memo * letter * one-to-one *face-to-face* presentation * seminar * one-to-one phone presentation * meeting * one-to-many personal presentation * *plain text* email * one-to-many phone presentation * text + graphics email * voice email * webpage * *web-cast/webvideo* * radio broadcast * television broadcast * press release * tv/film commercial * cd-rom/dvd

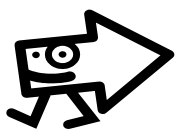
Choosing the right medium or media is obviously critical, as the fiscal costs of some in the above list are higher than others.

12. The **psychological rule** of seven plus or minus two. Psychologists have long known that the human brain has a *finite* capacity to hold information in short-term or '*working*' memory. It means that your audience is only able to hold on to between five and nine pieces of information at any one time.

13. Therefore if you have a long document or communication that you want to deliver, especially on paper, then structure your document so that you have:

- 7±2 'chapters' or sections;
- 7±2 sub-sections in each section.

14. Conclusion... There are several required components to successful business communication: structure, clarity, consistency, medium and rule of 7±2. If you are going to communicate effectively in business it is essential that you have a solid grasp of all these principles.



4.3. LEXIS

maxim - принцип

consistency - последовательность, постоянство, согласованность, непротиворечивость, совместимость

solid grasp - умелое владение

in turn - последовательно, по очереди

opening - вступление; вступительная часть

body - основная, главная, центральная часть (сообщения)

close - завершение, заключение, конец, окончание

key point - основное положение, ключевой довод

multiple - многократный; неоднократный, повторяющийся
 deadly - убийственный
 theme – тематика, основная мысль
 myriad - несметное число
 trick - сноровка, ловкий прием, хитрость, фокус
 fiscal costs - финансовые затраты
 face-to-face - с глазу на глаз, без посторонних
 plain text - незашифрованный, открытый текст или информация
 webcast - Web -вещание, широковещательная передача аудиоматериалов через Интернет
 finite - ограниченный, имеющий предел
 'working' memory - оперативная память
 retain - помнить, держать в памяти, удерживать
 cluster - блок; набор, кластер
 average - в среднем равняться, составлять



4.4. QUESTIONS

1. What requirements should every good business communication satisfy?
2. What is the role of an opening in a business message?
3. What is treated as a body of a business message?
4. How are clarity and consistency different if we speak about the quality of business communication?
5. What should you remember while choosing the right medium to deliver your message?
6. How can the psychological rule of 7 ± 2 be applied to business communication?



4.5. HOW COMMUNICATIVE ARE YOU?

1. Is it easy for you to speak with strangers?
2. How much information do you typically get from verbal and non-verbal communication? How much information do you typically send to other people via verbal and non-verbal communication? Is it easy for you to explain something without words, just with gestures?
3. How well do you explain difficult matters to other people? What do you do if another person doesn't understand your explanations?
4. How well do you persuade other people? What do you do if another person doesn't want to share your opinion?
5. How well do you console other people? What do you typically do to console another person?
6. Are there any rules which you generally follow when you communicate with friends/colleagues/children/elderly people?

7. Do you follow any rules when you communicate via phone/mail?
What are the rules?



4.6. AGREE OR DISAGREE

1. Every good communication should have these four structural elements: a medium, a salutation, a body and a close.
2. The heading is where you sum up your communication.
3. The psychological rule claims that the audience is only able to hold on 2 ± 7 pieces of information at any one time.
4. Taking different positions on an issue shows your ability to negotiate and thus increases your advantages as a business partner.
5. Choosing the appropriate medium or media is an essential element of any business communication.



4.7. SCANNING

Business Communication Blunders

We all have some communication habits that work against us in some small way. But the challenge we face is that, left unattended, they start adding up. The more you have, the more unprofessional you look.

Here's eight interpersonal communication blunders that can wreck your career over time:

1. Owning a weak handshake: A weak handshake signals uncertainty, hesitation, a lack of integrity, a lack of confidence and a lack of courage.

2. Displaying a nervous giggle: Just like a weak handshake, the nervous giggle, in the eyes and mind of your audience, turns you into a child. No one seriously does business with a child.

3. Over-using "I'm sorry": A 'killer' for undermining your authority, a phrase like, "I need your report on my desk by 5 o'clock, sorry" just knocks your professionalism, your communication and just the possibility to get that report at least at six. You have no need to apologize if you are the boss or the client. There is a place for politeness in business, as there are for courtesy and humility. But in the shark-eat-shark world of nature and business, there is no room for the weak and mousy.

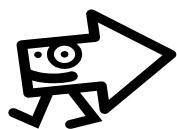
4. Standing passively: Crossed arms, crossed legs... they signal just one thing - detachment, as if you really don't want to be there, listening to the other person, but you have to.

5. Avoiding eye contact: *Whilst* too much *staring* at someone can cause discomfort, so can too little. By not looking at your audience (of one of one thousand) in the eye, you come across as nervous and *insincere*. A reasonable period of eye contact is between 4 and 7 seconds at a time, per person, especially when you are talking to them.

6. Playing with your hands: *Wringing* your hands is a sure way of conveying insecurity about yourself or your message.

7. Speaking too softly: A habit that is a sure sign in the eyes of others, that you are not confident about yourself, your message or your authority to deliver it. By the way, you also make yourself difficult to be heard by those who are *hard of hearing*.

8. Using *qualifying words*: This is quite possibly one of the worst habits anyone could have. Absolutely nearly everyone qualifies their words, and most often the effect is to *dilute* the power and impact of your message. Seriously, using words such as "kind of", "sort of" and "maybe" make even the smartest of us appear unsure.



4.8. LEXIS

communication habit - стереотип в общении; привычка, проявляемая во время общения

challenge we face – проблема, с которой мы сталкива-

емся

unattended - оставленный без присмотра; запущенный

add up - возрастать, усиливаться

blunder - грубая ошибка; промах, просчет

wreck - вызвать крушение, разрушать

over time - со временем, по прошествии времени

handshake - рукопожатие

hesitation - сомнение; неуверенность, нерешительность

integrity - прямота, честность

nervous giggle - нервный смех

knock - ударять, принижать

humility - сдержанность, простота, скромность, умеренность

shark-eat-shark world - волчьи законы

no room - нет места

mousy - робкий, тихий (как мышь)

detachment - отчужденность, отстраненность

whilst - в то время как

stare - пристально глядеть, вглядываться; уставиться

insincere - лицемерный, неискренний, притворный

wringing - выкручивание, заламывание

hard of hearing - тугой на ухо, глуховатый

qualifying words - уточняющие, определяющие слова

dilute - делать менее выразительным, уменьшать



4.9. QUESTIONS

1. Which of the above mentioned communication habits may be associated with you? Do you agree that they work against you?
2. Is it conventional to let your interlocutor know about his or her communication habits? If yes, how?



4.10. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



4.11. EXERCISE. Give some additional examples of communication habits that may work against those who have them. Do you think that it is possible to get over all these business communication blunders?



4.12. SCANNING

Rules of Telephone Conversations

1. Hardly there will be even one civilized person who can present the life without phone. However there are moments which essentially complicate telephone conversations: a limit of time and the limited opportunities of perception of the information only through the acoustical channel. In this connection there are certain rules which should be carried out at telephone conversation.

2. So, you have lifted a tube, have dialed necessary number and have heard familiar long hooters. How to behave further?

3. First of all - speak briefly. Try to formulate the questions so that they presuppose readiness of the interlocutor to speak with you, e.g.: "Do you have an opportunity to listen to me?" "Can you find for me some time?" "Are you free now?"

3. Then briefly explain the reason of the call and only after that pass to particulars. Speak efficiently, precisely say words. Speak directly in a microphone. Do not read the speech on a piece of paper. Avoid words-parasites in your speech. It irritates the interlocutor and spoils impression of conversation.

4. You are obliged to think over a line of the conversation and to make corresponding records, but it is not necessary to make the text literally.

5. Occasionally name the interlocutor by name. It is pleasant to person to hear the name. It subconsciously promotes mutual understanding.

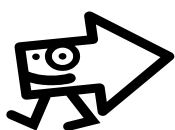
6. Try to be arranged under tempo of speech of the interlocutor. Let him know, that you closely listen to his words.

7. Be not silent. From time to time insert into conversation of a word of type: “clearly”, “yes”, “quite right”. Ask to explain more in detail what you have not understood.

8. In order to collect the information while negotiating via phone write down all the important details: names, addresses, figures, etc. This information can be useful very much in the further.

9. Fix duration of your conversation. Watch on hours duration of paid conversations. Especially it concerns calls abroad. Be extremely brief. Responsibly concern to charges of firm on telecommunication.

10. Results of conversation. In the end of conversation shortly sum it up. Finish conversation at once as soon as you will manage to reach its purpose. One of possible variants is those: “Many thanks. I think, it's enough. I hope shortly to see you”.



4.13. LEXIS

even one - хоть один

complicate - затруднять, осложнять, усложнять

perception - восприятие, понимание

acooustical - слуховой, звуковой

tube - телефонная трубка

dial - набирать номер, звонить

hooter - гудок, звуковой сигнал

presuppose - заранее предполагать

particulars - детали

efficiently - разумно, рационально

precisely - определенно, в точности

word-parasite - чужеродные слова, слова-паразиты

irritate - раздражать, вызывать раздражение

line of the conversation - нить беседы, логические части разговора

corresponding record - соответствующая запись, пометка, напоминание

literally - полностью, дословно

subconsciously - подсознательно

be arranged - привести в соответствие, урегулировать

closely - внимательно

insert - вставить, добавить; дополнительно включить куда-л.

fix – фиксировать, регулировать

watch on – контролировать, следить

hours duration - период времени в часах

brief – лаконичный, краткий

responsibly concern to charges – не забывайте об абонентской плате



4.14. QUESTIONS

1. What are the disadvantages of telephone as a means of business communication?
2. Why is it necessary occasionally to address the interlocutor by name?
3. What is the rationale of the rule: while negotiating via phone write down all the important details: names, addresses, figures, etc?
4. Why is it important to fix the duration of your telephone conversations?



4.15. EXERCISE

Read the following dialogue and identify which above-mentioned rules of telephone conversation are met by the interlocutors and which are not.

Mr Larsen: Albert Larsen. Good morning.

Mr Wiseberg: Good morning. Mr Larsen, this is Ernest Wiseberg speaking - we met last night at the reception at the museum.

Mr Larsen: Yes, of course, Mr Wiseberg. Good to hear from you.

Mr Wiseberg: You said I could give you a call. Am I disturbing you?

Mr Larsen: No, not at all, not at all. You're interested in forming a sportswear company, I recall. A private company limited by shares.

Mr Wiseberg: That's right. I have some experience with company formation, but so far only in the United States, I founded a C corporation with some business associates in Florida some years ago. You're familiar with C corporations?

Mr Larsen: Yes, yes, of course, C corporations are similar to private limited companies in the UK in many ways, particularly in respect of liability, naturally. Shareholders are not personally liable for the debts of the corporation in both a C corporation and a private limited company.

Mr Wiseberg: That's right.

Mr Larsen: But if I'm not mistaken, a C corporation may become a public corporation, with its shares being bought and sold either through a stock market or 'over the counter'.

Mr Wiseberg: Mm-hm.

Mr Larsen: In this respect, a private limited company differs. Its shares are not available to the general public.

Mr Wiseberg: I see.

Mr Larsen: The two types of company are like each other in that both can be founded by persons of any nationality, who need not be a resident of the country. Perhaps this is relevant for you, Mr Wiseberg.

Mr Wiseberg: Yes, it is.

Mr Larsen: And there is one big difference between a C corporation in the US and our private limited company: that's the limit on the number of shares. As I recall, there's no limit on the number of shareholders of a C corporation.

Mr Wiseberg: That's right.

Mr Larsen: But that's not the case with a private limited company. The Companies Act stipulates that not more than 50 members can hold shares within the company.

Mr Wiseberg: I see. I didn't know that. But that's not a problem for me.

Mr Larsen: On the other hand, a limited company is comparatively easy to form. You have several options open to you, depending on how soon you want the company formed.

Mr Wiseberg: Well, I'd like to begin operations as soon as possible. Of course, I know I'll have to wait until the paperwork is completed. How long would that take? A couple of days?

Mr Larsen: Well, once you supply all the necessary documents to Companies House, it generally takes a couple of weeks for them to process the documents.

Mr Wiseberg: A couple of weeks! That's much too long. What other options do I have?

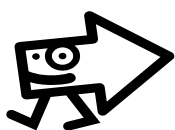
Mr Larsen: You could form the company through a company formation agent. The agent would fill in the required forms for you and then submit them to Companies House. It would take around five to eight days before the company may begin to trade.

Mr Wiseberg: That sounds better. Maybe you could tell me where I can find one of these agents. Perhaps you have a telephone number...

Mr Larsen: Hmm, well, can you ring me back in ten minutes? I'll make a search for the telephone number you are interested in.

Mr Wiseberg: Only if it is not inconvenient for you. Then thanks very much for your help. I am sure to call you back.

Mr Larsen: OK.



4.16. LEXIS

at the reception - на приёме, на встрече, на вечеринке
C corporation - С-корпорация; наиболее распространённый вид корпорации в США, в отличие от “S-

корпорации” (последняя предполагает оплату налогов с прибыли самими акционерами компании)

associate - компаньон, деловой партнер

'over the counter' - продажа без посредников

option - выбор, альтернатива, (возможный) вариант

paperwork - оформление документации, работа с документами, регистрация (в документах)

fill in the required form - заполнить требуемый бланк

Companies House - бюро регистрации компаний

make a search for - разыскивать

inconvenient - причиняющий беспокойство, неудобный, стесняющий



4.17. BEFORE READING the text answer the question: If you've got a letter which is inaccurate, impolite, wrongly structured, full of mistakes or unclear, what will you think of the company it was sent from?



4.18. SCANNING



The Golden Rules of Business Correspondence

1. Letter-writing is the basic element in business and legal correspondence nowadays, although we can't but mention such achievements of modern telecommunication as fax, e-mail, memo, which are widely spread in corporative relations. Nevertheless different elements of the letter are presented in all newly invented means of communication and the letter itself still remains the most reliable and recognized way of transmitting information.

2. If you are a lawyer you will have to write a great amount of different documents in the basis of which there is a letter. Whatever letter or document you write you should remember that it will reflect your personality, your attitude towards your job, your qualification and what is the most important - the image of your company. There are some common recommendations of making a letter which are called the Golden Rules:

i) it must be written in a good language without errors in spelling, grammar, punctuation, sentence structure or word use;

ii) it should contain simple, rather than long, sentences and easy to understand phrases;

iii) it must be typed, only the signature is to be written down;

iv) it mustn't have any words crossed out or any obvious erasures;

v) its appearance should be attractive to an eye, its margins must be straight and wide enough (the upper, the left and the bottom margins - about 3-4 cm, the right - not less than 1 cm).

vi) it should never be continued on the back of the sheet;

vii) each letter should deal with no more than one subject;

viii) any kind of business letter must avoid the unnecessary details and repetitions, be as brief as it can be, but not sound rude;

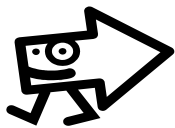
ix) it should be written in polite, friendly or neutral tone and by no means sound aggressive or disgusting;

x) it must be dated and signed to have the legal force;

xi) you should have a copy of every letter you send to be on the safe side;

xii) if you need to translate a letter or a document into a foreign language, never do it word by word, try to find words and phrases commonly used in business correspondence of this language.

4.19. LEXIS



can't but mention - приходится учитывать, следует считаться с чем либо

cross out - вычеркивать, стирать, удалять

erasure - подчищенное, стертое место в тексте

margin - поле (страницы)

disgusting - безобразный, отвратительный, противный

be on the safe side - подстраховаться; на всякий случай; для большей верности

4.20. QUESTIONS



4. What does a business letter reflect?

5. A business letter should be «inviting to an eye», well shaped and well-balanced. What does it mean?

6. What are the ways to make a letter more understandable and clear?

7. Why do you think every letter should deal only with one subject?

8. Why is it necessary to have a copy of all documents?

9. What does a signature on the letter mean?

10. Why do you think the letter shouldn't be continued on the back of the page?



4.21. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



4.22. BEFORE READING the text answer the question, please: Have you ever written any type of official letter? What was it about?



4.23. SCANNING

Types of Business Letters

1. There are many kinds of business letters that are used in different situations of business communication.

If you are looking for a job you should write a cover letter in which you will apply for a post or a position you are interested in, and attach your résumé (or curriculum vitae (CV)). A cover letter introduces you to the person who is your possible employer. A resume is a written list that describes your education and the jobs you have had. Usually a cover letter and a resume are written as a response to any kind of advertisement in mass media about a vacant position and reflect your desire to occupy this position.

2. If you are interested to get any kind of information about goods or services you write a letter of inquiry to the producing company. If you would like to promote your goods or services on the market you write a letter which is called a letter of offer and send it to your possible partners.

3. Having decided what service you would like to book, you write a letter of requesting a service (letter of request). The service provider in this case writes a letter of confirming a service (letter of confirmation) where he explains to the client that he has understood the request properly and will fulfill it accurately.

4. While working in a company by all means you will need to order supplies. It may be any kind of equipment, computers, parts for assembly, furniture etc. And you will have to write a letter of ordering supplies (order letter) where you will mention concrete type or model, price and quantity of the ordered goods.

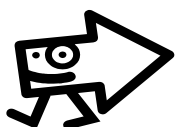
5. A claim letter is a letter that you write to a company to point out a problem. They may include: receiving the wrong products, receiving damaged products or receiving an incorrect invoice.

6. An adjustment letter is a letter that corrects a mistake. When a company has made a mistake, it is important to acknowledge it, correct it and apologize for any inconvenience. In some cases as an apology you may offer a kind of bonus: a coupon, a discount or a small gift.

7. A reminder letter asks if a client has forgotten to pay a bill. It gently reminds that he owes payment to a company. If the client does not send the payment, the company sends a collection letter

that asks for a late payment (a collection) from a client. Both letters must be clear and firm, but also polite and professional. When you receive a reminder letter or a collection letter, you must reply quickly. Your reply letter should explain the situation. Remember that your business reputation is very important. Check that all of the invoice numbers, amounts and dates are correct before you send the letter.

8. There are many other types of letters and different forms that correspond to specific situations or branches of business and while working with them any person has to be the most efficient and professional. Among these letters are: letter of abandonment, letter of commitment, letter of demand, letter of intent, letter of condolence, letter of congratulations, letter of thanks, etc.



4.24. LEXIS

cover letter - сопроводительное письмо
attach - прилагать, прикладывать
résumé - краткая автобиография, резюме
curriculum vitae - профессиональная биография
advertisement - объявление; реклама; анонс, заявление, извещение
vacant position - незанятая должность, вакансия
letter of inquiry - письмо-запрос, письменный запрос
letter of offer - письмо с предложениями
letter of request - письменное ходатайство, заявка
service provider - человек или организация, предоставляющие какие-л. услуги
letter of confirmation - письмо-подтверждение
supplies - расходуемые материалы, обеспечение, запасы, ресурсы, вспомогательные материалы
order letter - письмо-заказ
claim letter = complaint letter - претензионное письмо, рекламация
invoice - счет, счет-фактура (счет на отправленный товар с указанием краткой спецификации, цены, расходов и других подробностей контракта)
adjustment letter = reconciliation letter – письмо об урегулировании разногласий
coupon - купон, дающий право на приобретение определенного товара или услуги со скидкой (обычно в определенные сроки)
reminder letter - письмо-напоминание
collection letter - письмо с предложением о погашении задолженности

late payment - просроченный платеж
 reply letter – ответ на письмо-рекламацию или на напоминание о невыполненных обязательствах
 letter of abandonment - заявление об отказе
 letter of commitment = letter of guaranty = letter of indemnity - гарантийное письмо
 letter of demand - письмо-требование (любое письмо, содержащее формальное требование чего-л. от другого лица)
 letter of intent - письмо о намерении (письмо, в котором лицо сообщает о своем намерении (но не обязанности) предпринять какие-либо действия при наступлении определенных условий)
 letter of condolence - письмо с выражением соболезнования
 letter of congratulations - поздравительное письмо
 letter of thanks - благодарственное письмо



4.25. EXPLAIN the purpose and business situations when these letters are written:

- a) cover letter
- b) letter of request
- c) letter of commitment
- d) letter of confirmation
- e) letter of offer
- f) order letter
- g) reminder letter
- h) letter of complaint
- i) adjustment letter
- j) letter of abandonment
- k) letter of thanks



4.26. BEFORE READING the text answer the question:
 Why do you think the rules of writing business letters were made up?



4.27. SCANNING

Writing a Business Letter in English

The basic business letter has its unified structure containing the following parts:

1. **Return address** (or sender's/addresser's location) is the name and the address of the company, beginning from the smallest division: the name of the company, house number, street, city, state or province and ZIP code, country. Business letters usually have a printed letterhead. It usually has all of the company's in-

formation, including address, phone number, fax number, company Web site and personal e-mail address. It may be written on the right side or at the top of the page.

2. **Date** - it's the date when the letter was written and signed. It is below the return address. It may be written in American style (month, day, year) or in non-American (day, month, year). But it is better to spell month not to make confuse: *12 January 2006*, not *12.01.06*.

3. **Destination address** (or receiver's/addressee's location) - the address and the person to whom you are writing. The information should be given in the same order as the return address. Usually it is written close to the left margin.

4. **Reference** - here you name the main topic of the letter. For example: *Re: Purchase Order 1132 of November 24, 2008*.

5. **Salutation** - when you name the person to whom you address. Example: *Dear Dr. Brown* or *Dear Mr. White*. When you don't know whom to address in company, you should use the formula *Dear Sir* (or *Dear Madam, Dear Ms*), or *To Whom It May Concern*.

6. **Body** - the body of a letter tells about the subject of the letter. Usually it has four parts:

(i) opening - where you give the reason of writing or involve the reader in the theme of your topic;

(ii) focus - where you provide details and explain what exactly the problem is;

(iii) action - where you say what will happen next or what actions you are going to undertake;

(iv) closing - be positive; here you thank the reader or demonstrate your hope for the positive result of your addressing, something like *I look forward to hearing from you soon*.

7. **Complementary close** is the phrase you use after you end the body of the letter and before you sign your name. It may be:

Very truly yours.

Very cordially yours.

Very sincerely yours.

Faithfully yours - only for formal complimentary closes.

Sincerely yours, or *Yours sincerely* for both - formal and informal style.

Cordially and yours truly are appropriate only for informal complimentary closes.

8. **Signature** and typed name and title of sender - the writer's name and job title (or department) are typed at the bottom of the letter. He or she then signs the letter directly above the typed name.

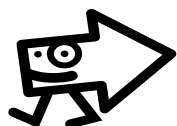
9. **Postscript** is a brief sentence or paragraph introduced by the initials, "P.S." ("post scriptus," Latin for "after having been written"). It implies that the writer, having completed and signed the letter, had an after-thought. Although this is still commonly used in informal letters, it is not widely accepted for use in formal or business letters.

10. **Enclosure** - you add it in the left bottom corner of the page if you are sending something with the letter.

11. More details:

- sometimes you will see two sets of initials at the bottom of a business letter. The first set is the writer's initials and the letters are capitalized. The second set is the typist's initials and it is lowercase. A slash separates the two sets of initials. Ex.: *Peter Hardy/Mary Brown = PH/mb*;

- letters "cc" stand for carbon copy that were used before photocopiers and computer printers. Today "cc" tells us who else received a copy of the letter. For example: *cc: Mr. Ford, the chief manager*.



4.28. LEXIS

ZIP code (zone improvement plan code) - почтовый индекс

body - главная часть, основная часть (письма)

opening - начало; вступление; вступительная часть

focus - фокусировка на предмете письма

action - линия поведения, предполагаемый эффект

closing - концовка, заключительный пассаж (письма)

typed name and title - машинописный вариант имени и должности

after-thought - запоздалое соображение, поздно пришедшая
МЫСЛЬ

two sets of initials - две группы инициалов, две фамилии

slash - косая черта, символ "/"

capitalized - записанный заглавными (прописными) буквами

typist - (компьютерная) машинистка, телеграфист

lowercase - нижний регистр, регистр строчных букв



4.29. QUESTIONS

1. Does a letterhead signify the return address or the destination address?

2. If you put the date in American style what does it mean?

3. Where is the destination address usually written?

4. What is a typical structure of the body of a letter?

5. What does the word "enclosure" mean if it stands at the end of the message?
6. What does abbreviation "cc" in letters mean nowadays?



4.30. PREPARE a list of five-seven questions of your own to ask about the text above. Be ready to interview the students in your group.



4.31. EXERCISE

There are all important parts in a typical standard business letter in the example bellow. You are to define all these parts.

OK Company
1234 Writing Lab Lane
Write City, IN 12345

September 12, 2008

A. Reader
123 Winner's Road
New Employee Town, PA 12345

Ref: faxes, memos and e-mail.

Dear Mr. Reader,

As we agreed, I send you the information about some other types of business correspondence.

Fax is a facsimile copy of a document which is transmitted electronically through phone lines to another fax machine. Most organizations have a separate telephone line for receiving and sending faxes, which can be used 24 hours a day. In small companies or in homes, the fax may share a line with the telephone and it can cause delays. A fax is not usually a legally binding document.

It may have the same parts as the letter does, but often it is in shorter and less official form. It's important to put down the number of pages in the fax for the reader to know if all the pages were received.

Memo as short for memorandum is a type of correspondence written from one person in the company to another, or an informal letter to someone outside the company. The style that is used depends on the practice within the company and on the relationship between the people involved. As a rule it doesn't include an address or a title as Mr. or Dr. Instead of signature the sender puts his initials or his name. The other parts may be the same as in the letter.

E-mail - electronic mail is a fast and inexpensive way to communicate through the computer and a less formal method of correspondence. You can add to your message the existing file, such as a word-processed document or a spreadsheet. Its parts are:

To: *e-mail address*
From: *e-mail address*
Subject: *about what you are writing*
Date: *placed automatically*
Body: *the essence of the message*
Complementary close: *Yours sincerely,*
Signature: *your name.*

To make e-mail more 'personal' some people use punctuation to add happy ☺ or unhappy ☹ faces to their messages.

I hope this information will be of some use for you. I look forward to keeping in touch with you.

Sincerely yours,
Ernie Cool

Mr. Cool,
the OK Company Manager



4.32. SPEAK with your partner about e-mail, fax and memo. How are they used? Do they have any peculiar characteristics which make each of them favorable in one case or another?



4.33. EXERCISE

Read and translate the examples of business letters; define their structural parts.

a) Thank You Letter

Martina Bosserio
Manager, Product Development Dept.
Widget Corporation
1520 Widget Drive
Metropolis, NY 10021

Dear Ms. Bosserio,

I can't thank you enough for the letters of recommendation you wrote. I know you put a lot of time and effort into them and hope you know how much I appreciate it. I hope I can do the same for someone else someday.

I will keep you posted on any responses I get.

Thanks again!

Sincerely,
(*Signature*)

b) Letter of Inquiry

Kenneth Beare
2520 Visita Avenue
Olympia, WA 98501

September 12, 2008

Jackson Brothers
3487 23rd Street
New York, NY 12009

To Whom It May Concern:

With reference to your advertisement in yesterday's New York Times, could you please send me a copy of your latest catalogue. I would also like to know if it is possible to make purchases online.

Yours faithfully
(*Signature*)

Kenneth Beare
Administrative Director
English Learners & Company

c) Order Letter

Fred Finkleham
44 Princess Diana Walk
South Kensington
London
W2 3SL

23 May 2007

Mr. Jack Brown,
Director
Used Books Online
Seattle, WA 98795

Dear Mr. Brown:

Would you please send me the following used books via COD? According to your Web site, orders need to include the title, author, and publisher.

<u>Title</u>	<u>Author</u>	<u>Publisher</u>
"Driving Home"	Peter Lawford	Jackson and Co.
"Christmas Myth"	Margaret Smith	Smoothers
"Landscaping for Fun"	Janet Patterson	Nature Ltd.

Thank you very much,
(*signature here*)

Fred Finkleham,
Professor

d) Claim Letter

Drivers Co.
3489 Greene Ave.
Olympia, WA 98502

August 17, 2007

Richard Brown, President
Document Makers
Salem, MA 34588

Dear Mr. Brown:

As someone who has worked with your company for over 3 years, we were very disappointed to see the documents you produced for our latest Drivers Co. publicity campaign.

As our written agreement stipulated, we expected full color leaflets with fancy explanatory texts, but instead, we found that black and white photos had been included in the prepared leaflets. I think you will agree that a communication problem exists.

We would like you to send out a photographer to provide us with the promised color coverage, or provide us with a refund.

Yours truly,
(*signature here*)

Thomas R. Smith,
Director



4.34. EXERCISE. Read the following words and phrases commonly used in business letters. Make your own letter of offer, order letter, letter of complaint or letter of thanks.

The Reference

Благодарим за письмо от ...
В ответ на Ваше письмо от ...
Ссылаясь на наше письмо от ...
сообщаем, что ...
Что касается Вашей просьбы,
(Вашего заказа, Вашей претензии)...

Thank you for your letter of ...
In response to your letter of ...
Referring to your letter of ... we inform
you that...
As to your request (your order, your
claim)...

The Reason for Writing

Мы рады сообщить Вам ...
К сожалению, мы должны сообщить, что
Мы обращаемся к Вам с вопросом...
Мы хотим сообщить Вам о ...
Мы хотим...
Мы предлагаем Вам ...
Данным письмом подтверждается, что...

We are glad to inform you...
We are sorry to inform you that...
We are writing to ask if you...
We are writing to tell you about...
We would like to...
This letter is to offer you...
This is to confirm that...

Requesting

Обращаюсь к Вам с просьбой...
Я буду очень благодарен (благодарна), если Вы...
Пожалуйста, сообщите нам...

I am writing to ask if you...
I would be grateful if you could ...
Please let us know...

Binding Phrases

Считаем необходимым (важным, целесообразным) отметить ...
Помимо вышеуказанного ...
В связи с этим ...
В связи с Вашей просьбой ...
В противном случае, мы будем вынуждены ...
Дело в том, что ...
В сложившихся обстоятельствах
По нашему мнению ...

We find it necessary (important, reasonable) to note...
Apart from the above mentioned ...
In this connection...
In connection with your request
Otherwise we shall have to...

Более того...
Тем не менее...
В первую очередь...
Фактически...

The point is that...
Under the circumstances...
In our opinion...
We believe...
Moreover...
Nevertheless...
In the first place
Actually...

Closing Phrases

Мы будем признательны за быстрый ответ

Early reply will be appreciated...

Надеемся на скорый ответ

Просим сообщить нам, как
можно скорее ...

Ожидаем Вашего согласия
(одобрения, подтверждения)

Ждём Вашего любезного ответа

Looking forward to hearing from you
soon

Please, inform us in the shortest
possible time ...

Looking forward to receiving your
consent (approval, conformation)

“R.S.V.P.” (сокращение от “Répondez
s’il vous plaît,” French for “Respond
if you please”)

Enclosing Documents

К письму прилагается...

Attached are ...

Encl.: ...

Please find enclosed ...

We enclose...

4.35. KEY WORDS

body

business communication

business correspondence

communication habit

complementary close

destination address

e-mail

enclosure

facsimile

interlocutor

letterhead

letter-writing

memorandum

message

opening

reference

return address

salutation

Учебное издание

. . .

для студентов 3-го курса
дневного и вечернего факультетов
Пятый семестр

Учебное пособие

Подписано в печать 20.01.09. Формат 60X84/16. Объем 5 фпл.
Тираж 300 экз.