

Unit 7 CONTRACT

Lesson 1.

Contract is an agreement, enforceable by law, between two or more competent parties (legal entities) to perform or not to perform a specific act or acts for a consideration. A contract may be verbal or written. An offer released by a party becomes a contract, when accepted by the other party. Acceptance may be either in writing or by performance, unless the purchase order requires acceptance thereof to be in writing, in which case it must be thus accepted. Contracts financed with public funds are generally made in writing.

In foreign trade transactions a contract is drawn up to give legal expression to the intentions of the partners and to guarantee that the obligations contained in the contract will be fulfilled.

According to the purpose and contents, contracts can cover: goods, services, licenses, patents, technology and know-how.

Example:

CONTRACT No...

January 15, 19...

London

"Machexport Ltd.", Moscow, hereinafter referred to as the Seller, and British Asbestos Ltd., hereinafter referred to as the Buyer, hereby agree as follows:

1. The Seller has sold and the Buyer has bought asbestos of Russian origin on FOB terms from one of the Baltic ports at the Seller's option. The grades, price and quantity are stated below:

Grade	Quantity in metric tons	Price per metric ton in	Time of delivery
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		US dollars	
			in 2-3 lots within 2nd and 3rd quarters of 19... starting in the first half of May

The price of the goods is understood to be per metric ton, packing included, FOB one of the Russian ports. The quantity is understood to be up to 5% more or less, at the Seller's option.

2. Within 5 days after the receipt of the Seller's notification by cable that the goods are ready for shipment the Buyer shall open by cable with the Bank for Foreign Trade, Moscow, an irrevocable, confirmed and divisible Letter of Credit in favour of the Seller for the full value of the goods. The Letter of Credit is to be valid for 90 days, with the right of extension if required by the Seller. The payment for the goods is to be made in US dollars for 100% of the invoice value of Asbestos on presentation to the Bank for Foreign Trade, Moscow, of the following documents: Invoice in 3 copies, Seller's Certificate of Weight, Set of Bills of Lading.

In the event of devaluation of the US dollar on or before the date of payment under the present Contract both parties have the right to renegotiate the price of the goods.

SELLER

BUYER

Vocabulary:

<i>hereinafter referred to</i>	- в дальнейшем именуемый
<i>hereby agree as follows</i>	- заключили настоящий контракт о нижеследующем
<i>on FOB terms</i>	- на условиях фоб (франко-борт)
<i>at the Seller's option</i>	- по выбору Продавца
<i>grade</i>	- сорт
<i>in metric tons</i>	- в метрических тоннах
<i>a lot</i>	- партия (товара)
<i>the price is understood to be per metric ton</i>	- цена понимается за метрическую тонну
<i>notification that the goods are ready for shipment</i>	- уведомление о готовности товара к отгрузке
<i>Letter of Credit</i>	- аккредитив
<i>irrevocable</i>	- безотзывный
<i>confirmed</i>	- подтвержденный

<i>divisible</i>	- делимый
<i>extension</i>	- продление
<i>Certificate of Weight</i>	- грузовой сертификат
<i>devaluation</i>	- девальвация
<i>to renegotiate</i>	- повторно обсуждать

Exercises

Exercise 1. Translate the Contract from English into Russian.

Exercise 2. Translate from Russian into English:

1) Продавец и Покупатель заключили настоящий Контракт о нижеследующем...

2) Продавец продал и Покупатель купил...

3) Сорта товара, цена и количество указаны ниже.

4) Срок поставки: двумя-тремя партиями в течение второго и третьего кварталов 19... г., начиная со второй половины мая.

5) Цена товара понимается за англотонну (long ton), включая упаковку, поставка на условиях фоб из одного из российских портов по выбору Продавца.

6) Оплата полной стоимости товара производится в долларах США.

7) В случае девальвации доллара США обе стороны имеют право повторно обсудить цену на товар.

8) Безотзывный и подтвержденный аккредитив открывается на полную стоимость товара.

9) Аккредитив открывается в течение 5 дней после получения Покупателем телеграфного уведомления Продавца о готовности товара к отгрузке.

10) Аккредитив действителен в течение 90 дней, с правом продления по требованию Продавца.

Exercise 3. Translate the Contract into Russian:

CONTRACT No 5/32

London
March 20, 19...

"Machexport Ltd.", Moscow, Russian Federation, hereinafter referred to as the "Buyer", on the one side, and Brown & Co, hereinafter referred to as the "Seller", on the other side, have concluded the present Contract on the following:

CLAUSE 1. Subject

The Seller has sold and the Buyer has bought on f.o.b. terms 20 pumps model MP-3.

CLAUSE 2. Price and Total Amount of the Contract

The price is ... per unit and the total amount of the Contract is The price is understood to be f.o.b. London including seaworthy packing, marking, loading on board the ship and stowing. The price is firm and not subject to any alterations.

CLAUSE 3. Delivery Dates

The equipment indicated in Clause 1 of the present Contract is to be delivered on the following dates:...

By the specified dates the equipment is to be manufactured in accordance with the Contract conditions, tested, packed, marked and delivered to the port of London.

The Seller may deliver the equipment prior to the stipulated dates only if there is a written consent of the Buyer.

The date of the clean on board Bill of Lading issued in the name of the Buyer is considered to be the date of delivery.

CLAUSE 4. Terms of Payment

Payment is to be made for collection in US dollars. The following documents are to be presented to the Bank:

1. Invoice,
2. Clean on board Bill of lading,
3. Test Certificate,
4. Insurance Policy,
5. Packing List,
6. Export License.

Exercise 4. Using the text of ex. 3 give the English for:

маркировка; предмет контракта; оговаривать; чистый бортовой коносамент; упаковочный лист; платеж в форме инкассо; страховой полис; акт испытаний; изменениям не подлежит; погрузка и штивка; дата коносамента считается датой поставки;

выписанный на имя; пригодный для морской перевозки; статья (раздел); письменное согласие Покупателя; экспортная лицензия; общая стоимость Контракта.

Lesson 2. General Conditions and Terms of Delivery and Payment

Example

General Conditions and Terms of Delivery and Payment

1. The goods are considered delivered by the Seller and accepted by the Buyer:

in respect of quality - as per the quality stipulated in the Quality Certificate issued by the manufacturer;

in respect of quantity - as per the quantity of packages and the weight indicated in the Bill of Lading.

2. The date of the Bill of Lading is considered as the date of delivery.

3. The Seller undertakes to insure the goods to the full value of the invoice against all risks.

The terms of the transport insurance can be extended only at the Buyer's request and for his account.

4. The Seller should advise the Buyer of the shipments effected by cable or airmail.

5. Payment for the delivered goods is to be effected by an Irrevocable Confirmed Letter of Credit opened by the Buyer in the Seller's favour with a bank correspondent to Vnesheconombank.

The Letter of Credit is to be opened within 10 days upon receipt of the Seller's notification of the readiness of the goods for shipment, to be valid for 90 days and to cover full value of the goods ready for shipment.

The Letter of Credit should fully conform to the terms of the present Contract and stipulate partial shipments.

Payment against the Letter of Credit should be made against the following documents submitted by the Seller to Vnesheconombank of the Russian Federation:

a) Invoice in triplicate;

- b) Full set of Bills of Lading;
- c) Specification in triplicate.

All expenses connected with the opening and eventual prolongation of the Letter of Credit as well as all banking charges relevant to the opening and use of the Letter of Credit are to be borne by the Buyer.

In case of delay in the opening of the Letter of Credit the Seller has the right to refrain from shipment or cancel the Contract.

Vocabulary:

<i>to stipulate</i>	- оговаривать
<i>in respect of</i>	- в отношении
<i>against all risks</i>	- зд.: на все случаи
<i>to effect payment</i>	- осуществлять платеж
<i>correspondent</i>	- зд.: корреспондентский
<i>to conform</i>	- соответствовать
<i>prolongation</i>	- продление
<i>to refrain</i>	- воздерживаться

Exercises

Exercise 1. In part B find equivalent Russian expressions for the English expressions given in part A:

A. in respect of quality; indicated in the Bill of Lading; for the Buyer's account; the Seller should advise the Buyer by cable; shipments effected; the Seller's notification of the readiness of the goods for shipment; to cover full value of the goods; to conform to the terms of the present Contract; to stipulate partial shipments; payment should be made against the following documents; eventual prolongation of the Letter of Credit; banking charges relevant to the opening of the Letter of Credit.

В. соответствовать условиям настоящего Контракта; произведенная отгрузка товаров; платеж осуществляется по предъявлении следующих документов; в отношении качества; предусматривать отгрузку товара партиями; уведомление о готовности товара к отгрузке; Продавец извещает Покупателя телеграммой; указанный в коносаменте; покрывать полную стоимость товара; возможное продление аккредитива; за счет

Покупателя; банковские расходы, связанные с открытием аккредитива.

Exercise 2. Translate the text "General Conditions and Terms of Delivery and Payment".

Exercise 3. Translate from Russian into English:

- 1) Дата коносамента считается датой отгрузки.
- 2) Условия страхования могут быть расширены по требованию Покупателя и за его счет.
- 3) Продавец осуществляет страхование товара на полную стоимость и на все случаи.
- 4) Аккредитив открывается в течение 10 дней после получения уведомления Продавца о готовности товара к отгрузке.
- 5) Платеж за поставленный товар осуществляется по безотзывному подтвержденному аккредитиву.
- 6) Продавец извещает Покупателя о произведенной отгрузке телеграммой.
- 7) Аккредитив должен полностью соответствовать условиям настоящего Контракта и предусматривать отгрузку товара партиями.
- 8) В случае задержки открытия аккредитива Продавец имеет право воздержаться от отгрузки товара или расторгнуть Контракт.
- 9) Все расходы, связанные с открытием и возможным продлением аккредитива, а также использованием аккредитива, относятся на счет Покупателя.

Exercise 4. Using the information given below make up a text of a contract: a) in Russian; b) in English:

Место подписания контракта - Нью-Йорк;

Дата: 23 января 1997 г.;

Покупатель: торговая фирма "Весна";

Продавец: фирма "Хатсон энд Ко";

Товар: мужские костюмы модели А-480/м;

Количество: 1000 штук;

Цена: 82 доллара США за единицу товара;

Срок поставки: первый и второй кварталы 1997 г.;

Условия поставки: поставка осуществляется тремя партиями: первая партия в 200 штук - в первом квартале 1997 г., вторая и третья партии по 400 штук каждая - во втором квартале 1997 г.

Платеж: платеж в долларах США, форма платежа - по безотзывному подтвержденному аккредитиву. Срок открытия аккредитива - 10 дней после получения уведомления о готовности товара к отгрузке.

Платеж производится по предъявлении продавцом следующих отгрузочных документов: счет-фактура в трех экземплярах, коносамент, упаковочный лист, заводской сертификат качества.

Поставка: на условиях сиф Санкт-Петербург.

Exercise 5. Translate the following using a dictionary, if necessary:

1) The quality of the goods sold under the present Contract shall be in full conformity either with the State standards existing in Russia or with the technical conditions ruling at the manufacturing works.

2) The goods shall be secured and properly packed to withstand both overseas and overland transport as well as transshipment. Each package shall be provided with marking showing the place of destination, name of Consignee, description of goods, contract number, case number, gross and net weight.

3) Should the Buyer fail to open the Letter of Credit in time, he is to pay the Seller a fine for each day of the delay, but not more than for 20 days, at the rate of 0.1 percent of the amount of the Letter of Credit and in that case the Seller shall have the right to not to load the tanker until the Letter of Credit has been opened. Should the delay in the opening of the Letter of Credit exceeds 20 days, the Seller shall have the right to refuse to deliver the goods which were to be paid for out of this Letter of Credit.

4) The Seller is to inform the Buyer by cable or telex not later than 5 days before the starting of loading of the name and capacity of the tanker, the date and port of shipment of the goods. Furthermore, the Captain is to advise the Buyer or his agent by cable of the forthcoming arrival of the tanker at the port of discharge 4 days before her arrival.

The Seller has the right to substitute one tanker for another informing the Buyer thereof by cable or telex.

5) In case of non-conformity of the quality of the goods actually delivered by the Seller with the Contract specification, any claim concerning the quality of the goods may be presented within two months of the date of delivery. No claim shall be considered by the Seller after expiration of the above period. No claim presented for one lot of the goods shall be regarded by the Buyer as a reason for rejecting any other lot of the goods to be delivered under the present Contract.

Lesson 3. Contract for Sale/Purchase of Goods

Example 1

C O N T R A C T No _____

К О Н Т Р А К Т № _____

PTA "Nika", Nizhny Novgorod, Russian Federation, hereinafter referred to as the Seller, on the one part, and _____, hereinafter referred to as the Buyer, on the other part, have concluded the present Contract to the following effect:

ПТА "Ника", г. Нижний Новгород, Российская Федерация, именуемая в дальнейшем "Продавец", с одной стороны, и _____, именуемый в дальнейшем "Покупатель", с другой стороны, заключили настоящий Контракт о нижеследующем:

1. SUBJECT MATTER OF THE CONTRACT

1. ПРЕДМЕТ КОНТРАКТА

1.1. The Seller has sold and the Buyer has bought f.o.b. Odessa (Incoterms ICC 1990) _____ in the amount of about 12 (twelve) tons as per Specifications (Appendix No 1). The above Specifications form an integral part of the present Contract.

1.1. Продавец продал и Покупатель купил на условиях фоб г. Одесса (Инкотермс МТП 1990) _____ в количестве около 12 (двенадцати) тонн согласно Спецификации (Приложение № 1), являющейся неотъемлемой частью настоящего Контракта.

2. PRICE AND TOTAL AMOUNT

2.1. Price per ton - ____ US dollars. Prices to be firm for the whole period of the Contract.

2.2. Total amount of the Contract - approximately ____ US dollars.

3. TERMS OF PAYMENT

3.1. Payment for the goods delivered under the present Contract shall be made by the Buyer in US dollars against the following set of documents in the Buyer's bank: _____

for collection:

- a) Bill of Lading - 1 original and 1 copy;
- b) the Seller's Invoice - 1 original and 1 copy;
- c) the Seller's Certificate of Quality - 1 original and 1 copy.

4. DATES OF DELIVERY

4.1. The goods as per Appendix No 1 shall be delivered within 50 days after the date of signing the Contract. Date of delivery is understood as date of Bill of Lading.

5. LIABILITIES

5.1. In the event of delay in delivery when the Seller fails to meet the date stated in the Contract the Seller is to pay to the Buyer the penalty according to a convention

2. ЦЕНА И ОБЩАЯ СТОИМОСТЬ

2.1. Стоимость одной тонны - долларов США. Цены остаются неизменными на весь период действия Контракта.

2.2. Общая стоимость Контракта - около _____ долларов США.

3. УСЛОВИЯ ПЛАТЕЖА

3.1. Платеж за товар, поставляемый по настоящему Контракту, производится Покупателем в долларах США против следующих документов на инкассо в банке Покупателя:

- a) бортовой коносамент - 1 оригинал и 1 копия;
- б) счет Продавца - 1 оригинал и 1 копия;
- в) сертификат качества Продавца - 1 оригинал и 1 копия.

4. СРОКИ ПОСТАВКИ

4.1. Товары, согласно Приложению № 1, должны быть поставлены в течение 50 суток со дня подписания Контракта. Датой поставки считается дата бортового коносамента.

5. ОТВЕТСТВЕННОСТЬ СТОРОН

5.1. В случае задержки поставки товара в сравнении со сроком, указанным в Контракте, Продавец выплачивает Покупателю конвенционный

provided there is no infringement of other rights of the Buyer concerning the delay in delivery. This penalty according to a convention is at the rate of 0.5% for every calendar week of the delay within the first 4 weeks and 1% for every subsequent calendar week of the total Contract value but not more than 10%.

6. PACKING, MARKING, SHIPMENT

6.1. Sacks of 25 kg in a 20-foot container.

6.2. Packing of the goods shipped should provide proper conditions for the goods while shipment, loading and unloading.

6.3. Immediately after shipment of the goods the Seller should send by telex or fax the following information to the address of the Buyer:

- number of the Contract;
- number of Bill of Lading and Container;
- total number of consignments;
- gross weight;
- net weight.

6.4. Shipment shall be made to the address _____

7. QUALITY

штраф, если при этом исключены нарушения других прав Покупателя, связанные с задержкой поставки. Этот конвенционный штраф составляет 0,5% за каждую календарную неделю задержки в первые четыре недели и 1% за каждую следующую календарную неделю задержки от общей стоимости Контракта, но не более 10%.

6. УПАКОВКА, МАРКИРОВКА, ОТГРУЗКА

6.1. Мешки по 25 кг в 20-ти футовом контейнере.

6.2. Упаковка отгружаемых товаров должна обеспечивать сохранность товаров при транспортировке и при погрузочно-разгрузочных работах.

6.3. Немедленно после отгрузки товара Продавец обязан сообщить телексом или факсом в адрес Покупателя следующую информацию:

- номер Контракта;
- номер бортового коносамена и контейнера;
- общее количество мест;
- вес брутто;
- вес нетто.

6.4. Отгрузка производится в адрес: _____

7. КАЧЕСТВО

7.1. The quality of the goods is to be in strict conformity with the technical data of the manufacturing plant and must be confirmed by the Certificate of Quality issued by the plant or by the Seller's Letter of Guarantee.

8. ACCEPTANCE

8.1. The goods are to be considered as delivered by the Seller and accepted by the Buyer: according to quality stated in Certificate of Quality of the manufacturing plant or in the Seller's Letter of Guarantee and according to quantity stated in the waybill.

9. GUARANTEE

9.1. Should any shortage be found in the goods delivered or should the quality of the goods be found not to correspond to the technical conditions of the Contract the Buyer shall have the right to submit a claim to the Seller within 30 days from the date of receipt of the goods in the port of destination. In this case the Buyer shall send to the Seller the documents substantiating the claim compiled with the participation of a representative of a neutral, competent organization. Should the claim prove to be justified, the Seller shall compensate for shortage or faulty goods within the least possible time to be fixed between the Parties. Ways of compensation, such as recovery of short shipped quantity, replacement of faulty goods free of charge or reimbursement of their value, shall be determined by

7.1. Качество товара должно отвечать техническим нормам завода-изготовителя и подтверждаться сертификатом качества завода-изготовителя или гарантийным письмом Продавца.

8. ПРИЕМКА

8.1. Товар считается переданным Продавцом и принятым Покупателем: по качеству, согласно сертификату качества завода-изготовителя или гарантийному письму Продавца, и в количестве согласно накладной.

9. ГАРАНТИЯ

9.1. В случае обнаружения недовеса в поставленных товарах или несоответствия качества товаров техническим условиям Контракта, в течение 30 дней с даты получения товара в порту назначения Покупатель имеет право предъявить претензию Продавцу. В этом случае Покупатель направляет Продавцу документы, подтверждающие претензию, которые составлены при участии представителя нейтральной компетентной организации. Если претензия окажется обоснованной, Продавец компенсирует недопоставленные либо некачественные товары в течение кратчайшего срока, установленного сторонами. Способы компенсации, такие как возмещение недостающего количества, замена некачест-

negotiations between the Parties.

10. FORCE MAJEURE

10.1. Should any circumstances arise which prevent the complete or partial fulfilment by any of the Parties of their respective obligations under this Contract, namely: fire, flood or earthquake, the time stipulated for the fulfilment of the obligations under the Contract will be extended for the corresponding period of time. If the above circumstances continue to be in force for more than 4 months each Party will have the right to refuse any further fulfilment of the obligations under the Contract and in such case neither of the Parties will have the right to make a demand upon the other Party for compensation of any possible losses. The Party for whom it becomes impossible to meet its obligations under the Contract will immediately but not later than 10 days advise the other Party as regards the beginning and cessation of the circumstances preventing the fulfilment of its obligations. Certificates issued by the respective Chambers of Commerce of the Seller's or the Buyer's country will be sufficient proof of such circumstances and their duration. In case any of the Parties fail to inform the other Party of the beginning or cessation of these force-majeure circumstances

венных товаров бесплатно или возмещение их стоимости, определяются в результате переговоров между обеими сторонами.

10. ОБСТОЯТЕЛЬСТВА НЕПРЕОДОЛИМОЙ СИЛЫ

10.1. При возникновении обстоятельств, которые мешают выполнению частично или полностью своих обязательств по Контракту одной из сторон, а именно: пожар, наводнение, землетрясение, срок выполнения обязательств переносится на соответствующее время. Если обстоятельства, упомянутые выше, продлятся более 4 месяцев, каждая из сторон имеет право отказаться от дальнейшего выполнения своих обязательств, при этом ни одна из сторон не имеет права требовать от другой стороны возмещения возможного ущерба. Сторона, для которой стало невозможным выполнение своих обязательств по Контракту, немедленно и не позднее, чем в течение 10 дней сообщает другой стороне о сложившихся обстоятельствах и событиях. Справки, выданные Торговой палатой страны Покупателя или Продавца, являются достаточным доказательством возникновения подобных обстоятельств и их продолжительности. Если сторона не сообщит или несвоевременно сообщит о возникновении обстоятельств форс-мажор, это лишает ее права ссылаться на них.

in due time it deprives it of the right to refer to these circumstances.

11. ARBITRATION

11.1. In case of disputes or disagreements arising out of the present Contract or in connection with it the Parties shall do their utmost to settle such dispute or disagreement in any amicable way. If no settlement is achieved the dispute or disagreement is subject to consideration and final settlement by the Arbitration Court of Chamber of Commerce of the Russian Federation, Moscow, without recourse to commercial courts or courts of justice. The ruling of the said Arbitration shall be final and binding upon both Parties.

12. OTHER CONDITIONS

12.1. Neither of the Parties shall have the right to assign its rights and obligations under this Contract to any third Party without a written consent of the other Party. All bank charges in the Seller's country are to be borne by the Seller and all bank charges in the Buyer's country are to be borne by the Buyer.

12.2. All amendments and additions to the present Contract are valid only if they are made in writing and signed by duly authorized representatives of both Parties.

11. АРБИТРАЖ

11.1. В случае возникновения споров или разногласий, вытекающих из настоящего Контракта или связанных с ним, стороны примут все меры к урегулированию такого спора или разногласия дружественным путем. Если согласие не будет достигнуто, спор или разногласие подлежат рассмотрению и окончательному решению Арбитражным судом при Торгово-промышленной палате Российской Федерации, Москва, причем обращения в юридические или коммерческие инстанции исключаются. Решение Арбитража окончательно и обязательно для обеих сторон.

12. ПРОЧИЕ УСЛОВИЯ

12.1. Ни одна из сторон не имеет права передавать свои права и обязанности по настоящему Контракту третьему лицу без письменного согласия другой стороны. Все банковские расходы на территории страны Продавца относятся на счет Продавца, на территории страны Покупателя - на счет Покупателя.

12.2. Изменения и дополнения к настоящему Контракту действительны лишь тогда, когда они оформлены письменно и подписаны полномочными представителями обеих сторон.

12.3. After signing of the present Contract all previous negotiations and correspondence between the Parties shall be considered null and void.

12.4. The present Contract has been signed in Nizhny Novgorod in two copies, one for each Party, in Russian and in English, both texts being equally valid and consisting of 4 pages including Appendix.

13. LEGAL ADDRESSES

SELLER:

BUYER:

12.3. После подписания данного Контракта теряют силу все связанные с ним предыдущие переговоры и корреспонденция.

12.4. Настоящий Контракт подписан в г. Н.Новгороде в двух экземплярах на русском и английском языках, причем оба текста имеют одинаковую силу и содержат вместе с приложением 4 страницы.

13. ЮРИДИЧЕСКИЕ АДРЕСА СТОРОН

ПРОДАВЕЦ:

ПОКУПАТЕЛЬ:

Exercises

Exercise 1. Read the text of the Contract and give the English for:

стороны заключили настоящий Контракт о нижеследующем; являться неотъемлемой частью настоящего Контракта; датой поставки считается дата бортового коносамента; конвенциональный штраф; штраф в размере; погрузочно-разгрузочные работы; завод-изготовитель; технические нормы; гарантийное письмо Продавца; нейтральная компетентная организация; документы, подтверждающие претензию; возмещение недостающего количества; замена некачественных товаров бесплатно; возмещение стоимости товаров; обстоятельства непреодолимой силы; урегулировать спор дружественным путем; споры или разногласия, вытекающие из настоящего Контракта или связанные с ним; подлежать рассмотрению и окончательному решению; третье лицо; передавать права и обязанности по Контракту; банковские расходы; полномочные представители сторон; терять силу (быть недействительным); юридический адрес.

Exercise 2. Translate the sentences into English:

1) В случае задержки поставки товара Продавец выплачивает конвенционный штраф, если при этом исключены нарушения других прав Покупателя, связанные с задержкой поставки.

2) В случае обнаружения недовеса в поставленных товарах или несоответствия качества товаров техническим условиям Контракта Покупатель имеет право предъявить претензию Продавцу.

3) Если претензия окажется обоснованной, Продавец компенсирует недопоставленные либо некачественные товары.

4) При возникновении обстоятельств, которые мешают выполнению обязательств по Контракту одной из сторон, срок выполнения обязательств переносится на соответствующее время.

5) Если сторона не сообщит или несвоевременно сообщит об обстоятельствах форс-мажор, это лишает ее права ссылаться на них.

6) В случае возникновения споров или разногласий, вытекающих из настоящего Контракта или связанных с ним, стороны примут все меры к урегулированию такого спора или разногласия дружественным путем.

Exercise 3. Translate the following into Russian using a dictionary, if necessary:

1) The Seller is to insure the goods for his account against all usual marine risks with Ingosstrakh of Russia for the amount of the invoice value of the goods plus 10 per cent. The goods may be insured against war and other risks upon special request of the Buyer and for the Buyer's account. The Insurance Policy or Certificate of Ingosstrakh of Russia is to be made out in the name of the Buyer or another person according to his instructions and is to be sent together with the other shipping documents.

2) Should any circumstances arise which prevent the complete or partial fulfilment by any of the parties of their respective obligations under this Contract, namely: fire, ice conditions or any other acts of the elements, war, military operations of any character, blockade,

prohibition of export or import or any other circumstances beyond the control of the parties, the time stipulated for the fulfilment of the obligations shall be extended for a period equal to that during which such circumstances last.

3) Any dispute or difference which may arise out of or in connection with the present Contract shall be settled, without recourse to courts of law, by the Foreign Trade Arbitration Commission of the Russian Chamber of Commerce in Moscow in accordance with the Rules for Procedure of the said Commission. The awards of this Arbitration shall be considered final and binding upon both parties.

4) All taxes, customs and other dues connected with the conclusion and fulfilment of the present Contract, levied within Russia, except those connected with the Letter of Credit, to be paid by the Seller, and those levied outside Russia to be paid by the Buyer.

5) The Supplier guarantees that the goods are in all respects in accordance with the description, technical conditions and specifications of the order, that they are free from defects in material, design and workmanship and they conform to the Supplier's highest standards. Should the goods prove defective during the period of 12 months from the date of putting the machine, equipment or instruments into operation but not more than 18 months from the date of shipment, the Supplier undertakes to remedy the defects or to replace the faulty goods delivering them c.i.f. Baltic or Black Sea port at the Buyer's option, free of charge, or to refund the value of the goods paid by the Buyer.

Lesson 4. Contract for Sale/Purchase of Goods (Continued)

The following articles may be included into a contract:

Packing and Marking

1. The equipment is to be shipped in export packing corresponding to the nature of each particular type of the equipment.

2. The packing is to secure the full safety of the goods from any kind of damage and corrosion during its transportation. The goods are to be packed so as not to allow for their free movement inside the package when it changes its position.

3. The Seller shall be responsible to the Buyer for any damage to the goods owing to the improper packing.

4. Should separate parts of equipment exceed the overall dimensions, permitted for the transportation by railway, the Seller is to agree upon such dimensions of the cases with the Buyer before manufacturing the equipment.

5. The cases in which the equipment is packed are to be marked on three sides - on two opposite sides and on the top of the case.

6. The marking shall be clearly made with indelible paint both in _____ and in the Russian languages, stating as follows:

Contract No

Trans No

Case No

Net weight

Gross weight

Dimensions of the case in cm (length, width, height)

7. The packages for which special handling is required shall have additional marking: "Handle with care", "Top", "Do not turn over".

8. On oversize and heavy packages as well as on the cases the height of which exceeds one meter and/or the weight exceeds 500 kg three must be shown the center of gravity on each package with the indelible paint by the mark + and the letters IIT.

9. The Seller is responsible for additional transport and storage charges incurred due to the dispatch to a wrong address caused by improper or incorrect marking.

Export Licence

1. The Seller will take care of and bear all the expenses connected with obtaining the necessary licence for the exportation of the goods under the present Contract to the RF. Not later than the signing of the Contract the Seller is to advise the Buyer if the export licence is granted.

2. In case the Seller is unable to obtain the export licence or the export licence is revoked by the appropriate authorities of the Seller's

country before the end of deliveries or should its validity expire, the Buyer has the right to cancel the Contract wholly or partially.

3. Should the Contract be cancelled the rights and the obligations of the Parties are to be defined in conformity with Clause...

Insurance

1. The Buyer shall take care of and cover expenses for insurance of the goods with Ingosstrakh RF from the moment of their dispatch from the Seller's works up to the moment of arrival of the same at the Buyer's works.

2. The expenses for insurance from the Seller's works up to the moment of loading at the rate of ___% of the insurance amount are to be charged to the Seller's account and deducted from the Seller's invoices at the time payments are effected.

3. Insurance within the whole period of transportation and transshipment will be effected on the conditions of «Responsibility for Particular Average» according to item 2, paragraph 2 of the «Rules of Transport Insurance of the Goods», Ingosstrakh, including damages to the goods caused by cranes, oil, fresh water (excluding moistening) and by other cargo, breakage, theft of the whole cases or their parts and non-delivery of cases in all the above mentioned circumstances independent of a degree of the damage.

4. Within _____ months upon signing the Contract the Buyer is to send to the Seller the Insurance Policy issued in the name of the Seller covering insurance of the goods from the Seller's works up to f.o.b. port of _____ .

Vocabulary:

<i>indelible paint</i>	- несмываемая краска
«Handle with care»	- «Осторожно»
«Do not turn over»	- «Не кантовать»
<i>oversize package</i>	- негабаритное место
<i>heavy package</i>	- тяжеловесное место
<i>storage charges</i>	- складские расходы
«Responsibility for Particular Average»	- «С ответственностью за частную аварию»
«Rules of Transport Insurance of the Goods»	- «Правила транспортного страхования грузов»

Exercises

Exercise 1. Read the text above and give the English for:

экспортная упаковка; обеспечивать полную сохранность груза; повреждение вследствие ненадлежащей упаковки; габаритные размеры; аннулировать экспортную лицензию; компетентные органы; страховая сумма; удерживаться при оплате счетов; процент повреждения.

Exercise 2. Translate the sentences from Russian into English:

1. Упаковка должна обеспечивать полную сохранность груза от всякого рода повреждений и коррозии.

2. Ящики, в которых упаковано оборудование, маркируются с трех сторон - на двух противоположных боковых сторонах и сверху ящика.

3. Маркировка наносится четко, несмываемой краской.

4. Места, требующие специального обращения, имеют дополнительную маркировку «Осторожно» и «Не кантовать».

5. На каждом грузовом месте расположение центра тяжести указывается знаком + и буквами ЦТ.

6. Продавец возмещает дополнительные складские расходы, возникшие в связи с поставкой оборудования по неправильному адресу.

7. Если до окончания поставки экспортная лицензия аннулируется компетентными органами, Покупатель имеет право расторгнуть контракт полностью или частично.

8. Покупатель принимает на себя заботы и расходы по страхованию товара в Управлении иностранного страхования РФ (Ингосстрах).

9. ___% страховой суммы относятся на счет Продавца и удерживаются Покупателем при оплате счетов за оборудование.

10. Страхование распространяется на случаи повреждения грузов кранами, маслом, пресной водой (исключая отпотевание) и другими грузами.

Exercise 3: Translate the text above into Russian.

Exercise 4: Translate the following into English:

Продавец осуществляет страхование товаров, поставляемых на условиях СИФ, Болгарский порт, против обычных морских рисков с Ингосстрахе, в соответствии с «Правилами транспортного страхования». Страхование производится на всю стоимость товара на условиях «от всех рисков».

Все претензии, которые могут возникнуть в связи с утратой и повреждением товара во время транспортировки, должны разрешаться Продавцом непосредственно с Ингосстрахом.

Любой риск утраты или повреждения товара переходит с Продавца на Покупателя с момента погрузки товара на борт судна в порту погрузки.

Lesson 5. Contract for Sale/Purchase of Goods (Continued)

Example 2

C O N T R A C T

This Contract has been made and entered into at New Delhi (India) on the 3rd September, 1990,

BETWEEN

OIS-OM INTER SERV PVT LTD W-499 Greater Kailash Road,
New Delhi - 110048 India,

represented by its Chairman, Mr. Mohan SHAH, hereinafter called the "PURCHASER",

AND

R.A.M.A., 18 Rue Jean Goujon, 25008 PARIS (France),

represented by its Managing Director, Mr. Philippe DURAND, hereinafter called the "SELLER".

WHEREAS:

(1) The Government of India is planning the implementation of a program involving the design, the engineering, the supply, the construction, the installation and the commissioning of various educational TV rural schemes.

(2) The PURCHASER has been selected and appointed by the GOI to execute and carry out work in relation to this project and awarded an open general import license No 90/KL/M/72309 G on 19.07.1990.

(3) The SELLER has submitted an offer to the PURCHASER on 27.02.1990 for supply of miscellaneous equipment (hereinafter referred to as the "EQUIPMENT") in relation to this project.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

(1) In this Contract words and expressions shall have meanings assigned to them, except where the context otherwise requires.

(2) The PURCHASER and the SELLER when intended to be referred to together are hereinafter called the "Parties".

(3) In consideration of the payment to be made by the PURCHASER to the SELLER as hereinafter mentioned, the SELLER covenants with the PURCHASER to supply the EQUIPMENT in conformity in all respects with the provisions of his offer dated 27.02.1990.

(4) The PURCHASER hereby covenants to pay the SELLER in consideration of the supply of the EQUIPMENT the Contract price at the times and in the manner prescribed hereinafter.

(5) The present Contract will come into force when all of the following conditions shall be complied with by the PARTIES:

- Signature of the present Contract by the PARTIES,

- Receipt by the SELLER of the Letter of Credit opened by the PURCHASER in accordance with clause 5 hereafter.

AGREED:

(1) THE EQUIPMENT

1,350 - (One thousand three hundred and fifty) - Black and White Receivers adapted and tuned to Indian standards (5,5 MHZ), as per technical specifications, operating procedures and drawings attached hereto, which shall be deemed to form and read and construe as part of this Contract.

Individual packing for airshipment, including 2 silica gel bags (200 grs. each).

Spare parts as per list attached hereto, which shall be deemed to form and read and construe as part of this Contract.

The SELLER guarantees that all the EQUIPMENT (including spare parts) supplied under this Contract is free from defects. Such a guarantee is limited to a period (hereinafter called the "THE DEFECT LIABILITY PERIOD") of 18 months as from the date of dispatch from France or 12 months as from the date of commissioning on site, whichever is the earliest.

If any such defect shall appear during the DEFECT LIABILITY PERIOD, the PURCHASER shall forthwith inform the SELLER, stating in writing the nature of the defect. The SELLER undertakes to make good such defect by repairing or replacing at his own option and cost the defective part(s).

The PARTIES agree that the DEFECT LIABILITY PERIOD will not be extended by a period equal to the period during which the EQUIPMENT cannot be used by reason of that defect, nor will the repair and/or replacement of defective parts give rise to an extension of the DEFECT LIABILITY PERIOD for said parts.

The SELLER will not be liable to replacing and/or repairing any defective part(s) of the EQUIPMENT, resulting from causes such as - but not limited to - normal wear and tear, improper use, lack or insufficient maintenance, modifications or repairs carried out without the consent of the SELLER.

Maintenance documentation in English will be supplied in ten copies.

(2) CONTRACT PRICE

1,400 French Francs per receiver (including spare parts), FCA Paris (Charles de Gaulle) AIRPORT (Incoterms ICC 1990). Total contract price: 1,890,000 FF (One million eight hundred and ninety thousand French Francs).

Commercial invoices to be made out in French Francs. Payments to be effected in French Francs.

(3) DELIVERY

Airshipment to be effected not later than 31st October 1990, as per schedule of deliveries attached hereto, which shall be deemed to form and read and construe as part of this Contract.

The PURCHASER shall issue appropriate instructions as to the shipping arrangements not later than 16th October 1990.

Documentation shall be prepared in accordance with the requirements of the Letter of Credit (referred to in Clause 5 hereafter) to be opened by the PURCHASER in favour of the SELLER and limited to AWB, Commercial Invoices, Packing List, Certificate of Origin.

Should Test Certificates be required, all costs resulting therefrom, shall be borne and paid by the PURCHASER.

(4) LOSS, DAMAGE AND DELAY

Risk of loss and/or damage of the EQUIPMENT, or any part thereof, shall pass onto the PURCHASER upon delivery of the EQUIPMENT or part thereof to the carrier or another person (e.g. freight forwarder) named by the PURCHASER or chosen by the SELLER in the case the PURCHASER fails to give appropriate instructions in this respect, as provided in Clause 3 hereabove. Insurance cover will be taken care of by the PURCHASER at his own cost.

The SELLER shall not be liable for failure to perform or for delay in performance due to fire, flood, strike, or another labour difficulty, act of the PURCHASER or of any civil or military authority, insurrection, riot, embargo, vehicle and/or aircraft shortage, wreck or delay in transportation, inability to obtain necessary labour or manufacturing facilities from usual sources, late performance by the SELLER's suppliers, or due to any other cause beyond the SELLER's reasonable control.

In the event of delay in performance due to any such cause, the date of delivery may be postponed for such length of time as may be

reasonable, necessary to compensate for the delay and the PURCHASER undertakes to amend accordingly the terms and conditions of the Letter of Credit referred to in Clause 5 hereafter.

(5) PAYMENT

The PURCHASER shall open an irrevocable, transferable, divisible documentary credit in favour of the SELLER. Partial shipments and transshipment allowed.

The Letter of Credit shall be confirmed by a bank in France, preferably BANQUE FRANÇAISE DU COMMERCE EXTERIEUR, Paris, or SOCIETE GENERALE, Paris, and provide for the following terms of payment:

- 20 percent advance payment against submission of a bank guarantee for same amount, to be released upon presentation of the documents called for in the Letter of Credit,

- 80 percent upon presentation of the documents called for in the Letter of Credit.

All bank charges outside India shall be borne by the SELLER.

(6) LANGUAGE AND GOVERNING LAW

The ruling language to which this Contract is to be subject is English.

The rights and obligations of the PARTIES shall be construed, enforced and performed in accordance with the laws of India.

(7) SETTLEMENT OF DISPUTES

All disputes or differences of any kind in connection with or arising out of this Contract (whether before or after its termination, abandonment or breach) which cannot be settled amicably shall, upon any of the PARTIES' giving notice in writing to the other PARTY, be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed under such rules.

The place of arbitration shall be London (UK). All proceeding and published findings shall be in the English language.

The arbitral award shall be binding on the PARTIES and become enforceable immediately.

IN WITNESS whereof, the PARTIES hereto have executed this Contract in two original copies through their duly authorized representatives, as of the day and year first above written.

For and on behalf of

For and on behalf of

OIS-OM INTER SERV
PVT LTD

R.A.M.A. S.A.

Vocabulary:

<i>commissioning</i>	- ввод в эксплуатацию
<i>a general import license</i>	- генеральная импортная лицензия
<i>miscellaneous equipment</i>	- различное оборудование
<i>in consideration of</i>	- в виде компенсации
<i>in consideration of delivery (payment)</i>	- в счет поставки (платежа)
<i>to covenant</i>	- взять на себя обязательства
<i>hereby</i>	- настоящим
<i>to come into force</i>	- вступать в силу
<i>to become enforceable</i>	
<i>operating procedures</i>	- инструкция по эксплуатации
<i>to be deemed to form, read and construe as part of this Contract</i>	- являться неотъемлемой частью настоящего контракта
<i>silica gel</i>	- силикагель
<i>defects</i>	- зд.: дефекты и неисправности
<i>the defect liability period</i>	- гарантийный срок
<i>forthwith</i>	- тотчас, немедленно
<i>to make good defect</i>	- устранять дефекты и неисправности
<i>normal wear and tear</i>	- естественный износ
<i>maintenance</i>	- техническое обслуживание
<i>FCA ("Free Carrier")</i>	- условия поставки "франко-перевозчик"
<i>a schedule of deliveries</i>	- график поставок
<i>AWB (airway bill)</i>	- авиатранспортная накладная
<i>Certificate of Origin</i>	- сертификат происхождения
<i>a carrier</i>	- перевозчик (транспортная компания)

<i>documentary credit</i>	- документарный аккредитив
<i>a bank guarantee</i>	- банковская гарантия
<i>governing law</i>	- регулирующее законода- тельство
<i>Rules of Conciliation and Arbitration</i>	- Правила примирения и арбитража
<i>an arbitrator</i>	- арбитражный судья, судья арбитража
<i>proceedings</i>	- зд.: документы, материалы
<i>in witness whereof</i>	- в удостоверение чего

Exercises

Exercise 1. Translate the Contract into Russian.

Exercise 2. Translate from Russian into English:

1) Проект включает установку и ввод в эксплуатацию оборудования.

2) Продавец берет на себя обязательство поставить Покупателю в счет осуществленного им платежа оборудование в полном соответствии с коммерческим предложением.

3) Покупатель осуществляет платеж в сроки и в форме, указанные ниже.

4) Настоящий Контракт вступает в силу с момента подписания его сторонами.

NOTE:

1. FCA (Free Carrier (... named place)) means that the seller fulfils his obligation to deliver when he has handed over the goods, cleared for export, into the charge of the carrier named by the buyer at the named place or point. If no precise point is indicated by the buyer, the seller may choose within the place or range stipulated where the carrier shall take the goods into his charge. When, according to commercial practice, the seller's assistance is required in making the contract with the carrier (such as in rail or air transport) the seller may act at the buyer's risk and expense. This term may be used for any mode of transport, including multimodal transport.

"Carrier" means any person who, in a contract of carriage, undertakes to

perform or to procure the performance of carriage by rail, road, sea, air, inland waterway or by a combination of such modes. If the buyer instructs the seller to deliver the cargo to a person, e.g. a freight forwarder who is not a "carrier", the seller is deemed to have fulfilled his obligation to deliver the goods when they are in the custody of that person.

From: *Incoterms ICC 1990*

2. ICC Arbitration. Contracting parties that wish to have the possibility of resorting to ICC Arbitration in the event of a dispute with their contracting partner should specifically and clearly agree upon ICC Arbitration in their contract or, in the event no single contractual document exists, in the exchange of correspondence which constitutes the agreement between them. The fact of incorporating one or more Incoterms in a contract or the related correspondence does NOT by itself

5) Продавец устраняет дефекты и неисправности путем ремонта оборудования или замены деталей по своему выбору.

6) Продавец не несет ответственность за дефекты и неисправности, возникающие вследствие недостаточного техобслуживания или его отсутствия.

7) Коммерческие счета-фактуры выписываются на французском языке.

8) Отгрузка авиатранспортом осуществляется согласно графику отгрузки, который является неотъемлемой частью настоящего Контракта.

9) Риск потери или повреждения оборудования переходит к Покупателю в момент передачи оборудования перевозчику или экспедитору, назначенному Покупателем.

10) Языком настоящего Контракта является английский язык.

11) Все споры и разногласия, вытекающие из настоящего Контракта или связанные с ним, подлежат рассмотрению после направления одной из сторон письменного уведомления другой стороне, одним или несколькими арбитражными судьями.

12) В подтверждение вышеизложенного стороны заключили настоящий Контракт в двух экземплярах в день, месяц и год, указанные выше.

Exercise 3. Translate the following into Russian using dictionary, if necessary:

1) Within ... days of the date of the signing of the present Contract the Seller is to send the Buyer two copies of the following drawings and technical documents for each complete machine:

General view and assembly drawings with main sized of the equipment as well as a detailed specification of all parts and assemblies of the machine.

Detailed technical description of the machine.

Technical conditions for testing the equipment; erection, maintenance and operation instructions, lubrication systems, etc.

Foundation and installation drawings.

Working drawings of the rapidly wearing-out parts of the machine.

All printed materials as well as inscriptions on the drawings are to be made in the Russian language.

In addition two copies of the above drawings and technical documents as well as the Certificate of Quality of the equipment or the Test Report stating that the equipment is manufactured in accordance with the conditions of the Contract are to be wrapped in waterproof paper and packed in case No 1 together with the equipment.

If the drawings and technical documentation are not placed in the case or not sent to the Buyer beforehand, the delivery is considered non-complete, and in this case the guarantee period is to begin on the date of receipt of the complete set of drawings and technical documents by the Buyer.

2) Should the equipment prove to be defective during the period of guarantee, or should it not correspond to the conditions of the Contract, or not reach the ordered capacity, the Seller undertakes at the Buyer's option either to remedy the defects or to replace the defective equipment by new equipment to be delivered without any delay c.i.f. All the expenses incurred in this connection are to be borne by the Seller.

If the elimination of the defects is effected by the Buyer by mutual agreement between the parties, the Seller is to compensate the Buyer for all the expenses incurred by him in connection with this elimination.

In case the elimination of defects or the replacement of faulty equipment or parts takes place, the guarantee period is to be prolonged for the period used for such elimination or replacement.

If neither party can eliminate the defects, the Buyer has the right either to demand from the Seller a proportionate decrease in the price of

the equipment delivered or to cancel the Contract and in this case the Seller is to compensate the Buyer for the losses sustained by him.