THE DIVERSE TYPES OF CONTRACTS UNDER CARRIAGE OF GOODS BY SEA.

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1. Introduction

This paper will attempt to spotlight some salient legal aspects of international trade contracts as it affects the Maritime Industry.We shall focus on the contract of carriage by sea, contract of sale, marine insurance and documentary credits. These are important aspects of the shipping law which are becoming increasingly salient in the field of international commerce.
We shall identify the local legislations (if any) regulating the field, and we shall also consider the application of such legislation(s) in the light of any judicial pronouncements on that point. Furthermore, we shall consider the application of the principles of the common law and equity in these areas, together with the English and Nigerian case law which developed around the common law principles.

1.1. Contract of Carriage by Sea

The contract of carriage by sea is an aspect of the shipping law which has attracted strategic significance because the bulk of international trade is transacted through this medium. Carriage of goods may be by land (railway transport and road transport), by air, or by sea. In this paper, we shall focus on the contract of carriage by sea.
In Nigeria, there is an eye-catching absence of legislation in this aspect of the law. The only statute regulating the field is the Carriage of Goods by Sea Act[1]. The Act incorporated into our legal system, what is generally referred to as the Hague Rules.

The Rules were made at the International Conference on Maritime Law, held at Brussels, in October 1922 when Nigeria was still a dependent nation.[2]A proper study of the subject of carriage by sea will raise the preliminary consideration of the term "common carrier".

1.2. Common Carrier

A common carrier is a person, or an association of persons, who follows the public vocation of a carrier, and undertakes generally to carry the goods of any person from one place to another in consideration of a payment in money, provided that he has room in his conveyance. It is important that he must publicly profess to carry goods for hire as a business and not as a casual employment.

[1]Cap. 44Vol II Laws of the Federation of Nigeria 1990
[2]Peter .A. Akhihiero Esq., Contracts of Carriage by Sea, Sale, Marine Insurance and Documentary Credits, A Paper Presented At The Shippers Enlightenment Workshop On International Trade Contracts And Shipping Procedures Organized By Nigerian Shippers' Council At Bishop Kelly Pastoral Centre, Airport Road, Benin City On The 13th Of December, 2005, pp 2 -6

A common carrier may operate with respect to a particular class of goods so long as he undertakes to carry for everyone. But where a person reserves to himself, the right to reject goods whether his conveyance was full or empty, then he is not a common carrier but may be a private carrier. Thus, a common carrier is under a duty to accept goods tendered to him for carriage. As we shall see, a common carrier has heavy responsibility which approximates to that of absolute liability.

It is always necessary to distinguish between one who is a common carrier and one who is not. An ordinary or private carrier is liable only as a bailee of the goods carried, i.e. he is only liable for negligence on the part of himself or his servants, whereas a common carrier is saddled with strict liability. Common carriers therefore occupy a similar position to that of insurers of goods. To the rule of strict liability of the common carrier, there are some exceptions:

(i) The Act of God. Generally where there is unforeseen loss or damage arising from natural forces outside human control e.g. storm, earthquake, flood, etc.

(ii) Loss from war.

(iii) Inherent defect in the goods.

(iv) Negligence of the consignor

Notwithstanding these well known exceptions, it has always been the practice for carriers to mitigate the rigors of this strict rule by the use of exemption clauses in the contract of carriage. However, whenever the courts are called upon to interpret such clauses, they construe them strictly against the carrier. Thus, if the clause is vague or unclear, no effect would be given to it.

2. **The Hague Rules on Carriage by Sea**

As earlier observed, the Hague Rules have been codified in Nigeria in the Carriage of Goods by Sea Act[3]. The Act established a set of standard rules which are deemed to be incorporated in all bills of lading. Such bills include all bills of lading issued in respect of voyages from any port in Nigeria, for outward shipments. The Rules do not apply to contracts for the carriage of live animals or cargoes which are agreed to be carried and are carried on deck[4].

[3]Cap. 44 Vol II, Laws of the Federation of Nigeria 1990

[4]Art. I of the Schedule to the Act

Secondly, the Rules do not apply to charter-parties simpliciter, but apply to a bill of lading issued under a charter-party from the moment at which such a bill of lading regulates the relations between a carrier and a holder of the same[5].

In a nutshell, the aim of the Rules is to relieve a ship owner from his common law absolute liability. Hence, he is only liable for negligence and is granted certain immunities.

The major provisions of the Rules are:

(i) There shall no longer be any implied warranty of seaworthiness in any contract of carriage to which the Rules apply. However, there is a duty on the carrier, to exercise due diligence to make the ship seaworthy at the beginning of the voyage, to man, equip and supply the ship properly and to make the holds, refrigerating and cool chambers fit to receive and preserve the cargo.

(ii) The carrier must properly and carefully load, handle, stow, keep, care for and discharge the goods carried.

(iii) After receiving the goods, the carrier shall on demand of the shipper issue to the shipper a bill of lading showing inter alia the identification of the goods, the quantity and quality of the goods and the apparent condition of the goods.

(iv) The bill of lading is prima facie evidence of the receipt by the carrier of the goods as described.

(v) Removal of the goods at the port of discharge into the custody of the person entitled to delivery is prima facie evidence that the goods have been delivered as described in the bill of lading, unless:

  (a) in the case of loss or damage which is apparent, notice is given before, or at the time of removal;

  (b) In the case of loss or damage which is not apparent, notice is given within three days of removal.

(vi) In any event the carrier and the ship will be discharged from all liabilities in respect of loss or damage unless the suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

(vii) Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage arising from negligence, fault or failure in the duties and obligations imposed by the rules shall be null and void.

[5]Op Cit Art I

Article IV of the Rules enshrines some Rights and Immunities which can be summarized as follows:

(i) Neither the ship nor the carrier shall be responsible for loss or damage arising or resulting from :

(a) act, neglect or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship;

(b) fire, unless caused by the actual fault or privities of the carrier;

(c) perils, dangers and accidents of the sea or other navigable waters;

(d)– (f) act of God, war & public enemies

(g) arrest or restraint of princes, rulers or people, or seizure under legal process;

(h) quarantine restrictions;

(i) act or omission of the shipper or owner of the goods, his agent or representative;

(j)- (k) Strikes, lockouts, riots and civil commotions;

(l) saving or attempting to save life or property at sea;

(m) wastage or damage arising from inherent defect;

(n)- (o) Insufficiency of packing and marks

(p) latent defects not discoverable by due diligence;

(q) Any other cause arising without the actual fault or privities of the carrier or his servants or agents.

(ii) The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

(iii) Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding N200 per package unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

(iv) Goods of an inflammable, explosive or dangerous nature which the carrier, master or agent of the carrier has not consented to carry with knowledge of their nature may be discharged at any place or destroyed by the carrier without compensation.

2.1. Contract Of Affreightment

A contract to carry goods by sea or to provide a ship for that purpose, in consideration of a payment known as freight is called a Contract of Affreightment. Such a contract can be embodied in one or two forms, namely a Charter-Party or a Bill of Lading. We shall examine these two forms seriatim.[6]

2.2.Charter – Party

A charter-party is a contract between the chatterer and the ship owner by which the chatterer hires from the ship owner the use of the ship either for a journey (voyage) or a fixed period of time in consideration of a payment of money called the freight. Where the ship is hired for a particular voyage, it is called a "voyage charter", but when it is for a specified period, it is called a "time charter". The charter may be simple, as when one hires a vehicle or any equipment or the ship may be hired in the form of a lease so that the ship owner grants or leases the complete control of the ship to the chatterer. This is called "charter by demise". This is very rare today.

It is always important to determine whether a charter-party is a simple one or a charter by demise, because the liabilities of the chatterer and the ship owner may be called to question with regard to the goods on the vessel. In a simple charter the chatterer's interest lies in the transportation of his goods and he is not involved with the management of the ship.

The terms of the agreement embodied in a charter-party are different and many types of commercial undertakings have charter-party peculiarities. If the chatterer fails to load "a full and complete cargo", the ship owner has implied authority to load other cargo to fill up any space that may be left. Usually, the charter-party will stipulate the time for loading or discharging the goods. A penalty sum, called a demurrage will be fixed for payment if the chatterer exceeds the stipulated time.

2.2.1. The Bill of Lading

A person, who is desirous to carry his goods by sea, may make an agreement with the ship owner to carry his goods without hiring any particular ship. This type of agreement can be done through a bill of lading. A bill of lading performs three functions, namely:

(i) It is evidence of the terms of a contract of affreightment;

[6]Op Cit (note 5)

(ii) It is evidence of receipt for the goods to which it relates (i.e. evidence of shipment of goods.

(iii) It is a title document, which evidence that the holder of it has the property in the goods.

A bill of lading is the written evidence of a contract for the carriage and delivery of goods transported by sea for freight. It is essentially a contract of bailment. In the usual form of the contract, the undertaking is to deliver to the owner, or assigns of the shipper. By the delivery on board, the shipmaster acquires a special property to support that possession which he holds in right of another, and to enable him to perform his undertaking. The general property remains with the shipper of the goods, until he has disposed of it, by some act, sufficient in law to transfer property. A bill of lading is for a separate parcel or parcels of goods. It is a document of title transferable by endorsement and delivery, giving the holder, the right to sue thereon, but it is not a negotiable instrument, so that a transferee obtains no better title than the transferor possesses.

2.2.2 **Contract of Sale of Goods in International Trade**

In international trade, there are conflicting interests of the principal parties which must be identified from the onset. On the one hand, there is the interest of the seller who does not want to part with the goods until there is an assurance of payment. On the other hand, the buyer does not want to part with payment until he has assurance of possession of the goods. This conflict of interest can only be resolved by a contract of sale stipulating the mutual obligations of the parties to execute the contract.

There are various types of contracts of sale of goods in which the subject matter of the contract is being exported. We shall consider in broad principles, the major classifications of such contracts.

3.1 Cost Insurance And Freight Contracts

The law governing C.I.F. (Cost Insurance and Freight) contracts is derived from the customs and usages of merchants rather than being a product of legislation. In a C.I.F. contract, the price includes “cost insurance and freight”. It is the most common form of contract of sale of goods in international trade.

The essential characteristics of the seller's duties under a C.I.F. contract are:

(i) The seller has to ship goods of the contract description, at the port of shipment, within the time stipulated in the contract;

(ii) To arrange shipment or contract for the carriage of the goods;

(iii) To effect proper policy or policies of insurance on the goods, upon the terms current in the trade;

(iv) To obtain proper bills of lading for the goods;

(v) To make out an invoice of the goods;

(vi) To transfer the bill of lading, the invoice and the policies of insurance to the buyer within a reasonable time of shipment.

The duties of the buyer under a C.I.F. contract are twofold. The first duty is to accept all the shipping documents representing the goods purchased and the second duty is to promptly pay the price of the goods. He has no right to postpone the payment of the price. If on receipt of the goods he finds that they do not conform to the terms of the contract, he may reject the goods and recover the amount he has paid. He may perhaps sue the seller for damages for breach of contract.

Usually payment or tender of the contract price of the goods is not made by cash or by cheque. This is usually done by an instrument called a "letter of credit".

A crucial issue in a C.I.F. contract is to determine when the property in the goods actually passes from the seller to the buyer. In the celebrated English case of Symth & Co.Ltd V Bailey, Son & Co. Ltd[7], Lord Wright, opined that "the general property remains in the seller until he transfers the bill of lading"[8]

But in the old case of Biddel V Horst[9], Kennedy, L.J. held that the property passes on shipment. This is in accord with the provision of Section 20 of the Sale of Goods Act, 1893, a statute of general application still in force in Nigeria. The legal consequence is that upon shipment, the buyer takes all the risk of transit, and on the tender of the documents, he must pay the agreed price, and it is irrelevant even if the goods are lost.

In the more case of The Albazero,[10] Brandon, J. held that where the seller did not reserve the right to dispose of the goods, the property in the goods passed on shipment.

[7]1940 2 All ER 60
[8]Ibid pp 67 – 68
[9](1911) IK.B 934 at 956
[10](1974) 2 All ER 906

In a C.I.F. contract there is generally no opportunity for the buyer to inspect the goods before shipment, unless a specific provision is inserted in the contract to this effect.

Although acceptance of the documents passes the title to the buyer, this is however regarded as a conditional title which may be converted to a full title by the buyer's acceptance of the goods.[11]

4.0. Remedies Open To the Buyer

In the event of a breach of contract by the seller in a C.I.F. contract, the remedies open to the Buyer are:

(i) An action for damages as set out in Section 51 of the Sale of Goods Act;

(ii) An action for specific Performance under Section 52 of the Act;

(iii) Rejection of the goods.

4.1. Remedies Open To the Seller

Where the breach is by the Buyer the remedies open to the seller are:

(i) An action for payment of the contract price under Section 49(I) of the Act;

(ii) An action against the Buyer for non-acceptance of the documents under Section 50 of the Act;

(iii) To exercise the rights of :

  (a) withholding delivery;

  (b) stoppage in transit; and

  (c) Right of resale.

(iv) To exercise the right of Lien, to hold the property as a security for the performance of the contractual obligation.

5.0. Free On Board Contracts

An F.O.B. (Free on Board) contract is essentially a contract of sale of goods where the seller pays the cost of the shipment and makes delivery as soon as the goods are placed on board. The buyer bears the risk, whether they are lost or not. The seller must however give notice to the buyer to enable him to insure the goods if he so desires.[12]

The risk does not pass to the buyer nor does the property pass, until the goods are actually on board.

[11]See Kwei Tek Chao V British Traders And Shippers Ltd (1954) 1 All ER 779

[12]See Section 32 (3) of the Sale of Goods Act.

In a classical F.O.B. contract, the buyer is under a duty to nominate the ship on which the goods may be loaded for the seller and give adequate notice of the nomination to the seller. The buyer may however authorize the seller to select a ship. This duty of the buyer is a condition precedent to the obligation of the seller to load the goods under the contract.
Time is of essence in F.O.B. contracts, and failure of the buyer to nominate a ship on time will release the seller from his obligation to deliver the goods.[13]
If no time for delivery of the ship is stipulated, the buyer must prima facie nominate a ship within a reasonable time.Where the buyer fails to nominate a ship, the seller cannot claim that he is entitled to sue for the price. He can only sue for the price of the goods when they are loaded. Therefore, failure to nominate a ship by the buyer will amount to repudiation (denial) of the contract. This will entitle the seller to sue for damages for breach of contract.

It must be noted, that the buyer is not irrevocably bound if having nominated any particular vessel, that vessel fails to be available. He is at liberty to nominate another ship if the original ship is not available. The other obligations of the Buyer include the costs, stowage (luggage), trimming adornment or decoration), tallying (calculation) and other incidental expenses, unless the parties expressly stipulate otherwise.

Furthermore, the other obligations of the seller include the duty to deliver the goods in time to enable them to be put on board before the efflux ion of the contract period, and the duty to ensure that the goods are adequately packed, carefully loaded and that they are in a fit and proper condition for their sea transit. Where there is a breach of F.O.B. contract, the principles which apply to breach of C.I.F. contracts, apply to F.O.B. contracts mutatis mutandis.

6.0. Cost and Freight Contracts

C and F (Cost and Freight) contract is similar to a C.I.F. contract except that the seller does not undertake responsibility for insurance. It is the buyer who is responsible for arranging insurance. Consequently, for the Nigerian importer, the C and F contract, as with the F.O.B. contract, affords compliance with local legislation which mandates insurance for imports to be made with only insurers registered under the Nigerian Insurance Act[14].
Furthermore, the price quoted will not be as high as in the case of a C.I.F. contract

[13]See Olearia Tirrena S.P.A. v N.V. Algamecene Obiehandel, The Osterbek (1972) 2 Lloyd's Rep 341
[14]See section 67(1) of the Insurance Act, 2003

7.0. Ex Ship Contract

This is the most difficult contract from the seller's point of view, because it is his duty to ship the goods to the buyer at his (seller's) own risk and to make delivery at a named port. The property and risk do not pass, nor is the price payable, until delivery is actually made. It follows that a price paid in advance is recoverable if the goods do not arrive.[15]

But if it is established that the ship arrived with the goods and that the buyer failed to pay the price, the seller may claim damages for breach of contract.

8.0. Import and Export Licenses

Certain goods are placed under import or export restrictions and sometimes both. These licenses may become crucial in the execution of the contract of sale in international trade. The issue for determination is whether the obligation to secure a license is on the seller or the buyer. There is no legislative enactment in this regards. But the problem may be avoided by the parties by expressly stipulating who has the duty to obtain a license.

The obligation to obtain an import license will invariably be that of the buyer. Indeed where there are prohibitions on certain goods except under import licensee, the prohibition is on the buyer as he, and not the seller will be exposed to liability if the goods are imported into the country in contravention of the statutory prohibition. Thus, it is important for the parties to insert a clause in the contract dealing with the duty to obtain any such license, and also regulating the position, if the license cannot be obtained.

9.0. Documentary Credits

Documentary credits or letters of credit have been described as the "lifeblood of international commerce". These are payment arrangements whereby in compliance with the sales contract, the buyer (the applicant for credit) arranges through his local bank (the issuing bank) for a foreign seller (the beneficiary) to be paid the price by a bank in the seller's place of business (confirming bank), upon the presentation by the seller of certain specified documents. Essentially, by requiring these documents to be presented to the confirming bank, who is a special agent to the issuing bank, the bank obtains collateral for the credit advanced.

[15]See The Julia 1949 A.C. 293, 309

In a nutshell, the parties to a documentary credit are:

(i) The buyer (applicant for credit)

(ii) The foreign seller (beneficiary)

(iii) The issuing bank

(iv) The confirming bank

The Banking practice concerning documentary credits is governed by a voluntary code of rules formulated by the International Chamber of Commerce (ICC). These rules, which are known as the Uniform Customs and Practices for Documentary Credits (UCP), have almost universal effect. It is necessary to emphasize that the adoption of UCP in Nigeria is not reinforced by any local legislation but it flows from the voluntary agreement of the parties. Thus the parties are free to adopt the provision of the UCP in their contracts. The adoption may be wholesale or subject to modifications as they deem fit. In the practice of documentary credits, there are two cardinal principles:

(i) Autonomy of the credit; and

(ii) The doctrine of strict compliance.

10.0 Autonomy of Credit

A documentary credit transaction creates several contractual relationships which are independent of, and separate from any underlying contract of sale or other contracts, for example, for carriage or insurance. Therefore, the right and duty to pay under the documentary credit is not subject to the terms of any such contract.[16]

10.0.1. Strict Compliance

The bank's obligation is to look for the correct documents, ascertain consistency between all the documents, and verify the content of each document. But the bank is not obliged to go beyond the surface of the documents. The bank must decide on the basis of the documents alone, whether or not there is compliance with the mandate. If there is compliance, the bank must pay against the documents.

Thus, under the UCP, the banks are deemed to deal in documents and not in goods. Accordingly, the confirming bank is not responsible for verifying the physical state of the

[16]See UCP, Art. 3

goods or any other facts external to the documents or for ensuring the accuracy, genuineness or authenticity of the documents. The documents need only comply on their face.[17]

In the case of Gain Singh v Banque De L ' Indochine[18], the court held that "The bank is under no duty to take any further steps to investigate the genuineness of a signature which, on the face of it, purports to be the signature of the person named or described in the letter of credit".

10.1. Kinds of Documentary Credits

The classification of credits may be in terms of the time for payment or the obligation of the issuing bank to the buyer or the obligation of the advising bank to the seller. Thus where the credit is for sight payment, the seller is paid immediately upon presentation of the confirming documents. But if the credit is for deferred payment, the seller is paid at a future date, as determined under the terms of the credit.

In terms of the obligation of the issuing bank to the buyer, the credit may be classified as revocable or irrevocable. Where the credit is revocable, the issuing bank's undertaking may be amended or cancelled at any time without notice to the seller. Revocable credits are very rare. In an irrevocable credit, there is a definite undertaking to pay which cannot be withdrawn or amended. All credits are deemed to be revocable unless otherwise indicated.

Furthermore, an irrevocable credit may be confirmed or unconfirmed, and this distinction is of great importance to the seller. Under a confirmed credit, the confirming bank undertakes personal liability to the seller, whereas under an unconfirmed credit, it merely notifies the seller of the opening of the credit and paying upon the presentation of the confirming documents. The disadvantage of an unconfirmed credit is that if for some reason the bank defaults, the seller may have to institute an action in the buyer's country to enforce his rights against the issuing bank. He cannot take any action against the confirming foreign bank.

In view of the foregoing, it is evident that the most secure payment arrangement for the seller is one which requires the opening of an irrevocable confirmed credit by the buyer. This is the usual practice.

11.1. Marine Insurance

[17]UCP, Art. 4

[18](1974) IWLR 1237

As a result of the obvious constraint of time, the subject of marine insurance shall be discussed, highlighting some key principles as they relate to international trade transactions.

In Nigeria, the practice of marine insurance is regulated by statute. The operative statute is the Marine Insurance Act,[19]

Section 3 of the Act defines a contract of marine insurance as "a contract whereby the insurer undertakes to indemnify the assured, in a manner and to the extent thereby agreed, against marine losses, that is to say the losses incident to marine adventure".

The basic function of a marine insurance contract is to provide cover for the risks which are consequent on a marine adventure. There is a marine adventure where any ship, goods or other movables are exposed to maritime perils. Such property is referred to as "Insurable property".

"Maritime peril" means the perils consequent upon, or incidental to the navigation of the sea, that is to say, perils of the seas, fire, war, pirates, rovers, thieves, captures, seizures, restraints, detainments of princes and peoples, jettisons, barratry and any other perils of the like kind which may be designated by the policy.

The subject matters of marine insurance can be the freight, (the cargo), the ship or any lawful marine adventure where the contract of insurance of the subject matter covers it only for a journey from one place to another or others for a definite voyage, it is called a "voyage policy", but where the policy is to cover the subject matter for a specific period, it is called a "time policy"[20]. The insured must have an insurable interest in the subject matter before he can be entitled to any claim. The Act provides that every person has an insurable interest if he is interested in a marine adventure[21]. Such persons include:

(i) The ship owner

(ii) The owner of insurable property

(iii) The mortgagee, consignee, or other person having an interest in respect of the subject matter insured.

(iv) The lender of money on bottomry or respondentia

(v) The master or any member of the crew of the ship

(vi) The person to whom freight is payable.

(vii) The mortgagor or mortgagee of mortgaged insured property.

(viii) The personal representatives of the insured deceased on his demise.

[19]Cap. 216, Vol XI, Laws of the Federation of Nigeria, 1990

[20]See generally, section 5 of the Act.

[21]See section 27 of the Act.

(ix) The insurer who reinsures the subject matter of the insurance[22].

The requirement for an insurable interest is to afford a clear distinction between marine contracts and gaming or wagering or gambling contracts. Every contract of marine is rendered void if it is by way of gaming or wagering[23].

A contract of marine insurance shall be deemed to be a gaming or wagering contract:

(a) where the assured has not an insurable interest as defined by the Act and the contract is entered into with no expectation of acquiring such an interest; or

(b) Where the policy is made "interest or no interest" or "without further proof of interest than the policy itself, or "without benefit of salvage to the insurer or subject to any other like term[24].

There are several provisions of the Act which fall outside the basic principles of marine insurance and do not call for further elaboration or comments in view of the constraint of time. These include warranties which may be express or implied[25], assignment of policy,[26] losses,[27] measure of indemnity,[28] return of premium[29] and mutual assurance.[30] As earlier mentioned, it is now obligatory for every insurance service in respect of goods to be imported into Nigeria, to be made with an insurer duly registered in Nigeria in accordance with the provisions of section 67(1) of Insurance Act 2003. Section 67(4) of the Act specifically provides that "An importer, broker or agent who effects any insurance otherwise than in compliance with the provisions of this section commits an offence and is liable on conviction to a fine of N500,000 (Five hundred thousand naira)".

[22]See section 7(1) of the Act.
[23]See generally sections 9 to 17 of the Act
[24]See section 6 (1) of the Act
[25]See section 6 Marine Insurance Act
[26]See section 5 34 – 42
[27]See section 51
[28]See section 65 – 67
[29]See section 68 – 79
[30]See section 83 -85. See also section 86

12.0. Conclusion

Notwithstanding the obvious advantages of international trade to economic and social development, there are a number of problems associated with its regulation.

Firstly, parties to international trade contracts are usually of different countries which may have different cultural and ideological persuasions.

Secondly, regulation is by many independent nation states, each having its own national legal system. These problems result in dichotomy or isolated principles in the regulation of international trade by various legal systems.

Recommendation

The crucial consideration for developing countries like Nigeria is to structure our legal system to move in tandem with the developed nations in order to avoid being ostracized in the emerging economic order.

In the documentation of international trade contracts, care must be taken to stipulate clear and unambiguous terms to cover ever foreseeable contingency. In this dispensation of hi-tech cyber fraud and advance fee fraud, parties should carry out in-depth investigation before they commit their funds and resources to any commercial ventures.

An overview of the laws regulating international trade transactions in Nigeria has revealed the fact that the bulk of the law is not codified.

The field is being regulated mainly by the rules of common law and equity. The little local legislation is in dire need of review. Some of them are pre-colonial statutes which have become obsolete in the face of modern economic realities.

With the backdrop of the gaping gaps in our legal systems, it becomes imperative that the key players in international trade transactions have a sacred duty to be vigilant.

The elementary maxim in all commercial ventures is ***caveat emptor, caveat venditor*** (let the buyers beware, let the seller beware).