

Latest Developments & Strategies for Successfully  
Negotiating and Structuring International Transactions

# 4<sup>th</sup> Negotiating & Drafting International Business Agreements

Enter foreign markets with confidence

*"Learned a lot from case studies."*

- Michel Dorion,  
In-House Counsel  
(Senior Legal Advisor)  
Fonds Solidarite FTQ

*"Course raised some important issues with respect to international contracting & offered some great nuggets."*

*"Very Good course with great examples, presenters really know their stuff."*

June 14 & 15, 2011, Toronto

Two-Day Event!

**Workshop Included: Drafting International Contracts and Agreements: Key Principals and Common Clauses**

## participating organizations

Baker & McKenzie LLP	Goodmans LLP
The Bank of Nova Scotia	Gowling Lafleur Henderson LLP
Borden Ladner Gervais LLP	Miller Thomson LLP
Celestica	Osler Hoskin & Harcourt LLP
Davies Ward Phillips & Vineberg LLP	Torys LLP
Fasken Martineau DuMoulin LLP	

## course highlights

- Examine the financial and fiscal law governing financial transactions that cross national borders
- Explore recent new statutes related to international trade that have added a new complexity to international business transactions
- Examine the differences between the competition law framework in Canada, the U.S. and the EU
- Examine the risks associated with international business transactions
- Develop strategies for resolving disputes
- Examine the key elements and clauses in various types of international business agreements

## who should attend

Corporate Counsel, Lawyers in Private Practice, International Tax Executives, International Finance Executives, International Business Consultants

### Course Leader

Mark Ellis,  
Baker &  
McKenzie LLP



Eric Dufour,  
Borden Ladner  
Gervais LLP



Robert Ellis,  
Celestica



Mark Katz,  
Davies Ward  
Phillips &  
Vineberg LLP



Dale Hill,  
Gowling Lafleur  
Henderson LLP



David  
Buchanan,  
Miller  
Thomson LLP



Mark Brender,  
Osler Hoskin &  
Harcourt LLP



Jonathan Levin,  
Fasken Martin-  
eau DuMoulin  
LLP



A. Keith Tuomi,  
The Bank of  
Nova Scotia



Mark A. Trachuk,  
Osler Hoskin &  
Harcourt LLP



### as well as:

Stephen  
N. Pincus,  
Goodmans  
LLP

John A. Terry,  
Torys LLP

## FACULTY

### COURSE LEADER

#### MARK ELLIS

Mark Ellis is a Partner at **Baker & McKenzie**. His practice concentrates on fiduciary obligation, corporate governance and employment law.

#### MARK KATZ

Mark Katz is a partner in the Toronto office of **Davies Ward Phillips & Vineberg LLP**, where he is a member of the firm's competition and foreign investment review group.

#### MARK BRENDER

Mark Brender is a Partner with **Osler Hoskin & Harcourt**. His practice focuses on domestic and international tax issues.

### CO-LECTURERS

#### ERIC DUFOUR

Eric Dufour is a partner in the Toronto office of **Borden Ladner Gervais**, where he specializes in the area of competition law and foreign investment review, providing both transactional, litigation and general compliance advice.

#### ROBERT ELLIS

Robert Ellis is VP and Assistant General Counsel for **Celestica**. As head of Celestica customer contracts group, his practice includes the drafting and negotiation of complex agreements in Asia, Europe and the Americas.

#### STEPHEN N. PINCUS

Stephen Pincus, a member of **Goodmans Executive Committee**, has an extensive practice in M&As, corporate and project finance, private equity, corporate governance and international transactions.

#### DALE HILL

Dale Hill is a partner in **Gowlings'** Ottawa office and is the national leader of the Gowlings Transfer Pricing and Competent Authority team.

#### DAVID BUCHANNAN

David Buchanan is a partner in the Business Law Group of **Miller Thomson LLP** in Toronto and Co-Chair of the firm's International Business Transactions Group.

#### JOHN A. TERRY

John Terry is a Partner with **Torys LLP**. His civil litigation practice focuses on business, international trade and public law.

#### JONATHAN LEVIN

Jonathan A. Levin, Partner, practises business law with **Fasken Martineau DuMoulin**.

#### A. KEITH TUOMI

A. Keith Tuomi is Senior Legal Counsel, International at **The Bank of Nova Scotia**. He engages in a wide variety of international corporate/commercial legal work.

#### MARK A. TRACHUK

Mark Trachuk is Co-Chair of **Osler's** Corporate Practice Group. He practises corporate and securities law with a focus on M&As and restructurings.

## COURSE PROGRAM

### KEY LEGAL ISSUES TO CONSIDER IN INTERNATIONAL AGREEMENTS

Evolving international statutes and a host of international treaties and agreements have added a new level of complexity to international business transactions. This session will examine the evolving framework of international trade treaties, conventions, model laws and business standards

- International law considerations and the choice of governing law of the contract
- Trade sanctions, embargoes and export controls
- GATT, WTO and NAFTA and their relevance to commercial transactions
- Import quotas, tariff surcharges and other forms of import controls
- Investment protection agreements (FIPAs) and their relevance
- Dealing with conflicts in law: multi-jurisdictional legal issues

### MANAGING RISK IN INTERNATIONAL BUSINESS TRANSACTIONS: CROSS BORDER DUE DILIGENCE

A well managed due diligence process is necessary to mitigate the additional risks associated with international business transactions. This session will examine the risks inherent in international business negotiations as well as how to avoid or mitigate them through due diligence and proper negotiating and drafting practices.

- Conducting transnational due diligence
- Drafting to mitigate and manage risks: economic risks, political risks
- Contractual liability in foreign countries
- Insurance provisions
- Identifying potential high risk issues

### SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts and approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers' papers. See the list of presentations on page 4.

Delegates will also receive a trial subscription to the Business Law Channel, a much broader resource representing hundreds of hours of interactive multimedia lectures on leading edge Business Law topics as delivered at our many recent Business Law conferences and courses.



## COURSE PROGRAM

### PRE-CONTRACT ISSUES

Getting a contractual relationship off on the right foot means effectively taking care of all pre-contractual issues. This session will examine key pre-contract issue in international agreements

- Pre-contractual liability: civil and common law
- Drafting term sheets/letters of intent
- Choice of law considerations
- Best practices for drafting non-binding documents

### NEGOTIATING INTERNATIONAL JOINT VENTURES AND STRATEGIC ALLIANCES AGREEMENTS

This presentation will provide an overview of the complex business and legal considerations associated with drafting and negotiating international joint venture agreements.

- Best practices in drafting joint venture agreements
- Special legal/regulatory issues in transnational agreements
- Division of the profits and losses: tax considerations
- Key clauses for international joint venture agreements

### COMPETITION LAW AND ANTITRUST ISSUES IN INTERNATIONAL BUSINESS TRANSACTIONS

Assessing competition law risk across borders is a necessary component of entering into international business agreements. This session highlights an examination of the differences between the competition law framework in Canada, the U.S. and the EU.

- The regulatory environment in Canada, the U.S. and the EU
- Substantive antitrust review of transactions
- Drafting agreements in compliance with international competition law
- Impact of competition law considerations on negotiating the deal

### DISPUTE RESOLUTION FOR INTERNATIONAL TRANSACTIONS

This session explores the prominent issues faced in resolving a transnational dispute in international contracts and will provide practical strategies for avoiding and winning international disputes.

- Resolving international business disputes through arbitration
- Drafting dispute resolution clauses
- Deciding between international commercial arbitration vs. litigation in courts
- Choice of arbitration models and key arbitration institutions

### TAX CONSIDERATIONS WHEN STRUCTURING INTERNATIONAL AGREEMENTS

Structuring a business agreement for tax purposes takes on an additional level of complexity when the deal crosses international borders. This session will examine tax issues that must be taken into account when negotiating, drafting and structuring international deals.

- Tax risks involved in negotiating international agreements
- Choosing tax effective structures for international deals
- Transfer pricing considerations
- Tax accounting considerations

### DRAFTING INTERNATIONAL OUTSOURCING AGREEMENTS

This session will look at the key considerations that should go into drafting and negotiating international outsourcing agreements.

- Structuring international outsourcing agreements
- Protecting security and confidentiality in the agreement
- Identifying the risks of global outsourcing with emerging countries
- Ensuring legal compliance

### INTERNATIONAL FINANCING TRANSACTIONS

This session examines the practical aspects of negotiating and drafting term sheets, commitment letters, loan agreements and other financing agreements on an international level.

- The latest trends in finance structures in international transactions
- Types of security: cash, shares, real estate, credit insurance
- Techniques of financing
- Local funding requirements

### DRAFTING INTERNATIONAL AGENCY AND DISTRIBUTION AGREEMENTS

This session will examine how the drafting and negotiating of international agency and distribution agreements differ from domestic ones.

- The decision to use agents vs. distributors
- Key clauses: term, exclusivity, minimum performance, choice of law and payment/royalties clauses
- Negotiating intellectual property protection
- Termination and exit provisions

### NEGOTIATING CROSS-BORDER IP TRANSACTIONS

This presentation will examine the unique contract issues in cross-border IP licensing arrangements and look at the legal and business considerations of negotiating and drafting international IP licensing agreements and implementing international enforcement programs.

- Drafting international technology licensing agreements
- Special issues for cross-border technology transfers
- International infringement issues
- The impact of international treaties on IP transactions

### NEGOTIATING AND STRUCTURING INTERNATIONAL ACQUISITIONS

International acquisition deals can take on a variety of formats. This presentation will explore the substantive issues faced and best strategies for negotiating and structuring international deals.

- Most recent financial and legal developments in international M&A
- The issues in international M&A transactions
- Key strategic and legal considerations in choosing an acquisition structure
- Latest trends in negotiating and structuring acquisitions

## WORKSHOP

### DRAFTING INTERNATIONAL CONTRACTS AND AGREEMENTS: KEY PRINCIPALS AND COMMON CLAUSES

With global competition heating up, to be successful you need a proper understanding of how to negotiate and draft the terms of international business agreements. This session will deal with the practical negotiating and drafting techniques necessary to successfully convert an international transaction into a bulletproof written agreement.

- Considerations to take into account in cross-border contract drafting
- Key principles and common clauses in international contracts
- Key skills for successful international negotiations
- International negotiating strategies, tactics and countermeasures
- Drafting effective boilerplate clauses

## MULTIMEDIA PRESENTATION

Your registration includes an interactive multimedia database comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio or video and accompanying slides. You may also purchase the multimedia proceedings of the course which will be available on CD-ROM 60 days after the course.

### Negotiating & Structuring International Joint Ventures & Strategic Alliances Agreements

Mark A. Trachuk,  
Osler, Hoskin & Harcourt LLP

### Impact of Treaties and Conventions on Business Agreements: Avoiding Pitfalls

Lawrence L. Herman,  
Cassels Brock & Blackwell LLP

### Dispute Resolution for International Transactions

William G. Horton,  
William G. Horton Professional Corporation

### Antitrust Issues in International Merger Transactions

Mark C. Katz,  
Davies Ward Phillips & Vineberg LLP

### Surviving the Translation: Cultural and Linguistic Considerations in Negotiating International Business Agreements

Patricia Wagers,  
Canada Post Corporation - LGL Affairs

### Tax Considerations in Structuring International Agreements

Mark Brender,  
Osler, Hoskin and Harcourt LLP

### Customs and Trade Remedy Impact on Commercial Transactions

Darrel H. Pearson,  
Gottlieb and Pearson

### Resolving Transnational Disputes: International Arbitration and Arbitration Agreements

John R. Laskin,  
Torys LLP

### Non Income-Tax Transfer Pricing Issues in International Business Transactions

Dalton J. Albrecht,  
Miller Thomson LLP

### Practical Negotiating Techniques for Contracts and Agreements

Jason L. Howg,  
Borden Ladner Gervais LLP

### International and Cross-Border Agreements

Clark L. E. Harrop, B.A., LL.B.,  
TDL Group Corp (Tim Hortons Inc.)

### International Funding & Lending Transactions

A. Keith Tuomi,  
The Bank Of Nova Scotia

### Global Purchasing - How To Drive Indirect Tax Costs Out Of Your Supply Chain

Bob Sacco,  
Deloitte & Touche LLP

### Drafting International Outsourcing Agreements

Robert Ellis,  
Celestica

### Competition Law And Investment Canada Act Issues In International Business Transactions

Richard Elliott & Paul Crampton,  
Davies Ward Phillips & Vineberg LLP

### Impact of Treaties and Conventions on Business Agreements: Avoiding Pitfalls

John A. Terry,  
Torys LLP

### Due Diligence in International and Cross-Border Corporate Transactions

John Macfarlane,  
Osler, Hoskin & Harcourt LLP

### Avoiding Corruption and Bribery During International Business Transactions

Riyaz Dattu, Osler, Hoskin & Harcourt LLP;  
Christa C. Wessel, Gowling Lafleur Henderson LLP

### International Licensing & Technology Transfers

Gordon J. Zimmerman,  
Borden Ladner Gervais LLP

### Approaches to Entering BRIC Markets

A. Keith Tuomi,  
The Bank of Nova Scotia

### Structuring International Joint Venture Transactions

Richard F.D. Corley,  
Blake, Cassels & Graydon LLP

### International Dispute Resolution Mechanisms

William Horton,  
William G. Horton, Professional Corporation

### International & Cross-Border Agreements

Clark L. E. Harrop,  
Tim Hortons Inc.

### Joint Venture & Strategic Alliance Agreements

Ruby E. Barber,  
Bell Canada

### International Competition Law Compliance: U.S. & Foreign Antitrust Issues In International Business Transactions

Eric J. Dufour,  
Borden Ladner Gervais LLP

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Metropolitan Hotel, 108 Chestnut Street, Toronto, Ontario, M5G 1R3

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to June 1, 2011. No refunds will be issued after this date. Please note that a 15% service charge will be held in case of a cancellation.

**Discounts:** Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

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### TO REGISTER FOR NEGOTIATING & DRAFTING INTERNATIONAL BUSINESS AGREEMENTS

Name \_\_\_\_\_  
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 Approving Manager Name \_\_\_\_\_  
 Approving Manager Title \_\_\_\_\_  
 Organization \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
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