

## Securing Payments in International Trade: Contracts, Guarantees & Enforcement

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### Oracle Law Global – At a glance

#### About:

- Leading international law firm
- Tailored legal solutions grounded in deep commercial understanding
- Mission: help clients manage risk & achieve strategic/financial goals



### Agenda

Introduction

Why payment security matters

Contract standards and legal systems

Payment methods and guarantees

Enforcement mechanisms

Practical advice for exporters

Summary & Key Takeaways



## Why is payment security important?

- Long distances, unfamiliar legal systems
- Risk of non-payment, buyer insolvency, fraud
- Payment security protects cash flow and minimizes risk (Protects liquidity and profit margins)





## International Sales Contracts – The Foundation

- Written contracts are essential for legal certainty
- Use of ICC model contracts or other templates
- Must-have clauses:
- Payment terms & method
- INCOTERMS (International Commercial Terms)
- Governing law & dispute resolution
- Delivery terms & obligations



## Legal Systems – Civil Law vs. Common Law

- Germany & Azerbaijan = Civil Law (based on codified rules)
- Contrast: Common Law (UK, US) relies more on precedent
- Civil Law emphasizes written contracts and statutory clarity
- Shared Civil Law background enables more predictable contracting



## Main Payment Instruments in Foreign Trade



Advance Payment

– High security for seller



Open Account – Risky, used with trusted buyers



Letter of Credit (L/C) – Secure but formal and costly



Document Collection – Medium risk



Bank Guarantees – Flexible and widely used in trade



## Comparing Payment Methods – Pros & Cons

Method	Security Level	Cost	Control	Exporter/Importer Suitability	Typical Use Cases
Advance Payment		\$ Low	✓ Full control	Exporter-friendly	First-time deals, high-risk countries
Letter of Credit	i High	<b>\$ \$ \$</b> High	Medium-high	Balanced	New business relationships, high- value exports
Document Collection	▲ Medium	\$ \$ Moderate	✓ Medium	Balanced     Balanced	Moderate risk, ongoing relationships
Open Account	<u> </u> Low	\$ Very low	X Low control	Importer-friendly	Trusted partners, repeat transactions
Bank Guarantee	i High	\$ \$ Moderate	☑ High control	Exporter-friendly	Custom projects, performance-based contracts



Guarantees

– Tools to

Reduce Risk

<u>Bank Guarantees:</u>
performance / advance payment guarantees

Export Credit Insurance: e.g. Euler Hermes (Federal Government export credit guarantees)

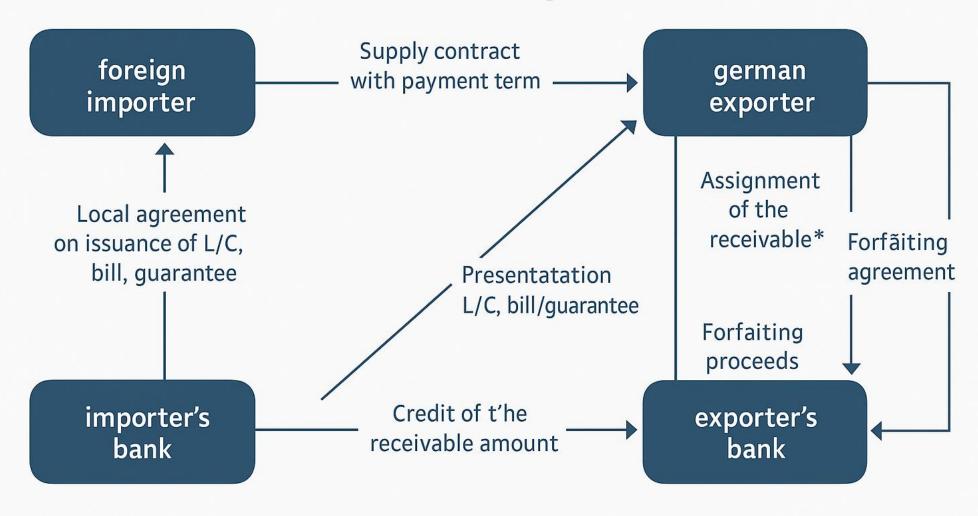
Private insurance &

forfaiting: market-based risk

transfer options

RACLE

### **Forfaiting**



\* Bills are typically drawn by the importer's bank directly on the exporter's bank as a so alled aval. Source: BMWK

## Case Example: Choosing the Right Instrument

- Case: Industrial equipment sale to Azerbaijan
- High value + new customer = high risk
- Compare:
- Open account = high risk
- L/C + Bank Guarantee = safer option



## Case Study – Secure Payment in Practice

#### Scenario:

German machine manufacturer exports to Baku

Risk: New client, high value

#### Solution:

- 30% advance payment
- 70% via Letter of Credit
- If deemed necessary: Buyer provides Performance Guarantee
- German law + ICC arbitration clause
- Lesson: Use a mix of tools for best balance between risk and flexibility.



# Example: Arbitration Clause

All disputes arising out of or in connection with this contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with said Rules. The place of arbitration shall be [e.g., Paris]. The language of the arbitration shall be English.

## Contract Clauses That Secure Payment

- Clearly defined payment deadlines
- Agreed currency (e.g., EUR or USD)
- Retention of title clause (if enforceable)
- Penalties for late payment
- Force majeure clause
- Dispute resolution (court or arbitration)





Legal
Enforcement
– In Case of
Dispute



Include a governing law clause (e.g., German or Swiss law)



Add jurisdiction or arbitration clause



Arbitration (e.g., ICC, DIS) is often more enforceable internationally



Consider neutrality and enforceability when choosing dispute forum

## Enforcement of Judgments

- No bilateral enforcement treaty between Germany and Azerbaijan
- But both are parties to the New York Convention → arbitral awards can be enforced
- Arbitration is often easier to enforce than national court judgments



## Enforcement Options – Court vs. Arbitration

	National Courts	International Arbitration
Speed	× Slow	✓ Usually faster
Neutrality	X May feel biased	Neutral third party
Confidentiality	× No	✓ Yes
Enforceability	X Limited (no treaty)	NY Convention applies



### Practical Tips for Exporters

- Use advance payment for new customers
- Match payment instruments to trust level
- Define governing law and dispute forum clearly
- Work with banks and credit insurers
- Don't rely on verbal agreements secure at least part of the payment up front



### Summary

5 Lessons for Safer International Trade:

- 1. A clear contract is your first line of defense
- 2. Select payment tools based on risk and trust
- 3. Civil Law systems support predictable contract enforcement
- 4. Arbitration increases the chance of effective enforcement
- 5. Prevention is always cheaper than litigation



#### Disclaimer:

The content of this presentation is for informational purposes only and does not constitute legal advice. For specific legal or contractual questions, please consult a qualified legal advisor.



### Q&A / Discussion

- Have you experienced payment risks in international trade?
- What methods are common in your business?
- Would you prefer arbitration or court if a dispute arises?



### Sources

- https://www.bundeswirtschaftsministerium.de/Redaktion/DE/Publikationen/ Aussenwirtschaft/basiswissenaussenhandelsfinanzierung.pdf? blob=publicationFile&v=4
- https://www.trade.gov/methods-payment





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QUESTIONS? - let's keep in touch:

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