

<<法律英语综合教程>>

图书基本信息

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## 前言

随着我国入世和改革开放程度不断加大，越来越多的外资进入中国市场，越来越多的中国企业走出国门寻找商机。

无论是迎进来，还是走出去，这些企业所面临的一个共同问题就是法律问题。

而这些法律问题中的大多数又都属于涉外法律的工作范畴。

由于法律文化、法律条款的差异，中外双方在合作过程中不可避免地会出现许多矛盾分歧。减少、化解这些矛盾分歧需要沟通谈判，甚至需要通过法律手段来解决问题。

所有这些工作都需要法律工作者通过专业外语完成。

因此，在国际化趋势日见凸显的今天，掌握专业外语已经成为法律人必备的职业素质。

众所周知，美国法是英美法系的典型代表，其法律体系完整、内容丰富，既有传统的普通法，又有新兴的成文法；既有统一的联邦法，又有各州的法律。

同时，美国法在世界范围内影响深远，学习研究美国法意义重大，这不仅表现为许多国家都在研究美国的法律规则，借鉴其成熟做法，还表现为许多国际公约也参照美国法的理念、原则、规则制定。

因此，本书作为学习法律英语的精读教材，主要介绍美国法，希望读者通过学习权威、实用的美国法律知识，掌握地道、纯正的法律英语。

一般的语言教材都会系统地讲授语法知识，但本书的编写设想是，学生已经完成了从中学英语到大学一、二年级的基础英语学习。

系统掌握了英语语法等基础知识，并具有不低于六千个英语单词的词汇量。

本书具有以下特点：首先，编者参考了大量的美国原版法学书籍，包括美国法学院教材及大量判例，力求实现教材内容的权威性和丰富性。

其次，本书引用了许多极具代表性的英文案例。

英美法系是判例法系，无论是法官还是律师都特别注重对判例的研究，因此学习美国法不能绕过案例。

根据我的个人经验，通过研究案例更有利于掌握标准的法律英语，也更容易掌握美国法的精髓。

本书选取了十几个经典案例，以期最大程度地展现美国法原貌。

再次，本书在部门法的后面都附有与该部门法相关的练习题，以期帮助读者检查自己学习掌握法律英语术语和基础美国法知识的程度，查漏补缺。

本书共分十三部分。

第一、二部分首先介绍了法律英语的基础知识：该部分选择法律英语口语为切入点，帮助读者认识法律英语口语交流的重要性，督促读者认真练习英语口语，做到听、说、读、写、译齐头并进，绝不可忽视“开口”的能力。

美国人的口才都普遍好，律师更是能言善辩，而这正是我国法律人的弱势。

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### 内容概要

《法律英语综合教程》共分十三部分：第一、二部分首先介绍了法律英语的基础知识；第三至第十二部分分别介绍了美国主干部门法；最后一部分简明介绍了引用（citation）的相关知识。

《法律英语综合教程》是法律英语精品系列教材中的一本，是法律英语精读教材。

## <<法律英语综合教程>>

### 作者简介

张法连教授，中国政法大学博士生导师，兼任美中友好交流促进会主席，法律英语证书（LEC）全国统一考试委员会副主任，主要研究领域为法律语言学、美国法、外交学、美国研究和预防腐败，主要从事外事翻译，美国内政、外交及中美关系的研究工作，在《外语教学与研究》、《中国翻译》、《法律适用》、《当代世界》等外国语、法学、国际关系等权威、核心期刊发表论文近30篇，出版《法律英语写作》、《美国商标法判例解读》等学术专著6部，主编《法律英语综合教程》、《法律英语翻译教程》等9部全国高等院校教材。

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There are, for example, a series of rights and duties implied into contracts of agency, employment and tenancy. Under a contract of employment, an employer owes an implied duty to take reasonable care for the safety of his employees, not to endanger the employees' health and not to require the employees to do any unlawful act; and an employee owes a duty to show good faith, to obey lawful and reasonable instructions, and not to act against the employer's interest.

(3) Customary Implied Terms A contract may be subject to customary terms not specifically mentioned by the parties. However, customary terms will not be implied if the express terms of the contract reveal that the parties had a contrary intention.

3. Exemption Clauses Many large companies and public authorities impose conditions in their contracts exempting or excluding themselves from liability for torts, particularly negligence, arising from contracts. The rules applicable in such situations may be summarized as follows:

(1) An exemption clause can be incorporated in the contract by signature, by notice or by course of dealing:

- a. Where the terms are signed, the parties are bound as a general rule even if the plaintiff has not read it;
- b. The inserter of exemption clauses must do all that is reasonably necessary to the notice of the person subject to the clause or to draw his attention to it;
- c. The conditions must be brought to the notice of the offeree either before or at the same time when the contract is made;
- d. An exemption clause printed on a receipt is not an integral part of the contract.

(2) The party who wishes to rely on an exemption clause must show that the breach and loss are covered by the clause. If there is any doubt as to the scope of an exemption clause, it will be construed under the following rules:

- a. The contra proferentem rule If there is any ambiguity or room for doubt as to the meaning of an exemption clause, it will be construed against the person who puts it into the contract;
- b. The repugnancy rule If an exemption clause is in direct contradiction to another term of the contract, the exemption clause can be struck out;
- c. The four corners rule Exemption clauses only protect a party when he is acting within the four corners of the contract. Thus he is liable for damage which occurs when he deviates from contract and he would not be protected by any exemption clause.

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### 编辑推荐

《法律英语综合教程》是法律英语精品系列教材中的一本，是法律英语精读教材。

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