LCTA Lugano Commodity Trading Association

TRAINING COURSE
LEGAL ASPECTS

LUGANO - NOVEMBER 20-21, 2026

CONTRACT CHAINS & BACK-TO-BACK RISK IN COMMODITY TRADING

Managing contractual mismatches and exposure across physical commodity transactions

1. UNDERSTANDING THE CONTRACTUAL CHAIN

- The trader acts as both buyer and seller in the same transaction
- Purchase contract vs sales contract
- What is the role of the trader and why both the supplier and the end customer need a trader in the middle?
- Purchase contract and sales contract are entered into by the trader on a “back-to-back” basis: what does “back to back” actually mean?
- Why two apparently matching contracts may not be back-to-back: what may change?
- Multiple traders and longer contractual chains
- Separate contracts, separate rights and obligations
- No automatic pass-through of liability
- Mapping contractual exposure across the transaction

Practical exercise: map a simple Seller → Trader → Buyer transaction and identify the main “back-to-back” terms that apply throughout the transaction.

2. DELIVERY AND TIMING MISMATCHES

- Delivery Incoterm set out in the purchase contract and sales contract may differ
- Delivery time may vary depending on the Incoterm (e.g. FOB/CFR or FOB/DDP)
- Different definitions of timely performance in the contracts
- Liquidated damages for delayed delivery in one contract, but not in the other
- Force majeure excusing delays in one contract, but not in the other
- Delayed performance upstream vs delivery obligations downstream: is the trader protected?

The focus will be on **how delivery obligations may differ between two connected contracts and what can happen when the supplier’s performance is delayed**.

3. QUALITY, QUANTITY AND INSPECTION MISMATCHES

- Different product specifications (e.g. no use of the same technical annex in both contracts)
- Tolerances and quantity provisions
- Sampling and testing provisions for quality determination
- Different inspection points to evidence quality of the goods
- Different inspectors or certification requirements
- “Final and binding” determinations in only one contract
- Acceptance/rejection rights that do not match
- Quality related penalties that do not match
- Who bears the gap?

Here the question is: **what happens when the purchase contract says the load-port certificate is final, while the resale contract determines quality at discharge?**

4. PRICE AND PAYMENT MISMATCHES

- Different payment methods (e.g. L/C versus open terms): is that an issue?
- Price adjustments and premiums/discounts
- Currency may differ (hedging?)
- Letters of Credit used for payment over the transaction chain: documents to be presented are “back to back”?
- Documentary requirements that differ between purchase and sale
- It is possible that the trader must pay its supplier but has not been paid by its buyer: is this a problem?

The focus will be on what can happen when pricing, payment terms and documentary requirements are not aligned across the transactions chain, **particularly where the trader must pay its supplier before receiving payment from its buyer.**

5. TERMS, CLAUSES AND STANDARD FORMS THAT DO NOT FLOW THROUGH

- Incorporation of sale or purchase GTCs in one contract, but not in the other contract
- Conflicting standard terms:
  - Governing law and jurisdiction
  - Arbitration clauses
  - Force majeure clauses
  - Sanctions clauses
  - Liability exclusions and caps
  - Protective clauses in case of duties applied on the goods, at destination
  - Termination rights
  - Indemnities

Here the question is: **what happens when standard terms conflict?**

6. WHEN SOMETHING GOES WRONG IN THE CHAIN

- Upstream breach vs downstream liability
- Can the trader rely on its supplier’s breach against its buyer?
- Buyer rejects but supplier’s contract gives no equivalent rejection right
- Seller invokes force majeure but trader cannot do the same downstream
- Different liability limitation or liquidated damages clauses
- Recovering upstream what has been paid downstream (duty to settle at reasonable terms and mitigate damages)
- Trader acting as mere financer across the transaction: how do we manage liability for quality claims?

This is where participants see **why “back-to-back” should never be treated as synonymous with “no risk for the intermediary”**.

7. MANAGING BACK-TO-BACK RISK BEFORE SIGNING

This would be an especially practical section.

- Aligning essential elements of the contract
- Aligning documentary requirements for payment or quality assessment
- Contract comparison and gap analysis
- Identifying critical clauses before confirmation
- Prioritizing mismatches: what really matters?
- Negotiating protective wording for the trader
- Creating a practical back-to-back checklist

8. PRACTICAL WORKSHOP - SPOT THE GAP

Participants receive simplified extracts from the purchase and resale contracts for the same commodity transaction.
Their task is to identify the mismatches:

- Are the essential elements of the contract aligned?
- Is quality determined at the same place?
- Are quantity tolerances compatible?
- Are payment terms compatible and does it matter?
- Are force majeure provisions equivalent?
- Are quality and quantity claims provisions aligned?
- Are certain mismatches acceptable and not others?
- What exposure remains with the trader?

At the end, the group could produce a **contract gap map**, distinguishing acceptable commercial risk from potentially dangerous contractual exposure.