

THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

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The United Nations Convention on Contracts for the International Sale of Goods (CISG) has been recognized as the most successful attempt to unify a broad area of commercial law at the international level. The self-executing treaty aims to reduce obstacles to international trade, particularly those associated with choice of law issues, by creating even-handed and modern substantive rules governing the rights and obligations of parties to international sales contracts. At the time this is written (February 2009), the CISG has attracted more than 70 Contracting States that account for well over two thirds of international trade in goods, and that represent extraordinary economic, geographic and cultural diversity.

The CISG is a project of the United Nations Commission on International Trade Law (UNCITRAL), which in the early 1970s undertook to create a successor to two substantive international sales treaties – Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (ULF) and the Convention relating to a Uniform Law for the International Sale of Goods (ULIS) – both of which were sponsored by the International Institute for the Unification of Private Law (UNIDROIT). The goal of UNCITRAL was to create a Convention that would attract increased participation in uniform international sales rules. The text of the CISG was finalized and approved in the six official languages of the United Nations at the United Nations Conference on Contracts for the International Sale of Goods, held in 1980, in Vienna. The CISG entered into force in eleven initial Contracting States on 1 January 1988, and since that time has steadily and continuously attracted a diverse group of adherents.

The CISG governs international sales contracts if (1) both parties are located in Contracting States, or (2) private international law leads to the application of the law of a Contracting State (although, as permitted by the CISG (article 95), several Contracting States have declared that they are not bound by the latter ground). The autonomy of the parties to international sales contracts is a fundamental theme of the Convention: the parties can, by agreement, derogate from virtually any CISG rule, or can exclude the applicability of the CISG entirely in favor of other law. When the Convention applies, it does not govern every issue that can arise from an international sales contract: for example, issues concerning the validity of the contract or the effect of the contract on the property in (ownership of) the goods sold are, as expressly provided in the CISG, beyond the scope of the Convention, and are left to the law applicable by virtue of the rules of private international law (article 4). Questions concerning matters governed by the Convention but that are not expressly addressed therein are to be settled in conformity with the general principles of the CISG or, in the absence of such principles, by reference to the law applicable under the rules of private international law.

Among the many significant provisions of the CISG are those addressing the following matters:

- Interpretation of the parties' agreement;
- The role of practices established between the parties, and of international usages;

- The features, duration and revocability of offers;
- The manner, timing and effectiveness of acceptances of offers;
- The effect of attempts to add or change terms in an acceptance;
- Modifications to international sales contracts;
- The seller’s obligations with respect to the quality of the goods as well as the time and place for delivery;
- The place and date for payment;
- The buyer’s obligations to take delivery, to examine delivered goods, and to give notice of any claimed lack of conformity;
- The buyer’s remedies for breach of contract by the seller, including rights to demand delivery, to require repair or replacement of non-conforming goods, to avoid the contract, to recover damages, and to reduce the price for non-conforming goods;
- The seller’s remedies for breach of contract by the buyer, including rights to require the buyer to take delivery and/or pay the price, to avoid the contract, and to recover damages;
- Passing of risk in the goods sold;
- Anticipatory breach of contract;
- Recovery of interest on sums in arrears;
- Exemption from liability for failure to perform, including *force majeure*;
- Obligations to preserve goods that are to be sent or returned to the other party.

The CISG also includes a provision eliminating written-form requirements for international sales contracts within its scope – although the Convention authorizes Contracting States to reserve out of this provision, and a number have done so. The CISG also includes “Final Provisions” addressing such matters as ratification, acceptance, approval and accession; the interplay between the CISG and other overlapping international agreements; declarations and reservations; entry-into-force dates; and denunciation of the Convention.

Several other UNCITRAL projects are designed to work in tandem with the CISG. For example, the United Nations Convention on the Limitation Period in the International Sale of Goods contains rules governing the limitation period for claims arising under international sales contracts. The Limitations Convention was originally promulgated in 1974, but was amended in 1980 by a Protocol adopted by the Diplomatic Conference that approved the CISG in order to harmonize the two Conventions. At the time this is written, the amended Limitations Convention is in force in 20 Contracting States. In 2005, the General Assembly adopted the United Nations Convention on the Use of Electronic Communications in International Contracts to address various issues arising when electronic communications methods are employed in connection with international contracts, including international sales contracts. Issues addressed in the Electronic Communications Convention include contract formation by automated communications, the time and place that electronic communications are deemed dispatched and received, determination of the location of parties employing electronic communications, and criteria for establishing functional equivalence between electronic and hard copy communication

and authentication. At the time this is written, 18 States have signed the Electronic Communications Convention, although it has not yet been ratified or acceded to by any State and it has not yet entered into force.

No special tribunals were created for the CISG; it is applied and interpreted by the national courts and arbitration panels that have jurisdiction in disputes over transactions governed by the Convention. To achieve its fundamental purpose of providing uniform rules for international sales, the Convention itself requires that it be interpreted with a view to maintaining its international character and uniformity. To that end, special research resources, often consisting of databases available free of charge through the Internet, provide access to materials designed to foster uniform international understanding of the rules of the CISG. These resources, including several developed and maintained by UNCITRAL in the six official languages of the United Nations, allow access to court and arbitral decisions applying the CISG from around the world, the *travaux préparatoires* of the CISG, and commentary on the Convention by a global community of scholars.

Related Materials

A. Legal Instruments

Convention relating to a Uniform Law on the International Sale of Goods, The Hague, 1 July 1964, United Nations, *Treaty Series*, vol. 834, p. 107.

Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods, The Hague, 1 July 1964, United Nations, *Treaty Series*, vol. 834, p. 169.

Convention on the Limitation Period in the International Sale of Goods, New York, 14 June 1974, United Nations, *Treaty Series*, vol. 1511, p. 3.

Protocol amending the Convention on the Limitation Period in the International Sale of Goods, Vienna, 11 April 1980, United Nations, *Treaty Series*, vol. 1511, p. 77.

Convention on the Limitation Period in the International Sale of Goods, as amended by the Protocol of 11 April 1980, United Nations, *Treaty Series*, vol. 1511, p. 99.

United Nations Convention on the Use of Electronic Communications in International Contracts, New York, 23 November 2005 (General Assembly resolution 60/21 of 23 November 2005).

B. Documents

Final Act of the United Nations Conference on Contracts for the International Sale of Goods, 10 March – 11 April 1980 (A/CONF.97/18).

Commentary on the Draft Convention on Contracts for the International Sales of Goods, prepared by the Secretariat (A/CONF.97/5).

Case Law on UNCITRAL Texts (CLOUT), Abstracts of Decisions.

UNCITRAL Digest of Case Law on the United Nations Convention on the International Sales of Goods – 2008 revision.

[For other documents relating to the travaux préparatoire of the CISG, see the UNICTRAL website.]

C. Doctrine

Commentary on the UN Convention on the International Sale of Goods (CISG) (Peter Schlechtriem & Ingeborg Schwenzer, eds.) 2nd (English) ed., Oxford: Oxford University Press, 2005 (English-version of the 4th edition of *Kommentar zum Einheitlichen UN-Kaufrecht*).

J. O. Honnold, *Uniform Law for International Sales under the 1980 United Nations Convention*, 3rd ed., The Hague: Kluwer Law International, 1999 (4th ed. forthcoming in 2009).

[For other recommended sources, see the “Related Material” accompanying the lectures on the United Nations Convention on Contracts for the International Sale of Goods in the Lecture Series portion of the United Nations Audiovisual Library of International Law.]