

United Nations Convention On Contracts For The International Sale Of Goods, 1980 (CISG)

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1 **United Nations Convention On Contracts For The
International Sale Of Goods, 1980 (CISG)**

[Preamble]

2 THE STATES PARTIES TO THIS CONVENTION,
3 BEARING IN MIND the broad objectives in the resolutions
adopted by the sixth special session of the General Assembly of
the United Nations on the establishment of a New International
Economic Order,
4 CONSIDERING that the development of international trade on
the basis of equality and mutual benefit is an important element in
promoting friendly relations among States,
5 BEING OF THE OPINION that the adoption of uniform rules
which govern contracts for the international sale of goods and take
into account the different social, economic and legal systems would
contribute to the removal of legal barriers in international trade
and promote the development of international trade,
6 HAVE DECREED as follows:

7 **PART I - Sphere of Application and General Provisions**

8 **Chapter I - Sphere of Application**

9 **Article 1**

10 (1) This Convention applies to contracts of sale of goods between parties whose places of business are in different States:

11 (a) when the States are Contracting States; or

12 (b) when the rules of private international law lead to the application of the law of a Contracting State.

13 (2) The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract.

14 (3) Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

15 **Article 2**

16 This Convention does not apply to sales:

17 (a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;

18 (b) by auction;

19 (c) on execution or otherwise by authority of law;

20 (d) of stocks, shares, investment securities, negotiable instruments or money;

21 (e) of ships, vessels, hovercraft or aircraft;

22 (f) of electricity.

Article 3

23

(1) Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

(2) This Convention does not apply to contracts in which the preponderant part of the obligations of the party who furnishes the goods consists in the supply of labour or other services.

Article 4

26

This Convention governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in this Convention, it is not concerned with:

(a) the validity of the contract or of any of its provisions or of any usage;

(b) the effect which the contract may have on the property in the goods sold.

Article 5

30

This Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person.

Article 6

32

The parties may exclude the application of this Convention or, subject to article 12, derogate from or vary the effect of any of its provisions.

33

34 **Chapter II - General Provisions**

35 **Article 7**

36 (1) In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

37 (2) Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

38 **Article 8**

39 (1) For the purposes of this Convention statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was.

40 (2) If the preceding paragraph is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.

41 (3) In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

42 **Article 9**

43 (1) The parties are bound by any usage to which they have agreed

and by any practices which they have established between themselves.

(2) The parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned. 44

Article 10 45

For the purposes of this Convention: 46

(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract; 47

(b) if a party does not have a place of business, reference is to be made to his habitual residence. 48

Article 11 49

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses. 50

Article 12 51

Any provision of article 11, article 29 or Part II of this Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where 52

any party has his place of business in a Contracting State which has made a declaration under article 96 of this Convention. The parties may not derogate from or vary the effect of this article.

53 **Article 13**

54 For the purposes of this Convention “writing” includes telegram and telex.

55 **PART II - Formation of the Contract**

56 **Article 14**

57 (1) A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.

58 (2) A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

59 **Article 15**

60 (1) An offer becomes effective when it reaches the offeree.

61 (2) An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

62 **Article 16**

63 (1) Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.

64 (2) However, an offer cannot be revoked:

65 (a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or

66 (b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

Article 17 67

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror. 68

Article 18 69

(1) A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance. 70

(2) An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise. 71

(3) However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph. 72

Article 19 73

(1) A reply to an offer which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer. 74

(2) However, a reply to an offer which purports to be an acceptance 75

but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance, unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.

76 (3) Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially.

77 **Article 20**

78 (1) A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.

79 (2) Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

80 **Article 21**

81 (1) A late acceptance is nevertheless effective as an acceptance if

without delay the offeror orally so informs the offeree or dispatches a notice to that effect.

(2) If a letter or other writing containing a late acceptance shows 82 that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

Article 22 83

An acceptance may be withdrawn if the withdrawal reaches the 84 offeror before or at the same time as the acceptance would have become effective.

Article 23 85

A contract is concluded at the moment when an acceptance of an 86 offer becomes effective in accordance with the provisions of this Convention.

Article 24 87

For the purposes of this Part of the Convention, an offer, declaration 88 of acceptance or any other indication of intention "reaches" the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

PART III - Sale of Goods

90 **Chapter I - General Provisions**

91 **Article 25**

92 A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

93 **Article 26**

94 A declaration of avoidance of the contract is effective only if made by notice to the other party.

95 **Article 27**

96 Unless otherwise expressly provided in this Part of the Convention, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

97 **Article 28**

98 If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgement for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this Convention.

Article 29

99

(1) A contract may be modified or terminated by the mere agreement of the parties. 100

(2) A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct. 101

102 **Chapter II - Obligations of the Seller**

103 **Article 30**

104 The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

Section I - Delivery of the goods and handing over of documents 105

Article 31 106

If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists:

(a) if the contract of sale involves carriage of the goods - in handing the goods over to the first carrier for transmission to the buyer;

(b) if, in cases not within the preceding subparagraph, the contract related to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place - in placing the goods at the buyer's disposal at that place;

(c) in other cases - in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract. 110

Article 32 111

(1) If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods. 112

(2) If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation. 113

(3) If the seller is not bound to effect insurance in respect of the 114

carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

115 **Article 33**

116 The seller must deliver the goods:

117 (a) if a date is fixed by or determinable from the contract, on that date;

118 (b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or

119 (c) in any other case, within a reasonable time after the conclusion of the contract.

120 **Article 34**

121 If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Section II - Conformity of the goods and third party claims 122

Article 35 123

(1) The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract. 124

(2) Except where the parties have agreed otherwise, the goods do not conform with the contract unless they: 125

(a) are fit for the purposes for which goods of the same description would ordinarily be used; 126

(b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgement; 127

(c) possess the qualities of goods which the seller has held out to the buyer as a sample or model; 128

(d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods. 129

(3) The seller is not liable under subparagraphs (a) to (d) of the preceding paragraph for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity. 130

Article 36 131

(1) The seller is liable in accordance with the contract and this Convention for any lack of conformity which exists at the time when 132

the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.

133 (2) The seller is also liable for any lack of conformity which occurs after the time indicated in the preceding paragraph and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

134 **Article 37**

135 If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

136 **Article 38**

137 (1) The buyer must examine the goods, or cause them to be examined, within as short a period as is practicable in the circumstances.

138 (2) If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.

139 (3) If the goods are redirected in transit or redispached by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or

redispach, examination may be deferred until after the goods have arrived at the new destination.

Article 39

140

(1) The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.

141

(2) In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

142

Article 40

143

The seller is not entitled to rely on the provisions of articles 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

144

Article 41

145

The seller must deliver goods which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by article 42.

146

Article 42

147

(1) The seller must deliver goods which are free from any right

148

or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property:

149 (a) under the law of the State where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that State; or

150 (b) in any other case, under the law of the State where the buyer has his place of business.

151 (2) The obligation of the seller under the preceding paragraph does not extend to cases where:

152 (a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or

153 (b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

154 **Article 43**

155 (1) The buyer loses the right to rely on the provisions of article 41 or article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.

156 (2) The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

Article 44

Notwithstanding the provisions of paragraph (1) of article 39 and paragraph (1) of article 43, the buyer may reduce the price in accordance with article 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice. 158

159 **Section III - Remedies for breach of contract by the seller**

160 **Article 45**

161 (1) If the seller fails to perform any of his obligations under the contract or this Convention, the buyer may:

162 (a) exercise the rights provided in articles 46 to 52;

163 (b) claim damages as provided in articles 74 to 77.

164 (2) The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.

165 (3) No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

166 **Article 46**

167 (1) The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

168 (2) If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

169 (3) If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under article 39 or within a reasonable time thereafter.

170 **Article 47**

(1) The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations. 171

(2) Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance. 172

Article 48 173

(1) Subject to article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention. 174

(2) If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller. 175

(3) A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision. 176

(4) A request or notice by the seller under paragraph (2) or (3) of this article is not effective unless received by the buyer. 177

Article 49

- 179 (1) The buyer may declare the contract avoided:
180 (a) if the failure by the seller to perform any of his obligations under
the contract or this Convention amounts to a fundamental breach
of contract; or
181 (b) in case of non-delivery, if the seller does not deliver the goods
within the additional period of time fixed by the buyer in accor-
dance with paragraph (1) of article 47 or declares that he will not
deliver within the period so fixed.
182 (2) However, in cases where the seller has delivered the goods, the
buyer loses the right to declare the contract avoided unless he does
so:
183 (a) in respect of late delivery, within a reasonable time after he has
become aware that delivery has been made;
184 (b) in respect of any breach other than late delivery, within a rea-
sonable time:
185 (i) after he knew or ought to have known of the breach;
186 (ii) after the expiration of any additional period of time fixed by the
buyer in accordance with paragraph (1) of article 47, or after the
seller has declared that he will not perform his obligations within
such an additional period; or
187 (iii) after the expiration of any additional period of time indicated
by the seller in accordance with paragraph (2) of article 48, or after
the buyer has declared that he will not accept performance.

Article 50

189 If the goods do not conform with the contract and whether or not
the price has already been paid, the buyer may reduce the price in
the same proportion as the value that the goods actually delivered

178 had at the time of the delivery bears to the value that conforming
goods would have had at that time. However, if the seller remedies
any failure to perform his obligations in accordance with article 37
or article 48 or if the buyer refuses to accept performance by the
seller in accordance with those articles, the buyer may not reduce
the price.

Article 51

- 190 (1) If the seller delivers only a part of the goods or if only a part of
191 the goods delivered is in conformity with the contract, articles 46
to 50 apply in respect of the part which is missing or which does
not conform.
192 (2) The buyer may declare the contract avoided in its entirety only
if the failure to make delivery completely or in conformity with the
contract amounts to a fundamental breach of the contract.

Article 52

- 193 (1) If the seller delivers the goods before the date fixed, the buyer
194 may take delivery or refuse to take delivery.
195 (2) If the seller delivers a quantity of goods greater than that pro-
vided for in the contract, the buyer may take delivery or refuse to
take delivery of the excess quantity. If the buyer takes delivery of
all or part of the excess quantity, he must pay for it at the contract
rate.

196	Chapter III - Obligations of the Buyer	Section I - Payment of the price	199
197	Article 53	Article 54	200
198	The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention.	The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.	201
		Article 55	202
		Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.	203
		Article 56	204
		If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.	205
		Article 57	206
		(1) If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller:	207
		(a) at the seller's place of business; or	208
		(b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.	209
		(2) The seller must bear any increases in the expenses incidental	210

to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

211 **Article 58**

212 (1) If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.

213 (2) If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.

214 (3) The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

215 **Article 59**

216 The buyer must pay the price on the date fixed by or determinable from the contract and this Convention without the need for any request or compliance with any formality on the part of the seller.

Section II - Taking delivery

217

Article 60

218

The buyer's obligation to take delivery consists:

219

(a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and

220

(b) in taking over the goods.

221

222 **Section III - Remedies for breach of contract by the
buyer**

223 **Article 61**

224 (1) If the buyer fails to perform any of his obligations under the
contract or this Convention, the seller may:

225 (a) exercise the rights provided in articles 62 to 65;

226 (b) claim damages as provided in articles 74 to 77.

227 (2) The seller is not deprived of any right he may have to claim
damages by exercising his right to other remedies.

228 (3) No period of grace may be granted to the buyer by a court or
arbitral tribunal when the seller resorts to a remedy for breach of
contract.

229 **Article 62**

230 The seller may require the buyer to pay the price, take delivery
or perform his other obligations, unless the seller has resorted to a
remedy which is inconsistent with this requirement.

231 **Article 63**

232 (1) The seller may fix an additional period of time of reasonable
length for performance by the buyer of his obligations.

233 (2) Unless the seller has received notice from the buyer that he will
not perform within the period so fixed, the seller may not, during
that period, resort to any remedy for breach of contract. However,
the seller is not deprived thereby of any right he may have to claim
damages for delay in performance.

234 **Article 64**

(1) The seller may declare the contract avoided: 235

(a) if the failure by the buyer to perform any of his obligations 236
under the contract or this Convention amounts to a fundamental
breach of contract; or

(b) if the buyer does not, within the additional period of time fixed 237
by the seller in accordance with paragraph (1) of article 63, perform
his obligation to pay the price or take delivery of the goods, or if
he declares that he will not do so within the period so fixed.

(2) However, in cases where the buyer has paid the price, the 238
seller loses the right to declare the contract avoided unless he does
so:

(a) in respect of late performance by the buyer, before the seller 239
has become aware that performance has been rendered; or

(b) in respect of any breach other than late performance by the 240
buyer, within a reasonable time:

(i) after the seller knew or ought to have known of the breach; 241
or

(ii) after the expiration of any additional period of time fixed by the 242
seller in accordance with paragraph (1) or article 63, or after the
buyer has declared that he will not perform his obligations within
such an additional period.

Article 65 243

(1) If under the contract the buyer is to specify the form, mea- 244
surement or other features of the goods and he fails to make such
specification either on the date agreed upon or within a reason-
able time after receipt of a request from the seller, the seller may,

without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.

245 (2) If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

246 **Chapter IV - Passing of Risk**

247 **Article 66**

248 Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

249 **Article 67**

250 (1) If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorized to retain documents controlling the disposition of the goods does not affect the passage of the risk.

251 (2) Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

252 **Article 68**

253 The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time of the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and

did not disclose this to the buyer, the loss or damage is at the risk of the seller.

Article 69

254

(1) In cases not within articles 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.

255

(2) However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.

256

(3) If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

257

Article 70

258

If the seller has committed a fundamental breach of contract, articles 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

259

260	Chapter V - Provisions Common to the Obligations of the Seller and of the Buyer	Section I - Anticipatory breach and instalment contracts	261
		Article 71	262
		(1) A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:	263
		(a) a serious deficiency in his ability to perform or in his creditworthiness; or	264
		(b) his conduct in preparing to perform or in performing the contract.	265
		(2) If the seller has already dispatched the goods before the grounds described in the preceding paragraph become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document which entitles him to obtain them. The present paragraph relates only to the rights in the goods as between the buyer and the seller.	266
		(3) A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.	267
		Article 72	268
		(1) If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided.	269
		(2) If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.	270

271 (3) The requirements of the preceding paragraph do not apply if
the other party has declared that he will not perform his obligations.

272 **Article 73**

273 (1) In the case of a contract for delivery of goods by instalments, if
the failure of one party to perform any of his obligations in respect
of any instalment constitutes a fundamental breach of contract with
respect to that instalment, the other party may declare the contract
avoided with respect to that instalment.

274 (2) If one party's failure to perform any of his obligations in respect
of any instalment gives the other party good grounds to conclude
that a fundamental breach of contract will occur with respect to
future instalments, he may declare the contract avoided for the
future, provided that he does so within a reasonable time.

275 (3) A buyer who declares the contract avoided in respect of any
delivery may, at the same time, declare it avoided in respect of
deliveries already made or of future deliveries if, by reason of their
interdependence, those deliveries could not be used for the purpose
contemplated by the parties at the time of the conclusion of the
contract.

Section II - Damages

276

Article 74

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Damages for breach of contract by one party consist of a sum equal
to the loss, including loss of profit, suffered by the other party as
a consequence of the breach. Such damages may not exceed the
loss which the party in breach foresaw or ought to have foreseen at
the time of the conclusion of the contract, in the light of the facts
and matters of which he then knew or ought to have known, as a
possible consequence of the breach of contract.

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Article 75

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If the contract is avoided and if, in a reasonable manner and within
a reasonable time after avoidance, the buyer has bought goods in
replacement or the seller has resold the goods, the party claim-
ing damages may recover the difference between the contract price
and the price in the substitute transaction as well as any further
damages recoverable under article 74.

280

Article 76

281

(1) If the contract is avoided and there is a current price for the
goods, the party claiming damages may, if he has not made a pur-
chase or resale under article 75, recover the difference between the
price fixed by the contract and the current price at the time of
avoidance as well as any further damages recoverable under article
74. If, however, the party claiming damages has avoided the con-
tract after taking over the goods, the current price at the time of
such taking over shall be applied instead of the current price at the
time of avoidance.

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(2) For the purposes of the preceding paragraph, the current price

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is the price prevailing at the place where delivery of the goods should have been made or, if there is no current price at that place, the price at such other place as serves as a reasonable substitute, making due allowance for differences in the cost of transporting the goods.

284 **Article 77**

285 A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the damages in the amount by which the loss should have been mitigated.

Section III - Interest

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Article 78

287

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under article 74. 288

289 **Section IV - Exemptions**

290 **Article 79**

291 (1) A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.

292 (2) If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if:

293 (a) he is exempt under the preceding paragraph; and

294 (b) the person whom he has so engaged would be so exempt if the provisions of that paragraph were applied to him.

295 (3) The exemption provided by this article has effect for the period during which the impediment exists.

296 (4) The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.

297 (5) Nothing in this article prevents either party from exercising any right other than to claim damages under this Convention.

298 **Article 80**

299 A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

Section V - Effects of avoidance 300

Article 81 301

(1) Avoidance of the contract releases both parties from their obligations under it, subject to any damages which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract. 302

(2) A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently. 303

Article 82 304

(1) The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them. 305

(2) The preceding paragraph does not apply: 306

(a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission; 307

(b) if the goods or part of the goods have perished or deteriorated as a result of the examination provided for in article 38; or 308

(c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course normal use before he discovered or ought to have discovered the lack of conformity. 309

310 **Article 83**

311 A buyer who has lost the right to declare the contract avoided or
to require the seller to deliver substitute goods in accordance with
article 82 retains all other remedies under the contract and this
Convention.

312 **Article 84**

313 (1) If the seller is bound to refund the price, he must also pay
interest on it, from the date on which the price was paid.

314 (2) The buyer must account to the seller for all benefits which he
has derived from the goods or part of them:

315 (a) if he must make restitution of the goods or part of them;
or

316 (b) if it is impossible for him to make restitution of all or part
of the goods or to make restitution of all or part of the goods
substantially in the condition in which he received them, but he has
nevertheless declared the contract avoided or required the seller to
deliver substitute goods.

Section VI - Preservation of the goods

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Article 85

318

If the buyer is in delay in taking delivery of the goods or, where
payment of the price and delivery of the goods are to be made
concurrently, if he fails to pay the price, and the seller is either
in possession of the goods or otherwise able to control their dis-
position, the seller must take such steps as are reasonable in the
circumstances to preserve them. He is entitled to retain them until
he has been reimbursed his reasonable expenses by the buyer.

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Article 86

320

(1) If the buyer has received the goods and intends to exercise
any right under the contract or this Convention to reject them,
he must take such steps to preserve them as are reasonable in the
circumstances. He is entitled to retain them until he has been
reimbursed his reasonable expenses by the seller.

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(2) If goods dispatched to the buyer have been placed at his dis-
posal at their destination and he exercises the right to reject them,
he must take possession of them on behalf of the seller, provided
that this can be done without payment of the price and without un-
reasonable inconvenience or unreasonable expense. This provision
does not apply if the seller or a person authorized to take charge of
the goods on his behalf is present at the destination. If the buyer
takes possession of the goods under this paragraph, his rights and
obligations are governed by the preceding paragraph.

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Article 87

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A party who is bound to take steps to preserve the goods may de-
posit them in a warehouse of a third person at the expense of the

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other party provided that the expense incurred is not unreasonable.

325 **Article 88**

326 (1) A party who is bound to preserve the goods in accordance with article 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.

327 (2) If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with article 85 or 86 must take reasonable measures to sell them. To the extent possible he must give notice to the other party of his intention to sell.

328 (3) A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

329 **PART IV - Final Provisions**

330 **Article 89**

331 The Secretary-General of the United Nations is hereby designated
as the depositary for this Convention.

332 **Article 90**

333 This Convention does not prevail over any international agreement
which has already been or may be entered into and which contains
provisions concerning the matters governed by this Convention, pro-
vided that the parties have their places of business in States parties
to such agreement.

334 **Article 91**

335 (1) This Convention is open for signature at the concluding meeting
of the United Nations Conference on Contracts for the International
Sale of Goods and will remain open for signature by all States at the
Headquarters of the United Nations, New York until 30 September
1981.

336 (2) This Convention is subject to ratification, acceptance or ap-
proval by the signatory States.

337 (3) This Convention is open for accession by all States which are
not signatory States as from the date it is open for signature.

338 (4) Instruments of ratification, acceptance, approval and accession
are to be deposited with the Secretary-General of the United Na-
tions.

339 **Article 92**

340 (1) A Contracting State may declare at the time of signature, rati-

fication, acceptance, approval or accession that it will not be bound
by Part II of this Convention or that it will not be bound by Part
III of this Convention.

(2) A Contracting State which makes a declaration in accordance 341
with the preceding paragraph in respect of Part II or Part III of
this Convention is not to be considered a Contracting State within
paragraph (1) of article 1 of this Convention in respect of matters
governed by the Part to which the declaration applies.

Article 93 342

(1) If a Contracting State has two or more territorial units in which, 343
according to its constitution, different systems of law are applicable
in relation to the matters dealt with in this Convention, it may, at
the time of signature, ratification, acceptance, approval or acces-
sion, declare that this Convention is to extend to all its territorial
units or only to one or more of them, and may amend its declaration
by submitting another declaration at any time.

(2) These declarations are to be notified to the depositary and are 344
to state expressly the territorial units to which the Convention ex-
tends.

(3) If, by virtue of a declaration under this article, this Convention 345
extends to one or more but not all of the territorial units of a Con-
tracting State, and if the place of business of a party is located in
that State, this place of business, for the purposes of this Conven-
tion, is considered not to be in a Contracting State, unless it is in
a territorial unit to which the Convention extends.

(4) If a Contracting State makes no declaration under paragraph 346
(1) of this article, the Convention is to extend to all territorial units
of that State.

Article 94

348 (1) Two or more Contracting States which have the same or closely related legal rules on matters governed by this Convention may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.

349 (2) A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States.

350 (3) If a State which is the object of a declaration under the preceding paragraph subsequently becomes a Contracting State, the declaration made will, as from the date on which the Convention enters into force in respect of the new Contracting State, have the effect of a declaration made under paragraph (1), provided that the new Contracting State joins in such declaration or makes a reciprocal unilateral declaration.

351 **Article 95**

352 Any State may declare at the time of the deposit of its instrument of ratification, acceptance, approval or accession that it will not be bound by subparagraph (1)(b) of article 1 of this Convention.

353 **Article 96**

354 A Contracting State whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with article 12 that any provision of article 11, article 29, or Part II of this Convention, that allows a

347 contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication of intention to be made in any form other than in writing, does not apply where any party has his place of business in that State.

Article 97

355

(1) Declarations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval. 356

(2) Declarations and confirmations of declarations are to be in writing and be formally notified to the depositary. 357

(3) A declaration takes effect simultaneously with the entry into force of this Convention in respect of the State concerned. However, a declaration of which the depositary receives formal notification after such entry into force takes effect on the first day of the month following the expiration of six months after the date of its receipt by the depositary. Reciprocal unilateral declarations under article 94 take effect on the first day of the month following the expiration of six months after the receipt of the latest declaration by the depositary. 358

(4) Any State which makes a declaration under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary. 359

(5) A withdrawal of a declaration made under article 94 renders inoperative, as from the date on which the withdrawal takes effect, any reciprocal declaration made by another State under that article. 360

Article 98

362 No reservations are permitted except those expressly authorized in this Convention.

Article 99

364 (1) This Convention enters into force, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, including an instrument which contains a declaration made under article 92.

365 (2) When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or accession, this Convention, with the exception of the Part excluded, enters into force in respect of that State, subject to the provisions of paragraph (6) of this article, on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

366 (3) A State which ratifies, accepts, approves or accedes to this Convention and is a party to either or both the Convention relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Formation Convention) and the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1 July 1964 (1964 Hague Sales Convention) shall at the same time denounce, as the case may be, either or both the 1964 Hague Sales Convention and the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

367 (4) A State party to the 1964 Hague Sales Convention which ratifies,

361 accepts, approves or accedes to the present Convention and declares or has declared under article 52 that it will not be bound by Part II of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Sales Convention by notifying the Government of the Netherlands to that effect.

(5) A State party to the 1964 Hague Formation Convention which 368 ratifies, accepts, approves or accedes to the present Convention and declares or has declared under article 92 that it will not be bound by Part III of this Convention shall at the time of ratification, acceptance, approval or accession denounce the 1964 Hague Formation Convention by notifying the Government of the Netherlands to that effect.

(6) For the purpose of this article, ratifications, acceptances, ap- 369 provals and accessions in respect of this Convention by States parties to the 1964 Hague Formation Convention or to the 1964 Hague Sales Convention shall not be effective until such denunciations as may be required on the part of those States in respect of the latter two Conventions have themselves become effective. The depositary of this Convention shall consult with the Government of the Netherlands, as the depositary of the 1964 Conventions, so as to ensure necessary co-ordination in this respect.

Article 100

(1) This Convention applies to the formation of a contract only 371 when the proposal for concluding the contract is made on or after the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Contracting State referred to in subparagraph (1)(b) of article 1.

(2) This Convention applies only to contracts concluded on or after 372 the date when the Convention enters into force in respect of the Contracting States referred to in subparagraph (1)(a) or the Con-

tracting State referred to in subparagraph (1)(b) of article 1.

373 **Article 101**

374 (1) A Contracting State may denounce this Convention, or Part II
or Part III of the Convention, by a formal notification in writing
addressed to the depositary.

375 (2) The denunciation takes effect on the first day of the month
following the expiration of twelve months after the notification is
received by the depositary. Where a longer period for the denunci-
ation to take effect is specified in the notification, the denunciation
takes effect upon the expiration of such longer period after the no-
tification is received by the depositary.

[Post Provisions]

[Post Clauses (If any: Signed; Witnessed; Done; Authentic Texts; & Deposited Clauses)]

376 DONE at Vienna, this day of eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

377 IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

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