

# Lex Mercatoria: Private International Commercial Law

Lex Mercatoria

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## 2 Private International Commercial Law

### 3 Agency

4 See also <Sale of Goods>

5 <Unidroit Convention on Agency in the International Sale of Goods (1983)>

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6 Council Directive 86/653/EEC EC Directive for the co-ordination of the laws of Member States related to Self-employed Commercial Agents 1986

7 <EU Member States>

8 <Convention on the Law Applicable to Agency (The Hague, 1978)>

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See also

<Contract Principles>

<Sale of Goods>

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<Dispute Settlement>

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<sup>5</sup>[http://www.jus.uio.no/lm/hcpil.applicable.law.sog.convention.1986/sisu\\_manifest.html](http://www.jus.uio.no/lm/hcpil.applicable.law.sog.convention.1986/sisu_manifest.html)

<sup>6</sup>[http://www.jus.uio.no/lm/ec.applicable.law.contracts.1980/sisu\\_manifest.html](http://www.jus.uio.no/lm/ec.applicable.law.contracts.1980/sisu_manifest.html)

## “Lex Mercatoria?” Contract Principles / Commercial Codes

### Transnational Law Principles - Creeping Codification

28 <Transnational Law Database> at <CENTRAL's Transnational Law database on rules and principles of Lex Mercatoria> based on Prof. Klaus Peter Berger's concept of the Creeping Codification of Lex Mercatoria is inaugurated on October 26<sup>th</sup> 2001 at the Conference <Globalization of International Business Law> held at CENTRAL, Muenster University, Germany. Guest speakers include Lord Mustill.

### Unidroit

30 <Principles of International Commercial Contracts, 2004; - UNIDROIT, Rome 2004. Black letter rules only>  
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31 <Complete Commented version of the UNIDROIT Principles of International Commercial Contracts, 2004> “The complete version of

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<sup>8</sup><[http://www.jus.uio.no/lm/unidroit.international.commercial.contracts.principles.2004/sisu\\_manifest.html](http://www.jus.uio.no/lm/unidroit.international.commercial.contracts.principles.2004/sisu_manifest.html)>

26 the UNIDROIT Principles contains not only the black letter rules reproduced hereunder, but also detailed comments on each article and, where appropriate, illustrations. The volume may be ordered from UNIDROIT at <<http://www.unidroit.org>>

27 For an update of international case law and bibliography relating to the Principles see <<http://www.unilex.info>> .”

### <UNIDROIT Principles Collection>

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35 Representing “a significant step in the globalization of legal thinking”. J.M. Perillo

36 “The success of even binding uniform law instruments ... depends at least to a great extent, on their being brought to the attention of the potential users. This is all the more true of non-binding instruments such as the UNIDROIT Principles” M.J. Bonell

37 This is a copy of the official commented version of the Unidroit Principles of International Commercial Contracts prepared using the

<sup>9</sup><[http://www.jus.uio.no/lm/unidroit.international.commercial.contracts.principles.1994.commented/sisu\\_manifest.html](http://www.jus.uio.no/lm/unidroit.international.commercial.contracts.principles.1994.commented/sisu_manifest.html)>

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		Commented version of the Principles of European Contract Law edited by Ole Lando & Hugh Beale ISBN 9041113053	55
		For more information, write to the Secretary of the Commission, Matthias E. STORME, matthias@storme.be	56
			57
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60 <US Contracts> from the LII

## 61 Customs

62 Rather see: <Customs>

63 <International Convention on the Simplification and Harmonization of Customs Procedures> (Kyoto, 18 May 1973) | Amending Supplement No. 13 - January 1993 World Customs Organization

## 64 Insolvency

65 <UNCITRAL Model Law on Cross-Border Insolvency 1997>

<sup>12</sup>[http://www.jus.uio.no/lm/leaving.the.shadow.for.the.test.of.practice.future.of.pecl.1999.friedrich.blase/sisu\\_manifest.html](http://www.jus.uio.no/lm/leaving.the.shadow.for.the.test.of.practice.future.of.pecl.1999.friedrich.blase/sisu_manifest.html)

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## English Marine Insurance Act

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<sup>13</sup>[http://www.jus.uio.no/lm/un.cross.border.insolvency.model.law.1997/sisu\\_manifest.html](http://www.jus.uio.no/lm/un.cross.border.insolvency.model.law.1997/sisu_manifest.html)



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## 75 Cargo Insurance

76 The Institute Marine Cargo Clauses <A> <B> <C> <War> and <Strikes> Clauses (London, 1982) Standard terms of insurance. Subject to <English law> - by choice of law clause.

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<sup>14</sup>[http://www.jus.uio.no/lm/institute.marine.cargo.clauses.a.1982/sisu\\_manifest.html](http://www.jus.uio.no/lm/institute.marine.cargo.clauses.a.1982/sisu_manifest.html)

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<sup>23</sup>[http://www.jus.uio.no/lm/ec.jurisdiction.enforcement.judgements.civil.commercial.matters.convention.brussels.1968/sisu\\_manifest.html](http://www.jus.uio.no/lm/ec.jurisdiction.enforcement.judgements.civil.commercial.matters.convention.brussels.1968/sisu_manifest.html)

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<United Nations Convention on the Limitation Period in the International Sale of Goods 1974.>

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<sup>25</sup>[http://www.jus.uio.no/lm/un.limitation.period.sog.convention.1974/sisu\\_manifest.html](http://www.jus.uio.no/lm/un.limitation.period.sog.convention.1974/sisu_manifest.html)

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	<sup>27</sup> < <a href="http://www.jus.uio.no/lm/un.credit.transfers.model.law.1992/sisu_manifest.html">http://www.jus.uio.no/lm/un.credit.transfers.model.law.1992/sisu_manifest.html</a> >		
		<sup>28</sup> < <a href="http://www.jus.uio.no/lm/un.independent.guarantees.and.standby.letters.of.credit.convention.1995/sisu_manifest.html">http://www.jus.uio.no/lm/un.independent.guarantees.and.standby.letters.of.credit.convention.1995/sisu_manifest.html</a> >	

<Convention Providing a Uniform Law For Bills of Exchange and Promissory Notes, Geneva, 1930; League of Nations>

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<UNCITRAL Convention on International Bills of Exchange and International Promissory Notes 1988>

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<Contracting States/ Status of the Convention>

## 119 Factoring

120

<UNIDROIT Convention on International Factoring>

<sup>29</sup>[http://www.jus.uio.no/lm/bills.of.exchange.and.promissory.notes.convention.1930/sisu\\_manifest.html](http://www.jus.uio.no/lm/bills.of.exchange.and.promissory.notes.convention.1930/sisu_manifest.html)

<sup>30</sup>[http://www.jus.uio.no/lm/un.bills.of.exchange.and.promissory.notes.convention.1988/sisu\\_manifest.html](http://www.jus.uio.no/lm/un.bills.of.exchange.and.promissory.notes.convention.1988/sisu_manifest.html)

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## Leasing

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<UNIDROIT Convention on Financial Leasing>

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## Assignment of Receivables

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<sup>31</sup>[http://www.jus.uio.no/lm/unidroit.factoring.convention.1988/sisu\\_manifest.html](http://www.jus.uio.no/lm/unidroit.factoring.convention.1988/sisu_manifest.html)

<sup>32</sup>[http://www.jus.uio.no/lm/unidroit.financial.leasing.convention.1988/sisu\\_manifest.html](http://www.jus.uio.no/lm/unidroit.financial.leasing.convention.1988/sisu_manifest.html)

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127	<b>US UCC</b>		
128	<US Uniform Commercial Code from The LII.>		
129	<b>Procedure and Evidence</b>		
130	See also <Limitation Periods>		
131	<b>Procedure</b>		
132	<ul style="list-style-type: none"> <li>&lt;Convention Abolishing The Requirement Of Legalisation For Foreign Public Documents; (Concluded October 5, 1961) Hague Conference on Private International Law&gt; <ul style="list-style-type: none"> <li>&lt;document manifest&gt; <sup>34</sup></li> <li>&lt; html, segmented text&gt;</li> <li>&lt; html, scroll, document in one&gt;</li> </ul> </li> </ul>		
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149 For advice on the implementation of this Convention contact

150 [[Printable text](#)] [gopher://gopher.law.cornell.edu/00/foreign/fletcher/KAV2420.txt](mailto:gopher://gopher.law.cornell.edu/00/foreign/fletcher/KAV2420.txt)

151 See also:

152 <[Conventions on Applicable Law](#)>153 <[Conventions on Agency](#)>154 <[Limitation Periods](#)>

155 "Because of the abundance of information, [on the CISG] there is a need to sort out the most helpful publications and determine the types of materials needed. Publications come in a variety of formats--print, disc, and increasingly in electronic form. These recent electronic projects represent breakthrough developments for

<sup>35</sup>[http://www.jus.uio.no/lm/un.procurement.model.law.1994/sisu\\_manifest.html](http://www.jus.uio.no/lm/un.procurement.model.law.1994/sisu_manifest.html)

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legal researchers because they use new technologies (i.e., the Internet) and promote cooperation among scholars, practitioners, librarians, and computer specialists. Pace University School of Law is responsible for the major project in this regard. Largely due to the initiative and vision of Albert Kritzer, who is leading the Pace Project, a new tool is being created that will bring together all CISG sources and scholars. Mr. Kritzer, working tirelessly and with experts worldwide, is devoted to making the CISG better known."  
**Claire M. Germain**

CISG sites include:

<[CISG - International Trade Database](#)> at The Institute of International Commercial Law, Pace University, School of Law. The most comprehensive effort to chart the growing domain of the CISG, See also <[The Autonomous Network of CISG Websites](#)>

<[CISG Advisory Council](#)>

<[CISG Rabel Website](#)> University of Freiburg, Institute of Foreign and International Law

<[CISG France](#)> Professor Claude Witz

<[CISG Japan](#)> Professor Hiroo Sono, Kyushu University, Japan

<[CISG Finland](#)> Professor Tuula ?mm?I?, Faculty of Law, University of Turku

<[CISG Israel](#)> Chief Editor: Dr. Arie Reich, Faculty of Law, Bar-Ilan University

<[CISG Spain & Latin America](#)> Prof. Dr. Pilar Perales, University of Madrid

<[Case Laws on UNCITRAL Texts \(CLOUT\)](#)>

<[UNILEX on CISG and UNIDROIT Principles](#)> and the product <[International Case Law and Bibliography](#)>

167 **Bibliographies:**

168 <The United Nations Convention on Contracts for the International Sale of Goods: Guide to Research and Literature> by Claire M. Germain (Cornell Law Library)

169 <Bibliography of CISG English-Language Publications> by <Peter Winship>

170 <CISG Bibliography> at <CISG Database,> IICL, Pace University

171 **Recommended reference texts:**

172 Uniform Law of International Sales under the 1980 United Nations Convention, John Honnold, Kluwer 1991

173 International Contract Manual Guides to Practical Applications of the [CISG], Albert Kritzer, Kluwer, 1994

174 **ULIS & ULF**

175 <Uniform Law on the International Sale of Goods 1964 (ULIS)>

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<sup>36</sup><http:

//www.jus.uio.no/lm/unidroit.ulis.convention.1964/sisu\_manifest.html>

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<Uniform Law on the Formation of Contracts for the International Sale of Goods (1964)>

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176

**Incoterms**

<ICC's Incoterms 1990> "International Commercial Terms."

<ICC Copyright notice and ordering information>

177

178

179

**England**

English <Sale of Goods Act 1979.> (an incomplete presentation of Parts II to VII) England, usually one of the more active participants in the drafting of such Conventions (as the #CISG CISG ), is frequently one of the last States to implement them, as is the case with this Convention. See list of <CISG Contracting States>

England applies the earlier <Uniform Law on International Sale of Goods 1964 (ULIS)> to international sales, but only if adopted by the parties to such a sale.

<TOC - table of contents for individual articles>

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<sup>37</sup><http:

//www.jus.uio.no/lm/unidroit.ulf.convention.1964/sisu\_manifest.html>



184 <Full text (with indexed table of contents)>

## 185 Norway

186 <English Translation of the Norwegian Sale of Goods Act 1988.>

187 <TOC - table of contents for individual articles>

188 <Full text (with indexed table of contents)>

189 The challenges related to the harmonization of a given area of law are many, and go beyond the important agreement of a common text. Such agreement in itself does not guarantee uniformity of application, even where the convention attempts to encourage this through its provisions on <interpretation> . For an excellent article placing the issues in perspective, read “Uniform Words and Uniform Application. The 1980 Sales Convention and International Practice” John Honnold.

190 There has been much success with the #CISG CISG and its uniform adoption (admittedly with not infrequent reservations), there being over <Contracting States.> On the whole, academics and practitioners the world over, can be confident that when they discuss an article of the CISG, and its interaction with other articles, they are discussing the same text, (whether or not they agree as to its meaning).<sup>38</sup>

<sup>38</sup>Not all harmonization/ unification efforts lend themselves equally well to this approach. Transformation is more appropriate where there is necessarily a large domestic law element in the area of law concerned. In these circumstances, the legal text is more likely to be promulgated as a model law. Even here it is vital that as far as possible the text (and article numbering) remain intact. Yet other approaches are appropriate in given circumstances - e.g. where agreement is reached on part of a complex area of law and it is left to the individual States to ensure the changes are implemented; or the EU approach with directives, which member states are left to implement individually

191 It appears that Norway alone amongst the contracting States has implemented the #CISGCISG through “transformation” thought Israel notably is considering it < > Neither the numbering nor the substantive provisions are the same. Obviously this means that for Norway alone amongst the contracting States it is necessary to search to find e.g. Article 74 (or any other provision of the CISG).<sup>39</sup> A question raised is that of the conformity of the transformed text with the original. This is supposedly ultimately taken care of by the “supremacy” clause, ( <?88> with ideas which equate to <Article 7> of the CISG). As pointed out, even with identical texts, the problems that arise can be substantial. Even within Norway not everyone is agreed that this transformation is such a wonderful innovation - see for example: Kj?psrettskonvensjon, Norsk Kj?pslov og Internasjonal Rettsenhet, Tidsskrift for Rettsvitenskap 4/1995 p. 569 - “et siktem?l ? pr?ve ? reversere det som har skjedd.” V. Hagstr?m. Other authoritative Norwegian authors including Professor Kai Kr?ger have expressed their agreement.

192 It would have been extremely unfortunate for the CISG, (and mitigated considerably the success it today represents in the harmonization of international sales law), if several countries had chosen such a course of implementation.

193 This is no criticism of the Norwegian domestic sales law or the Norwegian Sale of Goods Act (which incidentally, is in other respects substantially the same as that of other Nordic countries), but of Norway's implementation of the CISG. From an international (harmonization of law) perspective it is a mistake which hopefully will not be repeated elsewhere.

194 For advice on the implementation of this Convention contact <UNCITRAL.> See the:

- note that in that case there is recourse to the European Court if legislation is not implemented correctly or on time.

<sup>39</sup>And to understand what it has become/ how it has been implemented.

195 Norwegian Sale of Goods Act - CISG concordance table,  
 196 CISG - Norwegian Sale of Goods Act concordance table  
 197 Only the  
 198 The full text ISBN 82-7511-003-3 may be obtained from:  
 199 Tel. 22 60 32 90. Fax 22 69 55 93.  
 200 None of the Nordic countries implement Part II of the Conven-  
 201 tion on formation of contracts (having made  
 202 For a Scandinavian view of the CISG see:  
 "Understanding the CISG in Scandinavia" Joseph Lookofsky.  
 DJ?F Publishing 1996 ISBN 87-574-7420-6

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207

<Revisiting the Autonomous Contract: Transnational contracting, trends and sup-  
 portive structures; (2000) Ralph Amissah>

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## 203 US

204 <US Uniform Commercial Code from The LII.>

## 205 Other

206

<The Autonomous Contract: Reflecting the borderless electronic-commercial en-  
 vironment in contracting; Ralph Amissah (September 1997, Bergen) Paper pre-  
 sented at the XIII nordiske konferanse i rettsinformatikk 17-19 september 1997  
 "Ulike juridiske aspekter ved et elektronisk marked" organised by the Norwegian  
 Research Center for Computers and Law.>

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<sup>40</sup><[http://www.jus.uio.no/lm/the.autonomous.contract.07.10.1997.amissah/sisu\\_manifest.html](http://www.jus.uio.no/lm/the.autonomous.contract.07.10.1997.amissah/sisu_manifest.html)>

<sup>41</sup><[http://www.jus.uio.no/lm/autonomous.contract.2000.amissah/sisu\\_manifest.html](http://www.jus.uio.no/lm/autonomous.contract.2000.amissah/sisu_manifest.html)>

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