

Lex Mercatoria: Private International Commercial Law

Lex Mercatoria

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“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 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	155
CISG sites include:	156
<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>	157
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Bibliographies: 167

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

⟨Bibliography of CISG English-Language Publications⟩ by ⟨Peter Winship⟩ 169

⟨CISG Bibliography⟩ at ⟨CISG Database,⟩ IICL, Pace University 170

Recommended reference texts: 171

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

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

ULIS & ULF 174

⟨Uniform Law on the International Sale of Goods 1964 (ULIS)⟩ 175

⟨document manifest⟩³⁶

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⟨Uniform Law on the Formation of Contracts for the International Sale of Goods (1964)⟩

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³⁵http://www.jus.uio.no/lm/un.procurement.model.law.1994/sisu_manifest.html

³⁶http://www.jus.uio.no/lm/unidroit.ulis.convention.1964/sisu_manifest.html

³⁷http://www.jus.uio.no/lm/unidroit.ulf.convention.1964/sisu_manifest.html

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- < dcc, document content certificate (digests)>

Incoterms

- <ICC's Incoterms 1990> "International Commercial Terms." 177
- <ICC Copyright notice and ordering information> 178

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> 180

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. 181

- <TOC - table of contents for individual articles> 182
- <Full text (with indexed table of contents)> 183

Norway

- <English Translation of the Norwegian Sale of Goods Act 1988.> 184
- <TOC - table of contents for individual articles> 185
- <Full text (with indexed table of contents)> 186

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. 187

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).³⁸ 188

It appears that Norway alone amongst the contracting States has implemented the #CIS- 189

³⁸Not all harmonization/ unification efforts lend themselves equally well to this approach. Transformation is

GCISG 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).³⁹ 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, Tidskrift for Rettsvitenskap 4/1995 p. 569 - “et siktem?! ? pr?ve ? reversere det som har skjedd.” V. Hagstr?m. Other authoritative Norwegian authors including Professor Kai Kr?ger have expressed their agreement.

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. 192

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. 193

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

Norwegian Sale of Goods Act - CISG concordance table, 195

CISG - Norwegian Sale of Goods Act concordance table 196

Only the 197

The full text ISBN 82-7511-003-3 may be obtained from: 198

Tel. 22 60 32 90. Fax 22 69 55 93. 199

None of the Nordic countries implement Part II of the Convention on formation of contracts (having made 200

For a Scandinavian view of the CISG see: 201

“Understanding the CISG in Scandinavia” Joseph Lookofsky. DJ?F Publishing 1996 ISBN 87-574-7420-6 202

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

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

US

203

⟨US Uniform Commercial Code from The LII.⟩

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Other

205

⟨The Autonomous Contract: Reflecting the borderless electronic-commercial environment in contracting; Ralph Amissah (September 1997, Bergen) Paper presented 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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⟨Revisiting the Autonomous Contract: Transnational contracting, trends and supportive structures; (2000) Ralph Amissah⟩

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⟨ dcc, document content certificate (digests)⟩

⁴⁰http://www.jus.uio.no/lm/the.autonomous.contract.07.10.1997.amissah/sisu_manifest.html⟩

⁴¹http://www.jus.uio.no/lm/autonomous.contract.2000.amissah/sisu_manifest.html⟩

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Filetype: SiSU text 2.0

Source Digest: SHA256(private.international.commercial.law.sst)=df3228e4c434a72f863a12852598d6a613ec4889873aa8dc-27ca3611457cf903

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