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INTRODUCTION

On January 1, 1988, the United Nations Convention on Contracts for the International Sale of Goods (the Convention) became effective in the United States. In general, the Convention (also referred to as the “Vienna Sales Convention,” the “Sales Convention,” the “CISG,” or the “UN Convention”) applies to contracts for the sale of goods between enterprises having their places of business in different countries, provided these countries have adopted the Convention. Freedom of contract, however, is a fundamental principle of the Convention, and the parties may opt out or modify the effects of its provisions.

A Contracting State now has two sales laws: a domestic sales law and the Convention. In the United States, for example, the Uniform Commercial Code (UCC) and the Convention are now both US law. Attorneys with clients engaged in international trade should review their clients’ procedures and forms in light of this new international sales law. Additionally, importers and exporters must determine whether or not the Convention applies to their transactions and whether or not they should exclude its application.3

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As this article is intended to be a guide for practitioners, bluebook form was altered in some instances so as to provide as much information as possible. Also published in 1 Review of the Convention on Contracts for the International Sale of Goods (CISG) 1995 117-145 (1996), edited by Cornell International Law Journal.


3 Id. at 111.
The Convention simplifies contract negotiation and dispute resolution. With the exception of up to five possible reservations, the Convention is a uniform text governing international sales transactions. It applies to contracts for the sale of goods between parties whose places of business are in different states when the states are Contracting States or when the rules of private international law, i.e., choice of law rules, lead to the application of a Contracting State's law.\(^4\)

The Convention will govern a contract for the sale of goods between a US enterprise and an Italian enterprise because both the United States and Italy are Contracting States. In a contract between a US enterprise and a UK (which is not a Contracting State) enterprise, the Convention could apply by virtue of its Article 1(1)(b) if the forum choice of law rule led to the application of US law. The Convention, however, does not apply because the United States has adopted a reservation excluding Article 1(1)(b).\(^5\)

Not all contracts and contract-related issues are governed by the Convention. For example, sales to consumers, issues of validity, the effect of a sale on third-party claims, and claims for death or personal injury caused by defects in the goods sold are excluded. Likewise, a number of contracts that are ancillary to an international sales contract, e.g., carriage insurance, letters of credit, and dispute resolution are not governed by the Convention.

This article maps Convention research strategies and explores some research issues relating to the Convention and its interpretation. More specifically, it provides guidance on where to start, how to find the leading texts, commentaries and practitioners' guides, and where to find the texts of documents. Finally, this article describes some new Internet-based projects, examines where to find additional information, and examines how to keep "up-to-date" with this burgeoning area of international sales law.

I. HISTORY OF THE CONVENTION AND RESEARCH ISSUES

A. HISTORY OF THE CONVENTION

The initial efforts to develop a uniform law of international sales began in 1930 under the auspices of the International Institute for the "CISG, supra note 1, art. 1(1)."

\(^4\) CISG, supra note 1, art. 1(1).  
\(^5\) Winship, supra note 2, at 112.
Unification of Private Law (UNIDROIT). UNIDROIT submitted two draft conventions: the Convention Relating to a Uniform Law on the International Sale of Goods (ULISG or ULIS) and the Convention Relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (ULFC or ULF). Although both draft conventions were adopted at a 1964 Diplomatic Conference in the Hague, many states, including the United States, did not ratify them. Some of the criticisms expressed were that the provisions primarily reflected the legal traditions and economic realities of continental Western Europe.

The United Nations Commission on International Trade Law (UNCITRAL) was then commissioned to study the two 1964 conventions.

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6 The International Institute for the Unification of Private Law (UNIDROIT) is an independent intergovernmental organization, seated in Rome, consisting of fifty-six member states. Its offices and numbers are: UNIDROIT, Via Panisperna 28, 00184 Rome, Italy; Tel.: (39/6) 69941372; Fax: (39/6) 69941394. Established in 1926 under the auspices of the League of Nations, its purpose is to examine ways of harmonizing and co-ordinating the private law of States and groups of States.


10 The United Nations Commission on International Trade Law (UNCITRAL) was established by the General Assembly in 1966. In establishing the Commission, the General Assembly hoped to reduce obstacles to the flow of international trade. The Commission carried the general mandate to further the progressive harmonization of international trade among nations. The Secretariat of UNCITRAL is the International Trade Law Branch of the United Nations Office of Legal Affairs. It is located in Vienna. UNCITRAL Secretariat, P.O. Box 500, Vienna International Centre, A-1400 Vienna, Austria; Phone: (43-1) 21345/4060 or 4061; Fax: (43-1) 237485; Secretary: Gerold Herrmann. For more information, refer to Germain's Transnational Law Research: A Guide for Attorneys, Ch. IV, UNITED NATIONS (1991-. Looseleaf); UNCITRAL also
After eight years of study, UNCITRAL approved a revision of the two 1964 uniform laws at a 1980 Diplomatic Conference in Vienna. This approved revision was the United Nations Convention on Contracts for the International Sale of Goods.

The Convention, which came into force on January 1, 1988, was adopted by eleven States representing every geographical region and every major legal, social, and economic system. In addition to the United States, the eleven adopting States included: Argentina, China, Egypt, France, Hungary, Italy, Lesotho, Syria, Yugoslavia, and Zambia. In 1989, Austria, Finland, Mexico, Sweden, Australia, and Norway became Contracting States. Since that time, over forty countries have ratified the Convention, and more countries are currently considering ratification. Two countries which have notably not ratified the Convention are the United Kingdom and Japan.

B. RESEARCH ISSUES

The Convention is of great academic and practical interest. The source of academic interest is the Convention’s relevance as a study in comparative law topics such as unification of law and harmonization of

has a web site and can be reached at: http://www.un.or.at/uncitral/


For current status information call the United Nations Treaty Section in New York at (212) 963 3918.


laws. The Convention has universal appeal because it was ratified by civil law and common law countries, developed and developing countries, and countries with different languages and cultures. Each country will produce a unique body of case law interpreting the Convention, and scholars from all over the world have already profusely commented on it. Finally, the Convention is of strong practical interest to practitioners because they use it in drafting and interpreting a variety of international contracts.

C. RESEARCH METHODOLOGY

The Convention has created a new area of substantive law directly applicable to a state’s domestic legal system. In general, when researching transnational sales contract issues, researchers must consider both domestic sales law and international sales law (the Convention and other international trade usages and principles). Additionally, researchers must acquire some familiarity with any applicable foreign sales law and choice of law rules because the Convention does not deal with all international sales transactions. Furthermore, the Convention may not have entirely displaced the foreign or domestic law of the parties.

When researching the Convention, the following sources of law must be considered: (1) the text of the Convention; (2) its legislative history in the form of the 1980 Diplomatic Conference proceedings; (3) the Secretariat’s official commentary on the 1978 Draft; (4) scholarly commentaries and writings; (5) cases decided worldwide; (6) international trade usages and practices (e.g., Article 9 of the Convention, UNIDROIT principles of international commercial contracts which might supplement the CISG when a CISG provision requires further interpretation); (7) lex mercatoria, the law used by merchants since the middle ages and created by standard commercial practices and arbitral decisions; and (8) previous UNIDROIT international sales conventions (i.e., ULIS or UFL).

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16 See Audit, infra part II.A.
17 For instance, ULIS Article 82 and CISG article 74 on consequential damages and foreseeability are substantively identical, and the ULIS articles have generated commentaries and cases that may be useful in the interpretation of the CISG.
D. THE CISG LITERATURE: INFORMATION OVERLOAD?

CISG literature is abundant. Numerous books have been published in many different languages: treatises and commentaries (in the German sense, meaning article-by-article commentaries on the Convention), practitioners' guides, colloquia proceedings, official governmental reports and studies, and doctoral and masters theses. Articles in international legal periodicals are even more prolific. Additionally, chapters of books which discuss the CISG are a part of much domestic literature. The CISG is also discussed in domestic sales law textbooks and casebooks, indicating that law schools are training a new generation of lawyers which will find dealing with the CISG "almost as natural and familiar as dealing with their own internal law." 

In the past few years, many law review articles on the CISG have already been published in English alone. Many of the early articles commented solely on the Convention's text. However, now that over one hundred cases and arbitral awards have been rendered, several articles have commented on the cases and awards. In the United States, many articles in legal periodicals compare Convention provisions to UCC provisions. Several CISG symposium issues have been published (e.g., in the Northwestern Journal of International Law and Business and the Cornell International Law Journal). The 12th Congress of the International Academy of Comparative Law in Sydney/Melbourne included substantial discussion of the Convention.

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18 See, e.g., IRELAND LAW REFORM COMMISSION, REPORT ON UNITED NATIONS (VIENNA) CONVENTION ON CONTRACTS FOR THE SALE OF GOODS (Dublin: The Commission, 1980).
22 See infra part IV.A.
The Congress’s CISG topics have also been the object of several national reports.  

International lawyers, businesspersons, and exporters’ practical interest in the Convention is reflected by articles on subjects which include the following: the impact of the Vienna Convention on drafting international sales contracts; risk of loss; comparison of the CISG, the UCC, and the British Sales of Goods Act; warranties in international sales under the CISG and the UCC; Convention provisions on the battle of the forms and warranties against infringement; and software license agreements under the CISG. Moreover, the domestic literature of various ratifying countries includes articles comparing the Convention’s impact on particular legal systems.

The seeming overabundance of CISG materials stems from the fact that in many countries the Convention is directly applicable to international sales contracts. As a result, the CISG is subject to intense scrutiny from scholars and practitioners alike (even though some lament the courts’ lack of recognition of the Convention). In addition, because books on the topic sell well, publishers are eager to capitalize on CISG interest and support publishing efforts. Furthermore, the Convention’s international character means that materials and commentaries are published in many different countries and in many different languages.

Because of the abundance of information, 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

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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.

II. WHERE TO START

A. STARTING POINTS

The following are good places to start when researching CISG topics:


This book is an overview written by the University of Paris II’s Professor Bernard Audit, a well-known French specialist on international commercial transactions.


This article provides the US practitioner a useful and concise summary of key CISG provisions.


This piece contains a good overview and summary of the history, context, and importance of the Convention to US lawyers.


This book is a new, concise, introductory text for US law students and lawyers.
B. COMMENTARIES AND MAJOR TEXTS

1. Commentaries and Major Texts in English


This book contains contributions from specialists from many different countries and includes a commentary on each article of the Convention. These commentaries consist of a provision's history, the meaning and purpose of the provision, and any problems arising in the provision's application. This book also includes the Convention's text in eight languages (the six official languages, plus German and Italian) and a bibliography.


This book provides an article-by-article commentary on the Convention and the Limitation Convention. It includes the text of the Convention and a bibliography.


This work is cited by many commentators as the most useful and authoritative commentary. It reproduces the text of the 1980 Convention as well as the two 1964 conventions. The 1982 edition was translated into Spanish.


Lookofsky, Joseph M. *Consequential Damages in Comparative Context: From Breach of Promise to Monetary Remedy in the American, Scandinavian and International Law of Contracts and Sales* (Copenhagen: Jurist og Okonomforbundets Forlag, 1989.)

work is an article-by-article commentary on the Convention, written by a member of the then-West German delegation to the Conference.

2. Commentaries and Major Texts in Languages other than English


To be translated into English:


This book will be translated into English in 1996.


A. US PRACTITIONERS' GUIDES


This guide compares the substantive law of the Convention (CISG) with the UCC. It contains an appendix which cross-references UCC subjects with corresponding sections of the Convention.


This looseleaf service contains text, comments, analysis and explanation with a bibliography.


D. RELATED BOOKS


III. WHERE TO FIND TEXTS OF DOCUMENTS

A. TEXT IN UN AND US SOURCES

1. Text of 1980 Convention
   The text of the Convention is available to the practitioner through a variety of sources.25

2. Text of 1964 Hague Conventions
   The texts of the conventions are available to the practitioner through a variety of sources.26

3. UN Legislative History
   The official records of the 1980 Vienna diplomatic conference include the documents of the conference, the 1978 draft UNCITRAL text, a commentary on the draft text prepared by the UNCITRAL Secretariat, and the Secretary-General's analysis of comments and proposals on the 1978 draft made by governments and international organizations.27

   Documents dealing with the pre-1980 work within UNCITRAL and its Working Group on the International Sale of Goods are reproduced in the


26 See ULIS, supra note 7; ULF, supra note 8.

27 The records of the 1980 Convention are officially published in United Nations Conference on Contracts for the International Sale of Goods—Official Records, UN Doc. A/CONF.97/19 (1981) [hereinafter Official Records]. These official records include the documents of the conference and summary records of the plenary meetings and of the meetings of the main committees. The principle conference documents are the 1978 draft UNCITRAL text, a commentary on this draft prepared by the UNCITRAL Secretariat, and the Secretary-General's analysis of comments and proposals on the 1978 draft made by governments and international organizations.
UNCITRAL Yearbooks. Since these are not all in print and not well indexed, these documents have been collected, organized, and annotated by John Honnold.

4. **US Legislative History**

US legislative history materials can be found in many of the books mentioned under this section, the bibliographies, and the CIS index. These materials include: the introduction to the Senate, the Message of the President, Senate hearings, the Senate Committee Report, and the Senate consideration of the CISG.


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29 See GERMAIN, supra note 25, Ch. III, § 13.16.16.


B. BASIC MATERIALS AND LEGISLATIVE HISTORY

The Convention for the International Sale of Goods: A Handbook of Basic Materials\(^{32}\) is a useful compilation of documents which includes: an introduction and summary of the Convention, reproductions of several documents, a list of parties, signatories, and reservations, a message from the President, Department of State analysis, Senate Hearings, and the UNCITRAL Secretariat’s Commentary on the 1978 Convention. This handbook also reprints Peter Winship’s bibliography from International Lawyer\(^{33}\) and includes texts in the five official UN languages.

The United Nations Conference on Contracts for the International Sale of Goods—Official Records: Documents of the Conference and Summary Records of the Plenary Meetings and of the Meetings of the Main Committees\(^{34}\) is a UN document which contains the official proceedings of the 1980 Diplomatic Conference and materials on the history of the Convention. It also contains the official text of the Convention in Annex 1. Official records contained in this document include: the documents of the conference, the 1978 draft UNCITRAL text,\(^{35}\) a commentary on the draft text prepared by the UNCITRAL Secretariat,\(^{36}\) and the Secretary-General’s analysis of comments and proposals made by governments and international organizations.\(^{37}\)

John Honnold’s Documentary History of the Uniform Law for International Sales\(^{38}\) includes 1980 Convention documents and pre-1980


\(^{35}\) Delegation Report, *supra* note 32.

\(^{36}\) *Id.*

\(^{37}\) *Id.*

documents. Additionally, it covers the twelve-year legislative process for UNCITRAL (1969-1977) and the Vienna Diplomatic Conference (1980). Documents from nine volumes of the UNCITRAL Yearbook and the Official Records of the Vienna Conference are also reproduced. The book is organized and annotated with introductions, marginal references, tables, and a detailed index. John Honnold, who was in charge of the legal work for UNCITRAL and represented the United States at the 1980 Vienna Conference, is currently Professor Emeritus of Commercial Law at the University of Pennsylvania School of Law.

C. JUDICIAL AND ARBITRAL DECISIONS INTERPRETING THE CISG

A major question after ratification of any multilateral convention is whether there will be uniformity of interpretation. The Convention did not provide for a collection of decisions. UNCITRAL, however, is making relevant court decisions and arbitral awards available in an inexpensive format. UNCITRAL has asked states to designate national correspondents who will send court and arbitral decisions interpreting relevant Convention provisions (including abstracts of the texts) to the UNCITRAL Secretariat. The compiled abstracts are issued as a UN document several times a year.

For example, Case Law on UNCITRAL Text: User Guide covers several UNCITRAL conventions and model laws and has a large section devoted to the Vienna Sales Convention. This sales document also contains a user guide and abstracts, written by national correspondents, for fifty-two cases and arbitral awards together with a list of the national correspondents and their addresses. These materials are now available over the Internet at:


http://www.un.or.at/uncitral

Professor Michael Bonell and colleagues have gathered doctrinal references, cases and arbitral awards in the original language, with an English-language abstract in a software format. Unilex: A Comprehensive and “Intelligent” Data Base on the U.N. Convention on Contracts for the International Sale of Goods, On Disc is easy to use and the cross-references are very helpful. Published by Transnational Juris, it includes several updates a year.

Professor Michael Will of the University of Geneva has compiled decisions under the Convention in International Sales Law under CISG: The First Hundred Decisions. The decisions are arranged in chronological order by year and include information such as the countries involved; the subject of the litigation; the applicable Convention articles; cross-references to other sources where the case was reported; full-text of the cases; abstracts; and commentaries.

D. INTERNET PROJECTS

1. Troms International Trade Law Project in Norway

The Troms International Trade Law Project in Norway is led by Lecturer Ralph Amissah. The project’s World Wide Web site is: http://ananse.irv.uit.no/trade_law/ It is an extensive site and well worth exploring since it expands constantly. The site contains an International Trade Law Materials section which includes the following subjects: International Trade Treaties, Conventions, Model Laws, Rules, and other relevant trade instruments organized by their date of formulation. Finally, the site includes information on International Organisations Related to Trade.

The site’s CISG section includes the text of the Convention (1980) as well as a list of Contracting States and Status of the Convention. The section also reproduces the texts of other conventions and documents, such as the Convention on Agency in the International Sale of Goods, and the United

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Nations Convention on the Limitation Period in the International Sale of Goods with the amending Protocol of 1980.\textsuperscript{44}

2. \textit{Pace University Internet Project}

This large-scale project, named CISG W3, is funded by the National Center for Automated Information Research and sponsored by the Institute of International Commercial Law of the Pace University School of Law. It is directed by Professors Albert H. Kritzer\textsuperscript{45} and Nicholas Triffin.\textsuperscript{46} The project's goal is to provide, through the Internet, the Convention's text, its legislative history, case law, and secondary Convention information sources. It is an important project that weaves together primary documents and commentaries with many hypertext cross-references.

The introductory segment of the project contains the text of each CISG article together with information related to the article and editorial comments. The information is organized as follows: Road map to the legislative history of the Article, Match-up of the Article with the 1978 draft version, Secretariat Commentary of the draft version (the closest part to an Official Commentary on the Article), Match-up of the Article with Hague Conventions antecedents, Subject index on the Article with case law annotations, Selected bibliographic references to the Article (the underlined parts of which identify "links"), and Bibliographic references to books and law journal commentaries. So far, twenty-five leading US law journals and others from Scandinavia and Asia have granted licensing permission to the project.


\textsuperscript{45} Executive Secretary of the Pace Institute of International Commercial Law and Editor of the CISG project.

\textsuperscript{46} Director of the Law Library and Director of the Pace Institute of International Commercial Law, and Internet Director of the Project. For further information: Pace University School of Law, 78 North Broadway, White Plains, N.Y. 10603, U.S.A.
Finally, the “Editor’s comments” section consists of cross-references to other related articles and materials. A powerful site search engine and a multi-lingual keyword descriptor thesaurus is being created, first in English, then in German.

IV. FOR MORE INFORMATION

A. ARTICLES


**B. BIBLIOGRAPHIES**

The Pace Internet Project will include a comprehensive bibliography containing worldwide contributions. Additionally, the following bibliographies are also comprehensive and useful:


This bibliography contains materials on the 1964 uniform laws.

UNCITRAL Yearbook. Each volume of the yearbook contains a bibliography of recent writings related to the work of UNCITRAL. This bibliography contains books and articles which are international in scope and in both English and foreign languages.


C. STAYING UP-TO-DATE

1. Books

To find additional books one should search library online catalogs by key-word or subject. The following Library of Congress subject headings may be useful: “Export sales contracts,” and “United nations convention on contracts for the international sale of goods (1980).” Furthermore, major US and UK research libraries can now be accessed via the Internet allowing the researcher to browse through these libraries’ catalogued collections.

2. Articles

There are several major indexes which can be used to find legal periodical articles which deal with the CISG. For articles in primarily English-language legal periodicals and Festschriften, the following monthly indexes may be useful:

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47 See, e.g., supra note 29.
Legal Resource Index (CD-ROM, print version called Current Law Index).

Index to Legal Periodicals (Westlaw: ILP).

Index to Foreign Legal Periodicals (print; also on Westlaw: IFLP, and as an electronic subscription) for legal periodicals in languages other than English, and Festchriften.

The weekly Current Index to Legal Periodicals (also on Westlaw: cilp) is a good source for articles recently published. Finally, eclipse services on Lexis and Westlaw can be set up for weekly or daily updates. For current awareness, it is especially useful to browse through specialized periodicals.

CONCLUSION

The Convention has provided business people and lawyers with a simpler and more secure legal basis for international trade. Law professors, students, and practitioners will no doubt continue studying the CISG and its accompanying case law. In this context, it is important to underline the usefulness of the Pace University and other Internet projects in using new technologies to further the dissemination of legal information across borders.